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## THE RESURRECTION OF THE BODY IN THE OLD TESTAMENT.

In the Third Article of the Apostles' Creed we confess with the whole Christian Church: "I believe the resurrection of the body." Luther's Small Catechism explains this clause as follows: "I believe . . . that the Holy Ghost, at the latter day, shall raise up me and all the dead." The resurrection of the dead is one of the fundamental doctrines of Christianity. It is the presupposition and mainspring of Christian faith and life, marking the end of the world's history and the consummation of the Kingdom of God on earth. The denial of this fact involves the ruin of all true faith. Whoever becomes regardless of it, and does not keep in mind a correct view of it, will be lacking in vigor of doctrine and morals. Any preacher of Christianity neglecting to preach this doctrine intelligently, to ground his hearers in the knowledge of the same, or who obscures its truth and does not preach faith in view of it, does not bring forth true faith and righteousness. He deviates from his calling. For the resurrection to the life eternal is the seasoned fruit of Christian faith and life, as the resurrection to eternal perdition is the outgrowth of sin and the rejection of grace.

The resurrection of the body is in no way taught by human reason. If man should know it, God must reveal it to him. The doctrine is found nowhere among the nations of the Gentile world. No ethnic creed has a notion of it. It cannot be deduced from any of the sciences. Neither logical nor mathematical formulas, nor the "laws" of physicists and chemists

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## ST. PAUL AND THE LEX JULIA DE VI.

It would be rehearsing a commonplace to dwell upon the influence which Paul of Tarsus has had on the development of the Christian religion and human civilization. Nor need I advert to that peculiar interdependence which subsists be-

tween the sacred books of the Canon of the New Testament and the culture and institutions of the Greco-Roman civilization amid which Christianity came into being. Whether St. Paul on the Arcopagus (Acts 17, 28) had Cleanthes or Aratus in mind when he cited: *τοῦ γὰρ καὶ γένος ἐσμέν*, or both together, or again another poet, matters little. But it does remain a matter of some importance, not merely for the antiquarian alone, to know under what specific legal safeguards and shelter the life of St. Paul was spared and his career materially prolonged by his appeal to his *civitas* and the implied protection of the Roman law, both at Philippi (Acts 16) and at Jerusalem (Acts 22).

The *duumviri* at Philippi were the regular executives of the *ordo decurionum* of that colony<sup>1)</sup> (or *duoviri*, as Mommsen<sup>2)</sup> has it). They are called *σπαρτηγοί* (16, 20; 22), *i. e.*, *praetors*.<sup>3)</sup> The warm sympathy of biographical and exegetical writers, such as the learned Lewin<sup>4)</sup> and the imaginative and somewhat oratorical Farrar,<sup>5)</sup> has urged them to charge the *duumviri* with vain affectation in assuming that title. It is more probable, however, that the highest magistrates of *coloniae* did from the very beginning follow the analogy of Rome in many details of official nomenclature, *praetor*<sup>6)</sup> being the oldest designation of the chief magistrates of Rome, even in the Twelve Tables.

Supposing Paul and Silas had at Philippi been admitted to, or subjected to, a regular trial, what would have been the charge? Would it have been the charge of introducing a *religio illicita*? Or what was meant by the cry of the owners

1) Cf. Orelli-Henzen, *Index*, p. 156.

2) *Staatsrecht* II, 185, note 3.

3) Thus, too, the Latin League had two "praetores." Mommsen, *l. c.*, III, 617.

4) Thomas Lewin, *Life and Epistles of St. Paul*,<sup>3</sup> 1875, I, p. 217.

5) Farrar, *Life and Works of St. Paul*, I, p. 493.

6) Wetstein on Acts 16, 20: "Messinenses etiam nunc praetorem sive praefectum urbis *stradigo* appellant."

of the slave woman who had prophetic powers against Paul (Acts 16, 21): *καταγγέλλουσιν ἔθνη ἃ οὐκ ἔξεστιν ἡμῖν παραδέχασθαι οὐδὲ ποιεῖν Ῥωμαίοις οὖσαν?* To "accept and practice" customs does indeed point towards some kind of worship. Mommsen indeed, discussing "Munizipaler Kriminalprozess" (*Staatsrecht* III, p. 819, note 2), says: "(Das Verfahren) der Magistrate der Kolonie Philippi gegen den Apostel Paulus (ist) ueberhaupt kein Kriminalprozess, sondern ein Polizeiverfahren, wobei rechtlich nur die einem roemischen Buerger erteilten Schlaege in Betracht kommen." In enquiring specifically how the *civitas* sheltered Paul or prompted on the part of the magistrates of Philippi decorous and courteous demeanor, let us first briefly review the statements of the exegetical writers and the ecclesiastical historians. Lewin (l. c., II, p. 197), in commenting on St. Paul's experience with the Roman tribune Claudius Lysias at Jerusalem (Acts 22, 24—29), cites the *Lex Valeria* (Liv. II, 8) *de provocatione adversus magistratus ad populum . . .*; Plut., *Poplicola*: τὸν δῆμον ἀπὸ τῶν ἐπάτων ἐπικαλεῖσθαι . . .; Dionys., *Antiqq.* V. 19: ἐξεῖναι τῷ ἰδιώτῃ προκαλεῖσθαι τὴν ἀρχὴν ἐπὶ τὴν τοῦ δήμου κρίσιν . . . κτλ. As a further safeguard of the Apostle, Lewin cites the *Lex Porcia* (of 248 B. C. Liv. p. 9). He also cites an edict of Augustus from *Digest* 48, 18, 1, in which that emperor prohibited the application of torture generally, except under special circumstances.

Holtzmann, *Handkommentar zum N. T.* (I, p. 388): "Solche" (i. e., Roman citizens) "waren durch das Valerische Gesetz gegen entehrende Pruegelstrafen gesichert." "Die Praectoren (16, v. 38) fuerchteten sich, weil Ueberhoerung des 'Civis Romanus sum' (davon Cicero in *Verr.* II, 5, 57 sagt: 'Saepe multis in terris opem inter barbaros et salutem tulit') eine Verletzung der Volksmajestaet in sich schloss." In commenting on the case at Jerusalem (Acts 22, 24), Holtzmann says: "Seine" (the tribune's) "Furcht (v. 29) gilt der Tatsache, dass er ihn vor der Untersuchung hatte fesseln lassen (vgl. Cicero, *Verr.* V, 66: 'Facinus est vinciri civem Romanum, scelus verberari, parricidium necari')." Zoekler, on

Acts 16, 37 (1886), also cites the "Civis Romanus sum" from Cicero (*Verr.*, l. c.), and that here there was a trespass of the *Lex Valeria* of 500 B. C. Zoeckler's rendering of *στρατηγῶν* as *Befehlshaber* is very misleading. Joseph Addison Alexander, on Acts (1864, Vol. II, p. 129), chap. 16, 37, quotes Cicero, *Against Verres*: "The simple words: 'I am a Roman citizen,' had hitherto sufficed as a protection anywhere." Prof. Alexander, on Acts 22, 29 (p. 315): "The reference is rather to the binding mentioned in v. 25, in order to his being scourged, a measure inconsistent with Paul's civil rights as well as with the statute of Augustus still preserved in the *Digest of the Civil Law* that process never must begin with torture ("non esse a tormentis incipiendum")."

Comybeare and Howson (1864; Scribner's I, p. 310) also cite for the case at Philippi the *Lex Valeria* of 508 B. C. and the *Lex Porcia*, B. C. 300. (See Livy 10, 9; Cicero, *Verr.* V, 62. 66.) The same authors cite (on Acts 22), Vol. II, p. 260, note 2: "Non esse a tormentis incipiendum Divus Augustus constituit." (*Dig.* 48, 18.)

Farrar (*Life and Works of St. Paul*, I, p. 502), for the Philippian case, cites the Porcian Law (Cicero, *Pro Rabirio*, 3), charging that the Philippian magistrates had "flagellated the law and majesty of Rome." "Facinus est vinciri civem Romanum, scelus verberari" (Cic. in *Verr.* V, 66), and of the case at Jerusalem (Vol. II, p. 319, on Acts 22, 29): *Ἐφοβήθη . . . ὅτι ἦν αὐτὸν δεδεσμένος*. "Lysias seems to have broken two laws: 1. the *Lex Porcia* (Cic. *Pro Rabirio*, 3; in *Verr.* V, 66); 2.: "Non esse a tormentis incipiendum Divus Augustus constituit." (*Dig.* 48, 18, 1.) Prof. Lumby, of Cambridge, England, on Acts (Vol. II, p. 214), cites *Lex Valeria* of 508 B. C., *Lex Porcia* of 300 B. C. H. B. Hackett, *Commentary on Acts* (Andover, 1877), on Acts 16, 37: "Both the *Lex Valeria* and the *Lex Porcia* made it a crime to inflict blows or any species of torture on a Roman citizen," quoting from Cic., *Verr.* V, 66, like the others. And on Acts 22, 29 he cites: "Illa vox," etc. (Cic., *Verr.* II, 5, 57.)

The first one of all the exegetical writers consulted by me who quotes Grotius is M. Baumgarten, *Die Apostelgeschichte* (Halle, 1852). Indeed, that superb scholar seems to stand forth still as the foremost classicist among the exegetical writers on the New Testament. Baumgarten (Vol. II, p. 225): "Folgende kompetente Aeusserungen, welche Grotius anfuehrt," etc. H. Grotius, on Acts 16, 37: "Cicero: 'Causa cognita possunt multi absolvi, incognita nemo condemnari potest.' (Cic., *Verr.* I, 9.) Ἀνθρώπους Ρωμαίους δικάροντας: civem Romanum omnino cadere non licebat per leges Porcias et Sempronias: quanto minus causa indicta? On v. 38: 'Metuebant maiestatis crimen, quod Verri minatur Cicero circa finem Verrinae ultimae. Ita enim constituerant leges ut in cive Romano laesa ipsa populi Romani maiestas laesa crederetur.'" To cut the matter short, Grotius further on, in commenting on Acts 22, 25, 26; on beginning a *quaestio* with flagellation, cites the *Lex Porcia* as given in Sallust, and in *Verrem* V also the "avaritia Claudianorum temporum," when the sale of the *civitas* was common, verified from Tacitus, *Hist.* 5, and Dio.

Most of this antiquarian matter is repeated in Wetstein, with more specific references. He adds some data (on Acts 16, 21) on the punishment of introducing *novae religiones*, which the later commentators seem to have overlooked. Wetstein also did lay some emphasis on the point afterwards so much elaborated by the critics of the Tuebingen school, *viz.*, why Paul did not save himself from the flagellation at Philippi by invoking the protection of his *civitas* before he was made to suffer; thus Baur (*Paulus*, 1866, p. 178) and Weizsaecker (*Das Apostolische Zeitalter*, p. 240).

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It is clear, then, that the modern exegetical writers substantially copied Grotius on this question as to the specific shelter afforded to St. Paul by his *civitas*. Was Grotius right? Was the right of appeal (= *provocatio*) as it had been developed in the republic still in force? Was it the same? *Pro-*

*vocatio* (as Mommsen, *Staatsrecht*, III, 351, discusses it) was essentially a *republican* institution. The *Lex Porcia*, passed somewhere between 123 and 108 B. C., provided that no Roman citizen should be flogged or killed *while* making or *in* making or uttering appeal (*provocans*, as Madvig suggests the complement). This appeal ultimately lay not to the Senate, but to the *comitia* of the Roman people, collected in their judicial quality as the real and fundamental bearers of the sovereignty of the state. Polybius, in his terse analysis of the several powers of Senate, magistrate, and people (VI, 14), says: Τιμῆς γάρ ἐστι παῖ τιμωρίας ἐν τῇ πολιτείᾳ μόνος ὁ δῆμος κύριος. . . . Θανάτου δὲ κρίνει μόνος. Going on, Polybius calls attention to the custom in Rome, which had become an institution, to give the culprit the alternative of voluntary exile. — But these judicial *comitia* were gradually limited by the establishment of the *quaestiones perpetuae*, of which the ninth *repetundarum* was the first. These permanent jury courts also embraced *peculatus*, *ambitus de parricidio*, *de vi publica*, and some others, all presided over by praetors, also *maiestatis*.<sup>7)</sup> But at the beginning of the principate the last fragments of the judicial functions of the people vanished. Augustus, indeed, during his reign maintained a sham of the elective franchise, but even this was abrogated by Tiberius, 14 A. D., immediately at his accession. The ostensible partition of the administrative and judicial function between *princeps* and Senate and the cumulation of almost all magistracies on the person of the *princeps* really emphasized the lapse of the sovereignty of the people. The citizens of Rome really were coming to be subjects. Illegal injury of a citizen ceased to be a crime against the *maiestas* of the people, but was an interference with the prerogatives of the *princeps*. A citizen threatened with violence still stood under the protection of laws, but these laws had their root not indeed in the sovereign *maiestas* of the people, but in administrative regulations of the *princeps*, in checks

7) Mommsen, l. c., III, pp. 213 sq.

placed on the administrative representatives and agents of the emperor. Such a check was contained in one of the several provisions of the *Lex Julia de Vi*. The most specific and explicit provision bearing on the case of St. Paul were not the *Leges Porciae* or *Semproniae* nor the *Lex Valeria*. We may well call it an anachronism on the part of Grotius and the subsequent exegetical writers that they cite these laws at all in the case of St. Paul. — We read in the *Digest* (48, 6, 7) *ad legem Juliam de vi publica* from Ulpian (Book VIII) *de officio Proconsulis*: “*Lege Julia de vi publica tenetur, qui, cum imperium potestatemve haberet, civem Romanum adversus provocationem necaverit, verberaverit iusseritque quid fieri, iusseritque quid fieri aut quid in collum iniecerit ut torqueatur. Item quod ad legatos oratores comitesve attinebit, si quis eorum (quem) pulsasse, sive iniuriam fecisse arguetur.*” The violence or constraint forbidden to any official is defined so comprehensively and exhaustively that a Roman citizen abroad must have been effectively protected by the same: from the proconsul or *legatus* down to the very *lictor* it was a sweeping statute. — It may not be necessary to survey all the statutes of this law: it secures administrative authority against riotous gatherings, forbids the secret carrying of arms; it provided against open violence in the relations between citizens and citizens, against outrage, against preventing the passage of a defendant to the capital; *ib.* § 8, *Lege Julia de Vi publica*, *cavetur*, “*ne quis reum vinciat impediatur, quominus Romae intra certum tempus adsit.*” Under this particular provision Festus, even if he had desired to do so, would not have been permitted to disregard Paul’s *provocatio* to Rome. Exile was the penalty for one condemned under the law *de vi publica*: *Dig.* 48, 6, 10, 2: “*Damnato de vi publica aqua et igni interdicitur.*” —

The question remains whether the *Lex Julia de Vi publica* had Caesar or Augustus for its author, or whether it was a combination from laws of both. There was a *Lex Julia* of Caesar’s *de vi*; the whole matter is accessible to us in Cicero’s

*First Philippic.* On September 2, 44 B. C., Cicero, having returned to Rome after a period of characteristic irresolution, delivered in the Senate the speech which is now called the *First Philippic*. One of the chief charges which Cicero in that speech makes against Antony was that Antony, under guise of loyalty to Caesar's memory, was really manipulating and even falsifying Caesar's *acta*. Prominent among these were the laws of Caesar. (Cic., *Phil.* I, c. 7; cf. Drumann III, p. 622.) Cicero now charges that Antony by new legislation is really subverting these laws. The second one of the laws which was promulgated by Antony, *i. e.*; published and destined for submission to the *comitia* for approbation, is taken up by Cicero in c. 9: "Altera promulgata lex est, ut *et de vi et maiestatis damnati ad populum provocent si velint*," which would have reduced the regular courts, *i. e.*, the *quaestiones*, to absolute impotence, *i. e.*, that court which tried for *maiestas*, and that which tried *de vi*. These are meant, no doubt, by Cicero when he speaks (§ 22) of "*duae maxime salubres leges quaestionesque*." And immediately after, § 23, we learn that exile, *i. e.*, *aqua et igni interdici*, was the penalty under this law. It seems impossible to determine which share of the laws *de vi* as they are given in *Digest* 48, 6. 7 is due to Caesar and to Augustus, respectively. Reni in Pauly v. *vis* (p. 2676) states that Sigonius Bach, Ernesti, Loew, Petermann, Waechter, and Laboulage assumed two distinct and successive legislations *de vi* by Caesar and by Augustus, while others ascribe all to Caesar. Of more recent authorities, Bruns and Mommsen, *Fontes Iuris Antiqui* (5. ed., 1887, p. 110 sq.), unite the two categories as *Lex Julia de Vi publica et privata*, remarking in the footnotes: "Utrum Caesaris sit an Augusti non constat." Equally indefinite and uncertain the matter appears to Madvig, *Verf. u. Verwalt. d. Roem. Staates*, Vol. II, p. 274. Later we hear of a *Lex Julia* of Caesar (Cic., *Phil.* I, 9), perhaps the same which appears in the *Digest* (48, 6. 7) as two laws: *Lex Julia de Vi privata* and *L. J. de Vi publica*, with loose determinations of the difference between the two kinds.

## PROVOCATIO.

Analogy of *Julia lex maiestatis*, *Dig.* 48, 4, many provisions of which are substantially identical with the *Lex de vi*, *e. g.*, § 1: "About carrying arms secretly," etc., where the stipulation *adversus populum Romanum* is maintained *in words* — *Respublica*, etc. — alongside of *inussu Principis*.

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