



Universiteit  
Leiden  
The Netherlands

**De rechtspraakverzamelingen van Julius Paulus : recht en rechtvaardigheid in de rechterlijke uitspraken van keizer Septimius Severus**

Daalder, E.S.

**Citation**

Daalder, E. S. (2018, October 23). *De rechtspraakverzamelingen van Julius Paulus : recht en rechtvaardigheid in de rechterlijke uitspraken van keizer Septimius Severus*. Meijers-reeks. Boom Juridisch, Den Haag. Retrieved from <https://hdl.handle.net/1887/66321>

Version: Not Applicable (or Unknown)

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/66321>

**Note:** To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The handle <http://hdl.handle.net/1887/66321> holds various files of this Leiden University dissertation.

**Author:** Daalder, E.S.

**Title:** De rechtspraakverzamelingen van Julius Paulus : recht en rechtvaardigheid in de rechterlijke uitspraken van keizer Septimius Severus

**Issue Date:** 2018-10-23

# The collection of imperial judgments of Julius Paulus

## *Summary*

### 1 INTRODUCTION

The administration of justice was one of the most important tasks of the Roman emperor. From the reign of Augustus onwards, the emperors heard cases between citizens on a regular basis. The judgment of the emperor in an individual case was called a *decretum*. This thesis focuses on two collections of imperial judgments of the emperor Septimius Severus (193-211 CE) attributed to the Roman jurist Paul (2<sup>nd</sup>-3<sup>rd</sup> century CE), which have been transmitted through the Digest. They were originally entitled *Decretorum libri tres* (hereafter: *Decreta*) and *Imperialium sententiarum in cognitionibus prolatarum libri sex* (hereafter: *Imperiales Sententiae*). From these works 38 case reports on 37 cases have been excerpted into the Digest. Since Paul was a member of Severus' judicial *consilium*, which assisted the emperor in performing his judicial duties, his reports often contain an abundance of details: the jurist does not only mention the facts of the case and the imperial judgment, but also regularly describes the proceedings and sometimes even the deliberations of the emperor and his *consilium* on the case, which took place afterwards.

The aim of this study is to gain a better perspective on the judicial activities of Septimius Severus by means of a legal and contextual analysis of the case reports from the *Decreta* and the *Imperiales Sententiae*. The second part of this thesis ('Bijzonder deel') contains the results of the analysis of each specific case. The general image of the judicial activities of Severus, constructed on the basis of this analysis, is the subject of the first part of this thesis ('Algemeen deel'). The purpose of this part of the thesis is to relate the judicial activities of Severus to the historical, constitutional and institutional context in which his decisions and, subsequently, the works of Paul came into being. The following summary is based exclusively on the 'Algemeen deel' of this thesis and does not contain any summaries of the specific cases described by Paul.

### 2 SEPTIMIUS SEVERUS

The protagonist of Paul's reports is the emperor Septimius Severus, who ruled the Roman Empire from 193 until his death in 211 CE. Severus was born in the North-African city of Leptis Magna as the second son of Publius Septimius Geta, a Roman *eques*. After he received a legal education with the famous lawyer Quintus Cervidius Scaevola, he pursued a public career in

Rome. He was raised to the rank of senator by Marcus Aurelius and held several administrative positions, including the consulate in the year 190. In 191 he was named governor of the province Pannonia Superior. Pannonia was of great strategic and military importance at the time, since no fewer than three legions were permanently stationed in this province. In 193 Severus was named emperor by his troops at Carnuntum in reaction to the assassinations of Commodus and his successor Pertinax. Severus marched on Rome and took the city without much opposition. However, his claim to the imperial throne was not uncontested. From 193 until 197 Severus had to secure his position as emperor by means of two civil wars against Pescennius Niger, the governor of Syria, in the East and Clodius Albinus, the governor of Britannia, in the West. Just like Severus, both senators had been named emperor by their troops in the aftermath of the murder of Pertinax.

Because of the unusual way in which Severus had come to power he lacked a legitimate foundation for his emperorship. Furthermore, the brutal civil wars against Niger and Albinus will not have benefited the public impression of his rule. The way Severus tried to amend his public image and legitimize his position as ruler was exceptional; from 195 onwards he presented himself as the son of Marcus Aurelius and after his return to Rome in 197 he even consolidated this dynastic claim by means of a (fictive) adoption. The inclusion of Severus in the Antonine dynasty did not only legitimize Severus' claim to the throne, but also implied the continuity between the reign of Marcus Aurelius (and his predecessors) and that of Severus. He fashioned himself as a new Antonine emperor, a *bonus princeps*, who, after years of civil war, would restore the Roman Empire to its former glory. An important aspect of being a *bonus princeps* was the emperor's relationship with the Senate. It has been contended formerly that the relation between Severus and the Senate was one of open hostility. Recent research however has argued that Severus predominantly conformed to the traditional ways in which emperors were supposed to relate to the Senate. Severus also tried to fulfill the other expectations traditionally imposed on the *princeps*. For example, he made a great effort to restore the damaged public works of Rome and provided its people with bread and circuses. In the provinces he implemented administrative reforms and protected their inhabitants against external threats, which even resulted in an expansion of the Empire in the East.

### 3 THE EMPEROR AND THE LAW

At the time of the reign of Septimius Severus the emperor had developed into the pinnacle of the Roman constitutional and legal order. Formally, his authority was still founded upon the same Republican powers that had once been attributed to the first *princeps* Augustus, i.e. the *imperium proconsulare* and the *tribunicia potestas*. However, in practice this meant that the emperor could administer the Empire at his own discretion without any let or hindrance. It is therefore not surprising that the Roman jurist Ulpian holds that

the decisions of the emperor had force of law (D. 1,4,1 *pr.*: ‘*Quod principi placuit, legis habet vigorem.*’). The legal enactments of the emperor, which were called *constitutiones principis*, could take the shape of a directive (*mandatum*), an edict (*edictum*), a rescript (*rescriptum*) or a judicial decision (*decretum*). The imperial influence on the making of the law was mainly based on the last two types of enactment. Both were imperial decisions in individual cases. A rescript was the answer of the emperor to a petition on a question of law posed by a civilian, official or judge. Although the imperial answer to such a question was, in principle, nothing more than a legal opinion by the emperor in an individual case, these rescripts were considered to be authoritative interpretations of the law. For this reason, the legal rescripts of the emperor were considered binding precedents as long as they contained a sufficiently generally formulated legal rule. By contrast, a rescript that only concerned an imperial favor or exemption, a so-called *personalis constitutio*, lacked general legal force (cf. D. 1,4,1,2). The importance of the imperial *rescripta* for the Roman legal practice cannot be underestimated. Since they often contained a specific answer to an abstract legal question, they were, at least from the reign of Hadrian onwards the most important instrument for the imperial interference in the application, interpretation and development of the law.

As has been mentioned above, the judicial decisions of the emperor were called *decreta*. Even though the Roman jurists mention the judgments of the emperor as one of the sources of Roman law (cf. Gai. 1,5 and D. 1,4,1,1), their legal force was still called into question in the age of Justinian. The judicial decisions of the emperor were often too closely connected to the specific facts and circumstances of an individual case to obtain general force of law. On the other hand it becomes clear from the *Decreta* and the *Imperiales Sententiae* that even imperial judgments could sometimes hold an authoritative interpretation of the law or even a completely new legal rule, both of which could be applied as precedents in other disputes.

When he answered petitions on questions of law or judged cases, the emperor did not need to observe the existing laws created by other (Republican) legislators, such as the *leges* of the *comitia* and the *senatus consulta* of the Senate: ‘The emperor is not bound by the laws’ as Ulpian mentions in D. 1,3,31 (*‘Princeps legibus solutus est.’*). However, from other texts in the Digest it becomes clear that there existed certain political limitations to this imperial freedom: even though the emperor was exempt from the laws, it befitted him to live in accordance with them (e.g. D. 32,23). In other words, even though there were no legal restrictions on the powers of the emperor, moral values and traditions dictated at least some restraint in using them.

#### 4 PROCEEDINGS AT THE IMPERIAL COURT

At the end of the 2<sup>nd</sup> century CE the Roman emperor had jurisdiction in both criminal and civil cases and he could act as a judge of first instance or accept appeals against sentences of almost all kinds of lower courts. A case

could be brought before the imperial court by means of a so-called *supplicatio*, a petition to the emperor. In case of an appeal, one also had to obtain the permission of the judge *a quo* to appeal against his verdict. It seems plausible that the *supplicatio* was submitted to the *a libellis*, the department of the imperial chancellery that dealt with all petitions submitted to the emperor irrespective of their nature and content. The petition was processed subsequently by another department called the *a cognitionibus*, which assisted the emperor in the performance of his judicial duties. The emperor and his court were probably swamped with petitions to be given the opportunity to submit a case to the imperial court and it seems therefore reasonable to assume that not all of these cases actually reached the emperor and his courtroom. Some cases were referred back to lower courts, while others were heard and judged by deputies of the emperor, so-called *iudices vice caesaris*. When a case had been selected for a hearing by the emperor himself, it was entered in the cause list by the employees of the department *a cognitionibus* and parties were summoned to appear on a certain day at a certain place. In the early Principate the emperors were in the habit of conducting court hearings in public places such as the *Forum Romanum*. Accordingly, the administration of justice enhanced the visibility of the emperor, since it created a moment of close personal contact between the emperor and his subjects. On the one hand, hearing cases in public offered the emperor ample opportunity to present himself as a benevolent and just ruler, showing a keen interest in the (sometimes petty) problems and concerns of regular citizens. On the other, it offered the emperor a stage to communicate his power and assert his position as the ultimate source of law and justice within the Roman legal system. In time, however, the imperial court hearings increasingly took place at the imperial palace on the Palatine Hill or at other imperial residences in and around the city. As Dio attests, Severus even had two rooms in the palace on the Palatine especially equipped for court hearings.

The proceedings of the imperial court were not restricted to a specific form or any procedural rules, but normally consisted of the same elements as the procedures in the lower imperial law courts. Besides the emperor himself, the parties and their lawyers, the *consilium principis*, the imperial bodyguard and probably a small audience of courtiers were present at the hearing. The parties and their lawyers were given the opportunity to plead their case, although the length of their argument differed from case to case and from emperor to emperor. In addition to this, both the plaintiff and the defendant would have been offered the opportunity to present legal and factual evidence to substantiate their claims (e.g. personal and legal documents, witness reports etc.). The emperor could interrogate one or both of the parties or even engage into a debate with them if he wished to do so. After both parties had sufficiently explained their point of view and the emperor had gathered enough information to decide the case, he withdrew with his *consilium* to deliberate. When they had reached a decision, the emperor would deliver the judgment orally in the presence of the parties. The litigants could, if so desired, obtain a written copy of the imperial decision.

## 5 PAUL AND THE IMPERIAL CONSILIUM

It has commonly been accepted that Paul was born around 160 CE and that he worked as a jurist and a legal author from Commodus until Alexander Severus. Just like his teacher Scaevola he was a well sought-after legal adviser. Paul probably also held several administrative positions within the imperial bureaucracy. The source material on his administrative career is unfortunately very scarce. From the Digest it can be gathered with a great amount of certainty that Paul was a part of two different (judicial) councils during the reign of Septimius Severus, i.e. the *consilium* of the *praefectus praetorio* Papinian and the *consilium* of the emperor himself. Furthermore, the *Historia Augusta*, a notoriously unreliable source, mentions that Paul held the office of a *memoria* at some point in his career and even reached the position of *praefectus praetorio* during the reign of Elagabalus or Alexander Severus. Since both positions have not been attested in other, more reliable sources, their attribution to Paul remains uncertain.

The *Decreta* and the *Imperiales Sententiae* are the result of Paul's activities as a member of the *consilium* of Severus. The nature and composition of the imperial council is a much-debated issue. Initially some have argued that the Roman *consilium principis* functioned as a 'Kronrat' or a 'Privy Council': a council with a fixed composition, which advised the emperor in all affairs of state. Nowadays, most scholars contend that the Roman emperors were counseled by different *consilia*. This raises the question – especially in regard to the judicial *consilium* of the emperor – whether these councils were either composed on an *ad hoc* basis or consisted of several regular members. The first thesis has been put forward by Crook 1955, while the latter has been defended by Mommsen 1887/1888 and Kunkel 1968/1969. From the available source material it becomes clear that the judicial council of Septimius was of a mixed nature. Severus employed a 'core' *consilium* of jurists, who were at the disposal of the emperor at any given moment and functioned as a member of the imperial council over a longer period of time. They can possibly be equated to the salaried *consilarii Augusti*, whom we come across in the epigraphic material from this period. Depending on the case at hand, other members were added to the 'core' *consilium* on an *ad hoc* basis. These advisers usually did not possess any legal knowledge and were often chosen from the group of *amici principis*.

## 6 THE TWO COLLECTIONS OF IMPERIAL JUDGMENTS BY PAUL

The 38 texts transmitted through the Digest have been excerpted out of what seem to be two different works, the *Decreta* and the *Imperiales Sententiae*. 32 of these texts originate from the *Decreta* and three from the *Imperiales Sententiae*, while three more texts were included in both works, according to their inscription. All texts concern reports on imperial court hearings, but their layout and contents differ. Most of the texts (26) do not only mention the



imperial judgment, but also contain an account of the facts of the case. In some reports Paul also adds a description of the position of the parties, mentions the judgment of a lower court and sometimes even describes the deliberations on the case between the emperor and his *consilium*. It seems plausible that all reports were originally more or less shaped this way. However, some of the texts in the Digest deviate from this layout. Some of them (4) merely contain the judgment of the emperor without any context. Other texts (8) do not even mention the imperial decision, but only contain an abstract and generally formulated legal rule. It seems probable that both groups of texts owe their present form to the compilers of the Digest, who did not include the complete case report of Paul, but excerpted a specific passage from his report and added this without any context to the Digest.

As has been mentioned in the introduction, the cases from the *Decreta* and the *Imperiales Sententiae* date back to the reign of Septimius Severus. Since Paul mentions Papinian as a member of Severus' judicial council and the imperial procurator Valerius Patruinus as a litigant in one of the cases the *terminus ad quem* for both works can be established with a certain amount of certainty. Given that Papinian and Patruinus were murdered by Caracalla in the aftermath of the assassination of his brother Geta, the *terminus ad quem* for both works is 211 or 212 CE. It is much harder to establish a *terminus a quo* for Paul's works based on the limited information provided by his reports. From the fact that Marcus Aurelius is referred to as '*divus Marcus*' one can gather that the court cases included in the *Decreta* and the *Imperiales Sententiae* must have taken place after his reign. At the same time, texts from both works mention '*imperatores nostri*', a phrase that, based on the foregoing, can only refer to Septimius Severus and Caracalla. This means that at least part of the cases reported by Paul occurred during their joint reign from 198 until 211 CE. In addition to this, the first book of the *Decreta* contains a reference to '*Severus Augustus*'. Since a dating during the reign of Alexander Severus is impossible because of the *terminus ad quem* established above, we can assume that the phrase *Severus Augustus* refers to Septimius Severus as well. It is therefore plausible that the cases and court hearings included in the *Decreta* and the *Imperiales Sententiae* took place during the entire reign of Septimius Severus, that is, from 193 until 211 CE.

## 7 THE TRANSMISSION OF THE *DECRETA* AND THE *IMPERIALES SENTENTIAE*

There has been an extensive debate among scholars about the relationship between Paul's two collections of imperial judgments. As early as the 16<sup>th</sup> century, the French humanist Cujas argued that all the texts included in the Digest originated from the same work to which both titles referred. Although this work consisted of six books, the compilers only used the first three of them according to Cujas. His theory was refuted in the 19<sup>th</sup> century by Bluhme, the creator of the so-called 'Massentheorie'. In contrast to Cujas, Bluhme held that the 38 texts in the Digest originated from two different



physical works, which have been included in the *Index Florentinus* under different titles and were part of two different ‘Massen’, *i.e.* the Papinianusmasse (*Decreta*) and the Appendixmasse (*Imperiales Sententiae*). He attributed both works to Paul himself. Most 19<sup>th</sup>- and 20<sup>th</sup>-century romanists have shared his view, although there still existed some debate on the exact relationship between the two works. Midway through the 20<sup>th</sup> century an alternative theory was formulated by Schulz. Just like Bluhme, Schulz assumed that the compilers possessed two physical works, which were a part of two different Massen. However, he does not attribute these two works to Paul, but argues that they were abridgements, *epitomae*, of one Pauline original. His argument is without a doubt convincing with respect to the *Imperiales Sententiae*. On the basis of the inscriptions of the texts that have been derived from this work and in particular the use of the phrase ‘*ex libris sex*’ in these inscriptions (‘*Paulus imperialium sententiarum in cognitionibus prolatarum ex libris sex libro primo/secundo*’), one can safely assume that this work is an *epitome*. The original work of Paul probably consisted of six books, which were summarized in two books by an unknown epitomator. However, the *Decreta* lack similar clear indications to assume we are dealing with an abridgement. Schulz bases his argument regarding the *Decreta* chiefly on the differences in layout and contents between D. 10,2,41 and D. 37,14,24, two texts from the Digest that deal with the same case, of which one originates from the *Decreta* (D. 10,2,41) and the other from the *Imperiales Sententiae* (D. 37,14,24). However, the differences between the two texts might also have been caused by an editorial interference of the compilers. In short, we may say that the external characteristics of and differences between the *Decreta* and the *Imperiales Sententiae* do not give a definite answer whether the *Decreta* should be regarded also as an *epitome* or not. However, the unconventional content of both works points in the direction of the view that Paul published only one collection of judgments of Septimius Severus. This thesis will be further developed in the following paragraphs.

## 8 THE MOTIVES BEHIND THE PUBLICATION OF THE JUDGMENTS OF SEPTIMIUS SEVERUS: TRADITIONAL VIEW

Unlike modern jurists, Roman jurists were not in the habit of compiling and publishing collections of judicial decisions. Because of the specific characteristics of the classical formulary procedure, judgments were not considered to be a source of law (cf. C. 7,45,13). Their publication and dissemination were therefore useless in the eyes of the Roman jurists. The only exception to this principle were the *decreta* of the emperor, which the jurists did regard as a source of law (sub 3 *supra*), although they never showed great interest in them. They rarely cite imperial *decreta* in their writings and, but for the collections of Paul, no other collection of imperial judgments survives from antiquity. The reports of Paul are therefore unique. This raises the question why Paul decided to compile and publish the judicial decisions of Septimius Severus.

Modern scholars gather from the alleged general legal force of the judicial decisions of the emperor that either Paul or the emperor himself wanted them to be published for the benefit of the general legal practice and thereby enable litigants, lawyers and judges to cite and/or apply these imperial decisions in other procedures in the lower courts. Such an exercise seemed imperative, since the judgments of the emperor were not officially published and/or disseminated by the imperial administration itself.

Several aspects of this traditional view are problematic. First of all, as has been mentioned above (paragraph 3 *supra*), the legal force of imperial judgments was still called into question during the age of Justinian. They could only be used as a precedent when they contained a sufficiently generally and abstractly formulated legal rule. If Paul published his collection of judgments for the sole purpose of their use by legal practitioners, one would expect his collection to consist mainly of this type of decisions. A closer analysis of the 38 case reports reveals that this was not the case. The judgments from the *Decreta* and the *Imperiales Sententiae* can be broken down into four categories:

1. judgments in which the emperor applies existing law;
2. judgments in which the emperor elucidates an unclear point of law or even creates a new rule;
3. judgments in which the emperor construes specific legal documents, such as wills, codicils and contracts;
4. judgments in which the emperor leaves aside the rules of existing law and decides the case on the basis of general legal concepts, such as *aequitas* ('equity'), *humanitas* ('humanity') or *pietas* ('piety'). These decisions usually concern so-called 'hard cases', cases in which strict application of the law would lead to an undesirable or unjust outcome.

Only the first two categories of judgments (category 1 and 2) are suitable for application in other disputes and could therefore be considered as precedents. This is abundantly clear in as far as the judgments of the second category are concerned, but the same holds true for some of the decisions of the first category, since the application of a certain legal rule to a certain case can regularly be regarded as an authoritative interpretation by the emperor of the content and scope of that rule. Yet, only sixteen of the judgments from the *Decreta* and the *Imperiales Sententiae* belong to these two categories. The other imperial judgments either hold an interpretation of a legal document (category 3) or a decision based on a general legal concept (category 4). These types of decisions were clearly less suitable for application in other cases, since they were often too closely connected to the specific wording of a document, the specific interests of the parties involved and other related circumstances. Indeed, in most of these cases it seems unlikely that the emperor even had the intention of creating a precedent.

Secondly, if Paul actually intended to make important legal enactments of Septimus Severus accessible to the general legal public, it would have

been more profitable to compile a collection of imperial *rescripta*. Although both *decreta* and *rescripta* were decisions in individual cases, *rescripts* usually contained a specific answer to an abstract legal question. For this reason, they were cited regularly as a precedent by the Roman jurists and have had a more profound impact on legal practice than the judgments of the emperor. Accordingly, it would have made much more sense for Paul to compose a collection of *rescripta* or at least also include this type of imperial legislation in addition to *decreta* in his work. There even existed a precedent for such an enterprise. The jurist Papirius Justus published a similar collection of imperial enactments, known to us as the *Constitutionum libri XX*, which consisted mainly out of *rescripts* of Lucius Verus and Marcus Aurelius.

Thirdly, it seems obvious that the contents of the texts from the *Decreta* and the *Imperiales Sententiae* are not consistent with the general view on the motives behind their publication. If we would want to assume that Paul merely intended to make the judicial decisions of Septimius Severus known to legal practitioners, it would be hard to explain why he chose to add so many details to his descriptions. The judgment of the emperor and possibly a concise description of the facts would have sufficed in that case: all other information on the proceedings and the debate *in consilio* was to a large extent irrelevant for the application of the decision in other cases.

## 9 THE MOTIVES BEHIND THE PUBLICATION OF THE JUDGMENTS OF SEPTIMIUS SEVERUS: AN ALTERNATIVE THEORY

It follows from the foregoing that the generally accepted view on the publication of Paul's collection of imperial judgments is no longer tenable. Its publication was not prompted by the desire to make the judicial decisions of Septimius Severus known to the general legal public, but is closely connected to Paul's position within Severus' court. Prominent 2<sup>nd</sup>- and 3<sup>rd</sup>-century jurists like Paul, Papinian and Ulpian held a special position within the Roman legal order. On the one hand they were still a part of the normal legal practice: they gave *responsa* to clients and officials seeking legal advice, wrote extensive commentaries on Roman private law and taught students. On the other hand they also often held influential positions within the imperial bureaucracy and were a part of the advisory *consilia* of high officials such as the *praefectus praetorio* and the emperor himself. Their activities within the imperial administration have demonstrably influenced the works of the Severan jurists and the literary genre of legal writing as a whole.

The detailed case reports of Paul do not just make the imperial judgments known to the general public, they also offer readers a unique insight into the decision-making process at the top of the imperial bureaucracy with Septimius Severus at its center. Paul's work therefore gave a certain transparency and publicity to the imperial decision-making process, which in the age of Severus usually took place behind closed doors and belonged to the *arcana imperii*. From this point of view, the *Decreta* and the *Imperiales Senten-*

*tiae* are not simply collections of random imperial judgments, but should be regarded chiefly as a portrait of the emperor Septimius Severus at work. The picture of Severus painted by Paul is a very favorable one and fits strikingly well within the traditional image of the good 'emperor-judge', which can be found in various literary sources, such as Tacitus, Pliny the Younger, Suetonius, Cassius Dio and Herodian. Paul depicts Severus as emperor accessible to all of his subjects, irrespective of their sex or status. His interest was not limited to the adjudication of spectacular criminal charges and other controversial disputes within the elite; he often heard cases between regular citizens on less sensational and sometimes even highly technical subject matter. According to Paul's reports the emperor offered litigants the opportunity to plead their case in his court and substantiate their claims with evidence. Severus actively presided over the proceedings and sometimes interrogated the parties. If we are to believe Paul's depiction, Severus' conduct during the deliberations with his *consilium* met all the expectations imposed on a good emperor-judge. The legal debate between the emperor and his advisers was of a high quality, partly due to the fact that Severus gave the members of his council the opportunity to speak freely. In some cases the emperor followed the advice of his councilors, in others he was of the opinion that the particular case at hand demanded a different solution. In general, one can argue that a clear balance exists between the different types of decisions included in the *Decreta* and the *Imperiales Sententiae*. Sometimes Severus acted as a regular judge and simply applied the existing rules of the *ius civile* to the case presented to him. In other cases, when the specific circumstances of the case required him to interfere, he acted as a benevolent ruler and was willing to bend the rules to come to a decision that best served the interests of all parties involved.

The unconventional content of the *Decreta* and the *Imperiales Sententiae* justifies the assumption that we are dealing with an unconventional piece of legal writing with a very specific purpose. It is therefore plausible that Paul himself only published one collection of judgments of Septimius Severus and that the compilers of the Digest had two abridgements of this work at their disposal. It is unconceivable that Paul published his collection without the knowledge and approval of Severus within the lifetime of that emperor himself. The fact that Paul did indeed publish his collection during the reign of Severus may be deduced from his use of the word '*imperator*' in reference to Severus, which Roman legal writers use to refer to a reigning emperor. By publishing his case reports, Paul essentially made public the debate *in consilio*, which normally took place behind closed doors. Such public disclosure of the *arcana imperii* could only have occurred with the permission of the emperor himself.

The portrait of Severus as a judge painted by Paul must have pleased the emperor for several reasons. First of all, the picture of Severus as a good emperor-judge fitted well into Severus' own imperial rhetoric and propaganda. After he came to power, Severus fashioned himself as the son of Mar-

cus Aurelius and more in general, as a *bonus princeps*, who ruled the Empire in the same way as the Antonine emperors and their predecessors had done. Paul's presentation of Severus as a conscientious, competent and righteous judge was therefore in complete accordance with Severus' own public imagery. The very publication of the collection will have contributed to the image of Severus as a good emperor and ruler. Since imperial court hearings were probably no longer accessible to the general public at the time of Severus' rule, the people of Rome had virtually no insight into the proceedings at the imperial court and the way in which the emperor reached his final decision. The detailed descriptions by Paul added a certain amount of transparency to the imperial judicial procedure. Since classical authors valued the public nature of the imperial court sessions as a means to discourage unfair and arbitrary judgments, the publication of Paul's work must have contributed to the image of Severus as a *bonus princeps*.

The way Paul portrays Severus in the *Decreta* and the *Imperiales Sententiae* also brings another aspect of Severus' reign into the limelight. The judgments in which the emperor bypasses the law and decides the case on the basis of *aequitas*, *humanitas* or *pietas* contribute to the image of Severus as benevolent and just emperor. At the same time they emphasize his position as an absolute ruler, who is above the law and has the power to decide on the equity of the law. From this perspective, Paul's collection of imperial judgments can also be regarded as a justification of the absolute monarchy and a confirmation of the fact that towards the end of the Principate the emperor had developed into the most important authority on questions of law and justice in the Roman Empire.