

Theology on the Web.org.uk

Making Biblical Scholarship Accessible

This document was supplied for free educational purposes. Unless it is in the public domain, it may not be sold for profit or hosted on a webserver without the permission of the copyright holder.

If you find it of help to you and would like to support the ministry of Theology on the Web, please consider using the links below:



Buy me a coffee

<https://www.buymeacoffee.com/theology>



PATREON

<https://patreon.com/theologyontheweb>

[PayPal](#)

<https://paypal.me/robbradshaw>

A table of contents for *The Evangelical Quarterly* can be found here:

https://biblicalstudies.org.uk/articles_evangelical_quarterly.php

The Apostle Paul's exercise of his rights as a Roman Citizen as recorded in the book of Acts

by Boyd Reese

Mr. Reese holds an M.A. from the University of Illinois Department of Political Science as well as being an alumnus of Trinity Evangelical Divinity School. He is in addition an Associate Editor of The Post-American. He therefore approaches the subject of this paper not only as an exercise in New Testament exegesis but as an issue with practical implications for Christians in today's world.

THE apostle Paul sometimes comes under fire for his seemingly uncritical acceptance of the authority of the state as he developed his ideas in Romans 13. Rarely, if ever, does one hear a discussion of how he understood this obligation to the state to work out in practice. Some of his experiences during his travels described in the book of Acts provide a practical commentary on his teaching in the Epistle. Paul's experiences at Philippi as recorded in Acts 16 and at Jerusalem in Acts 22 and 23 are especially instructive.¹

Paul's exercise of his rights of Roman citizenship must be examined in light of the Roman legal system operating in the first century. This legal context included both statutory law and the apparatus for the administration of the law at home in Rome and throughout the Empire. Unfortunately, for the period of time covered in the book of Acts, the system was in a state of transition, and in addition, evidence from the period is not readily available. In fact, the book of Acts is the chief source illustrating procedures.² In spite of this, a fairly good picture can be drawn of Paul's rights and the procedures he used to protect them.

1 C. E. B. Cranfield's excellent article "The Christian's Political Responsibility According to the New Testament" (*Scottish Journal of Theology* 15, 1962, 176-192) was not encountered until the research for this article was completed. The analysis here falls under Cranfield's second category, "Passages which, while not containing exhortation on the subject, have some sort of reference to the state". In this author's opinion, the best survey of Paul's view of the state is found in Oscar Cullmann's *The State in the New Testament* (New York: Charles Scribner's Sons, 1956), in the chapter "Paul and the State."

2 Sherwin-White, A. N. *Roman Society and Roman Law in the New Testament* (Oxford: Clarendon Press, 1963), p. 15 and p. 57. This work is an indispensable source for information on the relationship between the state and the church in the New Testament.

The starting point for the discussion of citizens' rights is an understanding of the provincial system of government under which they lived and moved.³ In the empire at the time of Paul's missionary journeys, two types of provinces existed—imperial, under control of the Emperor, and senatorial, under the jurisdiction of the Senate. The imperial provinces had a military government, with the fiscal affairs and the social order entrusted to a procurator governor, who was a high-ranking reserve officer with auxiliary troops under his command. This was the type of government in Judea when Paul had his encounters with the authorities in Jerusalem. The senatorial provinces retained a civilian government, with a proconsul as governor. Macedonia was such a province, and the governor resided at Thessalonica. Philippi, one of the chief cities of the region, was a Roman colony with magistrates responsible for the administration of the city's affairs, including maintenance of order, trying the accused, and punishing the guilty.⁴

For this study, it is the power of the proconsuls and procurator governors over the provincial subject and the Roman citizen that needs to be understood. "Having the *imperium*, the proconsul had the total power of administration, jurisdiction, defence—in so far as that arose—and the maintenance of public order".⁵ The *imperium* was limited only by certain laws, such as the *lex repetundarum* concerning extortion, or the *maiestas minuta* having to do with treason, or by the *mandata* the governor received from the Emperor at his commission.⁶ These men could be as harsh as they liked, as long as they did not take money or property from the *peregrinus*, the ordinary provincial subject. Their decision could be overthrown only by the *maius imperium*, the overriding power of the Emperor.⁷

From the *imperium* of the governor stemmed the basic right of criminal jurisdiction. Capital jurisdiction was strictly reserved for the holder of the *imperium*—he could not delegate it to his subordinate administrators. In the same way, because the governor held an independent *imperium*, the *peregrinus* had no one to whom he could appeal against the governor's decisions. The Emperor could exercise his *maius imperium*, but this was at his discretion, not a right of the provincial subject.

Rome itself had a fully fledged criminal court system from the latter days of the Republic. It was still developing in the time of

³ Reicke, Bo, *The New Testament Era* (Philadelphia: Fortress Press, 1968), pp. 138-140 and pp. 228-234.

⁴ Gealy, F. D., "Magistrate", *Interpreter's Dictionary of the Bible* (New York: Abingdon Press, 1962), Volume 3, p. 225.

⁵ Sherwin-White, p. 3.

⁶ *Ibid.*, p. 1.

⁷ Crook, J. A., *Law and Life of Rome* (Cornell University Press, 1967), p. 72.

Augustus and later. Major offences against persons, society and the government were covered by detailed statutes—the *leges publicae*.⁸ The whole system of laws and courts was the *ordo iudiciorum publicorum*. It dealt with the offences of the people of the higher social classes and government officials. Unusual crimes, such as those against the state religion, were not covered, nor were the offences of the common subject at Rome. These were crimes *extra ordinem*, those outside the list. The crimes of the non-citizen were left to summary jurisdiction of special magistrates.⁹ These magistrates were bound by no special laws, had their power deriving from the virtue of being deputies of the Emperor or by special enactment, dispensed justice by their personal *cognitio*, and determined their own punishments. Sherwin-White points out three characteristics of the jurisdiction *extra ordinem*:¹⁰

First, there is the free formulation of charges and penalties, summed up in the lawyer's phrase *arbitrium iudicantis*. The second is the insistence on a proper formal act of accusation by the interested party. Third, cases are heard by the holder of *imperium* in person on his tribunal, and assisted by his advisory cabinet or *consilium* of friends and officials.

The provincial governors operated in much the same way as did the magistrates at Rome in their jurisdiction over the *peregrini*. They delegated jurisdiction over many minor offences to lesser magistrates, and generally reserved to themselves the offences having to do with public order—usually those that would come under the *ordo* at Rome, such as adultery, forgery, murder, bribery, and treason. He could either follow local custom in terms of procedure and punishment, or if he were so disposed, follow the rules of the *ordo*. The *peregrinus* had no claim to be tried by these rules. The governor was bound only if the Emperor had bound him to use them in his *mandata*. Free use of the *imperium* can be seen in variations of punishments from the uniform death penalty of the *ordo*, and in the determination of new offences.

The rights of the Roman citizen are to be seen in contrast to the rights of the ordinary provincial. Crook gives a number of privileges and duties of the *civis Romanus*.¹¹ Rights included the vote, standing for public office, rights in private law, and the right of appeal. Duties included military service, taxation, billeting troops, and various civic responsibilities. The rights were a major incentive to those without citizenship to seek it. In the time of the New Testament, it was difficult for the *peregrinus* to pass into the category of *civis*. Crook gives a number of ways: Roman law marriage, manu-

⁸ Sherwin-White, p. 13.

⁹ *Ibid.*, p. 14.

¹⁰ *Ibid.*, p. 18. These rules can be seen operating in Paul's appearances before the various officials in Acts.

¹¹ *Op. cit.*, p. 255.

mission by a Roman master, government grant (which could extend citizenship to whole communities and soldiers of auxiliary branches), and grants to individuals by the Emperor for services rendered or as personal favors.¹²

It is the right of *provocatio*, or appeal, that primarily concerns us in reference to Paul's citizenship. This right was rooted in the ancient right to appeal to the sovereign people, *provocatio ad populum*.¹³ The *lex Iulia de vi*, probably dating from Augustus, codified the rights of the *cives* to appeal to the Emperor. According to Sherwin-White,¹⁴ the *lex Iulia* protected the citizen who invoked the right of *provocatio*

from summary punishment, execution or torture without trial, from private or public arrest, and from actual trial by magistrates outside Italy. They (the provisions of the law) are to be understood in connexion with the *ordo* system, which had created for Roman citizens a method of trial by jury at Rome for statutory offences.

Bruce adds that chaining a citizen was also forbidden under the *lex Iulia*.¹⁵ There is some evidence from the period of the Flavian dynasty (A.D. 69-96), possibly earlier, that in certain cases the provincial governors were allowed to exercise capital jurisdiction;¹⁶ the reason was probably practical—justice would break down if all cases of murder, forgery and adultery had to be referred to Rome for jurisdiction. This does not effect the discussion of Paul's rights. The charges against him at Jerusalem either would be *extra ordinem*, or under such sections of the *ordo* as treason, where the provincial governor did not have authority over the Roman citizen.

This, in short, is a survey of where Roman citizens stood in their rights in the provinces as opposed to ordinary *peregrini*. Paul's exercise of his rights is illuminating.

The first instance was at Philippi.¹⁷ Paul and Silas were dragged before the magistrates and charged with causing a disturbance and advocating practices which were unlawful for Romans to follow. Up to this point the procedure followed that for charges *extra ordinem*—appearance before magistrates and formulation on charges by an interested party. The magistrates departed from legal procedure and ordered Paul and Silas to be flogged and thrown in jail. This plainly contradicted the rights of the *cives Romani*. Bruce suggests that there might have been too much excitement for their protests

¹² *Ibid.*, p. 40.

¹³ Bruce, F. F., *New Testament History* (London: Thomas Nelson and Sons, Ltd., 1969), p. 339; Crook, *op. cit.*, p. 255.

¹⁴ *Op. cit.*, p. 58.

¹⁵ *History*, p. 339.

¹⁶ Sherwin-White, pp. 60-61; Reicke, p. 140.

¹⁷ Acts 16.

of their rights as citizens to be heard.¹⁸ At any rate, the next day when they were told they could leave, Paul announced the fact of his citizenship and that the magistrates had acted illegally. He then demanded that the magistrates themselves come and personally escort them out of jail. Bruce has an interesting observation on the situation:¹⁹

Luke's irony expresses itself in the contrast between the slave-owners' complaint, "These men, Jews as they are . . . advocate customs which it is not lawful for us to accept or practice, Romans as we are" (Acts 16: 21) and Paul's protest, "They have beaten us publicly, without a trial . . . Romans as we are" (Acts 16: 37).

This irony seems to express the atmosphere of Paul's remarks. He was highly indignant that he, a Roman citizen, had been treated in such fashion by the magistrates, who had not done their duty properly in the investigation of the case before them. Paul did not quietly submit to the injustice done to him. In this first-century case of police brutality, he not only asserted his rights, but also put the authorities in the humiliating position of having to come to him and apologize. Paul had these men up against the wall and kept them there, because they could have gotten into serious trouble for this breach of the law if word of it had gotten back to Rome, or even to the governor at Thessalonica.²⁰

It might be noted that the gospel was not at stake in this incident at Philippi.²¹ Paul's preaching and the exercise of his apostolic power led to his arrest, but his defense hinged purely on his rights as a citizen of Rome, not on the rightness of his actions. Also, this assertion of his rights did not serve in helping him to continue his preaching the gospel—he left Philippi at the request of the magistrates, and he could have done this without humiliating the civil authorities.

The second case of Paul's exercising his rights as a citizen occurred in Jerusalem when he was arrested by the military tribune Claudius Lysias (Acts 21). After arresting Paul, binding him in chains, and ordering him to be beaten, the tribune reacted with fear when he found that Paul was a Roman citizen. This is the same reaction shown by the magistrates at Philippi.²² Discovery of Paul's citizenship must have had a significant impact on this man, for as the commander

18 Bruce, F. F., *The Book of the Acts* (Grand Rapids: William B. Eerdmans Publishing Company, 1954), p. 340.

19 *History*, p. 290 n.

20 While they do not come under the category of provincial governors previously discussed, they were bound by the provisions of the *lex Iulia* concerning the rights of citizens.

21 See, however, Bruce, *Acts*, p. 341, for probable beneficial effects on the community of Christians after Paul departed.

22 Acts 22: 29; Acts 16: 38.

of a cohort, the equivalent of a battalion, one would not expect a tribune to be frightened easily.

After taking Paul from before the Sanhedrin when the discussion became too heated, Lysias sent Paul to the governor at Caesarea. The procedures followed in the appearances before the governors occurred as they are described by Sherwin-White.²³ Only when Festus wanted to transfer the case back to Jerusalem to please the Jewish leaders did Paul invoke his right of appeal. Apparently his objection was not to Festus' jurisdiction (in spite of the illegality of his detention), but to his giving the Jews an opportunity to exercise influence.²⁴ There would have been nothing to prevent Festus from using the Sanhedrin as his private *consilium*, which could have had disastrous results for Paul.

In this case, an issue concerning the gospel was at stake. The Lord had appeared to Paul and told him he would bear witness in Rome.²⁵ To protect himself from the uncertainties of the justice awaiting him at Caesarea or Jerusalem, he invoked his right of appeal. He can thus be seen to have used his rights as a citizen to insure that the purpose he understood God to have for him in preaching the gospel at Rome would be carried out.

In all these cases, Paul is seen exercising his rights as a Roman citizen in a way that is much more than mere passive, unquestioning submission to the authorities of the state. In Romans 13: 3 he taught that good behaviour had nothing to fear from the magistrates. In these instances in Acts, he held the magistrates to their duty to protect his rights, the exercise of which one would assume would be considered as good behaviour. He forced these men to be in practice what he understood they were supposed to be, both as representatives of the Roman government, and as servants of God (Romans 13: 4).

A number of conclusions can be drawn from these examples from Paul's life about his understanding of his relation to the authority of the state. First of all, it is necessary to observe that he was operating within a legal context that was functioning properly or could be forced to function properly. This was not the arbitrary, capricious justice dispensed under the later Emperors of the first century. In the same way, parallels cannot be drawn with current situations where legal rights of citizens have been suspended—such as wartime situations, or totalitarian governments where laws are used only as they are convenient.

²³ Supra, p. 140.

²⁴ Sherwin-White, *op. cit.*, p. 66.

²⁵ Acts 23: 11.

Secondly, Christian citizens can make strong stands for their legal rights when these are being trampled upon by the state. Submitting to the authorities does not mean submitting to their illegal acts.²⁶ Whether the gospel is at stake or not is not a question here, as Paul's experience in Philippi shows. Thus, Christians are free to stand up for all those rights that the state says are theirs. Of course, this does not mean that they will not be called upon to suffer for the sake of the gospel at the hands of the state, for it seems that questions of obeying God rather than Caesar are likely to arise more frequently in the near future than they have in the recent past. There is a dichotomy evident between the points raised in this paragraph and those in the preceding one. Although the United States in 1973 had not yet reached the situation of totalitarian rule by a dictator, yet, increasingly, the Nixon administration had begun to play fast and loose with traditional guarantees of liberties: witness conspiracy trials of all sorts of dissenters, the attempts to erode freedom of the press, the refusal to investigate, much less prosecute, in cases of murder of black and white students and others by police and national guard, and of course, the whole Watergate mess.²⁷

A third conclusion can be drawn by combining Paul's teaching in Romans and his action as described in Acts with other implications of Biblical teaching. Those acting in society as Christians are under an obligation to demand that the state dispense justice impartially to all those who come under its dominion—especially the disadvantaged, those who today would be in the same situation as the widow, the orphan, and the stranger in the land of Biblical times. The faithful are today called to a prophetic as well as an evangelistic mission if they are to be true to their calling as a Biblical people. In fact, one of the greatest faults of the evangelical church in the United States has been to create a false dichotomy between the prophetic and the evangelistic, rendering calls to genuine repentance impotent. In engaging in prophetic witness to the state, concrete changes in the way the state acts should be the aim, but Christians today must remember that the Old Testament prophets were for the most part unsuccessful in calling even the people of God to

²⁶ Of course, Jesus' injunction to turn the other cheek must be borne in mind, but it is interesting to examine the Johannine account of His trial to see how He understood this: when He was slapped, He rebuked the guard instead of turning the other cheek (John 18: 23).

²⁷ Mr. Reese's article was written in 1973: his present tenses have been changed to past tenses by the editorial hand, since the Nixon administration came to an end between writing and publication. While he is primarily concerned with the American scene, readers in other lands can make the appropriate adaptations. ED.

radical repentance. This lack of success did not, however, prevent them from speaking out with great boldness.

Perhaps these conclusions are self-evident. However, it is clear that after a decade marked by a great deal of activism by parts of the American church, mainly the liberal clergy, much of the enthusiasm for matters concerning social justice has died down. And very few of the laity were ever really involved. It is now necessary to re-examine the commitments and priorities given to social justice in the years immediately past. The objective conditions of the oppressed minorities have not significantly improved, and in most cases, the gap between the haves and the have nots is continuing to widen. One of the clear demands of the Gospel is that those calling themselves Christians work to change such situations.

The call to repentance and change must begin at home. It is clear that the American church has a great deal of housecleaning to do. The one area that most directly relates to this examination of Paul's relationship to the state is the question of nationalism. Some elements in the American church, most conspicuously in the evangelical and fundamentalist wings, have been guilty of elevating their pride in America to a place that is no less than idolatrous. In some sincere Christians' eyes, the United States can do no wrong, domestically or internationally. This viewpoint is simply a form of Modernism, for it exempts the nation and its political and economic system from the effects of the Fall. The antidote for this is to return to the Biblical teaching. We are to be subordinate to the state as Paul taught in Romans 13. But his own actions, the teaching of our Lord, and the vision John saw in the Revelation show we cannot submit to all the demands of the state. We are to render to Caesar what is Caesar's, and to God what is God's, and thus observe all things which He has commanded us.

Chicago, Illinois