

INDIVIDUALITY IN THE IMPERIAL CONSTITUTIONS: HADRIAN AND THE ANTONINES

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I. INTERNAL EVIDENCE AND THE AUTHORSHIP OF IMPERIAL CONSTITUTIONS

A considerable number of texts of official pronouncements of Roman emperors (which will be referred to, rather inaccurately,¹ as constitutions, for the sake of brevity) have been preserved on inscriptions, in papyri and in the writings of the classical jurists and the imperial Codes. Such texts provide the kind of documentary evidence which is regarded by historians of more recent periods as primary material, as narrative histories and biographies are not.² Such rigour is not possible in Roman history, but it is clearly desirable to make the best use of these documents, especially in a period such as that between Hadrian and Commodus, when they are especially plentiful but, as far as literary sources go, there is not even the doubtful light of a panegyric to supplement the glimmerings of an epitome. But the kind of use to which they are put depends on the question of their authorship: are they to be treated as the work of the individual emperors in whose names they were issued, or of a civil service which continued to operate in much the same way while emperors came and went? The latter hypothesis has commonly been taken for granted until recently, even if not explicitly stated and argued for. In 1967 Millar showed that all the external descriptions of the methods of work of the emperors took it for granted that the emperors normally dealt in person with problems presented to them and produced the constitutions issued in their names themselves: hence those who wished to uphold the second hypothesis described above would have to prove that 'vast ranges of imperial business were handled by the bureaux in private, systematically concealed from the view of our literary sources.'³

If this hypothesis, which might be termed that of 'universal imperial authorship', is correct, one can hope to find each emperor revealing his own individual personality in his constitutions. The main aim of this paper is to see how far individual attitudes and idiosyncrasies of style can be detected in the considerable body of texts from the period of Hadrian and the Antonines. This period is a particularly appropriate one in which to test this hypothesis. In the first place, it is the period for which the non-juristic evidence is richest, and constantly being increased by epigraphic discoveries.⁴ Secondly, it follows immediately upon the supposed increase in 'bureaucratization' by Hadrian. Thirdly, Antoninus and Marcus both professed a deep devotion to the memory of their predecessors: if *their* pronouncements reveal a marked individuality, those of less 'pious' rulers could certainly be expected to do so. This investigation extends into the succeeding reigns that of Trajan's letters to Pliny by Sherwin-White.⁵ He sought to distinguish in the texts 'the hand of the secretary' from 'the hand of the emperor' by an analysis, not only of the 'outer style' (i.e., vocabulary and style in the ordinary sense), but also of the 'inner style' (i.e., principles and attitudes expressed in or underlying a text). This combination of methods will be applied to the texts discussed below, but with one major difference. It has to be admitted that only in the case of a minority of the texts can such analysis show that a document was entirely the work of the emperor in person. However, one should not assume that passages or whole texts written in routine or formulaic language or in stiff jargon are necessarily the work of a secretary, as Sherwin-White does. If the hypothesis of 'universal imperial authorship' is correct, the emperors would be very busy and one would expect them to use standard formulae to save thought and effort. Similarly the recapitulation of the original message to which a reply is being written need not be a 'secretarial device': private

¹ A constitution is strictly not a type of document but any utterance, oral or written, of an emperor, which can be taken as a binding precedent in law (Gaius i. 5; Ulpian, *Dig.* i. 4. 1. 1). Not all written documents issued in the emperor's name contained what would be regarded as constitutions, but it is a convenient term to use to cover all the different kinds of documents issued by emperors, which in fact were the main sources of constitutions in the strict sense, and it will be used here to avoid any clumsy periphrasis such as 'official pronouncements in a written form'.

² e.g., G. R. Elton, *Political History, Principles and Practice* (1970), 72-81, and especially the comments on p. 74.

³ *JRS* lvii (1967), 19. This view is supported with fuller arguments in Millar's book, *The Emperor in the Roman World*, and I am very grateful to him for allowing me to see and to refer to the relevant passages in advance of publication.

⁴ Most recently, an epistle of Marcus to Miletus (see nn. 90-1 below).

⁵ *JRS* lii (1962), 114-20 = *The Letters of Pliny*, 536-46.

persons with the duty of answering family letters and with nothing in particular to say often resort to this device, and it would be especially useful in formal replies to messages of greeting to the emperor.⁶ Whether the routine passages are to be regarded as the work of the emperor or of the secretary depends therefore on the assumptions one makes on other grounds about the authorship of constitutions. The fact that it can be shown that the emperors composed *some* of the documents in person does not prove that the hypothesis of universal imperial authorship is correct. On the other hand, the existence of texts with no obvious signs of personal authorship is no disproof of the hypothesis either: the emperors could hardly be expected to stamp every text with some expression of emotion or some idiosyncrasy of style. Nevertheless, this investigation can supply some arguments from probability in support of this hypothesis.

The vast majority of surviving constitutions are edicts of local application, epistles or subscripts to petitions, produced in response to some enquiry or request, or mere greeting, from subordinate officials, from communities or corporations, or from private individuals. Edicts of universal application, in which emperors made public some new policy launched on their own initiative, are few in number, and there is no reason to suppose that our surviving sample gives a misleading impression of the original, complete body of constitutions.⁷ The first stage in the production of most constitutions must therefore have been the reception of incoming epistles and petitions (*libelli*). Now, if imperial 'civil servants' did have any independent responsibilities, one might expect that the *ab epistulis* and the *a libellis* would have sorted out all incoming documents into those which they thought worthy of imperial attention and those which they felt able to deal with on their own responsibility. In the case of epistles it would have been possible to do this with those from officials delivered by couriers using *diplomata*, but not with those from communities or corporations, because the latter were commonly delivered by ambassadors who received an audience of the emperor.⁸ However, Antoninus Pius appears to have instituted in the early years of his reign a rigorous system of control, under which cities could only send embassies to Rome when they had important problems to explain, while decrees on trivial matters or of a formal character had to be forwarded through the provincial governor or procurator.⁹ It is precisely in the period c. 140–60 that it would have been possible for an *ab epistulis* to have sorted out formal messages from the Greek cities and composed replies to them on his own responsibility. Yet three of the imperial epistles which end with the formula 'the proconsul/procurator sent on the decree' are the very epistles of Pius to Ephesos in which, it will be argued below (p. 74 f.), that emperor displayed a very personal tone of irony and sarcasm. Two of these were simply acknowledgements of the receipt of honorary decrees, the most routine form of imperial business, of which one would expect the *ab epistulis* to relieve an emperor, if of anything at all. And, if he did not do so in the reign of Pius when the system of control was in operation, it seems very unlikely that it was done in other reigns when embassies were the standard means of delivery.¹⁰ Since Pius' secretary did not sort through the epistles forwarded from cities, he cannot have done so for the epistles of governors and procurators, with which they were included, either; and in other reigns, if emperors found the time to deal with the often trivial messages from the cities, it is very unlikely that they let their secretaries screen the reports of governors (apart from any other reason, one might expect those of senatorial rank, at least, to take offence, if the practice were a regular one and became widely known).

Petitions were in some cases forwarded by governors, but usually they had to be handed in by the petitioner in person or by a close relative.¹¹ In the case of the former, 'screening' by the secretaries would only have been possible if the *ab epistulis* sorted through the letters of governors, which is, as we have seen, unlikely, and then passed on all

⁶ *The Letters of Pliny*, 544; Millar pointed out that in a private letter (*Epp.* x. 7 and 10) Pliny repeated the terms of a letter from Trajan (*JRS* lviii (1968), 223).

⁷ For the distinction between edicts of universal and of local application see *ZPE* xvii, 43–8; cf. Millar, *The Emperor*, 252–9, but he is more cautious about the representative nature of our sample (p. 257, 'we can only surmise, but cannot firmly conclude, that

general edicts were in fact a relatively minor part of imperial business').

⁸ See Millar, *op. cit.*, 363–4; 375–85.

⁹ See *Historia* xvi (1967), 471–2, 474–5.

¹⁰ Only one case of the 'forwarding' formula survives from a later date than Pius' reign (*AE* 1926. 95 = *IGBulg.* ii. 659).

¹¹ For cases of the former procedure, see *ZPE* xvii, 58–62, and for the latter, *JRS* lxiv (1974), 93–8.

petitions to the *a libellis* without reference to the emperor, which also seems improbable. In the case of the latter, it would have been possible for the *a libellis* to examine the written petitions, since the emperors can have exchanged words with few, if any, of the people who handed them in.¹² It is possible to show that *in some cases* the emperors had themselves read the petitions and been moved by them: Hadrian and Pius both wrote epistles to subordinates enclosing copies of petitions and expressing themselves forcibly about the appropriate action to be taken.¹³ Furthermore, if any petitions *were* dealt with in this way by an *a libellis* acting on his own responsibility, one would have to suppose that he and the *ab epistulis Latinis* were able to get together and send a letter to a provincial governor, giving the latter orders. The picture thus conjured up is a most unconvincing one.

The relative contributions of the emperors and of the secretaries to the production of the published replies, once the incoming documents had been examined, are impossible to assess on the basis of the internal evidence alone. Stylistic analysis can demonstrate that in some cases the emperors both made the decisions and composed the final texts of the replies. On the other hand, it could well be thought possible that there were whole categories of routine business where the latter task, at least, was entrusted to the secretaries. Three categories which suggest themselves are epistles of a formal and diplomatic character, in particular those addressed to Greek cities, edicts with the function of bringing to the public attention 'philanthropic' decisions taken by the emperors, and those subscripts in which the emperor acted as a kind of Citizens' Advice Bureau by explaining the terms of laws and regulations. As for the first category, Pius' letters to Ephesos show that it should not be too readily assumed that emperors would not bother with such compositions. In the case of edicts, the examples to be considered below, from the reigns of Hadrian and Marcus, point very much to regular imperial authorship of such documents. Honoré has analysed the language of the subscripts, chiefly on questions of private law, which are preserved in large numbers in the Code of Justinian from Severus' reign onwards: he seeks to show that the distinctive styles can be traced of a series of jurists who held the office of *a libellis*.¹⁴ This is the area in which secretaries can most plausibly be suggested to have affected both the form and the content of imperial constitutions, because the private law was one of the rare areas in which the authority of experts was recognized in Roman public life, and because eminent jurists were appointed *a libellis*, from L. Volusius Maecianus under Pius onwards.¹⁵ But it must be remembered that replies about matters of private law accounted for perhaps no more than half of all subscripts issued,¹⁶ and on questions other than those of private law the jurists would have no special expertise. The internal evidence does therefore support, although it can do no more, the hypothesis that the role of imperial secretaries in the production of constitutions was a limited one, except possibly in the field of private law, and that that of the emperor himself was all-important.

2. HADRIAN

Despite the considerable number of well-preserved texts from this reign, the traces of Hadrian's individual personality which can be distinguished in them are disappointingly meagre, in view of the highly original character painted by the literary sources. The clearest signs of personal temperament are occasional outbursts of impatience and anger. The clearest case is that of a reply to a petitioner who raised in his petition a matter which the emperor thought he had already settled in a judicial decision, and who tried to cast aspersions

¹² Millar, *op. cit.*, 242, cites the only evidence for discussion between the emperor and petitioners, three anecdotes in the *Sententiae Hadriani (Corp. Gloss. Lat.* iii, p. 31, ll. 45 ff. = p. 387, ll. 22 ff.; p. 32, ll. 33 ff. = p. 387, ll. 47 ff.; p. 34, ll. 6 ff. = p. 388, ll. 48 ff.). In general, one would have supposed that the rambling verbosity of the petitions which have survived made it impractical to have them read out in the emperor's presence (see *CIL* viii. 10570 = *FIRA* i.² 103, cols. 2-3; *IGBulg.* iv. 2236, ll. 8-165; *CIL* iii. 14191 = Abbott and Johnson, no. 141, ll. 5-34; and *idem.*, nos. 142-4). On the other hand, it might well have taken almost as long to bring these often humble and perhaps awestruck petitioners to the

point, if they were invited to express their request orally.

¹³ *Dig.* xlii. 1. 33, 'exemplum libelli dati mihi a Iulio Tarentino mitti tibi iussi' (the rest is quoted in n. 23); xlviii. 6. 6, 'exemplum libelli dati mihi a Domitio Silvano nomine Domitii Silvani patris subici iussi' (the rest in n. 80), and *P. Rendel Harris* 67 (quoted in n. 81 below).

¹⁴ *Aufstieg u. Niedergang d. rom. Welt* II (forthcoming).

¹⁵ See W. Kunkel, *Herkunft u. soziale Stellung d. rom. Juristen*², 174-6, 222-4, 224-9 and 246.

¹⁶ *JRS* lxiv (1964), 92-3; Millar, *op. cit.*, 240 f.

on a lady whom Hadrian knew and esteemed. The excerpt quoted in a papyrus runs: 'and I have already made it plain that my judicial decision is of assistance to you, and I do not believe that Philotera, an excellent lady and well-known to me, will do you injustice, since she knows very well that unjust possession counts for nothing, and you wish to trouble me about matters which are not in dispute, although you have the guardian of your creditor who will restore the slaves to you.'¹⁷ The string of paratactical clauses gives the impression of a reply dictated in haste and anger, adding one ground of complaint after another. Tradition might require an emperor to attend to the petitions of his faithful subjects,¹⁸ but Hadrian could show resentment when he felt that his time was being wasted. In another case his anger was aroused by an attempt to evade a civic responsibility. A legate of Gallia Lugdunensis had reported a dodge by which one Clodius Macer sought to escape from the duty of acting as a guardian: he was a son *in potestate*, and his father had refused to provide security for the son's honest performance of his duties. Hadrian's advice to the legate was brief and harsh: 'if . . . the father . . . persists with the trick, I think you will rightly counter this fraud by compelling both the son and the man himself to undertake the guardianship of Clemens' children.'¹⁹ In two further cases Hadrian directed his subordinates to hear criminal charges which had been brought to his attention, and in both he reveals the kind of impression made upon him by the parties involved. The first of these is described in an excerpt quoted by Callistratus from an epistle to a proconsul of Macedonia, but the case in question had been passed on, not to the proconsul, but to some other governor, who is referred to in the third person.²⁰ The proconsul had consulted the emperor about the relative weight to be attached to documentary and to oral evidence, and Hadrian must have referred in his reply to a recent case which was still very much on his mind, in order to drive home the principle that the evidence of witnesses was to be preferred.²¹ The fact that the plaintiff Alexander in bringing charges against one Aper had failed to produce witnesses, but had preferred to rely on documentary evidence, clearly prejudiced Hadrian against him. The emperor emphatically declared his disapproval of such evidence: 'for which there is no place at my tribunal, for it is my practice to question the witnesses themselves.'²² Alexander had been sent to the court of his local governor and the latter was ordered to investigate the good faith of the witnesses whom Alexander was presumably expected to produce, and to sentence him to relegation if he failed to prove the charges he had made. The second case is also mentioned in an excerpt quoted by Callistratus. Hadrian again sent to the court of some subordinate a petitioner, named Iulius Tarentinus, who claimed that he had lost a lawsuit because his opponents had bribed the witnesses. The tone of Hadrian's instructions suggests that he had been favourably impressed by Tarentinus, although he leaves it to the subordinate official to investigate the question of fact: 'if he (Tarentinus) succeeds in proving to you that he has suffered from a conspiracy by his opponents to bribe witnesses, do you punish the deed severely, and, if any decisions have been handed down by a judge misled by so wicked an act, allow him a fresh hearing.'²³ Two aspects of Hadrian's character emerge from these epistles, anger at any hint of corruption of justice, and a confidence in his own ability to assess a witness' character from face to face questioning: the latter explains the insistence on the direct interrogation of witnesses found in the texts quoted by Callistratus.

¹⁷ *P. Tebtunis* 286 = *FIRA* iii. 100. ll. 4-9: [κ]αὶ π[ρ]ῶτον σοι ἀπεφηνάμην ὅτι τὸ ἐ[πι]κρίμα μὲν βοηθεῖ [σ]οι [κ]αὶ [τῆν] Φιλωτέραν δὲ ὀμῶς κρατίστην οὖσαν καὶ ἐπὶ τῷ ἀ[ρίστῳ] ἔμοι γνώριμην οὐδὲν σε ἀδικήσῃ καὶ μάλιστα εἰδ[ύσαν] ὅτι νομῆ ἀδικῶς [οὐ]δὲν εἰσχύει, σὺ δὲ περὶ τῶν οὐ [η]τ[ρο]μενῶν ἐνοχλεῖ(ν) μοι θελεῖς ἔχων τὸν ἐπίτροπον [τ]οῦ {τοῦ} δανιστοῦ ὃς ἀποκαταστήσει σοι τὰ σώματα. This text is described in l. 1 as an *apokrima*, a term used in *P. Columbia* 123 to describe imperial subscripts to petitions, while the earlier imperial decision had taken the form of an *epikrima*, that is of a *decretum* pronounced at the end of a judicial hearing. See H. J. Mason, *Greek Terms for Roman Institutions* (*Am. Stud. Pap.* xiii), 126-31.

¹⁸ Dio lxix. 6. 3, and *JRS* lxiv (1974), 86, nn. 1-2.

¹⁹ *Dig.* xxvii. 1. 15. 17: 'Si . . . pater autem eius . . . in hoc artificio perseveravit, existimo te huic fraudi

recte occurrurum, ut et filius et ipse ad tutelam liberorum Clementis gerendam compellantur.'

²⁰ *Dig.* xxii. 5. 3. 3. The proconsul was Iunius Rufinus (*PIR*² I 805).

²¹ This fact strengthens the argument for regarding the section of the epistle quoted in the Digest, at least, as Hadrian's own work: a secretary would surely be less likely to refer in such detail to a matter which was no direct concern of the person being addressed.

²² 'Quibus apud me locus non est (nam ipsos interrogare soleo) . . .'

²³ *Dig.* xlii. 1. 33: 'tu, si tibi probaverit conspiratione adversariorum et testibus pecunia corruptis oppressum se, et rem severe vindica, et, si qua a iudice tam malo exemplo circumscripto iudicata sunt, in integrum restitue.'

To turn to the 'inner style' of these documents, that is to the general attitudes and principles which can be detected in them, it is again the epistles quoted by the jurists which provide the clearest evidence. Like his predecessors and his successors, Hadrian was averse to laying down detailed rules to be rigidly applied in all circumstances.²⁴ Two more passages on the assessment of evidence collected by Callistratus illustrate this principle. Valerius Verus, probably a provincial governor, had asked for guidance on the proofs required to demonstrate the truth of a case, but he failed to elicit any hard and fast rules from Hadrian: 'which proofs are sufficient to demonstrate any case, and in what way, cannot be adequately defined in any secure way.'²⁵ Quite often, but not always, the truth of a matter can be established even in the absence of official records, because of the large number of available witnesses, because of their rank and authority, or because of 'consentiens fama'.²⁶ In the end Hadrian can only advise Verus not to tie himself down to any one category of evidence and to use his own judgement. In the second passage another perplexed governor, a legate of Cilicia, receives the unhelpful reply that he is in a better position than the emperor to judge the reliability of a group of witnesses, and Hadrian goes on to list *all* the different criteria which might be applied.²⁷ These two texts, as well as a third about the payment of witnesses' expenses, also quoted by Callistratus, illustrate another aim which Hadrian shared with other emperors before and after him, namely to get his subordinates to trust their own judgements.²⁸ Hence the despatch of cases brought to his attention by petitioners to provincial governors for investigation and trial.²⁹

A reluctance to promulgate rules with an universal application appears also in an epistle to the provincial council of Baetica about the penalties for rustling cattle. Hadrian indicated his disapproval of the imposition of a standard sentence, and especially of the maximum permissible one, for the same offence in all cases.³⁰ The harshest sentence should not be inflicted universally but only where the particular crime of cattle-stealing was rampant and special deterrents needed: 'puniuntur autem durissime non ubique, sed ubi frequentius est hoc genus maleficii.' This epistle must clearly have rejected a request from the landowners represented on the provincial council that some especially harsh penalties should be authorized for a crime with which this province had been repeatedly troubled.³¹ By implication the emperor told them that their situation did not justify extraordinary measures: 'ideoque puto *apud vos quoque* sufficere genus poenae quod maximum huic maleficio inrogari solet.'³² The provincial council tried again with his successor, but Pius repeated what Hadrian had said, that the severest form of penalty was 'ad gladium dare.'³³

Insofar as Hadrian, in this epistle, resisted pressure from a municipal aristocracy, it bears out Syme's claim that it provides evidence of Hadrian's hostility to 'the distinctions of birth and class,'³⁴ although Hadrian was not unique in this, since Pius took the same line.

²⁴ cf. Trajan's remark, 'in universum a me non potest statui' (Plin., *Epp.* x. 113), and Severus' answer quoted in *Dig.* i. 16. 6. 3.

²⁵ *Dig.* xxii. 5. 3. 2: 'quae argumenta ad quem modum probandae cuique rei sufficient, nullo certo modo satis definiri potest'.

²⁶ The precise meaning of this phrase is not clear to me: does the consensus of public opinion refer to the character of the witnesses or to the matter at issue itself?

²⁷ *Dig.* xxii. 5. 3. 1: 'tu magis scire potes quanta fides habenda sit testibus . . .' For the stress on the rank and influence of witnesses in these passages, see P. Garnsey, *Social Status and Legal Privilege in the Roman Empire* (1970), 210-12.

²⁸ See the remarks addressed to Gabinius Maximus: 'alia est auctoritas praesentium testium, alia testimoniorum quae recitari solent: tecum ergo delibera, ut, si retinere eos velis, des eis impendia' (*Dig.* xxii. 5. 3. 4). A very similar use of language is found in the epistle to Valerius Verus: 'alias numerus testium, alias dignitas et auctoritas, alias veluti consentiens fama confirmat rei de qua quaeritur fidem' (ibid. 2). It may therefore be a favourite idiom of Hadrian's own, and thus evidence that he composed both these texts himself.

²⁹ With the cases in *Dig.* xxii. 5. 3. 3 and xlii. 1. 33, compare the epistle of Pius in xlvi. 6. 6, and his standard reply to petitioners, 'eum qui provinciae praest adire potes' (i. 18. 8).

³⁰ *Collatio* xi. 7. 1-2 (FIRA ii, pp. 571-2) and *Dig.* xlvii. 14. 1. pr. (= section 1 of the former), both quoted from Ulpian's *de officio proconsulis*.

³¹ Vergil, *Georg.* iii, 408, with Servius, ad loc.; Varro, *RR* i. 16. 2; and n. 33.

³² The final passage of the excerpt quoted in *Coll.* xi. 7. 2 puzzled Ulpian himself, with its apparent suggestion that despatch to the mines was a harsher penalty than execution. Mommsen, *Röm. Strafrecht*, 1040, n. 1, suggested that at this point the text had been corrupted, presumably before it reached Ulpian. Garnsey, *Social Status*, 131, n. 4, and 185, n. 1, apparently accepts Ulpian's own solution that by 'ad gladium' Hadrian was referring to gladiatorial combat, and not execution. It may be that, if Hadrian had dictated an epistle and then added a final rider without checking the whole text, he got muddled himself: I have argued that just such a procedure can be detected in the new text of Marcus from Athens (see *ZPE* xvii, 50-1 and 55-6).

³³ *Coll.* xi. 6. 1.

³⁴ *Les empereurs romains d'Espagne* (1965), 245.

However, the fact that in this epistle no distinction is drawn between the penalties appropriate for *honestiores* and *humiliores* is not evidence of such hostility. As Garnsey has pointed out, Hadrian was answering a specific request and it probably never crossed his mind that rustling was a crime that decurions were at all likely to commit.³⁵ Syme also cited in support of his thesis an epistle of 119, which was addressed to a consular legate conducting a census in Macedonia, and which for the first time provided criminal penalties for the removal of boundary stones.³⁶ In this epistle Hadrian did indeed distinguish between two forms of this offence: the more serious one of removing the stones in order to acquire land, and the less serious one of mere theft of the stones for use as stones. He made the social status of the principals involved the criterion for establishing an intention to acquire land: 'nam, si splendidiore sunt personae, non dubito quin occupandorum aliorum finium causa id admiserint.' However, in cases of the more serious form of the offence, harsher penalties are to be imposed on agents of lower social status than on principals of higher rank, *relegatio* for the latter, *damnatio ad opus* for the former; men of humbler status who had simply been stealing stones were to be beaten. In neither of these epistles can one detect any significant opposition to the established privileges of the upper classes.

The epigraphic and papyrus texts, although usually preserved in a more complete form, are in the main less illuminating for either the 'inner' or the 'outer' style of the emperor than the jurists' excerpts: most are formal replies to diplomatic greetings or honorary decrees from Greek cities, or deal with requests from or on behalf of cities in a direct manner, without any comment.³⁷ In a very brief reply to a new foundation, Hadrianopolis-Stratonicea, the city's requests are merely described as 'just, and necessary for a newly-founded city.'³⁸ However, an epistle to Hadrian's favourite city, Athens, did open with a resounding 'declaration of intent': 'you know that I take advantage of every excuse for doing good to the city as a whole and to individual Athenians.'³⁹ The public emphasis on the emperor's generosity reappears in two papyrus texts which refer to his 'philanthropia,' a term also applied to him by the proconsul Avidius Quietus.⁴⁰ The first of these is an epistle to Q. Rammius Martialis, Prefect of Egypt in 117-19, which was published in a Greek translation at the headquarters of the legions of Egypt on 4 August 119. It announced that in future children born to serving soldiers would be allowed to claim *bonorum possessio*, if their fathers died intestate, under the rubric *unde cognati*, that is among the third class of kinsmen to whom the praetor usually granted *bonorum possessio* in cases of intestacy. This epistle was probably sent in reply to an enquiry from the Prefect about the state of the law, or to a request for permission to modify its application, and in response the emperor decided to make a change which would increase his popularity among the soldiers.⁴¹ His motives are made clear in the second sentence: 'I myself am delighted to take the opportunity to interpret in a more humane sense the rather stern rule laid down by my predecessors.'⁴² His

³⁵ *Social Status*, 158, n. 2.

³⁶ *Coll.* xiii. 3. 1-2 and *Dig.* xlvii. 21. 2; for the discrepancies between the two texts, see Garnsey, op. cit. (n. 27), 156, n. 1; for the *innovation* of imposing criminal penalties, idem, 170; and for the addressee, D. Terentius Gentianus, *RE* s.v. 'Terentius' (48).

³⁷ e.g., Smallwood, *Documents of Nerva, Trajan and Hadrian*, nos. 61, 73, 449a, 452, 454b.

³⁸ Robert, *Hellenica* vi, 81-2 = Smallwood 453, ll. 8-9: δίκαια ἐξισῶν μοι δοκεῖτε καὶ ἀναγκαῖα ἐ[ρ]τι γεινομένη πόλει.

³⁹ *IG* ii.² 1102 = Smallwood 445, ll. 10-11: ἵστε ὡς πάσαις χρῶμαι προφάσειν τοῦ εὖ ποιεῖν καὶ δημοσίᾳ τὴν πόλιν καὶ ἰδίᾳ Ἀθηναίων τινάς. The remainder of the text is very fragmentary, but it may have announced the gift of a gymnasium to the young of Athens (cf. Paus. i. 18. 9).

⁴⁰ Smallwood 454b: in his covering letter to Aizanoi, enclosing a copy of Hadrian's letter to himself, Avidius Quietus wrote of Hadrian μετὰ τῶν φιλανθρώπων τὸ δίκαιον (l. 7), and he presumably knew how the emperor liked to be pictured.

⁴¹ *BGU* 140, revised by Wilcken, *Hermes* xxxvii, 84 ff. = *FIRA* i.² 78 = Smallwood 333. On the legal issue, see Schulz, *Classical Roman Law*, 227-36, and

Kaser, *Röm. Privatrecht* i², 700. That it was a reply to an enquiry, and not part of a programme of concessions launched by Hadrian to counteract the hostility aroused by the execution of the 'four consulars' (as was suggested by P. J. Alexander, *HSCP* xlix (1938), 144-6), is strongly suggested by (a) the fact that the decision was made public in an epistle to a governor, instead of an edict of universal application (cf. the edicts of the future Augustus and of Domitian on the privileges of veterans, *FIRA* i.² 56 and 76), and (b) by certain phrases in the text itself: for instance it begins with ἐπι[σ]τραμαι, 'Rammie μου, which seems to me to imply 'there was no need for you to spell it out at length in your letter', and it later refers to the emperor's delight in *taking the opportunity* to mitigate the effects of the law (see n. 42). The concession could subsequently have been extended to all legionaries by the insertion of a new chapter in the *mandata* of the governors in command of legions (in the way that Trajan's concession on the wills of soldiers was: *Dig.* xxix. 1. 1. pr.).

⁴² ll. 15-16: ἡδιστα δὲ αὐτὸς προ(ε)ί(ε)μαι τὰς ἀφορμὰς δι' ὧν τὸ αὐστηρότερον ὑπὸ τῶν πρὸ ἐμοῦ αὐτοκρατόρων σταθῆν φιλανθρωπότερον ἐρμηνεύω.

personal interest in the matter is stressed by the use of 'myself' in this sentence, and by the tone of the last sentence, in which the Prefect is directed to bring the concession to the attention of the soldiers: 'it will be your duty to bring this concession of mine to the notice of the soldiers and the veterans, not to give the impression that I am laying claim (to their gratitude), but, in case they are unaware of it, that they may take advantage of it.'⁴³ Despite this final disclaimer, the whole epistle gives an impression of having been drafted to bring out the present emperor's generosity and consideration: in the second sentence his humaneness is placed in neat contrast to the rigour of his predecessors, and even the disclaimer itself reveals his modesty and his exclusive concern for the welfare of the soldiers. All this, and the emphatic use of the first person, suggests that Hadrian had a large part in the composition of this document in its original Latin form.

The second of these papyrus texts is that of the only surviving edict of Hadrian, preserved in three papyrus copies.⁴⁴ It was issued in Hadrian's twentieth tribunician year, i.e. after 9 December 135, and published at Alexandria on 31 May 136.⁴⁵ The text falls into two parts. First, there is a preamble which explains the situation and the emperor's reasoning; second, and marked off from the preamble by the formula, 'with good fortune,' come the emperor's actual decisions. In the first the emperor announces that he has been informed (presumably by the Prefect of Egypt, although this is not expressly stated) that the most recent inundation of the Nile, like the previous one (they were presumably those of 134 and 135), had been a poor one, and that he has therefore resolved on a concession: 'I thought it necessary to perform some act of human kindness towards the peasants.'⁴⁶ This fairly straightforward account of the background is accompanied by a repetitive and verbose insistence on the excellence of the crops produced after the inundations which immediately preceded the two defective ones: 'even though the Nile in each of the preceding years had made not only a complete inundation but one which was greater than almost any it made before, and by covering the whole country it was responsible for the production of the greatest and finest crops.'⁴⁷ Then a confident prediction that in future years the present dearth will be made up for by the Nile itself and the land is toned down by the pious interjection, 'with god let it be said,' as if to ward off any hint of presumption in the word 'expecting.'⁴⁸ Finally, the emperor's confidence in the future is explained by a philosophical commonplace about 'the nature of things', which is defined as a cycle of plenty, dearth and renewed plenty.⁴⁹

The use of the formula *τύχη δὲ τῆ ἀγαθῆ* to separate the preamble from the actual decisions is unparalleled in a Roman edict, although of course standard practice in Athenian popular decrees of the classical period, and Jouguet saw in its appearance here an attempt by the philathenian Hadrian to introduce this Attic formula into the style of the imperial secretariat.⁵⁰ This seems the most likely explanation: the Greek phrase can hardly be intended to represent the Latin formula, 'bonum factum,' which could be prefixed to the texts of Roman edicts.⁵¹ If this hypothesis is accepted, the use of the formula is a strong argument for Hadrian's authorship of the text, in view of his known enthusiasm for things Athenian and of the fact that the formula is found in no other imperial edict. The actual terms of the moratorium on tax payments which follow are set out in a perfectly straightforward way, and indeed are very modest and limited, despite the loud assertions about the emperor's generosity.⁵² Apart from the use of the Athenian formula, there are two reasons

⁴³ ll. 28-33: ταύτην μου τὴν δωρεάν καὶ τοῖς στρατιώταις ἐμοῦ καὶ τοῖς οὐτρανοῖς εὐγνωστόν σε ποιήσαι δεήσει, οὐχ ἕνεκα τοῦ δοκεῖν με αὐτοῖς ἔλογεῖν, ἀλλὰ ἵνα τούτῳ χρώδωνται, ἔαν ἄγνωδοῖσι.

⁴⁴ *P. Cairo* 49359 and 49360 (published in *REG* xxxiii (1920), 375-402 = *SB* 6944) and *P. Oslo* iii. 78; see *FIRA* i.² 81 and Smallwood 462.

⁴⁵ See the new reading of l. 24 of *P. Cairo* 49359 by Guéraud, reported in *P. Oslo*.

⁴⁶ ὁμως φήθησαν ἀν[άγκη]ν εἶ[ναι] ποιήσασθαί τινα πρὸς τοὺς γεωργοὺς φιλανθρωπίαν.

⁴⁷ [εἰ] καὶ τοῖς προτέροις ἔτεσι ἐξῆς οὐ τελείαν μόνον ἀλλὰ καὶ μεῖζον σχέδον [δρα]τὴν οὕτω πρότερον ἐποιήσατο τὴν ἀνάβασιν [καὶ πᾶσαν] τὴν χώραν ἐπελθὼν αἴτιος ὑπῆρξεν αὐτῷ[ς] τοῦ [πλ]εῖστ[ους] κ[αὶ] καλλίστους καρποὺς ἐξενεργεῖν.

⁴⁸ καίτοι προσδοκῶν - σὺν θεῷ δὲ εἰρήσθω - τῶν ἐπιόντων

ἐτῶν, καὶ εἴ τι νῦν ἐ[ν]εδέθησεν, ἀναπληρώσειεν καὶ αὐτὸν τὸν Νεῖλον καὶ τὴν γῆν

⁴⁹ τὴν φύσιν τῶν πραγμάτων, ὡς ἐ(κ) μέ[ν] εὐροίας καὶ πολυκαρπίας εἰς ἔνδειαν μεταβαλεῖν, ἐ(κ) δὲ τῆς ἔνδειας εἰς ἀφθονίαν. The precise connection between this passage and that quoted in the last note is obscure because of gaps in the papyrus.

⁵⁰ *REG* xxxiii (1920), 391. The formula occurs between the preamble and the main body of an Athenian decree of as late as c. A.D. 220 (*Syll.*³ 885, l. 9).

⁵¹ See Plaut., *Poen.*, l. 16; *FIRA* i.² 53, l. 4; Suet., *Div. Iul.* 80. 2; *Vitell.* 14. 4; Tertull., *De Pud.* i. 7.

⁵² See Westermann, *JEAS* xi (1925), 177; D'Orgeval, *L'empereur Hadrien*, 117.

for treating this text as the work of Hadrian himself. First, there is the use of the edict form, in which the emperor could address his Egyptian subjects directly, instead of an epistle to the Prefect, who had presumably raised the matter with the emperor.⁵³ Secondly, there are the tone and the style of the preamble, with its prolixity, its emphasis on imperial 'philanthropy', its ostentatious piety, and, above all, its use of a commonplace of Greek philosophy. The impression the preamble gives is rather different from that conveyed by the excerpts quoted by the jurists: it is one of pomposity and vanity. This could be regarded as a reflection of a deterioration in the emperor's character which accompanied his final illness; on the other hand, similar characteristics occur in edicts of other emperors, and they can be regarded as appropriate for a public proclamation, as against an epistle to a subordinate.⁵⁴

To sum up, Hadrian's individuality is revealed mainly in his letters to his subordinates rather than in formal correspondence with cities. The most striking characteristics are impatience with time-wasting and anger at the corruption of justice or the evasion of public duties. The general principles with which he was especially concerned included getting the best possible evidence in the courts and refusing to lay down hard and fast rules, which would be rigidly applied. In documents intended for public consumption, such as the epistles to Athens and to Rammius Martialis and the edict of 136, the main stress is on the emperor's 'philanthropy,' and in each of these cases there is good reason for believing that the texts were the work of Hadrian himself, and not of a 'publicity-minded' secretary.

3. ANTONINUS PIUS

The personality of Pius, in contrast to that of Hadrian, emerges most clearly from his letters to cities and to provincial councils (it is true that the jurists quoted far fewer of his epistles to subordinates than they did those of Hadrian and of Marcus). Its outstanding characteristic, a most refreshing one to find in the official documents of any age, is humour, ranging from harsh sarcasm, through milder irony, to a gentle comment on human weakness. The first of these appears in what one would expect to be two routine replies acknowledging decrees of the city of Ephesos in honour of a generous citizen, P. Vedius Antoninus, which had been forwarded to the emperor.⁵⁵ The first imperial reply dates from 145 and begins: 'the patriotic zeal which Vedius Antoninus displayed towards you I discovered not so much from your letter as from his.'⁵⁶ In his letter Vedius had appealed for the emperor's help in finishing the buildings he had promised to the city, and had reported the city's lack of gratitude. Pius accepted Vedius' version, and granted his requests (perhaps because of a personal friendship established during Pius' proconsulship of Asia): he approved of the fact that Vedius had preferred to spend his money on permanent improvements to the city, instead of on spectacles and distributions to the citizens, which is described as 'the usual practice of politicians.'⁵⁷ The latter would presumably have brought Vedius more immediate gratitude, and Pius surely inserted this explanation by way of rebuke to the Ephesians. The Ephesian letter to which this was a reply was, one imagines, despatched in haste when Vedius' direct approach to the emperor became known; it did not mollify Pius, and the anger and sarcasm in the letter are conclusive signs that it was the work of the emperor himself. Five years later, when Ephesos sent another decree in Vedius' honour, the

⁵³ See *Isre* (l. 16). The peasants of Egypt had no political organization, such as a provincial council, through which they could make known to the emperor their difficulties; they could only submit petitions to the Prefect as individuals when he visited the nomes (and they did so in great numbers: see *P. Yale* 61, ll. 5-7, for 1804 handed in during two and a half days at Arsinoe). But the Prefect could not grant a moratorium on taxes on his own responsibility and would have had to consult the emperor (see G. Chalon, *L'édit de Tib. Iulius Alexander*, 234-5, and ll. 9 and 62-5 of the text).

⁵⁴ For his illness, see *Dio* lxix. 17. 1-2 and 23. 2; *HA, Had.* 23. 1-8. For similar imperial edicts, see *Plin., Epp.* x. 58. 7-10 (Nerva), *P. Giessen* 40 and *AE* 1948 109 (Caracalla), *P. Fayum* 20 (Severus

Alexander).

⁵⁵ *IBritMus.* iii. 491 (= *Syll.*³ 850) and 492; the text of a third epistle about Vedius, to the council of Asia (idem 493), is very fragmentary.

⁵⁶ ll. 7-9: [Τ]ήν φιλοτιμίαν ἣν φιλοτιμ[ε]ῖται πρὸς ὑμ[ε]ῖς Ο[ὐ]ήθιος] Ἀντωνεῖνος ἔμαθον οὐχ οὕτω[ς] ἔκ τῶν ὑμετέρω[ν] γραμμ[ά]των ὡς ἐκ τῶν [ἐκ]είνου.

⁵⁷ Although the full text of this sentence includes extensive restorations by Hicks, the original sections on their own suffice to make the general drift certain: καὶ ἀπεδείξαμεν ὅτι [οὐ] τὸν [πολλῶν τῶ]ν πολεμιτευομένων τρόπον, οἱ τοῦ [παρ]αχρη[ῖ]μα εὐδοκίμ[?]εῖν χά[ρ]ιν εἰς θέα[ς] κ[α]ὶ διανομ[ά]ς καὶ τὰ τῶ[ν] ἀγώνων θέματα? δαπαν[ώ]σιν? τή]ν φι[λοτιμ]ίαν, ἀλλὰ δι' οὐ πρὸς τὸ [μέλλου]ν συνοίσει?, σ]εμνο[τέρων ποιή]σειν τὴν πόλιν προήρ[ηται] (ll. 14-17).

emperor's anger had not been entirely assuaged, but this time the reply was shorter: 'I was already aware of the patriotic zeal which Vedius Antoninus displayed towards you, of which you inform me; he in fact secured from me the gifts for the adornment of the whole city.'⁵⁸ The fact that it was for Vedius' sake that he had helped the city is rubbed in. Neither of these documents displays the diplomatic tact which one would expect in a routine reply composed by a secretary: both are clearly the work of an angry and sardonic individual, who can only be the emperor himself. Yet both were written in response to honorary decrees, which only required routine notes of acknowledgement (only Vedius' own letter called for a decision which involved spending imperial money). The character of the replies reveals that there were no categories of routine documents which *Pius'* secretaries, at least, were empowered to weed out before the emperor saw them, and to answer without consulting him.

There is a hint of a milder irony in another epistle written to Ephesos between 140 and 144, which is a reply to a letter of complaint from the Ephesians. It appears that Smyrna, in a civic decree about a joint sacrifice, had failed to use the titles which, Pius had earlier ruled, were Ephesos' by right. Pius' answer ran: 'I welcome the news that the people of Pergamum in their letter to you used the titles which I decided your city should use; and I think that it was by accident that the people of Smyrna omitted the titles in the decree about the joint sacrifice, and that in future they will be glad to cooperate, if you in your turn, in your letters to them, remember the appropriate style of address which, it has been decided, belongs to their city.'⁵⁹ The last clause is a tactful way of letting the Ephesians know that the emperor believes that both cities are equally at fault in this childish squabble, and the whole letter attempts to compose the quarrel without giving either party the opportunity to claim a victory over the other. Beneath the polished language the irony is discernible. There is the polite suggestion that what had clearly been intended as an insult was merely an accidental sin of omission, and also the implication that it was the collective memory of the Ephesians which had been at fault. No secretary would have dared to allow his real opinion of the quarrels of the cities to show through in a letter sent in the emperor's name; the author must have been Pius himself. If so, this text is further proof that even trivial questions of precedence reached the emperor, and were not screened out by the *ab epistulis*.

In an epistle to the provincial council of Asia about the maximum numbers of teachers and physicians in each city who might enjoy the immunities granted in edicts of Vespasian and of Hadrian,⁶⁰ Pius propounded for the teachers of philosophy a famous dilemma, worthy of Archbishop Morton (or of Bishop Fox) himself. 'No maximum number of philosophers was laid down because those who love wisdom are so few; I am sure that those who are of considerable wealth will voluntarily place the resources of their properties at the disposal of their native cities; but if they should quibble about their estates, by that very act they will be revealed as no true lovers of wisdom.'⁶¹ In other words, a teacher of philosophy who applied for privileged status would demonstrate that he lacked an essential qualification for his profession. No very high estimate of the value of professional instruction in philosophy is revealed, and the attitude of mind which pervades the text could justly be described as gleeful malice. The patent humour of this text justifies the interpretation of other passages in Pius' epistles as ironic.

Finally, there are two possible examples of a milder humour. In an epistle to a praetor,

⁵⁸ *IBritMus.* iii. 492, ll. 11-15: Εἰδότε μοι δηλοῦτε τὴν φιλοτιμίαν ἣν Οὐήδης Ἄντιῶν εἰνοῦς φιλοτιμεῖται πρὸς ὑμᾶς δ[ς] γε καὶ τὰς παρ' ἐμοῦ χάριτας εἰς τὸν [κόσμον] ἀπείρητος πόλεως [κα]τέθετο.

⁵⁹ *IBritMus.* iii. 489 (= 490) = *Syll.* 849, ll. 8-15: Περγαμην[ο]ὺς ἀπεδείξαμην ἐν τοῖς π[ρὸς] ὑμᾶς γράμμασιν χρ[η]σαμένο[υ]ς τοῖς ὀνόμα[σιν] οἷς ἐγὼ χρῆσθαι τὴν πόλιν τὴν ὑμετέρα[ν] ἀπ[ε]ρ[η]ν[ο]ύμενοι οἶμαι δὲ καὶ Σμυρναίους κατὰ τύχην παρα[ε]λθόντων ταῦτα ἐν τῷ περὶ τῆς συνθυσίας ψηφίσματι, τοῦ λοιποῦ δὲ ἐκόντας εὐγνωμονῆσαι ἐάν καὶ ὑμεῖς ἐν τοῖς πρὸς αὐτοὺς γράμμασιν ἐν [π]ροσῆκει τρόπον καὶ κέρριται τῆς πόλεως αὐτῶν [ρα]νῆσθ[ε] μνη[μ]όνοι.

⁶⁰ *Dig.* xxvii. 1. 6. 2, 7 and 8. For Pius' modifications of the existing rules, see G. W. Bowersock, *Greek Sophists in the Roman Empire*, 34-40, and V. Nutton, *JRS* lxi (1971), 52-63. Of the three excerpts quoted by Modestinus only that quoted in

the next note exhibits any obvious trace of the emperor's personal style. Nutton, art. cit., 56, suggests that the concession of immunity to τοὺς δ[ς] ἀν[ε]πισημόνας, which is reported by Modestinus from Paulus, who had himself cited Pius (*Dig.* xxvii. 1. 6. 10), 'offers a similar deflation of sophistic claims, and that "great" or "excessive learning" aptly denotes those sophists whose knowledge was too refined to profit the city by their employment and who might best be left to antiquarian scholarship.'

⁶¹ *Dig.* xxvii. 1. 6. 7: φιλοσόφων δὲ οὐκ ἐτάχθη ἀριθμὸς διὰ τὸ σπανίους εἶναι τοὺς φιλοσοφοῦντας. οἶμαι δὲ ὅτι οἱ πλούτῳ ὑπερβάλλοντες ἐθέλονται παρέξουσιν τὰς ἀπὸ τῶν χρημάτων ὠφελείας ταῖς πατρίσιν· εἰ δὲ ἀκριβολογοῖντο περὶ τὰς οὐσίας, αὐτῶθεν ἤδη φανεροὶ γενήσονται μὴ φιλοσοφοῦντες. Nutton, art. cit., 56, n. 43, notes that the same joke is used by Papinian (*Dig.* i. 5. 8. 4).

the emperor approved a proposal by the latter to allow a second hearing of a case in which one of the parties had arrived late at the original hearing and had found that judgement had been given by default. The reason given for the proposal is that the litigant had reached the tribunal while the praetor was still sitting, and that his absence could therefore be taken to be the result, not of his own negligence, but of the crier's failure to make the announcement of the case carry far enough: 'existimari potest non sua culpa, sed parum exaudita voce praeconis defuisse.'⁶² This might have been the litigant's own explanation, but it might equally be a typically wry suggestion by Pius himself. The second example is a resigned comment on the vagaries of human behaviour, which occurs in a reply to a mother's complaint about the extravagance of her sons, which accompanied a request for the appointment of a guardian of their properties: 'it is no new thing for some men, even if they shall appear from their conversation to be of sound mind, so to handle their property that, unless they are helped, they are reduced to poverty.' Pius classes prodigality as a form of insane self-destruction: 'for it is right that we should take care of the interests even of those who, as far as their property is concerned, pursue a madman's end.'⁶³

Another, much more common, trait revealed in Pius' epistles is anger and severity. This might, of course, take the form of sarcasm, as in the first letter about Veditius Antoninus. Severity is more directly expressed against third parties in two epistles to governors quoted by the jurists. The first, to a proconsul of Baetica, concerned one Iulius Sabinus, whose slaves had taken refuge at the emperor's statue; the proconsul was ordered to investigate the complaints of harsh treatment, and, if these proved to be justified, to sell the slaves under the condition that they should never return to Sabinus' possession. The proconsul's report had evidently left the emperor with a very poor impression of Sabinus and the belief that the complaints would probably turn out to have substance. He clearly believed that Sabinus' vindictiveness was such as to make him try and circumvent Pius' ruling and get possession of the slaves again, for he issued a stern warning to Sabinus in the third person: 'if he should circumvent *my* constitution, let him know that *I* shall pursue the offence with greater severity.'⁶⁴ In the other epistle, to a subordinate named Geminus, a copy of a petition is forwarded, and Geminus is directed to investigate the allegation it contains: the petition came from a man acting for a nephew who alleged that his young son had been abducted and cruelly ill-treated. The tone of the whole letter reveals the anger which the petition had inspired. The emperor speaks of being 'moved by the complaint'; this is summed up in highly-charged language, 'flogged and tortured to the point of death'; and Geminus receives the stern direction, 'if you discover that these offences were committed, you should punish the crime severely.'⁶⁵ In a very similar epistle to an official, which enclosed a copy of a petition with the emperor's subscript, Pius also spoke of 'being moved', this time by the status of the petitioner and the actual bad precedent which had been set.⁶⁶ Unfortunately, the remaining lines of the papyrus which quotes this epistle in a Greek translation are too fragmentary for the precise issue involved to be reconstructed with any certainty.⁶⁷ Yet the use of the same participle to describe the imperial reaction to two petitions could well be regarded as a feature of Pius' personal style, especially if the two epistles were written during the terms of office of two different *ab epistulis* (but this we cannot tell). Another stern response inspired by the ill-treatment of slaves is embodied in a subscript to the petition

⁶² *Dig.* iv. 1. 7. pr.

⁶³ *Dig.* xxvii. 5. 12. 2: 'non est novum quosdam, etsi mentis suae videbuntur ex sermonibus compotes esse, tamen sic tractare bona ad se pertinentia, ut, nisi subveniatur is, deducantur in egestatem — nam aequum est prospicere nos etiam eis, qui quod ad bona ipsorum pertinet, furiosum faciunt exitum.'

⁶⁴ *Dig.* i. 6. 2 = *Coll.* iii. 3. 1-3 (both from Ulpian, *de officio proconsulis* 8) = *Inst. Iust.* i. 8. 2 (clearly from the same source): 'quod si *meae* constitutioni fraudem fecerit, sciet *me* admissum severius executurum' (quod, *Coll.*; qui, *Dig.*; qui, Sabinus, *Inst.*).

⁶⁵ *Dig.* xlviii. 6. 6: 'motus querella eius, qua significavit filium suum ingenuum, iuvenem admodum, raptum atque conclusum, mox verberibus ac tormentis usque ad summum periculum afflictum, Gemine carissime: velim audias eum et, si com-

pereris haec ita admissa, rem severe exequaris.'

⁶⁶ *P. Rendel Harris* 67, col. ii., ll. 13-16: ἀντίγραφον βιβλιδίου δοθέντος μοι ὑπὸ Οὐαλερίου Ζωίλου ὁμοίως καὶ τῆς ὑπογραφῆς μ[ο]ῦ ὑποταγῆναι ἐκέλευσα, κεινηθεὶς οὐ μόνον τῷ τοῦ ἐπιδόντος ὄνοματι ἀλλὰ καὶ πρὸς αὐτὸ τὸ παράδειγμα For parallel formulae in Latin, cf. n. 13. My attention was drawn to this document by Millar, *op. cit.* (n. 3), 243.

⁶⁷ For the translation, see l. 11: ἐρμηνεῖα Ῥωμα[ί]κῶν κατὰ τὸ δυνατόν. This was therefore an epistle in Latin to an imperial official, almost certainly the Prefect of Egypt. The name of the recipient given in l. 12 is that of an Egyptian peregrine, Usenophis son of D[. . . .]. This must be the result of some error in the process of copying and translating.

of one Alfius Iulius, the man responsible for the cruelty. Alfius had presumably protested in his petition against a threat from a proconsul to make him sell his slaves, but Pius backed up the proconsul with his full authority, and Alfius' own obligations were put very bluntly: 'you yourself should be careful to treat your slaves justly and moderately so that you can get your orders obeyed without difficulty.'⁶⁸

To turn again from the 'outer' to the 'inner' style, we may begin with the issue raised in the epistle to the proconsul of Baetica and the subscript to Alfius Iulius, intervention by the imperial authorities to protect slaves from excessive ill-treatment by their masters. In authorizing this Pius was following precedents set by Claudius, Domitian and Hadrian, but he is the first emperor known to have provided the permanent remedy of a compulsory sale *ne revertatur*, in these two decisions, as well as in other replies to governors who consulted him about the problem of slaves who took refuge from their masters' cruelty in temples or at the statues of emperors.⁶⁹ In both the texts mentioned, the reasons for this interference with the rights of masters are explicitly stated. In the reply to the proconsul, the emperor says that it is in the interests of masters as a group that help should not be refused to those with just complaints. This argument is developed more fully in the subscript to Alfius: if the latter fails to ensure his slaves' obedience by decent treatment, the proconsul must intervene 'ne quid tumultuosius accidat.' It is not so much humanitarian feeling to which the emperor and the governors appeal in explaining their policy, as fear of widespread slave risings being sparked off, if a single master's slaves are driven to some act of desperation; hence the rights of the individual master must yield to the interests of the whole slave-owning class.

Both in the epistle to the proconsul of Baetica and in that to the praetor about the case lost by default (n. 62 above), the same general principle is invoked with the same stylistic device: in general established principles should be upheld, *but* in this particular case they may be set aside. In the latter epistle this is put in general terms: 'although no change should lightly be made from what is customary, nevertheless, when equity plainly demands it, assistance should be given.'⁷⁰ In the former the specific issue is defined: the powers of masters should not be impaired, and individuals should not be deprived of their rights, *but* Reasons were suggested above for assigning to Pius himself the actual words of the last surviving sentences of both excerpts. This repetition of a formula of caution could reflect an anxiety to prevent these decisions being taken as precedents for more radical innovations, on the part of either the emperor himself *or* of an individual *ab epistulis*.

Another principle which occurs in two epistles reflects a feature of Pius' character which is mentioned in the literary sources, his respect for the memory of his adoptive father.⁷¹ It is expressly stated as a motive in an excerpt from an epistle to Hadrian's own foundation of Antinoopolis: 'I have from the beginning upheld your (privileges?) from the god my father and I now uphold them.'⁷² In an epistle to Balbura in Lycia, Pius ratified the conditions of an endowment given to the city by one Meleagros, because Balbura had been able in its decree to quote as a precedent a similar concession made by Hadrian to Termessos in similar circumstances.⁷³ The Balburians must have included this precedent because they expected it to weigh heavily with Pius.

In these two cases Pius was following Hadrian's precedent of promoting Greek culture and city life. Yet in his epistle to the council of Asia (nn. 60-1) he revealed a far from respectful attitude towards one contemporary product of Greek culture, the philosopher. Anecdotes in Philostratus suggest that he felt no excessive reverence for Greek rhetoricians

⁶⁸ *Coll.* iii. 5-6: 'itaque et ipse curare debes iuste ac temperate tuos tractare, ut ex facili requirere eos possis, ne, si apparuerit vel inparem te inpendiis esse vel atrociori dominationem saevitia exercere, necesse habeat proconsul v.c., ne quid tumultuosius contra accidat, praevinire et ex mea iam auctoritate te ad alienandos eos compellere.'

⁶⁹ 'Consultus a quibusdam praesidibus provinciarum,' Gaius i. 53 (= *Inst.* i. 8. 2 = *Dig.* i. 6. 1. 2); for the precedents, see Buckland, *Roman Law of Slavery*, 36-8.

⁷⁰ *Dig.* iv. 1. 7. pr: 'etsi nihil facile mutandum est ex sollemnibus tamen ubi aequitas evidens postulat,

subveniendum est.'

⁷¹ Dio Cass. lxx. 1-2; *HA, Had.* 24. 5; *Ant.* 2. 5, 5. 1.

⁷² *P. Würzburg* 9, ll. 38-9 (Wilcken, *APAW* 1933, no. 6): καὶ ἐξ ἀ[ρχῆς] ἐφύλαξα ὑμῶν τὰς τοῦ θεοῦ πατρὸς μου δωρεὰς καὶ νόμ[ον] φυλάσσω[ω].

⁷³ *IGRR* iii. 467, with new readings of ll. 11-17 by G. E. Bean, *Journeys in Northern Lycia (TAM Ergänzungsbände iv)*, no. 14 (cf. *BE* 1972. 439): ἐπεὶ καὶ ὑπὸ τοῦ θεοῦ πατρὸς μου Τέρμησσεῦσι συνεχωρήθη τοῦτο ἐ[φ'] ὁμοίας ὑποσχέσεως ἦν καὶ ὑμεῖς τῶ ψηφισματὶ ἐ[νε]ργήσατε.

either: Alexander Peloplaton had his foppish appearance rudely commented upon, and the pretensions of M. Antonius Polemon, who had once turned Antoninus, then proconsul of Asia, out of his house in Smyrna, were gently mocked at.⁷⁴ The irony and sarcasm of Pius' letters to Ephesos have already been discussed; one Ephesian, Vedius Antoninus, had, however, won his high esteem. Another wealthy philanthropist, Opramoas of Rhodiapolis, may well have found less favour in Pius' eyes because of his great vanity, illustrated in the sixty-nine documents recording Opramoas' merits which were inscribed on the walls of his tomb. These must originally have included thirteen epistles from Pius to the Lycian federal council or to the individual cities of Myra, Tlos, Limyra, Korydalla, Nisa and Gagai, all acknowledging the receipt of decrees in honour of Opramoas.⁷⁵ Walton made the very plausible suggestion that the series of honorary decrees forwarded to the emperor formed part of a campaign to win for Opramoas an honour which had escaped him, the Roman citizenship.⁷⁶ If this really was the aim, Pius steadfastly refused to take the hint.

To sum up, a considerable proportion of the surviving texts reveal two aspects of Pius' personality, a severity which he shared with Hadrian, and a humour and irony, which are all his own. These characteristics appear in some routine letters of the kind one might expect an emperor to have left to his secretaries, while they are absent from others which deal with matters of real substance. Two recurring principles were a concern for the protection of slaves, which was justified on prudential rather than humanitarian grounds, and respect for precedents set by Hadrian. The promotion of Greek culture and the prosperity of the Greek cities had been among Hadrian's dearest aims, and Pius continued in his footsteps, albeit with a much cooler view of many contemporary Greeks, which led him at times to vent his rather sardonic humour at their expense.

4. MARCUS AURELIUS

If ever an emperor was closely associated with his predecessor, or professed a sincere admiration for him, it was Marcus; yet many of the constitutions issued in his name and in those of his co-regents bear the stamp of an individual character very different from that which has been perceived behind Pius' constitutions.⁷⁷ Four main characteristics emerge from the considerable body of Latin texts preserved by the jurists and the four major epigraphic texts hitherto published: (i) a painstaking thoroughness and attention to detail; (ii) an overcareful insistence on elaborating obvious or trivial points; (iii) purism in the use of both the Greek and Latin languages; (iv) an earnestness which produces an attitude to the pretensions of the Greeks far more serious-minded than Pius'.

Testimony to the first of these qualities is provided by the very length of several of the texts, virtually without parallel among the surviving constitutions of earlier emperors.⁷⁸ The most remarkable of these is a recently published text from Athens which deals with the quarrels between Herodes Atticus and the Athenians: it was inscribed on at least two plaques, and the second, which is preserved in full, has 101 lines with an average length of some seventy-five letters.⁷⁹ I have argued elsewhere that this text is that of an imperial edict, composed in Greek, and intended for publication in Achaëa and perhaps beyond, at some date between 169 and 176.⁸⁰ Much of this text is taken up with summaries of judicial decisions already reached by the emperor on appeals by the Athenian supporters and rivals

⁷⁴ Philostratus, *Vit. Soph.* ii. 5 (570-1); i. 25 (534-5).

⁷⁵ Heberdey, *Opramoas* (1897) = *IGRR* iii. 739 = *TAM* ii. 905, sections 37-42, 44, 46-51 (section 39 is entirely lost, and six other texts are very damaged).

⁷⁶ *JRS* xix (1929), 55; two of the decrees of the Lycian council in Opramoas' honour which were sent to Pius refer to Opramoas' distant relationship to a Roman senator: θεῖω Αἰλίω Π[λατ]ωνίδω, γυναικὸς Κλαυ[δίου] Ἀγ[ριππείνου] συγκλητικο[ῦ] (section 59, ll. 6-8; cf. 63, ll. 11-12).

⁷⁷ In view of the known characters of the co-regents, and of the fact that the same features appear in documents from the whole period 161-80, it can be assumed that, if these were the work of an emperor at all, they were the work of Marcus.

⁷⁸ The second of five fragmentary epistles of Hadrian to Delphi occupied at least 80 lines of middling length, according to the latest reconstruction (*Fouilles de Delphes* iii. 4, 302). The elaborate regulations for the exchange monopoly at Pergamum (*OGIS* ii. 484 = Smallwood 451) are often called 'a rescript of Hadrian', but they cannot be dated to a particular reign, and could well be the decision of a proconsul of Asia, acting with the advice of a *consilium*.

⁷⁹ First published by J. H. Oliver in *Hesperia*, *Supplement* xiii, 1-9; important revisions by C. P. Jones, *ZPE* vi, 161-83; rejoinders by Oliver, *ibid.* xiv, 265, and xvi, 315.

⁸⁰ *ZPE* xvii, 37-55.

of Herodes Atticus (ll. 1-57). This is precisely the sort of 'publicity material' which one would have expected the emperor to leave his *ab epistulis Graecis* to compose, and so is the eloquent appeal for a reconciliation between the Athenians and Herodes (ll. 87-94).⁸¹ However, the main text is followed by a postscript which explains more fully a rule laid down in the main text (ll. 94-102), and this postscript, in my view, provides evidence for the imperial authorship of this text, which is quite independent of the necessarily subjective analysis of style used in other cases. It is inconceivable that anyone but the emperor could have composed the first sentence of the postscript: 'however, it occurred to me after all my judicial decisions had been compiled in the Greek tongue that there was a point I had passed over in my exposition, which could be deduced from my decision, if not from the actual terms of the announcement, and which required amplification . . .'.⁸² A secretary would have had to be very indolent, or very anxious to lend verisimilitude to his impersonation of a busy emperor, if, instead of going back to rewrite the obscure passage, he put into the emperor's mouth a confession that he had failed to express himself properly. Furthermore, if the emperor composed the postscript, the conclusion that he also composed the main text is inescapable.⁸³ The whole of this Athenian document is thus evidence of Marcus' willingness to draft in person a text of great length and intricate detail, even when much of it consisted of summaries of decisions he had already issued in another form (that of *decreta*). It also justifies assuming that Marcus was himself the author of a number of other texts of a similar nature.

One of these is a reply of 162 or 163 to the *curator* of the Ephesian *gerousia*, Ulpius Eurycles, which occupied over 60 lines of an inscription.⁸⁴ In the case of the second of the three problems which Eurycles had referred to the emperors, that of a public slave of the Ephesian state who had been collecting debts owed to the *gerousia*, the general principles are laid down by the imperial epistle, but, as so often, the man on the spot is left to investigate the facts for himself. The care taken in drafting the epistle is revealed by the fact that three different situations which might be uncovered by Eurycles' investigation are provided for in three separate conditional sentences: that the slave was not guilty of peculation, and the money he had collected was all available; that he was guilty, and the moneys in his possession (or the *peculium* he had left, if he were dead—another example of leaving no eventuality unprovided for) were enough to cover the sums owed to the *gerousia*; and that he was guilty but that such moneys were not sufficient, in which case some of the debtors who had negligently handed over money to the slave were to make up the difference (these men were to be picked out by the proconsul according to criteria laid down in the epistle).

Four rescripts preserved in the Digest are also of unusual length and elaboration, and two at least deal with situations which must have been highly unusual, if not unique. The first is that of a man who demanded that his divorced wife, who was denying his claim that she was pregnant, should be put under guard. In this case it is clear that the emperor is providing his own solution, and not merely approving one proposed by the official who had consulted him (in this case, the urban praetor): 'Rutilius Severus appears to have a novel request . . . and so no one will be surprised if we also propose a novel plan and remedy.'⁸⁵ The praetor is to find three skilled midwives to examine the woman, and the courses to be followed are laid down, if a majority do or do not find that the woman is pregnant. The second unusual situation is that of a madman who has killed his mother: again the official addressed is ordered to investigate and establish whether the madness is uninterrupted or,

⁸¹ The post of *ab epistulis* was divided for good c. 166: Townend, *Historia* x (1961), 373-81. Despite Townend's contention that the *ab epistulis Graecis* remained at Rome to handle business from the eastern provinces during Marcus' Danubian campaigns, that official was certainly with the emperor on the Danube: see Philostratus' account of how Alexander Peloplaton was summoned there to receive his appointment, *V.S.* ii, 5 (571).

⁸² ll. 94-6: ὁ γὰρ μὴν ἐπὶ πᾶσι τοῦτοις κατὰ τὴν Ἑλληνῶν φωνὴν περὶ τῶν δικασθέντων συντεταγμένοις προσεβούληθη ὡς ἐν οἷς ἀπεφηνάμην παρεϊμένον, ἀπὸ μὲν τῆς γνώμης τῆς ἐμῆς, εἰ καὶ μὴ ἀπὸ τῶν τῆς φάσεως ῥημάτων, νοεῖσθαί σου δυνάμενον, ἐξηγήσειω δὲ τινοὺς προσδεόμενον.

⁸³ See *ZPE* xvii, 52-6.

⁸⁴ *Forsch. Ephesos* ii, 23, reproduced, with some revisions, by Oliver, *Hesperia*, *Suppl.* vi, 93-4. The section analysed below occupies ll. 28-40.

⁸⁵ *Dig.* xxv. 4. 1. pr.: 'novam rem desiderare Rutilius Severus videtur . . . et ideo nemo mirabitur si nos quoque novum consilium et remedium suggeramus.' For an example of the other, more common, procedure, see the terms of the epistle to Voconius Saxa (*Dig.* xlvi. 18. 1. 27): 'prudenter et egregia ratione humanitatis, Saxa carissime, Primitivum servum . . . damnasti . . . nec frustra fuit tam prudens consilium tuum . . . potes igitur . . .'

'as often happens,' the man has intervals of lucidity and might have been guilty of deliberate murder. In the first case, the man is to be carefully guarded; in the second, the matter is to be referred back to the emperor. Elaborate instructions are also given for checking up on possible negligence by his keepers in the past.⁸⁶ All this seems to be an excessive amount of attention for the ruler of the world to devote to quite a straightforward question. In a third text, which is also probably from an epistle to an official, the circumstances which have led the emperor to alter a decision on a point of law laid down in an earlier subscript to a petition are rehearsed in what seems unnecessary detail.⁸⁷ The fourth text was itself probably a subscript to a petition: it safeguarded the freedom granted to his slaves by one Virginius Valens both by will and by *fideicommissum*, even though the inheritance had not been accepted and there was no intestate successor. The status of either group of freedmen is spelt out in the usual detail, but the most interesting feature is the warning to the officials of the imperial *fiscus* to keep their hands off: 'let the benefit granted by our rescript not be made void for any other reason, if the *fiscus* wishes to claim the property, and those who look after our interests will know that the cause of freedom is to be put before financial advantage . . .'⁸⁸ This implies that Marcus was not certain that his wishes would be respected unless they were brought home to his servants with emphasis, and suggests one possible motive for the elaborate nature of these rescripts, namely a lack of confidence in the intellectual or moral qualities of his subordinates: a lack of confidence in the latter would fit in with the attitudes which Brunt has detected in the *Meditations*.⁸⁹

At the same time much of the elaboration can be accounted for simply as the result of the second characteristic defined at the outset, a certain fussiness, a pedantic anxiety to dot every i and cross every t. The postscript to the Athenian text is one illustration of this tendency, but it comes out even more strikingly in a newly-published inscription from Miletus.⁹⁰ An imperial epistle in Greek to the city in 177 merely encloses an excerpt from an *oratio principis* in Latin, which dealt with the Milesians' actual request, but it is felt necessary to explain why it is only an excerpt which is being enclosed, and it takes three times as many words as are really needed to do so. 'After receiving your message about the festival, we thought it appropriate to discuss the matter before the holy Senate, in order that it might agree to your request. But it was necessary to address arguments to it about a considerable number of other matters as well. Since therefore it did not ratify our proposals individually and one by one, but the decree was passed jointly and collectively about the matters raised by us on that particular day, the portion of the speech that was actually delivered which applies to your request has been attached to this reply in order that you may know about it.'⁹¹

The third characteristic is another aspect of this same fussiness or pedantry, a reluctance to use Latin terms in Greek and *vice versa*. This is deduced from what may appear very trivial tricks of style, but such minor features can be regarded as the most reliable index of authorship by a single individual. In the letter to Ulpius Eurycles the Latin legal term *peculium* is put in inverted commas, as it were, in the phrase 'the so-called *peculium*'.⁹² The new Athenian text has the phrase 'what are called *codicilli*',⁹³ so that in both cases there is an apology for the use of Latin words in Greek. Since the two texts were written perhaps as much as ten years apart, this cannot be the purism of a particular Greek secretary, in view of the turnover of secretaries during this reign.⁹⁴ Oliver has also pointed out that in the Athenian text 'ingenuus' is represented by the more elegant but less precise term,

⁸⁶ *Dig.* i. 18. 14.

⁸⁷ *ibid.* xxxvii. 14. 17. pr., discussed at greater length in *ZPE* xvii, 75-7.

⁸⁸ *Inst. Iust.* iii. 11. 1: 'et ne huius rescriptionis nostrae emolumentum alia ratione irritum fiat, si fiscus bona agnoscere voluerit, et hi qui rebus nostris attendunt scient commodo pecuniario praeferendam libertatis causam . . .'

⁸⁹ *JRS* lxiv (1974), 10-14.

⁹⁰ P. Herrmann, *Ist. Mitt.* xxv (1975), 149-66.

⁹¹ art. cit., 150, ll. 12-20: 'Εντυχόντες οἷς ἐπεστειλάτε περὶ τοῦ ἀγῶνος προσήκειν ἡγησάμεθα διαλεχθῆναι πρὸς τὴν ἱερὰν σύγκλητον βουλήν, ὅπως συγχωρήσειεν ὑμῖν ὅπερ ἤξιοῦτε. Ἐδέησεν δὲ καὶ περὶ ἐτέρων πλειόνων ποιήσασθαι

πρὸς αὐτὴν τοὺς λόγους. Ἐπεὶ τοίνυν οὐκ ἴδρα καθ' ἕκαστον ὧν εἶπομεν ἐπεκύρωσεν, ἀλλὰ κοινή καὶ συλλήβδην περὶ τῶν λεχθέντων ὑφ' ἡμῶν ἐκείνης τῆς ἡμέρας τὸ δόγμα ἐγένετο, αὐτοῦ τοῦ ρηθέντος λόγου τὸ συντεῖνον μέρος πρὸς τὴν ὑμετέραν ἀξίωσιν ὅπως εἰδείητε ὑποτέτακται τῇ ἀποκρίσει ταύτῃ.

⁹² *Forsch. Ephesos* ii. 23, l. 36: τὸ δὴ προσα- [γορευόμενον] πε]κούλιον. The correctness of the restoration is confirmed by the new Athenian text (n. 93).

⁹³ l. 36 of the text cited in n. 79: [τῶν] καλουμένων κωδικίλλων.

⁹⁴ See Townend, *op. cit.* (n. 81).

εὐγενής, instead of the more clumsy ἔγγενής, which is found in the papyri.⁹⁵ In the new Latin *oratio* from Miletus a similar purism in the use of Latin may be observed. The privileges which Miletus had requested for its festival almost certainly amounted to 'iselaestic' status.⁹⁶ While Pliny and Trajan had happily used the Greek word as a Latin adjective,⁹⁷ an elaborate periphrasis is employed in Marcus' *oratio* to convey what was meant by 'iselaestic': 'the Milesians desire that the festival [*lacuna*] dedicated of old should be established in the same privileged position [as that enjoyed by those festivals] from which victors returning to their native city [can be borne in in triumph].'⁹⁸

The fourth characteristic, earnestness, is, of course, commonly a complement to conscientiousness and extreme attention to detail. It can be illustrated most vividly from the appeal made in the new Athenian text for a reconciliation between Herodes and the Athenians, and its distinctive tone emerges most clearly if one contrasts it with Pius' epistle to Ephesos about the city's titles (n. 59 above). 'I believe I have made it clear by my announcements that I provided for each matter, not according to my power, but rather through concern that in future it might be possible for Herodes to stay among the Athenians with cheerfulness(?) for divine and human affairs along with his renowned zeal for education, and in order that the Athenians, being mindful of the generosity the excellent Herodes (had shown) towards them, might renew the confidence of their earlier mutual affection, on account of which they do not need even me as a reconciler. For what should still lurk in any man's mind after the memory of the disputes had been expunged? (Perhaps?), now that a remedy has been worked out in every case, it should be possible for the Athenians to love my Herodes who is also their very own, since nothing else of importance stands in the way of goodwill.'⁹⁹ This appeal is no doubt admirable in its sincerity, and one should not simply dismiss the quarrels at Athens as a storm in a teacup (although it is remarkable that they should be taken so seriously by the emperor who was coping with Rome's most serious military crisis for a century and a half)¹⁰⁰; yet one wonders if Pius would have used quite these solemn and impassioned terms, which hardly seem likely to lower the emotional temperature of a situation in which both sides seem to have worked themselves up into a rare hysteria.¹⁰¹ The explanation of Marcus' attitude is to be found partly in his habitual seriousness, and partly in his attachment to Greek, and especially Athenian, culture, and his personal ties with Herodes. All this had led him to take the contemporary Greeks far more at their own valuation than Pius had done. This contrast between the attitudes of the two emperors is confirmed by the oral traditions of the Greek intelligentsia as recorded by Philostratus. Whereas Pius had gently mocked the pretensions of Antonius Polemon and had been openly offensive about the affectations of Alexander Peloplaton,¹⁰² Marcus made the latter his *ab epistulis Graecis* and was so moved by one passage in Aelius Aristides' lament over devastated Smyrna that he shed tears over the page.¹⁰³

In the field of 'inner style', two recurring features of the texts are worth noting. One is the repeated stress on humanity: in a court case the emperor adopted the 'humaniorem interpretationem' of a testator's intentions, and in two rescripts said that it would not be 'humanum' to delay the manumission of a slave freed by *fideicommissum* or to exact

⁹⁵ Oliver, *Hesp., Suppl.* xiii, 20-3; for this use of εὐγενής, cf. Dio liv. 16. 2, lv. 31. 1, and for ἔγγενής, see Chalon, *L'édit de Tib. Iul. Alexander*, 162, n. 17, with ll. 33-4 of the edict, and *Gnom. Id. Log.* 29.

⁹⁶ Herrmann, op. cit. (n. 90), 156-7.

⁹⁷ Plin. *Epp.* x. 118-19; Smallwood 450, l. 21.

⁹⁸ Herrmann, op. cit. (n. 90), 150, ll. 29-32: 'desiderant autem Milesii certamen [c. 16 letters . . . sa]crum antiquum dicatum in eo constitui iure [quo . . . c. 12 letters . . . certam]ina ex quibus reduces patriam suam [?] inveni possunt?'. For the restorations, see 156-7, nn. 25 and 27.

⁹⁹ ll. 87-94: ἡγοῦμαι δεδηλώσθαι δι' ὧν ἀπεφηνάμην ὅτι ἕκαστα π[ρ]οιδόμην ο[ὐκ ἔ]π[ε] [ἔ]ξουσίας μᾶλλον ἢ φροντίδος ἵνα πρὸς τὸ μέλλον Ἡρώιδῃ τε ὑπάρχοι παρὰ Ἀθηναίους σὺν εὐφροσύνῃ περὶ τε τὰ θεῖα καὶ τὰ ἀνθρώπινα ἔχειν, σὺν τῇ εὐκλειῇ περὶ παιδείαν σπουδῆς, καὶ Ἀθηναίοι τῆς προ[πειπο]ρημένης εἰς αὐτοὺς εὐποίας τοῦ κρ. Ἡρωίδου μεμνημένοι, τὸ θάρσος τῆς πρότερον περὶ ἀλλ[ή]λους [οἰκεί]σ-

τη το[ῦ] ἀνανεώσαιντο, δι' ἣν οὐδὲ ἐμοῦ διαλλακτοῦ δέονται. τί γὰρ ἂν ἔτι ὑποκαθέχοιτο ἐν γνώμῃ τινὸς μετὰ τὸ ἀπαλειφθῆναι τὴν ἐπὶ [τ]αῖς αἰτίας μνήμην; τῆς θεραπείας ἐπὶ πᾶσιν ἐκπεπο[ν]ημένης [ἰσως] Ἀθην[α]ίοις ἔξ[ῆ]ν τὸν ἐμὸν καὶ τὸν Ἰ[σ]ιδ[ω]νον αὐτῶν Ἡρώιδῃν στέργειν οὐδενὸς ἔτι ἑτέρου τῆς εὐνοίας με[γά]λου ἀντικρούοντος. Neither the text nor the translation is entirely secure: I have mainly followed Jones in both (*ZPE* vi, 181-2). For a rejoinder by Oliver on ll. 88-9, see *ZPE* xvi, 315-6.

¹⁰⁰ cf. ll. 23-7, where the appeal of one Athenodorus is delegated to the Quintilii, ἵνα μὴ μετὰ τοσούτων τούτων καιρῶν ἐν οἷς ἐξέσται μοι καὶ παρὰ τὰς στρατιωτικὰς πράξεις τὰ κρίσι[σ]ως δε[λ]όμενα ἐκδικᾶζειν ἀναγκασθῆ περιμένειν.

¹⁰¹ See Philostratus' account of Herodes' behaviour before the imperial tribunal, and of the Athenian decree which began 'Happy are those who died in the plague', *VS.* ii. 1 (561).

¹⁰² Philos., *VS.* i. 25 (534-5); ii. 5 (571).

¹⁰³ loc. cit.; idem, ii. 9 (582).

interest from a man who had suffered financial loss through holding an *honor*.¹⁰⁴ The other is a respect for precedent and tradition. The new Athenian text refers to the maintenance of 'the laws and ancestral customs of Athens',¹⁰⁵ and, according to two rescripts, the 'consuetudo' of a region and of a province is to be established and respected.¹⁰⁶ In two cases, an innovation and a departure from normal practice are noted and virtually apologized for. The first is the provision for midwives to examine the allegedly pregnant divorced wife (quoted in n. 85). The second is the grant of Roman citizenship to Iulianus, chieftain of the Zegrenses. The first of the two epistles engraved on the *Tabula Banasitana* makes it clear that this grant was an exceptional concession justified only by unusual merits: 'although the Roman citizenship has not usually been given by imperial generosity to tribesmen of this kind, unless it has been earned by the greatest merits . . .'¹⁰⁷

These two features are only of minor significance, and it is the characteristics defined earlier which really bring out the individual personality which lies behind the constitutions of 161–80. These characteristics emerge most fully and vividly in the great Athenian text, and the publication of that document has made it possible to recognize their presence in a number of other texts of the reign. Thoroughness and seriousness are not so patently the signs of a particular personality as the irony of Pius; it is the contrast with Pius' attitude to the Greeks, for example, which makes them stand out so clearly. At the same time, the undoubted fact of Marcus' personal authorship of the Athenian text makes it impossible to dismiss the solemnity and elaboration of the other texts as a reversion to a standard 'chancellery style' after an 'incursion' into the secretaries' domain by Pius.

5. COMMODUS

The significance of Commodus is like that of Conan Doyle's dog who did nothing in the night-time. If the bulk of the imperial constitutions were really composed by the 'civil service', one would not expect the accession of a lazy and negligent emperor to make much difference to their 'rate of production', at any rate in the earlier years of the reign, while his predecessor's competent appointees were still in office. Only three epigraphic texts from Commodus' reign have so far been discovered in a well-preserved condition, epistles in Greek to the Eumolpidae at Athens and to Bubon in Lycia, and a subscript in Latin to the petition of the peasants of the *saltus Burunitanus*.¹⁰⁸

This poor showing could be disregarded as the result of the accidents of survival: after all, a fragmentary inscription at Athens included at least six epistles to the Athenian *gerousia* dating from Commodus' sole reign.¹⁰⁹ However, the evidence of the juristic sources shows that it is no accident. In Justinian's Code no constitution of Commodus' is quoted, in contrast to about eight from 161–80, and two even from Pertinax's short reign.¹¹⁰ The classical jurists quoted only three constitutions and cited four others: these passages occupy little more than one page in Gualandi's collection, about the same space as the passages relating to Pertinax, and in contrast to about fifty pages for the period 161–80.¹¹¹ Commodus' memory was rehabilitated by Severus, under whom the most prolific jurists worked, so the only explanation for their silence must be that they found nothing which deserved quotation. This strongly suggests that legislation did depend on the active interest of the reigning emperor.

6. SUMMARY

The pronouncements of the four members of what is in effect a single imperial dynasty

¹⁰⁴ *Dig.* xxviii. 4. 3; xl. 5. 37; l. 1. 24; and compare the terms in which Voconius Saxa was commended (note 85 above).

¹⁰⁵ ll. 33–4: εἰς [δὲ] τὸ μέλλο[ν κατὰ] τοὺς νόμους καὶ τὰ πατρια ἔθνη παραφυλαχθήσεται.

¹⁰⁶ *Dig.* xviii. 1. 71; xxii. 5. 3. 6.

¹⁰⁷ *CRAI* 1971, 470–2 = *AE* 1971, 534, ll. 4–5: 'quamquam civitas Romana nisi maximis meritis provocata in (dul)gentia principali gentilibus istis dari solita sit, . . .'

¹⁰⁸ *Syll.*³ 873 = *IG* ii.² 1110; F. Schindler, *Die Inschriften von Bubon* (*SAAW* 278, 3), no. 2; *ILS*

6870 = *FIRA* i.² 103, col. 4.

¹⁰⁹ See D. J. Geagan, *Hesp.*, *Suppl.* xii, 187–93 = Oliver, *Hesp.*, *Suppl.* xiii, no. 4. For fragments of an epistle to Athens, see *Hesp.*, *Suppl.* viii, 287–8 = *AE* 1952. 6, and for those of another subscript from North Africa, see *CIL* viii. 14428.

¹¹⁰ See the indices in Krüger's edition (*Corpus Iuris*, vol. 2, p. 489) and in Hänel's *Corpus Legum* (p. 3).

¹¹¹ G. Gualandi, *Legislazione imperiale e giurisprudenza*, i, 103–54, 155–6, 157.

have been examined in turn. The individual characters of two of them, Antoninus Pius and Marcus Aurelius, emerge very plainly from the texts of *some* of the documents issued in their names. It is Pius, with his humour and sarcasm, who makes the more immediate impact; Marcus' solemnity and thoroughness stand out in contrast to the tone of some of his predecessor's pronouncements. This contrast can be perceived most clearly in their attitudes to the quarrels between or within Greek cities, and to the pretensions of the sophists who dominated Greek cultural life; the existence of this contrast is confirmed by the evidence of Philostratus. The actual constitutions which they can be shown to have composed in person show that no specific categories of text can be assumed to have been too routine for the emperors to handle: Pius acknowledged the receipt of honorary decrees, and Marcus dealt at length both with the drafting of a 'publicity handout', and with two very unusual situations, referred to him by subordinates, which seem very unlikely to have required an imperial definition of general principles to meet similar problems in the future. Of the other two emperors, Commodus' very silence supports the hypothesis of the imperial authorship of constitutions. Hadrian, on the other hand, provides the least satisfactory results for the hypothesis adopted in the introduction to this paper: there are some traces of individuality, but nothing as obvious as Pius' irony, or as all-pervading as Marcus' conscientiousness. Nevertheless, something of his particular attitude to the Greek east can be defined: neither ironic detachment nor serious-minded concern, but an anxiety to display and to advertise his own 'philanthropy'. Thus, in this one sphere at least, one can deduce from the texts of the constitutions a clear difference of tone and attitude of mind for each of three successive emperors.¹¹²

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¹¹² Much of the material in this article was presented in a paper to the Cambridge Philological Society in

October 1975, and I am grateful to the members of the society who were present for their comments on it.