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"Roman Judicial Procedure with Reference to the Trial of Jesus Christ",

A thesis

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A. C. Hahn

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B. D.

Roman Judicial Procedure with Reference to the Trial of Christ.

With the expansion of the Roman Empire, the problems of provincial government forced themselves upon the Romans. The Empire was extended from the Euphrates to the Atlantic, from the Sahara to the Danube and the Rhine. It is estimated that these lands were inhabited by 120,000,000 people who had widely different national, religious, and intellectual inclinations. And the manner in which this Empire was held together must be considered a remarkable accomplishment.

At the time of Augustus the provinces of the Empire were distributed. They were placed either under the control of the emperor, or of the Senate. The frontier territories, in which the presence of the standing army of Roman legionaries was necessary on account of the unsettled and turbulent nature of the subjects, were given into the hands of the emperor. Such regions were then called imperial provinces, for the emperor appointed the officers to govern the same. The military command was given to the legatus; the propraetor was the ruler of internal affairs; and the procurators were responsible for the financial support of the province, or of the subdivision of a province. Syria was an imperial province, to which Judaea, Samaria, and Idumea were joined as subprovinces. Other provinces which were less distant from Rome, and more peaceful were placed under the administration of the Senate, which appointed a governor from year to year who held the rank of Proconsul, and he was attended by a quaestor. In the senatorial provinces it was not considered necessary that an army be maintained. If however, conditions demanded the legions, then those from the nearby imperial provinces, or those from Rome came to the assistance of the proconsul.

St. Paul made the greater part of his missionary journeys in such senatorial provinces. Thus, St. Luke gives Sergius Paulus of Cyprus the title of ἀρχὸν ἑπιπέτατον, which indicates that Cyprus was a senatorial pro-

vince. Out of harmony with this, Strabo (XIV. 17.25) claims that Cyprus was governed by $\sigma\tau\epsilon\alpha\tau\eta\gamma\omicron\iota$, propraetors, which would then make it a province which Augustus had reserved for himself. But Strabo himself places Cyprus in the list of senatorial provinces. Dion Cassius further informs us (LIII. 12; LIV. 4), that though Cyprus had first been on Augustus' list, a rectification was subsequently made by him, the disturbed province of Dalmatia, which had been assigned to the Senate, having been exchanged for quiet provinces in the emperor's portion; and that at this time Cyprus reverted to the Senate. That Cyprus was really a senatorial province, and governed by a proconsul at the time of the visit of Paul, is attested by the discoveries of coins, dating back to that very time. These coins bear the name of Emperor Claudius, and of the provincial governor, called $\alpha\upsilon\theta\upsilon\pi\alpha\tau\omicron\varsigma$.

With the same precision, Luke calls Gallio of Achaia $\alpha\upsilon\theta\upsilon\pi\alpha\tau\omicron\varsigma$ for in 44 A. D. Claudius made Achaia a proconsular and senatorial province. And when Luke uses $\epsilon\lambda\lambda\acute{\alpha}\varsigma$ (Acts 20,2), he refers to the Roman province, while according to Paul's usage it refers to all the Greek lands in Europe (Rom 15,26; 2 Cor 9,2; 1 Thes 1,8). Asia is used, not to refer to the entire continent as today, but to the Roman province, including principally the kingdom of Pergamus left by Attalus III. to the Romans, namely Lydia, Mysia, and parts of Phrygia. The governors of Asia also bore the title of proconsul, being appointed by the Senate from among the senior ex-consuls. Philippi is designated as $\kappa\omega\lambda\omicron\nu\acute{\iota}\alpha$ (Acts 16,12) and the magistrates are called $\sigma\tau\epsilon\alpha\tau\eta\gamma\omicron\iota$, or praetors, a title which the rulers of free-cities were fond of giving themselves.

The outstanding feature of the Roman provincial government was pliancy and adaptability. "Rome loved supremacy, but she had no passion for uniformity". She was aware of the fact that all her provinces could not be treated alike. Rome looked upon the provinces as Conqueror upon the conquered, but at the same time granted complete freedom of local self-governemt. Local

institutions were respected as long as they did not directly conflict with the supremacy of Rome. Circumstances dictated which one of the two fundamental principles should be preponderant, and herein lies the strength of the Roman provincial government.

The basis of government in any particular province was the *Lex Provinciae*, according to which certain powers and duties were delegated to the governor. This was coupled with the Praetorian Edicts, and virtually formed a charter for the subjects. The *Ius Gentium* grew out of these particular laws, and began to supersede all local forms.

Toleration characterized the attitude of the Romans also toward the provincial religions. Far from interfering with the religion of the provincials, the Romans introduced foreign deities into their own cultus. Thus we find that Isis, Serapis, and Mithra were worshipped at Rome. Religious convictions of the Romans are typified by Cicero and Caesar. Cicero wrote much in defense and praise of religions, and himself believed in no gods whatever. Caesar was at the head of the official religion, and himself denied in the Senate the immortality of the soul. Gibbon writes that the various religions were considered equally useful by the magistrates, equally true by the people, and equally false by the philosophers.

Judaea fell under the jurisdiction of the Romans in the year 63 B. C., when Pompey conquered Jerusalem. At the time the Jews were torn by internal dissension, and disagreed regarding the succession of the Asmonean princes. Both Hyrcanus and Aristobulus contended for the government of the Jews, and neither was able to subdue the other. The army of Pompey was stationed at Damascus, and the princes sent thither to appeal for support. Pompey improved the opportunity, came to Jerusalem, opposed Aristobulus, because he seemed the more powerful, battered down the walls of the temple, thus conquering Aristobulus (Jos. Ant 14,4.5.). Then followed a period of provincial government under the Asmonean princes, 63 - 37 B. C.; the rule of the Herods, 37 - 4 A. D. After Caesar Augustus banished Archelaus, the administration of

the procurators was established, 6 - 41. The rule of Herod Agrippa, 41 - 44, was followed by another series of procurators, 44 - 70.

The government of the Jews offered many and serious difficulties to the Romans. They learned that the Jews adhered most tenaciously to the peculiarities of their religion. The Jews hated the Romans as "uncircumcised dogs", and the Romans considered the Jews the "circumcised horde". As soon as the Jews realized that any act of the Romans was contrary to their religion, they positively refused obedience, and rose in rebellion against the governing power. The national characteristic of the Jews was well summarized by Nicolaus in Rome, when he "accused the Jewish nation, as hard to be ruled, and as naturally disobedient to kings", (Jos Wars 2,6,2.).

The Romans made it easy for the Jews to submit to their government. The concessions which the Romans made to them were such as they could not have enjoyed, had they not been under the jurisdiction and protection of the Romans. According to the treaty which Julius Caesar made with Hyrcanus (Jos Ant 14,10), the Jews were free from dues to the Romans, from military occupation and levy. The duties of the frontier defense were undertaken by the native government. Joppa, and thereby connection with the sea was to be restored to the Jews. There should be freedom and independence in all internal administration, continuance of the office of the high-priest and religious worship and customs. Internal revenue, tithing should continue as before. The reestablishment of the fortifications of Jerusalem was permitted. The Jewish abhorrence of images was recognized, and so the heads of the emperors were not stamped on Jewish coins. Non-jews were forbidden to defile the interior of the temple by their presence (Jos Wars 5,52; 6,2.4; Ant 15,11.5). The legionaries detoured around Jerusalem so that the Holy City be not defiled by the eagles. The standards with the effigies of the emperors were left at Caesarea. Augustus appointed that daily a bullock and two lambs be

sacrificed to the "Supreme God" for him.

A concession of the greatest importance was this, that the Sanhedrin was permitted to continue and exercise its power in the internal government of Jewish affairs. In the days of Jesus, the Sanhedrin had legislative, executive, and judicial powers. It commanded a body of police for the purpose of making arrests, (Mat 26,47; Mark 14,43). It had the power to prefer charges and try cases of a religious nature, in which the procurator would not meddle. From its decision there could be no appeal; it was the highest court. In connection with the Great Sanhedrin, there was an organized system of smaller courts, which were under the control of the general body, and connected with the synagogues in the lands, even outside Judaea. In this way they exerted power against Jesus in Galilee, and it was to such a body in Damascus that Saul was bearing letters from the Sanhedrin of Jerusalem. The great limitation to the power of the Sanhedrin is expressed in the Talmud, "Forty years before the destruction of the temple, the power of inflicting capital punishment was taken away from Israel"; and the Jews admit to Pilate, (John 18,31), that it is not lawful for them to put any man to death. The Sanhedrin might inflict minor punishments, such as beating, (Acts 5,40); it could decide in matters of life and death, could pronounce the sentence of death, but it could not inflict capital punishment.

Pontius Pilate as procurator (26-37) was not at all qualified to govern a people as "hard to be ruled" as the Jews were. He was personally too much devoted to Tiberius. This sycophantical devotion carried him so far, that he refused to regard the religious convictions of his subjects. So he sent a detachment of soldiers into Jerusalem by night to set up the ensigns of the emperor. Such images were an abomination to the Jews, and they sent a deputation to Caesarea to induce Pilate to remove the offence. But Pilate threatened to have them cut to pieces if they did not return peacefully to Jerusalem. However, when the Jews fell to the ground and bared their necks, Pilate felt that he could not fulfil his threat. That moment marked the victory of the Jews, for they had determined the

weakness of the procurator. In another way Pilate undertook to confer honor upon the emperor. He ordered that some gilt shields, which were dedicated to the honor of Tiberius, be placed in Herod's palace at Jerusalem. The shields were inscribed with the name of the emperor, yet without his image. However, this proved to be so offensive to the Jews that they appealed to Tiberius that the shields be removed, and Tiberius ordered the removal. Pilate made his third mistake when he intended to use the money of the sacred treasury for the construction of an aqueduct for Jerusalem. The project failed because the Jews objected. In Luke 23,1, we are told of Galileans, "whose blood Pilate had mingled with their sacrifices."

As procurator, Pilate was endowed by the emperor with the Imperium. The Imperium represents "the supreme authority of the community in dealing with the individual". In the case of the provincial magistrates it denoted that the exercise of his power was absolute. It included: 1. The power to take the auspices and to supervise certain religious matters which had a bearing on political actions. 2. To represent the state in its dealings with the individual. 3. To command the army and navy. 4. To punish those who withstood constituted authority. 5. To exercise criminal and civil jurisdiction. 6. To issue proclamations and edicts. 7. To be responsible to no one except the emperor. In the case of Pilate it meant that he was the highest authority in Judaea. He was the commander of the soldiers under him, which were about 5,000. He might judge a case quite arbitrarily and inflict punishment, because he had the *Ius gladii* or *Potestas gladii*. A Roman citizen might appeal from his decision to the emperor, but this right was not given to non-citizens such as Jesus was when He stood before Pilate.

The relation of the Procurator to the Legate of Syria was not clearly defined. The power of the Legate was greater, and his jurisdiction more extensive. His troops were legionaries, while those of the procurator were auxiliaries. The legate exercised a certain supervision over the procurator. He might send the procurator to Rome to give an account of his actions in case a dispute arose. Thus, Vitellius appointed a substitute for Pilate and ordered that Pilate go to Rome to

account for the massacre at Mount Gerizim. On the other hand, however, it appears that the procurator was not greatly dependent upon the legate. Tacitus and Suetonius call Judaea a province, which denotes that the governor was dependent only upon the emperor. Like the governors of Noricum and Aetia, the Judaeian procurator formed the supreme authority for the administration of the laws, (*μείλει τοῦ κτείνειν; ἢ ἐπὶ πᾶσιν ἰξουσίαν* Jos Wars 2,8,1.). The number of soldiers under the command of Pilate was sufficient to maintain order. At Caesarea there was stationed one division of cavalry (ala) and five cohorts of infantry. In addition, troops were stationed at Jericho, Machaerus, throughout Samaria, Ashalon, and Jerusalem (one cohort under the *χιλίαρχος* , Acts 21,31; Jos Wars 2,5,6; at Fort Antonia, directly connected with, and overlooking the courts of the temple).

As judge in criminal cases, Pilate was quite independent of the authority of the governor of Syria. As judge his powers and functions did not differ to the smallest degree from those of his colleagues who governed the most extensive and most pretentious portions of the Empire. He had the *Ius gladii*, and that was the highest power granted to any magistrate of any province. Pilate decided cases in Judaea as Tiberius might have decided in Rome. In accordance with the "unlimited jurisdiction of the military Imperium", the procurator might disregard all forms and rules of law and procedure, and decide arbitrarily and despotically. A provincial non-citizen had only the right of a plea of justice in the face of absolute power. In such a case there could be no appeal to a higher court, for the right of appeal was delegated only to the Roman citizen. There were however certain factors which did act as a check to the power of the procurator. For instance, the *Lex Provinciae*, according to which his government was to be carried out. Then, a Roman citizen might appeal from his decision to the emperor. It was not advisable for the procurator to arouse public sentiment against his administration, for that involved the danger that he might be recalled by the emperor. Legally he was accountable to the emperor at the end of his term of office. In the trial of Paul by Fes-

tus, the council of the procurator is mentioned, Acts, 25,12. But it does not appear from the record of the trial of Jesus that Pilate was accompanied by such an advisory body known as "comites" or $\sigma\upsilon\mu\beta\omicron\upsilon\lambda\iota\omicron\nu$. In fact, there would be little need of such a body, since the procurator may entirely disregard their opinion, and make his own decision on the basis of his supreme authority.

The rules of judicial procedure as we find them at the time of Jesus were the result of a long development. In the early days of Rome, when state and religion were correlated, a trial was in many aspects religious, for the reason that a crime against the state involved a crime against the national gods. At the time of the Twelve Tables (600 B. C.) the rules of procedure had become more definite. The plaintiff was authorized with sufficient power to force the defendant to appear before the magistrate. The litigants laid their claims before the magistrate (in iure), and then before a private citizen acting as arbiter (in iudicio) whose decision served the purpose of regulating the mode in which redress should be obtained, and restraining private vengeance.

This method was superseded by the "Formulary system". The litigants laid their claims before the praetor who drew up a document ("formula"), in which he instructed the "iudex" of the exact points of the case, and the mode of deciding the case in the event that the claims should be proved. The "formula" consisted of three distinct parts: 1. The "Demonstratio", in which the subject matter of the controversy was set forth. 2. The "Intentio", the precise claim or demand made by the plaintiff. 3. The "Adjudicatio", the directions of the magistrate to the "iudex" as to how the case should be decided after investigating the facts. Trials were conducted in the presence of the people assembled in the "Comitia". It was the duty of the magistrate to prove to the people that his decision was correct. Both accuser and accused appealed to the passions of the populace, and glaring injustices resulted. To overcome this flaw, and on account of the increase in the number of cases, a more convenient method was introduced. This was called "Quaestio Perpetua" according to the Lex Calpurnia, (149 B. C.). The "Quaestio Perpetua"

continued in the Roman Empire, and was the established and recognized method of conducting a trial at the time of the trial of Jesus.

Following is a division of the mode of procedure into its several parts:

1. "Postulatio", an application on the part of the accuser to the magistrate, either to the "praetor" or to the "iudex quaestionis", for permission to bring a criminal charge against a certain person. The magistrate must be convinced that the charge was such that it warranted a trial, thus assuring the individual that he could not be brought to trial for a trivial offense, or for one of which the accuser could not possibly convince the judge. The successful prosecutor, or accuser, would be rewarded by fame and one fourth of the confiscated property of fine.

2. "Divinatio", a preliminary trial before the "praetor" for the purpose of selecting a single accuser for one offense charged. In the "divinatio", the evidence of the case was not considered. The selection of the accuser was made on the basis of the ability and sincerity of the candidates.

3. "Nominis Delatio", a private hearing before the "praetor", to secure a specification, or definite statement of the personality of the accused and of the charge lodged. The accused must be present or have a valid excuse for his absence. Both accuser and accused were questioned, in order to assure the "praetor" that there was a "prima facie" case to be carried before the regular tribunal in the open trial.

4. "Inscriptio". If the accuser convinced the magistrate that the charge warranted a trial, the latter framed a form of indictment, signed by the accuser and several witnesses, "subscriptores". Now the charge was definitely fixed; it must necessarily be brought before the tribunal, and it was the only offense that could be investigated by the court. Additional charges could not be added.

5. "Nominis Receptio", the formal reception of the written indictment by the president or "iudex". Henceforth the case was considered as being "in iudicio", while previously it had been "in iure", and the defendant was now "in reatu". Now the time was fixed at which the accused must appear, and the trial must begin.

This time was usually ten days after the "receptio". During this interval the defendant was permitted to go at large, to prepare his defense; or he might go into voluntary exile, an act very much encouraged, for it removed the necessity of executing a Roman citizen.

6. "Citatio". At the appointed time the judges or jurors were summoned by a herald. If the defendant failed to appear, the proceedings continued nevertheless. In case of a valid excuse (absence in public service, another trial elsewhere, illness), the trial would be postponed. A person might be tried in his absence, as were the assassins of Caesar (43 B. C.). Milo was condemned in his absence, (53 B. C.). If however, the prosecutor failed to appear, the trial would be terminated at once.

7. "Impanelment of the jurors". A number of names were written on white tablets and placed into an urn. The "praetor" drew out a certain number of ballots which represented the jurors. The exact number of the jurors depended on the challenge of both the prosecutor and the defendant.

8. "Beginning the trial". The orators made their speeches, which consisted in argument, characterization, illustration. Then proof was introduced, evidence to show that the truth had been spoken in the speeches. The place of the trial was in the open air, in the Forum. The "praetor" sat on curule chair, and the judges on benches, on an elevated platform, so that the people were able to see what was being done. The time was daylight, between daybreak, and an hour before sunset.

9. "Voting of the judges". This was done by ballot; majority was decisive. The votes were counted by the president. The result was either condemnation, "fecisse", "C" (condemno); or acquittal, "non fecisse", "A" (absolvo); or doubtful, "amplius esse cognoscendum", "NL" (non licet).

Such were the exact rules of procedure in a criminal court at Rome. Necessarily, a trial in the province could not conform in its details to such an intricate model, and Pilate must not be charged with illegalities simply because he did not observe all the various steps. In comparing the trial of Jesus as related by the Evangelists to a model "Quaestio Perpetua", it will be found that

many features are missing. So, the ten days are not granted after the "nominis receptio". There is no preliminary trial before the magistrate. Nothing is mentioned of an orator for the defendant. Evidently no jury was impaneled. However, in the provinces these features were regularly omitted, so that a large number of cases may be tried when the governor happened to come to the city. And it was quite usual that a large number of cases awaited the arrival of the governor, as Cicero in Cilicia (Ad. Att. 5,21,9) and Caesar in Gaul (B. G. 1,54). And Tacitus says (Agr. 9.) that, "the governors who were military men were in the habit of deciding cases in an off-hand manner." But it remains true, that the trials as conducted at Rome were to be models for those conducted by the provincial governors, not so much in their form, as in their efficiency for meting out justice. Rules of procedure may be disregarded as long as the method employed attained to the essential goal, - justice and equity.

The proceedings against Jesus began long before the 14th of Nisan, 30 A. D. During the second year of the ministry in Galilee, the Jews were watching Him, that they might accuse Him (Mark 3,2); the scribes and Pharisees tried to provoke an incrimination (Luke 11,53); in Jerusalem the Jews took up stones to cast at Him (John 8,59); after the resurrection of Lazarus the rulers gave commandment, that if any man knew where Jesus were, he should show it, that they might take Him (John 11,57) But in all these attempts the Jews failed, because Jesus had not yet completed His work, His hour was not yet come. Finally when He had fulfilled all things given Him by the Father, and it remained for Him only to suffer and die, He showed His willingness to be delivered into the hands of wicked men; for He boldly said to the captors in the garden, "I am He".

Now Jesus was bound and led to the palace of Annas. Why to Annas? Caiphas indeed, was the high priest, but it was Annas who was exercising the power of Jewish religious government. And the Jews still recognized Annas as the true high priest, with all the powers of that office. It was due to the influence of Annas that the temple traffic reached such nefarious depths. Jesus had attacked this traffic, thus arousing the personal enmity of Annas. In the questioning,

(John 18,19 f.), Annas inquired concerning the doctrine and the disciples of Jesus. It was an officer of Annas that smote Jesus. Legally there was no reason why Annas should be involved in the official prosecution of Jesus, because the official position of Annas was extralegal. Thus the case against Jesus had its very inception in illegality. Even on the basis of Jewish law, Annas could not justify his actions, for he was a "sole judge", and the Talmud said, "Be not a sole judge," for there is no sole judge but One". These words also condemn the action of Caiphas, for he too was a "sole judge". He had even pronounced a verdict upon Jesus - "He hath spoken blasphemy" - which was out of order at the beginning of the trial.

While Annas was questioning Jesus, the Sanhedrin was hastily assembled in the palace of Caiphas. According to Mark, the ὄλον τὸ συνέδριον was assembled, but this seems to refer to a quorum, which consisted of 23 members. It is very unlikely that men like Nicodemus (John 7,51), Joseph of Arimathia, ^{and} Gamaliel took part in the terrible trial of the Sanhedrin headed by high priest Caiphas. Jesus was led before this august group of Jewish elders, and the high priest bluntly put the question to Him, "Art thou the Christ?" Jesus referred him to His actions, and to the testimony of His hearers. But a second question followed, "Art Thou then the Son of God?" And since Jesus would not deny this, He was charged with blasphemy. Caiphas rent his garments, which was an act of impropriety, because the garments of the high priest were symbolical of the great dignity of his office. The false witnesses which stood up against Jesus based their evidence on the words of Jesus, "Destroy this temple, and in three days I will build it up again". They forced a literal meaning into these words, and then the deduction might be made, that Jesus was laying claim to supernatural power to which He had no right, and that His misled followers might be induced to raise their hands against the holy temple, being convinced that their Master could rebuild the temple by His power. In spite of the fact that the testimony of the false witnesses did not agree, Jesus was led in the early hours of Friday morning to the Praetorium, being condemned to death by the Jews. On what charge He was condemned, the Jews themselves were not clear. But they cared less for the course of the trial, than

for their one objective, - the death of the Messiah.

From the palace of Cai phas the entire company of the Sanhedrists conducted Jesus to the court of Pilate, called the "Praetorium". It is assumed that this was the palace of Herod, a very beautiful and lavish structure. The procurators were wont to occupy this palace when they found it necessary to come to Jerusalem. The fact that Pilate did not permanently live there is another indication that he found no pleasure in living with his peculiar subjects. He appeared in Jerusalem only when he was in duty bound to do so. The occasion of his present visit was the great passover of the Jews, when there was danger that the great number of assembled Jews, under the spell of returning spring, might be easily incited to insurrection. Pilate did not stay in Jerusalem longer than necessary, for the Jews were satisfied to bring the case to him on the day of the festival, so that he could not leave the city without having pronounced judgment upon their prisoner.

It was Pilate who opened the trial with the words, "What accusation bring ye against this man?" The Jews did not care to answer the question, so they declared most impudently, "If he were not a malefactor, we would not have delivered Him to you". They expected that Pilate should ratify and approve their decision without reviewing the case, and this for the reason that their decision was based on questionable evidence. Pilate referred them to their own laws. He knew that they would not have brought the case to him, if it were not a case of life and death. And he knew that the Jews could not inflict capital punishment. Therefore this suggestion of Pilate is considered a palpable reminder of the Roman supremacy. The Jews being determined upon their goal, acquiesced to this taunt of Pilate.

Although they were disappointed in their hope that their verdict would be approved, they now produced a most ingenious charge against Jesus. St. Luke has recorded the charge: "We found this fellow perverting the nation, and forbidding to give tribute to Caesar, and saying that He Himself is Christ, a King." In the investigation by the Sanhedrin, this charge may have been considered, but

they could not establish it, because their witnesses did not agree. Now, on the way to Pilate, they invented a new accusation, for they felt that a charge of blasphemy would not make a great impression on a Roman judge, least of all on one of the disposition of Pilate. For that reason they accused Jesus of a political crime, and were sure that Pilate must listen to such a charge.

In the first part of the charge, that of perverting the nation, they might be able to prove some truth. Jesus had become a public figure. His fame extended beyond the limits of Jewry. Multitudes followed Him to learn of Him. They followed Him into the desert, trusting that He would sustain them. He was forced to leave the multitude and hide, so that they could not crown Him their King. His followers were not following the course expected of Jews. Social life was being upset, *δυστάξια τὸ ἔθνος*. Although the unrest was of a religious nature, the fact that the people were effected might be urged to give the charge a political coloring. Every semblance of popular unrest was looked upon with suspicion, and if the element of political unrest were injected, it was considered a crime. Tumults, insurrections (Acts 21,33) were contrary to the Roman provincial law, deemed worthy of apprehension and investigation. Hence the act of "perverting the nation" might be construed to be a form of treason.

Pilate did not investigate this clause of the accusation. He seems to have heard only the last words, "Christ, a King". If the first count were of a religious significance, Pilate was not interested; and if it were political, it was quite superfluous, for the accused must be condemned if the last count could be proved against Him.

The second accusation was a vicious perversion of the truth. Jesus is charged with "forbidding to give tribute to Caesar." Only three days previously Jesus had said, in Jerusalem, and to the "chief priests", "Render therefore unto Caesar the things which be Caesar's, and unto God the things which be God's, (Luke 20,25). At Capernaum the tribute collector asked Peter, "Doth not your master pay tribute?" And Peter could unhesitatingly answer, "Yes", because Jesus was in the habit of paying tribute. And on that occasion, Jesus miraculously produced the tri-

bute money, lest he should offend them. Had the Jews been able to prove to Pilate that Jesus withheld the tribute money, it would have been a grave offense. That would involve defiance to the Roman law, a denial of the supremacy of Rome in the provinces, and would have been construed as another form of treason. Pilate overlooked this charge also, to investigate the third count.

The charge of "saying that He Himself is Christ, a King" formed the climax of the accusation. Pilate investigated this by taking Jesus into the Praetorium, and bluntly asking, "Art thou the King of the Jews"? Jesus asked him to explain his point of view. If the question bore a political inference, Jesus must answer in the negative. But if others had spoken to Pilate, and he were asking from the Jewish point of view, then Jesus must answer in the affirmative. After Pilate denied that he were a Jew, or Jewishly inclined, Jesus admitted His Kingship, but He stripped the concept of all worldly and political significance. Pilate was interested only in the admission which he considered as self-conviction. But the evidence seemed so scant, that Pilate told the Jews, "I find no $\alpha\iota\tau\iota\alpha\nu$ (cause for accusation) in Him".

This was virtually an acquittal. But the Jews were not satisfied with this decision, and they renewed the accusation, that He were stirring up the people by His teaching, beginning at Galilee. When Pilate heard "Galilee", he transferred Jesus to the court of Herod, because Herod was tetrarch of Galilee. Such a transfer was called "a foro apprehensionis ad forum originis vel domicilii". In this particular case it was illegal, because Jesus was accused of a continuous crime, and must needs be tried in the place of the concluding acts. Pilate had no right to transfer the case after he had acquitted the accused. It was superfluous, because Herod could not judge while he was in the territory of Pilate, his decision would not supersede that of Pilate. Herod was anxious to see some signs performed by Jesus, but Jesus observed the contempt of silence. Herod mocked Jesus, putting a gorgeous robe on Him. In Rome it was customary for candidates to put on white robes to notify the people of their candidacy. Thus the candidacy of Jesus for King ridiculed. The result of the transfer was the humiliation of Jesus, and the

reconciliation of Pilate and Herod.

The release of Barnabas was an attempt on the part of the procurator to release Jesus. It was not a general custom in the Empire that prisoners be released to the people. Livy testifies that slaves were released at Lectisternia, (Livy 5,13). According to the letter of Trajan to Pliny, it was a prerogative of the emperor to release prisoners. In Judaea it was a special favor that the Romans released a prisoner at the feast of the passover in order to please the people.

That Pilate resorted to scourging Jesus was an illegal step at that stage of the trial. Scourging was a regular preliminary to crucifixion, and could not be inflicted on a person who had not been condemned. The scourge consisted of a number of leather thongs loaded with lead, or bits of bones. These were plied by six lictors. The criminal being stooped was tied to a column with straps, so that his back was exposed to the scourges. As a preliminary to crucifixion this form of torture was effective, for it tore the flesh of the victim, so that he would not live long on the cross. When, in the case of Jesus, mockery was added to the scourging, the limits of usage were overstepped. It was the intention of Pilate to release Him after this, and the Jews were forced to bring up a new charge. Hence they brought the charge of blasphemy, the charge on which Jesus had been condemned in the Sanhedrin. However, this did not have the desired effect on Pilate, for it brought him to a superstitious fear, that he might be dealing with a demigod of mythology.

The incident of Pilate's wife sending the message of her dream shows another irregularity in the character of Pilate. Provincial governors were not to bring their wives into the provinces. It cannot be explained why he did not leave her at Rome, or at least at Caesarea. The fact that she had to send the message after Pilate had left, shows that the trial began early in the morning, before the household of Pilate was astir.

At this point of the trial the Jews gained the mastery of the situation. By juggling the indictment once more, they struck the weakest point in Pilate's character, his devotion to Tiberius. They said, "If thou let this man

go, thou art not a friend of Caesar, whoever maketh himself a king speaketh against Caesar". Now, in his weakness he condemned Jesus to the cross. This was judicial murder, for he had virtually acquitted Jesus. For him to say, "Absolvo" and "Ibis ad crucem" in the same breath, was a travesty of justice.

The crime of treason demanded the punishment of crucifixion. Under Tiberius 52 cases of treason were prosecuted. The Roman definition of treason was wide, based on the sanctity of the state. The Julian Law defined treason; "Majestatis crimen illud est, quod adversus populum Romanum vel adversus securitatem eius committitur". Cicero defined; "Majestatem minuere est de dignitate aut amplitudine aut potestate populi aut eorum quibus populus potestatem dedit aliquid derogare." "He shall be guilty of treason by whose acts friends of the Roman people shall become enemies, or who shall maliciously bring it to pass, that the king of a foreign nation shall be less obedient to the Romans". Hence any insult to the dignity and security of the Roman people, any implicit denial of the sovereignty of the Roman state, might be construed to mean treason.

At that time the custom of Apotheosis had reached its climax. In reality only the "genius" of the emperor was to be adored. But Suetonius held that the people fully believed in the divinity of Caesar. The Roman Senate in the excesses of their adoration, placed the image of Caesar in the temple of Quirinus, with the inscription to him as *Θεός ἀνίκητος*. His person was declared sacred, and injury to him by word or deed was counted a sacrilege. Finally he was no more called "Caius Julius", but "Divus Julius". The chief cause for the assassination of Caesar was his attempt to establish Emperor Worship. A temple was erected to him, and Anthony was his priest. Schaff writes (Hist of Ch I 83): "Some of the emperors were fiendish tyrants and monsters of iniquity, and yet they were enthroned among the gods by vote of the Senate, and altars and temples were erected for their worship". The Apocalypse contains numerous references to the extent to which emperor worship had grown. (Rev. 13; 14,9; 19,20; 20,4)

On the basis of these definitions and current notions of the Romans,

the teachings of Jesus would be considered treasonable. He had not been complimentary to the rulers; had called Herod a fox. And in general the teachings of Jesus were aggressive. What was sacred to the Romans, even the image of the emperor was an abomination according to the teachings of Jesus. And Jesus did not confine His opinions to Himself, or to His immediate friends, in which case His teachings would have been condoned in Roman toleration. But Jesus preached Himself as the only Savior of the world. Rome claimed the supremacy also over the consciences of her subjects, and did not permit that her people be made less friendly to the Roman government. The very claims of Messiahship ran counter to the idea of the all-sufficiency of Rome, a notion so sacred to the Romans. It is a fundamental principle in Christianity, that God must be obeyed rather than man. And the fact that many martyrs laid down their lives because they refused to worship the image of the emperor, indicates what a wide difference there existed between the Christian and the Roman conception of Supremacy.

This difference is exemplified also in the result of the contact which St. Paul established between Christianity and the Roman world. He found that there truly existed a difference between the teachings of Jesus and the existing laws of the Romans. At Philippi, Paul was charged (Acts 16, 19.20), with stirring up the people, and with teaching customs which could not lawfully be received and observed by Roman citizens. Acts 18,13 he is charged with persuading men "to worship God contrary to the law". That the Messiahship of Jesus could not be harmonized with the Roman conception of the supremacy of the emperor is shown in Acts 17,7. Paul and the Christians are in that passage accused of doing things "contrary to the decrees of Caesar, saying there is another king, one Jesus".

So, according to the letter of the law, Pilate might have been able to justify his action in so far as he condemned a person charged with treason. But even in the days of Pilate it was conceded that the spirit of the laws superseded the letter. Scepticism entered also the field of jurisprudence. Carneadas in the Roman Senate advanced on two successive days two contradictory arguments, first for and then against the obligations of justice. The universal law, "Ius Gentium"

was fully developed, and it brought some very lofty ideas of humanity and general fellowship. "Even the tie of common humanity demanded, not only just dealings, but an active benevolence and kindness". Accordingly men throughout the Empire were in a social fellowship; all were creatures of God, and should combine to protect each other from injury.

Pilate could not possibly have escaped the influence of this popular philosophy, for his training was thoroughly Roman. He even gives an indication of his lofty conception of man, when he says, "Behold the man". Therefore he did violence to his own conscience when he delivered Jesus to the crucifiers. Some have attempted to justify the action of Pilate by pointing out that his prime duty was to maintain order among the Jews, and that therefore he had to conform to their wishes. But Roman law forbade in spirit and in letter the surrender by Roman governors and administrators of the principles of justice to the blind passions of the multitude. This was later codified in the Law of Justinian: "Vanae voces populi non sunt audiendae, nec enim vocibus eorum credi oportet quando aut noxium crimine absolvi aut innocentem condemnari desiderant". Pilate transgressed this very rule, for he knew that the Jews had delivered Jesus on account of envy, and he knew that Jesus was innocent, yet he listened to "vanae voces populi".

In attempting to lay the full blame on the Jews, some ~~have~~ gone too far in vindicating Pilate and absolving him. Tertullian held that Pilate was a Christian at heart. The Abyssinian Church has canonized Pilate, and set ^{aside} the 25th of June as the day dedicated to his memory. Also the writer of the Acts of Pilate minimizes the guilt of Pilate. On the basis of Roman law, written and unwritten, the action of Pilate cannot be excused. "He washed his hands when he should have used them". In Acts 4,27, Pilate and Herod are charged with the death of Jesus.

The Bible is more emphatic in charging the Jews with the death of the Savior. The Jews were willing to accept the guilt upon themselves and their children. In Acts 2,13; 3,13-15; 4,10; 5,30; 7,52; 10,39; 13,28, the blame is placed upon the Jews. They were guilty of infractions of the Roman laws, and of their own laws. The Jewish law forbade the delivery of an Israelite into the hands of

Gentiles on the pain of forfeiture of any place in the life to come. The greatest guilt must fall upon the Sanhedrists, for their violations were manifold and severe. It was namely forbidden that they try cases in which they themselves were biased, and in the case of Jesus they were motivated by hatred. They permitted an accomplice (Judas) to take part in the action. They did not dismiss the case when the witness did not agree. They should have delayed the sentence to the following day, for it was one of life and death; the vote should have been taken in writing; they should have mourned a day after pronouncing the death sentence. Therefore in fixing the guilt, the Jews are charged with the instigation, and Pilate with the consummation of the act.

F i n i s .

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