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Naphtali Lewis

IMPERIAL LARGESS IN THE POPYRI

“... the communities, cities and leagues of the empire had from the beginning employed certain established modes of diplomatic contact with the emperor, depend[ing] on him alone for their rights and privileges.” Fergus Millar, *The Emperor in the Roman World*, p. 462.

I

It is almost half a century since Raphael Taubenschlag, the esteemed founder of this *Journal*, wrote on “Die kaiserlichen Privilegien im Rechte der Papyri.”¹ In that paper he surveyed and analyzed the substantial evidence of the papyri, focusing particularly on the imperial legislation. The present paper reviews the comparable non-legislative evidence;² the viewpoint is, accordingly, sociopolitical rather than juristic, and the findings herein constitute a harmonious complement to Taubenschlag’s.

A privilege granted by a Roman emperor was termed a *beneficium*, or (less frequently) an *indulgentia*. In Greek versions these terms are rendered by δωρεά, εὐεργεσία, φιλόανθρωπον or χάρις, and the privilege, once obtained, was often characterized as a δίκαιον.

¹ ZRG 70 (1953) 277-298, following upon JJP 6 (1952) 121-142 = *Opera Minora* II, pp. 45-68 and 3-28.

² Papyri are almost completely ignored in V. SCARANO USSANI, *Le forme del privilegio. Beneficia e privilegia tra Cesare e gli Antonini*, Napoli 1992. The author tells us, moreover (p. 31 n. 9), that he treats “il *beneficium* — inteso nella sua più ampia accezione di favore, elargizione graziosa anche di cariche a di doni”, which results in a panorama that touches *en passant* the point, without the matter or parameters, of the present paper.

Ulpian's classic definition clearly distinguishes the emperor's actions that had legislative force from his "personal" benefactions, which applied only to the recipient: *Quod principi placuit legis habet vigorem... plane ex his quaedam sunt personales nec ad exemplum trahuntur, nam quae princeps alicui ob merita indulsit... personam non egreditur.*³ In other words, such a grant was not an act of imperial legislation, but one of imperial largess. As Fergus Millar aptly phrased it, there was a "clear distinction between the Emperor's function in formulating rules [= legislation], and his role as dispenser of individual benefits. The tension between rule and exception is fundamental to the nature of imperial lawgiving."⁴ Or, as Ranon Katzoff has expressed it (in an e-mail), "in most of these *beneficia* the emperor is not really making law but derogating from it."

II

Recognized, and widely sought, as expressions of the princeps's pleasure, but not among his *constitutiones*, how long were the personal *beneficia* valid? Specifically, did such *beneficia* expire with the 'life of the grantor?⁵

(a)

A Vienna papyrus published in 1987, and reprinted as *SB XVIII 13775*, contains a letter of AD 241/2 in which Gordian III assured the citizens of Antinoopolis that "you would reasonably even now be exempted [from certain taxes] unless either an imperial order, or a judicial decision in conformity with such, had made any revision in [Hadrian's] benefaction."⁶ Hadrian's χάρις, Gordian plainly states, could be amended (or, by implication, even rescinded) by or pursuant to an order of Hadrian or a later emperor; but, absent such action, it would endure. This appears to answer our specific question with a specific negative. But is it truly applicable to our question? The privileges of the Antinoites were incorporated into their city's foundation charter,⁷ while personal benefactions were bestowed by imperial letters addressed to the beneficiaries.

³ *Digest* 1.4.1 = *Inst.* 1.2.6.

⁴ *JRS* 73 (1983) 77.

⁵ We may note *en passant* that legal scholars are not agreed even about the duration of *constitutiones*: cf. e.g. A. A. SCHILLER, *Roman Law: Mechanisms of Development*, pp. 514-24.

⁶ *SB XVIII 13775.8-10*, εικότως ἂν εἴη[ε] καὶ νῦν ἀπηλλαγμένοι, εἰ μὴ [τι] ἢ αὐτοκράτορος πρόσταξις ἢ κατὰ ταύτην κρίσις ἐνεωτέρισεν [εἰς τ]ὴν χάριν.

⁷ U. WILCKEN, *P. Wurz.* p. 62 (top) inclines to a similar view in another context. For a summary of what we know about the privileges of Antinoites see M. ZAHNT, *ANRW X.1* (1988), pp. 690-98, esp. 691 (διάταξις).

(b)

A second type of evidence enters into consideration, namely, letters in which emperors confirm *beneficia* granted by predecessors.⁸ The heady, festive times of an accession were particularly suited for such indulgences; in some instances that association is stated *expressis verbis*, in others it is apparent from the date of the emperor's letter.⁹

Of those confirmations that are recorded in published papyri the best known, by far, is the one that is found in Claudius' letter to the Alexandrians, *P. Lond.* VI 1912 = *Select Papyri* 212 = *CPJ* 153, dated in AD 41, the year of his accession. The long letter deals with a number of matters, including the friction between Alexandrians and Jews domiciled in the city. Significant for our present purpose is the statement in lines 57-59, καὶ τὰ ἄλλα δὲ οὐχ ἦσσαν εἶναι βούλομε βέβαια πάνθ' ὅσα ὑμῖν ἐχαρίσθη ὑπὸ τε τῶν πρὸ ἐμοῦ ἡγεμόνων καὶ τῶν βασιλέων καὶ τῶν ἐπάρχων, ὡς καὶ [ὁ] θεὸς Σεβαστὸς ἐβεβαίωσε, whereby Claudius declares his confirmation of everything that had been granted before his accession.¹⁰ It is worth taking note *en passant* of the clear distinction between ἐχαρίσθη for the making of a grant (χαρίζομαι = *dono*) and βέβαια εἶναι/ἐβεβαίωσε (βεβαιῶ = *confirmo*) to express the confirmation of a previous grant. Similarly, in some of the documents cited below we find συγχωρῶ (= *concedo*) and δίδωμι (= *do*) for initial grants, τηρῶ and φυλάσσω (= *servo*) for confirmations. These distinctions in the technical terminology are consistently maintained in the documents throughout the Principate.

Not so well known but equally informative for our present purpose are the privileges¹¹ granted to and confirmed for the Society of Dionysiac Artists by a

⁸ Understandably, since it would be practically *de rigueur* to make public display of such manifestations of imperial favor, these are often found in inscriptions. The imperial letters are conveniently collected in J. H. OLIVER, *Greek Constitutions of Early Roman Emperors from Inscriptions and Papyri* (*Memoirs of the American Philosophical Society* 178). The texts therein must, however, "be used with care" (*JRS* 83 [1993] 140), not so much for the venial slip of occasional mistranslation as for the editor's retention of challenged and even disproved restorations.

⁹ In judging from the dates it is necessary, of course, to allow time for news of an accession to reach to and into the provinces — a matter of days or weeks, depending on distance, weather, etc. The available data, a substantial body of evidence, are collected by R. DUNCAN-JONES, *Structure and Scale in the Roman Economy*, pp. 7-17 (cf. also pp. 17-23, on imperial edicts). For details on the speed of transmarine shipping and travel see L. CASSON, *Ships and Seamanship in the Ancient World*, pp. 284-96.

¹⁰ To be rejected as an instance of literalism carried to excess is the note to 57 sqq. in *CPJ* II p. 47 judging Claudius' statement to be in error. The sense is perfectly clear: Claudius here confirms all prior benefits, just as Augustus did; in Augustus' principate prior benefits were self-evidently those conferred under the Ptolemies (βασιλέων). A little further along (lines 66-68) Claudius again makes the distinction between τῶν ἀρχαίων βασιλέων and τῶν πρὸ ἐμοῦ Σεβαστῶν.

¹¹ An impressive list (lines 5-7) of a dozen benefits, including inviolability of the person and exemption from liturgies, from military service, from taxes, from billeting and from the death penalty.

series of Roman emperors. From *BGU IV 1074* (= *SB I 5225*) + *P. Oxy. XXVII 2476* + *P. Oxy. Hels. 25* we learn that the initial grant by Augustus was successively confirmed in letters to the Society from Claudius, Hadrian (who may have added more privileges), Septimius Severus and Severus Alexander.

From the fragmentary *P. Oxy. XLII 3018* we learn that Hadrian granted tax exemption and other benefits to *paianistai*, and that Septimius Severus confirmed those privileges.¹²

P. Würz. 9 contains the text of a letter of Antoninus Pius to Antinoopolis confirming the privileges granted its citizens by Hadrian,¹³ and a letter of Marcus Aurelius and Lucius Verus confirming all the benefits conferred by Hadrian and Antoninus Pius.¹⁴

In *P. Lond. III 1178*, p. 214 (= *W. Chr. 156* = *P. Agon. 6*) Vespasian writes to an oecumenical athletes' guild (ἱερᾶ ξυστικῆ περιπολιστικῆ συ[νόδ]ω τῶν περὶ τὸν Ἡρακλέα as follows: [εἰ]δὼς ὑμῶν τῶν ἀθλητῶν τὸ ἔνδοξον καὶ φιλότιμον πάντα ὅσα [θεὸς] Κλαύδιος αἰτησαμένοις ὑμῖν συνεχώρησε καὶ αὐτὸς φυλάττειν [π]ροαιροῦμαι. The omission of the emperors between Claudius and Vespasian reflects the *damnatio memoriae* of Nero and the ephemeral rule of Galba, Otho and Vitellius.

In *P. Oxy. XLII 3022* Trajan upon his accession confirms Nerva's *euergesiai* to Alexandria. The text is poorly preserved but unmistakable.

In *SB XII 11012* the beginnings of both columns of writing are lost, but in the *ed. pr.* (*Aegyptus 50* [1970] 8-9 and 20-21) Orsolina Montevocchi makes the case for the emperor being Nero and the city addressed being Ptolemais in Upper Egypt. Here too, as in preceding instances, the emperor confirms all the privileges granted by his predecessors.¹⁵

(c)

Finally, there is evidence in some documents suggesting that the repeated confirmations were cosmetic rather than requisite for the continuation of the privileges.

In the above-cited documents concerning the Society of Dionysiac Artists mention is made of confirmations by several emperors, but none between

¹² The text is fragmentary but sufficiently indicative. There are suggested restorations by OLIVER in *AJP* 96 (1975) 230.

¹³ *P. Würz. 9.38-39*, ἐξ ἀ[ρχῆ]ς ἐφύλαξα ὑμῶν τὰς τοῦ θεοῦ π[α]τρὸς μου δωρεὰς καὶ νῦν φυλάσσω.

¹⁴ *P. Würz. 9.48-52*, ὑμῶν μὲν εὐλογον [π]οιεῖν τ[ὴν] ὑπὲρ ἡμῶν χαρὰν [διαδ]εξα[μ]ένω[ν] τ[ὴν] π[α]τρῶν τε καὶ παππῶν ἀρχή[ν], ἡμᾶς δὲ ... πόλει καὶ φυλάττειν ὅσα παρὰ ἀμφοτέρων ἐδ[όθη] [ὑμ]εῖν κ[α]θὼς μέ[γισ]τον νῦν ἐτηρήθη.

¹⁵ *SB XII 11012 i.8-14* and *ii.4-9*, μὴ βουλόμενος ἐν ἀρχῇ τῆς ἡγεμονίας ἐπιβαρεῖν [ὑμ]ᾶς, ὅσα δὲ εἶχε[τε] ... παρὰ τῶν πρὸ ἐμοῦ αὐ[τοκρ]ατόρων λαβ[όντες] and ὡσπερ κ[α]ὶ ὁ θεὸς πατήρ μου ἐβουλήθη ... ἐπαινῶ καὶ ἀ[να]δέχο[μαι].

Hadrian and Septimius Severus. To conclude from this that the benefits lapsed after Hadrian and were reinstated by Septimius Severus would not only be perverse, but is ruled out by the language of the text: ὁπόσα εἶχετε ἐξ ἀρχῆς ὑπὸ τῶν πρὸ ἐμοῦ αὐτοκρατόρων δεδομένα ὑμῖν δίκαια καὶ φιλόανθρωπα, ταῦτα καὶ αὐτὸς φυλάττω. Here again there is the clear distinction in the technical terms: the privileges were granted (δεδομένα = *data*) by previous emperors, and Septimius Severus' was not an initiating action but that of confirming or preserving (φυλάττω = *servo*) the pre-existing benefits. Similarly, in *P. Lond.* III 1178 = *W. Chr.* 156 no mention is made of the emperors between Claudius and Vespasian, and in *P. Oxy* XLII 3018 no mention is made of the emperors between Hadrian and Septimius Severus. We can hardly suppose that the benefits lapsed during those intervals.

Furthermore, some of the known imperial confirmations were not associated with accessions but were vouchsafed in subsequent years. The best-preserved examples happen to be in inscriptions, e.g. *Aphrodisias and Rome* 17, in which Septimius Severus and Caracalla, thanking Aphrodisias for celebrating their Parthian victory, take the occasion to add their confirmation of τὰ ὑπάρχοντα δίκαια τῇ πόλει ὑμῶν μεμενηκότα (*vel sim.*) μέχρι τῆς ἡμετέρας ἀρχῆς ἀσάλευτα καὶ ἡμεῖς φυλάττομεν. The date is A.D. 198, five years after the accession of Septimius Severus, three years after Caracalla's elevation from Caesar to Augustus. *BGU* I 74 is a similar case in point. It dates from 166/7, six years after the accession of Marcus Aurelius and Lucius Verus, but also the year in which the emperors must have received congratulations from communities all over the empire on their acclamations as *Parthici Maximi, Medici* and *patres patriae*. Not enough of the body of the document is preserved to afford continuous sense, but there are distinctive echoes of an imperial letter confirming previously granted privileges: τὰς δωρεὰς ὧν ἔτι ... τὰ τοῖς πρὸ ἡμῶν αὐτοκράτορων δόξαντα ... πρὸς τοὺς εὐεργέτας χάριτι, and on the *verso* ἀντίγραφον ἐπι[σ]τ[ο]-λ(ῆς) τῶν κυρίων. Here again, both logic and language deter us from supposing that the benefits lapsed in the years between accession and confirmation.

III

In sum, it seems inferentially and inherently probable that *beneficia* granted by an emperor remained valid even without confirmation by his successors. If so, the operative principle was the same as that enunciated by Gordian in his letter to Antinoopolis: imperial indulgences enjoyed permanence unless or until officially rescinded or altered.

In that light the routine confirmations of *beneficia* by later emperors emerges not as an exercise in legal nicety but rather as a manifestation of socio-political realities. The accession of an emperor and its anniversaries were scheduled occasions for public ceremonies offering joyous congratulations and

reaffirming loyalty to the emperor.¹⁶ These were also ideal occasions for beneficiaries to combine their professions of loyalty and joy with a request for confirmation of their privileges. The beneficiaries could never forget that their privileges, however inveterate, originated in and depended upon imperial favor; and one emperor's pleasure could easily be another emperor's displeasure. Under these conditions the confirmation practice developed as it did because it served the interests of both parties, givers as well as receivers: the latter seized a favorable opportunity to assure an emperor — *a fortiori* a newly installed emperor — of their loyalty and their grateful dependence on his goodwill and magnanimity;¹⁷ while for the emperor it offered, at little¹⁸ or no cash outlay from imperial coffers (unlike, for example, a military donative), an occasion for a valuable public-relations display of euergetism.

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¹⁶ Examples: *P. Oxy.* VII 1021 = *Sel. Pap.* 235 (Nero), Pliny, *Ep.* 10.1, 52 and 102 (Trajan), *BGU II* 646 = *Sel. Pap.* 222 (Pertinax). To send a delegation to Rome for this purpose could entail great expense. In a familiar instance (*Ep.* 10.43-44) Trajan approved Pliny's decision to allow Byzantium to send its *psephisma* instead of having it delivered by a delegation, thus sparing the city an expenditure of 12,000 sesterces. *Per contra*, local philanthropists could acquire kudos by personally defraying the expenses of such an embassy.

¹⁷ Hannah M. COTTON expresses it aptly in *Chiron* 14 (1984) 266: "The omnipotent *princeps* who monopolises all *beneficia* doles them out to his subjects, not for a return in kind, which the latter cannot dream of ever being able to make, but in return for *pietas*."

¹⁸ When embassies departed for home, emperors frequently ordered that the envoy(s) be paid a travel allowance "unless he/they undertook it at his/their own expense" *SIC*³ 833, *inter alias plures*.