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PROSOPOGRAPHIC NOTES FROM THE LAW CODES

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## PROSOPOGRAPHIC NOTES FROM THE LAW CODES<sup>1</sup>

The following notes are based on a reading of the extant pre-Diocletianic constitutions in the Codex Iustinianus, as well as various other legal texts. More complete prosopographic examinations of these, though a desideratum, cannot be offered here. Instead, those persons who happened to attract attention, and about whom something of interest might be said, are discussed.

### **Aelius Ulpianus**

CJ 9.51.1 Imp. Antoninus A. cum salutatus ab Oclatinio Advento et Opellio Macrino praefectis praetorio clarissimis viris, item amicis et principalibus officiorum et utriusque ordinis viris et processisset, oblatus est ei Iulianus Licinianus ab Aelio Ulpiano tunc legato in insulam deportatus, Antoninus Augustus dixit: Restituo te in integrum provinciae tuae. Et adiecit: Ut autem scias, quid sit in integrum: honoribus et ordini tuo et omnibus ceteris.

This rather extraordinary (for the Codex) piece of evidence makes clear that Aelius Ulpianus was a provincial governor; and it is possible to suggest, though with some hesitation, both province and date.<sup>2</sup> An inscription from Dmeir, just east of Damascus, provides the clue.<sup>3</sup> The similarity of these two texts is striking, and their comparison yields first of all a date for the Codex passage.

The stone from Dmeir, recording a hearing before the emperor that took place on 27 May 216 in Antioch, calls the praetorian prefects viri eminentissimi. By the time Caracalla restored Iulianus Licinianus from exile, however, Adventus and Macrinus had been raised to the clarissimate. Thus, the Codex text should be subsequent to May 216, possibly from June or July.<sup>4</sup> It would also seem nearly certain that the constitutio preserved by Justinian's

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<sup>1</sup> I should like to thank Professor Géza Alföldy and the Alexander von Humboldt Stiftung for the opportunity to work in Heidelberg, where this has been written. Thanks go also to Professor W.Eck for incisive criticism of an original draft.

<sup>2</sup> PIR<sup>2</sup> A 279 and G.Barbieri, *L'albo senatorio da Settimio Severo a Carino* (Rome 1952) 12 no.11 are agreed that Ulpianus governed a province, but decline to suggest which.

<sup>3</sup> AE (1947) 182 = SEG 17 (1960) 759. On the various legal problems involved with this document, V.Arangio-Ruiz, *Studi Epigrafici e Papirologici* (Naples 1974) 249-57. Also, L.Wenger, "Ein Prozess von Caracalla in Syrien" in *Mélanges Henri Grégoire III* (Brussels 1951) 469-504.

<sup>4</sup> Note that the designation as clarissimus appears not to have carried with it immediate entry into the senate. See A.Chastagnol, *Recherches sur l'Histoire Auguste* (Bonn 1970) 41-2. Cf. also PIR<sup>2</sup> O 9 (esp. p.410) and O 108 (esp. p.448) on the two prefects, and their rise to the clarissimate. In particular, Dio 78.14.4 says that Macrinus was still an equestrian when raised to the purple nearly a year later (11 April 217). Hence, the distinction eminentissimus/clarissimus may not be an entirely trustworthy indication of relative chronology. Still, I think that there can be little doubt that the constitution preserved in the Codex is at least roughly contemporaneous with that preserved by the inscription from Dmeir, and most probably somewhat later. H. von Petrikovits, *RE XVIII.1* (1939) 543 assumes the law to date to 217 on the basis of

compilers is likewise from Antioch, since Caracalla spent the entire summer of 216 before the Parthian campaign there.<sup>5</sup> The similarity of the scene described in the Codex to that recorded on the inscription from Dmeir also points to Antioch.

Now, assuming the scenario of CJ 9.51.1 to have been Antioch in the summer of 216, and given the fact that Ulpianus is simply labeled *tunc legato* (without any specification of province), he might be suggested as *legatus Augusti pro praetore provinciae Syriae Coles*, and might be fit into the period 211/216.<sup>6</sup> We know that L. Marius Maximus Perpetuus Aurelianus governed Coele in 208, and he may have been followed, during the years 209-211, by Minicius Martialis.<sup>7</sup> The next possible governor of the province is suggested for 216 - *Aur.Mam[...]*, though he is not at all certainly attested.<sup>8</sup>

### Crispinus

CJ 5.62.10 Imp. Alexander A. Crispino. *Exactores tributorum tanto tempore, quanto rationem tributariam tractaverunt, non solum ab oneribus [vel. honoribus], sed etiam a tutelis vacationem habere dubitare non debuisti. D. id. Aug. Alexandro A. III et Dione cons. (13 August 229).*

It seems clear that this text is directed to a provincial governor, frequently assumed to be Rutilius Pudens Crispinus, whose province was Syria Phoenice.<sup>9</sup> If the constitution indeed addresses that Crispinus, then his governorship, otherwise attested just for 232/33, could be thought to have begun in 229. Although the identification may be correct, it should be noted that at least one other Crispinus might here come in question. M. Antonius Crispinus was

Macrinus' status. He is followed by L.L.Howe, *The Praetorian Prefect from Commodus to Diocletian* (Chicago 1942) 73.

<sup>5</sup> See H.Halfmann, *Itinera principum. Geschichte und Typologie der Kaiserreisen im Römischen Reich* (Stuttgart 1986) 225.

<sup>6</sup> It is possible, of course, that the case involving Licinianus had originally taken place in another province. For example, the other trial mentioned here involved people from Syria Phoenice, and was initially to have come before the governor of that province. Cf. SEG 17 (1960) 759 l.18, where the Cassius mentioned must be D.Pius Cassius, *legatus* in 213 - B.E.Thomasson, *Laterculi Praesidum* (Göteborg 1984) 319 no.103. Moreover, it would be possible to fit Ulpianus between Cassius and Marius Secundus, governor of Phoenice in 217/18. It is also possible, of course, that Ulpianus had banished Licinianus from yet another province (probably) in the vicinity, for example Cilicia, Palaestina or Arabia. Each of these presents lacunose *fasti*, into which another governor could be fit. The Codex passage is also unclear as to exact chronology, though Ulpianus must have been *legatus* in the years just previous to 216.

<sup>7</sup> Thomasson, *Laterculi Praesidum* 315 nos.72 and 73.

<sup>8</sup> He was suggested, but with reservations, by J.F.Gilliam, "The Governors of Syria Coele from Severus to Diocletian" *AJPh* 79 (1958) 231 = *Roman Army Papers* (Amsterdam 1986) 179. The evidence is AE (1937) 239, the dedication of an amphitheatre built by some soldiers at Dura in 216 sub *cur(a) Aur(eli) Mam[ca. 20 litt.]*. See also, Thomasson, *Laterculi Praesidum* 315 no.74.

<sup>9</sup> G.A.Harrer, *Studies in the History of the Roman Province of Syria* (diss. Princeton 1915) 55; Barbieri, *L'albo* no.1147; P.M.M.Leunissen, *Konsuln und Konsulare in der Zeit von Commodus bis Severus Alexander* (Amsterdam 1989) 283; B.Rémy, *Les carrières sénatoriales dans les provinces romaines d'Anatolie au Haut-Empire* (Paris 1989) 259. For doubts about the identification, K.Dietz, *Senatus contra principem. Untersuchungen zur senatorischen Opposition gegen Kaiser Maximinus Thrax* (Munich 1980) 216.

honored as patron of Canusium in 223.<sup>10</sup> Though we know nothing of his career, he might well have been governor of a province six years later. It would thus seem best not to rely too heavily on the evidence of this law in dating the career of Rutilius Pudens Crispianus.<sup>11</sup>

### **Iulianus**

CJ 9.6.6. Imp. Gordianus A. Iuliano. Si quis, cum capitali poena vel deportatione damnatus esset, appellatione interposita et in suspenso constituta fati diem functus est, crimen morte finitum est. Idem observatur et si accusator pendente appellationis tempore ultimum diem obisset. Sin autem relegationis poenam sustinuit et in parte bonorum damnatus appellatione usus est, etiam post mortem eius nihilo minus appellationis ratio examinabitur, cum desideretur, utrum valeat nec ne particularis publicatio. PP. vi k. Aug. Gordiano A. et Aviola cons. (27 July 239).

Here are regulations concerning capital delict and deportation directed, so it would seem, to an official capable of handing down such a sentence. *Deportatio* makes clear those in question: the *praefecti praetorio* or *urbi*, or a provincial governor (who could deport only with permission or direction from the emperor).<sup>12</sup> Given the content of this law, I should think that we are dealing with one of the officials at Rome. The instructions here have to do with appeal where sentences of death or deportation are concerned. Since provincial governors could prescribe *deportatio* only with imperial sanction in the first place, mention of appeal would seem to make such an official rather unlikely as the man addressed here.

It has been suggested that the recipient of this constitution was D.Simonius Proculus Iulianus, and that he was, in 239, *praefectus urbi*; but, this now seems impossible.<sup>13</sup> On the other hand, it is just conceivable that the prefect of the guard at this moment was M. Aedinius Iulianus. This man had been appointed to the prefecture most probably in 223 (or shortly thereafter), and at some point prior to 16 December 238, had written as such to Badius Comnianus, *procurator et vice praesidis agens in Lugdunensis*.<sup>14</sup> Howe has argued, based on the wording of the "marbre de Thorigny," that Iulianus no longer held the prefecture in 238: "This is shown by the words applied to Julianus: 'qui postea praef(ectus) praet(orio) fuit.' Had Julianus been prefect when the inscription was erected [in 238], it would simply have called him 'Iulianus, praef(ectus) praet(orio).'"<sup>15</sup> Howe might be right,

<sup>10</sup> CIL IX 338 = ILS 6121. Cf. PIR<sup>2</sup> A 823 and Barbieri, L'albo no.941.

<sup>11</sup> Thomasson, *Laterculi Praesidium* 319 no.106 does not admit the law as evidence.

<sup>12</sup> On those empowered to levy the penalty of *relegatio* or *deportatio*, Kleinfeller, RE V,1 (1903) 232 and idem, RE IA,1 (1914) 564-5. Note also Dig. 48.22.6.1 (Ulpian) with A.Schiller, "The jurists and the prefects of Rome" RIDA 3 (1949) 335. Curators, for example, were specifically forbidden the *ius deportandi* - Dig. 1.19.3 (Callistratus).

<sup>13</sup> For the suggestion J.Colin, "Il prefetto di Roma D. Simonius Iulianus" BCAR 47 (1919) 3-10. See now Dietz, *Senatus contra principem* 230-31, demonstrating that the urban prefecture cannot fall before the reign of Philip the Arab. Also below, with n.18.

<sup>14</sup> CIL XIII 3162 (II). See especially, H.-G.Pflaum, *Le Marbre de Thorigny* (Paris 1948) 8 and 35-9.

<sup>15</sup> Howe, *Praetorian Prefect* 104 n.41. Dietz, *Senatus contra principem* 41 is not dissimilar.

though some have not been convinced.<sup>16</sup> Given the present state of the evidence, no absolute solution seems possible. However, CJ 9.6.6 may well indicate that Iulianus was in fact alive, and still serving as praefectus praetorio in 239.<sup>17</sup>

For the sake of completeness we might also note the praesides who conceivably could here be concerned. D. Simonius Proculus Iulianus was apparently praeses Daciae under Gordian III, and probably at about this time.<sup>18</sup> Virius Iulianus administered Syria Phoenice in the period 238-244.<sup>19</sup>

### **Manilius Cerealis**

Frag. Vat. 236 (Ulpian, de officio praetoris tutelaris) Sed et qui in foro suario negotiantur, si duabus partibus bonorum annonam iuvent, habent excusationem litteris allatis a praefecto urbis testimonialibus negotiationis, ut imperator noster et divus Severus Manilio Cereali rescripserunt, quo rescripto declaratur ante eos non habuisse immunitatem, sed nunc eis dari eam quae data est is qui annonam populi Romani iuvent.

The Manilius Cerealis attested here was almost certainly praefectus urbi under Severus and Caracalla. First of all, we know, also on the testimony of Ulpian, that the city prefect had charge of the forum suarium (Dig. 1.12.11).<sup>20</sup> Moreover, the passage cited above is directly preceded by several others which likewise mention imperial rescripts concerning excusatio tutelae, though for another group, namely pistores: Trajan writes to Sulpicius Similis (Frag. Vat. 233); Severus and Caracalla to Philumenianus (Frag. Vat. 234); Hadrian to Claudius Iulianus (Frag. Vat. 235); Caracalla to Marcius Dioga (Frag. Vat. 235). All of these men, though not always specified as such by Ulpian, were praefecti annonae.<sup>21</sup> Thus, when Ulpian moves on to the next group (qui in foro suario negotiantur), which also is to receive excusationes, he again presents an imperial communication to the official in charge of the group - the praefectus urbi.<sup>22</sup>

<sup>16</sup> Cf. (e.g.) W.Ensslin, RE XXII,2 (1954) 2400.

<sup>17</sup> Dietz, *Senatus contra principem* 40-1 no. I has most recently dealt with this problem. He too leaves the question open, while promising complete discussion elsewhere. He also provides an overview of the literature on the topic.

<sup>18</sup> Thomasson, *Laterculi Praesidum* 158 no.62. Simonius went on to be legate of Syria Coele, ca. 241/49. Thomasson, *Laterculi Praesidum* 316 no.81.

<sup>19</sup> Thomasson, *Laterculi Praesidum* 320 no.108.

<sup>20</sup> See also Diz. Epig. III, 207 on the city prefect and the forum suarium.

<sup>21</sup> See H.Pavis d'Escurac, *La préfecture de l'annone. Service administratif impérial d'Auguste à Constantine* (Rome 1976) 334-5, 355, 337 and 356 respectively.

<sup>22</sup> Note that in Frag. Vat. 235, there is one mention of a rescript not sent to a praefectus annonae; it goes instead ad Vernam et Montanum pistores. Hence, had the rescript mentioned in Frag. Vat. 236 been directed (say) to one of the negotiatores in the forum suarium, or to someone not obviously related to these people, the addressee would surely have been appropriately labeled. Rather, Ulpian takes for granted knowledge of the official in charge of these businessmen.

Cerealis has not, however, been recognized as one of the holders of this post;<sup>23</sup> and it has recently been contended that there is not room enough, given the other known holders of the prefecture under Severus and Caracalla, for Cerealis.<sup>24</sup> There is though space. P. Cornelius Anullinus was in the post probably until 199.<sup>25</sup> The next known prefect, L. Fabius Cilo, took up the office at the earliest in 202, and possibly in 203, and held it apparently until after the death of Severus.<sup>26</sup> Thus, there is a gap ca. 200/201 (or 202), into which Cerealis can be fit.<sup>27</sup> It is slightly odd that he should have held the post for such a brief period; however, he may have died in office. Moreover, the period after 180 was not at all so stable as the preceding years for the *praefecti urbi*.<sup>28</sup>

### Montanus

CJ 7.45.5 Imp. Philippus A. et Philippus C. Montano. Cum eorum, qui principaliter fisco tenebantur, bona ea lege fideiussoribus procurator tradi iusserit, ut ipsi indemnitate fisco praestarent, nec a sententia eius intercesserit provocatio, consequens est datae formae obtemperari.

This (undated) response is addressed to Montanus, who is apparently handling an appeal from a judgement rendered by a procurator and related to the fisc. One suspects that the case is to be located in a province, and that Montanus is the governor there.<sup>29</sup> The province may be Asia.

An inscription from Ephesos attests Fl(avius) Mon[tanus] Maximil[ianus] as proconsul Asiae, though with no date.<sup>30</sup> Another stone, from Tetrapyrgia in Maeonia, has as proconsul

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<sup>23</sup> Cf. G.Vitucci, *Ricerche sulla praefectura urbi en età imperiale* (Rome 1956) 119 and Leunissen, *Konsuln* 308-9.

<sup>24</sup> PIR<sup>2</sup> M 134, supposing him to have been praefectus annonae or praefectus Miniciae or possibly praetor urbanus, and identifying him with a Manilius exiled by Macrinus in 217. On this other Manilius, who may well have been curator aquarum et Miniciae: W.Eck, *Die staatliche Organisation Italiens in der hohen Kaiserzeit* (Munich 1979) 185 n.175; Leunissen, *Konsuln* 317 n.55.

<sup>25</sup> Cf. Leunissen, *Konsuln* 308 n.14 (with earlier literature).

<sup>26</sup> Again Leunissen, *Konsuln* 308-9.

<sup>27</sup> Leunissen, *Konsuln* 12-3 notes that this is one of two gaps in the fasti of urban prefects for the period 180-212.

<sup>28</sup> The post was frequently held for life in the first and second centuries. See W.Eck, "Beförderungskriterien innerhalb der senatorischen Laufbahn, dargestellt an der Zeit von 69 bis 138 n.Chr." ANRW II.1 (1974) 209-10. Also, G.Alföldy, *Consulat und Senatorenstand unter den Antoninen* (Bonn 1977) 109-10 and 287-8. From Commodus and into the Severan period, terms of office were significantly more irregular. See Leunissen, *Konsuln* 12-13.

<sup>29</sup> On procurators judging cases involving the fiscus: Mommsen, *Staatsrecht*<sup>3</sup> II.2 1021ff.; O.Hirschfeld, *Die kaiserlichen Verwaltungsbeamten bis auf Diocletian*<sup>2</sup> (Berlin 1905) 401ff. For the notion that a procurator might render a judgement vice praesidis, CJ 3.26.3, 9.47.2. Note also Dig. 49.2.21.1 (Papirius Iustus) where it is stated that when a provincial governor has appointed a judge, whose decision is then appealed, the appeal is to go to the governor, not to the emperor.

<sup>30</sup> IK 13, 698. Cf. also PIR<sup>2</sup> F 323 and Barbieri, *L'albo no.2020*.

[Flavi]us Maxim[i]llianu[s].<sup>31</sup> The two inscriptions should refer to the same man.<sup>32</sup> Dating his tenure as proconsul, however, is less certain, and a chronological fix has been deduced from the date of the stone from Tetrapyrgia.

That inscription preserves a letter from Maximillianus to [Domi]tius Rufus, at the time Asiarch, and who had interceded on behalf of Tetrapyrgia.<sup>33</sup> Lines 26-7 record the date upon which the letter was entered in the town's archives, which will have been very close to the time of writing. Unfortunately, the text is at this point fragmentary. Legible is a month date, viz. Gorpaios, and an era date originally with three digits, only the last of which can still be read --δ'. Hence, the exact date must be conjectured (see further below). There is, however, another chronological clue, which allows a narrowing of the possible year dates. Coins from Sardis of Valerian and Gallienus (respectively) display the reverse legends: ἐπὶ Δομ(ιτίου) Ῥούφου ἀσιάρχ(ου) κ(αὶ) υἱοῦ β' ἀσιάρχ(ου) Καρδιανῶν τρις νεωκόρων (BMC Lydia p.273 no.206); ἐπὶ Δομ(ιτίου) Ῥούφου ἀσιάρχ(ου) κ(αὶ) υἱοῦ β' ἀσιάρχ(ου) κ(αὶ) κρατίτ(ου) ἄρ(χοντος) α' Καρδιανῶν β' νεωκόρων (SNGAul 8262).<sup>34</sup> These appear to demonstrate that Rufus held the post of Asiarch for the first time under Valerian and Gallienus, which would in turn mean that the epistle to Rufus, and thus Maximillianus' proconsulate, must have come at some point after 253. On the other hand, the proconsul's letter (line 2) does not mention a second Asiarchate for Domitius Rufus' father. Perhaps, then, the formula on the coins does not guarantee Rufus' first Asiarchate. Nollé recognizes this problem. He proceeds, then, to deal with the fragmentary era dating (lines 26-7), demonstrating that only Gorpaios (i.e. late summer) of either 249/50 or 253/4 can come in question.<sup>35</sup> The latter is chosen, having been indicated by the coins of the Asiarch Domitius Rufus. However, their testimony is clearly not sufficient, and the decision ultimately rests upon known holders of the proconsulate of Asia. The careers of Iulius Proculus Quintilianus and Optimus appear to exclude 249/50.

Quintilianus' predecessor in the post was L. Egnatius Victor Lollianus, attested during the reign of Philip the Arab as procos. Asiae ter or γ' (sometimes *πολλάκις*); the three years seem to have fallen sometime during the period 242/3-247/8.<sup>36</sup> He is followed by

<sup>31</sup> IGRR IV 1381 = SEG 13 (1956) 518 = TAM V,1 230 = J.Nollé, *Nundinas instituere et habere* (Hildesheim 1982) 59ff. See also W.Eck, *RE Suppl.* XIV (1974) 280.

<sup>32</sup> Nollé, *Nundinas* 66.

<sup>33</sup> Generally on the Asiarch: J.Brandis, *RE* II,2 (1896) 1564-73; D.Magie, *Roman Rule in Asia Minor* (Princeton 1950) 449-50 and 1298-1301; J.Deininger, *Die Provinziallandtage der römischen Kaiserzeit* (Munich 1965) 41-50; M.Rossner, "Asiarchen und Archiereis Asias" *StudClas* 16 (1974) 101-42.

<sup>34</sup> For other coins attesting Rufus as Asiarch under Valerian and Gallienus, though without his father also as Asiarch, Nollé, *Nundinas* 68. Note also that the coin of Gallienus still apparently attests the second neokorate (I am unable to corroborate the reading from the published photo), which certainly is advanced to the third under these emperors. Cf. S.R.F.Price, *Rituals and Power. The Roman imperial cult in Asia Minor* (Cambridge 1984) 260.

<sup>35</sup> Nollé, *Nundinas* 70-2. On the month Gorpaios in Asia, A.E.Samuel, *Greek and Roman Chronology* (Munich 1972) 175 and 181-2.

<sup>36</sup> Thomasson, *Laterculi Praesidum* 236 no.191, and now Rémy, *Les carrières sénatoriales* 115-8.



Quintilianus, who appears as proconsul on 12 March 250, and whose successor, in turn, is sometimes thought to have been a certain Optimus.<sup>37</sup> Nollé assumes that Quintilianus, along with his successor Optimus, decides the question in favor of the later chronology. Yet, we have only one day in March of 250 on record for the proconsulate of Quintilianus. This might tell us with some certainty that he took office on 1 July 249.<sup>38</sup> The evidence, such as it is however, seems indeed to leave space in 248/49 for another proconsul.<sup>39</sup>

It may well be, then, that CJ 7.45.5 is pivotal here. Since the constitution was sent by Philip the Arab, it must in any case come before September 249. We have seen that there is a proconsul named Montanus who, given what is known of the other proconsuls at this time, could have been governing Asia in the late summer of 249. Therefore, the earlier dating for the proconsular missive to Domitius Rufus, late July/early August 249, might well be preferable. And thus, the proconsulate of Flavius Maximillianus Montanus is to be placed in 248/49. It is possible that he was to be replaced by Quintilianus in July 249, but that, due to the problems caused by the acclamation of Decius, the new proconsul had not yet arrived. Another possibility is that Decius replaced Maximillianus with Quintilianus in the fall of 249. I should think that the former explanation is the more likely.

### **Silvanus**

CJ 9.9.14 Imp. Gordianus A. Silvano. Adulteram, si postea quam crimen contra eam inchoatum est provincia excessit, etiam absentem inter reos recipi posse explorati iuris est. PP. non. Mart. Attico et Praetextato cons. (7 March 242).

CJ 9.9.15 Idem A. Hilariano militi. Si quondam uxor tua, antequam crimine adulterii peteretur, provincia excessit, neque absens accusari postest neque in eam provinciam in qua stipendium facis transmitti iure deponitur. Sane cum per occupationes militares licuerit, accusare eam sollemniter poteris: nec enim tempus, quo muneribus militaribus occuparis, vindictam tibi, quam maritali dolore percussus reposcis, debet auferre. PP. iiii id. Mart. Attico et Praetextato cons. (12 March 242).

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<sup>37</sup> For Quintilianus, Chron.Pasch. (Bonn) p.504 and H.Musurillo, *The Acts of the Christian Martyrs* (Oxford 1972) 10.19.1. See also Thomasson, *Laterculi Praesidium* 236 no.192, and Rémy, *Les carrières sénatoriales* 237-8. On Optimus, *PIR*<sup>2</sup> O 129 and Thomasson, *Laterculi Praesidium* 236 no.193. Note, however, that the name Optimus is most likely a fiction of the martyr acts. See, T.D.Barnes, "Pre-Decian Acta Martyrum" *JTS* 19 (1968) 514-5 and now Dietz, *Senatus contra principem* 196, both deleting this proconsul from the fasti of Asia.

<sup>38</sup> For the date upon which proconsuls took office, Mommsen, *Staatsrecht*<sup>3</sup> II,1 256.

<sup>39</sup> Note that Thomasson, *Laterculi Praesidium* 239 no.220, lists Montanus under the proconsuls "incerti aevi." See also idem 236 sub num. 193.

It is interesting that we find two constitutions, each dealing with an adultress who has fled the province where the crime was committed, so near to one another chronologically. Perhaps both refer to the same case. If that is so, then there was some confusion as to whether the woman escaped before or after legal proceedings against her were begun; indeed, if both constitutions refer to the same case, that is precisely the sticking point. It seems clear, however, that Silvanus is the judge in the first case (at least), and is most probably the provincial governor.<sup>40</sup> I am unable to find a provincial governor named Silvanus and datable to this time.

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<sup>40</sup> By the Severan period, the two officials chiefly responsible for trial of adultery cases were the urban prefect and in a province the governor. See P.Garnsey, "Adultery Trials and the Survival of the Quaestiones in the Severan Age" *JRS* 57 (1967) 56-60. A constitution of Caracalla (Coll. 4.3.3) gave procurators (not those who governed provinces) the right to try such cases. Subsequent constitutions, however, seem to demonstrate that in the provinces, praesides remained generally in charge of such. CJ 9.9.4 (Severus Alexander) is addressed to the proconsul of Narbonensis, and concerns a case where an adulterer was caught in flagrante delicto and killed by the irate husband. See also CJ 9.9.16 (Valerian and Gallienus) and 9.9.18 (Valerian and Gallienus) for provincial governors with jurisdiction over cases covered by the *lex Iulia de adulteriis*.