

# *Hadriani Sententiae*

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**H**ADRIANI SENTENTIAE is the title of a curious document with a curious history of scholarly acceptance followed by disdainful rejection and neglect. The *Sententiae* are preserved as part of a miscellany of texts presented in parallel columns of Greek and Latin word-for-word equivalences. The large extant number of such bilingual word-lists, known in Greek as *Hermeneumata* and in Latin as *Interpretamenta*, attests to their popularity as teaching tools in Roman times, especially in late antiquity. In addition to those reproduced from mediaeval and Renaissance manuscripts in the *Corpus Glossariorum Latinorum*, fragments of fourteen more have been found in papyri and parchments of the first century B.C. to the seventh century.<sup>1</sup>

Ascribed in the manuscripts—falsely, as long established—to the grammarian Dositheus, the miscellany in which the *Sententiae* are embedded is generally agreed to have the following characteristics: (1) “Both the Latin and the Greek texts [were] prepared by [an] unknown magister in the early years of the third century”<sup>2</sup>—or, at any rate, in the first half of that century. I shall have more to say, presently, about that date. (2) “The compiler of the exercises ... seemingly prepared a Greek translation for the Latin selections he made, with a Latin version for the [other] pieces he included which already existed in Greek.” (3) “There was early, if not immediate, alteration of the Latin version ... to accommodate the Latin to the Greek.”<sup>3</sup>

<sup>1</sup> J. Kramer, *Glossaria bilingua in papyris et membranis reperta* (Bonn 1983), with J. Lenaerts' review *ChrEg* 62 (1987) 241–45, and Kramer, *Tyche* 5 (1990) 37ff.

<sup>2</sup> Cf. A. Bataille, *RechPap* 4 (1967) 168.

<sup>3</sup> A. A. SCHILLER, “Vindication of a Repudiated Text, ‘Sententiae et Epistolae Hadriani,’” in *La critica del testo* (=Atti, Secondo Congresso Internazionale della Società Italiana di Storia del Diritto [Florence 1971: hereafter ‘Schiller’]) 717–27 at 722.

## I

The wide use of these bilingual teaching tools affected the transmission of the text in a variety of ways. One that concerns us here was long ago noted in *RE*: "Their vigorous spread evoked many alterations or revisions of the original; therefore they have been transmitted in several, sometimes substantially divergent, versions."<sup>4</sup>

This last point is strikingly illustrated by the survival of the *Hadriani Sententiae* in a longer and a shorter version. The last serious edition is that of E. Böcking, *Dosithei Magistri Interpretamentum liber tertius* (Bonn 1832), reprinted in *Corpus Iuris Romani Antejustiniani* (Bonn 1841) 193–214. In his *Praefatio* Böcking describes the miscellany as consisting "ex trivialibus" but containing those Hadrianic items "quae ad veteris iuri historiam excolendam gratissimae nobis esse debent." But A. A. Pellat, yielding to the growing communis opinio of the document's juristic worthlessness, dropped the text from his *Manuale Juris Synopticum* after the third edition of 1862. Since then jurists, classicists, and ancient historians have almost universally ignored the *Sententiae*. In Leopold Wenger's mammoth *Die Quellen des römischen Rechts* (Vienna 1953)—973 quarto pages citing legal and literary texts, inscriptions, and papyri—there is no hint of the *Sententiae*. The rare writer who mentions the document has done so only to dismiss it as unworthy of notice.<sup>5</sup> The only place where the text is now conveniently available is in *Corp. Gloss. Lat.* III (30–38, 387–90), published exactly one hundred years ago. In the longer version the left-hand column is in Greek, the right in Latin; in the shorter version the positions are reversed. The significance (if

<sup>4</sup> J. Tolkieln, "Lexikographie," *RE* 12 (1925) 2468.

<sup>5</sup> E.g. Paul Krueger dismissed the *Sententiae* as "eine Anekdotensammlung seichtesten Inhalts" (*Geschichte der Quellen und Litteratur des römischen Rechts* [Leipzig 1888] 252 n.52; [Munich 1912<sup>2</sup>] 285 n.56). Then, at the University of Jena in the 1892–93 academic year—that is to say, at the time of the publication of his *Corp. Gloss. Lat.* III—G. Goetz delivered a lecture reviewing *Divi Hadriani sententiarum et epistularum collectionem*. After outlining the ms. traditon, Goetz ended with an approving reference to the legal scholars, notably Krueger, who "narratiunculas ... nunc ... merito exclusaverunt" (as 'fontes iuris Romani'). In the *Handbuch der Altertumswissenschaft* Schanz-Hosius merely lists the *Sententiae* under Hadrian, without a word of comment or evaluation (III<sup>3</sup> [1922] 8, IV<sup>2</sup> [1914] 179).

any) of this difference is not readily apparent. Bataille surmised in a 1964 lecture (*supra* n.2: 165) that in the papyrus fragments of these lists the Latin “traditionally” (his word) was in the left column because those vocabularies were prepared for teaching Latin to people in the Greek-speaking part of the Roman Empire. But in nine of the fourteen *Hermeneumata* found on papyrus, most of them published in the years since Bataille’s lecture, that goal is discernible in the writing of the Latin words with Greek characters.<sup>6</sup>

In 1971 the late A. Arthur Schiller, in what he intended as the first of a series of studies, reasserted (*supra* n.3) the validity of the document, demonstrating that the *Sententiae* are not mere anecdotes, as held by the *communis opinio* of the preceding hundred years, but do correspond in form and content to the reports of such hearings before emperors and provincial governors that have been brought to light in recent years in papyri and inscriptions. In fact, soon after the appearance of R. A. Coles’ 1966 monograph analyzing those reports of hearings,<sup>7</sup> Schiller turned his attention to the *Hadriani Sententiae*.

No doubt owing to its appearance in a remote publication (not in *L’Année philologique* till 1978), Schiller’s paper escaped the notice of most scholars in ancient studies—even jurists. A lengthy monograph on the pronouncements of Hadrian preserved in Greek<sup>8</sup> does not mention the *Sententiae*, let alone consider them; and only one reviewer took the author to task for the omission.<sup>9</sup> As far as I can discover, Schiller’s ‘vindication’ of the *Sententiae* has elicited no published comment whatsoever.

As a next step Schiller proposed (723f) to conduct a computer-assisted search of contemporary legal and quasi-legal Latin texts—e.g. known “constitutions of Hadrian and succeeding emperors ... Trajan’s letters in his correspondence with Pliny, and even Pliny’s letters to the emperor.” He further announced that “the matching [computer] program for the Latin text of the Leiden manuscripts of the *Sententiae* has begun, and the results are eminently satisfactory.” Schiller’s friends and colleagues know that, prior to his sudden and untimely death in 1977, he

<sup>6</sup> Kramer (*supra* n.1) nos. 5–9, 11ff, 15; *cf.* also no. 1.

<sup>7</sup> *Reports of Proceedings in Papyri* (P.Brux. IV: hereafter ‘Coles’).

<sup>8</sup> F. Martín, *La documentación griega de la cancellaria del emperador Adriano* (Pamplona 1982).

<sup>9</sup> J.-L. Mourgues, *Latomus* 47 (1988) 896.

invested considerable time and effort in studying this “extraordinary matching of vocabulary and phraseology ... grammatical constructions and syntactical usages”; but, even with the assistance of his widow, all attempts to find his relevant notes and data have, unfortunately, been unavailing.

## II

Accordingly, this review of the *Sententiae* must be taken up without benefit of Schiller’s lost data. Even a quick perusal suffices to reveal that the document presents several kinds of problems, textual and contextual. Among the former I single out the following by way of example; no exhaustive analysis is attempted. Arabic numerals refer to page and line of *Corp. Gloss. Lat.* III.

*Title.* The short version has simply *Hadriani Sententiae*, Ἀδριανοῦ ἀποφάσεις (387.10). The title of the long version is θεοῦ Ἀδριανοῦ ἀποφάσεις καὶ ἐπιστολάς [*sic*], *divi Hadriani sententiae et epistolae* (31.3ff). *Divi*, of course, indicates that this compilation was made after—probably long after, as we shall see presently—Hadrian’s death. The word *epistolae* in the longer version of the thirteen *Sententiae* is explained by the appendage of a letter of Hadrian to his mother, inviting her and his sisters to join him at dinner in celebration of his birthday.<sup>10</sup> This letter and two of the *Sententiae* are missing from the shorter version; whether the omission is intentional or accidental is unclear.

*Two-way Translation.* The current state of the text has clearly undergone many alterations. Most of the time the Greek of the *Sententiae* looks like a translation of the Latin, but there are clear or probable instances of the reverse. Here are three such: (a) 32.38f. ἀτόκους τόκους, *inusuras usuras*. The Greek is sufficiently idiomatic (although ἄτοκος χρῆσις is more usual), the Latin is not. There is no such word as *inusuras*, which looks like a literal (*in* + *usuras*), if uninformed, rendering of ἄ + τόκους. The editor of the shorter version simply changed *inusuras* to *iniquas* (387.51); Böcking accepted that change, but in a footnote he hesitantly offered *iniustas*, an obviously easier emendation. (b) 33.42. ἐξαυτῆς, *ex ipsis*. Since the required

<sup>10</sup> As M. T. Boatwright points out, *AJP* 112 (1991) 533 n.74, “Although this letter ... mentions ‘sisters’ of Hadrian, only (Aelia) Domitia Paulina is known.”

sense is 'immediately', the Greek is right and the Latin looks like a botched translation treating the Greek as two words. The edited shorter version has *continuo*, ἐξαυτῆς (387.55). (c) 33.30 and 388.24. ἀνα-, μετακαλέσασθαι (middle), *revocari* (passive). The likeliest explanation of the inconcinnity is that the -σθαι ending caused the unwary Latin translator to take the Greek infinitive to be passive.

*De Minimis* ("non curat lex, at curant philologi"). (a) 34.13ff. *si qua alia fuissent iusta* appears in Greek as εἴ τινα ἄλλα γεγόνισαν δίκαια—perfection itself except for the pluperfect verb, where the translator—working, obviously, from Latin into Greek—not only omitted the augment,<sup>11</sup> but, in a more important error, matched the Latin plural form, overlooking the neuter plural subject requiring (in Greek) a singular verb. (b) 35.41f. The Greek genitive absolute has produced *petente mulieris* in the Latin. Here the translator was obviously working from Greek into Latin. (c) 36.9. While two manuscripts have ινα, which the sense requires, *Corp. Gloss. Lat.* prefers those that have—and it accordingly prints—ρῖα. This is patent nonsense, but a papyrologist does not have much trouble discerning how iota nu could be misread as rho iota, especially if the original iota had serifs at its ends or—a common phenomenon—a thickening of the ink at the top of the vertical stroke. The plenitude of such misreadings is apparent from a simple glance at the tables compiled by H. C. Youtie, *The Textual Criticism of Documentary Papyri. Prolegomena* (=BICS Suppl. 6 [London 1958] 69f; second edition, Suppl. 33 [London 1974] 68f).

*Hopeless Confusion?* (a) 33.14–17. The Greek has διαβολὴν ... ἦν δοῦλοι παρώξυναν (in a corrupted form). This appears in Latin as *crimen ... quod emerui concitaverunt*. Indicated by the text of the shorter version (see below), the correction of *emerui* to *serui* (so already Böcking) is easy semantically, puzzling palaeographically. The short version, instead of clarifying, increases the confusion: the petitioner there avers (388.16f) that he is *securum crimine quod ipsi concitaverunt*. In the Greek this becomes διαβολὴν δουλ(ε)ία ἦν αὐτοῖ παρώξυναν. The word αὐτοῖ, here dangling without an antecedent, presumably refers to the slaves of δουλία. Its Latin counterpart

<sup>11</sup> In -ισαν iota for epsilon is a common phonetic spelling: cf. F. T. Gignac, *Grammar of the Greek Papyri of the Roman and Byzantine Periods I–II* (Milan 1976–81) at I 249ff; on omission of augment see II 224, noting especially the pluperfect γεγόνει in *P. Mich.* VIII 492 (second century).

*ipsi* has no such antecedent. Also unconstruable as the text stands is the accusative case of διαβολήν. The best I can do with this is to suggest a haplography—⟨διὰ⟩ διαβολήν—which would adequately express the reason for the grievance but would hardly render *securum crimine*. (b) 33.38. The infinitive *circumventum (esse)* is rendered by ὑπονοθευθῆναι. To get from the Latin for ‘defraud’ to the Greek for ‘adulterate’ or ‘corrupt’ bespeaks a mental or palaeographical process to which I have not yet found—will I ever find?—a clue. For now my bafflement is complete, the more so as the short version renders *circumventum esse* by περιγεγράφαι (388.31), impeccable both literally and figuratively.

### III

Examples can be multiplied, but these should suffice as illustrations—*a paucis disce omnia*. Unless we are to leave it at that, however, we must now confront the central question, that of the document’s authenticity. For that investigation there are, as I see it, two essential criteria, form and content.

*Form.* As already mentioned, Schiller’s paper makes the point that the *Sententiae* conform to the records of hearings before emperors and other high officials that have been preserved in papyri and inscriptions published in the last hundred years. To be sure, only a very few of the extant documents record hearings before the emperor; the majority take place before provincial officials. But all adhere to certain standard formulas, which Coles carefully detailed.

Thus (a) beginning towards the end of the first century “the opening speech in the case, by one of the participants, is introduced by a Genitive [Latin Ablative] Absolute construction with a participle ... the speech itself being given in Oratio Obliqua” (Coles 41). The introductory participle is that of a verb of saying or petitioning; Coles lists a dozen variants that occur in papyri. Of the thirteen *Sententiae*, six begin with *petente quodam* and four with *dicente quodam* (or the like). *Dicente* is rendered in the Greek by λέγοντος, the same verb as in the hearings in papyri and inscriptions; *petente* is translated as αἰτοῦντος, which does not appear in the extant records. Those do sometimes have as the introductory participle one or another form of ἀξιόω, a common verb in legal texts in postclassical Greek. αἰτέω is a non-technical term conveying the

same sense, and its use in the *Sententiae* looks like the work of a translator—such as a schoolteacher—more at home in the language of literature than that of law. In the shorter version of the *Sententiae*, *petente* is twice replaced by *postulante*, which is translated once as αἰτοῦντος and once as ἄξιόουντος. The editor of the shorter version obviously regarded the two verbs as interchangeable.

(b) As the record of a hearing continues, “the Genitive Absolute construction ... is never used by the presiding official, who now always has an indicative verb.” Again from the late first century, that verb is most commonly εἶπεν, “which may derive from the use of *dixit* in Latin *commentarii* ... The construction ... occasionally ... is followed by Oratio Recta.” The *Sententiae* conform exactly: Hadrian’s name in the nominative is commonly followed by *dixit*, εἶπεν. These are occasionally replaced by synonyms: *inquisivit*, (ἀν)εζήτησεν (34.17, 49; 389.19), *interrogavit*, ἐπηρώτησεν (35.32, 54; 387.17 and 389.4 have ἐξήτησεν, ἠρώτησεν), *porrexit*, ἐπέδωκεν (387.48).

“The εἶπεν-formula is also found together with other indicative verbs. The most obvious of these is ἀπεκρίνατο, which ... however, is *never* used by the presiding official” (Coles 42ff). Here, too, the *Sententiae* conform, with *respondit*, ἀπεκρίθη used of the petitioner or his advocate (33.49ff, 35.11; 388.37f, 389.33).

(c) The decision (κρίσις) is rendered in Oratio Recta, in the *Sententiae* as in the procès-verbaux analyzed by Coles (49–52).

*Content.* Let us turn from language and form to consider the substance of each of the *Sententiae*—to judge, using the touchstone of verisimilitude, whether they present us with actual cases or with rhetorical fictions, or perhaps with elements of both.

As already mentioned, the hundred-year-long rejection of the *Sententiae* stemmed from the conviction that an emperor would not have taken personal cognizance of these personal grievances and family disputes of ordinary people. This presumed justification was blown sky-high by the publication in 1954 of the ἀποκρίματα (= *responsa*) of Septimius Severus preserved in the now famous Columbia papyrus (*P.Col.* VI 123), of which Schiller was co-editor. A few more *apokrimata* have since appeared on other papyri, so that a challenge to their authenticity cannot even arise. And they do not deal with

empire-shaking events, or even with mid-level administrative matters. They are imperial replies to pleas from ordinary folk of no official status or eminence. A certain Artemidorus and his associates get only a three-word answer: "Obey the decisions." To a woman whose name is lost in a lacuna the emperor replies: "Women are not prevented from borrowing money or paying on behalf of others." The rest are in a similar vein. And we may note in passing that the existence of rulings such as these exemplify the masses of details that, as Fergus Millar has insisted for some time now, the emperor routinely saw to in person.<sup>12</sup>

Now for the *Sententiae* themselves. Case No. 1 (31.24–44; 387.11–21). An applicant for military service asks to be enrolled in the Praetorian Guard. Hadrian rules: "For the present serve in the Urban Cohort, and if you are a good soldier, at your third salary payment [*i.e.*, presumably, after a year] you will be able to transfer into the Praetorian." M. P. Speidel informs me (*per epist.* October, 1991) that he knows of no precise parallel for such promotion; attested in other sources are promotions into the Guard after five years' service in the *equites singulares Augusti*, or, in the third century, in the legions.<sup>13</sup> On the linguistic side, there is an interesting variant: where the longer version renders *stipendio* by ὀψωνίῳ, the shorter version has βαθμῶ, another puzzler to be added to those already noted above.

Case No. 2 (31.45–32.12, 387.22–33). A petitioner asks to be given the *congiarium* that his freedman would have received had he not been condemned to the quarries. The long version adds that the *praefectus aerarii* imposed that sentence upon the freedman under the *Lex Aelia Sentia*,<sup>14</sup> Augustus' famous law of A.D. 4 imposing conditions on manumission. Hadrian rules: "Why do you seek to ruin [long version: and steal the *con-*

<sup>12</sup> His views are summarized, after earlier articles, in *The Emperor in the Roman World* (London 1977) ch. V. Those views are far from gaining universal acceptance. Along with others, I have objected (*BASP* 13 [1976] 161ff) that Millar exaggerates the degree to which the emperor involved himself in the routine nitty-gritty. Also, different emperors no doubt varied in the extent to which they delegated and deputized.

<sup>13</sup> M. P. Speidel, *Die Equites Singulares Augusti* (Bonn 1965) 4.

<sup>14</sup> *Secundum legem aeliam sententiam*, with the letters *ten* crossed out, possibly by a modern hand.

*giarium* of] a man on whom you are already avenged? You are a scoundrel”<sup>15</sup>—in other words, “Case dismissed.”

Four elements here call for comment. (1) A freedman could indeed be condemned to the mines, according to Ulpian, if he raised a hand against his patron.<sup>16</sup> (2) The emperor did indeed involve himself in rulings regarding condemnation to and release from hard labor in the mines: *Cod. Iust.* 9.51 contains a series of such orders by Caracalla and later emperors.<sup>17</sup> (3) We may not know all the provisions of the Aelian-Sentian Law. If this freedman’s condemnation was in fact carried out under that law, this is new information. (4) A rôle for the *praefectus aerarii* in that condemnation seems incongruous. Either this is sheer fantasy of the compiler of the *Sententiae*, or there is some textual corruption here. In this latter regard, Ulpian’s *De officio proconsulis* states *expressis verbis* (n.16) that provincial governors (*praesides*) had this power of condemnation. It should therefore be entertained at least as a possibility that *praefectus aerarii* is a corruption of *praefectus Aegypti*.

Cases Nos. 3 and 13 (32.13–32, 387.34–46; 36.49–37.15, 389.46–390.6). These are complaints by a father and a mother, respectively, of neglect by a son. The father pleads that he is ailing and indigent, having exhausted his own financial resources. Hadrian orders the son: “Take care of your father; it is for this that he begot you. And see to it that he does not again lodge a complaint against you with me.” In the other case, the mother asks Hadrian “to order my son to give me something, since he neglects me.” The son, who is present, asserts, “My lord emperor, I do not recognize her as my mother.” To which

<sup>15</sup> *Improbis* in the longer version, *impudens* in the shorter.

<sup>16</sup> *Dig.* 37.14.1: *patronorum querellas adversus libertos praesides audire et non translaticie exsequi debent, cum, si ingratus libertus sit, non impune ferre eum oporteat ... quod si manus intulit, in metallum dandus erit. idem et si calumniam aliquam eis instruxit.* Cf. also 37.15.9.

<sup>17</sup> Two such release orders from the prefect of Egypt have been published: *P.Berl.* inv. 8997 (A.D. 139, Latin), a corrected text of *Ch.L.A.* X 421, published in *P.Congr.* XVIII (1986) II 351–56: “Avidius Heliodorus to ... [probably the military commander]. I order you to release Petesuchus son of Petesuchus, who was condemned to the alabaster quarry for five years by Petronius Mamertinus [*v. p.*] and has completed his time. Farewell.” *P.Berl.* inv. 11532 (*SB* I 4639: A.D. 209, Greek), the prefect Subatianus Aquila to the nome strategos: “I have released Nigeras son of Papius, who was condemned to the alabaster quarry for five years by Claudius Julianus *v. p.* and has completed the time of his sentence. Farewell.”

Hadrian replies: "If you do not recognize her as your mother, I do not recognize you as a Roman citizen."

The rhetorical and somewhat cryptic quality of this second ruling does not dissociate it from the first in its reassertion of the duty of children towards their parents. This is in accordance both with longstanding Roman law (e.g. *Dig.* 37.15.1, 9), and with the imperial propaganda—on coins as well as in pronouncements and legislation of all sorts—celebrating the virtues (*benevolentia, clementia, etc.*) of the Roman emperor.<sup>18</sup>

Case No. 4 (32.33–56, 387.47–388.10) is a complaint about usurious practice. One of its problems has already been mentioned (*inusuras* in 36.38). There are also others—more, in fact, than in any of the other *Sententiae*. Unclear, for example, is the complainant's concern in the matter. Was he a victim of the illegal practice, or a third party looking to obtain an informer's reward? Since his complaint cites *plures faeneratores*, the latter possibility is perhaps the stronger. But the question remains open; the text identifies him only as *aliquis*.

Unclear, too, are the details of the alleged usury. The long version states the rate per hundred denarii; the short version has changed that figure to 1,000. In the long version *denarios* is rendered as χρυσίνους, which is surely a wrong translation for silver denarii. The short version has δηνάρια. The change to χρυσίνους was made, presumably, in the fourth century or later, when loans in gold became common.<sup>19</sup>

Hadrian's decision reads: "My prefect, *vir clarissimus*, will investigate this matter and will report back to me." (In the short version *clarissimus* is replaced by *eminentissimus*, and *excutiet* by *iudicabit*.) At least two considerable problems lurk here:

(a) Can we identify the prefect to whom Hadrian refers in such matter-of-fact fashion? I can think of two possibilities. (There may, of course, be others.) (1) The eminent jurist Julian (P. Salvius Julianus) was, in the course of his career, *praefectus aerarii Saturni* and *praefectus aerarii militaris* under Hadrian. It is perhaps no mere coincidence, then, that Case No. 2, as we saw above, refers to judicial action by the *praefectus aerarii*. (2) Beginning in the third century—just when this compilation is generally agreed to have been made—the *praefectus praetorio*

<sup>18</sup> Similarly, in *P. Enteux*. 25–26 fathers appeal to Ptolemy III and IV as beneficent rulers to order their maintenance by an abusive son and daughter, respectively.

<sup>19</sup> Cf. R. S. Bagnall, *Currency and Inflation in Fourth Century Egypt* (= *BASP* Suppl. 5 [1985]) 49–55.

was accorded a judicial competence. This possibility leads into the second problem.

(b.1) In our document the prefect is styled *vir clarissimus*, the exclusive honorific of the senatorial class in the first and second centuries. For the top-echelon prefects (*Aegypti, annonae, praetorio, urbis*), who were always members of the equestrian order, the corresponding epithet was *vir perfectissimus* or *eminentissimus* (this last substituted for *clarissimus* in the short version, 388.6). The picture for the third century is less clear. Taken at face value *Cod. Iust.* 9.51.1 identifies the praetorian prefects as *clarissimi viri* as early as the reign of Caracalla. But that designation is suspect for at least two reasons. First, it occurs in the caption, not the body, of the constitution; therefore its source may be Justinian's compilers rather than Caracalla's law. As A. H. M. Jones remarked in a different but related connection, "the evidence, mainly laws whose dates are dubious, is to my mind too tenuous to justify any but the most tentative conclusions."<sup>20</sup> Secondly, in a recently published inscription (*AEpigr* [1988] 1051) Ulpian, who was *praefectus praetorio* in 222–223, still bears the lesser designation of *eminentissimus vir*.

Whether or not the change in epithet began in the third century, the definitive change occurred under Constantine the Great. In *ILS* 8938, of 313–317, there are two praetorian prefects, the Licinian styled *vir eminentissimus*, the Constantinian *vir clarissimus*. Some ten years later—no doubt in a reorganization consequent to his defeat of Licinius—Constantine abolished the lesser appellations altogether, leaving only *clarissimus*. *Clarissimi* of equestrian rank are clearly in evidence in the second half of the fourth century.<sup>21</sup> From all this emerges, once again, the probability that the text of the *Sententiae* as we have it was, if not compiled, at least revised in the course of the fourth century.

(b.2) The Greek text, too, has its problems: *clarissimus* is rendered as ἐπισημότατος. The official term was, of course, λαμπρότατος, as every schoolmaster—indeed, every literate person, at least in the eastern half of the empire—surely knew. The Greek for *perfectissimus* was διασημότατος, never ἐπι-. We have before us, it seems, the work of an uninformed

<sup>20</sup> *The Later Roman Empire* (Oxford 1964) III 15 n.51.

<sup>21</sup> See Kramer, *Tyche* (*supra* n.1) 42.

person. Yet it is hard to leave it at that. The translator who mistranslated, or the copyist who miscopied, must have had something in mind. He presumably understood *clarus* in a non-technical sense of 'notable' or 'famous' (cf. *OLD* s.v. 6) and rendered it accordingly as ἐπίσημος. The editor of the short version of the *Sententiae* simply cut the textual Gordian knot, changing the adjectives to *eminentissimus* and ἐξοχώτατος (again a non-technical translation).

#### IV

As the problems encountered continue to be variants of those already examined, it should suffice for our present exploratory purpose to summarize the remaining *Sententiae* cursorily.

In Case No. 5 (32.57–33.25, 388.10–21) Hadrian stresses that the attainment of equestrian rank requires not only the stipulated wealth but also a life free of moral or criminal taint. Case No. 6 (33.26–36, 388.22–29), in which the petitioner asks that his father be allowed to return from exile, elicits from Hadrian the following response: "Let me look into my records (*commentarii*), and you be sure to come back to me." No doubt, details not stated here—the cause and circumstances of the sentence of exile—would be found in the imperial *commentarii*.

With Case No. 7 (33.37–34.5, 388.30–47) we return to patron-freedman relations. Here the complainant avers that his freedmen (plural, number not given), who conduct the business of his *tabernae* (ἐργαστήρια), have been pocketing the receipts and giving him nothing. Counsel for the defendants replies that, on the contrary, every one of the freedmen has long been conducting the business in the patron's interest and turning over the proceeds to him. The short version—longer in this instance—adds, "and are still prepared to do so if he would let them." Hadrian's ruling suggests his impatience with litigants who waste a court's time with such squabbles: "You freedmen see to it that he have no complaint. Have common sense."<sup>22</sup>

Case No. 8 (34.6–32, 388.48–389.8) shows the greatest textual divergence between the long and short versions. Both begin with the complainant's statement that his father's property was confiscated and he was deprived of the office of *decurio*. After that we have two quite different texts. It is not so much that the

<sup>22</sup> So the short version, which is preferable. In the long version this last sentence reads: "But he too has common sense."

long version has 36 words and the short only 23, but rather that the very words are almost all different, and the edited version, even though shorter, reads like an interpretative version of the longer. The duality extends even to Hadrian's ruling. In two completely different formulations he chides the petitioner for neglecting to come forward sooner, the longer version including also a reaffirmation of the principle of *stare decisis*.

In Case No. 9 (34.33–60, 389.9–23) Hadrian prevents a guardian from going through with a manumission detrimental to the interests of his ward. Case No. 10 (35.1–40, 389.24–45) involves a claim to a *congiarium*, and revolves around the identity of the designated recipient. Again there are substantial textual differences between the two versions. Hadrian finds against the petitioner. In Case No. 11 (35.41–36.14; not in the short version) the mother of an orphan charges that her child's guardian has failed to provide sustenance and has even made off with the child's *congiarium*. The guardian alleges a technical impediment: the absence of his co-guardian leaves him powerless to act alone. Hadrian brushes aside that excuse and orders him to perform the duty for which he was appointed and provide maintenance proportionate to the available means. It must be self-evident that not all such complaints reached the emperor's tribunal, but, human greed being apparently eternal, many a guardian of orphans must have been tempted toward malversation of the funds at his disposal. The recently published Babatha archive—also Hadrianic in date, as it happens—contains two similar complaints against the guardians of an orphan (*P. Yadin* 14f). There, too, the mother of the orphan asks that the child be maintained in a manner "commensurate with the style of life that befits him."

In Case No. 12 (36.15–48; not in the short version) a father of sons who have been selected for military service asks to be allowed to look after them lest their inexperience lead them to do something *παρὰ τὸ καθήκον*, *extra ordinem*. He is prepared to go even as their servant. Hadrian, apparently touched by such devotion, rules: "May the gods forbid that I make you subservient to your sons ... You shall be their centurion." This episode smacks more of drama than of history; like Case No. 13, already reviewed, it provides an instance of Hadrian's human qualities as a benevolent ruler. Yet it could have happened: the emperor surely did not lack the authority to make such appointments.

This rapid survey points, I think, to the following assessment of *Hadriani Sententiae*. If authentic, they have suffered severe textual corruption. If rhetorical invention, they nevertheless incorporate authentic elements, both formal and substantive. Enough has been said here, I think, to illustrate the kinds of problems that this puzzling document poses. Enough has been said, I hope, to convince the reader that those problems deserve to be addressed rather than ignored.

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