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The defensor civitatis in Egypt

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THE DEFENSOR CIVITATIS IN EGYPT.

The office of *defensor civitatis*¹ was the subject of considerable research at the turn of the century, and general agreement was reached as to its nature and history in the Empire as a whole. Here was an office created in the second half of the fourth century of our era to provide the imperial government with a means of protecting the poorer classes against the depredations of the rich and powerful, which, despite frequent adjustments to its scope and the duration of its tenure, its personnel and the method of their recruitment, and despite its acquisition of increased administrative and judicial powers, was to fall so far short of original expectations as to have become by Justinian's time a mere tool of the fiscal authority and a monument to municipal decadence². More recent historians³ have found little reason to deviate from these general conclusions, though the discovery of evidence not available to their predecessors has illuminated certain points of detail. Nor did

¹ This is its traditional title but *defensor plebis*, which is strictly more correct, is also found, as, e. g., in *C. Th.* VIII, 12, 8; *C. J.* I, 57; cf. also *C. Th.* I, 29, 3; 4. It may well have been that Valentinian's purpose was to substitute *defensor plebis* for the already well-known *defensor civitatis*, but that the latter soon returned to, if it was ever displaced from, popular favour. See A. Hoepffner, *Un aspect de la lutte de Valentinien I-er contre le Sénat-la création du Defensor Plebis*, in *RH* 182 (1938), 227 n. I.

² The more extensive of these studies, in chronological order, were: — E. Chénon, *Étude historique sur le Defensor Civitatis*, in *NRD* 13 (1889), 321 ff; O. Seck, art. *Defensor Civitatis* in *RE* IV 2, 2366 ff; C. H. Baale, *Ueber den Defensor Civitatis*, Diss. Amsterdam, 1904; J. Déclareuil, *Le Defensor Civitatis*, in *NRD* 32 (1908), 28 ff. See also Ch. Lécivain, *Le Sénat romain depuis Dioclétien* (Paris, 1888), 103 ff; W. Liebenam, *Städteverwaltung im römischen Kaiserreich* (Leipzig, 1900), 497 ff; P. Vinogradoff in *C. Med. H.* I (1911), ch. XIX, 565.

³ For a representative selection, again in chronological order, see E. Stein, *Geschichte des spätrömischen Reiches*, I (Vienna, 1928), 277 f; A. H. M. Jones, *The Greek City from Alexander to Justinian* (Oxford, 1940), 151, 208 f; A. Piganiol, *L'Empire chrétien* (325 — 395), (Paris, 1947), 185, 361; L. Bréhier, *Le monde byzantin: les institutions de l'Empire byzantin* (Paris, 1949), 203 ff; and again E. Stein, *Histoire du Bas-Empire*, II (Paris — Brussels — Amsterdam, 1949), 123, 212, 439, 467 ff.

papyrologists⁴, examining the evidence of the papyri, see in it grounds for holding that the ἔκδικος, as he was usually called in Egypt, differed radically from the *defensor civitatis* of the rest of the Empire. For example, in 1911 Pierre Jouguet could write⁵, "*Quant au defensor (ἔκδικος) il apparaît dans les papyrus dès 336 et joue dans les metropoles un rôle analogue à celui qu'on lui connaît ailleurs*". Recently, however, a quite different view has been advanced. "The ἔκδικος", write Professors Johnson and West⁶, "seems to have played a minor role in Egyptian cities and he can be with difficulty regarded as a defensor of the plebs. In the sixth century his role was evidently unimportant and the small amount of money and grain allowed him indicates his relative unimportance. The syndic may have represented more nearly the functions of the *defensor plebis* but the evidence for his continued existence in Egypt is slight". Such a statement, coming as it does from two acknowledged authorities on the administration of Byzantine Egypt, demands the closest scrutiny.

It is all the more disappointing, therefore, that the evidence cited in support of this novel view⁷ must, with all respect, be discounted as inconclusive or even irrelevant. Two separate claims are put forward:

- (a) that the ἔκδικος in Egypt is too unimportant to have been the real *defensor civitatis*,
- (b) that the σύγδικος is more likely to have been so, if he continued to exist.

In support of (a) is cited the editorial note to an Oxyrhynchus papyrus⁸, in which we find *inter alia* that "the specific purpose for which the later official (sc. ἔκδικος) was created, protection of the ordinary citizen against *potentiores*, finds little allusion in the papyri". This is purely negative evidence — if it is evidence at all, not merely opinion. The first reference quoted in support

⁴ E.g. N. Hohlwein, *L'Égypte romaine* (Brussels, 1912), 211; U. Wilcken, *Grundzüge*, 80 f; L. Mitteis, *Grundzüge*, 31 f; G. Rouillard, *L'administration civile de l'Égypte byzantine* (Paris, 1928), especially 7 ff.

⁵ *La vie municipale dans l'Égypte romaine* (Paris, 1911), 464.

⁶ *Byzantine Egypt; Economic Studies* (Princeton, 1949), 323 f.

⁷ 323 n. 19, 324 n. 20, both quite inconclusive; 324 n. 21, mostly irrelevant.

⁸ POxy. XVI, 1883, ln.

of (b) can be similarly dismissed: a statement by F. Oertel⁹ that the *σύνδικος* is attested for the third and fourth centuries — is presumably intended by the authors to suggest that he was to be found in no other. The second reference is of a more helpful kind. It directs us to a papyrus¹⁰ which shows the *σύνδικος* performing a duty which imperial constitutions and the tradition of history assign to the *ἑκδικος*, that of presiding over and judging a minor civil dispute. The papyrus itself will be discussed later¹¹ but here it can safely be said that all it may prove is that in Egypt in the first half of the fourth century — incidentally, before the official introduction of the *defensor civitatis* in the Empire as a whole — the title of *σύνδικος* was synonymous, or at least interchangeable, with the title of *ἑκδικος*, and is therefore just as suitable to describe the official who later became known as the *defensor civitatis*; thus it is scarcely relevant to the issue at stake, especially when taken by itself. It must be admitted then that the claims of Professors Johnson and West, if they are to be justified, can be justified only on a wider and closer examination of the evidence¹². It is precisely such an examination that this article is designed to carry out; in the course of it all the papyrological evidence hitherto available will be examined against the background of the evidence for the Empire as a whole, which will be referred to only when it helps to clarify or explain the situation in Egypt¹³.

Papyrological discoveries have made a considerable contribution to the discussion of the origin of the *defensio civitatis*. The traditionally accepted view¹⁴ was that the office was first intro-

⁹ *Liturgie* (Leipzig, 1917), 310.

¹⁰ PColumbia 181 and 182, published with commentary, etc., by C. J. Kraemer and N. Lewis in *TAPA* 68 (1937), 357 ff., and previously notified in *Actes Oxford*, 245 ff.

¹¹ Below, 83.

¹² The only other evidence cited is PCairo Masp. I, 67058, to show how little money and grain a sixth-century *ἑκδικος* might be allowed, and II, 67281, where two *σύνδικοι* appear as commissioners of a village council.

¹³ Those who desire a more general account of the office are referred to the bibliography given in nn. 2 and 3 above.

¹⁴ See, e. g., Seeck, *RE* cit., 2366; Chénon, *op. cit.*, 324ff; Lécirvain, *op. cit.*, 103 f; Déclareuil, *op. cit.*, 46f; Stein, *op. cit.* I, 278; J. B. Bury, *History of the Later Roman Empire*, I (London, 1923), 61.

duced for Illyricum by Valentinian I in A. D. 364 or 365 by a constitution¹⁵ addressed to Probus, then prefect of the *praetorium* of Italy and Illyricum, and an inconvenient reference to it in an earlier constitution¹⁶ had accordingly been explained away as an interpolation for, or confusion with, the *curator rei publicae* or *civitatibus*¹⁷. But a strong case has now been made¹⁸ for amending the date of its institution in Illyricum to A. D. 368 and regarding the innovation as an integral part of Valentinian's policy of opposition to the senatorial classes, the first signs of which appeared in that year¹⁹. Again, references to an official with functions apparently similar to those of the *defensor civitatis* of imperial legislation have been discovered in papyri considerably anterior to A.D. 368²⁰; this official, variously called ἔκδικος²¹, σύνδικος²², or δεφήνωρ²³, may well be the forerunner of the imperial *defensor civitatis*, in fact the very *defensor* whose presence in the constitution of A.D. 319

¹⁵ *C. Th.* I, 29, 1, — *admodum utiliter edimus, ut plebs omnis Illyrici officiiis patronorum contra potentium defendatur iniurias*; on these *potentes* cf. Godefroy on *C. Th.* III, I, 8 and Hoepffner, *op. cit.*, 226 f.

¹⁶ *C. J.* VI, I, 5.

¹⁷ L. Mitteis, *Z. Sav.-St. (Röm. Abt.)*, 30 (1909), 501, and J. Partsch, *Der Defensor Civitatis: Zur Frühgeschichte des Defensorenamtes (Sitz. Heidelb. Akad.* 1916, 10 *Abh.*), 49, on P^{Freib.} 11, have already commented on this.

¹⁸ By Hoepffner, *op. cit.*, accepted by Jones, *op. cit.*, 141; Piganiol, *op. cit.*, 361, and *Histoire de Rome* (Paris, 1939), 487. O. Seeck, *Regesten der Kaiser und Päpste* (Stuttgart, 1918), 91f, had already show that *C. Th.* I, 29, 1 should be dated to A. D. 368, not 364; Hoepffner now dates to A. D. 368 all the constitutions dealing with the appointment of a *defensor civitatis* in Illyricum — *C. Th.* I, 29, 1 — 4; VIII, 15,4. See also A. Alföldi, *A Conflict of Ideas in the Late Roman Empire* (Oxford, 1952), 57.

¹⁹ E. g., in *C. Th.* IX, 42, 7; X, 9, 1; XI, 39, 6.

²⁰ P^{Oxy.} XII, 1426 (A. D. 332); VI, 901 (A. D. 336); P^{Freib.} 11 (=SB 6294) (A. D. 336); P^{Col.} 181 and 182 (*TAPA* 68 (1937), 357 ff), (A. D. 339/40); P^{Ross-Georg.} V, 27 (dated by the editors to the first half of the fourth century). But P^{Bour.} 20 (=M^{Chr.} 96), dated to after A. D. 350, shows the ἔκδικος as a private advocate, not a public official, and is therefore irrelevant here.

²¹ P^{Oxy.} XII, 1426, 4; VI, 901, 3, where the actual title is διοικῶν ἐκδικίων according to the editors; see below n. 66.

²² P^{Freib.} 11, 1 (=SB 6294); P^{Col.} 181, 182.

²³ P^{Ross-Georg.} V, 27, I. For this title see below 84 f. and n. 72, and cf. P^{Lips.} 34, 10 (ca. A. D. 375); 35, 12 (A. D. 375); in both of which the δεφήνωρ is the advocate retained by the *concilium* of the Thebaid; P^{Lips.} Inv. No. 244, 15 (=M^{Chr.} 71).

had earlier proved so embarrassing. Some²⁴ have seen in this official an earlier edition of the *defensor civitatis*, not yet regularised by imperial enactment nor yet explicitly invested with his peculiar function of protecting the *humiliores*, but quite certainly different from the older σύνδικος or ἑκδικος wellknown to us from inscriptions and other evidence as a functionary in the municipal organisation of the Empire since the first century of our era²⁵. Others²⁶ have insisted that he is no more than a continuation of the latter, bearing none other than a purely nominal relation to the imperial *defensor civitatis*. Isidore Lévy²⁷ has emphasised that this later *defensor civitatis* was essentially a development of the earlier σύνδικος or ἑκδικος; J. Partsch²⁸ supported this view and saw the origins of the later office in the municipal reforms of Diocletian in Egypt, so that the officials in the fourth-century papyri form a bridge between the earlier and later forms; L. Mitteis²⁹, whilst agreeing that the office existed before A. D. 364 (*sic*), denied the possibility of this connexion with Diocletian's Reforms. It is a theme admitting of many variations, most of which have been employed at one time or another. There has been much confusion here, and a re-examination of the whole question will not be amiss as a starting-point for the present discussion. Two questions present themselves:— Is the earlier σύνδικος or ἑκδικος related to the official or officials of the early fourth-century papyri? Are the latter, in turn, related to the *defensor civitatis* of imperial legislation?

The word σύνδικος, meaning "private or public advocate" in classical Greek³⁰, had come to be applied in a special sense under

²⁴ E. g., Hoepffner, *op. cit.*, 225 f; Partsch, *op. cit.*, 48 ff. Stein, *op. cit.*, I, 277, believed that an analogous functionary to the later *defensor civitatis* probably existed in each town even at the time of Constantine.

²⁵ On the earlier σύνδικος see E. Seidl, in *RE* IV A 2, 1332 f; on the earlier ἑκδικος, C. A. Brandis, in *RE* V 2, 2161; on both, Liebenam, *op. cit.*, 303 f., especially nn. 2 and 3 to p. 303, and Jones, *op. cit.*, 244.

²⁶ E. g., Piganiol, *L'Empire chrétien*, 185 n. 92; Jones, *op. cit.*, 151 n. 102, though Professor Jones is here referring more strictly to the ἑκδικος of C. J. VI, I, 5 (A. D. 319).

²⁷ *Études sur la vie municipale de l'Asie mineure*, in *REG* 12 (1899), 274 ff. Cf. Stein, *op. cit.*, I, 278 n. 17.

²⁸ *Op. cit.* 50. He points out, however, that the later feature of *defensio humiliorum contra potentes* is conspicuously absent from the early fourth-century papyri.

²⁹ *Op. cit.*, 401.

³⁰ Public: Dem. 20, 146; 23, 406; private: Aesch. *Supp.* 726; Pl. *Lg.*, 929e; Dem. 18, 134.

the Empire to the legal representative of the *municipium*, as well as to that of almost any public body or individual engaged in litigation³¹; in particular it was used to denote the *ad hoc* appointment of a person of high standing³² to represent the town in appeals heard before the Emperor or governor, in its dealings with imperial officials, or in any external or internal litigation in which it was involved, and at all times to protect its fiscal interests. The office is well attested by inscriptions³³ as well as by the Roman jurists — Hermogenian³⁴ and Arcadius Charisius³⁵ identify it with the *defensio civitatis*, Charisius³⁶ and Paulus³⁷ describe it as a *munus personale* — and there are also references to it in the third-century papyri. For example, the *σύνδικος* appears as the spokesman of the senate³⁸ and as the representative of the popular assembly in its dealings with the prefect³⁹ but he does nothing here to put himself in the same category with the later *defensor civitatis*, though there is no doubt that such would be his Latin designation⁴⁰. However, in an ostrakon dated to the late second or early third century⁴¹ there is the hint of an analogy: here the *σύνδικοι* form an organised *collegium* in the protection of one citizen against another, and P. M. Meyer saw in this a connecting-link between the earlier and

³¹ See Oertel, *op. cit.*, 310; Liebenam, *op. cit.*, 303 f; P. M. Meyer, *Griechische Texte aus Aegypten* (Berlin, 1916), 191, on Ostrakon (=OMeyer) 67.

³² E. g., the *σύνδικος* of CPR 135, 5 is a serving *prytanis* as well as a senator, the *σύνδικοι* of MChr. 196, 2 are both senators, one of them a serving *prytanis*.

³³ Liebenam, *op. cit.*, 303 n. 2 gives *exx.*

³⁴ *Dig. L.*, 4, I, § 2 — *defensio civitatis, id est ut syndicus fiat.*

³⁵ *Ibid. L.*, 4, 18, § 13 — *defensores quoque quos Graeci syndicos appellant et qui ad certam causam agendam vel defendendam eliguntur*

³⁶ *Ibid.* — *laborem personalis muneris adgrediuntur.*

³⁷ *Ibid. L.*, 16.

³⁸ *CPHerm.* 23 II, 5. Cf. *POxy.* XII, 1416; also 1413 — 4, where a *σύνδικος* takes part in a discussion by the senate of municipal appointments.

³⁹ *POxy.* I, 41, 25; 29. Cf. too *CPHerm.* 26, 16; 25 II, 2; CPR 59, 14; 135, 5 (all C3); MChr. 196, 2 (C4). For *σύνδικος* in current fourth-century usage, Partsch well cites, in *op. cit.*, 48, Libanius, *Or.* LXIII, 6 and *Epp.* 878; Libanius generally uses *σύνδικος* to mean a barrister or advocate but in *Or.* XIX, 12 — 3 (384 A. D.) he uses it to describe the *defensor civitatis*, perhaps a useful parallel for Egyptian usage. For later *exx.* of *σύνδικος* in the papyri see PCairo Masp. I, 67013, 5; II, 67234,3; III, 67281,3 (all Byzantine).

⁴⁰ For the *defensor civitatis* or *rei publicae* in Latin inscriptions see *CIL* V, 4459, VIII, 11825; 14784.

⁴¹ OMeyer 67.

the later office, suggesting that the Πλῆγεις being protected was a *plebeius*⁴². Meyer's ostrakon, apart from reminding us that the germ of the later office lay in this right of *defensio*, is of real value in that it provides evidence of that right being exercised in Egypt before the fourth century, so that through it and the other evidence, taken in conjunction with it, the essential affinity, if not identity, between the σύνδικος of Egypt and the σύνδικος of the Eastern Empire generally is firmly established⁴³. That it also provides the earliest instance of the exercise by the σύνδικος of legal *iurisdictio* is less certain in view of the informality of the wording which smacks rather of the unofficial or semi-official arbitrator.

Similar functions to those of the σύνδικος had been vested in the ἔκδικος⁴⁴, who would also be known as *defensor civitatis* in Latin⁴⁵. Precisely what was the original distinction between σύνδικος and ἔκδικος must now be admitted to be beyond our comprehension⁴⁶; Levy held that the ἔκδικος represented the town inside its own confines, the σύνδικος outside, whereas Meyer made the ἔκδικος the representative of public bodies only, the

⁴² Meyer, *op. cit.*, 192 saw evidence for a *collegium* of σύνδικοι in POxy. I, 41,25 also (=WChr. 45) (ca. A. D. 300), but Wilcken, *Archiv* V, 285 maintained that ἀγνοὶ πιστοὶ σύνδικοι, ἀγνοὶ πιστοὶ συ[ν]ή[γο]ροὶ (?συ(ν)δι(κοι)) is no more than a "pluralische Akklamation". Meyer's view seems the more likely.

⁴³ But for the dangers of a too hasty identification of Egyptian and imperial institutions of like, or similar, name see E. G. Turner, *Egypt and the Roman Empire: the Δεκάπρωτοι*, in *JEA* 22 (1936), 7 ff., especially 7 n. 3, and 19.

⁴⁴ Lévy, *op. cit.*, 274 f; Brandis, *RE* V 2, 2161; Liebenam, *op. cit.*, 304 n. 5 for *exx.*

⁴⁵ As apparently in *CJ* VI, 1, 5, if this is the genuine *defensor civitatis* at all (see above, 6). For ἔκδικος in Roman Law see R. Düll, *Z. Sav-St. (Rom. Abt.)*, 55 (1935), 32 f; R. Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri*, I (New York, 1944), 116, n. 27.

⁴⁶ This has often been demonstrated, most recently by A. H. M. Jones, *op. cit.*, 358 n. 61. There he discusses and rejects the most plausible of all the theories about the essential difference between the original offices of σύνδικος and ἔκδικος, that the latter was, while the former was not, a regular appointment. D. Magie, *Roman Rule in Asia Minor* (Princeton, 1950), accepts this theory, I, 648 f., rejecting all others, II, 1517 f. If this view were correct, then it might well be that the prefix ἐκ- originally suggested the more select character of the younger and regular office. But the evidence, scanty as it is and spread over five centuries, by no means establishes this theory; rather it makes any attempt at functional definition appear optimistic in the extreme. With the present evidence scepticism is the only proper attitude.

σύνδικος of individuals as well⁴⁷. Whatever the exact distinction, it certainly disappeared, and the titles came to be used almost synonymously, though this much may be observed *en passant* — that we have no example in Egypt of a *collegium* of ἔκδικοι or indeed of more than one ἔκδικος acting simultaneously in the same town⁴⁸. But any generalisation is dangerous when the evidence is so slight; references to the ἔκδικος before the fourth century are very few and show him as the legal representative, for example, of one of the parties to a lease⁴⁹, or of women, who were prohibited from transacting certain legal and other business except through such male representatives⁵⁰.

We have then in existence in the towns of Egypt before the fourth century — as in the *municipia* of the rest of Empire — an official known as the σύνδικος, whose chief task is to represent the town, externally in its dealings with the imperial government and internally in its dealings with private citizens, “*la défense du patrimoine public*”⁵¹. There is also an ἔκδικος, who does not appear to be associated as commonly with the community as with individuals. Whether his functions in Egypt extended to the representation of public bodies, our evidence does not permit us to affirm⁵².

⁴⁷ Lévy, *op. cit.*, 274; Meyer, *OMeyer* 67 n. 1. A glance at the *exx.* given in *LSJ* or *RE* will show that neither of these distinctions is valid. In any case Meyer's distinction had clearly been obliterated by the third century A. D. in Egypt; see BGU I, 253. PMich. VIII, 507 has an ἔκδικος who acts as private advocate in the second century (possibly third), POxy. II, 261 even in the first!

⁴⁸ As we have of σύνδικοι; see above, 78 and nn. 41 and 42.

⁴⁹ BGU I, 253 (“*Zeit der Philippe*” — ed.).

⁵⁰ POxy. II, 261 (A. D. 55) — οὐ δυναμένη προσικαρτερῆσαι τῷ κριτηρίῳ διὰ γυναικείαν ἀσθένειαν; for which cf. POxy. II, 237 VII, 39 (A. D. 186); BGU I, 136, 4 (C2); PMich. VIII, 507, 8 (C2 or 3) — ἐπεὶ γὰρ οὐκ ἔξεστι γυνῆ χωρὶς ἔκδικου δικάσασθαι — where the editorial note points out that ἔκδικος is here used as the equivalent of the more common κύριος (cf. the note on 499, 14); see also L. Wenger, *Die Stellvertretung im Rechte der Papyri* (Leipzig, 1906), 134; R. Taubenschlag, *Archives d'histoire du droit oriental*, II (1938), 293 ff; *id.*, *op. sup. cit.*, I, 128 ff. P. Lips. 38 I, 17 (A. D. 390) has a later *ex.* of an ἔκδικος acting as a *mandatus*, private representative.

⁵¹ Lévy, *op. cit.*, 276. Cf. *ibid.*, 277, where the ἔκδικος is described as “*gardien du patrimoine matériel de la cité*”.

⁵² On the evidence at our disposal he is never the representative of public bodies, always of individuals, but its paucity makes any assertion hazardous. Other *exx.* are: — BGU I, 288, 10; 361 II, 16; III, 871, 3; POxy. II, 237 VII, 39 (all C2); MChr. 96 I, 11; II, 6 (C4).

He is found only as the advocate of private persons, but that need not necessarily mean that he could not, and did not, undertake wider responsibilities, as apparently he could, and did, elsewhere. All one can safely assert is that the *σύνδικος* would seem to be the more important of the two and to correspond more nearly to the municipal *defensor civitatis* of the rest of the Empire.

We now turn to the fourth-century documents datable to the period before A. D. 368, of which there are six⁵³. In A. D. 332 an *ἔκδικος*, Aurelius Achillion, is the addressee, together with the *logistes* and a "scribe", of an official return⁵⁴ from the comarchs of two villages in the second *pagus* of the Oxyrhynchite nome. The return concerns so trivial a matter as the appointment of a workman, and the editors note that this is "an interesting collocation of officials who had taken the place of the *strategus* and *basilicogrammateus*". The *ἔκδικος* appears to rank below the *logistes* but above the "scribe", and it is surely not fanciful to see in this an early example of the way in which the powers of the *strategus* were put into commission, so that the officials endowed with part of the powers of the *strategus* continued to rank higher than the subordinate who probably represented the *basilicogrammateus*. A point of real importance is that the *ἔκδικος* is here a recognised official, a quasi-permanent member of the new administrative cadre, quite clearly a different person from the *ad hoc* *σύνδικος* or *ἔκδικος* of earlier centuries. As to his precise functions our document offers no clue, but it may be significant that we meet him in conjunction with the *logistes*, already a recognised official and apparently taking precedence over him. Nowhere else in the papyri do we find him associated with the *logistes*, whom he was soon to outstrip in the extent and variety of his powers⁵⁵.

⁵³ POxy. XII, 1426; PSI VII, 767; POxy. VI, 901; PFreib. 11 (=SB 6294); PCol. 181 and 182; PRoss-Georg. V, 27.

⁵⁴ POxy. 1426. Cf. PSI 767, where the same *logistes* replies to a woman petitioning for the deferment of payment of a debt. Both petition and reply are transmitted through the same Achillion, now referred to as *ἔκδικος διάδοχος*, deputy-*defensor*. This document, on which see R. Taubenschlag in *Z. Sav-St. (Röm. Abt.)*, 51 (1931), 403 f., is tentatively dated by the editor to A. D. 331 but may well be A. D. 332 in fact, the same year as POxy. 1426.

⁵⁵ J. G. Milne, *History of Egypt under Roman Rule*³ (London, 1924), 148; also Taubenschlag, *op. cit.*, II (Warsaw, 1948), 17. On the origin and history of the office of *curator rei publicae* or *civitatis* in general see Magie, *op. cit.*, I, 597 ff. with full bibliography, in II, 1454 ff; on the relationship between *defensor*

In A. D. 336 a woman addresses a complaint against her neighbour⁵⁶ to Flavius Julianus, described as διοικούντι ἐκδικίαν in the Oxyrhynchite nome. The editors support their interpretation that the official addressed is a "deputy and not the magistrate proper" by reference to another papyrus⁵⁷, in which the same man is described at once as διοικῶν τὴν λογιστείαν and διαδεχόμενος τὴν λογιστείαν⁵⁸. For although the normal meaning of διαδέχεσθαι in classical Greek is "to succeed (to)", it is found in the papyri signifying also "to act as a deputy (for)"⁵⁹, a sense which is more precise, if less comprehensive, for its legitimate variant διοικεῖν than Preisigke's "ein Amt verwalten"⁶⁰. The usage of the papyri⁶¹ therefore permits us to regard Flavius Julianus as the person "administering as a deputy the office of ἐκδικιος", always remembering that it is too early yet to expect an official deputy for the *defensor civitatis*, whose acquisition of an *officium* was the effect, not the cause, of his increased duties and standing⁶².

and *curator*, Chénon, op. cit., 548 ff; on their essential similarity, Déclareuil, op. cit., 28 f., 64f. On the evidence for the *logistes* in Egypt, of which the present writer hopes shortly to offer a survey, Jouguet, op. cit., 462 ff; Oertel, op. cit., 107; WGr. 80; F. Preisigke in *RE* XIII, 1 and bibliography there cited.

⁵⁶ POxy. VI, 901 (=MChr. 70). The complaint seems to be concerned with an injury done to her pigs but the exact details are not ascertainable.

⁵⁷ Stud. Pal. VIII (=P kl. Form. II), 1010.

⁵⁸ Cf. PAmh. 72 and PLond. III, 1157 (both of A. D. 246), in which the same man is described as διοικούντι [τὴν στρατηγίαν] and διαδεχόμενος τὴν στρατηγίαν respectively, *pace* Wilcken, *Archiv* II, 127, who objected to the supplement in PAmh. 72, 1.

⁵⁹ E. g. in BGU II, 18, 3; SB 5238, 13; PFay. 117, 4; POxy. XIV, 1662, 19; PFlor. I, 33, 18; P kl. Form. I, 369, etc. Cf. too PSI VII, 767 cited in n. 54 above.

⁶⁰ *WB*, s. v. διοικεῖν. It is noteworthy, however, that Preisigke both here and in *Fachw.*, 61 translates ὁ διοικῶν as "der Vertreter", though he renders διοικεῖν as "ein Amt verwalten". Clearly this attempt to draw a hard and fast distinction between the infinitive and participial forms of the same verb is dangerous; it makes far too much depend on the absence of the Definite Article, never a certain quantity in post-classical Greek.

⁶¹ Grenfell and Hunt's comparison of διοικεῖν with διέπειν is of doubtful value here — they cite POxy. IV, 727, 5; PLond. III, 908, 13, 19; PTebt. 522 — since A Stein, *Die Präfekten von Ägypten* (Berne, 1950), n. 454, quotes POxy. IX, 1021 to show that διέπειν can refer to the actual official and not his representative or deputy; cf. *ibid.*, 144, 180.

⁶² See *Nov. Just.* XV, 5, 1 for the *officium* of the ἐκδικιος.

Upon this question, the meaning of διοικοῦντι ἐκδικίαν, our next document⁶³ has a bearing. Also in A. D. 336 Flavius Hermeias has addressed to him, as σύνδικος of the Oxyrhynchite nome, a complaint made by a woman about an assault on the man to whom she has leased a piece of land recently recovered by a lawsuit⁶⁴. Here then are two different men, called by different titles, exercising in the same nome and in the same year⁶⁵ one of the functions of the later imperial *defensor civitatis*. Is Flavius Julianus the deputy-*defensor*, Flavius Hermeias the *defensor* proper? If so, why does the former administer the ἐκδικία, while the latter is σύνδικος — setting aside the possibility of an inconsistency surpassing even Egyptian standards and allowing for the ignorance of correct nomenclature obviously current in contemporary Egypt? The answer to the second question is that the difference in title is not nearly so great as at first sight appears; a further examination has revealed that the word which follows διοικοῦντι is much more likely to be συνδικίαν than ἐκδικίαν⁶⁶. So, in view of the meaning of διοικεῖν in general usage, discussed above, it is clear that in Julianus we have a temporary σύνδικος who was later succeeded in the same year by Hermeias as σύνδικος proper, and that σύνδικος was regarded as the natural title to bestow on this early fourth-century official, which is not surprising when the pre-fourth-century documents which we have examined already attest, or at least hint at, its greater prestige.

Our next document⁶⁷ also refers to a σύνδικος and deals with the appeal of two persons against payment of taxes due on a piece of land. The editors assume⁶⁸ — and it seems a fair assumption —

⁶³ PFreib. II (= SB 6294), published and edited in Partsch, *op. cit.*; commented on by Wilcken, *Archiv* VI, 411 f.

⁶⁴ Conducted "before the *iudex ordinarius*" — Grenfell and Hunt.

⁶⁵ PFreib. II is just over six months later than POxy. VI, 901.

⁶⁶ Grenfell and Hunt printed ἐκδικίαν, but it occurred to me that this might be the result of their incomplete knowledge of the origins and early history of the office, and not, in fact, the correct reading. I am indebted to the University Librarian of Cambridge and to Dr. Atkinson of the Mss. Department, who re-examined the original and confirmed my suspicion that "the letter before δ is not x but ν, and that before the ν the letters have quite gone. There is room for one broad or two narrow letters, and σν seems possible". I therefore read [σν]δικίαν.

⁶⁷ PCol. 181 and 182, in *TAPA* 68 (1937), 357 ff.

⁶⁸ *Ad loc.*, n. 2.

that the *σύνδικος* is being instructed to hear the case by the prefect⁶⁹. The papyrus, whose provenance is Arsinoe, belongs to A.D. 339 or 340. For the next document⁷⁰ we return to Oxyrhynchus. It is addressed *λογιωτάτῳ δεφήνωρι Ἐπτανομίας* by a citizen protesting against unfair exaction of the *collatio lustralis* and appealing to the *defensor* to protect him and his children. Now this is important for two reasons: it shows us in use before A. D. 368 — if the editors' dating is correct — a title which leaves no doubt about the existence of a *defensor* in early fourth-century Egypt⁷¹, the Hellenised form of

⁶⁹ φρόντισον τῆς δημοσίας, ἀπαιτήσεως, c. 1.

⁷⁰ PRoss-Georg. V, 27.

⁷¹ The editors held that this papyrus is datable on purely palaeographical grounds to the second half of the century but that the mention of Heptanomia makes this dating certainly earlier, viz. the first half of the century. The unorthodox retention of the name Heptanomia after its supersession by Aegyptus Herculia is discussed in the note to POxy. XVIII, 2113, 5 and by M. Gelzer, *Studien zur byzantinischen Verwaltung Ägyptens* (Leipzig, 1910), 4, as well as in WGr. 72 f and by Collinet-Jouguet, *Archiv* III, 344; an opposite view is advanced by A. H. M. Jones in *Cities of the East Roman Provinces*, (Oxford, 1937), 480, n. 51. These two exx., together with PStrassb. 42, 21 signed by the *consistor Heptanomiaie* in A. D. 310, suggest either that, as the note to POxy. XVII, 2113, 5 says, "apparently for certain purposes the earlier administrative division was not at once superseded", or that the older name persisted through error or obstinacy. If the latter were true, might it not be possible for it to have persisted a generation longer? And why, in any case, is the *defensor* of Heptanomia appealed to, not the *defensor* of Oxyrhynchus? A *defensor* of a province, or a part of a province, would be unique and Professor A. H. M. Jones has suggested that this may possibly indicate an early stage in the development of the office, before it was established in each city, and that in fact this office may have developed from the provincial advocate (see PLips. 34, 35 and n. 23) in an analogous way to the development of the *defensio civitatis* from the municipal *σύνδικος*. On this view the provincial would be superseded by the municipal *defensor* as the provision of the latter for every town made his presence necessary. I feel that this tentative suggestion, though extremely interesting, must remain a suggestion until it is supported by further evidence. At the same time, unless something like this were the case, I would venture to maintain that it is arbitrary to date the document which we are considering to the first half of the century merely because we do not know more about the reason for the continued use of the name Heptanomia in our texts, and in face of the date which the editors themselves assigned on "purely palaeographical grounds". Therefore our document may well be post-368 and later than *C. Th.* I, 29, 1 after all. It would then no longer belong, of course, to the class of document which we are now examining — early fourth-century — and it would be easier to explain the attempt to describe the official by the Hellenised form of his Latin name (see 87 f.).

the Latin word itself⁷², and it shows him exercising precisely that function of *defensio* which was to be the nucleus of his later authority.

The conclusions to be drawn from these six pieces of evidence may be summed up as follows. There was an official in Egypt in the first half of the fourth century whose duties included the protection of individuals against fiscal extortion and to hear minor complaints and appeals, especially those which involved property⁷³. This official, about whose correct designation there was some uncertainty, was a member of the municipal cadre with administrative responsibilities, an integral part of the machine which replaced the older nome-organisation. Surely it is not far-fetched to see in him a connecting-link between the older *σύνδικος* or *ἐκδικος* and the *defensor civitatis* of Valentinian I, and in the documents of third- and fourth-century Egypt, which we have re-examined, substantial proof of a steady development from the former to the latter, at least in this region of the Empire. The mistake that is too often made by those who discuss parallel institutions under the Empire is to imagine that all such must have sprung from a single instruction issued by the central government and thereupon simultaneously enforced over the whole area of its administration, a kind of secular *imprimatur*. That is to read into the history of the fourth century the bureaucratic technique of the twentieth, equipped as it is with all the aids of modern technology. In this connexion it is noteworthy that there is no imperial constitution which testifies to the existence of the *defensio civitatis* in the Eastern Empire until A. D. 371⁷⁴. Possibly it had been formally introduced there by Valens, as it had been by Valentinian in the West, in A. D. 368, the two brothers thus presenting an united front against senatorial *patrocinia*⁷⁵. But it is just as possible

⁷² It is the functions and position of the *δεφήνωρ* as a *patronus* here which make certain the identification.

⁷³ Partsch, in particular, emphasises his connexion with the protection of taxable property and sees in this his chief function as revealed in the early fourth-century papyri. But this connexion was natural, indeed inevitable, when property was the basis of taxation and thus *ipso facto* the main ground on which the interests of individuals would meet and clash with those of other individuals and of the government.

⁷⁴ Hoepffner, *op. cit.*, 233 says A. D. 387, surely in error; see, e. g., *C. Th.* XIII, 10, 7 (A. D. 371); XI, 7, 12 (A. D. 383).

⁷⁵ As Hoepffner with reason maintains, *op. cit.*, 227 ff. Cf. A. Piganiol, *L'impôt de capitation sous le Bas-Empire romain* (Chanbéry, 1916), 50.

that there was no need to introduce in the East something which had long been a feature of local government⁷⁶. It would be extremely hazardous to try to justify such a thesis by the evidence which we have for the rest of the Empire — in any case it lies outside the scope of this enquiry — but the evidence of the papyri make it more than a possibility for Egypt. There the full potentialities of the *σύνδικος* and *ἐκδικος* were first recognised in the early decades of the fourth century, with the result that the official who appears in our five papyri under different names was formally established and assumed important responsibilities in the *municipia*⁷⁷, possibly as a direct result of the reorganisation initiated by Diocletian. Whether this recognition of the *defensio civitatis* was general or soon spread throughout the East, we cannot say⁷⁸, but certainly the Emperor Valentinian I, a generation later, saw in it a useful weapon to employ against the senatorial opposition, and in A.D. 368 legalised it by imperial enactment, by the terms of which it was given a new slant — *contra potentiores* — and virtually a new name, *defensio plebis*⁷⁹.

The patent difference between the municipal advocate and the later *patronus plebis* was that the latter possessed what the former

⁷⁶ See above n. 24.

⁷⁷ Wilcken, *Archiv*, V, 447, and also Gr. 81, used this discovery of *defensores* for Greek cities as support for the lack of distinction between them and the new *municipia* after Diocletian but this lack of distinction is not now seriously questioned, and von Druffel has in any case shown that Wilcken's argument was not a sound one, when considered against a more general, i. e. imperial background, *Münchener Beiträge zur Papyrusforschung I* (Munich, 1915), 37.

⁷⁸ It would be rash to assert that an imperial constitution issued in the Eastern Empire before A. D. 368 and formally instituting the *defensio civitatis* in the East has entirely disappeared but history has played stranger tricks. In any case, useful and necessary institutions have other ways of extending their sphere of influence than by official legislation.

⁷⁹ See above n. 1. *Defensores senatus* and *ecclesiae* were already in existence since 361 (*C. Th.* I, 28, 1) and 367/8 (*Col. Avell.* 6) respectively, and *C. Th.* I, 28, 4 shows the former still in existence in A. D. 383. *C. J.* I, 55, 3 has been held by many to refer to yet another official, the *defensor locorum*, heralded, they say, by *C. Th.* I, 29, 5; such an official would be first attested for A. D. 420 (*C. Th.* VII, 16, 3) and his functions would be centred on the defence of country-dwellers. But the precise relationship in which the *defensor locorum* stood to the *defensor civitatis* indeed, whether they were different persons at all — is very much in doubt. Quite possibly the new term is no more than an "rhetorical synonym" (Professor A. H. M. Jones) for *defensor civitatis*.

did not, the right of *iurisdictio* in minor cases. This right was first conferred *de iure*, as far as we know, by the constitution of Valentinian in A. D. 368 but the documents which we have examined show how it may well have been acquired and exercised *de facto* before then. The *σύνδικος* was a person of some standing, in fact just the kind of person to whom the prefect might naturally choose to entrust a very limited *iurisdictio*, if only for administrative convenience. Two of the early fourth-century papyri⁸⁰, alluding to previous action by the prefect, might seem to be cases where this delegated *iurisdictio* is being exercised, while, on the other hand, two others⁸¹ appear to indicate a direct appeal to the *defensor*, so that the latter's powers may after all have been limited at this time, like those of the *strategus* before him, to investigating the complaint and referring a *bona fide* case to the tribunal of the prefect. Even this by itself is an important advance in the administration of justice: a prefect would find it harder to ignore a case officially submitted to him by a magistrate than a mere petition from a humble victim of injustice, and it is significant that the later imperial legislation recognised and made official this power of reference to the prefect from which the *defensor's* authority ultimately derived⁸².

Five fourth-century documents remain; in three of them the *ἐκδικος*⁸³ or *δεφήνωρ*⁸⁴ is a private legal representative or a co-witness to charges of theft or embezzlement. The only points of importance emerging from these is the continuance of the use in Egypt of the term *ἐκδικος* to denote a non-official legal adviser even after A. D. 368⁸⁵, and, at the same time, the persistence of the Hellenised form of the Latin word *defensor* already noted⁸⁶. This is not hard to understand, provided again that we do not allow our view to become distorted by too closely pressed analogies with modern

⁸⁰ PFreib. 11 and PCol. 181 and 182.

⁸¹ POxy. 901 and PRoss-Georg. V. 27, 1.

⁸² C. J. I, 55, 4 gave the *defensor* the right of free access at any time to the governor.

⁸³ MChr. 96 I, 11; II, 6 (after A. D. 350) (=PBour. 20, on which see *Archiv* I, 298 ff.).

⁸⁴ PLips. 34, 10 (ca. A. D. 375); 35,12 (A. D. 375) — both referring to the same *defensor*, Zenagenes of Hermopolis, on whom see above n. 23.

⁸⁵ Cf. PLips. 38 I, 17, on which see above n. 50.

⁸⁶ Above, nn. 23 and 71.

administrative procedures, expecting to find simultaneous and identical application to the whole of the Empire of the same imperial enactment. Old terms, old methods, old institutions, all have a habit of persisting and of assimilating the spirit, rather than the letter, of the new law⁸⁷. Thus, in Egypt, where the *defensor* had already existed in one form or another for several decades, individuals and communities were slow to accept the rigid nomenclature which, no doubt, bureaucracy would have preferred to impose upon them, and so it was not until the next century that ἐκδικος emerges as the stereotyped title.

After the constitution of A. D. 368 the *defensio civitatis* appears frequently in imperial legislation. By 385 Gratian could declare it to be in existence everywhere and summarise the duties of the office⁸⁸. In 387 the system of selection and recruitment adopted in 368 underwent a radical change: the cities themselves, not the praetorian prefect, were to nominate⁸⁹. As Mlle. Rouillard has well pointed out⁹⁰, the sorry effect which this change had on Egypt is demonstrated by the peremptory instruction of A. D. 392⁹¹ recalling the *defensores* to a proper exercise of their functions. And all the time these functions were being widened⁹², whilst the actual power of the office was not being increased in order to keep pace with them. In 409 special emphasis was placed on the duty to protect the *possessores*, the method of recruitment was again modified, and the power of election limited to bishops, clerics, *honorati*, *possessores*, and *curiales*, whose choice was to be confirmed by the praetorian prefect⁹³. The burden of the office became too heavy for its selected holders to support, and the decadence

⁸⁷ On the tenacious resistance of local to imperial institutions cf. N. H. Baynes, *The Byzantine Empire* (Oxford, 1949), 204 ff.

⁸⁸ *C. J. I.*, 55, 4 — *universarum provinciarum*.

⁸⁹ *C. Th. I.*, 29, 6 — *hi potissimum constituentur defensores, quos decretis elegerint civitates*.

⁹⁰ *Op. cit.*, 8.

⁹¹ *C. Th. I.*, 29, 7 — *defensores id tantum, quod esse dicuntur, esse non desinant*. Cf. *C. J. I.*, 55, 5.

⁹² E. g., by *C. Th. I.*, 29, 8; VIII, 5, 59; XII, 19, 3; XIII, 11, 10; XVI, 6, 4; 10, 12; *C. J. I.*, 55, 7; all between A. D. 392 and 408.

⁹³ *C. J. I.*, 55, 8, not in *C. Th.*; see Déclareuil, *op. cit.*, 54 n. 3 and Jones, *Greek City*, 208, n. 104. The latter doubts "whether this law was ever enforced in the East" in view of its absence from *C. Th.*

which had long been latent now became fully apparent⁹⁴. It is no accident, perhaps, that our last two documents from fourth-century Egypt show the ἔκδικος performing, or enjoined to perform, two of the most pedestrian of his duties, both connected with the administration of the civil law. In the first⁹⁵, it is true, a remnant of the original *defensio* still remains: a petition addressed by a woman to the ἑπαρχος Αἰγύπτου asks that instructions be given to the ἔκδικος of Oxyrhynchus ἐξετάσαι τὴν ἀλήθειαν τούτων πάντων and to commit the offenders to prison. In the second⁹⁶, the ἔκδικος (probably of Hermopolis) is a purely administrative official receiving a medical certificate from a δημόσιος ἰατρός. His role as investigator and adjudicator in minor disputes and as the chief police official of the *municipium* is thus advancing to the forefront of his responsibilities by the end of the very century which had seen his establishment as the defender of the poor and oppressed⁹⁷.

The paucity of papyrological evidence for the fifth century being such as it is, it is not surprising that there should be comparatively few references to the *defensor civitatis*. Eight documents⁹⁸ referring to him can with certainty be placed in this century, two more⁹⁹ belong to the late fifth or early sixth century. His rôle of *defensio*, by now limited in practice, as we have seen, to the supervision of minor suits and to such immediate action as placing in temporary custody offenders against whom a *prima facie* case has been made, provides, paradoxically enough, the source from which he derives his authority as chief-police-official of the *muni-*

⁹⁴ See, e. g., *C. Th.* XI, 8, 3 (*C. J.* I, 55, 9); *C. J.* I, 55, 10; *Nov. Th.* II, 3, 1, 2; *Nov. Maj.* 3 — all from the early fifth century.

⁹⁵ PSI V, 452.

⁹⁶ PCairo Preis. 7.

⁹⁷ The *defensor's* right to investigate and record complaints, already implicit in *C. Th.* I, 29, 2, was formally given him by *C. Th.* XI, 8, 3 (*C. J.* I, 55, 9) (A. D. 409); cf. *C. Th.* VIII, 12, 8 (A. D. 415). His power of arrest and imprisonment after preliminary enquiry are referred to in the same constitutions; cf. Wilcken, *Archiv* V, 450. His police functions were invested in him by *C. Th.* I, 29, 8 (A. D. 392), with which cf. *C. Th.* IX, 2, 5; *C. J.* I, 55, 7; *C. Th.* VIII, 5, 59.

⁹⁸ In chronological order: — PSI IX, 1075; MChr. 71 (=PLips. Inv. No. 244); PSI VII, 768; POxy. VI, 902 (for the peculiarity of dating see the editorial n. ad loc.); PCairo Masp. III, 67295; Stud. Pal. XX, 129 (=PER Inv. No. 4204); POxy. XVI, 1943; P kl. Form. I, 370.

⁹⁹ POxy. XVI, 1886; Stud. Pal. X, 100.

*cipium*¹⁰⁰. After all, in theory at least, the impartial enforcement of the law is the surest and most efficient guarantee of the protection of the individual. So, no less than five of our fifth-century documents are petitions — for intervention on a woman's behalf against her husband¹⁰¹, for recovery of a debt and the arrest of the persons liable¹⁰², for enforcement of a contract¹⁰³, for action against ὑπεύθυνοι¹⁰⁴; there is an appeal against a decurion for alleged oppression and wrongful imprisonment¹⁰⁵, in which the ἔκδικος is actually reminded of his duty to protect victims of injustice¹⁰⁶; in one papyrus¹⁰⁷ the ἔκδικος appears to be delivering judgement and apportioning costs in a dispute, in another¹⁰⁸ an arrested debtor addresses to him a ὑπόμνημα containing the *cessio bonorum*; finally, he issues an official certificate of payment and, along with other police officials, is listed in an ἀντιρρήτικὸς λίβελλος¹⁰⁹. These documents, coming from towns as far apart as Oxyrhynchus, He-

¹⁰⁰ Déclareuil, op. cit., 55; Seeck, *RE* IV 2, 2369. For a full examination of the *defensor's* responsibilities in connexion with the *acta* see von Druffel, op. cit., 48 ff; Baale, op. cit., 54 ff; also A. Steinwenter, *Beiträge zum öffentlichen Urkundenwesen der Römer* (Graz, 1915), 34f.

¹⁰¹ PSI IX, 1075.

¹⁰² Stud. Pal. XX, 129; POxy. XVI, 1886.

¹⁰³ POxy. XVI, 1943.

¹⁰⁴ Stud. Pal. X, 100. Here the ἔκδικος is also a σχολαστικός; *C. Th.* I, 29, 2 names *scholastici* as being especially suitable for appointment. For *scholastici* as ἔκδικοι cf. POxy. VI, 902 (=MChr. 72); BGU IV, 1094; PSI, VII 790; MChr. 71 (PLips. Inv. N° 244); Lefèbvre, *Recueil*, 430; Stud. Pal. X, 100; POxy. XVI, 1882; 1885; PMonac. 6; PRoss-Georg. III, 43, probably; PSI VII, 768, perhaps.

¹⁰⁵ POxy. VI, 902.

¹⁰⁶ ἐπὶ τοίνων οἱ ἔκδικοι ἐπενοήθησαν ἐν ταῖς πόλεσιν πρὸς τῷ βοήθειαν ὀρέξαι τοῖς ἀδικουμένοις μισοῦσιν γὰρ οἱ νόμοι τοὺς τὰ ἄδικοι διαπραττομένους. (ll. 10 ff.), a quite conclusive proof of the identity of the ἔκδικος in Egypt with the imperial *defensor civitatis*.

¹⁰⁷ PSI VII, 768, where the ἔκδικος is also a τρίβουνος and possibly σχολαστικός. Cf. PMonac. 6, where the σχολαστικός is perhaps an ἔκδικος as well.

¹⁰⁸ PCairo Masp. III, 67295. The plural ἔκδικοι is used throughout this document as being suited to a declaration addressed to the ἔκδικοι, etc., of any jurisdiction concerned.

¹⁰⁹ MChr. 71 (PLips. Inv. No. 244). See Mitteis in *Z. Sav-St.* (Rom. Abt.), 30 (1909), 40, where it is compared to POxy. VI, 902. It is interesting to note that the ὑπόμνημα ends with the invocation λαμπρότατε δηφήνσωρ, though the term ἔκδικος is used in the address at the beginning, further evidence of the cavalier manner in which different titles for the same office were interchanged in Egypt.

racleopolis, Hermopolis and Antaeopolis¹¹⁰, leave no possible doubt that in fifth-century Egypt the *defensor civitatis* was widely and firmly established. They show him performing some of the most important of his traditional functions. That the *defensio humiliorum contra potentes*, in the literal sense of the words, is not among them can be easily explained in the general context of our knowledge of changing economic and social conditions in the Empire as a whole. Imperial policy, even that of the more enlightened rulers, was seldom devoid of self-interest, and thus it was almost inevitable that the office which had been designed to protect the lower classes should come to be utilised largely as an instrument of the government's legal and fiscal interests. The connexion between these interests has often been emphasised, and it was one which had already been implicit in the Ptolemaic economy; in order to ensure the payment of taxes, it is above all essential to protect the legal rights of the taxpayers over their property¹¹¹. The *defensor civitatis* was thus at once the *patronus* of the taxpayer and the representative of the government which levied the taxes — in other words, the official alternative to unofficial *patrocinia*¹¹². Small wonder that it was the derivative, not the original, responsibility which became paramount.

The constitution of A. D. 409¹¹³ was re-enacted in A. D. 505 by Anastasius¹¹⁴, Majorian having in A. D. 458 vainly endeavoured to reform the office in the West¹¹⁵, but Justinian pronounced

¹¹⁰ At this point it may be interesting to know that, apart from these four towns, from which the majority of our references to the *defensor civitatis* come, *defensores* are also attested for the following: Alexandria, Antinoopolis, Apollonopolis, Arsinoe, Cynopolis, Heptanomia, Hermonthis, Lycopolis, Panopolis and Syene, and possibly Hypselis and Thebes as well. Von Druffel's list, op. cit., 37, is no longer complete.

¹¹¹ Partsch, op. cit., 50 well puts it, "Es ist das alte Argument . . . ich zahle der Verwaltung, du vertrittst die Steuerbehörde, dafür hilf mir auch in meinem Recht".

¹¹² On *patrocinia* in Egypt see P. de Zulueta, *Patronage in the Later Empire* (in Paul Vinogradoff, *Oxford Studies in Social and Legal History*, vol. I, 2) (Oxford, 1909); E. R. Hardy, *Large Estates in Byzantine Egypt* (New York, 1931), 22 f.; A. C. Johnson, *Egypt and the Roman Empire* (Ann Arbor, 1951), 81 ff., 91 f., 105 f., denies the importance of *patrocinia* or *latifundia* in Egypt, holding that the former disappeared after Theodosius' Constitution in A. D. 415.

¹¹³ C. J. I, 55, 8; see above n. 93.

¹¹⁴ C. J. I, 4, 19.

¹¹⁵ *Nov. Maj.* 3, which *inter alia* recalls the *defensor* to his original and characteristic duty — *auctoritatem tuendae in civitatibus suis plebis accipiant et quae-*

himself thoroughly dissatisfied with the situation when he became Emperor¹¹⁶, and in A. D. 535, the year of the publication of his *Nov. XV*¹¹⁷, a last, belated effort was made to reanimate municipal institutions in general and the *defensor civitatis* in particular. The results of this reform as they affected the latter were roughly these: — his powers in the administration of the civil law were increased¹¹⁸ and he was invested with the right to pronounce a verdict and inflict a penalty in minor criminal cases¹¹⁹, his general powers of administration were confirmed¹²⁰ and he became in effect the lieutenant of the *praeses* and the head of the municipal government¹²¹. On the other hand, he found himself increasingly beneath the supervision of the bishops and clergy¹²², and his office, the duration of which was now limited to two years¹²³, became a *munus* to which all the more important citizens became liable in rotation¹²⁴. We have already remarked how swiftly, we can now see how irrevocably, the character of his office had changed: Justinian's purpose, presumably to make of the *defensor civitatis* an efficient and responsible instrument of local government with sufficient prestige to give him authority, is quite alien to the expressed intention of Valentinian I¹²⁵. The frequent references in

cumque utilitatem publicam respiciunt, calls for a general return to the old usages in the matter of election, and, at one and the same time, continues to extend his derivative and, ideally, secondary, functions as police-chief and municipal magistrate.

¹¹⁶ His views are forcibly expressed in *Nov. XV, pr.*, where he describes the *defensor* as being held *in novissimo contemptu*.

¹¹⁷ Preceded by *Nov. VIII*, the *Edictum* of which was addressed in *Apr. 535* to all archbishops and patriarchs, and devoted to the prevention of acts of financial extortion either perpetrated by, or directed against, the *defensores*; this was the first step in his reform of the office.

¹¹⁸ *Nov. XV, 3, 2.*

¹¹⁹ *Ibid.*, 6, 1; cf. *Nov. LXXXV, 3, 1.*

¹²⁰ *Nov. XV, 6, 1; 5, 2; and 3 pr.* all confirm his exclusive authority with regard to the *acta*; *Nov. XV, 3, 1* establishes him in an *officium* of his own.

¹²¹ *Nov. XV, 3 pr.*; cf. *XI, 2 and 3, 1; LXXXVI, 7.*

¹²² As is already evident from *Nov. VIII, Edictum*; see above n. 117.

¹²³ *Nov. XV, 1,1 and epil.* Previously the office had been of five years' duration (*C. J. I, 55,4*) but originally it may well have been tenable for life (*CIL X, 7017 — defensor perpetuus*).

¹²⁴ *Nov. XV, 1 — secundum circulum habitatoribus civibus, quorum aliqua ratio est, hoc implentibus et dum circulus expletur, rursus revertentibus ad sollicitudinem*

¹²⁵ "Ce chef prétendu de la cité est enveloppé dans la hierarchie des fonctionnaires imperiaux" — Déclaireuil, *op. cit.*, 63.

sixth-century papyri to his activities as chief municipal officer give a fully representative picture of the scope and variety of those functions in which the latest imperial reforms had confirmed him.

In the province of civil law his authority is now inferior only to that of the *praeses*.¹²⁶ Creditors address to him their petitions against their debtors and claims for restitution of their debts¹²⁷, and he issues *ἐκσφραγίσματα* certifying the arrest of the debtor and the completion of all the necessary preliminaries to a lawsuit¹²⁸. He is appealed to in cases of assault and maltreatment and asked to set the machinery of the law in motion by investigating the complaint, recording the evidence and reporting to the *praeses*¹²⁹. He presides over a lawsuit involving a *μετάθεσις* of farm-labourers and exercises his right of *iurisdictio*¹³⁰. He is not only the guarantor of a marriage-contract¹³¹ but the official by whose agency a *libellus repudii* is sent¹³². He is called upon to decide a dispute about the exact terms of an inheritance¹³³ and to witness, with

¹²⁶ For a discussion of the possible relationship between *defensor* and *praeses* see Rouillard, *op. cit.*, 154 ff., 159 f; for the relation of the *defensor's* tribunal to that of the pagarch, *ibid.*, 153f.

¹²⁷ POxy. XVI, 1883; 1884 (A. D. 504). Cf. PLond. III, 1000 (=MChr. 73) (A. D. 538), an *ὑπόμνημα* addressed to an official who is probably *ἐκδικος* of Hypselis (?Hermonthis).

¹²⁸ POxy. XVI, 1882 (ca. A. D. 504). On *ἐκσφραγίσματα* see the editorial *n. ad loc*; von Druffel, *op. cit.*, 39, 39 n. 4, 65 and *passim*; Steinwenter, *op. cit.*, 46f; and cf. PCairo Masp. I, 67087; III, 67254; Stud. Pal. I, p. 8; BGU IV, 1094; also PCairo Masp. I, 67006 verso, 74ff; PLond. V, 1709, 79f.

¹²⁹ POxy. XVI, 1885 (A. D. 509); PSI VIII, 872 where the *ἐκδικος* is actually addressed as *τῷ ἀιδεσιμωτάτῳ ἐπαρχικῷ*, i. e. official of the *ἐπαρχικὴ τάξις*; VI, 686.

¹³⁰ PCairo Masp. III. 67329, dated to A. D. 524/5, *pace* Maspero who, probably in error, wrote 529/30. Also taking part in the presentation of the case is a *peradjutor defensoris*. For the *μετάθεσις* cf. PLond. II, 322, p. 159 (A. D. 214/5) — *τῶν μετατιθεμένων ἐνθάδε ἀπὸ κώμης Βακχιάδος*.

¹³¹ PCairo Masp. I, 67006 verso.

¹³² POxy. I, 129 (=MChr. 296).

¹³³ PLond. V, 1709 (before ca. A. D. 570). In this (Coptic) document, both an *ἐκδικος* and an *ἀντέκδικος* are mentioned, for surely Sir Harold Bell's suggestion that *π_αντεκδικος* should be read instead of *παντεκδικος*, otherwise unknown, is right; Rouillard, *op. cit.*, 66 also appears to have adopted *ἀντέκδικος* here. It is likely that the *ἐκδικος* is acting in his official capacity, rather than as a friend of the family; cf. POxy. I, 129 (= MChr. 296) and see L. Mitteis in *Hermes* 34, 105. For another civil judgement by an *ἐκδικος* — and *σχολαστικός* — of Syene, cf. PMonac. 6 (A. D. 583).

other police-officials, an *abdication* or proclamation of disinheritance¹³⁴. He witnesses a declaration of sale¹³⁵ and endorses a guarantee¹³⁶. And in the contract, or copy of contract, published by von Druffel¹³⁷, he not only presides over the discussion of the terms of an agreement but produces, through his *βοηθός*, a copy of that agreement as transcribed in the official *acta*¹³⁸. Indeed it is this custody of the *acta*, this responsibility for the verification of the actual facts of a dispute and for recording them, which forms the crux of his municipal authority¹³⁹; in this he is revealed as the successor of the *strategus* of Ptolemaic and earlier Roman administration¹⁴⁰. He is the official responsible not only for the upkeep and custody of the archives but for issuing *ἐκμαρτύρια* or *ἐκσφραγίσματα* relating to previous transactions¹⁴¹. References to *ἐκμαρτύρια* are to be found in a petition¹⁴² to a baron from the *priores* of a village to get the *buccellarii*¹⁴³ of the *patricius* removed from the village area and in an appeal by a creditor against an illegal prosecution¹⁴⁴, and actual examples, issued either by the *ἐκδικος* himself¹⁴⁵ or by his *βοηθός*¹⁴⁶, are extant.

Mention of the *βοηθός* will recall to mind that by the sixth century the *defensor civitatis* had acquired an *officium* of his own. Being usu-

¹³⁴ PCairo Masp. I, 67097 verso (=Meyer, *Juristische Papyri* 11) (ca. A. D. 567), shown to be a genuine document, not a stylistic exercise, by PCairo Masp. III, 67353; Meyer, op. cit., p. 282 gives the bibliography of this discussion and discusses the relation of the document to C. J. VIII, 46, 6.

¹³⁵ PMonac, 11 (A. D. 586).

¹³⁶ PSI I, 76.

¹³⁷ PHeid. 311 (=SB 6000 verso).

¹³⁸ Op. cit., 4 ff.

¹³⁹ Cf. Seeck, *RE* IV 2, 2369.

¹⁴⁰ See, e. g., PFlor. I, 59 (Wilcken, *Archiv* III, 536); von Druffel, op. cit., 39 n. 5; Preisigke on PCairo Preis. 7.

¹⁴¹ On *ἐκμαρτύρια* and *ἐκσφραγίσματα* see the bibliography cited above in n. 128; on the original difference between *ἐκμαρτυρία* and *ἐκμαρτύρια*, especially von Druffel, op. cit., 39 n. 4.

¹⁴² BGU III, 836 (=WChr. 471), in the course of which the *priores* claimed that the villagers *διεμαρτύραντο ἡμᾶς ἐγγράφως διὰ τοῦ λογιωτάτου ἐκδικίου τῆς Ἀρσινόων*.

¹⁴³ On *buccellarii*, their use and abuse in Egypt, see Hardy, op. cit., 60ff.

¹⁴⁴ PSI VII, 790 (?C6), l. 15 of which appears to refer to the *ἐκμαρτύριον*.

¹⁴⁵ PCairo Masp. II, 67254 (A. D. 525).

¹⁴⁶ PCairo Masp. I, 67087 (A. D. 543); BGU IV, 1094. For fragments possibly *ἐκμαρτύρια* cf. Stud. Pal. VIII, 1306 (=PER Q250) (=Wessely, *Arsinoe*, p. 57); P kl. Form. II, 1306.

ally a *scholasticus*, he probably never lacked some kind of clerical assistance, but the terms of *Nov. XV* put this upon an official basis by granting him an *exceptor* and two *officiales* from the office of the *praeses*¹⁴⁷, and the papyri too¹⁴⁸, as we have seen, attest the existence of a βοηθὸς τῆς ἐκδικίας. But otherwise our ideas of the precise composition of his *officium* are of the haziest¹⁴⁹. The ἀντέκδικος¹⁵⁰, it would appear, is his deputy, though we have only two papyri¹⁵¹ which refer to him, which is not surprising when we consider that Justinian at least was strongly opposed to any attempt to appoint an official *vicarius* for the *defensor*¹⁵². By now, of course, he would be receiving some form of remuneration¹⁵³; accounts from Aphrodito include payments made to the *defensor*¹⁵⁴, as well as official receipts issued by him for the payment of himself¹⁵⁵ and of another official¹⁵⁶, seconded to his service, it would seem, from the *officium* of the *praeses*. The payment is not a high one; in one instance it is about equal to that of a *commentarius* and *tribunus* combined¹⁵⁷. But the mere appearance of

¹⁴⁷ *Nov. XV*, 3, 1.

¹⁴⁸ PCairo Masp. I, 67087; BGU IV, 1094; PHeidelb. 311; for an ἐξέκτωρ see POxy. VIII, 1108, 13.

¹⁴⁹ Cf. Rouillard, op. cit., 66.

¹⁵⁰ Bréhier, op. cit., 207 wrongly has ἀντίδικος, probably a *lapsus stili* for ἀντέκδικος.

¹⁵¹ POxy. XIII, 1987 (A. D. 587); PLond V, 1709, on which see above n. 133.

¹⁵² See, e. g., *Nov. XV*, *pr.*, and 2.

¹⁵³ In *Nov. XV*, *pr.*, Justinian complains that this remuneration, small though it was, acted as a sufficient inducement to attract poor and unsuitable candidates to the office, regarding it as they did solely as a means of sustenance.

¹⁵⁴ PCairo Masp. III, 67287 I, 21; I, 67058 III, 19; IV, 1; PFlor. III, 297, 185.

¹⁵⁵ PRoss-Georg. III, 34 (A. D. 523/4).

¹⁵⁶ *Ibid.*, 35 (same date). The *ordinarius* (non-military) here is probably one of the *officiales* placed at his disposal by the *praeses*; see Rouillard, op. cit. 66.

¹⁵⁷ It would be a great mistake to base any general conclusions as to the *defensor's* rate of payment, as apparently do Professors Johnson and West, loc. sup. cit., on such isolated instances coming from one area and that known to be impoverished. Much more extensive evidence would be needed in the first place, and then two other factors would have to be taken into account—the rate of taxes paid by the area or areas concerned, and the elaborate system of *sportula* prevalent in the Egyptian, and indeed imperial, bureaucracy of the period.

the *defensor civitatis* as an official paid an honorarium levied from the very taxpayers whose interests he had originally been designed to protect is a sufficient indication of the extent to which his moral prestige must have suffered. Not that there is anything shocking in the payment of a local judge for the performance of his duty in Byzantine Egypt any more than in twentieth-century England. But, in order to preserve at least the outward appearance of impartiality, the method of payment must be kept as indirect as possible. After all, the *defensor civitatis* was by this time not simply a local judge; he was also "H. M. Inspector of Taxes". However that may be, there is other and more sure testimony of the decline of his prestige. A papyrus of the late sixth, or early seventh, century¹⁵⁸ drives the point home; Menas, *defensor* of the Cynopolite nome, addresses to a certain George a request for his customary allowances, referring to an ἀντιγεοῦχος whom he describes as their κοινὸς δεσπότης. When all due allowance has been made for that addiction to elaborate compliments which is one of the most tiresome features of Byzantine correspondence, this servility is eloquent for the loss of status of the whole municipal government *vis-à-vis* the landowning class and its paid representatives¹⁵⁹.

To this brief sketch of the functions of the sixth-century *defensor civitatis* two papyri have something to add. Except where his own personal remuneration and that of his subordinates is concerned, we have seen no example of the *defensor* acting as municipal tax-collector, or even as assistant to the official tax-collectors, as the terms of *Nov. XV* seemed to require¹⁶⁰. A report of the taxes paid for an estate¹⁶¹ is addressed to him but the opening lines of the document are missing, so that certainty about its precise purport is unattainable. However, there was no need for the *defensor* to take part himself in the collection of the taxes; it was surely sufficient that the administration of justice, the arrest and trial of offenders, were in the hands of one whom the *municipium* delegated, and the imperial government upheld, as the representative of their joint fiscal interests. The tax-evader could expect little sympathy

¹⁵⁸ POxy. XVI, 1860.

¹⁵⁹ Cf. (Sir) H. I. Bell, *Egypt from Alexander the Great to the Arab Conquest* (Oxford, 1948), 127.

¹⁶⁰ *Nov. XV*, 3,1 — *eis qui publicas exactiones habent, defensores civitatum omnibus modis auxilio sint.*

¹⁶¹ PFlor. III, 377, addressed τὰ πάντα λογιώτατε ἔκδικε κύριε.

from the *municipium's* chief of police, whose powers included that of imprisonment¹⁶² and, after Justinian, of torture¹⁶³.

It remains to glance at the documents emanating from the seventh century and the Arab period. In the seventh century an ἔκδικος figures as witness to a διαθήκη¹⁶⁴, issues a receipt for deeds of security¹⁶⁵, and is party to an agreement¹⁶⁶ whereby a παραμονάρης¹⁶⁷, or παραμονάριος¹⁶⁸, undertakes to be hired to him for service. From the Arab period comes one rather fragmentary document¹⁶⁹, an agreement of some kind or other, which refers to him, and another written in Coptic¹⁷⁰, which may or may not do so. It is interesting to see that at least the official himself appears to have survived the administration which gave him birth¹⁷¹.

What general conclusion may be drawn from this heterogeneous collection of evidence? It is that the development and decline of the *defensor civitatis* in Egypt were in no essential particular different from those of his counterpart in the rest of the Empire. The papyri have but confirmed the verdict of history, and the apparent pre-occupation of the *defensor* with what in our view might be considered trivial matters of routine administration is

¹⁶² Stud. Pal. X, 252 contains a list of prisoners gaoled by various persons; among them is Anoup, ἀμπελουργὸς κρατηθεὶς χάριν γυναικὸς ὡς ἀνευρέθη μετ' αὐτῆς διὰ τοῦ ἐκδίκου, with which Wilcken compared BGU II, 401, in *Archiv* V, 450. For prisons in Egypt in Byzantine times, public and private, the laws referring to them, and the possibility of collaboration between the *defensor* and the great landowner see Hardy, op. cit., 67 ff.

¹⁶³ C. J. I, 55, 5 has *severiores non exercent quaestiones* in place of the *nullas exercent quaestiones* of C. Th. I, 29, 7.

¹⁶⁴ PLond. I, 77 (=MChr. 319). The editors assign this to the early eighth century, Wessely to the seventh century; Sir Harold Bell has suggested a date in the sixth or seventh centuries and referred me to W. Crum, *Coptic Ostraca*, p. xiv.

¹⁶⁵ BGU II, 401 (A. D. 618).

¹⁶⁶ PHernals II (=SB 4490) (C7).

¹⁶⁷ So Wessely, ad. loc.

¹⁶⁸ So Wilcken, *Archiv* V, 260.

¹⁶⁹ SB 4694 (=PWieners Denkschrift, Appendix 107, p. 134).

¹⁷⁰ PLond. I, 87 (W. Crum, *Coptic Mss in B. M. Catalogue* (1905), 386). This eighth-century deed of gift contains a reference to πεχωτ and a footnote suggests that "the εκωτ is a kind of legal official" (sc. = ἔκδικος), but Mr. T. C. Skeat has pointed out to me that the normal meaning of it is "build" or "builder", a sense which it bears in other places in Crum's *Catalogue*".

¹⁷¹ On the survival of Byzantine officials in Arab Egypt cf. Wilcken, *Archiv* II, 183f and Gr., p. 90.

just what a study of the imperial legislation, its historical and economic background, would lead us to expect. The ἔκδικος does not stand out as a real *defensor plebis* in Egypt for the simple reason that he nowhere appears as such except in the good intentions of the Valentinian I and his immediate successors. Even by Valentinian I he was invested with only the vaguest of powers, which the widening of his responsibilities made less and less relevant to the fulfilment of his original *raison d'être*. Within a few decades of the imperial constitution regularising his position he had ceased to be regarded as a *defensor plebis* except by the more idealistic and optimistic of the Emperors, who vainly sought from time to time to rescue him from a decadence of which imperial legislation had been the most powerful of the contributory causes¹⁷². For the functions which the papyri show the *defensor civitatis* performing, though they may appear trivial, are precisely those which imperial constitutions had conferred upon him. At the same time these constitutions never cease to stress the value of the kind of service which the ideal *defensor* might render to the *humiliores* by providing them with a court of justice which was probably cheap and certainly accessible, and the papyri offer ample evidence of the frequent use to which such a court was put.

It is true then that the "specific purpose for which the later official was created finds little allusion in the papyri". But anyone who expects to find the *defensor civitatis* of the fifth and sixth centuries standing up in public in defence of the poor and oppressed against the rich and powerful sadly misreads the early history of the office and exaggerates the relation to fact of imperial legislation. Governmental instructions are never sound criteria by which to assess practical achievement¹⁷³ and even they cannot be said in this case to have attempted more than to increase the official's powers in the sphere of minor jurisdiction, place him in the front rank of the municipal functionaries, and make him the chief instrument of the provincial bureaucracy. This then must be the answer

¹⁷² Justinian himself knew this only too well. See, e. g., *Nov. CXI, pr., quod cuiusque coniectura utile esse crediderit, ex ipsa experientia inutile repertum esse.*

¹⁷³ The late Professor P. N. Ure in his *Justinian and His Age*, published posthumously, has well brought out the quite contrasting pictures given by the imperial legislation and a contemporary work like Johannes Lydus, *De Magistratibus* - though both, of course, represent an extreme view. The preface to *Nov. CXI* (A. D. 541), *sup. cit.*, further illustrates this.

to the first claim advanced by Professors Johnson and West¹⁷⁴, and it implies an answer to the second too: the evidence for the employment of the *σύνδικος* in fourth-century Egypt as *defensor civitatis*, dated in any case before the enactment regularising the office, proves, if anything, that the local administrators and ordinary people used at the outset the most common title, the first which occurred to them, as well as others beside, in order to describe the new official later to become known, under the influence of the imperial legislation and, no doubt, the imperial bureaucracy, as the *ἐκδικος*, the *defensor civitatis* of Egypt. After the early fourth century the *σύνδικος* practically disappears from the papyri; when *σύνδικοι* do occur¹⁷⁵, they bear no conceivable resemblance to the *defensor civitatis*. They are private, not public advocates; the wheel is come full circle.

Finally, there is another excellent reason why we should not allow ourselves to be misled by the comparative triviality of the Egyptian *defensor* into underestimating his relative importance in his own sphere. Our own generation has itself witnessed a steady deterioration in the scope and powers of local government in Great Britain; it well knows from its own experience that excessive concentration of authority at the heart of the administration, whether for good or bad, bring paralysis at the extremities. Egypt suffered in this respect perhaps more than any other area of the Roman Empire, because the tradition and spirit of strong and efficient local government was less firmly established¹⁷⁶. It is easy to forget that the degree of local autonomy conferred on Egypt by the Reforms of Diocletian and the subsequent municipalisation was quite a recent and comparatively short-lived experiment. Its geography and physical resources had marked it down from earliest times for control and exploitation by a strong central government. Now, in the sixth century, the imperial government was allpowerful, at least in theory, and its agent was a ruthless and corrupt bureaucracy; both were interested first and last in exacting the uttermost farthing of their dues from the people they governed. On the other hand, economic forces and imperial policy had resulted in the increase, both in number and extent, of the large estates, at whose

¹⁷⁴ See above, 2.

¹⁷⁵ PCairo Masp. I, 67013; II, 67234; III, 67281 (all C6 or 7).

¹⁷⁶ Cf. (Sir) H. I. Bell, *Decay of a Civilisation*, in *JEA* 10 (1924), 209,

unofficial privileges and powers the imperial administrators were forced to connive in their own financial interests¹⁷⁷, while the church and its dignitaries had already flung their tentacles far and wide¹⁷⁸. Small wonder that even the chief municipal magistrate — for such the *defensor civitatis* had undoubtedly come to be¹⁷⁹ — appears to us to be absorbed in petty and insignificant matters of routine! But this does not mean that he was unimportant within the municipal government; it means that the municipal government itself had lost its importance¹⁸⁰. What the Emperors and their governors required of the heads of the *municipia* was that they should act as rubber-stamps. They were to transact the daily administration and ensure the regular and expeditious payment

¹⁷⁷ See Hardy, *op. cit.*, especially 22 f.

¹⁷⁸ For the growth of ecclesiastical powers and interests in Egypt see (Sir) H. I. Bell, *Byzantine Servile State in Egypt*, in *JEA* 4 (1917), 102f; also my own article, *Popular Religion in Graeco-Roman Egypt*, II, in *JEA* 36 (1950), 91f. The *defensores* were now, as we have seen, under the supervision of the bishops and patriarchs; cf. Bury, *op. cit.*, II, 362 and Bréhier, *op. cit.*, 205, 527. PRoss-Georg. III, 43 (C6) is a receipt for ground-rent issued by a monastery to a person described as κόμης and ἑκδικός.

¹⁷⁹ “*Enfin le véritable chef de l’administration et le représentant de l’autonomie urbaine*” — Bréhier, *op. cit.*, 206. Cf., for the West, Ch. Diehl, *Études sur l’administration byzantine dans l’exarchat de Ravenne* (Paris, 1888), 110. On the relationship of the *defensor* with the local authorities see Chénon, *op. cit.*, 538ff., where the different views are examined.

¹⁸⁰ The evidence for the *defensor*’s continued importance in municipal government in Egypt is largely of a negative kind: he has no rival, having so rapidly outstripped the *logistes* (see above, 81 and n. 55). Baale, *op. cit.*, 93, supported by von Druffel, *op. cit.*, 41, held that the epithets by which the *defensor* is known testify to the high respect with which he continued to be regarded. But this by itself is hardly conclusive; more probably he carried the epithet, a true *epitheton ornans*, traditionally associated with his previous, or present, profession or social position; cf. Seeck, *RE* IV 2, 2367. The most common epithet is λογιώτατος admirably suited to a σχολαστικός, and used twelve times to describe an ἑκδικός; λαμπρότατος is used four times, ἔλλογιμώτατος three times, ἐκπρεπέστατος twice, εὐτόλμιος, αἰδεσιμώτατος and εὐλογιμώτατος once each, clarissimus also once. These are purely conventional, and it is significant that the more exotic of them derive from the later centuries, always given to extravagant salutation. Even an ἀντέκδικος (POxy. XIII, 1987) rated αἰδέσιμος, the epithet given to a mere *ordinarius* in PRoss-Georg. III, 35. On these conventional epithets see O. Hornickel, *Ehren- und Rangprädikate in den Papyrusurkunden* (Diss. Giessen, 1930), 7, 23, 27 and especially 22, though, of course, his list is no longer up-to-date. *Ex-defensores* (ἀπὸ ἑκδικίων) are to be found in PCairo Masp. I, 67055 I, 10; III, 67327, 21, 27.

of the imperial taxes, and, to enable them the more efficiently to do this, they were given considerable authority within their own limited sphere, at the expense of other and older officials of the *municipia*¹⁸¹. But the original, fourth-century conception of a local dignitary of high standing and moral purpose¹⁸², who would by his intervention defend the poor against the excesses of the powerful and the depredations of the bureaucracy¹⁸³ would have been by the sixth-century an historical anachronism and a practical impossibility**.

[Aberystwyth]

B. R. Rees

APPENDIX

A list of *defensores civitatis* known by name¹⁸⁴.

NAME	DEF. CIV. OF	DATE	REFERENCE
(Aurelius) Achillion	Oxyrhynchus (deputy)	331/332	PSI VII, 767.
Aurelius Achillion	Oxyrhynchus	332	POxy. XII, 1426.
Flavius Julianus	Oxyrhynchus (deputy)	336	POxy. VI, 901.

¹⁸¹ The *defensor civitatis* and *curator civitatis* contributed as much as any other factor to the decline in the powers of the older officials of the *municipia*. Cf. F. F. Abbott and A. C. Johnson, *Municipal Administration in the Roman Empire* (Princeton, 1926), 92ff., 112, 201f., 205, etc.; Liebenam, op. cit., 502.

¹⁸² *Ordinis possessoris populiq[ue] rector*. *CIL* X, 4863; *probis moribus, honestate, providentia, Nov. Maj.* III.

¹⁸³ *Ut parentis vicem plebi exhibeas*, enjoins *CJ* I, 55, 4. For an idealised description of the potentialities of the office see Cassiodorus, *Variae*, VII, 11.

¹⁸⁴ It was my intention to append here a prosopography of *defensores civitatis* with some conclusions about their social status. But examination of a list, such as I have given above, will reveal that of all the *defensores* referred to in papyri only twenty-five are named and only ten of these can be dated with any certainty. Added to this is the fact that most of these ten bear names which were very common in Byzantine Egypt, so that for the moment any attempt to analyse and assess their social status or even draw up a prosopography for them would be a risky enterprise, to say the least. I have therefore confined myself to a bare list, which will serve as a basis for any prosopography undertaken in the future either by myself or others.

NAME	DEF. CIV. OF	DATE	REFERENCE
Flavius Hermeias	Oxyrhynchus	336	PFreib. 11 (=SB 6294).
Sallustius Olympiodorus	Hermopolite nome (?)	C4	PCairo Preis. 7.
Flavius Valerius	Oxyrhynchus	458	PSI IX, 1075.
Flavius Taurinus	Hermopolis Magna	465	PSI VII, 768.
Flavius Isaac	Oxyrhynchus	ca. 465	POxy. VI, 902 (= MChr. 72).
Flavius Johannes	Oxyrhynchus	late C5	POxy. XVI, 1943.
Flavius Apion ¹⁸⁵	Oxyrhynchus	late C5/ early 6	POxy. XVI, 1886.
Flavius Hermias	Oxyrhynchus	504	POxy. XVI, 1883.
Flavius Hermias	Oxyrhynchus	ca. 504	POxy. XVI, 1882.
Paulus	Antaeopolis	523/4	PRoss-Georg. III, 34.
Paulus	Antaeopolis	523/4	PRoss-Georg. III, 35.
Flavius Paulus	Antaeopolis	524/5	PCairo Masp. III, 67329.
Flavius Paulus	Antaeopolis	525	PCairo Masp. II, 67254.
Flavius Megas	Panopolis (ἀπὸ ἐκδίλων)	539 (?)	PCairo Masp. III, 67327.
Flavius Cyrus	Apollonopolis	586	PMonac. 11.
Flavius Menas	Oxyrhynchus	C6	PSI VIII, 872.
Flavius Eusebius	Oxyrhynchus	C6 (?)	PSI VI, 686.
Anastasius	Oxyrhynchus	C6	POxy. I, 129, (=MChr. 296).
Aurelius/Flavius Serenus	Oxyrhynchus	C6 (?)	PSI VII, 790.
Flavius Sergius	Arsinoe	C6	P kl. Form. II, 1306.
Phoebammon	Antaeopolis	C6	PRoss-Georg. III, 43.
Petrus Paulus	Antaeopolis (ἀπὸ ἐκδίλων)	C6	PCairo Masp. I, 67055 I, 10
Menas	Cynopolis	C6/7	POxy. XVI, 1860.
Flavius Athanasius	Arsinoe	C7	PHernals 11 (=SB 4490).
Flavius Theophilus	Hermonthis	C7	PLond. I, 77 (=MChr. 319).
Theodore (?)	Thebes	C8	PLond. I, 87 (Coptic).
Flavius Paulus	Arsinoe	Arab	SB 4694 (=PWien. Denkschr. App. 107, p. 134).

¹⁸⁵ This reference to a Flavius Apion is perhaps the only potentially useful clue. If this be Apion I or II—the editor of POxy. XVI inclined to the former but the latter is just as possible — then we have some indication of a reasonably high standing for the *defensor civitatis* in the late fifth or early sixth century, but further evidence would be needed to establish this with certainty.

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