A Case for Corruption

THESIS

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Abstract

This work sets out to investigate official corruption in Late Antiquity in general, and in the office of the provincial governor in particular. In light of continued modern scholarship on the subject, as well as changing views concerning late antique governance as a whole, it seems worthwhile to present a study of this type. While attempting to reconstruct the locations of official abuse in the ancient world, this work seeks to emphasize how systemic features of Diocletian’s provincial reforms, as well as the difficulties of oversight in the ancient world overall, led to the corruption about which our sources so consistently complain. The study primarily utilizes the works of a range of ancient authors from a number of different regions within the empire who lament corruption and its alleged effects. Legal edicts from emperors and inscriptions made by provincial governors are also employed, as well as modern studies on economic and social features of administrative corruption in contemporary nation-states. The work is, however, largely preliminary. By arguing for the prevalence of official abuse, this study creates a foundation for further investigation into the role of corruption in late antique governance and into its effects on political, economic, social, and religious developments in that period.
Dedication

This work is dedicated to my family, to whom I owe a debt greater than they can ever imagine.
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Chapter 1: Introduction

Problems with understanding corruption in the Later Roman Empire refuse to lie dormant, despite the great attention shown them in modern scholarship.\(^1\) Pharr, in his 1952 translation of the Theodosian Code, peppers his footnotes with sentiments decrying the abuses of corrupt bureaucrats and the powerlessness of the emperors to correct them.\(^2\) A.H.M. Jones, while extending his focus to the near-entirety of administration in *The Later Roman Empire*, reiterates a belief in the ‘low standard of public morality’ which fostered rampant and highly detrimental corruption.\(^3\) MacMullen, in his *Corruption and the Decline of Rome*, blames pervasive corruption for the eventual collapse of the Roman Empire.\(^4\) These scholars looked at this period, from the early fourth century to the fifth, as the precursor of a great fall. In doing so, a cause (or causes) for the collapse was sought, and corruption found, among others. They identified the office of the provincial governor and the military as the points of

\(^1\) For the duration of this paper, the term ‘corruption’ will be defined as ‘the misuse of public office for private gain,’ in accord with: Svensson, Jakob. “Eight Questions about Corruption.” *Journal of Economic Perspectives* 19.3 (2005): 21. Though this is a modern definition, it is meant to take into account relevant differences in various forms of government, including those found in the Late Roman Empire. The keyword here is misuse, which is a subjective term, and thus accounts for differences in cultural expectations of profit-making, patronage, and overall behavior. It implies illegality and the twisting of rules and conventions to profit at the expense of the established system.

\(^2\) Pharr, Clyde. *The Theodosian Code*. London: Oxford University Press, 1952. (Hereafter, cited as ‘CTh’) An oft cited footnote from the Theodosian Code comes on pg. 15: ‘it is evident that the Emperors were striving earnestly but vainly to abolish the increasing rapacity of the corrupt bureaucracy.’


\(^4\) MacMullen, Ramsay. *Corruption and the Decline of Rome*. New Haven: Yale University Press, 1988. Cf. pg. 177: ‘We are left to the logic of the situation to understand how pervasive venality in government, in these and other ways, must have inevitably produced systemic deficiencies in defense.’
contamination, and as the vectors for infecting the rest of the empire. Venality consumed administration and defense, and left Rome all the weaker against its enemies. From an institutional, geographical, religious, and cultural point of view, many of the features of the Early Roman Empire now seemed to have transformed into something quite different. Corruption in tax collection, in the courtroom, and in the barracks to varying degrees had caused this break, and on this they were generally in agreement. As seems only natural in light of most academic study, however, against this harmony of thought there was an equal, but opposite reaction.

Peter Brown, in his work *Power and Persuasion*, argues against the collapse of the empire, and therefore against the potency of the agents perceived to be responsible for its destruction. The new institutions of the Later Roman Empire were not alien, but analogous to those that preceded them, having transformed due to a number of social, economic, religious, and political exigencies. For Brown, the governor was less a figure to be feared than a man forced by the necessities of his situation to capitulate to local power. Corruption is recognized, but more as a local check to an imperial power than as a uniformly destructive force. Conversely, Christopher Kelly, in his work *Ruling the...*
Later Roman Empire, argues that the new system of governance was instead an imperial check on local power.8 Though Kelly believes that the hearing of cases was arbitrary and unpredictable, for instance, he perceives that provincials could not rule out some form of imperial intervention in more important disputes.9 Kelly argues that corruption, whether in the form of unofficial fees (later to be codified in law) or in bribes, ‘greased the wheels’ of the administrative machine, and allowed for a ‘mechanism for the allocation of scarce resources and the effective deployment of a proportionately small number of personnel.’10 Corruption is not, then, so much an abuse of power, as a necessary function of provincial office-holding. Jill Harries’s work Law and Empire in Late Antiquity further bolsters Kelly’s case for an ‘emperor-heavy’ form of administrative control generally unimpeded by corruption.11 Her argument focuses mainly on reworking popular theories on the edicts and rescripts of emperors found in the Theodosian Code and in the Digest. For Harries, instead of serving as sources revealing a loss of imperial power, these laws stand as an attempt to push imperial presence and benefaction into everyday life.12 Additionally, Harries believes that the numerous imperial edicts against corruption, along with the massive collection of complaints of

8 Kelly, Christopher. Ruling the Later Roman Empire. Cambridge, MA: Harvard University Press, 2004: 129: “These manifest “inefficiencies” and “inadequacies” were to a great degree systemic. Roman government’s ability to deliver administrative and judicial services was not maintained for the benefit of the ordinary inhabitants of empire. Rather, it was part of a pattern of imperial domination.’
9 Kelly (2004), 129
10 Kelly (2004), 129
12 Harries (1999), 78
corruption within the extant sources, reveal not the extent of abuse, but of the desire for accountability in imperial administration.¹³

While leaving aside the issue of universal administrative dishonesty and abuse, I would argue along with Pharr, Jones, and MacMullen that the conditions of the fourth and early fifth centuries, the period that this paper will cover, were quite conducive to corruption at the provincial level. I would further agree with Kelly that Diocletian’s reorganization of imperial rule allowed for, and perhaps encouraged, corruption, though I am not fully persuaded that this led to a more efficient system. This is not to say, of course, that these scholars are mistaken. Harries in particular raises a cogent point: the variety and quantity of sources in late antiquity can distort our perceptions of this period relative to others.¹⁴ Even if the sources for previous eras cry out less against the venality and corruption of provincial governors (with a few notable exceptions like the Verrine orations), for instance, this is no certain indication of declining morality in administration. We need not fall in line with the traditional ‘decline and fall’ model of late antiquity.¹⁵ Nevertheless, we must rely on these sources to reconstruct the social and political environment of this period in particular. We can momentarily resist the urge to compare.

¹³ Harries (1999), 5 and 97, including her ‘culture of criticism’ argument for an increase in the freedom of speech of the provincials to speak out against corrupt and inadequate officials.
¹⁴ Harries (1999), 78, 97, 167.
¹⁵ This view, of course, since Gibbon (History of the Decline and Fall of the Roman Empire from 1776-1789), stretching all the way up to and past MacMullen (Corruption and the Decline of Rome in 1988) into the present with Ward-Perkins (The Fall of Rome and the End of Civilization in 2005) and Heather (in The Fall of the Roman Empire: A New History of Rome and the Barbarians in 2006).
What, then, do we hear from these sources on the topic of corruption? Many of our authors, living in various places of the empire and inhabiting a range of social and political positions, lament the misuse of office by provincial governors and their assistants, and consider corruption to be a significant problem. We should not overlook the similarity of their observations. Nor should we dismiss their complaints, whether as attempts at imitating imperial concerns or at furthering their own goals. Their grievances can themselves be supported by the consequences of a number of institutional features of late antique governance. By examining the effects of the massive inflation present during this period, the effects of Diocletian’s (and later emperors’) reorganization of government, and the role of the governor in provincial society, we can substantiate the claims of contemporaneous writers who reveal corruption in the provinces as a relatively widespread phenomenon. For the provincial governor, burdened under Diocletian’s reforms with a number of new judicial, financial, administrative, and supervisory duties, despite a steep decrease in salary from earlier centuries, not only were the incentives for abuse numerous, but the opportunities for it plentiful.

16 Harries (1999), 5: ‘...one should not believe everything emperors, or their elite imitators, said or wrote was true, even when there appeared to be consensus on, for example, the corrupt behavior of judges...’ and ‘the powerful and the weak alike also actively exploited the content and the language of imperial law to further their own ends...’
Chapter 2: Perceptions of Corruption among Ancient Authors

On February 12, 2009, Judges Mark Ciavarella and Michael Conahan of Pennsylvania were convicted of wire and income tax fraud. For six years, the two had collected millions of dollars in kickbacks from correctional facilities for sentencing an inordinate number of youth offenders to detention centers. When asked how Judge Ciavarella was able to condemn on average one of every four juvenile offenders without suspicion for half a decade (compared to one in ten for the state), Marsha Levick, a lawyer with the Juvenile Law Center, answered that ‘there was a culture of intimidation surrounding this judge and no one was willing to speak up about the sentences he was handing down.’ Unsurprisingly, the state of Pennsylvania and members of the judiciary were horrified. It is often difficult to make room for the realities of corruption in America. Despite ubiquitous coverage of governmental affairs both mundane and extraordinary by a free press, and despite the presence of independent monitoring groups scanning for misconduct at every level of government, the misuse of public office remains.

Without the many safeguards provided by a modern, wealthy democracy, the situation in this country would almost certainly be worse.\textsuperscript{19} A recent study found that in Uganda, a representative model of many destabilized and impoverished nations, over 80\% of firms reported needing to pay bribes.\textsuperscript{20} In the public sector, this same study discovered that of an original disbursement to Ugandan schools of government funds, only 13\% of that money actually reached its intended recipients.\textsuperscript{21} The sheer scale of this corruption is almost beyond comprehension to most in the liberalized developed world. Yet this amazement is understandable, given the low incidence of corruption in the West. As a Transparency International report has shown, ‘the more likely the average citizen is to be confronted with bribery in a particular institution, the more they will indicate they believe corruption affects that institution.’\textsuperscript{22} The converse, namely that the more people indicate that corruption affects their government, the more actual incidences of corruption exist, is also true.\textsuperscript{23} Nor does this recognition of the prevalence of corruption hold only for a particular class of citizen. A nation’s business leaders and

\textsuperscript{19} Svensson (2005), 26-28: ‘Richer countries have lower corruption.’ Svensson also found that countries with more economic openness and freedom of media, along with ‘broader measures of political freedom,’ are significantly less corrupt. Also Aidt, Toke “Economic Analysis of Corruption: A Survey.” The Economic Journal 113.491 (2003): F645. ‘Democratic institutions can play an important role in limiting the scope of corruption... [by exposing] politicians and sometimes also bureaucrats to electoral accountability and that does provide voters with a valuable tool to control corruption and other inefficiencies.’

\textsuperscript{20} Svensson (2005), 30 – 31.


experts, along with the average citizenry, are taken into account in these studies. Consequently, in attempting to determine the level of corruption in a particular institution, the perceptions of those who interact with it, both humble and powerful, play an important role.

In order to gauge the extent of the corruption we have examined, then, we should find the eyes of contemporaneous observers experiencing it. In terms of sources for the Later Empire, we are in luck. This period provides a wealth of first-hand accounts of events and policies, though regretfully not from its poorest classes. As we have seen from our own analyses, however, this is not necessarily a strong hindrance to our understanding of the period. Nevertheless, despite the usual homogeneity of writers in antiquity, there is a considerable diversity in our sources. Significantly, this does not seem to lead to a serious difference of opinion on the subject of corruption. In fact, if one could find a clearer unanimity of thought among the disparate voices of the Later Roman Empire than that concerning the scale and prevalence of corruption, it would come as a great surprise. Rarely do we find pagans like the decurion and rhetorician Libanius, the soldier and eminent historian Ammianus Marcellinus, and the Byzantine bureaucrat Zosimus in unequivocal agreement with ecclesiastic figures such as the popular archbishop St. John Chrysostom and the Neoplatonist bishop Synesius.

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Even more rarely might we expect to find all of these literary men in agreement with emperors of a similar dissonance. Both Constantius II and his successor Julian found common ground in their efforts to reduce the negative effects of corruption, despite their mutually antagonistic stances on most matters of policy. Nor is this unanimity geographically isolated. From Cyrene (Synesius) to Antioch (Ammianus and Libanius), Sardis (Eunapius) to Byzantium (Zosimus, St. John Chrysostom), Thrace (Priscus) to Pannonia (Valens, Valentinian), Rome (Symmachus) to Gaul (Salvian), and Hispania (Theodosius I) to Africa (St. Augustine), concerns over the consequences of corruption abound. Little else seems to hold these men together. They do not share the same religion, the same educational or economic background, the same professions, the same class or rank, the same language, or the same opinion on much else besides this singular issue.25

What these men do share is their direct experience with a very similar political, economic, and social system that influenced their perceptions of governance. Just as Cicero, Sallust, and Caesar wrote much of their works on the intrigues of republican government, while Tacitus, Suetonius, and Pliny focused on the lives of the emperors and on the new realities of a more authoritarian Roman Empire, so too did these writers focus on what they perceived to be the powerful forces in their period. Some focused

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25 Ammianus 30.8.10: consider Valentinian, who ‘hated the well-dressed, the learned, the educated and the high-born.’ Though not born destitute, they are not of the same upper class as most of our other sources.
on the decline of the curial class, some on religious matters both pagan and Christian, and some on military affairs and technologies. Yet all share a similar judgment that corruption in provincial administration was both present and problematic.

How else should we account for this prevailing attitude than what seems to be the likeliest inference, namely that corruption was common? Though not impossible, it seems unlikely that the overwhelming majority of the diverse sources of this period would complain of corruption solely because of a perceived feeling of increased freedom and importance in doing so. Why else should an anonymous writer under the reign of Valentinian and Valens write to the emperors about both military technology as well as corruption if both were not pressing issues in his mind? Perhaps it could be argued that he was intending to find common ground with the emperors because of their concern for justice, feeling that including concerns about corruption would be a means of furthering his own intents. This would still, however, corroborate the views of our sources of Valens and Valentinian as reformers of administrative abuses, and thus the presence of abuses in turn. Nevertheless, there is more than just personal opinion and selfish motivation within these works. As important, perhaps, as providing their own views on contemporary issues, our sources present us with a wealth of information on the system of imperial rule in the Later Roman Empire. When we examine the foundations of this arrangement later, and see the necessities into which it placed many

26 Though Harries (1999), 97 is right to suggest that this independence is itself indicative of new features of the Later Roman Empire as opposed to earlier periods.
of its officials, we ought not to be surprised when we see them engaging in behavior that seems fitting considering their circumstances. Nor should we be surprised to see our sources complaining about the prevalence of these behaviors in light of the ubiquity of this system.

Overall, we ought to give these sources a bit more credit. It certainly does not help the arguments against Julian put forth by Ambrose and Gregory Nazianzen when these authors concede that Julian successfully reduced taxes during his reign, and that his rule brought widespread justice, if only temporarily, to the empire.²⁷ These writers were clearly capable, at times, of giving credit where it was due. Ammianus’s relation of the positive traits of Constantius II is far fairer than one might expect from so vocal a critic.²⁸ His apt criticism of Julian is even more surprising, given his great admiration for that emperor.²⁹ Of course, we should never forget that our sources were also capable of great distortion in their portrayals. Yet our ecclesiastical sources do not blame Julian for corruption in the provinces, even though they certainly had the incentive, and the ability, to do so. There is an element of truth to these larger thematic portrayals that crop up in our sources and that find support from one another, and these deserve more attention than some might be willing to give. There are limits to what our sources can give us, of course, yet to deny such a harmony of opinion borders on inflexibility. While

²⁷ Ambrose de ob. Val. Jun. 21, Gregory Nazianzen Or. 4.75.
²⁸ Amm. 21.16.1-7.
²⁹ Amm. 25.4.16-21
examining the system of provincial government in the Late Empire, as well as some of
the economic and political conditions of the period, we will see that our sources
recognize, as we can, the inherent instabilities in this system.
Chapter 3: Inflation and Salary

Inflation was a notorious problem for emperors in late antiquity, and an important factor in explaining corruption in provincial government. From a number of sources, we can observe that the inflation of the denarius, the main unit of account for generations, was astoundingly high during the third and fourth centuries.\(^{30}\) Due to the frequent devaluation of the denarius by successive emperors, as Jones reveals through a comparison of wheat prices, ‘during the third century the real value of the denarius sank... to about 0.5% of what it had been before inflation [began in the late Principate].’\(^{31}\) Wassink, in agreement with Jones, gives similar indications of the rapid rate of inflation in this period, claiming, for instance, that between 293 and 301, inflation would have been approximately 23% each year.\(^{32}\) Inflation of the denarius, a unit by which many goods were priced (and imperial salaries measured), continued to spiral out of control throughout our period on a grand scale.\(^{33}\)

\(^{30}\) Jones (1964), 439-440.
\(^{31}\) Jones (1964), 27. Jones (1964), 109: By 338, the price of a modius of wheat had risen from 100 denarii in 301 (under Diocletian’s ‘Price Edict’) to 6,000 denarii in 335 to over 10,000 denarii in 338. Jones (1964), 400: In 324 CE, 4,350 denarii were equivalent to the solidus. At the death of Constantine, this had increased to about 275,000 denarii per solidus. By the end of Constantius II’s reign, the exchange had bloated to a massive 4,600,000 denarii to the solidus.
\(^{32}\) Wassink, (1991):488
\(^{33}\) Cf. Banaji, Jairus. *Agrarian Change in Late Antiquity: Gold, Labor and Aristocratic Dominance* (Oxford: Oxford University Press, 2001), 222 shows the inflation of the *denarius* throughout the fourth and fifth century.
Sensing further troubles on the horizon in the late-third century, Diocletian attempted to stabilize government income and expenditure along with the empire’s currency. Third-century inflation, caused by budget deficits in the imperial treasury and the consequent debasing of currency in order to compensate, had led to a system of payments in kind to the soldiery, whose remuneration was vital for any emperor in the unstable political climate of the period. Third-century emperors had carried out the exactions of goods used for these payments through levies in kind, and Diocletian’s regularization of this levying scheme resulted in a new, more standardized method of taxation. Additionally, Diocletian introduced sweeping economic reforms which attempted to completely replace the denarius, as well as a variety of local currencies, with three new coins: the nummus, the argenteus, and the aureus. Though this reform was remarkably successful in phasing out older coinage, it rapidly descended into failure. Overproduction of the new coins resulted in even greater levels of inflation, in two revaluations of the new coinage at higher rates, and in a disastrous fixing of prices in the Price Edict of 301.

35 Ermatinger (1996), 17.
Following Diocletian, nearly all cash levies of the denarius in the Roman Empire ceased as a result of the coin’s devaluation and official abandonment.\(^{38}\) Nevertheless, payments for soldiers and officers during the early part of our period were still measured by the denarius as a unit of account, though now paid in the *nummus* (and later in the *solidus* or in kind).\(^{39}\) Because the treasury minted and distributed *nummi*, however, yet rarely collected the coin by taxation, the resulting glut of bronze coinage, as in the past, spurred on still further inflation.\(^{40}\) Its effects on salaries were severe. As a result of the near-worthlessness of their wages, the average soldier in the late-third and early-fourth centuries might expect to earn only his ‘rations, uniform, arms, and very little else.’\(^{41}\) Compared with the Principate, in which the average soldier might receive 300 denarii, and might expect to spend only half of that on his required military expenditures, salaries in the bottom ranks had greatly diminished.\(^{42}\) Harl’s calculations, in fact, reveal that in 301, the average legionary would have needed to spend 1.75 times more than his regular annual wages in order to purchase basic necessities.\(^{43}\) Again, though payments were no longer made in the denarius (as it had disappeared as an


\(^{40}\) Wassink (1991), 485. Also, Anon. *de rebus bellicis* 1.4 (Thompson, 109)

\(^{41}\) Jones (1964), 31. Also, 441, which shows how even after commutation, there was little to be made through soldiering on its own.

\(^{42}\) *ibid*. Cf. Ermatinger (1996), 9-10: who says that although salaries had increased, up to 70% of this salary was consumed by charges for goods and equipment.

\(^{43}\) Harl (1996), 281. He received 144 *nummi*, and at the official rate of 8 *nummi* per *modius* of wheat, would have expended 256 *nummi*, or 1.75 times his wages. Attempts at subsidies were made by Diocletian to varying degrees of success.
actual coin by the fourth century), its use as a standard for other coinage, including the *nummus* and the *solidus*, made the computation of salaries significantly more difficult.44

Under Diocletian, imperial officials and their staffs suffered along with the soldiers, as bureaucrats and administrators too received much of their income based on the devalued denarius.45 As Jones reveals, procurators, the lowest level equestrian Roman governors under the Principate, had starting salaries of 15,000 denarii, with pay grades ranging up to 75,000 denarii at the highest levels. During Diocletian’s early reign, the possessor of the preeminent office of the *magister memoriae* would have made 75,000 denarii, just as other high-ranking officials had in earlier periods. Only a few years later, however, this salary had the same purchasing power as 400 Principate-era denarii.46 Inflation in the marketplace had quickly limited the value of such payments.47

As a result of this inflation, following Diocletian’s rule, bureaucrats and other officials were paid an increasingly more significant portion of their income in kind (from their *annonae*, their standard rations, and from the *cellaria*, which was meant to cover living expenses), or in unofficial commutations of their payments in kind or in *nummi*

45 Ermatinger (1996), 10: Ermatinger estimates an average salary of 50,000 *denarii* for all bureaucrats in the empire.
46 Jones (1964), 51. Eumenius *Panegyrici Latini* 9.2: ‘in cius rei actis Constantius Eumenii eloquentiam et gravitatem commendat, et geminate eius pensione, *sexcena milia nummum* ei pro salario attribuit.’ This is somewhat confused. The *nummus* described here seems likely to be the old ‘nummus’ (the HS), considering the salary amount is 600,000 nummi, which if in HS (4 HS:1 den.) would be 75,000 *denarii*, the salary reserved for high ranking equestrian officials (like the *magister memoriae*). This is likely, then, not the ‘nummus’ which Diocletian introduced as the replacement of the ‘aurelianianus’, which was worth 5 *denarii*. (Harl (1996), 149-150.)
47 Harl (1996), 154.
into gold. Banaji effectively argues that the commutation of salaries from kind into gold (usually in *solidi*) became the payment of choice for those who could demand it, namely high-level officials like governors and military officers. As Banaji and Jones point out, we can see the (often illegal) swelling of the rate of this commutation from the early fourth century onwards. Governors began to extort higher rates from provincials for their supplies, perhaps in imitation of military officials who ‘rejected their pay (*annonae*) in the post-harvest period to extort commutation later in the season at rates reflecting increasing scarcity in the market.’ This is certainly in line with the accounts of many of our sources, who complain that officials were exploiting local markets and their own power in order to increase their salaries artificially. Eventually, governors began ‘collecting through the civic tax collectors a levy in gold in lieu of their *annonae* and *cellaria*.’ By the end of the fourth century, governors had raised the rate of this levy from one solidus per 120 *capita* to one solidus per 60 *capita*, and thence

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48 *CTh* 7.4.32 (412).
49 Banaji (2001), 51-52.
50 Banaji (2001), 48. Jones (1964), 396-397. Banaji points to the anonymous pamphleteer writing *de rebus bellicis* describing the commutation of *annonae* and *cellaria* (the payments in kind to each governor) as being a source of profiteering for the governor. Banaji believes extortion through forced, uneven commutation rates also served as a source of profit (cf. Anon. *de rebus bellicis* 2.1-2 (Thompson, 94, 110)). Jones points to Symmachus *Ep.* 4.19, which gives evidence of higher commutation rates over time as distorting the forced repayment of an old salary he received as praetorian prefect under the usurper Eugenius.
51 Banaji (2001), 53, based on *CTh* 7.4.20 (393): ‘Nulli militiarium pro his *annonis*, quae in provinciis delegantur, repudiate ad tempus specierum copia et inopiae occasione captata pretia liceat postulare.’
52 *CTh* 7.4.32 (412); Libanius *Or.* 57.51; Ammianus 16.8.13; Salvian *OTGOG* 5.6. Also, perhaps *CTh* 11.1.11 (365).
53 Jones (1964), 397.
even to one solidus per 13 capita.\textsuperscript{54} This is a dramatic increase, and one which should be explained in the context of fourth-century political developments.

Although the relative salaries of governors had decreased from the Principate due to inflation, as we have seen, and were perhaps stabilizing through the fourth century, the growing system of buying influence (suffragium) required payment for many of these posts.\textsuperscript{55} We know from edicts of fourth-century emperors and from a number of other sources that this arrangement had become relatively common by the fourth century.\textsuperscript{56} Its consequences were potentially severe. From Jones’ investigation into the system of commoditizing the governorship of Phoenice Libanensis, as well as into the actual salary for that position, he comes to the conclusion that the price of a governorship was approximately twice the salary of the office.\textsuperscript{57} We need not rely solely on such calculations to reconstruct the problem. From Libanius, Ammianus, Eunapius, Synesius, Priscus, and Zosimus, we know that many of those purchasing office either sold their own property, or were consistently hounded by creditors even while in office to repay the large sums they had borrowed.\textsuperscript{58} Not only was their salary apparently

\textsuperscript{54} CTh 7.4.32 (412). The caput was a fixed rate of assessment on each citizen living in the Roman Empire.

\textsuperscript{55} Our sources for buying suffragium are many and varied. Cf. Aur. Vict. De Caesaribus 41; Amm. 30.4.21; Zosimus 4.27.1-4, 4.29.1, 5.1.2; Lib. Or. 2.42, Or. 48.11-13, Ep. 63; Synesius Ep. 101, 57-58, 72, 73; Priscus Fr. 3.2 (Blockley); Eunapius Fr. 72.1 (Blockley).

\textsuperscript{56} For sources of buying governorship, cf.: n. 55 as well as CTh 2.29.1(364), 12.6.5 (365 CE), 8.4.18 (394), Lib. Or. 47.33, Ep. 117, and Salvian On the Government of God 4.4.

\textsuperscript{57} Jones (1964), 398-399.

\textsuperscript{58} For selling property, cf. Lib. Or. 48.11 concerning an Antiochene decurion who had sold his property, decamped, and returned wealthy and powerful (388 CE); also Zosimus 5.1.2. For large sums of
insufficient to recover the purchase of office, but governors were constantly reminded by their creditors of this fact. In a relatively short amount of time, on average eighteen months according to Jones and Downey, these men either had to recoup the expenses of gaining office, or risk returning home deeply in debt.\textsuperscript{59}

If governors paid to obtain office, and if they paid more than the salary which their office provided, while mortgaging or selling their own property to make their payments, the resulting turn to corrupt sources of income is not difficult to envisage. Governors who had bought their office could not expect to recoup their expenses legally, and since they must recoup their expenses or face at the very least the prospect of prolonged indebtedness, it stands to reason that many would find an illicit source of revenue to make up for their expenses. Nor is this only a supposition; the realities of this process are well-attested.\textsuperscript{60} Of course, not every governor bought his position, and there are a number of sources describing the coexisting system of \textit{suffragium} based on

\footnotesize{money/loans for governorship: Lib. \textit{Ep.} 63, \textit{Or.} 2.42; Amm. Marcell. 30.4.21; Zosimus 4.27.1-4, 4.29.1; Synesius \textit{Ep.} 57-58, 72-73, 101; Priscus \textit{Fr.} 3.2 (Blockley); Eunapius \textit{Fr.} 72.1 (Blockley)\textsuperscript{59} Jones (1964), 381 uses the provincial governorship of Egypt between 328 and 373 from the letters of Athanasius. Downey, Glenville. \textit{A Study of the Comites Orientis and the Consulares Syriae}. Princeton: Princeton University Press, 1939: 16-17 uses the period 344-364 CE, and gives us at least 13 governors. Risk of Bankruptcy or Loss: Lib. \textit{Or.} 14 reveals the steady decline in the property of Aristophanes, an \textit{agens in rebus}, who must support himself while in office by selling his property. His estate apparently went out of cultivation and some of his slaves fled.\textsuperscript{60} Cf. \textit{CTh} 6.22.1: ‘But if any person should obtain the administration of imperial procuratorships by purchase and after gaining the desired emoluments from the fisc they should obtain retirement from service...’ Also for corruption stemming from indebtedness via \textit{suffragium}: Amm. 30.4.21; Zosimus 4.27.1-4, 4.29.1, 5.12; Lib. \textit{Or.} 2.42, 48.11; Synesius [Blockley] \textit{Ep.} 101, \textit{Ep.} 57-58, 72, 73; Priscus [Blockley] \textit{Fr.} 3.2; Eunapius [Blockley] 72.1}
personal influence without payment.\textsuperscript{61} We know, for instance, from Libanius and Ammianus that Julian appointed many men of learning to governorships around the empire out of personal preference.\textsuperscript{62} Unless all of these men refrained from the aforementioned abuses of commutation and salary increases, however, we may say that even their hands might be far from clean.

We can briefly summarize all this to reveal a few compelling motives for corruption by provincial governors. Inflation during the third century had made the standard monetary salary of imperial officials insufficient. As a result, they turned first to commutations of their salaries into gold, and then to a standardized system of levying their salaries from provincials directly. As we have seen, both were commonly subject to abuse, if not basically illegal. In addition to citing low salaries in general in order to account for this misuse of office, and for those misuses that we will examine next, we can look to another important feature of late antique imperial careers: the system of buying influence. In order to attain their offices, many governors had mortgaged or sold their properties, and had become heavy indebted in the process. As their monetary salaries were unable to support them, they turned to exploitation in order to recoup their investment, and even to profit from their term. Nor should the latter idea be

\textsuperscript{62} Lib. Or. 18.158, which claims that Julian appointed learned men to govern many provinces, is corroborated by: Aurelius Victor, an author of histories, in Pannonia (Amm. 21.10.6); Aprunculus, a Gallic orator, in Gallia Narbonensis (Amm. 22.1.2); Praetextatus, a learned senator, in Achaea (Amm. 22.7.6); Celsus, a pupil of Libanius, in Cilicia (Amm. 22.9.113); Octavianus, an ‘illustrious man of high birth’, in Africa (Amm. 23.1.4).
surprising. Governors had reasonably and legitimately expected to profit from their terms in the provinces for centuries.⁶³ Buying their offices, however, had made profiting that much more difficult. But profit they would, and keeping this in mind, we may move on to the myriad ways by which, as our sources reveal, the late antique governor misused his office for personal gain.

Chapter 4: Diocletian’s Reforms and Opportunities for Corruption

Diocletian’s regularization of the tax schedule through periodic censuses and the formulation of specific payments per citizen allowed the state to create for the first time a budget that could shift with the needs of the empire.\textsuperscript{64} Having doubled the number of provinces by lessening their size, and having grouped these provinces geographically into dioceses (overseen by vicars) and thence into prefectures (overseen by prefects), Diocletian and later emperors attempted to form a tight hierarchical chain that led from the lowest governor’s staff up to the emperor himself. Additionally, Diocletian attempted to institutionalize the system of the Tetrarchy in order to lessen the burden of so large an empire on a single emperor.\textsuperscript{65} Theoretically, each tetrarch would have complete control over his own jurisdiction, and could monitor his subjects through representative officials. This would insure a consistent stream of revenue, as well as greater control over local events in each prefecture.


Most provinces were run by equestrian governors by Diocletian’s time, though this changed after Constantine expanded the senatorial order and brought senators back into positions of power.\textsuperscript{66} Perhaps more important, however, was that those provinces that had previously retained a governor with military authority now received instead a \textit{dux}, who acted with military power separate from the civil administration.\textsuperscript{67} Considering the substantially lower salary of the governor, as we have seen, this may in some regards seem like a fair exchange. The new governor would have a smaller province to rule, would no longer have to serve in his military capacity, and would therefore not incur some of the burdens of his predecessors.\textsuperscript{68} This was, however, far from being the case. In addition to losing a significant source of income, namely the spoils from campaigns and from extortions through the soldiery, the governor was now burdened with a number of seemingly unprofitable tasks.\textsuperscript{69}

In the Principate, jurisdiction and finance at the provincial level were separated into two distinct offices. A proconsul or legate supervised the courts, while a procurator or quaestor managed the finances of the province.\textsuperscript{70} Under Diocletian, these two offices

\begin{itemize}
\item \textsuperscript{66} Slootjes, Danielle. \textit{The Governor and his Subjects in the Late Roman Empire}. Leiden: Brill, 2006: pg. 22.
\item \textsuperscript{67} Slootjes (2006), 18.
\item \textsuperscript{68} Jones (1964), 42-52. For the duties of the provincial governor during the Principate, cf. Strabo \textit{Geography} 3.4.20, Tacitus \textit{Agricola passim}.
\item \textsuperscript{69} Tacitus \textit{Agricola} 30-32, the speech of Calgacus, illustrates the wealth expected to be gained from campaigning. Cf. also Badian, E. \textit{Roman Imperialism in the Late Republic}, 2\textsuperscript{nd} ed. (Ithaca: Cornell University Press, 1968), 87. ‘No administration in history has ever devoted itself so whole-heartedly to fleecing its subjects for the private benefit of its ruling class as Rome in the last age of the Republic.’
\item \textsuperscript{70} Jones (1964), 44. Cf. Strabo \textit{Geography} 3.4.20.
\end{itemize}
merged to form the civil provincial governor. This was not without some hardship. Managing the provincial finances had become quite complicated and time-consuming since the state began exacting its taxes in kind or in gold at commuted rates more often and on a more rigid schedule. Nevertheless, Diocletian expected his governors to hear every case in their provinces in person, or at least to make a ruling once the facts of each case were determined by lesser judges. As many of our sources reveal, this was a heavy burden on the governors.

Additionally, as in the Principate, the governor was responsible for a number of administrative and supervisory duties. Repairing roads, organizing the public post system, whose use and abuse had risen sharply under Diocletian’s new tax scheme, and supervising the town councils all fell to the governors. Because of the growing hardships that the curial class was now experiencing, this last responsibility became increasingly important during the Later Roman Empire. Inflation had ruined the ‘long-term mortgages and fixed rent charges on land’ which provided much of the

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73 Cf. Amm. 30.4.13 for governors tied up in the courts by many cases, while distracted by cares and concerns related to the other responsibilities of rule. CTh 1.29.2 (365) and CTh 2.1.8 (395) attempted to bar ‘small claims’ from the jurisdiction of the governors and to send them instead to lesser judges appointed by governors and other officials. Lib. Or. 1.65 and Or. 45.18 give examples of the small disputes of Libanius and of others who the governor either refuses or is reluctant to hear because of his caseload.
74 Jones (1964), 46.
75 It should be pointed out that the curial class had, since the time of Trajan, been slowly weighted down with more and more onerous burdens. Cf. Lewis & Reinhold (1990) Vol. II pg. 404-408.
endowment for city governments.\textsuperscript{76} Constantine’s later appropriation from city treasuries to the imperial fisc of vectigalia and of other local dues further imperiled the local curias, as it substantially depleted their revenue sources.\textsuperscript{77} In order to compensate for whatever deficits occurred from local expenditure, decurions had to pay from their own pockets.\textsuperscript{78} The flight from the curial class which resulted from these financial difficulties was a serious dilemma, and one which governors had to prevent. In addition, the governor was also held responsible for public building, for securing law and order, and for providing entertainment.\textsuperscript{79} In general, we may say that the governor was tasked with most of the day-to-day operations of his entire province.

The governors did have substantial support in completing these difficult tasks, however, from their provincial office staffs. In both the Republic and the Principate, governors setting out to their provinces were, with some restrictions, able to choose the staff with which they would work.\textsuperscript{80} Late antique governors had no such liberty. Their office staffs instead consisted of permanent officials, in theory originating from outside the province, who were in charge of the most important duties of administration and

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\textsuperscript{76} Jones (1964), 28-29.  
\textsuperscript{77} Jones (1964), 1088, n.73 explains the evidence for Constantine as the agent of this appropriation.  
\textsuperscript{78} Jones (1964), 110.  
\textsuperscript{79} Building: Lib. Or. 50 passim. Law and order: Lib. Or. 33.36 for local watch committee serving orders of the governor, CTh 11.30.15 shows the use of the governor’s soldiery as keeping the peace, Lib. Or. 45.7 shows governor issuing warrants for arrest and Or. 45 passim for imprisonment. Entertainment: Lib. Or. 33.8 shows governor personally overseeing preparations for theatre and shows.  
\end{flushleft}
supervision. 81 These bureaucrats were responsible for overseeing critical aspects of the judicial process (including issuing forms, drafting writs, and ensuring proper court procedure), for carrying out verdicts, for supervising public records and correspondence, and for helping to organize much of the finances of the province. 82 Many of the realities of governance were under their control, and the governor was often only as effective as his office staff allowed him to be. 83 Their power was thus considerable.

In performing all these duties, a significant number of governors in the Late Empire, like many of those before them, did not abide by the rules of conduct proscribed from above. Nor, it appears, did their office staffs. There are dozens of extant complaints from provincials and emperors alike against judges and their assistants (cohortales), and nowhere is this more evident than in the various imperial edicts dealing with provincial government. Of course, these laws reveal more than just the difficulties of moderating abuse in Diocletian’s system. As Harries and Ando convincingly argue, these edicts also reveal attempts on the part of many emperors to portray themselves as ‘just rulers’, acting vigilantly on behalf of their citizens, and thus as legitimate sovereigns of a universal consensus. 84 In looking at the edicts as historical

82 Jones (1964), 586-596.
84 Ando, Clifford. Imperial Ideology and Provincial Loyalty in the Roman Empire (Berkeley: University of California Press, 2000), 131f describes the attempts (conscious or unconscious) of emperors to legitimate their rule as one over citizens voluntarily submitting to the emperor. Harries (1999), 57-58 stands in agreement with this, and adds the need for emperors to appear as harsh in taking their officials to task, though benevolent in ruling their citizens.
sources, however, we should not discount our ability to identify through them aspects of contemporary life. Though modern scholars are right to be wary of making generalizations based on the edicts alone, the laws are nevertheless critical in reconstructing the realities of late antiquity. Beginning with Constantine, we can trace through them the many attempts of emperors to curb corruption and, to some extent, the varying degrees to which they were effective.

From the edicts, we can begin to see a pattern of official exploitation in the provinces for personal gain during the reign of Constantine. In 315, the emperor warned the members of provincial office staffs against charging fees for processing cases. A few years later, Constantine issued another edict attempting both to strengthen his oversight of the courts through his prefects, and once again to end the practice of fee-charging. In addition, the emperor ordered the records of every case ruled on by the governor to be sent by the office staff to the prefect so that the prefect could guarantee the validity of each verdict. The governor in turn was to hear the cases of provincials against his office staff for bribery and negligence. The potential conflict of interest apparently escaped the emperor. Each party was used as a check against the other, yet the possibility of collaboration, which proved a serious reality, received no attention.

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86 CTh 11.30.4 (315 CE)
87 CTh 1.16.3 (318)
In 331, Constantine issued a series of edicts further denouncing the state of affairs of provincial justice. The first ordered the ending of closed trials in which ‘litigants cannot impetrate an opportunity to appear before the judges without a price.’\(^88\) The second was far more emotive. This edict, delivered directly to the provincials, utterly condemns the avarice and venality of the governor and his staff. The language of this edict, full of wrath and zeal, deserves repeating:

The rapacious hands of the apparitors shall immediately cease... the chamber curtain of the judge shall not be venal; entrance should not be gained by purchase, the private council chamber shall not be infamous on account of the bids. The appearance of the governor shall not be at a price...there shall be no despoiling on the occasion of escorting persons inside by the one who is called chief of the office staff. The assistants of the aforesaid chiefs of office staff shall employ no extortion on litigants; the intolerable onslaught of the centurions and other apparitors who demand small and great sums shall be crushed, and the unsated greed of those who deliver the records of a case to litigants shall be restrained. Always, the diligence of the governor shall guard lest anything be taken from a litigant by the aforesaid classes of men. If they should suppose that anything ought to be demanded by them from those involved in civil cases, armed punishment will be at hand... Opportunity shall be granted to all persons who have suffered extortion to provide for an investigation by the governors. If the governors should dissemble, we hereby open to all persons the right to express complaints about such conduct before the counts of the provinces or before the praetorian prefects...\(^89\)

\(^88\) *CTh* 1.16.6 (331)
\(^89\) *CTh* 1.16.7 (331) tr. here Pharr: ‘Imp. Constantinus a. ad provinciales. Cessent iam nunc rapaces officialium manus, cessent inquam: nam si moniti non cessaverint, gladiis praecidentur. non sit venale iudicis velum, non ingressus redempti\(^89\), non infame licitationibus secretarium, non visio ipsa praesidis cum pretio: aeque aures iudicantis pauperrimis ac divitibus reserentur. absit ab inducendo eius, qui officii princeps dicitur, depredatio. nullas literatoribus adiutores eorundem officii principum concussiones adhibeant; centurionum aliorumque officialium, parva magnaque poscentium, intolerandi impetus oblidantur, eorumque, qui iurgantibus acta restituunt, inexpleta aviditas temperetur. semper invigilat industria praesidalis, ne quicquam a praedictis generibus hominum de litigatore sumatur. qui si de civilibus causis quicquam putaverint esse poscendum, aderit armata censura, quae nefariorum capita cervicesque detruncet, data copia universis, qui concussi fuerint, ut praesidum instruant notionem. qui si dissimulaverint, super eodem conquerendi vocem omnibus aperimus apud comites cunctos provinciarum aut apud praefectum praetorio, si magis fuerit in vicino, ut his referentibus edocti, super talibus latrocinis supplicia proferamus.’

28
The decree overwhelmingly condemns all parties involved, and especially the office staffs. Oblique or generalized moralizing has been cast aside. Constantine instead explicitly identifies specific instances of fee-charging, such as the fees demanded by those who deliver the records, in contrast to his previous censuring of undefined ‘corruption’ or ‘extortion’. Additionally, the emperor condemns these fees along with any other forced payments of which he was unaware, and is thus unequivocal in condemning all but a gratis judicial process. Further, in this edict we can also see the potential for collaboration between governor and office staff. In general, the force of the edict betrays both Constantine’s attempt at appearing as the protector of justice for his subjects, as well as the extent of his difficulty in actually filling that role. Had he delivered so intense and specific an edict when the problem first arose in 315, we might believe his anger to be an attempt at addressing the issue forcefully before it took root. As this decree is just another in a series, and as each edict in this series grows sharper in its tone, it appears instead that in course of time he had reached a point of great frustration.

Following Constantine, the reign of Constantius II saw continued objections to the venality both of the judge’s chamber and of the governor’s staff. A decree of the

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90 Charging for the delivery of records might have been a particularly vexing concern for Constantine because of his attempts to streamline the public post system, which should have borne any costs for such delivery. *CTh* 8.5.3 (326) deals with excessive use of the public post system by governors, but indicates that governors had the right to give out warrants to handle official business. The delivery of records should qualify for this, and this is further illustrated by a later edict of Julian (*CTh* 8.5.12 (362)) which acknowledges a historic use of the post system by the apparitors of the governors.
emperor denounces the staff for charging fees to appellants and for denying appeals without payment.\textsuperscript{91} It appears that the office staffs had continued in their previous schemes.\textsuperscript{92} This is perhaps unsurprising, considering the significant institutional problems inherent in the provincial officium in this period. By a law of Constantine from 331, we know that membership in a provincial office staff was hereditary and compulsory.\textsuperscript{93} Additionally, the pay was exceedingly low, perhaps even barely enough to feed an adult for a year in some provinces.\textsuperscript{94} From the threats of violence in Constantine’s decree, it also appears that the members of the office staff were meant to be subservient to the governors. Despite all this, the members of the officium emerge time and again in edicts and other sources as independent agents, squeezing provincials and extorting fees. We can posit more than just greed for their misuse of office. Like the governors, the office staff members found themselves in a difficult situation. As they were forced to work for low pay, and since they had to remain in their positions for many years, they apparently made up for the shortcomings of their wages through fees.\textsuperscript{95} These judicial fees, as the edicts of Constantine and Constantius II reveal, were

\textsuperscript{91} CTh 11.30.22 (342)
\textsuperscript{92} Cf. CTh 8.10.2 (344) for condemnation of illegal fees extorted by apparitors and advocates.
\textsuperscript{93} CTh 7.22.3 (331)
\textsuperscript{94} Jones (1964), 594 cites: Just. Nov. 24.1, 25.1, 26.2, 27, 28.3-4, 29.2, C/1.27.1.40. In the provinces of Helenopontus and Paphlagonia, the average salary was 4.5 solidi per office staff member. This is little more than the calculated price of feeding a man for one year (cf. Jones (1964) 497). While these are late figures, there is little reason to suggest that wages had gone down, instead of up, from the fourth and fifth centuries.
\textsuperscript{95} Slootjes (2006), 28: members of the office staff were permanently employed in the provinces for a significant length of time, though again, by law not in the place of their birth (though this was apparently often ignored).
neither legal nor uncommon. Nevertheless, their exaction would remain necessary for supplementing what was in reality a relatively low salary.

Additionally, in returning to Constantine’s demand that provincial office staffs submit all their court cases to the appropriate prefect, we are left with another dilemma. If a provincial governor from the Principate and his staff struggled to handle the workload from a single large province, how could a prefect and his staff handle overseeing every edict from a number of provinces along with the rest of their onerous burdens? Clearly, the size of the prefect’s staff would have needed to be quite large. Some scholars suggest 2000 to be an accurate number.96 Judging from the African prefecture under Justinian, which would have received a salary higher than those in earlier centuries owing to the emperor’s attempts to raise wages to curb corruption, the prefectural office staff would also have been generally underpaid.97 Yet two laws, one from 369 and one from 412, show cohortales fleeing from their provincial offices in great numbers to join the prefect’s staff.98 Aside from the relative few who reached the office of secretary, these cohortales would have received no change of status, and therefore were generally still required upon retirement to fulfill their expensive and

96 Slootjes (2006), 29: She posits an average of around 100 members of an office staff for governors, 300 for vicars, and more than 2000 for prefects. This is based on Jones (1964), 592-99, MacMullen (1988), 79-80.
97 Jones (1964), 590-591, citing CJ 1.27.1.22-39 (539 CE)
98 CTh 8.4.23 (412)
compulsory public duties.\textsuperscript{99} Having thus ruled out a flight from the obligations of their social position, we may instead infer a monetary incentive for this transfer. As with the governor’s staff, however, there appears no other way for this incentive to exist aside from the illicit fees which they would charge. It appears that even at the level of the prefect, where there were thousands of members in the \textit{officium}, corruption was not only rampant, but even circumstantially encouraged. Again, we find the system of the Dominate countenancing corruption.

In examining an actual schedule of judicial fees which survived in Numidia from the reign of Julian, we can see how onerous these charges might have been for the poor.\textsuperscript{100} Though the figures may not seem extreme compared with the vast wealth of some provincials, for many the outlay of seeking justice would permanently price them out of court. In fact, by this schedule, the fees alone to bring a charge against a defendant living within a few miles of a city were equivalent to nearly four times the average man’s rations for a year.\textsuperscript{101} This is not to say, of course, that access to the governor by the poor was any easier during the Principate. What it does say, however, is that access to the judge was often a corrupt business. It must be remembered that this price list was posted in public, in full view of the provincials, and this despite the clearly

\textsuperscript{99} \textit{CTh} 8.7.4 (354), 87.
\textsuperscript{100} All figures from \textit{FIRA} 2\textsuperscript{nd} edn. 1.64 = \textit{CIL} 8.suppl. 17896.
\textsuperscript{101} The schedule is fairly confusing, but Kelly (2004) 139-140 clarifies it with great success. He calculates 121 \textit{modii} to bring a charge, and 59 \textit{modii} to defend against an accusation. At 30 \textit{modii} to the solidus, and considering 30 \textit{modii} was a man’s annual rations, and that the average member of the office staff made less than 5 solidi a year in some provinces, these fees are significant all around.
illegal nature of every request outlined in the inscription.\textsuperscript{102} Considering Constantine’s public edict against the charging of fees for judicial access, and the harsh penalties for the office staff which he proscribed, it is little wonder that our sources look at many aspects of provincial government in this period as corrupt.\textsuperscript{103} The governor, the apparent check on the office staff, was allowing such behavior in full view of the public, and the prefects had apparently done little (or been unable) to stop it.

By 373, it appears the emperors (here Valentinian, Valens, and a young Gratian) were still fighting against the tide of rising fees. Though they attempted to safeguard their subjects by spreading to every province the office of the defensor in 368, the emperors acknowledged the dismal state of affairs in the empire when they pushed for the increased vigilance of the defensores in this decree:

[Through the defensores, the provincials] shall not be exhausted by the fraudulent practices of court trials and be harassed even when they demand satisfaction, while they either provide for a very avaricious advocate or win over the chief of the office staff with very large bribes (fees), as he blocks the threshold, while the records of the case

\textsuperscript{102} These fees violate the edict from 1.16.7, as they are the ‘small and great sums’ demanded by the members of the office staff ‘parva magnaque poscentium’. That they were also illegal after this fee schedule had been put up can be seen by examining CTh 1.29.5 (370 CE), which identify these fees as ‘forensis iurgii fraudibus’, ‘the frauds of a court trial’. The purchasing of records from the secretary (the exceptor), for instance, at the cost of 5 modii in the fee list, is one example of these ‘fraudulent practices’ that Valentinian forbids, yet one that is also present in the list. Cf. n. 88 - 91 for the illegality of fees for delivering the records for which this list also has charges, and other illegal fees.

\textsuperscript{103} Cf. CTh 1.16.7, which demands that ‘...the unsated greed of those who deliver the records of a case to litigants be restrained...’ and most importantly: ‘semper invigilat industria praesidalis, ne quicquam a praedictis generibus hominum de litigatore sumatur’, ‘let the diligence of the praeses (governor) always be alert, lest anything be obtained/taken by the ranks of men previously mentioned (the members of the office staff).’
are purchased from the secretaries, and while in the name of a fee, the enforcement officer demands more from the winner of the suit than the loser will pay.\textsuperscript{104}

In this edict of 373, we see the emperors deliberately expanding the position of the \textit{defensor} in order to provide a check against the same fees excoriated by the edicts of Constantine and present in the fee-list from Numidia.\textsuperscript{105} Ultimately, however, success was to prove elusive for the emperors. By the mid-fifth century, it appears that the prolonged struggle of the emperors to curb the exaction of judicial fees had failed.\textsuperscript{106} In edicts from that period, the emperors catalogue the reduced fees which certain privileged classes would have to pay for their cases to be heard.\textsuperscript{107} With these laws, the official line of the emperor had at last caught up with reality. Throughout the empire, the low salaries of the members of the office staffs, among other factors, had led to the supplementing of their income through illicit fees. The codification of these fees stands as a grim testament to the scale of this abuse.

\textsuperscript{104} Defensores – \textit{CTh} 1.29.1 (368). Quoted edict – \textit{CTh} 1.29.5 (373): Utilii ratione prospectum est, ut innocens et quieta rusticitas peculiaris patrocinii beneficio fruat, ne forensis iurigii fraudibus fatigata, etiam cum ulationem posceret, vexaretur; dum aut avarior instruitur advocatus aut obsessor liminis maioribus princeps praemii exoratur, dum acta ab exceptoribus distrahuntur, dum commodi nomine amplius ab eo qui vicerit intercessor exposcit quam redditurus est ille qui fuerit superatus. Hoc fieri dignitas non patitur senatoris, sed exortas contentiones cita definitione compescet; nam erepta perperam amota dilatatione restituit ordin....Sine dubio rectoris habeatur auctoritas, quae meliore in bonos condicione retinetur; nam ille patitur humani cruoris horrorem, hic innoxiam sibi vindicat potestatem.\textsuperscript{105} Cf. n. 88 - 89 above.

\textsuperscript{106} \textit{Contra} Jones (1964), 496-497, who believes that Valens had already allowed for the regulation of fees, using \textit{CTh} 1.29.5 above as evidence. Instead, the section of \textit{CTh} 1.29.5 that claims: ‘hoc fieri dignitas non patitur senatoris...’ reveals the disdain with which Valens sees these fees, as well as their continued illegality. Cf. attempts by Valens and Valentinian to extricate fees from other aspects of life: \textit{CTh} 8.11.1-2, 11.11.1. For emperors allowing fees in tax settings since Constantine however, cf. \textit{CTh} 8.4.6, .9, .27; 12.6.3; 10.1.11. This deserves more focus, but is, for now, beyond the limits of this essay.

\textsuperscript{107} \textit{CJ} 1.3.25.2 (456) for clergy. \textit{CJ} 12.25.4 (474) for castrensiani. \textit{CJ} 12.29.3 (474-491) for scholars.
Kelly’s argument for a ‘greasing the wheels’ approach to this late antique fee system seems reasonable in light of the few options available for low-level bureaucrats in maintaining their wages while allowing for efficiency.\textsuperscript{108} Kelly argues that relatively high fees eliminated a potentially large group of litigants from pursuing their cases, and thus allowed for a smoother system, considering contemporary technology and the small size of the office staff.\textsuperscript{109} This does not, of course, mean that these acts were legal and incorrupt. The judicial office staffs exploited their authority by extorting from provincials illegal fees for access to the judges. Nor is this arrangement necessarily as efficient as Kelly suggests. As one economist points out, ‘corrupt officials can often adjust both the quantity and quality of the services they provide and would have an incentive to supply the bribe maximizing quantity (or quality) rather than the efficient one.’\textsuperscript{110} A more sinister skepticism of institutionalized corruption as a fix for deficiencies in government doubts ‘the implicit assumption that the government failure that corruption is supposed to correct is exogenous and in itself unrelated to corruption.’ ‘In fact,’ the author continues, ‘[the government failure] may well be put in place and maintained by corrupt politicians precisely because of its corruption potential.’\textsuperscript{111} Later, while examining the realities of overseeing a territory on the scale of the Later Roman

\textsuperscript{108} Kelly (2004) 144-145: ‘The charging of fees for litigation acted as a significant barrier, preventing many from going to law in an attempt to pursue or resolve their disputes...A system of fees transferred transaction costs directly to the consumers of bureaucratic services. In turn, their ability to pay helped to regulate access to government.’


\textsuperscript{111} Ibid.
Empire, this possibility will be explored in further detail. As it stands, the system of fees in the court room, judging from the edicts of emperors from Constantine to Valentinian and beyond, was both common and illegal, and very much an example of wide-spread corruption in this period.

Ammianus reveals (through the near-conviction of the later emperor Julian at the hands of court officials) another significant source of judicial corruption: extortionate and slanderous accusation, along with bribery in general. Influential men at court would bring charges against provincials, and it ‘sometimes happened that rich men, knocking at the strongholds of the mighty, and clinging to them as ivy does to lofty trees, bought their acquittal at monstrous prices.’ 112 It appears that one of Constantius II’s praetorian prefects, Musonianus, though admittedly ‘gifted with many accomplishments,’ was responsible for just this sort of judicial misconduct. 113 Ammianus claims that Musonianus managed to acquit the men of substance accused of complicity in the death of the governor Theophilus by ‘stripping them of their property.’ 114 As Ammianus earlier claims that a mob of the lower class was responsible for Theophilus’s death, and as Libanius proposes a gang of tradesmen as the murderers, it is no far stretch to imagine that these were trumped up charges meant to extort money for

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112 Amm. 15.2.9
113 Quoted section is Amm. 15.13.2
114 Amm. 15.13.2. Cf. Lib. Or. 19.47 revealing Musonianus in charge of these trials. The description of Musonianus at Or. 1.107 shows Libanius as able to approach Musonianus in order to aid his friends in trials, and the glossing over of the death of Theophilus is a curious omission.
acquittals.\footnote{Amm. 14.7.5-6 indicates that these were men of the lowest classes ‘vulgi sordidioris audaciam.’ Lib. \textit{Or.} 19.47 proposes a gang of copper-smiths, who Liebeschuetz, J.H.W.G. \textit{Antioch} (Oxford Classical Press: Oxford, 1972), 58 suggests were from the nearby arms factory. Cf. Julian \textit{Misopogon} 370C, who also blames the populace (the ‘demos’) for this murder.} Ammianus blames Rufinus, the \textit{princeps officii} of another of Constantius II’s praetorian prefects, of the same sort of behavior.\footnote{Amm. 16.8.4-5.}

Similarly, Ammianus also proposes an increase in cases of slanderous \textit{petitio} during the reign of Constantius II. High officials were attempting to seize the property of others through charges of sedition, and played on Constantius II’s understandable fear of conspiracies.\footnote{Amm. 16.8.11: examples of those seized through claims of treason include: the Musonianus described above, the father of the future emperor Valentinian, and Valentinian himself. Also Ursicinus (in Amm. 15.2.1-6). From Libanius, we have \textit{Or.} 15.67 for rampant bribery under Constantius II, \textit{Or.} 18.85 for the praetorian prefect Florentius (= \textit{PLRE} 1, Florentius 10) as upset with Julian for condemning one of his cronies on charges of bribery, \textit{CTh} 10.10.7 (345) and 10.10.8 (353).} Two edicts of Constantius II from 345 and 353 lay out the protocol for these accusations, and lend credence to Ammianus’s complaint.\footnote{Cf. n. 115.} Altogether, though Ammianus and Libanius are hardly sympathetic sources for Constantius II, it is evident from the edicts, and from the historical figures the two authors put forward as victims and perpetrators, that their suggestions of a rise in slanderous \textit{petitio} and bribery bear weight.\footnote{Cf. n. 118.} Constantius II’s fear of plots, though fairly reasonable in light of his early reign, provided an environment which could facilitate judicial corruption and misconduct at the highest levels of provincial government.
Valens and Valentinian, however, seem to have exerted greater care in attempting to deter the spread of corruption in provincial courts. Their codification of the office of *defensor* as a universal position reveals a genuine concern with equity in justice.\(^{120}\) Valentinian methodically laid out the selection process for choosing *defensores*, and excluded certain classes of men who he believed acted against the interests of his subjects.\(^{121}\) His awareness of the realities of corruption in the provincial courts, as evidenced in the already quoted passage of one of his edicts against fees, is significant. Valentinian recognized a number of specific problems plaguing the courts, and attempted to redress these abuses. An anonymous work from the reign of Valentinian, written by an engineer and intended primarily to reveal the usefulness of his inventions to the emperor, begs Valentinian to curb judicial corruption in the provinces.\(^{122}\) He evidently felt that he would find a sympathetic ear in the court of Valentinian and Valens, and there is little evidence that he was mistaken.

There is good reason to suggest that the early life of Valentinian as a provincial and as a military man influenced these reforms. Valentinian was born into a humble

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\(^{120}\) *CTh* 1.29.1 (364).

\(^{121}\) *Ibid*. Valentinian excluded ex-officials of the praetorian prefects, of the vicars, and of the governors, along with decurions, who he especially felt were detrimental to the average citizen.

\(^{122}\) For the dating of the anonymous work *De rebus bellicis*, cf. Thompson, E.A. *A Roman Reformer and Inventor*. Oxford: Oxford University Press, 1952: Pg. 2. *De rebus bellicis* 4.1: ‘Now in addition to these injuries, wherewith the arts of avarice afflict the provinces, comes the appalling greed of the provincial governors, which is ruinous to the taxpayers’ interests. For these men, despising the respectable character of their office, think that they have been sent into the provinces as merchants, and are all the more burdensome in that injustice proceeds from the very persons from whom a remedy should have been expected.’
provincial family which suffered from property confiscations (through slanderous \textit{petitio}) during the reign of Constantius II.\footnote{Ammianus 30.7.2-3.} He served as a commander of cavalry in 357 under Julian during that Caesar’s attempts to reform taxation in Gaul, as well as during the subsequent rebuff of Julian’s efforts by the corrupt praetorian prefect Florentius.\footnote{As tribune: Amm. 16.2.6-7 (cf. Soz. 6.6.3-4). Argument between Julian and Florentius: Amm. 17.3.2-6.} It seems likely that Valentinian brought the memories of these experiences with him to the imperial court. We know from our sources that at the very onset of his reign, Valentinian, like Julian, attempted to lessen the taxes on provincials.\footnote{CTh 13.6.4 (365) removed notoriously extortionate decurions from collecting taxes on uniforms, and instead obligated \textit{honorati}, who he used as \textit{defensores}, as tax collectors instead. \textit{CTh} 8.5.23 (365) gives the same ruling for the administration of the \textit{cursus clavularis} or ‘wagon post’ (cf. Jones (1964), 146 and 1097 n.21. Cf. Amm. 30.9.1 Valentinian taking care to prevent extortionate collection.} Ammianus claims (with no doubt some embellishment) that, as an emperor, Valentinian was ‘most cautious in bestowing high official positions, as under his rule no money-changer governed a province [and] no office was ever sold.’\footnote{Amm. 16.11.7} Additionally, the author states that Valentinian’s brother (and co-emperor) Valens curbed the rise of \textit{petitio}, perhaps as a result of his own family’s misfortunes, by limiting the profits derived from such accusations.\footnote{Amm. 30.9.3} Edicts of the emperors Valentinian and Valens support such a
suggestion. However we wish to take it, during the reigns of Valentinian and Valens, there is a conspicuous decline in complaints against provincial maladministration in the edicts and in our sources. Though there are occasions for grievances, especially in Illyricum where the corrupt acts of the prefect Probus caused much hardship, in general there seems to be a period of increased accountability.

It is perhaps revealing of this relative accountability in provincial justice during the reigns of Valentinian and Valens that Zosimus gives such a negative picture of the empire following their deaths. Zosimus claims, though undoubtedly with some exaggeration, that ‘the cities were drained of money both by excessive taxes inflicted on them and by the greed of magistrates. Whoever did not pander to their insatiability found himself caught up in vexatious proceedings, and magistrates all but declared that they must recoup what they had paid for their office.’ The levying of new taxes in 387, which were serious enough to result in the Riot of the Statues at Antioch, substantiates the extent of the problem revealed by Zosimus. Though again we should be careful with using the edicts as historical sources, there is a sharp rise in the number of decrees against judicial bribery over the decade following the death of

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129 CTh 10.10.9-11.
130 For Probus’s misconduct, cf. Gibbon, Edward The Decline and Fall of the Roman Empire, v. 4, 329, who quotes Amm. 30.5.4-11 and Jer. Chron. s.a. 372: ‘Probus praefectus Illyrici iniquissimus tributorum exactionibus ante provincias quas regebat, quam a barbaris vastarentur, erasit.’
131 Zosimus 4.29.1 (379)
Valens. Some edicts threaten to disqualify judges convicted of bribery from receiving more honors or offices. Another edict mentions a specific name, a certain count Natalis, ‘so that the punishment of one person may cause fear in many.’ Additionally, the emperors in the late-fourth and early-fifth centuries revived the ancient *Lex Julia de repetundis*, and issued seven rescripts under its title in ten years. They were clearly concerned with judicial propriety, yet for a number of reasons it seems credible that under their rule corruption often ran unchecked.

In determining the source of this renewed corruption, we may again turn to Ammianus, who explains that ‘at the beginning of a reign... it is usual for some crimes to be committed with impunity through reliance on the distractions of a new ruler.’ For Gratian (the heir to Valens and Valentinian) and for the series of rulers following him, these distractions were more extensive than for most. Following the death of Valens in battle in 378, Gratian, aged 19, became sole ruler of the empire. In the midst of his succession, the empire was strained by an especially difficult and protracted war against the Goths. During this engagement, a civil war erupted in 383, and in that year Gratian was murdered by the usurper Maximus. Decades of civil strife followed, and the weak positions of the emperors did little to mitigate the problems of the times. Aside from

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133 Cf. *CTh* 1.5.9, 9.27.1-7, 9.35.6, 9.40.14-15.  
134 *CTh* 9.27.1, .2, .3, .5.  
135 *CTh* 9.27.3 (382)  
136 *CTh* 9.27.1-7  
137 Amm. 30.9.3  
138 Zos. 4.35
Theodosius I, made emperor by Gratian in 379 at the age of 22, the five other emperors of this period acceded to the throne at very young ages.\textsuperscript{139} Perhaps more problematically, they did so without first having earned the sort of loyalty of higher civil and military officials which strong governance required.

Nor did most of these emperors have an established partner who could absorb the responsibilities of administration and of oversight during their formative years. Arcadius, for instance, was 18 years old at the death of Theodosius I. He was left with the weak and vulnerable Valentinian II as co-regent (aged 24), who had been appointed emperor at the age of four and had been under the thumb of courtiers throughout his reign.\textsuperscript{140} Arcadius himself, as well as his brother Honorius, were both subsequently influenced to a substantial degree by their own advisers during the early parts of their reigns.\textsuperscript{141} Further, the upheaval caused by a number of wars and usurpations during the late-fourth and early-fifth centuries left these emperors vulnerable and preoccupied with maintaining their positions, rather than overseeing justice in their empire.\textsuperscript{142}

\textsuperscript{139} Valentinian II was 4, Arcadius 17, Theodosius II 7, Honorius 10, and Valentinian III 6. Jones (1964), 158-170.

\textsuperscript{140} For the weakness of Valentinian II’s position, cf. Zos. 4.53.4-4.54.4, Oros. 7.35.10-11, Soz. 7.22, Aur. Vict. Epit. 48.7.

\textsuperscript{141} Zosimus 5.1.1 reveals Rufinus in control in the East and Stilicho in the West, and Z’s statements are backed by Eunapius fr. 62 (Blockley). Zosimus 5.10.4 claims Eutropius was in charge at court in the late 390’s. Zosimus 4.51.1-3 reveals Rufinus with control over the dismissal of personal enemies from the court of Theodosius I. CTh 11.23.3 (396), 11.1.30 (399), 12.6.26 (399) reveal the emperors consistently having to denounce grants, rescripts and tax changes impetrated by less than legitimate means under the influence of these advisers.

\textsuperscript{142} Zosimus 5.11 – 6.13 gives a long narrative describing the numerous usurpations, rebellions, erosions of the empire, and wars fought during the late-fourth and early-fifth centuries. It also describes the waves of
Eunapius, Zosimus, and others, their testimonies supported by edicts found in
the Theodosian Code, show the license with which many powerful men like Eutropius,
Rufinus, and Stilicho exploited these affairs during the end of the fourth century and the
beginning of the fifth. 143 Because these powerful stewards had control over
appointments to the governorships, and because of their propensity towards
commoditizing their power, we can expect that many magistrates in this period bought
their offices. Many of our sources confirm this explicitly. 144 Similarly, these advisers,
preoccupied with consolidating their power and protecting their position, provided
fewer checks to the sorts of abuses of provincial justice about which our sources
consistently complain, and which we have shown can result from the system of buying
offices. 145 Without supervision, it is reasonable to assume that the license of the
governors increased, along with their tendency towards corruption. While this may at
first seem reductive, it is hardly a stretch to posit that the emperors, having acceded to
their thrones at a young age, and some even in their infancy, would have had a difficult
time providing the oversight which Diocletian’s system required. The prefects and other

executions and the replacing of governors and other high officials appointed by successive influential
courtiers, who were themselves dismissed or executed.
143 Cf. n. 140. For profiles on these men, cf. the PLRE vol. I-II entries for Eutropius (= PLRE 2, Eutropius 1),
Rufinus (= PLRE 1, Rufinus 18), Stilicho (= PLRE 1, Stilicho), Arbogastes (= PLRE 1, Arbogastes), and others. They
reveal the careers of these unscrupulous and self-serving men and the degree to which they profited
from corruption in the provinces and elsewhere.
144 Eutropius is guilty of this under Arcadius according to: Zos. 5.10.4, 5.12.1-2; Eun. fr. 67, 69, 71
(Blockley). Rufinus also guilty of this under Theodosius and Arcadius from: Zos. 5.1; Eun. fr. 63 (Blockley);
Oros. 8.37.1. Stilicho said to be guilty under Honorius of this by: Eun. fr. 62 (Blockley); Zos. 5.1.1-3.
145 For examples of a lack of oversight (achieved consciously or unconsciously), cf. Zos. 4.27.1-4, 5.1.1,
5.10.4; Lib. Or. 33.2; Eun. fr. 72.1 (Blockley); Priscus fr. 3.2 (Blockley); Synesius Ep. 72, Ep. 127; Salvian
OTGOG 6.13, 7.21.
top magistrates, vilified by literary sources and by emperors alike, took advantage of their positions and grew rich from the system of suffragium and from their strong influence over the emperors of this period. The governors who bought these positions in turn often recouped their investments by corrupt means. The system once again reveals itself as liable to abuse.

Before continuing on to the other common types of corruption found during the fourth and fifth centuries, however, it will be useful to explore further the problems involved in supervising those in charge of provincial administration. By examining the dynamics of power in the Late Empire, we can strengthen our understanding of how and why corruption would have existed during this period of upheaval in the late-fourth and early-fifth centuries in particular, and our entire period in general. Through a review of the role of the emperor in the lives of his subjects following Diocletian’s changes, we can see more clearly some of the deficiencies of Diocletian’s system in curbing corruption.
Chapter 5: Problems with Oversight

In explaining the nature and longevity of Roman imperial power, Ando’s model is compelling. For Ando, ‘the long term maintenance of the system [depended] on the intersubjective recognition of the normative validity claim of the order and its agent.’\footnote{Ando (2000), 78.} In other words, subjects of the empire recognized as rational the claims of Roman magistrates over them because they, as subjects, had voluntarily wrapped up their identities in the Roman system and internalized its ideology. Violence was surprisingly absent from this relationship, because coercive force was unnecessary while consensus was ubiquitous, whether in belief or in reality.\footnote{Ando (2000), 131: “The reality [of consensus] need not concern us here; in so large an empire, in which communication was so difficult, our interest must be in people’s belief in that unanimity.”} This consensus was effected primarily by the written word, whether through rescripts, records, or census returns, and by the subsequent publication and dissemination of these mediums from center to periphery and back again.\footnote{Ando (2000), 79, 131.} The magistrates of the empire too served as representatives of the central power, and emperors repeatedly broadcasted that they were the ‘ultimate arbiter[s] over the rulings of [their] subordinates.’\footnote{Ando (2000), 363.} The emperors thereby authorized their magistrates to rule by reflecting their own imperial power onto them. These

\begin{footnotesize}
\footnote{Ando (2000), 78.}
\footnote{Ando (2000), 131: “The reality [of consensus] need not concern us here; in so large an empire, in which communication was so difficult, our interest must be in people’s belief in that unanimity.”}
\footnote{Ando (2000), 79, 131.}
\footnote{Ando (2000), 363.}
\end{footnotesize}
subordinates in turn reflected back onto the emperor: ‘bad subordinates reflect badly upon the glory of their patron.’\textsuperscript{150}

Thus the emperor, though distanced physically from his subjects, was nevertheless ever-present in their activities. His representatives brought him into every facet of provincial life, and though his edicts and letters were crucial signifiers of his power, these magistrates too were the embodiment of his persona. Synesius, though with great sarcasm, does much to reinforce this concept in one of his letters:

‘Such are our celebrations, seasonable and of old tradition, the good things of the poor; but as to the emperor, as to the favorites of the emperor, and fortune’s dance, which we hear about when we come together, all those mere names which, like flames, are shot up to a great height of glory, only to be extinguished; no one, or hardly anyone, speaks of them here. Our ears have rest from such stories. No doubt men know well that there is always an emperor living, for we are reminded of this every year by those who collect taxes; but who he is, is not very clear.’\textsuperscript{151}

There are, however, a few practical issues that could disrupt this system, particularly corruption.\textsuperscript{152} By examining some of the realities of governance in late antiquity, we can understand better how corruption could infect this system, as well as the potential consequences of its spread.

To some degree, there was, as always, a great distance between provincials and the emperor.\textsuperscript{153} As the office of the emperor was a personal one, affairs concerning matters of state depended heavily on the nature of the man on the throne. From

\begin{footnotes}
\item[\textsuperscript{150}] Ando (2000), 373.
\item[\textsuperscript{151}] Synesius Ep. 148.
\item[\textsuperscript{152}] Ando (2000), 362.
\item[\textsuperscript{153}] Ando (2000), 372.
\end{footnotes}
Ammianus, for instance, we hear that Constantius II was heavily influenced by his officials at court and by his eunuchs, and that he ‘never investigated a [tax] dispute, nor had regard for the welfare of the provinces, although they were oppressed by a multiplicity of taxes and tributes.’ We should, of course, be skeptical of any absolute statements. Nevertheless, there is evidence for Constantius II’s remoteness regarding taxation. Ammianus claims that when Julian contested a tax proposal of the praetorian prefect Florentius, the response from the emperor was for Julian ‘not to act so meticulously as to seem to discredit the man.’ As we have already discussed, considering Constantius II’s fragile political situation, it seems likely that his aloofness was a matter of simple pragmatism. The emperor needed to appease his officials to retain their loyalty, and to counter the constant threats facing him from both internal and external foes. Despite his own edicts condemning the very practices about which Julian complained, Constantius II gave his prefect extended license, likely because of the pressing need for his loyalty. Thus do we see the political necessities of imperial rule resulting in the distancing of the emperor from his subjects, and with him, a potent oversight of corruption.

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154 Amm. 21.16.17.
155 Amm. 17.3.5
156 Julian, as a potential claimant to the throne, stood as one of these threats. During Constantius II’s reign, as with his father’s, there was a great deal of civil strife. His brother Constantine attacked another brother Constans, and was killed. Constans himself was overthrown by a palace revolution led by Marcellinus, a comes rei privatae. A number of usurpers arose from among the military ranks, and not until 353 CE, after 13 years of civil war, did Constantius II finally consolidate his reign. Cf. Jones (1964) 112 who cites extensively from Zosimus 2.40-52 and Eutropius 10.9-12.
157 Edicts of Constantius against over-taxation and the embezzling of taxes: CTh 11.1.7 (347 CE), 11.16.7 (356), 11.16.8 (356), 8.4.7 (358), 14.4.3 (363).
Nor was Constantius II alone in this struggle between political exigencies and ideological concerns. Complaints of a distant emperor are found in a number of our sources, bolstered by edicts from the emperors themselves which reveal both imperial attempts at securing provincial justice and the need to delegate responsibilities away from the imperial court.\(^{158}\) The famous edict of Constantine discussed earlier addressed the provincials directly and raged against ‘the rapacious hands of the apparitors’ and the venality of the provincial governor in his role as judge.\(^{159}\) In another edict, he encourages the provincials to publish decrees condemning governors who violate the laws against judicial misconduct, and to approach the counts and prefects to make their complaints.\(^{160}\) These edicts reveal an emperor ostensibly concerned for the well-being of his subjects, and one attempting to appear accessible. Yet the force of the latter proclamation reveals the grave mistake of an earlier edict of Constantine’s, which had ordered the provincials to hand over to their governor for approval all decrees which they wished conveyed to the emperor.\(^{161}\) The conflict of interest in forcing provincials to submit their petitions to the governor, even those which might condemn that official, is obvious. Yet the needs of the emperor to limit the volume of petitions reaching him forced him to circumvent his own role as a powerful check against corruption. In

\(^{158}\) For general complaints of a distant emperor: Amm. 28.6.9; Lib. Or. 45.1, 45.32, 48.12, 49.7. Synesius Ep. 127, Ep. 133 (in which Synesius claims not to know the name of one of the consuls, namely the emperor Honorius); Salvian On the Government of God 6.13, 7.21.

\(^{159}\) CTh 1.16.7 (331 CE)

\(^{160}\) CTh 1.16.6 (331 CE)

\(^{161}\) CTh 1.16.2 (331 CE)
practice, edicts could bring the emperor closer to the everyday provincial. Some, however, would in fact distance him even further.

The emperor’s highest officials, as we have already seen, could also be successful in keeping the emperor distanced from his subjects.\textsuperscript{162} Libanius takes for granted that what seems to be a very controversial letter written to Modestus, the \textit{comes Orientis}, would not be seen as seditious by that official. In the letter, Libanius asks Modestus to ignore a direct imperial command to collect from the Alexandrians an indemnity of a great amount of gold as punishment for their uprising.\textsuperscript{163} It is hardly astonishing, therefore, when another author, Ammianus, later condemns this same Modestus as a main source of bribery at the court of Valens. Modestus, while praetorian prefect, convinced the emperor to abstain from hearing cases, letting appeals go instead directly to him. He subsequently profited from his increased influence and venality.\textsuperscript{164} Trusting close advisers and high-ranking officials, though a necessary part of ruling so large an empire, could present an impediment to the emperor’s attempts to ward off corruption.

The well-known misconduct of the commander Romanus in Africa further sheds light not only on the problem of well-connected men at the imperial court distancing the emperor from his subjects, but also on the length of time it could take for justice to

\textsuperscript{162} In addition to the examples here and of Florentius above, cf. n. 138 - 142, which gives sources for other officials responsible for this problem.

\textsuperscript{163} Lib. \textit{Ep.} 70.2. The wording of this letter shows a certain slyness in Libanius’s phrasing, as well as an understanding that Modestus had an unchallenged ability to ignore a direct request from the emperor.

\textsuperscript{164} Amm. 30.4.2.
find its way from one corner of the empire to another. The initial crimes of Romanus occurred in 363, reached the ears of Valentinian in 364, but, because of a number of acts of bribery and extortion of court officials, continued and were not resolved until 376. By that point, a governor had been executed, along with a number of provincial envoys to the emperor, all on suspicions of slander. One can imagine the precedent this would set for others attempting to report their own governor of misconduct.

Finally, the town councils themselves, though often quick to complain about their dwindling influence and spiraling numbers, were capable of hiding misconduct from the emperor. A transformation was occurring at the local level in which the system of influence and prestige among the broader curial class was slowly eroding, while the power of former imperial officials, chief decurions (principales), religious figures, and the military was on the rise. Libanius, in his orations to Theodosius and before the curia, decries the system of collaboration wherein weaker decurions covered up the wrongdoings of local curial potentates either to appease their more powerful

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165 Amm. 28.6.5 – 28.6.27. Zosimus 4.16.3 reveals the ‘avarice of the commander in Mauretania (the comes Romanus)’ as responsible for the uprising of Firmus. CTh 8.7.13, addressed to Romanus as the comes Africae shows Romanus in this role in 372.

166 Evidence of this is extensive, and I would like to elaborate more on this subject and its relation to the rise of corruption in a future paper. For some contemporaneous recognition of this transformation, cf.: Julian Misopogon 367 for decurions expediting the process by their own actions (and inaction), the edicts of Valentinian creating the defensores (CTh 1.29.1, 1.29.3, 12.6.9) and ruling out decurions from this group, many orations of Libanius decrying his loss of influence and the loss of influence in the curia of all but the principales (Lib. Or. 2.26-28, 2.35, 2.58, 48.16, 48.37, 49.2), etc.
colleagues, or to avoid reprisals from them.\(^\text{167}\) Certain crimes were never spoken of, and no magistrate ever discovered them. As a result, the emperor was even more in the dark about local misconduct.

All of this is meant to suggest that even with Diocletian’s reorganization of government, designed as it was to tighten the hierarchical chain between provincial and emperor, substantial gaps of information were possible, and even common, from bottom to top. The realities of governing so large an empire, in terms of its physical size, of its numbers of subjects, and of its institutional complexity, made oversight by the emperor increasingly difficult. Dynastic insecurities, abuses of power in the emperor’s inner circle, and the physical distance between provincials and their sovereign hindered the emperor in his role as the most effective defender against corruption. As Ando phrases it, ‘all the rules and regulations in the empire availed naught if the imperial officials administering those rules were corrupt.’\(^\text{168}\) The same can be said for the ability of the emperor to assuage the needs of his subjects. When the emperor is unable to receive complaints, is unable to answer them for fear of alienating his advisers, and is unable to solve these problems from want of information, there is a

\(^{167}\) Cf. Lib. Or. 45.1: ‘However, although the officials have been at fault in this matter, no one informs you of these malpractices by them, whether done in ignorance or deliberately veiled in silence.’ Also, appeasement: Lib. Or. 48.12 ‘And what did you [the council] do about [a man who had embezzled funds to purchase a governorship]? You made peace with the rascal who had taken such a jump from the city council to the magistrate’s chair! Neither the emperor, nor the prefect, nor any other magistrate heard a single word about it.’ Also, Or. 49.4, 49.7.

\(^{168}\) Ando (2000), 362.
substantial breach in the system which Ando presented. Again, corruption reveals itself as a potent force in configuring the late antique landscape.
Chapter 6: Further Opportunities for Corruption

Compounding the problems of corruption in the provincial courts is the role played by local potentates in unduly influencing judicial decisions. From Libanius’ orations, we see the orator’s tacit recognition of the legitimacy of local men of influence helping their clients settle claims in court by private appeals to the governor. Libanius himself, as a well-connected decurion, admits to this practice during his own time as a powerful patron in Antioch. Yet from the reign of Constantine, edicts of the emperors reveal a sense that favoritism, intimidation, and criminal patronage were spoiling judgments in provincial courts. Libanius was the victim of such influence when a local rival and fellow notable of the curia attempted to slander the orator. The rival chose to have the case heard before a vicar, who had studied with the man in Athens. A chance

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169 Each of these sections is condensed for the sake of keeping this paper at an acceptable length. For now, most of the evidence will remain in the footnotes. Additionally, there are opportunities for corruption that will not be listed because of these same considerations. These will include: corruption involving the military and the provincial governor, the threat of violence against locals by the governor, and, most significantly, forms of corruption in taxation which would require a great deal of explaining. The exclusion of this last opportunity is lamentable because of its significance in the life of everyday provincials, and because of the great wealth of information we have from our sources.

170 Cf. Lib. Or. 1.106-109 for Libanius’s gloating over his influence with Musianus and their night meetings to discuss the cases of his clients (a practice later outlawed by Valens and Gratian in 377 (CTh 1.16.13)).

171 CTh 11.30.5 (316): ‘...no special request or anything involving favoritism in any matter must thereafter be heard by you [the praetorian prefect]...’ CTh 11.15.1 (325): ‘it is our pleasure to enjoin upon [the vicar] those cases only in which a more powerful person can oppress an inferior or lesser judge...’ CTh 1.16.4 (328): ‘If any very powerful and arrogant person should arise, and the governors of the provinces are not able to punish him or examine the case or to pronounce sentence...’
visit by the prefect, and the subsequent need of the vicar to halt the case and prepare for his superior’s arrival, was all that rescued Libanius from a likely condemnation.172

From this story, we can see that it was plausible even for an influential man to find himself at the mercy of undue influence. The weak and unconnected, as Libanius claims, were helpless against this sort of slander, and were often jailed and ruined at the behest of the powerful.173 The affair of the comes Africae Romanus detailed earlier further reveals the extent of this problem. Romanus, following his initial indictment on corruption charges in 363, managed through illicit influence that the investigation of his crimes would fall to Vincentius, a corruptible vicar of Africa, as well as to his own relative, who was at that time the magister officiorum.174 Vincentius apparently kept Romanus out of trouble, and shows up later as a military tribunus under the comes and as a partner in his crimes in 373.175 Corruption through undue influence was rewarded, and the emperor remained in the dark for over a decade as to any misdoings.

172 Lib. Or. 1.66-68. Cf. Lib. Or. 1.164 in which Libanius is able to escape another slanderous charge of treason following the death of Julian by luck and his own reputation. He was saved at the last minute by the dux Lupicinus, whose aid the conspirators had requested in convicting the orator. Lib. Or. 47.12 illustrates favoritism to patrons of peasants who were in rebellion against the owners of the land on which they worked. Or. 47.14 reveals the governor attempting to counter Libanius’s charges against these patrons by accusing Libanius himself on trumped up charges.

173 Lib. Or. 45.3

174 Amm. 28.6.8. The influence was illicit because the request was submitted by the magister officiorum himself, the relative of Romanus.

175 Amm. 29.5.6
Imperial edicts also appear which forbid the wealthy and powerful from mingling with governors and unduly influencing their judgments. At Antioch, Libanius complains that governors often idled their time at Daphne, where local notables resided and engaged in various sorts of lewd entertainment and common revelry. There is more than an implication of collaboration between these men and the governors in corrupt judicial practices at Antioch, and that their closeness at Daphne was no coincidence. Ammianus reveals a similar gathering of powerful men and officials at a feast prepared by a governor of Pannonia Secundum, where treasonous talk led to the executions of the men present. In addition to the governor, Ammianus names a member of the secret service as well as a military tribunus as participants in the feast. Though he does not name the other members of the group, he implies a certain familiarity with imperial affairs and politics among them that suggests a group of bureaucrats and officers. It seems unlikely, at any rate, that the men present would have belonged to the powerless classes of society. Constantius II certainly found the situation dangerous enough to have them all found and executed, while promoting the

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176 CTh 1.16.12 (369) ‘Each judge shall establish his court in those places in which the governor ought to be available to all; he shall not frequent delightful retreats. We add that if any person should receive the governor of a province on his own landholding, the farm which the aforesaid governor used as a lodging place on a journey shall be vindicated to the resources of the fisc.’ Cf. also CTh 1.16.9, 1.16.13 which bar private meetings with governors.

177 Lib. Or. 50.11 for the orgiastic festival at Daphne which certain Emperors had tried to do ban. Julian Misopagon 362d reveals that Emperor’s disapproval for the license at these festivals. Lib. Or. 45.7 for the wealthy living and vacationing in Daphne. Or. 45.23 for the governors associating with these powerful locals during their tenures as governors. Amm. 19.12.19 for Daphne as a charming suburb of Antioch.

178 Amm. 15.3.7-10.
man who had reported the affair to chief steward of the praetorian prefect. The influence which these men might wield upon one another was apparently substantial enough to indicate a threat to imperial security. It seems likely, then, that it was also substantial enough to influence judicial decisions.

Of course, there is no reason to believe that this type of corruption was unique to the Later Empire. Governors of any period would find it useful to become acquainted with local notables, as Peter Brown suggests, due not only to a common bond of class and status, but because of the benefits, illicit and legitimate, which one might accrue from collaboration. The jurist Ulpian warned that the governors of his time should always be on guard lest more influential men take advantage of the weaker classes. Yet he also recommends that governors send edicts before their arrival into the provinces revealing those locals with whom they were related or with whom they had a bond of friendship. Obviously, connections like these held the potential for illicit influence, and were apparently common enough that Ulpian felt them worthwhile to mention. Like this undue influence over the governor, and like bribery, many types of corruption from earlier periods continued into the Later Empire. Diocletian’s reorganization appears not to have curbed many of these older forms of abuse. By

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179 Amm. 16.8.3
180 Brown (1992) pg. 19-20, 24, 39, 56 reveal the benefits to governors of collaboration with, rather than antagonism to, local notables.
181 CJ 48.1.18.6
182 CJ 48.1.16.4
looking next into the multitude of opportunities for embezzlement at the provincial level, we will find that in Diocletian’s system there were also new avenues for corruption available to the provincial governor and his staff. Again, while this is no argument for more corruption, it reveals that significant opportunities for official abuse, as well as the presence of those taking advantage of them, existed in this period.

The increased scope of the governor’s administrative duties during the Late Empire brought with it a number of novel opportunities for abuse. This is especially true of the massive tax system reformed under Diocletian, which was a complicated affair. In many ways, the actual collection of taxes resembled that of the Principate. Villages supervised their own internal collection, and curial officers collected not from peasants or from their proprietors directly, but from local supervisors.\textsuperscript{183} During the first half of the fourth century, an \textit{exactor civitatis}, nominated by the imperial government, was responsible for supervising the levies in the cities of a province. Later, these positions were filled by curial officials elected by their peers.\textsuperscript{184} Gathering tax revenues at the local and municipal level was a compulsory service, and an expensive one at that. Deficits in taxes were to be paid to the governor by the chosen collector, and if his estate could not match the remainder owed, the entire curia was responsible for the

\textsuperscript{183} Jones (1964), 456.
\textsuperscript{184} Jones (1964), 456.
payment. While this certainly provided an incentive to meet the collection, it also seems to have led to substantial abuse and extortion.

From our sources, we hear of a number of schemes through which provincial tax collectors embezzled the revenues. Collectors manipulated their weights and measures in order to defraud tax payers. The records of payments could be destroyed or never made by the apparitors, and second exactions demanded. Exactors replaced good solidi with counterfeit or chipped solidi and blamed the provincials. More commonly, collectors simply extorted more than was actually due. For these reasons, it appears that collection could be quite lucrative. In support of this, we know that apparitors from the prefectural offices continued to interfere with the collection for their own personal profit. Additionally, by the late-fourth century, the emperors had limited the terms of tax collectors to one year in an attempt to curb their abuses. Though we might not necessarily blame imperial officials for the extortionate methods of their staffs, the

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185 CTh 12.6.5 (365) gives information on ‘customary’ collection procedures.
186 For general extortionate claims by our sources, cf. CTh 11.7.1 (313), CTh 11.7.3 (320), CTh 12.6.1 (321) CTh 11.7.7 (346), Anonymous De rebus bellicis 3.1, Zosimus 2.38.2, Zosimus 2.38.4, etc. There are very many complaints, and I will be able to address these more in expanding this paper when I talk about extortionate tax collection, imprisonment, and the unequal burdens governors placed on the poor as a benefit to the wealthy and connected.
187 CTh 12.7.1 (320), 12.6.19 (383), 12.6.21 (386), CTh 12.6.32 (429)
188 CTh 11.1.2 (313), CTh 1.5.12 (399), CTh 11.26.2 (400), CTh 12.6.27 (400), CTh 11.1.32 (412)
189 CTh 12.6.12 (366), CTh 12.6.13 (367), CTh 11.12.1 (371), De rebus bellicis 3.1. Of course, we must not believe that every instance of this was the exactor’s fault, and not that of a provincial attempting to circumvent the law.
190 CTh 12.6.1 (321), CTh 14.4.3 (363), Anonymous De rebus bellicis 3.1, CTh 11.1.11 (365), CTh 11.4.1 (372), CTh 1.15.6 (372), CTh 11.8.1-3 (397, 400, 409), CTh 10.1.16 (399), CTh 11.5.1 (401), Synesius Ep. 127, CTh 11.132 (412), Salvian On the Government of God 5.4.
191 CTh 14.4.3 (363), CTh 12.10.1 (373), Amm. 17.3.6
192 CTh 12.6.22 (386)
setting of the tax rate by prefecfs and governors was indirectly responsible for this corruption. By examining how governors and prefecfs took advantage of this feature of Diocletian’s new system, we can see how the increased license of provincial administrators led to significant corruption.

Though the prefecfs were responsible for setting the indiction each year, they received their financial information through their vicars and provincial governors.\textsuperscript{193} As we have seen, this was a prerogative of the governor unique to the Later Empire by virtue of Diocletian’s new tax system. In theory, a scheme like Diocletian’s that allowed for more flexibility should have more accurately reflected the needs of a province. Each year would have its own budget, which should have remained relatively constant. Superindictions were to compensate for deficiencies caused by emergencies or general revenue shortfalls. Prefects, vicars, and governors were given license to enact these superindictions when necessary.\textsuperscript{194} The realities of this program, however, proved oppressive. In practice, the lack of oversight in Diocletian’s system, along with the incentives for the governor to recoup the expenses of his office, permitted the plundering of the provinces.

Ammianus shows the extremes to which these rates and superindictions might eventually go. We have already discussed the dispute between the corrupt prefect

\begin{footnotesize}
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\item[193] Jones (1964), 66, 450.
\item[194] \textit{CTh} 11.16.4 (328) gives this right of superindiction to the governors, and takes it away from the chief decurions.
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Florentius and the Caesar Julian when the latter refused to sign off on a grant of superindiction.\textsuperscript{195} Ammianus relates that Julian was well aware of the detrimental and unnecessary nature of these superindictions for provincial management, and refused to approve them.\textsuperscript{196} The Caesar had made his own calculations, and determined that the poll tax and land tax, the major levies of this period, far exceeded the expenditures of administration.\textsuperscript{197} We have indications of the extent of this excess in Florentius’s own prefecture. Ammianus claims that the tax rate in Gaul when Julian entered office was twenty-five aureii per caput, plus the superindictions. By the time Julian had left, and had determined the actual needs of provincial administration, he was able to reduce this figure to seven aureii.\textsuperscript{198} The prefect was clearly requesting far more than was necessary. Though wastage and incompetency might account for some of this excess, from the nature of the prefect, corruption must have played its part.

This massive discrepancy between the needs of expenditure and the actual exaction is revealing. We have already seen that prefects and other imperial officials might harass governors for revenue deficits. This, in turn, ostensibly provided a check against calling for higher taxes. From Libanius and Synesius, however, we know that governors simply pressed harder on their curial exactors when pressured from above,

\textsuperscript{195} For the nature of Florentius during his career, cf. n.124.
\textsuperscript{196} Amm. 17.3.2-3
\textsuperscript{197} Amm. 17.3.4
\textsuperscript{198} Amm. 16.5.14
even to the point of using violence and torture against them.\textsuperscript{199} Once the governors had received the taxes, still more corrupt practices could, and did ensue. Tax revenues might be lent by the governor to provincials to increase the rate of return.\textsuperscript{200} As with the commutation of wages in kind into gold, where the governor set the rates artificially high, the governor could set the commutation rates of taxes in kind to artificially low levels to increase his stores.\textsuperscript{201} He could subsequently sell these goods on the open market for a profit, and this practice is well attested.\textsuperscript{202} In the end, governors and prefects would have little incentive to reduce tax rates inherited from previous holders of office, and many incentives to increase them. From these superindictions and increased rates, and the means of exploiting taxes that had been collected, the governors found yet another source of revenue to supplement their wages and the expenditures of office.

Attempts to check these superindictions through legislation, moreover, met with the same sorts of problems as other attempts at reform during this period. A year

\textsuperscript{199} Lib. Or. 33.32 for flogging of decurions because they could not meet tax quotas. Synesius Ep. 79 reveals the use of torture to ‘encourage’ timely tax payments. Also, Salvian On the Government of God 5.7. This is all in violation of \textit{CTh} 11.7.3 (320) of Constantine and \textit{CTh} 11.1.7 (347) of Constantius II.

\textsuperscript{200} \textit{CTh} 12.9.1 (325) forbids this behavior, but there is no reason to believe that this stopped it given what we have seen in other situations.

\textsuperscript{201} \textit{CTh} 11.2.4 claims that this is one of the most common complaints of provincials.

\textsuperscript{202} \textit{CTh} 1.5.5 (355) forbidding the governor from issuing annonarian supplies, which the Emperor says was a common occurrence, and which was a potential source for embezzling collected grain. \textit{CTh} 1.5.6 (357) limits the distribution of annonarian supplies to the prefect, and \textit{CTh} 1.5.7 (357) to no one. In 371, a governor of Italy colluded with the \textit{navicularii} bringing in grain from abroad and was executed for his actions (Amm. 27.3.2). Another governor, in the province of Africa, was executed in 372 for selling grain reserved for Rome to his subjects during a grain shortage (Amm. 28.1.17). \textit{CTh} 1.15.4 (395) reveals further legislation against the frauds which occur in Africa concerning the provisioning of grain. \textit{CTh} 11.14.3 (397). Cf. the Romanus affair and his desire for excess provisions.
before the dispute with Florentius, Julian and Constantius II passed a decree requiring the approval of the prefect and the notification of the emperor whenever a governor levied a superindiction.203 A year later, the emperor and his Caesar passed an edict forbidding governors from issuing any superindiction without the permission of the prefect and the emperor’s later confirmation.204 These edicts seem to be the first of their kind. Yet even with this check, Florentius was able to press Constantius II into supporting his levy, despite Julian’s eventual triumph. The cause of this, as we have seen, was likely the realities of ruling over so vast an empire, which required the support of loyal officials to check usurpers and to ensure revenue.205 An early edict from the reign of Julian attempted to bar all superindictions unless they met the emperor’s approval.206 Yet later edicts, along with our sources, reveal the continued use of the superindiction against the wishes of the emperors.207 Proper oversight, though theoretically provided for through Diocletian’s system by the rigid hierarchy of officials, seems to have often been absent in practice.

203 CTh 11.16.7 (356)
204 CTh 11.16.8 (357)
205 Cf. Amm. 30.5.5-7, which describes Probus’ superindictions and high rates in Pannonia under Valentinian, who seems to ignore the problem so long as his revenue was coming in.
206 CTh 11.16.10 (362). Julian is praised by a variety of sources, both pagan and Christian, for his mitigation of the burden of taxation in the empire. These include Gregory Nazianzen Or. 4.75 and Eutropius 10.16.
207 CTh 11.16.11 (365), CTh 11.16.12 (380), CTh 11.6.1 (382), CTh 11.5.1 (401), NMaj 2.1.1 (458). Lib. Or. 50 describes the forced labor of peasants in Antioch. This labor was a form of superindiction, though not one allowed by the Emperors and therefore in contravention of the edicts listed above (Cf. CTh 11.16.18 which lays out a full range of this type of superindiction). Amm. 30.5.5-7 describes Probus’ superindictions and high rates in Pannonia under Valentinian, who seems to ignore the problem so long as his revenue was coming in. Also, Salvian On the Government of God 5.7, which reveals tax levies on the arrival of eminent men, in contravention to CTh 8.11.1-5. This will all be expanded on in the later paper if necessary.
In addition to the embezzling of taxes, governors found other ways to profit from their administrative roles. During the first half of the fourth century, abuse of the public post system by imperial officials posed a serious dilemma for the emperors. Because of the need to transport goods and money from the numerous levies in the provinces to the armies on the frontiers and in the camps, the roads and public post system required constant use. Provincials were responsible for the upkeep of these roads and for the animals and provisions required by traveling officials. This system, however, eventually proved overly expensive and ruinous to many of those forced into its constant maintenance.\textsuperscript{208} Exacerbating this problem was the widespread abuse of the \textit{cursus publicus}. Constantine decried the drain on provincials from the exploitation of the public post warrants, which a number of officials, including governors, were issuing without restraint.\textsuperscript{209} Another decree reveals that many officials, including proconsuls and governors, were involved in selling post warrants.\textsuperscript{210} Constantius II, seeing the widespread abuse of the system, denied governors the right to issue these licenses.\textsuperscript{211} Abuses, however, continued.\textsuperscript{212}

\textsuperscript{208} Cf. \textit{CTh} 8.5 \textit{passim} for complaints by provincials of the great burden placed on them by the \textit{cursus publicus}. There are 66 decrees in this section alone.

\textsuperscript{209} \textit{CTh} 8.5.3 (326) admonishes governors to curb their excessive appropriations of packhorses, supplementary posthorses, subsistence allowances and fodder.

\textsuperscript{210} \textit{CTh} 8.5.4 (326)

\textsuperscript{211} \textit{CTh} 8.5.5 (354)

\textsuperscript{212} \textit{CTh} 8.5.7-10 (354, 357, 357, 358)
The state of ruin of the public post in many provinces is revealed by Libanius. Animals died in scores because of overuse and cruelty, a problem since the reign of Constantine, and those responsible for the upkeep of the system fled from their duties and positions. Constantius II had attempted to mitigate the situation, but exploitation remained. Julian provided an important check to this system by severely limiting the number of warrants issued by the government. Only the emperor and the prefects would be able to sign the warrants, and Julian himself would dole out twelve licenses to every vicar, while the prefect distributed two to each governor for use only within their province. One license per governor was allotted in order for the governors to approach the emperor if necessary. A subsequent edict by Julian admitted to the governors the right to issue a warrant only for the delivery of payment in kind to the account of the largesses. This seems to have been effective at curtailing abuse, at least by the governors. Rarely are they associated with corruption of this system in future edicts. By decreasing the extent of the governors’ powers, corruption seems to have diminished considerably.

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213 Lib. Or. 18.143-145
214 This is corroborated by Amm. 21.16.18, who blames the many synods during this period and the issuing of post warrants to each bishop for this depredation. CTh 8.5.2 (316) instructs the users of the cursus publicus on how to properly treat animals. Many were apparently beating their posthorses and appropriating new animals at their next staging post.
215 CTh 8.5.10-11 (358, 360)
216 CTh 8.5.12 (362)
217 CTh 8.5.13 (362)
218 They appear in CTh 8.5.40 (382), which reiterates that judges may not issue post warrants. CTh 8.5.41 (382) mentions again the illegality of the sale of post warrants. Most of the other edicts after this deal with the supervisors of the post stations, regulations on sizes of carriages, etc.
Many other forms of embezzlement were exploited by governors in this period.\textsuperscript{219} As we have seen, the enhanced scope of the governor’s prerogatives had given him access to a number of new sources of revenue at a time when his need for added income was in greater demand. As we have noted, the resulting corruption seems a logical conclusion to this state of affairs. The honesty of a governor was limited by a number of inherent factors of this new system, while the rewards for his dishonesty were as great as his need for profiteering. There is little wonder, then, that our sources reveal corruption in this period as a significant issue in provincial government.

\textsuperscript{219} This section could receive still more attention. It should include embezzlement in imprisonment, building, forced labor, the destruction of pagan sites, and the sale of a number of administrative powers to private individuals for money, for influence or for collaboration.
Chapter 7: Conclusion

Though the prevalence of corruption in late antiquity is hardly a new topic, it is useful to reconsider so important an issue. This is especially true when the reward is that we should emerge with a firmer grasp of the realities of a society quite unknown to us in many respects. As a grammarian might phrase it, we may now with greater resolve give the consequence to the protasis of a central conditional: ‘If there was corruption on a grand scale...” The corresponding apodosis is full of possibilities. New questions could be asked, and old questions rethought. For instance: how did widespread corruption shape the views of religious men of this period? Is the sarcasm and bile of Synesius when discussing imperial administration influenced by his disillusionment with that system? Can we trace this disillusionment back to corruption? Are the venomous condemnations of authority by Salvian and John Chrysostom a real, and not simply an intellectual, expression of the frustration of the holy with official abuse? Did the citizens of Antioch turn to their monks because of distrust for traditional sources of patronage, like decurions and imperial officials? Finding answers to these questions of great consequence lies in our ability to argue effectively for the prevalence of corruption. By pointing to systemic factors that led to corruption, along with literary, papyrological,
epigraphic, and even modern studies of abuse, we appear to have come closer to establishing its extent.

As we made clear, this study did not attempt to argue for an increased rate of corruption, nor its exact effects on society. Nor is it comprehensive. It remains to be seen, for instance, how the language of committing and combating corruption changed over time. More room is necessary to strengthen arguments concerning the edicts and their effectiveness as historical sources. There is clearly room to grow. What we have set out to prove, however, was that corruption was a significant feature of provincial administration. Expanded scope, more officials, high Inflation, low salaries, compulsory service, bought *suffragium*, the influence of court officials on weakened emperors, and a significantly expanded system of taxation and administration brought corruption into the lives of many people. Since nearly everyone was by design a part of the schema of the Later Roman Empire, whether as slaves, *coloni*, taxpayers, landowners, shop owners, low-level officials, magistrates, decurions, governors, etc., and since corruption seems to be a part of this system, we may say that it touched the lives of a very many people. The consequences may be just as broad.

Moreover, we need not moralize about corruption, as Jones and Pharr do, to understand its existence.²²⁰ In fact, by removing abstract notions like right and wrong, and positing tangible necessities like the need to survive and even to thrive, we can

²²⁰ Cf. Jones (1964), 400. Pharr (1952), 37 n. 5, 65 n. 25, etc.
better account for what our sources so vocally express. Nor must we argue, like
MacMullen, that corruption was the cause of any sort of collapse. Instead, this relatively
high rate of abuse could help explain more thoroughly the drastic religious, social, and
political transformations of this period. Perhaps there is greater reason to think that
decurions were pushed out of their traditional roles because of their engagement in the
most direct and notorious form of abuse: the tax collection. The rise of arbitration as a
useful tool in spreading notions of the centrality of the Church may also relate to the
difficulty of accessing the expensive and corrupt court of the provincial governor. In the
end, by rationalizing the sources of corruption and understanding the motives which
drove its perpetuators, we can account for its prevalence and dispel many of its
obscurities. In the process, we can also shed light on many of the darker places of the
Late Empire.
References


