



1975

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Recommended Citation

Keenan, J.G. (1975). On law and society in late Roman Egypt. *Zeitschrift für Papyrologie und Epigraphik*, Bd. 17, (1975), 237-250.

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ON LAW AND SOCIETY IN LATE ROMAN EGYPT⁺)

Until recently, the Later Roman Empire was commonly judged to have been an age of severely restricted social mobility. Many individuals were bound to remain for life in their places of origin; others were compelled to take up their fathers' occupations or to perform services incumbent upon them by heredity. The traditional view, drawn largely from the evidence of the great imperial law codes, received its first broad challenge from Professor A. H. M. Jones, who on several occasions argued that society under the late Empire was actually more fluid than generally believed, even more mobile than it had been under the Principate.¹⁾ The laws, often repeating the same restrictions, and these sanctioned by increasingly harsh penalties, were witness to the weakness and frustration of the central government, not to its effectiveness in coercing and controlling its subjects. Nor was the restrictive legislation of the Codes as universal in application as usually supposed. Moreover, casual examples from contemporary literature, together with concessions made in the laws themselves, showed that the laws limiting mobility were often dodged and violated with impunity.

Likewise, the standard view regarding the society of late Roman or Byzantine Egypt, that is, Egypt from the end of the third century to its conquest by the Arabs in the early A. D. 640's, is that it was one of sharply limited mobility. In general, this period of Egyptian history is viewed as one of decline and disintegration. In particular, the burden of liturgies coupled with the government's insistence on hereditary and corporate responsibility brought ruin upon Egypt's municipal senatorial aristocracy. In the economic sector, the

⁺) The text of this paper is substantially that which was read in St. Louis, Missouri, on Dec. 30, 1973, at the 105th Annual Meeting of the American Philological Association. It was researched and written during my tenure as a Junior Fellow of the National Endowment for the Humanities.

1) He convincingly demonstrated the former, but not the latter point. See A. H. M. Jones, "The Social Background of the Struggle between Paganism and Christianity," in A. Momigliano (ed.), *The Conflict between Paganism and Christianity in the Fourth Century* (Oxford, 1963), 17-37, esp. 34 f.; *The Later Roman Empire 284 - 602* (Oxford, 1964), esp. 1049-53; "The Caste System in the Later Roman Empire," *Eirene* 8 (1970), 79-96 = Jones, *The Roman Economy*, ed. P. A. Brunt (Oxford, 1974), 396-418. Cf. Ramsay MacMullen, "Social Mobility and the Theodosian Code," *JRS* 54 (1964), 49-53.

growth of large estates at the expense of smaller-sized landholdings widened the chasm between richer and poorer classes. In administering the land, government policy was dominated by fiscal self-interest, its local activities often attended by bureaucratic corruption and violence. Above all, to insure the orderly and punctual collection of taxes, the performance of essential services, the production and distribution of necessary supplies, the society of Egypt, along with that of the Empire at large, was made static by law: decurions were bound by heredity to city and caste, peasants tied to the soil, veterans' sons required to assume their fathers' profession, assorted craftsmen, food purveyors and transport workers fettered to their calling with little or no prospect of change or advance.²⁾

Such an assessment of the static character of Egypt's society, however, is based at least as much on evidence derived from the Codes as on conclusions drawn from the documentary papyri that tell so much about the social, economic and legal activities of Egyptians in the late Roman period; but the correlation of legal with papyrological sources is fraught with difficulty and uncertainty, and therefore casts doubt on the validity of this approach. It is not alone the question whether laws directed to other parts of the Empire (even, say, within the eastern Empire) had force in Egypt; there is also the problem raised by those laws meant for Egypt whose testimony is only vaguely, if at all, corroborated in the papyri. The former difficulty can be avoided, but not of course resolved, by limiting investigation and discussion to those laws that are from their addresses or contents known to have been specifically concerned with Egyptian affairs. This ground has now, to a large extent, been covered by Volker Dautzenberg in his 1971 Cologne dissertation, *Die Gesetze des Codex Theodosianus und des Codex Justinianus für Ägypten im Spiegel der Papyri*.³⁾ The latter difficulty -- legal evidence expressly relevant to Egypt but poorly supported by the papyri -- is best

2) See, in particular, the works of Sir Harold Idris Bell: "The Byzantine Servile State in Egypt," *JEA* 4 (1917), 86-106; "Hellenic Culture in Egypt," *JEA* 8 (1922), 139-55, esp. 151 ff.; "The Decay of a Civilization," *JEA* 10 (1924), 207-16; "Egypt and the Byzantine Empire," in *The Legacy of Egypt* (1st edn., Oxford, 1942), 332-47; *Egypt from Alexander the Great to the Arab Conquest* (Oxford, 1948), 101-34, esp. at p. 118. Other discussions include: Fr. Oertel, "Der Niedergang der hellenistischen Kultur in Ägypten," *Neue Jahrbücher für das klassische Altertum* 45 (1920), 361-81; L. Wenger, *Volk und Staat in Ägypten am Ausgang der Römerherrschaft* (Bayer. Akad. der Wissenschaften: Munich, 1922); A. E. R. Boak, "Byzantine Imperialism in Egypt," *Amer. Hist. Rev.* 34 (1928-29), 1-8; Cl. Préaux, "La fin de l'Antiquité en Egypte," *Chron d'Ég.* 24 (1949), 123-32. A somewhat more recent, and highly original and valuable survey: R. Rémondon, "Papyrologie et histoire byzantine," *Annales Universitatis Saraviensis, Philosophische Fakultät*, 8 (1959), 87-103.

3) Hereinafter cited as Dautzenberg, *Gesetze*.

illustrated by a topic that has been the subject of numerous scholarly treatments, the growth of the large estates mentioned in the preceding paragraph.

Although the origins of these estates are obscure, their beginnings appear to be reflected in the size of certain landholdings recorded in papyrus registers of the fourth century, and particularly in an important list from Hermopolis.⁴⁾ Relevant papyrus evidence for the latter part of the fourth and for most of the fifth century is lacking; as a consequence, the historian usually turns to a series of six constitutions in Book XI, Title 24 of the Theodosian Code "On the Patronage of Villages" (*de patrociniis vicorum*), which from their addresses and contents are known to have dealt with conditions in Egypt. In applying this evidence to questions about the growth of large Egyptian estates, however, it must be assumed that the growth of the large estates went hand in hand with the extension of a new form of patronage by which humbler folk entrusted themselves to powerful individuals in order to receive protection from government authorities. This has seemed a reasonable enough assumption, even though the connection is not always apparent: often, the peasant may have arranged to surrender his farm to a patron in return for protection from the tax collectors, but this was not invariably the case, and is furthermore a point on which the papyri are silent. In the first half of the fourth century, for example, some Egyptian peasants are known to have left their villages and to have abandoned entirely their plots of land. On taking refuge elsewhere, they presumably had nothing to offer prospective patrons other than their own ability and willingness to work.⁵⁾ On the other hand, the law set out in CJ 11, 54, 1 shows that earlier laws against patronage continued to be dodged in the fifth and sixth centuries by land transfers from *coloni* to patrons under the guise of gifts, sales, leases and other types of contracts. The initial law against these practices had taken effect in Egypt in 441 and was reconfirmed by Leo in 468 before its ultimate inclusion in Justinian's Code. It

4) P. Flor. I 71. For a detailed analysis, see A. H. M. Jones, "Census Records of the Later Roman Empire," *JRS* 43 (1953), 49-64, esp. 58 ff., this article now accessible in Jones, *The Roman Economy*, 228-56. There are, of course, signs that even in the third century some estates were beginning to experience a noticeable growth, but it is only (to my knowledge) in the fourth century that any significant pattern emerges.

5) See, especially, P. Thead. 17 = Sel. Pap. II 295 (332). Cf. P. Cairo Isidor. 126, with Boak and Youtie, "Flight and Oppression in Fourth-Century Egypt," *Studi in onore di Aristide Calderini e Roberto Paribeni* (Milan, 1957), II, 325-37; P. Cairo Isidor. 128; P. Thead. 16 and 20. See also P. Abinn. 27, line 19: certain villagers of Euhemeris in the Fayum allege that they will have to take to flight if their petition is not favorably received.

affirms what the papyri, overtly at least, do not even suggest: that transfers of land from client to patron were in some way concomitants in the development of the new patronage system and played a rôle (how significant, we cannot say) in the creation of the large estates that marked the Egyptian countryside in the sixth century.

Be that as it may, the Theodosian series aimed at curtailing patronage began in 360. The succession of laws, with an ascending scale in the severity of penalties for offending patrons and fugitive coloni alike, ended in 415 with a constitution that included recognition of all landholdings acquired by patronage prior to 397. Scholars have been inclined to see in this a reluctant legalizing by the imperial government of what it had been trying to suppress for more than fifty years. Supportive papyrus evidence for the early fifth century does not exist; but continuing imperial attempts to check patronage together with the abundance of sixth-century evidence for the existence and workings of large Egyptian estates are generally considered to support the conclusion that the patronage laws of the Theodosian Code had failed, that the deterrent effect of their penal clauses had been negligible.⁶⁾

Alone among scholars, Professor Allan Chester Johnson, both in collaboration with Louis C. West in a book of economic studies on Byzantine Egypt, and on his own, in a compact volume entitled *Egypt and the Roman Empire*, saw in the constitution of 415 a successful enactment against patronage. In any event, the papyri produced nothing to disprove its effectiveness. Among other unorthodox views, Johnson and West held that the "enrolled tenants" (ἐναπδγραφου γεωργοι) of the papyri were in no way related to the coloni adscripticii of whose slavelike status we hear in Justinian's laws. And, finally, Johnson expressed the following opinion: "Since the peasant enjoyed a reasonably low rate of taxation in comparison with his burdens in the earlier period of foreign domination, it is our belief that the Egyptian of the Byzantine period experienced greater economic prosperity and social

6) The basic discussion remains F. de Zulueta, *De patrociniis vicorum: A Commentary on Codex Theodosianus 11, 24 and Codex Iustinianus 11, 54* (Oxford Studies in Social and Legal History 1, 2: Oxford, 1909). For more recent attempts to tie the evidence of the papyri to imperial legislation against patronage, see G. Diösdí, "Zur Frage der Entwicklung des Patrociniums im römischen Ägypten," *JJP* 14 (1962), 57-72, with extensive bibliography given in the notes on pp. 57-58, and R. Rémondon, "Militaires et civils dans une campagne égyptienne au temps de Constance II," *Journal des savants*, 1965, 132-43. Cf. Dautzenberg, *Gesetze*, 146-52.

independence than in any other period of his history."⁷⁾

Scholarly reaction was mixed. Reviewers lavishly praised *Byzantine Egypt: Economic Studies* as a monumental, even indispensable, collection of evidence, but were less sympathetic toward Egypt and the Roman Empire, partly because it repeated much of the argument already familiar from the earlier book; and few if any were disposed to accept the optimistic view expressed in both books, or to be persuaded by arguments on specific points adduced to support that view. Nevertheless, the challenge that was brought to the traditional position was thought by some to have been a worthwhile effort, though Johnson and West's handling of the legal sources raised in one reviewer's mind the question whether it was as yet possible "to attempt to weave together the bits and patches of the papyri with the tangled skein of the Codes and Novels."⁸⁾

Important issues are involved in such an attempt: among others, to what extent the existential world of the papyri corresponded to the normative realm of the Codes and Novels; to what extent human activity in Egypt was guided by imperial law as opposed to habit and custom; to what extent imperial law exerted a formative influence on society's development. Here our basic concern is with the social legislation peculiar to the Later Roman Empire, including, of course, those laws tying sons to their fathers' occupations or statuses. In brief reference to these laws, I can say, basing my statement on a survey of the papyri of late Roman Egypt that is far from complete, that the papyri do yield a number of concrete cases of sons who succeeded their fathers; nevertheless, it is hard to tell what percentage of those so attested was in any way legally bound to do so.⁹⁾ As for trades in particular,

7) Allan Chester Johnson and Louis C. West, *Byzantine Egypt: Economic Studies* (Princeton University Studies in Papyrology 6: Princeton, 1949); Allan Chester Johnson, *Egypt and the Roman Empire* (Ann Arbor, 1951). *Coloni adscripticii* hard to distinguish from slaves: CJ 11, 48, 21 (530). The quote is from *Egypt and the Roman Empire*, p. 131.

8) A. H. M. Jones, JHS 71 (1951), 271.

9) So, perhaps, the herdsman in P. Oxy. I 130, possibly a colonus of the Apion household of Oxyrhynchus; cf., possibly, P.S.I. I 58 for other coloni. For soldiers, see P. Abinn. 19 and 59, and (perhaps) P. Warren 3 in conjunction with P. Oxy. XVI 1882; see my note on P. Warren 3 on p. 236. Cf. now also B.G.U. XII, intro., xix ff. For curiales, see P. Oxy. VIII 1103 in conjunction with P. Wisc. I 12 and the editor's note on line 2 of the latter document; P. Flor III 281 and P. Lond. V 1689. For provincial staff officials (*cohortales*), see P. Lond. V 1714; SB VI 9592 in conjunction with B.G.U. I 306 (the Arcadian *cohortalis* of the SB text is evidently the son of the *proximus* of the B.G.U. text). Pertinent legal references for the restrictions on these groups may be found by consulting Jones's article in *Eirene* 8 (1970), 79-96 (= *The Roman Economy*, 396-418), *passim*, or by referring to the Index to his *Later Roman Empire*, s.v. "hereditary service."

these "tended to be hereditary, since fathers naturally trained their sons in their own craft, but this was a matter of custom not of law" -- a situation that may have been especially true of Egypt, where in earlier times the hereditary propensity of occupations had made an impression on Diodorus Siculus.¹⁰⁾

In order to estimate the law's practical influence in the sphere of job and class restrictions, we would first need figures, not so much on Egypt's total population as on how that population was distributed into classes and occupations. Ancient literary authorities give some figures for Egypt's population, but the accuracy and usefulness of even these few have all, at one time or another, been called into question.¹¹⁾ Inherent in the papyri is a wealth of information on population distribution, but its use would require exhaustive preliminary listing and analysis. Although this may never be done, an impression of what can be accomplished may be seen in Braunert's calculations based upon Girgis' prosopography of village of Aphrodito in the Thebaid.¹²⁾ Even so, the results are not specific or detailed enough to

10) Jones, *Later Roman Empire*, 861; cf. P. Charanis, "On the Social Structure of the Later Roman Empire," *Byzantion* 17 (1944-45), 39-55, at p. 40. According to Diodorus (1, 74), herding was heritable in a quasi-legal sense (ὡςπερ κληρονομίας νόμῳ); crafts (τέχνα) were heritable ἐκ τῶν νόμων. Some practical examples from the papyri of late Roman Egypt: P.Oxy. XVI 1890 = Sel. Pap. I 48 (bakers and millers); P.Oxy. I 126 = Wilcken, *Chrest.* 180, P. Cairo Masp. II 67151 (doctors); P. Grenf. II 87 = Sel. Pap. I 23 (dyers); P. Cairo Masp. I 67020, esp. recto, lines 17 f. (fullers, smiths, carpenters, shipwrights); E.R. Hardy, *The Large Estates of Byzantine Egypt* (New York, 1931), 78-79 (boatmen who were not navicularii); P. Hamb. 23 (vinedressers).

11) Two crucial references are Diodorus 1, 31, 6-8, which, unless emended, gives Egypt's population at three million in the first century B.C., and Josephus, *Bell. Jud.* 2, 16, 385, where, in a speech assigned to Herod Agrippa in a dramatic setting of A.D. 66, Egypt's population is given as seven and a half million, not counting Alexandria. These figures are, understandably, hard to reconcile. For some views and discussion, see A.H.M. Jones, *Ancient Economic History* (London, 1948), 10 (Josephus' figure is the "one [ancient] figure which can . . . be regarded as an accurate count of the entire population of definite area"); Cl. Préaux, "Papyrologie et Sociologie," *Annales Universitatis Saraviensis, Philosophische Fakultät*, 8 (1959), 5-20, at p. 9 (with a favorable observation on Diodorus' figure); J.C. Russell, "The Population of Medieval Egypt," *JARCE* 5 (1966), 69 ff. (in favor of an estimate between the two figures). Cf. also the demographic use to which Préaux, *loc. cit.*, puts the requisition of eight million artabas of wheat for Constantinople in Justinian, *Edict XIII*, 1, 7.

12) Horst Braunert, *Die Binnenwanderung: Studien zur Sozialgeschichte Ägyptens in der Ptolemäer- und Kaiserzeit* (Bonner Historische Forschungen 26: Bonn, 1964), 327; V.A. Girgis, *Prosopografia e Aphroditopolis* (Berlin, 1938). Cf. now also, though different in objective and approach, I. F. Fichman, "Die Bevölkerungszahl von Oxyrhynchos in byzantinischer Zeit," *Archiv* 21 (1971), 111-20.

permit an assessment of what percentage of the village population was actually liable to legal job and class restrictions; and even if that could be determined, we would still have to set against the law's theoretical scope and influence a number of imponderable factors: the influence of habit and custom just mentioned; the degree of voluntary, even unconscious, compliance among those who were legally tied; and, finally, the nature, extent and efficacy of techniques devised to avoid the law's prescriptions. Justinian himself (Preface to Nov. 111) was well aware that there was often a marked difference between legislative intent and a law's practical effect; and it is known, for example, from both legal and papyrological sources that curial burdens and military service could be, and sometimes were, avoided by legal or illegal devices.¹³⁾

It is, of course, more realistic to try to gauge the effectiveness of specific prohibitions, social or otherwise, than to make conjectures on the overall efficacy of imperial social legislation. Scholarly judgements on the laws against patronage have already been cited. More detailed problems, though still related to the broader phenomena of large estates and patronage, are those pertaining to the maintenance by great landowners of private estate prisons and bands of armed retainers known as *bucellarii*. Both practices are condemned in the Codes; yet the papyri give clear testimony that these laws were violated, openly and (apparently) without fear of detection or punishment. The flagrancy of these transgressions

13) Legal avoidance of curial burdens: in order to get relief from civic liturgies (ἀπ-αλλαγὴν ... τῶν πολιτικῶν λειτουργιῶν), a decurion had petitioned for and received the rank of *egregiatus*: P. Oxy. XII 1204 = Sel. Pap. II 294. Cf. also P.Lond. II 233 (p. 273) = Wilcken, Chrest. 44, as interpreted by Victor Martin, "Epistula exactoriae," Actes du V^e Congrès International de Papyrologie (Brussels, 1938), 260-85; but this interpretation is by no means assured. See the introduction to the re-edition of this papyrus as P.Abinn. 58. Illegal avoidance: e.g. curiales were forbidden to enroll in the army, but if they succeeded in enrolling and had served for five or more years before detection, their offense was sometimes let go; cf. Jones, *Later Roman Empire*, 614. See also SB VI 9597 (bouleutai who left Heracleopolis to avoid duties connected with the *annona militaris*). Legal avoidance of military service: e.g. by payment of a fee referred to in one document (P. Monac. I = *Negotia* 184 of A.D. 574) as a στρατεύσιμον, if I am right (ZPE 13 [1974] 299 f., n. 196) in interpreting this word with Liddell-Scott-Jones, *Greek English Lexicon*⁹, s.v., against Jones, *Later Roman Empire*, 669 and vol. III, 207, n. 145. Cf. P. Abinn. 19 where, as a comfort to his widowed mother, the hope that a soldier's son can, even after enrollment, be released from service is raised; but the petitioner is unsure whether this hope can in fact be fulfilled. Illegal avoidance: e.g., by self-mutilation or desertion, for which see Jones, *Later Roman Empire*, 618. As papyrus evidence for the latter, see P.Abinn.32 and 41 (actual cases of desertion), and Wilcken, Chrest. 469 (the possibility that new recruits may desert is foreseen).

is at first sight striking, but on closer scrutiny easily understood once it is noted that the men were expected to enforce these laws were often themselves their violators.¹⁴⁾

There is no way, however, to appraise how frequently imperial laws were resisted by local Egyptian notables. It is nonetheless appropriate to mention in this connection the difficulties faced by the village of Aphrodito in the sixth century with respect to the auto-pract status it had gotten in the preceding century from the Emperor Leo. By its *αὐτοπραγία* the village was entitled to collect its own taxes and pay them directly to the provincial treasury instead of through the local pagarch. Nevertheless, the village's privileged position was ignored by the pagarch and by other officials. On at least two, if not three, occasions, the villagers sent delegations to Constantinople on this and related matters; and although their claims were upheld by Justinian, the emperor himself, in a rescript of about the year 551, had to admit that the dodges of an official named Theodosius had been more efficacious than his own earlier commands in this affair.¹⁵⁾

If, as evidently in this case, the enforcement of an imperial decision was to some extent hindered by problems of distance and communication, the obtaining of imperial rescripts by private parties faced similar problems compounded by the expenses that had to be incurred in travelling to and establishing a temporary residence in Constantinople, not to mention the costs regularly entailed in litigation.¹⁶⁾ In one case, which is known from a papyrus of the

14) Legal restrictions: CJ 9, 12, 10 (468), cf. Nov. 30, 5, 1 (536), for *bucellarii*; CTh 9, 11, 1 (388), CJ 9, 5, 1 (486) and 2 (529), for *carceres privati*. Papyrus evidence: e.g., B.G.U. III 836 = Wilcken, Chrest. 471, P. Oxy. I 150 and 156, XVI 2013-14, P.S.I. VIII 953, for *bucellarii*; P. Cairo Masp. I 67002 and 67005, P. Merton II 98, P. Oxy. I 135 = Wilcken, Chrest. 384 = Meyer, Jur. Pap. 51 = Sel. Pap. I 26 = *Negotia* 13, P. Oxy. VI 902 (= Mitteis, Chrest. 71), XVI 2056, XXVII 2478, P.S.I. I 61-62, VIII 953, for private prisons. For fuller details: Hardy, *The Large Estates of Byzantine Egypt*, 60-71; Olivia Robinson, "Private Prisons," *RIDA*, ser. 3, 15 (1968), 389-98; Dautzenberg, *Gesetze*, 152-56. The equation of the great landowners with important government officials has often been noted and is well evidenced; cf., for an exposition of some of the papyrus evidence, ZPE 13 (1974), 284 ff.

15) P. Cairo Masp. I 67024 = Sel. Pap. II 218, lines 15-16: ἀλλὰ τὴν ἐκεῖνου περιδρομὴν πλεον τῶν ἡμετέρων ἰσχυῶσαι κελεύσεωv. I have greatly compressed the story of Aphrodito's delegations to Constantinople. For full details, see V. Martin, "A Letter from Constantinople," *JEA* 15 (1929), 96-102; H. I. Bell, "An Egyptian Village in the Age of Justinian," *JHS* 64 (1944) 21-36, esp. 26, 31 f.; R. G. Salomon, "A Papyrus from Constantinople (Hamb. Inv. No. 410)," *JEA* 34 (1948), 98-108; Jones, *Later Roman Empire*, 407 f. A few refinements, admittedly conjectural, are offered in ZPE 13 (1974), 299, with nn. 194-95.

16) Jones, *Later Roman Empire*, 494-99.

A. D. 570's (P. S. I. I 76 [574/8]), the possibility of getting a judgement for a private lawsuit by going to Constantinople is raised;¹⁷⁾ but the plaintiff, a lady from Oxyrhynchus with the dignity of *illustris*, in danger of having her estate there confiscated by her creditors, appears to have changed her mind and decided to pursue her case in Alexandria instead. Her quarrel was with a banker, apparently an Alexandrian, who had failed to meet the terms of an agreement to repay to her a loan in her brother's behalf (technically, a *constitutum debiti alieni*). In consequence, she set out to initiate proceedings against him by making out a deposition (*διαμαρτυρία*) in Alexandria bearing her own subscription and that of the *defensor civitatis* of Alexandria. Her choice here is significant since the amount that was the subject of the litigation (61 *litrai* plus interest) was many times in excess of the *defensor's* competence as revised by Justinian in A. D. 535 (300 *solidi*; Nov. 15, 3, 2). But it was the plaintiff's prerogative to choose her court, and she may, in view of her allegedly precarious financial straits, have foregone the right to approach the imperial court and considered resorting to the *defensor* because his services would be cheaper and less time-consuming, and perhaps also because a decision rendered locally would be more directly and effectively enforced. In spite of this, she seems to anticipate a lengthy stay in Alexandria: at the end of the document (lines 11-13) she gives an oath that she will not leave Alexandria until she has received her due and, earlier (line 8), she made reference to the costs that such a stay would entail (*προφάσει ξενιτείας ... δαπανήματα*). It may be that these anticipated expenditures of time and money caused her to abandon entirely the pursuit of her case in Alexandria in a way similar to those which had deterred her journey to the imperial capital. Her deposition survives in two copies, one of which should have been delivered to the defendant. In one copy only illegible traces and a blank space are found (line 11) where the *defensor's* name should stand; in the other copy a blank space has been left for the *defensor's* name to be filled in at a later time; and, finally, the subscriptions, explicitly referred to in the document, are not to be found, where expected, at

17) Lines 4-5: *ὡς εὐτρεπισθῆναι με λοιπὸν καταλαβεῖν τὴν βασιλεῖδα τῶν πόλεων καὶ διὰ τῆς εὐτυχοῦς καὶ δικαιοπραγοῦς βασιλείας τῶν δικαίων ἐπιτυχεῖν*. The infinitive *εὐτρεπισθῆναι* is crucial: the plaintiff made ready to, but did not actually, go. There is no reference later in the text to the plaintiff's going there. Had she gone and succeeded in obtaining an imperial rescript in her case, that surely would have formed the basis of her subsequent legal action, and we might also have heard something about an *executor negotii*; for which, see below. For another discussion of P. S. I. 76, see Dieter Simon, "Zur Zivilgerichtsbarkeit im spätbyzantinischen Ägypten," *RIDA*, ser. 3, 18 (1971), 623-57, at 645 f.

the end of the text. It is also significant that the copies were still joined together when found, and that their common verso had been fully inscribed with an account of payments made to vinedressers. These considerations together with those just mentioned clearly establish that these copies of the deposition were never used as originally intended, without, of course, precluding the possibility that other copies were drafted and actually employed. This is a document that would repay further study; for present purposes, though, it gives an inkling of the time and expenses that might be involved in some of the more important private Egyptian lawsuits and suggests, among other things, that although the imperial court was disposed to handle cases like the one summarized here, it was not always possible even for plaintiffs of high social standing to avail themselves of the opportunity.

The villagers of Aphrodito were more fortunate in this regard; but we have already seen, in synopsis, the trouble they had in having the imperial decision they had obtained enforced on the local level. Here again, distance and communication problems were partly to blame, but partly overcome by the requirement that plaintiffs who had obtained imperial rescripts in their cases hire an *exsecutor negotii* to introduce and prosecute them before the competent local court. This the villagers of Aphrodito did in A.D. 551, a contractual procedure whose details are evident in P. Cairo Masp. I 67032.¹⁸⁾ It is sufficient here to say that it gives an example of the time and expenses (for the latter, see lines 42 ff.) that might be anticipated in having imperial rescripts locally enforced, especially when local officials were recalcitrant. Neither it, by the way, nor any later evidence from Aphrodito gives an indication whether the *exsecutor* hired by the villagers successfully carried out his charge.

To matters like these, hindrances to the efficiency of imperial law and justice owing to delays, expenses, official recalcitrance and communication problems caused by distance, may be added communication problems that may have been caused by language. In the last few paragraphs, attention has been fixed on the reasonably prosperous and well-organized villagers of Aphrodito, and a lady of society's higher echelons, impoverished though she may, as she claimed, have been. The question now centers on the extent to which the ordi-

18) For discussions, see J. Partsch, "Neue Urkunden zum justinianischen Reskriptenprozeß," *Nachrichten von der Königlichen Gesellschaft der Wissenschaften zu Göttingen*, 1911, 201-53, at 235 ff.; P. Thomas, "Le rôle et le choix de l'*exsecutor negotii* dans la procédure extraordinaire à l'époque de Justinien," *Etudes d'histoire juridique offertes à Paul Frédéric Girard par ses élèves* (Paris, 1913), I, 379-416; and P. Meyer's re-edition of this document as *Jur. Pap.* 52. Cf. Simon (preceding note), 646 ff. For the requirement, see the *vôpos* cited in lines 27-28 of the text.

nary or low-class Egyptian can be said to have been aware of the contents of imperial legislation that affected his own existence. Even when properly advertised (and advertising procedures were generally inadequate),¹⁹⁾ the laws may have been ignored or misunderstood: in the eastern Empire, Greek and Latin were the languages of administration and law, yet Coptic seems to have remained the dominant vernacular in the Egyptian countryside. The papyri reveal that the drawing of contracts, court proceedings, the publication of edicts were all, at least occasionally, complicated by the need for translation.²⁰⁾ It would seem, then, that the average Egyptian could, at best, only have had an indirect familiarity with the imperial laws that influenced his life.

On the other hand, the government's knowledge and appreciation of local conditions are important factors in legislation, for the drafting of laws as well as for their enforcement. Yet Justinian, in the Preface to his Edict XIII, complained that the situation in Egypt was so chaotic that it was hard to know what was going on there. It is true that the emperor's concerns here are primarily fiscal; but this admission of ignorance in fiscal affairs, even if exaggerated, may be indicative of an ignorance in other, including juridical, areas. It is significant that the Apion family of Oxyrhynchus, which attained high distinctions and appointments under Justinian, is also, on the basis of the papyri, patently guilty of having violated his strictures on *bucellarii* and private prisons. Were these offenses unknown to the emperor -- or known but (in this instance) overlooked?²¹⁾

19) Jones, *Later Roman Empire*, 473.

20) See Wilcken, *Grundz.*, 84-88; P. Peeters, *Le tréfonds oriental de l'hagiographie byzantine* (*Subsidia hagiographica* 26: Brussels, 1950), 11-15, 27-48; R. Taubenschlag, "The Interpreters in the Papyri," *Charisteria Thaddeo Sinko*, 1951, 361-363 = Taubenschlag, *Opera minora* (Warsaw, 1959), II, 167-70; R. Calderini, "De interpretibus quaedam in papyris," *Aegyptus* 33 (1953), 341-46; Jones, *Later Roman Empire*, 986-97. Particularly significant papyri are P.Lond. I 77 (pp. 231-36) = *Mitteis*, *Chrest.* 319 (will of bishop of Hermonthis, dictated in Coptic for translation into Greek); P.Thead. 14 and SB V 8246 = *Negotia* 101 (Egyptians in court giving testimony through interpreters); P. Cairo Masp. I 67031, line 16 (instructions that an edict in Greek be translated into Coptic: τῆ ἐπιχωρίῳ ... διαλ[ε]κτῶ).

21) Justinian's ignorance of Egyptian affairs: *De dioecesi aegyptiaca lex ab imp. Iustiano ... lata*, ed. C.E. Zachariae von Lingenthal (Leipzig, 1891), pp. 9-12 = *Corpus Iuris Civilis*, vol. III, edd. Schoell and Kroll (Berlin, 1954), p. 780. Apion offenses: see above, with n. 14, esp. P.Oxy. XVI 2013-14, PSI VIII 953 (armed retainers), P.Oxy. I 135, XXVII 2478, P.S.I. I 61-62, VIII 953 (estate prisons). For the Apion family history, the honors and offices its members held, see Hardy, *The Large Estates of Byzantine Egypt*, 25-38, and idem, "The Egyptian Policy of Justinian," *Dumbarton Oaks Papers* 22 (1968), 21-41, esp. 28 ff.; cf. the work of J. Gascou cited in *Byzantion* 42 (1972), 63, n. 6.

To be sure, then, imperial laws and decisions were sometimes violated or resisted or ignored, but this need not occasion any sweeping conclusion on the wholesale inefficacy of imperial law as applied in Egypt. If Justinian's laws on certain issues or his decisions in specific cases sometimes met with violation, dereliction or even, as in one case, explicit renunciation,²²⁾ his dispositions in the sphere of private law are often, according to the traditional scholarly view, evidenced in the papyri.²³⁾ This view, if accepted,²⁴⁾ may inspire greater confidence in the efficacy in Egypt of imperial law as a whole, including imperial social legislation. Nevertheless, despite the well-known assortment of legal restrictions and despite any impressions that may have been formed about the efficacy or inefficacy of imperial law in its local application, it is hard if not impossible to prove that Egypt's population was in practice less mobile than it had been in earlier times. If peasant farmers rarely strayed from their birthplaces, this had always been the case. I have mentioned Diodorus' observation on the hereditariness of Egyptian occupations prior to the turn of our era. Yet, in late Roman times, changes in livelihood by enrolling in the army or by entering the cloister may, from the papyri and hagiographic sources, be inferred to have been common.²⁵⁾

22) Explicit renunciation: P. Oxy. I 136 (A.D. 583), lines 37 ff., esp. 38-39: διαφερόντως δὲ τῆ νεαρᾶ διατάξει τῆ περὶ ἑγγυητῶν καὶ ἀντιφωνητῶν ἐκφωνηθείσῃ. The novella (νεαρὰ διατάξις) that is renounced is evidently Nov. 4 (A.D. 535).

23) R. Taubenschlag, "Geschichte der Rezeption des römischen Privatrechts in Ägypten," *Studi in onore di P. Bonfante*, 1930, I, 367-440 = *Opera minora*, I, 181-289, esp. 259 ff.; "The Legislation of Justinian in the Light of the Papyri," *Byzantion* 15 (1940-41), 280-95 = *Opera minora*, II, 69-89.

24) See, however, the recent and penetrating critique by A. A. Schiller, "The Fate of Imperial Legislation in Late Byzantine Egypt," *Legal Thought in the United States of America under Contemporary Pressures (Reports from the United States of America on Topics of Major Concern as Established for the VIII Congress of the International Academy of Comparative Law, edd. Hazard and Wagner, Brussels, 1970)*, 41-60.

25) Military enrollment: for the fourth century, see P. Abinn. 1, lines 9-10; 17; 26, lines 31-32; 35 (which appears to show that military service was not always a popular outlet for Egyptian villagers); 41, lines 1-3 (a new recruit who appears to have deserted; cf. above, n. 13); P. Thead. 49; Wilcken, *Chrest.* 466 to 469. At least some, and perhaps many, of the recruits concerned in these texts were of non-military origin. For hereditary military service, see P. Abinn. 19 and 59. For the sixth century, see P. Monac. 2 = Wilcken, *Chrest.* 470, in particular, and the Syene papyri (P. Monac., P. Lond. V 1722-37), in general, for limitanei drawn from the local population, mainly boatmen by occupation. Despite Jones (*Later Roman Empire*, 669), I find no concrete instance of inherited service attested in this archive (the argument turns on the meaning of the word στρατεύσιμον in P. Monac. 2 = Wilcken, *Chrest.* 470; cf. above, n. 13). For the heritable nature of military service, however, see P. Ryl. IV 609 (A.D. 505): the recruit's name will be registered in the rolls of the vexillation of the *Equites Mauri* (cf. Jones, loc. cit.) in Hermo-

Those better placed to start with might even aspire to be admitted to the bar.²⁶⁾ The social origins of the great landlords of the sixth century are obscure, but their very existence suggests that there had at some time been a rapid social and economic advance in certain segments of the population, including members of the curial class whose demise is so frequently referred to in scholarly writings.²⁷⁾ Other curiales may have found an outlet in the provincial civil service.²⁸⁾ On the other hand, still other curiales, perhaps the large majority, became impoverished, and we must further take into account the downward movement of those independent farmers who became "enrolled tenants" of the great landlords.²⁹⁾ Finally, cases of imprisonment and enslavement for debt -- and worse! -- are known from the papyri, but such losses of personal freedom had earlier precedents and were, besides, polis only "si ex genere oritur militari." Cf. B.G.U. XII, intro., xix ff. Entering the cloister: ancient figures, admittedly of questionable reliability, have been collected from the hagiological sources by Johnson and West, *Byzantine Egypt: Economic Studies*, 67-68, and by Jones, *Later Roman Empire*, 930-31. Cf. Bell (above, n. 15), 26 (for Apollos of Aphrodito, a village notable who became a monk in his later years), P. Cairo Masp. I 67089 = a copy of P. Cairo Masp. III 67294 (for a family, some of whose members became nuns), P. Cairo Masp. I 67121 (a divorce granting each party the freedom, not just to remarry, but should they so decide, to enter monastic life). See now also B.G.U. XII, intro., xxv (a military clerk who became a priest toward the end of his life). I am not here so much concerned with the overall attractiveness of these outlets, or whether in specific cases their use should be construed as advances or regressions in social status. The limited point of concern here is, rather, that they were available to Egyptians of late Roman times, more so of course than earlier, and appear to have been used.

26) I have in mind Dioscorus of Aphrodito, son of Apollos mentioned in the preceding note. For his career, see Bell (above, n. 15) and Axel Claus, 'Ο ΣΧΟΛΑΣΤΙΚΟΣ (Diss., Köln, 1965), 114-17.

27) For curiales as patrons, see esp. Diósdí's article (above, n. 6) and CTh 11, 24, 4 (399), a listing of the social origins of patrons including persons ex ordine curiali. For two curiales of late Roman Egypt with the dignity of comes, see P. Oxy. XVI 2002 (579) and Stud. Pal. XX 218 (seventh century). Though the class as a whole declined, some of its members appear to have flourished.

28) Cf. P. Flor. III 343: a singularis who was son of a curialis.

29) Something of the impoverishment of curiales as a result of their liturgical burdens may be reflected in a metaphor for dying, ἀπολειτουργεῖν τὸν βίον, found in P. Cairo Masp. I 67023 = Meyer, *Jur. Pap.* 12 (569), lines 14-15, and in P. Lond. V 1708 (567?), line 29. A partial listing of "enrolled tenants" (ἐναπδγραφοὶ γεωργοί) will be found in ZPE 11 (1973), 55-56, n. 96. Most of the papyrus evidence concerns coloni of the Apion household of Oxyrhynchus; but see also P. Oxy. XXXIV 2724 (coloni of Flavia Kyria of Oxyrhynchus); P. Oxy. XVI 1900 = Sel. *Pap.* I 80, P. Oxy. XIX 2238 (coloni of the Church of Oxyrhynchus); O. Eger, *Archiv* 5 (1913), 573, and J. van Haelst, in *Atti dell' XI Congresso Internazionale di Papirologia* (Milan, 1966), 586-590 (coloni of Flavia Anastasia of Oxyrhynchus); P. Merton II 98 (coloni of a landlord named Celes). Cf. P. Med.

at least partially counterbalanced by testamentary and other kinds of emancipations.³⁰⁾

In short, then, the society of late Roman Egypt gives an indication of fluidity both in accordance with, and sometimes in violation of, the law. Where static, it was often so by custom rather than by law; where mobile, it was sometimes so despite the law. In effect, it may have been no less mobile than in early imperial times -- but it is not my purpose here to make, much less sustain, such a contention. I have simply ventured a résumé of the current state of the subject and alluded to some of the problems it entails. I support those who have questioned using the Codes to construct general theories of social immobility; where Egypt is concerned, I would further caution against building theories on the legal evidence in conjunction with an illustrative though limited number of salient papyri. Such a method, much like that pursued here, may well define the range of problems that existed, but can hardly support conclusions on the general conditions that prevailed. It is preferable, insofar as Egypt is concerned, to put a moratorium on general assessments until the full details have been extracted from "the bits and patches of the papyri," and until these have been arranged, analyzed, and brought to bear on the question of social mobility in late Roman Egypt, against the background of social conditions in the Later Roman Empire as a whole.³¹⁾

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64 (accessible to me as pl. 95 in O. Montevecchi, *La Papirologia* [Milan, 1973]), if ἐναπόγραφος is correctly restored at the beginning of line 5. It is unusual for the adjective to follow the noun; nevertheless, the type of document, a receipt for agricultural machinery, and the relationships of the parties concerned are in strong support of the restoration.

30) Imprisonment and enslavement for debt: literature and discussion in Meyer, *Jur.Pap.*, intro. to no. 12 (= P.Cairo Masp. I 67023), P.S.I. VII 824, P. Lond. 1915 (= *Sel. Pap.* I 160) and 1916, texts cited by Dautzenberg, *Gesetze*, 153, n. 6. Cf. B.G.U. IV 1024, cols. vi-viii, esp. vii, lines 8-18 (a destitute woman who had gotten the necessities of life from a daughter she had given over to prostitution). Earlier precedents: texts cited by Taubenschlag, *Opera minora*, II, nn. 12-15 to p. 714 (cases of debt imprisonment), G. Chalon, *L'Edit de Tiberius Julius Alexander* (Olten-Lausanne, 1964), p. 28, lines 15-18 (illegality of imprisonment for private debt). Testamentary emancipation: P. Cairo Masp. III 67312. *Manumissio per epistulam*: P. Cairo Masp. I 67089 = III 67294, with Taubenschlag, *Opera minora*, II, 70 f. Cf. also Mitteis, *Chrest.* 361.

31) For local mobility a beginning has been made by Braunert, *Die Binnenwanderung*, 293-336. For a balanced assessment of life in late Roman Egypt, see G. Rouillard, *La vie rurale dans l'empire byzantin* (Paris, 1953), a description based on an extensive consideration of the papyrus evidence and without undue stress on the legal texts or on specific salient papyri.