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Precedential Reasoning and Dynastic Self-Fashioning in the Rescripts of Severus Alexander

ABSTRACT: This article argues that the rescripts of Severus Alexander (r. 222–235 C.E.) preserved within the *Codex Iustinianus* are markedly idiosyncratic in their reasoning; specifically, they are disproportionately likely to analogize Alexander’s decisions to those of earlier emperors. This tendency suggests a conscious effort to portray Alexander as hewing to earlier Severan and Antonine models of governance, and conforms with Alexander’s public image in other media more commonly understood as ideologically charged.

Keywords: Roman law – Severan history – jurisprudence – precedent – imperial ideology – political history

Introduction¹

Severus Alexander ruled in interesting times. Alexander was the last *princeps* to hold the throne under something like traditional order; his death initiated the 50-year interregnum commonly – if reductively – known as the Third Century Crisis, whence Rome emerged into tetrarchy.² Alexander’s accession was itself hardly serene; Dio (as epitomized by Xiphilinus) and Herodian, as well as later sources like Eutropius, Aurelius Victor, and the *Historia Augusta* (*HA*), record the emperor being installed at the age of fifteen in a *coup d’état* after the Praetorian Guard had killed his cousin and aunt, i. e. the former emperor Elagabalus³ and his mother Julia Soaemias.⁴ Alexander, rising from the chaos, ruled for a decade or so of enlightened tranquility, presiding over the last gasp of

- 1 A (very) preliminary version of this article was presented at the 2017 Annual Meeting of the Society for Classical Studies; I am grateful for feedback I received from my copanelists and those in attendance. Ari Bryen, Joseph Howley, Carlos Noreña, Josiah Osgood and Paul du Plessis read drafts of this article and provided helpful comments and needed encouragement, as did my reviewers and editors at *Historia*. Citations to Cassius Dio follow Boissevain 1955; citations to the *Codex Justinianus* follow Frier et al. 2016. All errors are my own, or alternately Justinianic.
- 2 On the methodological difficulties inherent in discussing (and especially in naming) this period, see Witschel 1999, Liebeschuetz 2007. De Blois 2019: 65–86, by contrast, argues for a meaningful ‘Third Century Crisis’ but postpones it until 249 C. E.
- 3 Who is known by many names; see Dio 80[79].1.1 [Xiph.]; Scott 2018: 111–12. I refer to the emperor as Elagabalus, and the Emesene deity who gave Elagabalus his later nickname as Elagabal.
- 4 Aur. Vict. *Caes.* 23.5–6; Dio 80[79].20 [Xiph.]; Eutr. 8.22; Hdn. 5.8.3–8; SHA *Elag.* 16.5–17.3. While these accounts describe the coup as a spontaneous culmination of Praetorian resentment – perhaps encouraged by bribery – I am more inclined to agree with Kemezis 2016: 369–82 that the events of 222 are better understood as a conflict between two competing power centers hoping to install a preferred figurehead.

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a political order that would soon undergo enormous change – or so goes the conventional story. It seems clear enough that imperial politics looked different after Alexander than before; while recent scholarship has shown how the mid-third century was not as wretched, or as sharp a break with earlier periods, as traditional narratives might have once held,⁵ imperial selection in this time was far more chaotic and violent than before.⁶ It remains to be examined, however, how Alexander's own regime – still poorly understood – responded to the forces that would soon remake Roman rule.

This task is complicated enormously by problems of sourcing. Our major historiographers of the Severan period did not live to see the end of Alexander; Cassius Dio completed the final version of his work around 230 C. E. and his discussion of Alexander is, by his own admission, incomplete and secondhand.⁷ Similarly, while the *HA*'s primary Severan *vitae* are fairly reliable, the *vita Alexandri* presents the young emperor as more of a paradigmatic ideal ruler than a historical figure; this is likely because the earlier Severan *vitae* copy the lost work of Marius Maximus, who served as *consul ordinarius* under Alexander in 223 and died soon after.⁸ The only near-contemporary account of the full reign of Alexander, that of Herodian, compresses the period from 222 to 235 into a single chapter.⁹ Material evidence has been more forthcoming; for example, both numismatic and architectural finds suggest that under Alexander a temple to Elagabalus was converted into a temple to Jupiter Ultor, and the baths of Caracalla were likely expanded during the same period.¹⁰ However, questions remain about even the basic workings of Alexander's court and its role within broader late Severan political culture. This article focuses on one question in particular; how was Alexander, an 'eastern' child emperor succeeding another 'eastern' child emperor, assimilated into earlier conceptions of legitimate rulership?¹¹ Our understanding of how exactly Severus Alexander was presented

- 5 In particular, Borg 2013's study of funerary practices in third-century Rome shows remarkable continuities in practice throughout the third century, suggesting that it was more stable – and likely wealthier – than its politics might lead one to believe.
- 6 On the rapid disintegration of traditional political systems in this period, see lo Cascio 2005: 137–42; de Blois 2006; Mennen 2011: 22–29; Ando 2012: 70–71; Kemezis 2016: 370 (referring to this period as marked by the 'functional collapse' of Augustan or post-Augustan political order).
- 7 Dio 80.1.2 [Xiph.]. For Dio's chronology see Millar 1964: 23–24; Kemezis 2014: 282–93.
- 8 Syme 1971: 121–34; while Syme does not go as far in attributing the *HA* to Marius Maximus as do others (see particularly Birley 1997), he takes the earlier Severan *vitae* as vastly more reliable than the *Alexandri* and attributes that to Maximus. For the *vita Alexandri* as a work of late antique political theory enumerating a set of contemporary political virtues, see Bertrand-Dagenbach 1990: 154–63; Birley 2003: 143–44 (reading the *vita* as a coded discussion of the emperor Julian). For Marius Maximus' career, *PIR*² M 308; *CIL* 6.1450; Mennen 2011: 109–10.
- 9 Hdn. 6.1. The chapter is immediately followed by the anodyne summation that Alexander ruled for thirteen years in blameless fashion; see 6.2.1 (ἐτῶν μὲν οὖν τρισκαίδεκα οὕτως, ὅσον ἐπ' αὐτῶ, τὴν βασιλείαν ἀμέπτως διώκησε).
- 10 See below, Section III.
- 11 I here define 'legitimacy' in essentially Weberian terms, as a quality which invests one's orders with a compelling moral force; to call a ruler legitimate is to acknowledge a moral duty – even if weak – of her subjects to obey her. For work on the role of state messaging in imperial legitimation, see Galinsky 1996; Ando 2000; Levick 2010; Noreña 2014. That said, Lendon 2006 argues that the notion of legitimation underlying these analyses is potentially anachronistic, and that the Roman imperial bureaucracy and governing apparatus was not, as a whole, overly concerned with self-legitimation.

to Roman audiences remains woefully incomplete given the turbulent politics of the period, which have given rise to a thriving corpus of contemporary scholarly work on Severan ideology of rule.¹²

I approach that question by examining a heretofore understudied archive of state communication from Alexander's reign. Specifically, I examine the corpus of rescripts – or imperial replies to legal questions – that survive in the *Codex Iustinianus* under Alexander's name.¹³ These rescripts are profoundly unusual in their reasoning; rescripts produced under Severus Alexander are approximately four times more likely to cite prior imperial precedent than other rescripts preserved in the *Codex*. Furthermore, these rescripts almost uniformly cite emperors with whom Alexander claimed a familial relationship (including Commodus, who is cited nowhere else within the *Codex*), and do so in language highlighting that familial relationship. All told, this novel citational practice suggests that legal communication under Severus Alexander deliberately highlighted administrative and dynastic continuities between his own reign and those of his Severan and late Antonine predecessors, a theme visible in other forms of state communication from the same period. Put more bluntly, this article makes two claims: that legal communications of Severus Alexander are significantly more likely to explicitly follow earlier constitutions than those of other emperors, and that this difference in reasoning served a larger communicative purpose. These findings not only enrich our understanding of the late Severan period but of imperial legal work more generally; examining legal speech as a potential locus of imperial messaging vastly increases the resources available to historians of that messaging, and opens new passageways into the twilight of the Principate.

12 For simplicity's sake, I group these works by the particular medium of expression analyzed; that said, the streams cross substantially, and the following may be better said to sort by emphasis than by unitary object of study. For analysis of Severan state communications in art and architecture, see Faust and Leitmeir 2011; Sojc 2013; Lusnia 2014. For Severan innovations in religious practice, see Lichtenberger 2011; Rowan 2012; Rantala 2017 (focusing specifically on the Secular Games). For shifts in numismatic messaging under the Severans, see Rowan 2009 (discussing the numismatic program of Severus Alexander); Noreña 2011: 236–43, 276–97; Manders 2012: 225–52 (focusing on Caracalla); Noreña 2018 (Severus Alexander). For discussions of the changing relationship between the imperial court and the army during the Severan period, see Handy 2009; Busch 2013. For a discussion of the changing internal dynamics of the Severan court itself, see Schöpe 2014. Given the particular importance of women in historiographic portrayals of the Severans (on which see Kosmetatou 2002; Levick 2007; Scott 2017), Langford 2013 and Nadolny 2016 shed useful light on the specific role of Severan women (specifically the Julia Domna, Maesa, Soaemias, and Mammaea) within dynastic propaganda. While the literature on changes in Roman legal functioning under the Severans is too massive to summarize, some texts that discuss the interplay between law and imperial messaging in this period include Nasti 2006 (focusing on legal changes under Severus Alexander); Ando 2011; Buraselis 2007; Bryen 2016 (both focusing on the *constitutio Antoniniana*); Tuori 2016: 241–92 (discussing the increasing centralization of legal decisionmaking within the Severan court).

13 I use this (somewhat awkward) locution advisedly; the processes by which rescripts were authored and promulgated, and the role of emperors in those processes, remain murky. I discuss this problem in more detail below, but at present it suffices to note that rescripts were produced in a bureaucratic setting, likely through a sort of collaborative process; on the role of collaboration in the development of imperial rescripts, see Crook 1955: 104–14, Amarelli 1983: 137–56, Coriat 1997: 245–49, Peachin 2015: 221–22.

I. The Emperor's New Citations: Precedentialism Under Severus Alexander

As a general rule, Roman legal culture had an ambivalent relationship with precedent. While juristic writing frequently refers to earlier decisions as normatively charged examples to be followed, precedential reasoning is vastly less common in imperial legal writing and we lack surviving programmatic statements laying out just *why* precedent was so important to jurists.¹⁴

Egyptian court documents do suggest that precedent was an important feature of Roman legal argumentation as it was actually practiced; advocates are recorded as collecting examples of favorable decisions in similar cases in support of their own requests.¹⁵ Rescripts, however, tend to be more summary. A paradigmatic example is the Gordianic rescript preserved at *Cod. Iust.* 5.11.2: 'If your father-in-law has pledged to pay interest on a dowry already promised, whatever it is that you demonstrate is owed, a judge with the correct jurisdiction will order to be paid out to you.' Those replies which were not sufficiently important to merit recording in the *Codex* are even briefer; for example, *P. Col.* 123 preserves a series of replies given by Septimius Severus and Caracalla, including an expression of imperial power three simple words; τοῖς ἐγνωσμένοις πῖθασθαι ('obey the decisions that have been made').¹⁶

Such terseness may simply reflect the different theories of authority that inhered in these different genres of legal speech. Jurists, advocates, or lower-level adjudicators derived authority from the 'correctness' of a given claim – or its accordance with some sort of externally produced legal reality, as embodied in precedent, properly interpreted statutory law, or properly investigated facts – whereas the emperor's statements of legal rights and obligations were authoritative because of the extraordinary personhood of their speaker. As Ulpian famously put it, 'what the *princeps* decides has the force of *lex*.'¹⁷ The emperor (or whoever speaks on his behalf) does not need to explain why the statement is correct, because the claim is not a falsifiable claim about law but instead one about the emperor's opinion – or more literally his pleasure.

14 On juristic theories of precedent see Ando 2015. However, Horak 1969: 65–76 rightly notes the near-total lack of *Begründungen* in juristic writing, which necessarily complicates any authoritative claim about juristic theories of authority. This failure of theorization is not unique to Roman law; many contemporary systems, which are far more explicit about preferring legal outcomes that accord with earlier decisions, are similarly unclear about why such a preference is desirable or what consequences might follow its contravention. See Damaška 1986: 33–34 and n. 28 (describing prevailing theories of precedent in both Anglo-American and Continental jurisprudence). H. L. A. Hart has suggested that some level of fundamental incoherency in this sphere is inevitable; the second-order assumptions behind precedential reasoning constitute a 'rule of recognition' – or an evaluative heuristic setting forth which rules 'are [rules] of the group to be supported by the social pressure it exerts' – and rules of recognition can never be fully justified on external grounds. Hart 1994: 94, 107.

15 See Katzoff 1972. For a (somewhat creative) example of precedential argument outside of the papyri, see Plin. *Tra.* 10.79. On precedential reasoning in more formal legislative acts see Ferrary 1998.

16 *P. Col.* 123, l. 12; Westermann and Schiller 1954: 6. As Kaius Tuori notes, an emperor engaged in this sort of performance is 'nothing but a bureaucrat, an unfriendly character familiar from your local tax office.' Tuori 2016: 247.

17 *Dig.* 1.4.1 (Ulpian, *Institutiones*): 'Quod principi placuit, legis habet vigorem ...'

This generic feature of imperial communication makes those instances in which rescripts *do* justify their reasoning especially marked. To perform their basic function, rescripts simply needed to be final and unambiguous;¹⁸ an emperor might be seen as obligated to hear petitions from his subjects,¹⁹ but that does not mean his answers had to be detailed or necessarily persuasive. So, when those answers *are* detailed, or when they *are* intended to persuade, something else may well be going on. In particular, the reasoning contained in rescripts could offer a curated view of the emperor's internal life, purporting to demonstrate in a highly public setting just how this individual approached legal problems and the world more broadly.²⁰ Rather than take these statements of reasoning at face value, this analysis supposes that they might be doing some communicative work, and considers what that work might be.

As it happens, the rescripts of Severus Alexander show particularly clear signs of this sort of ideologically charged messaging. Rescripts issued under Alexander's name that survive in the *Codex Iustinianus* are significantly more likely than average to engage in what one might call 'argument from precedent.'²¹ To define terms, an argument from precedent is an argument based on two premises: first, that a prior decisionmaker would have arrived at outcome X in the instant case (generally because of that decisionmaker's approach to a case presenting similar facts), and second that it is normatively desirable for the present decisionmaker and the past decisionmaker to employ the same reasoning. This sort of argument generally employs either horizontal precedent (or prior decisions by a person or institution of equal authority) or vertical precedent (decisions of a higher court). To give an imperfect example, when the United States Supreme Court follows its own prior decisions it reasons from horizontal precedent; when a trial-level court follows a Supreme Court decision it looks to vertical precedent.²² While imperial rescripts reason from horizontal precedent only (for obvious reasons), even this reasoning is exceptionally rare – at least as an explicit decisional criterion – in the *Codex*; only 82 instances are there preserved, of the 7,448 total rescripts within the *Codex*.²³ This scarcity results partly from rescripts' general brevity, but might also be attributed to the

18 On the value of clarity and finality in Roman legal communication, see Ando 2000: 48, but also Peachin 2017: 38 (noting the potential disjunct between contemporary and ancient understandings of the purpose of anything like a 'rule of law').

19 For example, Dio records a woman demanding that Hadrian hear her request for assistance or else *καὶ μὴ βασιλευε*; Dio 69.6.4 [EV].

20 See, for example, *P. Col.* 123, ll. 1–2 (directing that the following imperial *responsa* be posted in the stoa of the Alexandrian γυμνάσιον); also Connolly 2010: 116–17 (discussing the public nature of *responsa*).

21 This analysis treats the *Codex* as a sample of Roman legal writing that was heavily redacted, but whose redactors were largely unconcerned with who originally promulgated the texts they were handling; as a result, certain kinds of disparities with the *Codex* – including those that are the subject of this article – can be safely assumed to reflect disparities within its sources. For an explanation of why this sampling method is robust against problems of interpolation or transmission see below, Section II.

22 On this distinction, see Kornhauser 1995: 1608 ('The horizontal aspects of a system of precedent refer to a court's treatment of its own prior decisions; the vertical aspects of a system of precedent refer to the lower courts' obligation to follow the decisions of a higher court.').

23 For a complete list of instances of precedential reasoning in the *Codex*, see the appendix at the conclusion of this article.

unstable nature of precedent within the imperial system. While legal rules could generally be expected to survive moments of imperial transition by the Severan period,²⁴ this survival was governed by informal norms rather than any sort of explicit second-order rule, and in cases of contested or violent succession a ruler might be subjected to memory sanctions (often called *damnatio memoriae* in contemporary scholarship) and their rulings expunged.²⁵ The living emperor's rulings were the ones that mattered, and the *Codex* almost never presents emperors as merely following others' opinions.

Severus Alexander, however, is an exception. Compare 5.11.2 (which simply stated the litigants' legal obligations as understood by Gordian) with the rescript of Alexander preserved at *Cod. Iust.* 6.50.5: 'If you are able to prove that your mother conferred excessive *donationes mortis causa* upon your sister, you may employ the reasoning of the *lex Falcidia*, following the constitution of the Divine Severus, my grandfather.'²⁶ Here Alexander does not merely state what the rule is, but why it is this way and specifically which previous example he follows in declaring it to be this way. Of those 82 rescripts that employ precedent in this fashion, over a quarter (21) were issued under Severus Alexander's name; he is the most frequent source of rescripts within this subgroup. This number might not seem striking at first, but stands in stark contrast to Alexander's comparatively low rate of preservation within the *Codex* as a whole; Alexander only accounts for 7% of rescripts within the *Codex tout court*. By way of analogy, if 25% of college professors were left-handed (as against 7% of the population as a whole), this would suggest a strong correlation between left-handedness and academic employment even if the topline number is not enormous. By contrast, the second most frequent issuing authority for precedential rescripts, Diocletian, actually appears to have been exactly average; while nearly 20% of precedential rescripts bear his name, this is simply an artifact of his very high rate of preservation in the *Codex* as a whole.²⁷ All told, 25 emperors attached their name to rescripts employing precedential reasoning, sometimes individually and sometimes as a pair; Figure 1 shows each of these emperors' share of precedentializing rescripts within the *Codex* as well as their share of rescripts within the entire collection.

The results are striking. While some variation from the mean is to be expected in any statistical analysis – for example, Gordian and Valerian appear to use precedent some-

24 This general tendency towards increased legal fixity might be best demonstrated by two pre-Severan examples. The first is Hadrian's replacement of the traditional Praetor's Edict, which was nominally written anew every year by the incoming praetor, with the *edictum perpetuum*, which remained stable over time; see Tuori 2006: 220–24. The second is the habit, initiated by Titus but likely adopted going forward, of a new emperor confirming prior imperial grants *en masse*. See Dio 66.19.3 [Xiph.]; Suet. *Tit.* 8.1.

25 On *damnatio memoriae*, see Flower 2006; Krüpe 2011 (but also Hedrick 2000: 93–94, who points out that the modern term encompasses a broader range of memory sanctions within Roman commemorative or historiogenetic practice). On the legal consequences of this practice, see Sautel 1956.

26 Emphasis added.

27 19.7% of rescripts in the *Codex* are attributed to Diocletian, and 19.5% of rescripts that employ precedent; in other words, the data suggest, if anything, that Diocletian may have been less inclined towards precedential reasoning than average. Ironically, Corcoran's study of tetrarchic governance highlights Diocletian's employment of precedent, but acknowledges Diocletian employed precedential reasoning 'in no great quantity' of surviving texts. Corcoran 1996: 63–64.

what more than normal, although the sample is too small to be sure – two extreme outliers are immediately visible. Justinian almost never cites prior imperial decisionmaking (a fact which could and will support a more thorough treatment than I can give in this piece), while Alexander does so with remarkable frequency. Statistical analysis suggests that this disparity does not arise from random chance: in fact, the odds of it doing so are approximately one in a billion.²⁸

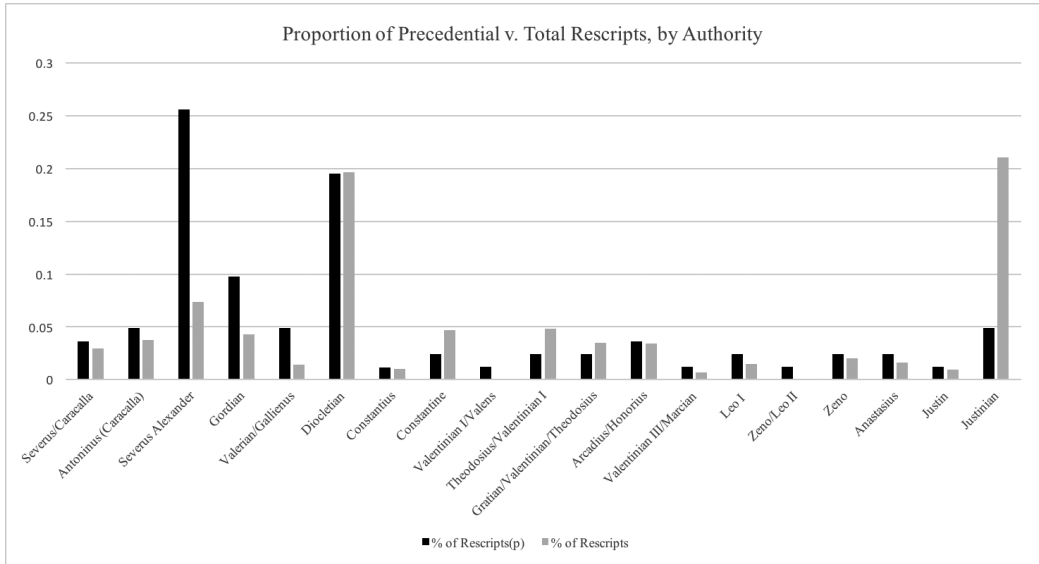


Figure 1: Rescripts within the *Codex*.

Alexander’s citations are also unusual in their content. All but four of Alexander’s citations discuss emperors to whom Alexander claimed to be related;²⁹ in addition to seven citations of generic *Divi parentes* (at *Cod. Iust.* 2.40.1, 4.1.2, 6.21.6pr., 7.8.6, 9.9.6.1, 9.22.2 and 10.60.1) Alexander cites Caracalla three times (2.1.8, 6.54.6 and 12.35.4), Septimius Severus once (6.50.5), Commodus three times (4.57.2, 4.57.3pr. and 6.54.7) and Marcus six times (4.57.2, 4.57.3pr., 5.62.5, 6.54.7, 7.11.3 and 12.35.4).³⁰ Furthermore, Alexander’s citations frequently highlight these familial relationships; for example, *Cod. Iust.* 6.50.5 describes Alexander as proceeding ‘according to a constitution of the Divine Severus, my grandfather’ (*secundum constitutionem Divi Severi, avi mei*) and 2.1.8 refers to opinions that have been previously written ‘both by my father the Divine Antoninus and by myself’ (*quae a Divo Antonino patre et quae a me rescripta sunt*). A final oddity

28 To speak technically, comparing the reasoning of the rescripts of Severus Alexander, on the one hand, and the remainder of the *Codex*, on the other generates a Pearson χ^2 statistic of 40.5 with 1 degree of freedom, for $p = 1.944 * 10^{(-10)}$.

29 These exceptions being *Cod. Iust.* 4.56.1, 6.50.4 (citing Hadrian), 9.23.3 (citing *Divi Principes*) and 10.40.2pr. (Hadrian).

30 Rescripts appearing more than once on this list cite multiple predecessors; see Appendix.

in Alexander's rescripts is his practice of citing Commodus; these three mentions of Commodan constitutions (notably, all joint products of Commodus and Marcus) are the only mentions of Commodus in the *Codex*.

II. Methodology, or How to Do Third-Century History with a Sixth-Century Text

In sum, then, our surviving evidence casts Severus Alexander's rescripts as meaningfully distinct from those of other authorities. Before explaining how this distinction came about, however, I should explain how I isolated the rescripts that reveal this distinction, and why it likely reflects actual differences in legal practice under Alexander rather than accidents of preservation. I began by collecting instances in which emperors or their memory were addressed in honorific terms – specifically *Divus* or *Divalis* – to generate a list of those rescripts referring to prior imperial action, and removed cases that specifically criticized or disagreed with that action. The next cut was more subjective, since a number of rescripts simply refer to prior imperial lawmaking rather than claiming to follow it. For example, in *Cod. Iust.* 9.51.6 Gordian claims that a son-in-power released from *patria potestas* due to exile remains *sui iuris* even if restored 'by the Divine Alexander's pardon' (*ex indulgentia Divi Alexandri*). Gordian here refers to his predecessor's lawmaking not as an authority but as a fact on the ground, like a sudden death or a good harvest. Removing these non-precedentializing references generated the list of 82 rescripts upon which my analysis is based.

Now, to problems of source fidelity. The transmission of Classical legal texts is murky, to say the least. On one hand, the compilers of the *Codex* were explicitly empowered to alter the texts included therein in order to create a harmonious whole that might better meet the needs of the sixth century;³¹ on the other, those compilers were themselves working with imperfect copies of these rescripts, which were often altered over the course of their transmission and copying throughout the Late Antique period.³² Each of these transmission phenomena presents their own problems for legal historians of the pre-Justinianic period; I address each in turn.

First, interpolation. Interpolation criticism can certainly be used to cast overbroad aspersions on the *Corpus* as a whole, and one could be forgiven for adopting Max Kaser's skeptical stance towards *Interpolationkritik*.³³ That said, for the purposes of this project I take no particular position on the scale or frequency of interpolation at the moment of

31 These alterations are commonly referred to as 'interpolations,' following Gradenwitz 1887. for a recent treatment of the problems posed by interpolation for historians working with the *Corpus Iuris Civilis* – and specifically the *Digest* – see Johnston 1989; for a discussion of interpolated rescripts, see Wenger 1953: 642–49.

32 The signal text on the alterations that could occur in this transmission period, and their implications for the *Corpus Iuris Civilis*' relationship to earlier periods in Roman law, remains Wieacker 1960.

33 Kaser 1972: 94–98. But see Johnston 1989, who points out that substantive claims about Roman law are not as immune from this sort of source criticism as some readers of Kaser have alleged; I believe my findings are robust against Johnston's argument, for reasons I provide below.

compilation; my findings are such that I do not have to. Importantly, the introductory constitutions that authorize the compilation of the *Codex* are quite clear not only in permitting interpolation, but in explaining the purpose of that grant of permission: the compilers were explicitly charged to make a law that could function in the context of the sixth century.³⁴ These interpolations were intended to make the *Codex* more useful as a source of law; any historical narrative preserved in the documents can thus be safely taken as simply epiphenomenal, and not a conscious object of alteration. Compilers engaging in such a redactive practice would have had no reason to treat different authorities differently; since every opinion preserved in the *Digest* or *Codex* was to be treated as issuing from Justinian's authority, we would expect the same sort of interpolations to occur for rescripts of Severus Alexander as for rescripts of anyone else.³⁵

To be sure, many emperors do not appear in the *Codex* at all, due to the memory sanctions described above. But we can think of this as a binary variable: there is no reason to think that the *Codex's* compilers treated the opinions of different emperors within this acceptable subset differently. To sum the point up, there is no evidence that whatever interpolation did occur was anything other than random with respect to promulgating authority; the stark disparity between the reasoning contained in Alexander's rescripts and those of other emperors would be an incredible coincidence if it were merely an accident of interpolation, rather than a reflection of disparities already present in the texts with which the compilers of the *Codex* worked.³⁶

That said, those texts were themselves imperfect copies. Many of the alterations that survive in the *Corpus Iuris Civilis* were likely present in the texts that were compiled in the first instance; these documents circulated for centuries before their inclusion in the final product.³⁷ Unlike the interpolations described above, this process was *not* random with respect to promulgating authority, for simple reasons of chronology; the rescripts of Severus Alexander (r. 222–235 C. E.), for example, had a vastly longer period of circulation than those of Zeno (r. 474–491 C. E.), with greater opportunities for redaction along the way. As it happens, Severus Alexander is one of the earliest emperors whose rescripts survive in the *Codex* in any real volume; the vast majority of the text consists of rescripts that were in circulation for a much shorter period. The transmission process really was different for Alexander's rescripts than for most of the others, and that is a problem which much be reckoned with.

34 *C. Tanta* 10.

35 See *C. Summa* 1 (referring the *Codex* as put forth 'under our blessed name' (*felici nostro vocabulo*); Johnston 1989: 152 ('The author of the statute is of course Justinian.').

36 Noreña 2011: 29–30 makes an extremely similar methodological claim in his discussion of coin hoards, arguing that because coins were hoarded without reference to their communicative content they can be safely treated as a random sample. In essence, I argue that because interpolations or other Justinianic redactions were made without reference to the identity of the promulgating authority, the *Codex* can be viewed as a random sample with respect to the same.

37 Wieacker 1960: 72–92; Connolly 2010: 37–38.

The disparity shown in Figure 1, however, is more likely to exist despite this process than because of it. In cases where we can track the evolution of a legal text over time, material is much more likely to be redacted than inserted; compare, for example, the legislation of Gratian, Valentinian II, and Theodosius I that is preserved at 3.1.4 of the *Codex Theodosianus* with the drastically abridged form visible at *Cod. Iust.* 4.44.15.³⁸ This appears to be particularly true of argumentation, which was not important for later codifiers; I know of no example where text was added to a rescript in an attempt to justify its holding (as this precedential material would have to have been, if it were nonoriginal). Based on what we know of the redaction process one would expect the rescripts of Alexander to have *fewer* instances of precedential reasoning – or of any reasoning at all, for that matter – than those of later vintage. The fact that, instead, they rely on precedent at such greater frequency suggests that Alexander’s rescripts justify themselves in a meaningfully different fashion from those that came after. While both of these source problems cast some doubt on any absolute conclusions one might draw about the argumentation of imperial rescripts – for example, the general terseness of rescripts may be an artifact of their transmission as much as of their genre – neither can explain the phenomenon I here describe.

Finally, I should note that this analysis restricts itself to the *Codex Justinianus*, as opposed to the broader body of extant imperial communication; while the *Codex* contains the vast majority of surviving rescripts, others are preserved in pre-Justinianic codices, inscriptions, or papyri.³⁹ I have left these out for the sake of statistical clarity. Non-Justinianic material comes to us via a number of different, idiosyncratic methods of transmission and preservation; I cannot be certain that, for example, the existence of precedential reasoning would not have impacted the likelihood of an inscription being preserved in a different way than it would inclusion in the *Codex*. By limiting my sample to (a quite large corpus of) opinions compiled into one document, and by only considering how Alexander’s rescripts compare to the rest of that corpus, I can plausibly control for these sorts of problems; while considering non-*Codex* rescripts would increase the size of my data set somewhat, it would also make such controls (and thus statistical analysis) impossible. All told, the *Codex* is a large enough sample that I can draw significant conclusions from it, and that sample suggests that the rescripts of Alexander were unusually likely to talk about his predecessors.

III. The Child-King as God and Bureaucrat

So much for (statistically supported) claims about *what* was happening; I now proceed to (necessarily more speculative) claims about *why*. The tendency described above ac-

38 See Kaiser 2016: 134–35. For the categorization of these sorts of imperial communications as ‘legislation,’ see Coriat 1997: 9.

39 For example, *CIL* 8(supp).17639 preserves a rescript of Severus Alexander discussed at Arcaria 2000: 144; Purpura 2009: 207.

cords with broader trends in imperial representation under Severus Alexander; while our evidence for state messaging under Alexander is imperfect, what survives suggests that he was portrayed (rightly or wrongly) as a traditionalist contrast to the possibly transgender, definitely murderous meteorite-cultist who preceded him.⁴⁰ Alexander was proclaimed as the illegitimate son of Caracalla (and thus grandson of Septimius, great-grandson of Marcus and great-nephew of Commodus) and thus inserted into a legitimated dynastic line; his religious activity was presented as a return to Roman piety after wild deviation; and Alexander's architectural program within the city of Rome pointedly excised Elagabalus' memory from a restored urban fabric. This communicative regime emphasized continuity with earlier Severan rulers in a variety of different media, contrasting sharply with the innovations put forth under Elagabalus.⁴¹ In such a messaging environment, the peculiar tendency of Alexander's rescripts to argue from precedent – and especially from the precedents of his *Divi parentes* – seems rather less peculiar. By calling attention to the similarity of Alexander's and his forebears' administrative practices, these citations could perform messaging work not unlike that seen in contemporaneous media more commonly understood to be ideologically charged.

This is not an article about the messaging program of Severus Alexander writ large; however, a few examples should demonstrate the importance of continuity and memorialization to Alexander's public image. As Clare Rowan has noted, Alexander was closely linked to different forms of Jupiter in his numismatic program; Rowan notes an impressive diversity of Jupiter-types (with five separate aspects of the god highlighted in different legends), as well as a surprisingly high percentage of surviving coins in both Roman and provincial hoards bearing images of Jupiter.⁴² This linkage closely tracks the numismatic program of Alexander's putative father Caracalla, whose coins also emphasize the Roman pantheon and are marked by a high incidence of Jupiter-types specifically.⁴³

Alexander's identifications with Jupiter on the one hand, and his father on the other, are also visible in what we know of his architectural program. The *HA's vita Elagabali* mentions the construction of an *Elagabali* on the Palatine ('in Palatino monte iuxta aedes imperatorias'), which has been identified with a religious structure visible in Elagabalic coinage (such as *RIC IV.2 Elag.* 339, Fig. 2a) and with a complex located on what is now the Vigna Barberini.⁴⁴ The Vigna Barberini complex, however, was clearly

40 Kemezis 2014: 86 describes Alexander's representational program as having 'a traditionalist style that evokes Antonine and earlier models while trying to adapt them to ... very un-Antonine circumstances.' For the ostentatious disjunction between Alexander's and Elagabalus' public architecture, see Coarelli 1987: 433–34; Icks 2012: 43; Noreña 2018: 197–202. On the importance of Elagabalus as a *bête noire* for Alexander's public persona, see Kemezis 2016: 360.

41 For Elagabalic religious practices, see Optendrenk 1969; Turcan 1985; Frey 1989; Rowan 2013: 164–218.

42 Rowan 2009: 137, 143. See also Hill 1960: 124–27 (compiling extant Jupiter-types produced by the Rome mint); Rowan 2013: 228–29 (discussing the typology of Alexander's Jupiter coinage). See also Fears 1981: 117 (discussing medallions that depict Alexander as specifically chosen by Jupiter).

43 Manders 2012: 240–42; Rowan 2013: 111–12.

44 *SHA Elag.* 3.4. Hdn. 5.5.8 also refers to Elagabalus constructing a νεών ... μέγιστον και κάλλιστον, but provides no information as to its location. As for the material evidence of the *Elagabali*, the first scholar to identify the image on *RIC IV.2. Elag.* 339 with the Vigna Barberini complex is Bigot 1911: 80–85. On this identification, see Villedieu 1997: 55–71; Broise and Thébert 1999: 745–46; Rowan 2009: 124–26.

rebuilt or renovated soon after its original construction – excavations have shown two distinct building phases in close proximity.⁴⁵ This rapid rebuilding accords with Dio's account of Elagabal being expelled from Rome after 222 C. E.;⁴⁶ presumably kicking a god out of one's city would require doing something with his enormous temple on the Palatine Hill. Our clearest evidence for the specific use to which this structure was put under Alexander are a number of coins (such as *RIC IV.2 Sev. Alex.* 412, Fig. 2b), which depict a temple similar to the *Elagabalium* with the legend *IOVI VLTORI*.⁴⁷



Figures 2a and 2b. Reverse images of coins issued under Elagabalus and Severus Alexander, respectively. A: Münzkabinett, Berlin, #18205364; B: Card Catalog of the American Numismatic Society, image courtesy of Clare Rowan.

Rededicating a temple of Elagabal to the highest god in the Roman pantheon suggests a rather pointed rebuke of Elagabalic religiosity; referencing that god as an avatar of revenge (*Ultor*) all but screams it.⁴⁸ This return to traditional Roman religion, on the highly public stage of the Palatine, depicted Alexander as restoring cultic practices associated with earlier emperors in general and with Caracalla in specific; it suggests themes of piety, traditionalism and Severan continuity.

It also appears likely that Severus Alexander either renovated or completed a portion of the Baths of Caracalla. Two separate *vitae* record him doing so: the *vita Elagabali* refers to a portico in the Baths as 'raised up by this False Antoninus, but completed by Alexander' (*ab hoc subditicio Antonino exstructae sunt, ab Alexandro perfectae*) and the *vita Severi Alexandri* states that Alexander 'completed and decorated the Baths of

45 See Broise and Thébert 1999: 739. Villedieu 2013: 173–75 argues that the *Elagabalium* was the temple's second, rather than first, phase of use.

46 Dio 80[79].21.2 [Xiph.].

47 For a list of Alexander coins with the temple legend, see Rowan 2009: 127 n.19.

48 See Rowan 2012: 224 for the novelty of the *ultor* designation. Hill 1960: 117 claims to identify *Iupiter Ultor* on some ambiguous coinage of Commodus, making this numismatic program perhaps less novel on one hand, but more deliberately Commodan on the other.

Caracalla by adding a portico' (Antonini Caracalli thermas additis porticibus perfecit et ornavit).⁴⁹ This contention is borne out by archaeological evidence from the Baths themselves; construction in the outer precinct of the Baths is markedly different than the interior work, consistent with building at a later phase.⁵⁰ Given the scale and functionality of the Baths, this construction would have linked Alexander to Caracalla in a hypervisible urban setting, advertising the young emperor as a worthy successor building on, quite literally, his father's legacy.⁵¹

In all of these cases, Alexander functioned as a Severan heir *par excellence*, restoring the religious, dynastic and architectural features of Rome's most recent era of legitimated governance. While these examples are hardly enough, by themselves, to make a broad synthetic claim about imperial representation under Severus Alexander, they offer a compelling explanation for Alexander's otherwise unusual legal activity; the reliance on precedent visible in Alexander's rescripts placed the emperor in ongoing respectful dialogue with his Severan and Antonine forebears, while also making explicit the familial connections (Divus Severus, avus meus / Divus Antoninus, pater) that underlay his claim to the throne.⁵² Alexander's rescripts also served to assert otherwise contested imperial legacies in their engagement with Commodus; while Commodus was deified under Septimius Severus, these citations stand alone within the *Codex* and suggest a concerted effort not only to link Alexander with Commodus, but Commodus with Marcus and the rest of the late Antonine line.⁵³ For example, When Severus Alexander claims at *Cod. Iust.* 4.57.3pr. that 'there is a place for the constitution of the Divine Marcus and the Divine Commodus (constitutioni Divorum Marci et Commodi

- 49 SHA *Elag.* 17.9, *Alex. Sev.* 25.6. The *HA* is hardly the most reliable source, and its later and secondary lives are either fiction or something close to it; see, among others, Cameron 2011: 781–82 (colorfully describing the *HA* as 'a work that ended up more fiction than fact' authored by 'a frivolous, ignorant person'), Rohrbacher 2015 (viewing the *HA* far more sympathetically, but in doing so recasting it as a primarily literary product that was not intended to be an accurate historiography). That said, the Severan *vitae* (up to the first part of the *Elagabali*) have long been understood as markedly more reliable; Barnes 1972 argues that they are based largely on the contemporary historian Marius Maximus, and Bowersock 1975 uses the accuracy of the *Elagabali* as grounds for a broader discussion of Herodian's knowledge of the late Severan period. See also Syme 1972: 118–21 (agreeing with Barnes's attribution of the *vita Elagabali* to Marius and noting more broadly the surprising accuracy of this 'admirable piece of narration'); Thomson 2012: 7–10 (discussing the sources of the Severan *vitae*). The *vita Alexandri* is vastly more dubious (on which see Bertrand-Dagenbach 1990, but also the more optimistic view of Villacampa Rubio 1988), but its concordance with the *Elagabali* remains suggestive.
- 50 See Bloch 1947: 301–03 (discussing the lack of named brickstamps in the outer precinct as indicating later construction); Lugli 1957: 612 (discussing differences in masonry between the main complex and the periphery); DeLaine 1997: 16. But see Steinby 1986: 108 (arguing that this difference is best attributed to Aurelianic rebuilding of Caracallan construction).
- 51 For the communicative function of this sort of restorative work in the context of Severan urban architecture, see Deppmeyer 2011; Sojc 2013; Lusnia 2014: 57–60. For restoration under Severus Alexander specifically, see Nasti 2006: 162–68.
- 52 For an example of how citation can serve this sort of dialogic function, see Corcoran 1996: 68–69 (claiming that later emperors would frequently refer to the legal pronouncements of Constantine in non-precedential fashion (for example, in overturning his decisions) to place themselves into conversation with him); Hekster 2015: 219–21.
- 53 On the deification of Commodus see Dio 76.8.1–4 [Xiph.]; for inscriptions referring to Septimius as 'Divi Commodi frater,' see e. g. *CIL* 8.9317; Hekster 2002: 189–91.

locus est)', he not only makes a claim about how individuals' legal status ought to be understood but also puts forward an official narrative of the historical events on which such claims can properly be based; not only does this rescript reference Commodus as a deified member of the imperial family – the use of *Divorum* removes all doubt on that score – but it also underlines the historical connection between Commodus' and Alexander's rule.⁵⁴ More broadly, in each of these cases citation served not only as a straightforward support for normative legal arguments (the constitution of the Divine Marcus and Commodus ought to be followed, the rule put in place by my father the Divine Antoninus ought to prevail), but also as a tool by which more contentious descriptive claims (Commodus is a citeable figure, the government which I head is sufficiently similar to earlier ones that the same rules could conceivably apply, the Divine Antoninus *is in fact my father*) could be put forward as part of a broader symbolic system bolstering Alexander's claims to legitimate *imperium*.⁵⁵

Of course, the question remains: whose idea was this? As Adam Kemezis has noted, Alexander was the second in a long series of weak child emperors whose specific desires and worldviews cannot be neatly extrapolated from the administrations they oversaw nor presumed to particularly influence the same.⁵⁶ In other words, knowing that a thing was done under Severus Alexander is very different from knowing who did it. The jurist Ulpian – to whom Dio claims Alexander entrusted 'the business of empire' – is an appealing candidate.⁵⁷ In fact, one of the earliest rescripts surviving under Alexander's name claims to follow 'the response of the jurist Domitius Ulpianus, my friend and prefect of the grain-supply' (secundum responsum Domitii Ulpiani, praefecti annonae iuris consulti amici mei).⁵⁸ Ultimately, however, we will never know for sure. What we can say is that whoever produced these documents did so with some knowledge of Alexander's broader public representation, and with some consciousness of their role in that representation. This makes sense. Rescripts – and thus law – were produced in crowded rooms; a *praefectus annonae* could speak about dowry, a senator might assist of the hearing of cases,⁵⁹ and these tasks were not so separate from the messy and political business of empire.

54 An important parallel to this usage of law – that I discuss in other, forthcoming work – is the *lex de imperio Vespasiani*. The *lex*, preserved at *CIL* 6.930 (= *ILS* 244), records the Senate granting Vespasian imperial power; the document is explicit both in its self-identification as a *lex* and in its analogizing Vespasian's powers to those of Augustus, Tiberius, and Claudius. On the *lex* see Brunt 1977; on the communicative aspects of the *lex* see Hurlst 1993; Peachin 2007: 82–86.

55 For the use of 'symbolic system' to refer to a series of communications in different – although frequently complementary – media expressing similar or mutually reinforcing claims, see Noreña 2011: 14 n.47.

56 See Kemezis 2016: 378–82. For obvious reasons, the literature on Roman child rule largely considers far later periods; however, McEvoy's point about the inability of the child ruler to be presented as acting on their own judgment applies well to the Severan child monarchs. See McEvoy 2013: 103–31.

57 Dio Cass. 80.1.1 [Xiph.]; see also Honoré 2002: 30–35, Liebs 2010: 69–70.

58 *Cod. Iust.* 8.37.4. On Alexander's *consilium* see Crook 1955: 86–91.

59 Dio Cass. 77.17.1–3 [Xiph.].

Conclusion

So far, I have made a claim about Severus Alexander, or more correctly about the bureaucracy at whose head he sat; legal communications under Alexander are idiosyncratically explicit in describing continuities between Alexander's decisions and those of earlier Severan or Antonine rulers. This discourse of dynastic continuity also manifests in other aspects of Alexander's public representation, from coinage to monumental architecture. Therefore, it seems likely that Alexander's court used rescripts as another communicative tool with which to express a specific legitimating ideology. That said, I wish to conclude this article by briefly discussing the methodological implications of its argument.

Specifically, I have here attempted to juxtapose legal work with the sorts of media that Roman historians are more inclined to see as ideologically charged – sculpture, numismatics, et cetera. That may seem obvious, at least to inhabitants of modern states who are used to this sort of legal politicking.⁶⁰ But it is also not how we tend to write about law; discussing legal texts in terms of their rhetoric, and not their effect, may seem perverse. To be clear, an emperor's legal work mattered – rescript offices provided finality to petitioners who may have desperately needed it, and the emperor's ability to give justice to his subjects buttressed his legitimacy in both popular and elite settings.⁶¹ This is particularly true given the somewhat localized promulgation of these rescripts; while it seems likely that the *Codex Iustinianus* consists of documents that were transmitted more widely than the average imperial reply, they were still addressed to individual litigants of varying power and influence.⁶² However, imperial legal correspondence can be helpful while also doing other kinds of work; useful objects, or interactions with a clear practical import, can nevertheless serve as venues for ideological performance.

To argue by analogy, a coin buys bread; it also makes a claim about an emperor, his empire or both, and the fact of the object's value to its bearer does not supersede its role as a communicative document, as part of the background of images and moments a state might manipulate to serve its distinctive purposes.⁶³ A key difference between a coin

60 For example, in one of relatively few articles to apply such an approach to Roman legal texts (here the Augustan marriage legislation), Milnor compares Augustus' ostentatious self-representation as a guardian of traditional morality to that accomplished by debates over America's Defense of Marriage Act. See Milnor 2007: 7–8.

61 See Millar 1977: 240–52 (discussing evidence for imperial responses for legal questions throughout the Principate); Wankel 2009 (closely examining the language used in these sorts of sovereign / subject interactions); de Angelis 2010: 133–55 (discussing the evidence for spaces dedicated to imperial legal work through the Principate); Connolly 2010: 146–47 (discussing how imperial correspondence could improve subjects' lives, and arguing that this may have been a conscious aim of that correspondence); Tuori 2012 (discussing how the emperor's legal function mimicked earlier Greek models of the law-giving tyrant); Bryen 2013: 96 (discussing the importance of this sort of protective work for Roman imperial legitimacy).

62 For a social history of rescripts and their recipients see Connolly 2010, particularly 67–97.

63 I here oversimplify a debate, largely but not entirely settled. On one side lie Jones 1956 and Crawford 1983, both intensely skeptical about the communicative function of coins; Jones compares them to contemporary postage stamps in the vapidness or shallowness of their communicative function, whereas Crawford claims (59) that '[t]he rulers of the Roman Empire were on the whole intelligent men and I find it hard

and a rescript, though, is that using a coin renders one, at most, a passive audience for its message. While an emperor's face might render a coin legal tender,⁶⁴ an invocation to Jupiter Ultor serves no such purpose; one could proclaim whatever one wanted about Alexander or Jupiter and still use a coin with their image. However, using these legal communications – whether in the dispute for which they were issued or as persuasive authority on a different set of facts – required studying *and mimicking* the message they sought to convey.⁶⁵ After all, why cite one supportive opinion when you could have two? Litigants employing these documents could marshal not just Alexander on their side but also the favored ancestor with which he agreed, placing the linkage between the emperor and his chosen family not only in large-scale public communication but also in the private speech of advocates or litigants. The value of these rescripts joins with the message they send and renders the two inseparable; Alexander's claims about Roman law strengthen and are strengthened by his version of Severan history. This unusual function of law – how it tells stories about the world while altering rights and responsibilities based on those stories – makes it a critical part of how states talk.⁶⁶ Roman legal history is not merely a history of rules, but a history of power and its social expressions. Bringing legal history into the history of imperial communication enriches both, and better reflects the complexities of Roman law and life.

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to believe that with so much else on their hands they, or indeed their senior advisers, devoted day-to-day attention to the devising and designing of types of which almost no-one took any notice'. On the other side, which is far better represented in contemporary scholarship, we might place Wallace-Hadrill 1986, Metcalf 1993, Noreña 2001 and Marzano 2009, all of which argue that the images on coins were too deliberate and carefully chosen (including differentiation of messages by coin denomination) to not reflect some kind of conscious effort. Of course, this is not to make claims about the success of such an effort; Levick 1982 argues that these images may not have swayed public opinion so much as permitted bureaucrats to demonstrate their conspicuous adoration of the emperor to others at court. For state media as constituting a background for daily life, rather than spectacular moments within that life, Noreña 2011: 14–21.

64 Wallace-Hadrill 1986: 66.

65 On the collection of rescripts for later use in legal education and argumentation, see Riggsby 2010: 57–66.

66 On this role for law in political storytelling, see Bryen 2014.

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Appendix: Arguments from Precedent in the *Codex Justinianus*

This appendix comprises a list of the 82 instances in the *Codex Justinianus* of an emperor justifying their decision by referencing an earlier imperial constitution. This list does not include all references to prior imperial lawmaking; I have excluded rescripts that criticize or explicitly modify a prior constitution, as well as rescripts that only mention prior instances of imperial lawmaking in explaining the facts giving rise to the dispute at hand. This coding process is unfortunately, if necessarily, impressionistic, but its results are below.

Location	Issuing Authority	Authority Cited, or Language Used
6.4.1.1	Severus/Caracalla	Pertinax
6.26.2	Severus/Caracalla	Marcus
7.12.1pr.	Severus/Caracalla	<i>Divus pater meus</i> ⁶⁷
5.16.3.pr	Caracalla	Severus
7.4.2	Caracalla	Hadrian
9.22.1	Caracalla	Severus
11.33.1	Antoninus (unknown)	<i>Divi Principes</i>
11.35.1	Caracalla	Severus
2.1.8	Severus Alexander	Caracalla
2.40.1	Severus Alexander	<i>Divi parentes</i>
4.1.2	Severus Alexander	<i>Divi parentes</i>
4.56.1	Severus Alexander	Hadrian
4.57.2	Severus Alexander	Marcus/Commodus
4.57.3pr.	Severus Alexander	Marcus/Commodus
4.65.4.pr	Severus Alexander	Pius
5.62.5	Severus Alexander	Marcus
6.21.6pr.	Severus Alexander	<i>Divi parentes</i>
6.50.4	Severus Alexander	Hadrian
6.50.5	Severus Alexander	Severus
6.54.6	Severus Alexander	Caracalla
6.54.7	Severus Alexander	Marcus/Commodus
7.8.6	Severus Alexander	<i>Divi parentes</i>
7.11.3	Severus Alexander	Marcus
9.9.6.1	Severus Alexander	<i>Divi parentes</i>
9.22.2	Severus Alexander	<i>Divi parentes</i>
9.23.3	Severus Alexander	<i>Divi Principes</i>
10.40.2pr.	Severus Alexander	Hadrian
10.60.1	Severus Alexander	<i>Divi parentes</i>
12.35.4	Severus Alexander	Marcus/Antoninus, <i>pater meus</i>
1.50.1	Gordian	<i>Divi Principes</i>
5.16.10	Gordian	Severus

67 Frier et al. 2016: 1813 identifies this language as a likely invocation of the Divi Fratres, given Septimius' claim of filiation from Marcus.

Location	Issuing Authority	Authority Cited, or Language Used
5.70.2pr.	Gordian	Severus
6.24.4	Gordian	Severus/Caracalla
6.45.2pr.	Gordian	Severus
7.2.6	Gordian	Marcus
8.23.1.2	Gordian	<i>Divi Principes</i>
8.56.2.2	Gordian	Severus
5.62.17	Valerian/Gallienus	Marcus
7.12.2.2	Valerian/Gallienus	<i>Divi parentes</i>
8.54.1.1	Valerian/Gallienus	<i>Divi Principes</i>
9.9.16.1	Valerian/Gallienus	<i>Divi Principes</i>
2.13.1.2	Diocletian	Claudius
5.17.5.pr	Diocletian	Marcus
5.71.9pr.	Diocletian	Severus
5.75.5	Diocletian	Trajan, <i>parens noster</i>
6.49.4	Diocletian	Caracalla
7.2.12.2	Diocletian	Pius
7.20.1	Diocletian	Pius
7.64.7	Diocletian	<i>Divi Principes</i>
7.71.4pr.	Diocletian	<i>Divi parentes</i>
8.10.5	Diocletian	Hadrian
8.54.3.1	Diocletian	<i>Divi Principes</i>
9.41.11pr.	Diocletian	Marcus
10.40.7.pr	Diocletian	Hadrian
10.52.5	Diocletian	<i>Divi parentes</i>
10.53.4	Diocletian	Pius
12.62.4	Diocletian	Aurelian
1.3.2.1	Constantius	<i>Noster genitor</i>
11.33.2.2	Constantine	<i>rescripta Divorum</i>
11.59.1	Constantine	Aurelian
11.61.1.1	Valentinian/Valens	Julian
1.5.6pr.	Theodosius/Valentinian	Constantine
1.51.10	Theodosius/Valentinian	<i>Divi Principes</i>
11.62.6pr.	Gratian/Valentinian/Theodosius	<i>Divi parentes</i>

Location	Issuing Authority	Authority Cited, or Language Used
11.71.1pr.	Gratian/Valentinian/Theodosius	<i>Divus pater</i>
10.48.15.pr	Arcadius/Honorius	<i>Divi Principes</i>
11.14.2pr.	Arcadius/Honorius	<i>Divi parens noster</i>
11.25.1pr.	Arcadius/Honorius	Constantine
1.5.8.1	Valentinian/Marcian	<i>Divi Principes</i>
5.30.3	Leo	Constantine
10.32.61pr.	Leo	Julian
2.7.17.1	Leo II/Zeno	Leo I
3.28.29pr.	Zeno	Leo
5.27.5pr.	Zeno	Constantine
8.53.32	Anastasius	Leo
11.43.11	Anastasius	Theodosius
6.23.23	Justin	<i>Consulta divalia</i>
1.17.2.18	Justinian	Hadrian
4.35.23pr.	Justinian	Anastasius
6.30.22pr.	Justinian	Gordian
7.37.3pr.	Justinian	Zeno
9.8.6pr.	Unknown ⁶⁸	Marcus

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68 9.8.6 only partially survives, but the remaining material includes a passage of Paul's that approvingly cites 'Divus Marcus.' This was presumably part of an imperial response that is now lost. Frier et al. 2016: 2293.