

WAS THERE A ROMAN CHARTER FOR THE JEWS?*

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In the cities of the pre-Christian Roman empire, Jewish groups were in general free to pursue their own religious and social practices and, at any rate until Hadrian, they were not persecuted by the Roman government; even the exceptional and provocative demands for worship which came from a tyrannical emperor such as Gaius Caligula do not amount to planned persecution. There is a contrast with the subsequent fate of the early Christians, whose cult was, of course, often suppressed by the emperor and his governors. There is also a contrast with the later plight of the Jews themselves under Christian rule.

Since, at the local level, Jews on the one hand and Greeks and natives on the other were often profoundly hostile to one another, the fact that the central government was on the whole proof against anti-Jewish pressure coming from below is indeed noteworthy. The edict of L. Flaccus as proconsul of Asia, by which in 62/1 B.C. he had confiscated the Jewish Temple contributions collected for export from his province, was never repeated, so far as we know (Cic., *Flac.* 66–9). Not only that: the Romans appear at times to have chosen to put their influence behind Jewish communities in dispute with their neighbours, as occurred to some extent in the cases which we shall discuss here, and did not cease even after A.D. 70.

One way—the traditional way—of depicting the situation is to say that the Jews happened to be protected by a special legal status, first conferred by Julius Caesar and then regularly renewed for over a century. On this view, Judaism was put in a supposed formal category of *religio licita* (the term originates with Tertullian), and the Jews had their special privileges (or rights) enshrined in a charter. Behind the picture perhaps lies the implicit analogy of the status of the Mediaeval Jew, which was indubitably defined by royal charters; royal protection gave the outsider the sole right to live where he did and to function in the economy. However, for the Roman world, this model is inappropriate. We shall see that, as a matter of fact, such a charter did not exist. But it is also in the nature of the situation that the Jews did not require it; for they were not intrinsically alien bodies within homogeneous *poleis*; the later Hellenistic *polis* may still have reserved the prizes of citizenship or political office for a select number, but it accommodated considerable diversity of population and did not demand conformity. And we know that, with the exception of overt participation in emperor worship, Jews could and did involve themselves in the life of their cities—even, in some cases, with the theatre and the gymnasium.

What Jewish communities needed was not the award of a special status, but, more simply, public backing with muscle behind it. That this was forthcoming will be seen to be largely due to political pressure and diplomacy on the part of the Jewish representatives and especially of some powerful intermediaries, such as certain members and adherents of the Herodian dynasty, whose other services were of manifest value to Rome. The early Christians were to lack—perhaps they deliberately shunned—this kind of worldly protagonist and as a result the balance is reversed in their case; the cities managed to impel the Roman authorities (whose deeper instincts were by no means wholly tolerant when it came to strange oriental cults) to take action against distasteful trouble-makers.

For the most part, I would suggest, Jewish *nomoi* were not formally incompatible with city requirements, though they could become contentious if the populace or the officials wanted to make life awkward. That was when the authorities might create difficulties about Sabbath observance, close special food markets, deny ownership of meeting places, prevent the export of funds. But it was not in the very nature of the *polis* to exclude such activities and in the normal course of events they must have proceeded without question. It is for this reason that it is unsatisfactory to talk of the permanent need for *privilegia* from Rome, while it is right to stress the repeated necessity for outside, i.e. Roman help. The citations of documents studied here will expose the distinction and assist in defining more closely not

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only the dealings of Rome with the Jews but also, which is perhaps more difficult, the structural relationship between the Jewish community and the city.

The Hellenistic Background

Communities of Jews were among the many groups of resident aliens to be found in the cities of the Greek East during the Hellenistic period. Some were established early: at Alexandria and Antioch they regarded themselves as among the founders of the city, while at Ephesus and elsewhere in Ionia they were believed, at least in some quarters, to have come as military colonists in the service of the Seleucid monarchy, whose holdings they were protecting.¹

Setting aside apologetic claims of this kind, little can be known of their status; reconstructions have depended upon analogy, hypothesis and retrospection from the Roman era. Their historian, V. Tcherikover, quite reasonably maintained that these Jews came into the class of *katoikoi*, settlements of aliens with a measure of self-determination and technically separate from the city, but he believed that they were somewhat different from others in this category, in that they alone required an exemption from participation in the city cults. Since he could find no evidence of any such thing, he took it to be a matter which could not be explicitly expressed. But he still held that an implicit 'charter' of this kind, deriving from the monarch, underlay Jewish co-existence with the Greeks.² A letter of Antiochus III to an official named Ptolemy, apparently his governor of Coele-Syria, is quoted by Josephus in his *Antiquities* (xii, 138 ff.); its genuineness was forcibly argued by Bickermann;³ it is mainly concerned with the restoration and privileges of the Temple at Jerusalem, but it includes also the permission to have a government 'according to their ancestral laws'. And a similar expression is found in the second document of Antiochus III quoted by Josephus, which is addressed to his governor Zeuxis and deals with instructions for a two-thousand-strong Babylonian-Jewish military colony in Phrygia, that is to say, with a Diaspora community (*AJ* xii, 147-53). Zeuxis is here told that the Jews are to be allowed νόμοις . . . χρῆσθαι τοῖς ἰδίοις.⁴ The formula is unspecific; it would have entailed permission to follow the Mosaic law, together with a degree of separate political organization; though, as Tcherikover pointed out, only the beneficiaries will have given it real content. But we cannot follow Tcherikover in extrapolating from these two gestures, which concern would-be autonomous units, to conclusions about the terms on which Jews cohabited with others in or around new or established cities (except possibly in the special case of Alexandria); all the less so in that these declarations seem to be unparalleled until we get to the Romans.

In documents of the Roman period, a similar general formula is often repeated, both in association with further, specific provisions and by itself. The Seleucid legacy is indisputable. But that the situation inherited by the Romans was one in which special conditions for Jewish communal existence in the cities were already defined and familiar cannot be asserted. The Romans inherited a formula and retained the general *status quo*. But the implications of that formula and the precise nature of the previous arrangements are not readily discernible. The coming of Roman control to the East is not reflected in any surviving statement about the status or privileges of Jewish communities, and evidence of Roman involvement in such matters begins a good time after Roman rule in any area. This is noteworthy in the case of Asia Minor, where established communities at Ephesus and elsewhere in Ionia came into Rome's orbit with the creation of the province of Asia in 129 B.C.; yet it is not until two generations later that, as we shall see, we first hear of Roman intervention over Jewish difficulties. The inference to be drawn is not that relations were always smooth between the Jews and their pagan neighbours, but, more likely, that formal arrangements were generally not at issue; with the advent of a new power in direct control of the region, there was no question of seeking a new general definition of the

¹ *AJ* xii, 199 ff.; *CA* ii, 39.

² V. Tcherikover, *Hellenistic Civilization and the Jews* (trans. S. Applebaum, 1959), 82-9; 296-332.

³ E. Bickermann, 'La charte Séleucide de Jérusalem', *REJ* c (1935), 4-35 = E. Bickermann, *Studies in Jewish and Christian History* ii (1980),

44-85.

⁴ A. Schalit, 'The letter of Antiochus III to Zeuxis regarding the establishment of Jewish military colonies in Phrygia and Lydia', *JQR* L (1959-60), 289-318.

position of the Jew in the *polis*, probably because there had not been any such generally understood definition in the past.

The Documents in Josephus

For c. 50 B.C. onwards, there exists a body of evidence, in the shape of some thirty decrees and letters cited by Josephus, at several points in his *Antiquities*, concerning Jewish rights and privileges. The *Antiquities* are designed to recommend Judaism to the Greeks, and Josephus' purpose in offering these citations is overtly propagandist, and part of a tradition of apologetic, as we shall see. This in itself makes the documents difficult to handle; and partly because of the very considerable technical problems involved in interpreting them, they have received close scholarly scrutiny for over two centuries.⁵ There are numerous technical stumbling blocks: the order in which they are arranged is puzzling, their text is often corrupt and their dating sometimes uncertain. One response has been to doubt their authenticity altogether; but, although this kind of scepticism, which fell away with Mommsen's work on the Roman archives,⁶ has recently been revived, every new investigation (even by the most sceptical of researchers) serves to confirm that the formal features of the documents are correct for genre and period, to a degree which makes it very difficult to conceive of them as forgeries.⁷ Amidst much precise and learned discussion, the overall interpretation of the purpose and significance of what is in the dossiers tended to lag behind.

There are further reasons, too, for this neglect. The first lies in the overshadowing effect of one major uncertainty, that of the meaning of Jewish claims to citizenship in certain cities, notably at Alexandria. This is a complex and perhaps insoluble question; perhaps for that very reason it has appeared to offer a key to the fundamental issue, to be the basis of any definition of the Jewish situation.⁸ By contrast, the descriptions of rights and privileges which emerge from our documents have assumed a secondary position in the overall assessment of 'the Jewish problem' in the ancient city. Yet citizenship as such was, at most, rarely claimed; and if by such claims the independent standing of a separate Jewish *politeuma* within a politically plural *polis* was meant (a view to which opinion has recently inclined⁹), that is unlikely to have arisen outside Alexandria, and its dependency Cyrene, for these two closely related cities had an unusual structure, not duplicated elsewhere. I shall not here contribute to the debates on citizenship, but rather aim to bring wider issues into the discussion.

The second reason why the documents in Josephus have not been adequately interpreted lies, I think, in the pervasive legalism of the standard approach. Jean Juster, the historian of Jewish institutions in the Roman Empire (himself trained as a lawyer), exemplified and promoted this tendency;¹⁰ the relevant material is classed by him entirely under the heading 'Sources Juridiques'. We find the documents, or at any rate those associated with Julius Caesar, described as charters of Jewish rights, indeed as the 'Jewish Magna Carta'.¹¹ We shall see that, on close examination, they are less than this and do not

⁵ For a survey of the scholarship, which goes back to Protestant-Catholic controversies in the eighteenth century, see E. Bickermann, 'Une question d'authenticité: les privilèges Juifs', *Annuaire de l'Institut de Philol. et d'Hist. Orient.* (Brussels) XIII (1953), 11-34 = *Studies in Jewish and Christian History* II (1980), 24-43.

⁶ 'Sui modi usati da' Romani nel conservare e pubblicare le leggi ed i senatusconsulti', *Annali dell'Istituto di Corrispondenza Archeologica* xxx (1858), 181-212 = *Gesammelte Schriften* III (1907), 290-313.

⁷ Thus H. R. Moehring in 'The *Acta pro Judaëis* in the *Antiquities* of Flavius Josephus; a study in Hellenistic and Modern Apologetic Historiography', in *Studies for Morton Smith at Sixty*, ed. J. Neusner (1975), III, 125-58, exposes the formal features of the *acta* as in general appropriate to type and period, but proceeds to rest his revival of the case that they are apologetic Jewish forgeries on minor aberrations and corruption in the texts. For a discussion of indices

of authenticity and the importance of correct diplomatic formulae, see Bickermann, op. cit. (n. 5), 33 ff.

⁸ On this, see Tcherikover, op. cit. (n. 2), 309 ff. (with a guide to the extensive earlier literature); S. Applebaum, in *Compendia Rerum Judaicarum ad Novum Testamentum: the Jewish People in the First Century* I, I (1974), chap. 9; E. M. Smallwood, *The Jews under Roman Rule* (1976), 124 ff.

⁹ Applebaum, loc. cit.; Smallwood, loc. cit.; A. Kasher, *The Jews in Hellenistic and Roman Egypt* (1978); Hebrew, with English summary.

¹⁰ J. Juster, *Les Juifs dans l'empire romain* (1914), I, 132-58; 213 ff. Juster's interpretation is analysed and re-assessed by A. M. Rabello, 'The Legal Condition of the Jews in the Roman Empire', *ANRW* II, 13 (1980), 662-762, from which it emerges clearly that the old framework is still widely accepted.

¹¹ op. cit., 217; cf. Smallwood, loc. cit. (n. 8); M. Grant, *The Jews in the Roman World* (1973), 59; Rabello, op. cit. (n. 10), 692.

add up to an overall definition of Jewish religious liberty. All in all, their legal power has been exaggerated, to the neglect of other prominent features. Yet it is perhaps as political statements that they are most important.

Omitting Seleucid decrees, the principal documentary material falls into three blocks, introduced at three separate points in Josephus' narrative, two in book XIV of the *Antiquities* and one in book XVI. We shall also bring in to the discussion the three Claudian edicts inserted by Josephus into book XIX of the *Antiquities*, two of the emperor himself and one of P. Petronius, the Syrian legate (280–91; 303–10). The last are more extensive texts of broader scope. They involve special problems of authenticity at certain points, problems which can only be touched upon in this paper. But they belong to the line of development begun by the earlier grants.

The first dossier, arising from the interest of Julius Caesar and, among the Jews, with Hyrcanus II, the Hasmonean high priest and ethnarch, comes from the years 49–43 (*Ant.* XIV, 185–267). Hyrcanus' involvement in the issuing of these documents is considerable, in spite of the fact that a range of different cities is concerned. The point at which Josephus introduces them into his narrative (XIV, 185) is with Caesar at Rome, preparing for the war in Africa, i.e. summer 47 B.C.: a request reaches him from Hyrcanus, for confirmation of τὴν πρὸς αὐτὸν φιλίαν καὶ συμμαχίαν. A digression is then announced: 'it seemed necessary to me to set out all the honours and alliances made with our nation by the Roman people and by their emperors' (*Ant.* XIV, 186). What follows is not the comprehensive catalogue loosely promised here, but material relating to Hyrcanus of between the years 49 and c. 43 B.C.; this serves, among other things, to show something of the diplomatic connection between the Romans and the Jewish ethnarch in the period immediately preceding the embassy described at XIV, 185, as well as the confirmation of the relationship after Caesar's death (XIV, 217 ff.).

The second small group in book XIV contains three documents associated with Antony's operations in the East during the early triumviral era (301–23) and is directed to Phoenician cities. Josephus cites these as demonstrating Roman *προνοία* for the Jews (323). In fact, apart from abusing the tyrannicides, they aim to undo Cassius' acts in the region, which involved restoring Galilean Jewish property (especially that of Hyrcanus II, the ethnarch) lost to Tyre, and the release of enslaved Jewish captives.

In book XVI (160–78), decrees of Augustus, M. Agrippa and two proconsuls to cities in Asia and to Cyrene are reproduced, with the aim, as we shall see below, of showing Greeks (of his own day) that the ruling power had in the past treated its Jewish subjects well and granted them explicitly the right to follow their ancestral laws, customs and religion. No overt connection is made between the six citations given here, and an earlier famous episode, the narrative with which book XVI had opened, in which the appeal of the Jews of Ionia to Agrippa in 14 B.C. is reported. There the historian and minister of Herod, Nicolaus of Damascus, informs Agrippa and his council (this included kings and princes of the region as well as the Romans who were in authority) that these Jewish communities had been hindered in following their Law, and justifies their claim to Roman protection and to freedom. The speech ascribed to him by Josephus (XVI, 31–57) is largely on the plane of theory, but includes allusions to earlier instances of Roman benefactions, mentioning specifically the honours paid by Caesar to Antipater, minister of Hyrcanus II and father of Herod the Great, in return for services rendered during the war in Egypt. No *ipsissima verba* are cited, but it is possible that some of the documentary material in the three Josephus dossiers we have mentioned was gathered together for the purpose of this defence; and probably (though there is no explicit evidence) it was cited by Nicolaus in that context in books 123 and 124 of his own *Universal History*, where we should expect to find a full record of his own achievements.¹²

¹² On Nicolaus' probable reproduction of the *acta*, B. Niese, 'Bemerkungen über die Urkunden bei Josephus Archæol. B. XIII. XIV. XVI', *Hermes* XI (1876), 466–88; P. Viereck, *Sermo Graecus* (1888), 91 ff., both of which claim Nicolaus as Josephus' sole source on the subject. For an early rejection of the latter view, see Mendelssohn, 'Zu den Urkunden bei Josephus', *Rhein. Mus.* XXXII (1877), 249–58. It is accepted by Momigliano (see n. 16), 10 ff. See also

Juster, *op. cit.* (n. 10), 154–5 and nn. A balanced general assessment of Josephus' debt to Nicolaus, in Hebrew: M. Stern, 'Nicolaus of Damascus as a Source for Jewish History in the Herodian and Hasmonean Periods', *Studies in Bible and Jewish History Dedicated to the Memory of Jacob Liver* (1971), 375–94, and, more briefly, in *Greek and Latin Authors on Jews and Judaism* I (1974), 227–33.

However, the somewhat haphazard order of the material and some strange intrusions would point to a mixed origin and suggest that it has been through various vicissitudes in the process of transmission, perhaps confirming in some cases Josephus' own claim to be citing documents which he himself found engraved on bronze tablets on the Capitol;¹³ if this is true, it does not preclude some use of Nicolaus as well, which will be relevant when we come to discuss Josephus' personal understanding of the material he cites.

There is at least one case of a grotesque misfit, at XIV, 247 ff., where a Pergamene decree incorporating a *senatus consultum* about territory taken from 'the high priest Hyrcanus' by 'Antiochus son of Antiochus' appears; this clearly relates to the international situation during the reign of Hyrcanus *the First*, i.e. John Hyrcanus, and Antiochus IX Cyzicenus is most likely to be the Seleucid monarch referred to. The document is in fact a sequel to the *senatus consultum* about Antiochus VII Sidetes, given in book XIII of the *Antiquities* (259-66), and has nothing at all to do with the Hyrcanus II dossier.¹⁴

Among the documents with which we are concerned, a minority are precisely datable, by Caesar's titlature or by the names of magistrates. But even within this category, apparently secure chronological indications have been doubted for external or technical reasons. Thus Julius Caesar's principal decree, confirming the high priesthood of Hyrcanus and his sons (*AJ* XIV, 196-8), emanates from 'Gaius Caesar, Imperator, Dictator and Consul'; that leaves open which dictatorship and which consulship are intended and has allowed dates of 48, 46, 45 and 44 to be claimed for this important decree. However, it should be made clear that an impression of this kind is unsurprising, as the result of a complex transmission process, and does not constitute an argument for the spuriousness of the text. Indeed, from a later period, that of Trajan, we have explicit evidence that some provincial texts of imperial edicts and letters sent to cities and proconsuls by previous emperors (Augustus, Vespasian and Titus) were considered 'parum emendata et non certae fidei'. It was for this reason that Pliny (*Ep.* x, 65) requested from Trajan (or Trajan's clerks) that better versions of judgments concerning foundlings be extracted from the imperial archives (*scrinia*) and sent to him.

Among the proconsuls mentioned in our documents, some are not otherwise attested as long as the MSS reading be sustained; for example, the Publius Servilius Galba son of Publius, who appears at the head of a letter to the Milesians reporting a decision taken at the Tralles assize, permitting Jewish Sabbath observance and practices (*AJ* XII, 244-6). Others, such as L. Lentulus Crus, who writes to the Ephesians about having exempted Jews who were Roman citizens in a hearing before his tribunal, and on whose decision a number of other rulings are based, are reasonably well-known (*AJ* XIV, 228-9).¹⁵ The names of officials appear to be the principal casualties of the transmission and to have a strong propensity to confusion and corruption. All in all, amongst over thirty documents, the text of seven alone is entirely acceptable and can stand as it is; the rest have required refurbishing of one kind or another, and sometimes substantive emendation. And even among the good texts, some cannot be attached to a particular year and internal evidence allows us only to put them within a general context.¹⁶

The geographical scope of the collections is worth some comment. The first one is principally concerned with the province of Asia and some Greek islands, the Antony material

¹³ *AJ* XIV, 188; 265-7. Moehring, loc. cit. (n. 7), 129-31, rashly rejects this claim with the assertion that no decrees will have survived the conflagration of A.D. 69 (Suet., *Vesp.* 8). Josephus may well have used local archives *in addition*: contact with Jews around the Greek world and visits are likely during more than twenty years spent at Rome. On both kinds of archive, see R. Laqueur, *Der jüdische Historiker Flavius Josephus* (1920), 221-30 = A. Schalit (ed.), *Zur Josephus-Forschung* (1973), 104-12.

¹⁴ Juster, op. cit. (n. 10), 134-5. The matter in the document, principally concerned with directing a Seleucid monarch to restore Judaeian territory, is appropriate to the reign of John Hyrcanus I and wholly inappropriate to the circumstances of Hyrcanus II. On the Hyrcanus I documents see T. Rajak, 'Roman Intervention in a Seleucid Siege of Jerusalem?' *GRBS* XXII, 1 (1981), 65-81, esp. 79.

There is no reason to refer any other documents to the earlier monarch on the basis of the one intrusion in *AJ* XIV, as T. Reinach does.

¹⁵ It is possible that P. Servilius Isauricus, *procos.* of Asia in 46 B.C., is referred to, as conjectured by Bergmann. For L. Cornelius Lentulus Crus, see *MRR* II, 256 and 276: consul in 49 B.C., he left Italy early in the civil war, to recruit troops in Asia for Pompeius, for whom he later fought at Pharsalus: a case of an anti-Caesarian forwarding Jewish claims.

¹⁶ Full discussion in Juster, loc. cit. (n. 10). For an analysis which seeks to relate the material concerning Palestine to the power politics of the period, see A. Momigliano, 'Ricerche sull'organizzazione della Giudea sotto il dominio romano', *Ann. della Reale Scuola Normale Superiore di Pisa, Lettere, Storia e Filosofia*, ser. I, vol. III (1934), 183-221 (repr. Amsterdam, 1967).

with Syria (Phoenicia) and book xvi with Asia and Cyrene. Overall, the dossiers range widely, involving at one point or at more several of the main regions of Jewish occupation at the time—Judaea (questions of tax reduction and possession of the port of Joppa), the coast of Palestine (Ascalon), Phoenicia (Tyre and Sidon and Aradus), the Greek islands (Delos and Cos), coastal and inland Asia Minor (Parium, Ephesus, Sardis, Laodicea, Miletus, Tralles, Halicarnassus), Syria (Antioch) and Cyrenaica (Cyrene). Ephesus, as the chief city of Asia, makes repeated appearances, and several other cities figure as the recipients of more than one communication: Tyre, Sidon, Sardis and Antioch.¹⁷ On the other hand, that a major Jewish centre, as Cyrene was, should make just one isolated appearance, is puzzling. Again, guided by our observation of St. Paul's journeys, as well as of later history, we note the absence of Cyprus and of cities of mainland Greece, not to mention Tarsus and Damascus. This peculiar selection could be an accident of survival, merely a reflection of the small proportion available to Josephus of what had once existed; also, it may be, of what he saw fit (perhaps with a degree of inattention) to reproduce for the Greek readers at whom his work was ostensibly directed (or for the Hellenised Jewish readers whom he no doubt also bore in mind). He does in fact say that he could, had he wished, have given us more of the same (*AJ* xiv, 265). But there is perhaps another factor, for we should expect an arbitrary spread of geographical provenance to arise from the political process of appeal and *ad hoc* decision which lies behind the documents and which will be discussed below.

In type the documents are also diverse. Josephus categorizes those in book xiv as (1) decrees of senate and emperors; (2) resolutions of cities; (3) 'rescripts sent in reply to letters about our rights directed to provincial governors' (xiv, 265). These categories are not in order of frequency or importance. Nor do they reflect Josephus' chosen sequence which, in the major collection in book xiv, is *roughly* to put Caesar's decrees first, then letters of provincial governors, then city decrees—as is logical. He seems equally interested in all three types. The spread is: one *senatus consultum* (the confirmation of Caesar's *acta*), eleven gubernatorial communications, not all of equal importance, seven letters of Julius Caesar, three letters of Mark Antony, of which one cites an edict (and the existence of other letters is mentioned), two edicts of Augustus, two of Claudius and five decrees of city councils or popular assemblies.¹⁸ It is likely that Josephus chose to offer as wide and representative a sample as he could of the kinds of source from which favours to the Jews had emanated. From our point of view, what stands out is the variety of routes through which pro-Jewish decrees must have been processed. For a community of Jews there can have been no one obvious way of seeking what it wanted on such matters; and this is just what we should expect, given what we know about the administration of the provinces of Rome during the Caesarian, triumviral and early imperial eras.

The Significance of the Documents

The question is whether any of this material had, in the Romans' perception, a general application or any validity as precedent, beyond the specific context. What the Jews, *qua* claimants, tried to make of it should be considered only later. The former is not an easy question to answer. Once more book x of Pliny's correspondence shows a structurally

¹⁷ Judaea: xiv, 200-1; 202-10.
 Other parts of Palestine: xiv, 196-8 (decrees about Hyrcanus to be set up at Ascalon); xiv, 323 (Aradus).
 Phoenicia: xiv, 190-5 (Sidon); 196-8 (Sidon and Tyre); 313 (Tyre); 319-22 (Tyre); 323 (Sidon); xix, 303-11 (Dora).
 Islands: xiv, 213-16 (Delos); 231-2 (Delos); 233 (Cos).
 Syria: xiv, 232 (Antioch).
 Province of Asia: xiv, 213-16 (Parium—but Paros, following Schürer); 233 (general provision); 225-7 (Ephesus); 235 (Sardis); 238-40 (Ephesus); 241-3 (Laodicea, Tralles); 244-6 (Miletus); 256-8 (Halicarnassus); 259-61 (Sardis); 262-4 (Ephesus); xvi, 160-1 (Asia); 162-5 (Asia, Ancyra); 166, 167-8 (Ephesus).
 Cyrene: xvi, 160-1; 169-70.

Alexandria: xix, 286-91.

¹⁸ *Senatus consulta*: xiv, 219-22 (ratifying Caesar's *acta*).
 Communications of governors: xiv, 225-7; 228-9; 230; 233; 234; 235; 237-40; 244-6; xvi, 171; 172-3; xix, 303-11.
 Edicts and letters of Julius Caesar: xiv, 190-5 (letter containing a decree to be set up); 196-8; 199; 200-1; 202-10; 211-12 (speech); 213-16.
 Letters of Mark Antony: xiv, 306-13; 214-18; 319-22; 323 (reference only).
 Edicts of Emperors: xvi, 162-5 (Augustus); 166 (Augustus); xix, 280-5; 286-91 (Claudius).
 Edicts of M. Agrippa: xvi, 167-8; 169-70.
 Decrees of cities: xiv, 231-2 (Delos); xiv, 241-3 (Laodicea); 256-8 (Halicarnassus); 259-61 (Sardis); 262-4 (Ephesus).

comparable situation, over a different kind of issue, at a considerably later date. On the question, again, of foundlings, we there see Trajan distinguishing between imperial rulings which could be meant to apply over the whole empire, and ones intended for certain provinces: 'There is nothing to be found in the records of my predecessors which could have applied to all provinces. There are, it is true, letters from Domitian to Avidius Nigrinus and Armenius Brocchus, which ought perhaps to be followed, but Bithynia is not one of the provinces with which his rescript deals' (*Ép* x, 66, 1-2).¹⁹

To strengthen his case, Josephus at times introduces documents with something of a flourish, as though they concerned Jewish status universally; for example, at xiv, 228 ff. he writes, 'these then are the favours which Dolabella granted to our people when Hyrcanus sent an envoy to him'. But what is in the texts often belies the sweeping introduction; in the instance just given, the wording is: 'Those Jews who are Roman citizens and observe Jewish rites and practise them in Ephesus, I released from military service before the tribunal . . .'. Here Ephesus evidently figures as the chief city of Asia, and this document is just one within a series about the same issue and the same area. The province as a whole is deemed bound by it, and its officials (224) as well as other cities (227) are to be notified. But it goes no further. If we consider the texts themselves, we are hard put to it to find any with an entirely general reference. Even Julius Caesar's edict of exemption of the Jews from his ban on *collegia*, which appears by way of reference within the citation of his letter to Parium (*AJ* xiv, 215),²⁰ is given in a form which refers only to 'the city', i.e. Rome, so that its extension to the empire would seem to be a matter of interpretation. The *senatus consultum* posthumously validating his ruling on the Jews (περὶ ὧν . . . ὑπὲρ Ἰουδαίων ἔκρινε καὶ εἰς τὸ ταμίειον οὐκ ἔφθασεν ἀνενεχθῆναι—(*AJ* xiv, 221)) is entirely vague as to its reach.

It is among the edicts in the corpus that we might expect to find statements of general principle, but even those fall short.²¹ An edict of Mark Antony as triumvir (xiv, 369 ff.),²² issued in both Greek and Latin, about the restoration of Jewish property previously sold (which is in any case not really concerned with Jewish rights) appears unrestricted in scope, but in fact addresses itself specifically to the city of Tyre and is dealing with the undoing of Cassius' arrangements or violations. A more hopeful candidate is the letter of Augustus about the Jews of Asia, reporting a decision of himself and his council 'under oath' and stating that 'the Jews are to follow their own customs in accordance with their ancestral laws . . . and that their sacred funds are to be inviolable and may be sent up to Jerusalem and that they need not offer bonds on the Sabbath or on the eve of it after the ninth hour. And if anyone is caught stealing their sacred books . . . he shall be deemed sacrilegious and his property shall be requisitioned by the Roman people's treasury' (*AJ* xvi, 162 ff.). Yet this is clearly limited in its addressee and by its concluding instruction that it is to be conspicuously displayed in the Temple dedicated to the imperial cult by the *koinon* of Asia. What is more, the decision is a response to complaints of ill-treatment from Asia and Cyrenaica, brought to Augustus by envoys (it is unclear whether the two issues arose at precisely the same time or were separate), and the council-meeting from which it emanated would therefore have been convoked to consider these complaints, not to address itself to the Jewish question in general.²³ There follows, in the narrative of Josephus, an earlier letter

¹⁹ Following the Aldine reading: see A. N. Sherwin-White, *The Letters of Pliny* (1966) n. ad loc. Cf. x, 109, for a reference to laws covering only Pontus-Bithynia.

²⁰ Παριανῶν is normally taken to mean the people of Parium, in the Troad. Schürer conjectured Παρίων, to refer to Paros, because dealings with the Jews of Delos are reported in this same document. On the measure, see Smallwood, 135, n. 52.

²¹ See F. Millar, *The Emperor in the Roman World* (1977), 255-9. Unlike other forms of imperial pronouncement, edicts had, in principle, no addressee and were not always merely responses to individual initiatives; if they laid down general rules, these remained in force after the death of their author; none the less, some just gave instructions related to particular circumstances. In the case of the Jews, this factor is acknowledged by Juster, *op. cit.* (n. 10), 215-18, but does not influence his assessment of the

'legal' issues.

²² Which can be dated to 41 B.C., when Antony was regulating the affairs of Asia and raising support in the East.

²³ This document is often dated to A.D. 2-3 by a reference in it to an honorific vote for C. Marcus Censorinus, *cos.* 8 B.C. and subsequently *procos.* of Asia, where he died, at the same time as M. Lollius, in A.D. 2. However, his proconsulate is likely to have been a few years earlier: R. Syme, *Roman Papers* III (1984), 872. G. W. Bowersock, *HSCPh* LXVIII (1964), 207-8, adopts the date given on the marginal note in the Latin Josephus which has XI beside the *trib. pot.* of Augustus, and supposes that Censorinus was in the East also in 12 B.C. (not as proconsul). The inscription would be set up at Pergamum (not Ancyra, as suggested in Scaliger's ingenious but unjustified emendation).

to Norbanus Flaccus (probably consul in 24 B.C.) which *looks* entirely general: 'Let the Jews, however many they be, who have been in the habit of following their traditional practice and contributing sacred money for despatch to Jerusalem, carry this out without obstruction' (*AJ* XVI, 166). But the next items quoted, a letter from Agrippa to Ephesus, and then one from him to Cyrene, are presented as though they dealt with the same problem as the Norbanus Flaccus letter and therefore with Asia in particular.²⁴

In Philo's *Legatio ad Gaium*, Augustus' goodness to the Jews is set out by way of example for his great-grandson (309–19). The first princeps's philosophical bent of mind, it is said (he had not merely sipped but feasted upon philosophy daily!), led him to admire the Jerusalem Temple. He expressed his benevolence by telling the governors of Asia to let the Jews alone hold meetings (since their gatherings were schools of temperance and justice) and send contributions and envoys to Jerusalem. Here a letter of Norbanus Flaccus is inserted, one which was sent to the Ephesian archons and which itself cited in indirect speech Augustus' letter to him: 'the Jews, wherever they may be, are in the habit, following tradition, of assembling and contributing money for despatch to Jerusalem. He did not want them to be obstructed from so doing. He therefore wrote to us so that you might know that he orders things to be done in this way'. With this indirect form of citation, we should not expect complete accuracy, and Philo is evidently drawing at one remove on the same letter to Flaccus as Josephus was to use. We have seen that Josephus may well have exploited Nicolaus of Damascus' material at this point,²⁵ and it is highly likely that Philo had the same source for his document (unlike Josephus, he does not even claim first-hand knowledge of any archives or inscriptions). What Philo says about this does not disturb our conclusion that the matter is one of Asia alone. Indeed, Philo is unequivocal. We should not be misled by the words 'the Jews, wherever they may be' which refer not to the new ruling, but to the age-old Jewish practice of the Temple levy. Augustus, appreciating that the Jews were ubiquitous, no doubt saw that he had a general problem on his hands, but, quite characteristically, was not impelled to formulate a policy to cover all cases.

It is perhaps significant that the problem with which the Augustan statements are mainly concerned is that of *collecting funds for Jerusalem*. That may be not only because the issue had become particularly controversial, but also because this particular facility was a concomitant of Julius Caesar's licence for Jewish associations: this connection emerges clearly from the decrees to Parium, where it is stated that the Jews alone had been allowed by Caesar to form *thiasoi* or to *collect money* in Rome, or to have common meals (*AJ* XIV, 216). Here Augustus had an important Caesarian ruling to be guided by, which he chose to interpret as relevant to the provinces.

The early decisions about Asia and Cyrene were important and encouraging for Jews, but what happened in other provinces was still wholly undetermined. For all we know, it remained so in many cases.

From the papyrus text of Claudius' letter to the Alexandrians, it appears that Augustus may have also granted to the Jews of Alexandria the right to pursue their own customs.²⁶ This presumably refers to a specific enactment, and, as Tcherikover points out, it is reasonable to expect Augustus to have dealt with the Jewish-Greek conflict in Alexandria after the annexation of Egypt.²⁷ Still, we may wonder why Claudius refers to the Augustan precedent in such vague terms: 'I conjure the Alexandrians to behave gently and kindly to the Jews, who have lived in the same city for a long time, and not to desecrate any of the religious practices associated with the cult of their God but to let them observe their customs

²⁴ To be dated within his stay in the East between 17 and 13 B.C., and probably after Nicolaus' pleadings of 14 B.C. One C. Norbanus Flaccus was consul in 38 B.C., the other in 24 B.C., and there is no evidence to show which became proconsul of Asia. The consul of 38 is more often identified with this Flaccus, on the weak grounds that the documents in Philo and Josephus, which refer to Augustus as 'Caesar', are seemingly pre-27. For counter-examples, see E. M. Smallwood, *Philonis Alexandrini Legatio ad Gaium*² (1970), 309, n. ad 315. The later consul can be assigned to a vacant governorship of Asia at a date which makes it possible to retain the association of his

activities with the appeal of the Jews of Ionia, between 17 and 13 B.C., and is therefore preferable. So Smallwood, loc. cit. (though her chronological argument that Josephus recounts the appeal of the deputations from Asia and Africa after describing the rebuilding of Caesarea is tenuous). Syme, *Roman Papers* I (1979), 267, prefers the consul of 28 as the proconsul of Asia, on the grounds of Augustus' titulature in Josephus' edicts.

²⁵ See above, n. 12.

²⁶ *P. Lond.* 1912 = *CPJ* II, No. 153, I. 87.

²⁷ *CPJ* II, No. 153, nn. ad 82–8, p. 49.

as they did under Augustus' (85-7). We cannot put any weight on the fact that Claudius' edict to Alexandria, in the version of Josephus, refers specifically to Augustus' continuation of the Jewish ethnarchy and to the preservation of equal Jewish citizenship by his prefects.²⁸ For both these alternative claims are suspect. The one about the ethnarchy contradicts Philo's statement that a *gerousia* was established after the ethnarch died (*Flac.* 74), and that about citizenship seems (at least on most interpretations) to contradict the papyrus letter.²⁹ Thus the two assertions about Augustus cannot be relied upon and we must accept the common verdict that the edict, though in all probability a largely genuine document (and not just a version of the letter), has been falsified in places.

This Josephan edict is in fact suspect at one further point material to our argument, when it ascribes an articulated policy of general tolerance to Augustus (*AJ* XIX, 283), saying that he wished 'the separate peoples to be subject to their own customs and not to be compelled to violate the religion of their fathers'. The latter is probably a Jewish elaboration on a less ambitious original, for this picture of the empire as a consciously plural and tolerant society finds its parallel only in another claim made by Jews, the assertion of Nicolaus of Damascus, as composed by Josephus, that 'the happiness which the whole human race now enjoys through you, we can measure by the fact that it is possible for people in every country to go through life and prosper while valuing their own ethnic traditions' (*AJ* XVI, 37). Yet even Nicolaus did not go as far as to claim that the *princeps* himself had deliberately sought to foster ethnic traditions, only pointing out that this was a valuable *consequence* of empire.

We are left with very little; and Augustus' dealings with Alexandrian Jewry should therefore not be overestimated.

Finally, we may hope to find some trace of an overall policy of Augustus in the second of the two Claudian edicts cited by Josephus, that directed to 'the rest of the world'. Claudius does not want to withdraw in any Greek city Jewish rights which had been protected by Augustus: *μάλιστα δὲ δίκαιον κρίνων μηδεμίαν μηδὲ Ἑλληνίδα πόλιν τῶν δικαίων τούτων ἀποτυγχάνειν, ἐπειδὴ καὶ ἐπὶ τοῦ θείου Σεβαστοῦ αὐταῖς ἦν τετηρημένα* (*AJ* XIX, 289). He goes on, therefore, to say that Jews *ἐν παντί τῷ ὕφ' ἡμᾶς κόσμῳ* should follow their traditions unimpeded, and, in return for this *philanthropia*, should moderate their own behaviour. But what is actually suggested is just that Augustus had made decisions city by city. It is rather the emperor Claudius who puts it all together—for the first time—and arrives, in his own peculiar way, at a new kind of sweeping pronouncement. This edict of Claudius, datable to the years A.D. 41/2, is shortly afterwards invoked by P. Petronius, his governor of Syria, in a reproof to the people of Dora in Phoenicia who had put a statue of the emperor in the synagogue there. The Claudian enactment, described as an edict, which permits the Jews to live according to their own customs, *τοῖς ἰδίῳις ἔθεσι* (*AJ* XIX, 299-307), and as the Greeks' fellow citizens, *συμπολιτεύεσθαι*, is given considerable prominence by this benevolent governor who, like Claudius, regarded himself as a friend of the Herodian dynast Agrippa I. Petronius' edict is some confirmation for certain parts of Josephus' version of Claudius' general edict.³⁰ We are led to ascribe innovation to the emperor Claudius; soon after his accession, he was evidently shaken by the pressures of those Greek-Jewish crises in both Palestine and Alexandria, which his predecessor Gaius had created and he had to resolve, to utter in his own inimitable way a general policy of toleration (if we may call it that) for Jewish observances. Even now, however, the policy is not elaborated, and the pious phrases are given no specific content in the general edict. It is fair to say that Claudius is not doing much more than expressing his goodwill towards the practice of the Jewish cult and establishing a lead for Greek cities to follow. This still falls well short of being the 'Jewish Magna Carta'.

Before Claudius, the rulings are generally on specific issues, with sometimes the addition of the familiar general formula—that the Jews are to be allowed to pursue their own ancestral

²⁸ In the edict the Jews are *Ἀλεξανδρεῖς* (an official designation for citizens) and had *ἴση πολιτεία* with the Alexandrians; in the letter, they are said to dwell 'in a city not their own'. See *CPJ* 1, 70, n. 45.

²⁹ *CPJ* 1, loc. cit., 'parts of the edict which are in accordance with the letter are to be regarded as authentic; those that are in direct contradiction are

to be looked upon as forged and so should be disregarded'.

³⁰ Petronius' edict twice alludes to Augustus: to an edict from him (307) and to privileges granted by him (311). The legate's knowledge evidently derives from Claudius' edict, and he overvalues the Augustan example offered there.

laws or customs (νόμοι or ἔθη).³¹ In such cases, the formula is certainly no more than a fine-sounding verbal gesture: even Juster recognized that no prescription flowed from it automatically.³² As for the specific matter included, that depends, evidently, upon the particular points at issue in the dispute which has given rise to the enactment. There are bones of contention which recur, doubtless, not only as a result of the common situation, but also because what happened in one place had an influence upon others. The most noteworthy concessions are: exemption of Jews who are Roman citizens from military service, with which the first dossier is principally concerned;³³ the freedom to perform customary rites without interference and to observe the Sabbath; the right not to appear in court on the Sabbath, which is a particular aspect of the preceding grant; the right to collect and despatch the Temple tax, which is the main issue in book XVI;³⁴ and permission to have a separate meeting place or market, and a measure of judicial autonomy (though this may be specific to Sardis, where there seems to be a long tradition of acceptance of the Jews).³⁵ There is considerable variation in the constituents of the package even within a province, in spite of the normal applicability of precedent from city to city.

Exchanges of Beneficia

To explain this, we turn, at last, to some observations on the transactions behind the texts. This is not a matter discussed directly by Josephus, apart from the episode in book XVI about Nicolaus' advocacy of the Jews of Ionia, and the problems under Claudius. On the whole, Josephus' documents are largely disembodied. But internal evidence taken from the decrees, together with some very brief surrounding material, offers important clues. The first—and again this is not unexpected—is the personal nature of the dealings. Every batch of documents is part of an exchange of *beneficia*, and in most cases this exchange arises ultimately from and caters to a personal connection which involves gratitude and mutual esteem. The distribution of privileges to cities, communities, or shrines as tokens of esteem for meritorious individuals is a familiar pattern in the Roman empire.³⁶ And it may be suggested that, while such origins should not in any way formally limit or invalidate what is decided, they do impart a degree of potential impermanence or instability. There is a telling denial of this in the speech ascribed by Josephus to Nicolaus of Damascus as advocate of the Jews of Ionia, when he is made to insist that earlier Roman grants to the Jews were an acknowledgement of Jewish loyalty, but would have been valid quite apart from this (XVI, 48). The denial reveals precisely that the matter was in some doubt. For no *amicitia* can be entirely secure and any *clientela* may turn sour. Revocation of the decrees would not, of course, have to follow, but their authority could suffer. In one sense, therefore, they are things of the moment.

The starting point is the career of Hyrcanus II, the weak Hasmonean ruler, whose succession in Judaea to his mother Salome Alexandra had immediately been met with an armed challenge in 67 by his brother Aristobulus II. Though Hyrcanus seems then to have given up power and the high priesthood, his flagging ambitions were continually revived by a resolute minister, Antipater, father of the future Herod the Great. Pompey's annexation of Judaea in 63—encouraged by the Jewish aristocracy—had been followed by the restoration of Hyrcanus' nominal control (perhaps now as 'ethnarch' rather than king). However,

³¹ The formula also occurs earliest in modified or weakened forms, especially in the subordinate clause κατά τὰ πάτρια αὐτῶν ἔθη.

³² Yet this is contradicted by his interpretation of the liberty of worship clause as a universal edict of toleration. An edict of toleration requires identifiable prescriptions.

³³ Military exemption: XIV, 223 (Asia); 226 (the same decision, Ephesus); 228 (Ephesus); 230 (Asia, Ephesus); 234 (Ephesus); 236, 237–40 (Ephesus). Cf. Rabello, *op. cit.* (n. 10), 741, n. 320. That this exemption was sought in some cases does not mean that Jews found it contrary to religious prescription to serve under any circumstances.

³⁴ Freedom of worship, collection and Sabbath observance; XIV, 216 (Parium and Delos—assembling

and feasting); 235 (Sardis—meeting and market place); 242 (Laodicea, Tralles); 244–6 (Miletus—Sabbath, rites and food); 259–61 (Sardis); 262–4 (Ephesus—sacred funds, Sabbath, etc.); XVI, 162–5 (Sabbath, sacred funds); 167–8 (Sabbath, sacred funds); 169–70 (sacred funds); 171 (sacred funds); 172–3. Another privilege is exemption from having troops billeted or for paying for this.

³⁵ At a later date, archaeological evidence suggests that the Jews had a prominent place there. See A. T. Kraabel, most conveniently in *ANRW* II, 19, 1 (1979), 83–8.

³⁶ See now F. Millar, 'Empire and City, Augustus to Julian; Obligations, Excuses and Status', *JRS* LXXIII (1983), especially 77–8, for valuable remarks on the operation of centrally-granted *beneficia*.

the Jewish state had been severely reduced and Judaea itself was effectively under direct rule, organized in toparchies; thus, apart from the high priesthood, it was not easy to discern a real role for Hyrcanus. Aristobulus was still popular, and in 49 B.C. was released (not for the first time) from internment, as part of an abortive scheme designed to achieve Caesarian support in the East. The failure of this scheme drew Caesar to Hyrcanus, but their new and precarious relationship evidently required to be cemented by means of mutual assistance and favours.³⁷ Hyrcanus (with Antipater) could offer military help and Jewish loyalty. What he needed was not merely confirmation of his titles, as high priest and ethnarch, not merely dignity, which came in the alliance made in 47 under Caesar's auspices, between the Romans and himself (*AJ* XIV, 187; 194-7),³⁸ but also a clearly-defined role. Palestine became more hazardous for him than ever with the rise of the young Herod in the 40s B.C. What better, then, than for Hyrcanus' ethnarchy to be interpreted as a tutelage over *all Jews everywhere*; for its potential as the protection of the Diaspora, τῶν Ἰουδαίων προῖσθηται τῶν ἀδικουμένων, to be highlighted (*AJ* XIV, 197)?³⁹

The main group of documents in book XIV is introduced by Josephus as an expansion of the narrative at the point where Hyrcanus is shown seeking a confirmation of Caesar's friendship, φιλία καὶ συμμαχία, with him (*AJ* XIV, 185). The first document, a Caesarian letter to Sidon, contains the text of a decree, to be set up in Latin and Greek, describing Hyrcanus' devotion and his contribution of 1,500 troops to the Alexandrian war, and confirming his ethnarchy and high priesthood and the friendship between him and his sons and Julius Caesar. 'And if, during this time, any problem shall arise concerning the Jews' way of life, it is my pleasure that the decision should rest with them' (195). There is a surprising end-piece, which shows as clearly as anything can the curiously casual way in which particular issues make their appearance: 'I do not approve of troops being given winter-quarters (with them) or of money being exacted (from them)'. Bronze tablets setting out Hyrcanus' powers are to be set up in the Capitol, and at Sidon, Tyre and Ascalon, and the decree is to be sent to quaestors and magistrates in the cities (it is unclear whether the same cities or others are meant) (199).

A decree, apparently of 44 B.C., about tax reductions for the Jews (we cannot tell where) is linked to the permission to Hyrcanus to fortify and control Jerusalem (200). Further honorific decrees for Hyrcanus, containing also tax and other concessions for the Jews of Palestine and Phoenicia precede, in Josephus' narrative, the important letter to Parium containing Caesar's ruling on *collegia*.

After Caesar, P. Dolabella (whom he had chosen as consul for 44)⁴⁰ wrote to Ephesus in response to a communication of Hyrcanus which had explained that Jewish soldiers could not fight on the Sabbath and needed special food. Dolabella accepted this and also allowed them to follow native custom and to assemble and make Temple contributions (223-7). Precedents from within the province of Asia and also a decree of Delos, on the question of the levy, are appended to this document; none the less, in 44, the crucial initiative had evidently come from Hyrcanus. We learn that Sardis followed the lead of the Ephesians (227-32).

With the coming of Antony to the East, the picture remains the same, except that now Herod is described by Josephus as appearing beside the long-lasting Hyrcanus in the negotiations with Antony, largely for the purpose of sustaining himself against his Palestinian enemies (*AJ* XIV, 301 ff.). However, Antony's decrees make mention only of the ethnarch Hyrcanus, in the manner which had become habitual. These decrees, which expand freely on the triumvir's military and political circumstances, appear to welcome the gestures and crowns offered at Ephesus by Hyrcanus' envoys (who arrive via Rome); the restoration of

³⁷ For reconstructions of these events (which have to derive almost exclusively from the narrative of Josephus' *Antiquities*) see E. Schürer, *The History of the Jewish People in the Age of Jesus Christ*, rev. G. Vermes and F. Millar, I (1973), 267-76; Smallwood, *op. cit.* (n. 8), 30-43. On Caesar rewarding Hyrcanus and the Jews' εὐνοια to him, see *AJ* XIV, 212. At 216, the εὐνοια and ἀρετή are ascribed to the Jews alone, but Hyrcanus is perhaps alluded to (as well as Jewish assistance to Caesar at Alexandria).

³⁸ According to Josephus' text, Hyrcanus

personally is here party to the alliance, not the Jewish people, as Smallwood, *op. cit.* (n. 8), 42, suggests.

³⁹ The first series of Hyrcanus documents, deriving from Julius Caesar himself, concerns concessions to Palestine; but the Herodian king remains almost as prominent in the Diaspora transactions.

⁴⁰ *MRR* II, 317 and 344: he took Syria as a consular province, but, in Asia, killed C. Trebonius, and on reaching his province was cornered by Cassius.

Jewish property supposedly lost to the Tyrians during Cassius' period of control is a *quid pro quo* (AJ^{xix} 297 ff.). A generation later, when Nicolaus of Damascus appeals on behalf of the Jews of Ionia to Agrippa and his council, he invokes in similar vein the services once performed by Antipater on behalf of Caesar, services deserving to be recompensed not only by honours to the individual but also by benevolence to his people and a confirmation of the old alliance (AJ^{xvi} 51 ff.). Hyrcanus, for whom Antipater had worked, is not mentioned by name: Nicolaus naturally prefers to concentrate attention on the father of his own master, Herod. After half a century, when Claudius issued his second edict, he presented it as an act of consent to a petition of 'my dearest friends Agrippa (I) and Herod (of Chalcis)'. Agrippa's role in the accession of the emperor should not be overlooked when these transactions are assessed: according to Josephus it had been the Herodian who advised Claudius to accept the guards' offer of the empire and then reported to him on the senate's state of truculent disarray (AJ^{xix} 236 ff.; cf. Dio LX, 8, 2).

The personal factors which I have outlined are not simply a background to the documents; these factors are relevant not merely to an account of their genesis, but must be seen also as influences on the character of the decrees themselves and on their functioning, so far as we can envisage it.

The Decrees in Operation

In other respects, too, it is helpful to construe the *acta* as part of a political process and not just as the bare, ambiguous and unsatisfactory legal statements which they appear to be on the page. If not sought by the Jews' patrons (for a mixture of motives) then concessions will have been pursued, preserved and publicized by the communities themselves or their envoys. At Sardis (xiv, 235), it was 'Jewish citizens' who approached L. Antonius with the claim that they had always had their own meeting place and separate jurisdiction in internal matters. They were perhaps prompted by news from Ephesus of the decision of L. Lentulus of 49 B.C. exempting Jews from army service.⁴¹ In Cos, the praetor tells the local magistrates that he had received envoys from the Jews asking to see copies of certain senatorial decrees in their favour; he recommends safe conduct for the envoys (xiv, 233). Further instances of this behaviour will be visible in other cases discussed below. It is all entirely in keeping with the normal stimulus-response pattern of Roman administrative decision-making. There are good examples among the triumviral documents from Aphrodisias of official decisions being made available to interested parties other than those to whom they are addressed: the initiative evidently had to come from the governed, not from the authorities.⁴²

But in the case of Jewish rights, the phenomenon is even more marked, for several reasons. First, the frequent alienation of Jews from their neighbours served only to strengthen the natural ties between Diaspora communities,⁴³ and those ties facilitated the effective diffusion of texts and encouraged appeal to precedent. Secondly, the Jews in the cities were constantly dependent upon Roman support in any struggle to hold their own against Greek authorities whose attitude was often hostile. A vicious circle was soon no doubt created, in which renewed appeal to Roman intervention served to incur further local hostility. Thus their eyes were directed Romewards more than those of other groups. This was especially so during periods of political instability in Roman politics, when they will have reacted to the threat of losing their protection, and that is in part the explanation for the burgeoning of grants of privilege during the civil war and triumviral periods when Rome might have been expected to be more, rather than less, neglectful. Third, this tripartite relationship meant that Roman directives could well go by default. It is to be expected that the cities would sometimes slide out of their obligations, and the evidence suggests that they did, for we have instances both of recalcitrant recipients and of trouble recurring in one and the same place. Events which concerned Laodicea (in Caria) during the 40s offer a

⁴¹ Juster, *op. cit.* (n. 10), 142-4, distinguishes a series of several Asian exemption documents dependent upon Lentulus' original exemption edict, including the Sardis decision, which contains different privileges, but perhaps comes as a consequence; this would explain why it is sandwiched between exemption decrees in Josephus.

⁴² J. M. Reynolds, *Aphrodisias and Rome* (1982), nos. 10-12.

⁴³ As an instance of such ties, consider the personal life of the historian Josephus, who married first a Palestinian captive, then a Jewess from Alexandria, and lastly one from Crete (v, 414-15; 426-7).

useful demonstration (XIV, 241-3). The magistrates, ἄρχοντες, write to the proconsul of the province,⁴⁴ saying they have a letter from him which an envoy of Hyrcanus (one Sopatrus) had brought them. This stated that Hyrcanus had sent documents claiming for the Jews rights of Sabbath observance and freedom of worship, and that no one was to do the Jews an injury because they were the Romans' friends and allies. The letter went on to state that an objection to these claims had already been lodged in person before the governor by the Trallians' representatives, but that he had overridden the objections and insisted that the instructions be carried out. The Laodiceans were accepting the letter and would deposit it in their files, εἰς τὰ δημόσια ἡμῶν γράμματα. They conclude with the non-committal sentence 'and as to *the other matters* on which you have instructed us, we shall take care that we are free from blame'. What stands out is, on the one hand, the *double* involvement of Hyrcanus' emissaries in the business, first in sending documents to the governor, and second in bringing the gubernatorial letter to the Laodicean magistrates; and on the other hand, the *overt rejection* by the Trallians of the claims embodied in Hyrcanus' documents and transmitted by the governor, together with the indications that the Laodiceans too were intending to drag their feet and offering no clear sign of obedience with regard to the Jewish matter. The general impression given by the document, as Josephus cites it, is favourable to the Jews; a careful reading of the text and reconstruction of the situation show it to be less so.

Another development at a Trallian assize, as we learn from a proconsular letter (XIV, 244-6), was that a Milesian citizen, one Prytanis, son of Hermas, (it is not indicated that he was himself Jewish) appeared before the proconsul⁴⁵ and said that Jews were being attacked at Miletus, and prevented from observing the Sabbath, and their own rites and their dietary laws, *in spite of this governor's previous instructions*. The arguments of both sides were rehearsed again and the governor's terse conclusion was that the Jews were not to be impeded from following their customs. Again, then, there is something like a continuous dispute going on, with the Jews actively invoking an earlier favourable decision which had been disregarded.

The story at Ephesus reveals troubles extending over a much longer period. L. Lentulus, the consul of 49 B.C., exempted certain Jews who were Roman citizens from military service before his tribunal (XIV, 228-9; 234). Some time later, perhaps in 42 (if the proconsul's name mentioned at XIV, 263 is to be read as M. Brutus), the assembly, on the proposal of the magistrates, passed a decree enforcing the governor's instructions that Jewish observances were not to be interfered with: the decree stated that no one should be prevented from or fined for keeping the Sabbath, and this gives us an interesting glimpse into what had previously been going on. It concluded with the ineffectual exhortation that 'the Jews should be permitted to do everything that was in accordance with their laws'. But, around 14 B.C. M. Agrippa had to write to Ephesus, to say that the Jews should have control over their Temple funds, in accordance with ancestral customs, and that any men who stole from these should be treated as temple robbers by law and dragged away from asylum. We see from this that the Jewish cult had not been granted the same recognition as other cults. Finally, Agrippa has written to the praetor to say that no one is to make the Jews appear in court on the Sabbath; here is direct evidence that the city's decree of (?) 42 had been contravened, and apparently with impunity.

Only when we get to P. Petronius' edict to Dora, do we find, at any rate in Josephus' florid version, a severe castigation by the legate of the 'insanity' shown by the city's leaders in disregarding Claudius' edict, and the threat that they themselves will be treated as implicated in any offence committed, if they do not hand over wrongdoers to the legate's centurion, so that they can be brought to trial (AJ xix, 303-8). When we bear in mind that Josephus, whose purposes, as we shall see, are avowedly partisan, presents only what looks relatively advantageous to the Jews and puts it in as favourable a light as he can, we realize that the decrees left much to be desired from the point of view of their beneficiaries. Furthermore, of Jewish claims lost to the record, many must have been rejected, whether

⁴⁴ The proconsul's name in the MSS is C. Rabellius son of Gaius; the emendation Rabirius is perhaps desirable, but still does not yield a known official in the province. There is no apparent way of dating

the document.

⁴⁵ This time he is the P. Servilius Galba of n. 15 above. This letter must not be taken with the Pergamene decree which follows it directly.

ab initio, by the Roman authorities, or at the second stage, in the Greek cities. The record has been preserved by Jews, because the documents were valuable to them, and they will not have been interested in reports of proposed decrees which failed or ones which were ignored. And that is quite apart from the question of how the city populations reacted to decrees which *were* passed by their own councils or in assembly—how often they chose to flout them. Penalties are specified at Halicarnassus: ‘and if anyone, whether magistrate or private citizen prevents them, he shall be liable to the following fine and owe it to the city’ (AJ XIV, 258).⁴⁶ But how often were the fines imposed? The later insistence of P. Petronius is lacking at this earlier stage. Much will have depended on the state of community relations in particular places at particular times. In the face of overwhelming hostility, such tenuous support as the *acta* were intended to supply can have been of little avail.

None the less, the decrees were all that the Jews had and they clung to them tenaciously and relied on them vigorously in their political battles. Under threat, they could call on records which they regarded as containing established rights—δικαία, δικαιώματα, ἀξιώματα—which could be described, in other contexts, as privileges—φιλόανθρωπα, δεδομένα, συγκεχωρημένα⁴⁷—the difference in wording reflecting only a difference in attitude or emphasis. We can see how this might have worked from Josephus’ report of the case argued by Nicolaus of Damascus before Marcus Agrippa on behalf of the Jews of Ionia (AJ XVI, 275). The complaints were the usual ones: they could not observe their own *nomoi* because of being hauled into court on the Sabbath, the contributions destined for the Temple had been taken away from them, they were being made to perform military duties in spite of previous exemption. Nicolaus’ speech in Josephus is a plea for relief from ill-treatment of all kinds, presented in a broad perspective. Favourable decrees from Rome of a former period are the basis of the claim; yet these are invoked in a sweeping allusion, without legal precision, and used to buttress the case as a whole, not individual heads: ‘we therefore hold, mighty Agrippa, that we should not suffer harm, nor be ill-treated, nor prevented from observing our customs, nor have forced upon us by these people what we do not force upon them. For that is not only just, but was earlier granted by you. Moreover, we could read out to you many decrees of the Senate, and tablets deposited in the Capitol, which were clearly issued after our loyalty to you had been tested, and which would be valid even without any such circumstances’ (AJ XVI, 47–8). Josephus’ wording implies that documents were *not* read out on this grand occasion, that to conjure with them was enough. While we must allow that this is a historian’s version of the speech and of the occasion—two historians’, in fact, for before Josephus, Nicolaus will already have written up the events in his own works—it is likely that the shape of the occasion is realistically reported. Josephus tells us categorically that ‘the Jews were not arguing about set points, as in a court of law, but it was a plea about the violence they were enduring’ (57).

What is remarkable is that the documents were thought to have a key role to play even in an avowedly non-legal dispute. They were not valued for their specific content, but as symbols of respect for the Jews; not as exact precedents to be analysed, but as encouragements to good treatment, of a kind which could be particularly meaningful for a conservative administration, such as the Roman empire indisputably was.

Josephus’ Understanding of the Documents

It is also to be noted that it is in exactly the same spirit that the decrees are exploited by Josephus in his *Antiquities*, an openly apologetic history with a purpose relevant to his own time.⁴⁸ In the well-known conclusion to the dossier in book XVI, he apologizes thus: ‘if I often mention these texts, it is in order to reconcile the nations and to remove the causes of hatred which have taken root in the thoughtless among us and among them’. With this aim in mind he has produced evidence that ‘in earlier times we were treated with every

⁴⁶ On the difficulty of imposing sanctions in this kind of situation, Juster, *op. cit.* (n. 10), 238–9.

⁴⁷ For the vocabulary of rights, privileges and concessions, see Juster’s valuable list: 222, n. 2. Josephus’ distinctions are not rigorous—rights are termed privileges if the stress is on their coming from

a donor.

⁴⁸ For remarks on Josephus as defender of the Jews of the Diaspora in the 80s and 90s, see T. Rajak, *Josephus: the Historian and his Society* (1983), Epilogue. A study of the apologetic thrust in Josephus’ later writings is wanting.

respect and were not prevented by those in power from practising any of our ancestral customs, but were even assisted by them in our cult and in honouring God' (xvi, 174-5). Thus the worth of the texts to him is not that they uphold precise privileges which might be under threat, or assert distinct rights which had been challenged, but rather, through a reminder of the attitudes underlying earlier grants, make a large case for the acceptance by pagans of the practice of Judaism (as well as of paganism by Jews).

A further indication that Josephus is more concerned with the general theme of esteem for the Jews than with the details of Jewish status is to be found in another of his expressions of intent, the preamble to the book XIV dossier (187-8): 'and here it seems to be necessary to make public all the honours given our nation and the alliances made with them by the Romans and their emperors, in order that the other nations may not fail to recognize that the kings both of Asia and of Europe have had respect for us and admired our courage and loyalty. But since many people refuse out of malice to believe *what has been written about us by Persians and Macedonians*, because these texts are not found everywhere and are not deposited in public places, but exist only among us and some other barbarian peoples, whereas there is nothing that can be said against the Roman decrees, for they are positioned in public places in cities and are still to be found engraved on bronze tablets on the Capitol . . . it is from the latter documents that I shall take my demonstrations.' In other words, the author claims, and is proud, to be making the same point as had been made about other periods with different proofs, one which he could perfectly well have made now with that same older material. In this, he is in part expressing a literary self-identification, aligning himself with the tradition in post-exilic Jewish writing of quoting documents, especially the texts of treaties and concessions between foreign rulers or nations and communities of Jews.⁴⁹ Citation of documents is not entirely alien to Greek historiography—witness the late Thucydides—but it is particularly a hall-mark of near-Eastern writing, starting with Ezra's decrees of Cyrus, and making a pronounced appearance in the Roman treaties and Seleucid decrees of Maccabees I and II.⁵⁰ Josephus refers to these very antecedents when he speaks about what was written by Persians and Macedonians and he allows himself some liberty in suggesting that their apologetic goals had been just the same as his.

But the literary context is not all. Josephus writes with an eye to the present, and interprets the Roman documents in the light of his own experience. He finds them a valuable support to his general argument; indeed, on the hypothesis which we have accepted, that their provenance is varied and that Josephus did not simply reproduce a literary source (such as Nicolaus), the labour was not inconsiderable. He must have known what he wanted. At the same time, he is somewhat cavalier about detail, in a way which should not be put down simply to the 'sloppiness' for which some scholars condemn him; ⁵¹ this comes out in the impenetrable ordering of the documents, where some small groups form sequences, while others, as we have said, appear chronologically haphazard, with no apparent rhyme or reason; and the difficulties are demonstrated by Juster. I would suggest that we may best account for this phenomenon with the explanation that Josephus, like the original recipients of the grants, was concerned with their use in political argument and not very interested in their exact legal content. His viewpoint and his concerns are, in fact, not very different from theirs, and this is natural enough, for there is continuity as well as development between their Diaspora and his. He will have been a small child at the time of the Claudian decrees, he was an emissary from Jerusalem to Rome in A.D. 64, and from 71 he himself was a Diaspora resident.

An incident which occurred in that very year and is reported in the *Jewish War* (written in the 70s) bridges the gap between Claudius and the publication in the 90s of the *Jewish Antiquities*. It shows that specific rights were still (or perhaps even more) important in the aftermath of the fall of the Temple. It reveals the Jewish population clinging desperately to a small privilege which had evidently come to represent security for them. The pagan citizens

⁴⁹ See A. Momigliano, 'Eastern Elements in Post-Exilic Jewish, and Greek, Historiography' = *Essays in Ancient and Modern Historiography* (1977), 31-3.

⁵⁰ Ezra 1, 2-4; 4, 9-22; 5, 8-17; 6, 3-12; 7, 12-26; I Macc. 8, 23-30 (alliance with Rome); 10, 18-20; 26-45; 11, 30-37; 13, 36-40; 40, 20-23 (letter from Sparta); 27-47 (inscription put up by

the Jews); 15, 1-9; 16-21 (letter from the Romans); II Macc. 9, 19-27; 11, 17-39 (letters of Antiochus and of the Romans). Some of these documents are authentic, others patently falsified.

⁵¹ Especially S. J. D. Cohen, *Josephus in Galilee and Rome: his Vita and Development as a Historian* (1979).

of Antioch, doubtless emboldened by the failure of the revolt in Palestine, tried to expel the Jews from the city. When Titus objected, they proposed instead to destroy the bronze tablets on which Jewish rights, δικαιώματα, were inscribed (*Bḡ* VII, 100–11). It is in another Josephan context that we hear incidentally what those rights were. For in *Antiquities* XII (119–23) it is alleged that Seleucus I Nicator gave the Jews πολιτεία and made them ἰσοτίμοι; as proof, one specific and limited privilege is offered—that the gymnasiarchs gave the community financial assistance to enable it to purchase its own oil. There follows a prospective statement to the effect that *this* was the privilege which the Antiochenes first sought to revoke during the Jewish revolt, and that Mucianus had upheld it; later, at some unspecified time after A.D. 70, they challenged Jewish πολιτεία more fundamentally. I shall not speculate upon what is meant by that. What matters is that Josephus is unequivocal about the supreme importance for the Jews of the oil privilege, in spite of a certain vagueness about exactly what was inscribed on the tablets. Perhaps he did not know.

Thus the structure of the situation was not fundamentally altered by the revolt, even with Jewish fears intensified and Roman disapproval now in the air and to some extent expressed in the removal to the *fiscus Judaicus* of the former two-drachma Temple contribution. There is still every reason to suppose that, in looking back to the period when the pattern was established, and then to its Augustan and Claudian sequel, Josephus would have had no difficulty in grasping its essentials, and would have adequately understood the meaning and function of the pro-Jewish decrees, and the nature of the politics behind them.

The decrees were weapons in a polemic which was often intense and fierce. Josephus, by his literary labours, contributed consciously to that polemic. It is not surprising if in his presentation he overestimates respect for the Jews, exaggerates the scope of grants in their favour and tells us nothing of the times when Roman support was denied.

The Jewish Need for Protection

There is no doubt that the Jews, as organized communities, were often at odds with their Greek neighbours and eager for Roman backing which could forestall or terminate trouble. To say this is not to suggest that relations were always and everywhere bad, nor to deny the existence of Greeks who were well-disposed; there was also successful integration of individual Jews into their environment (even without apostasy), and even a degree of Hellenization and cultural assimilation by most Jewish groups. Paradoxically, Josephus, in arguing for harmonious co-existence, highlights situations of tension, because those situations often conclude in the legal or quasi-legal interventions which constitute the only tangible evidence he can produce of good treatment of the Jews. In arguing his case, he tends also to be suggesting its opposite.

To enquire into the causes of conflict requires a separate analysis, which would centre not on the places that figure in the documents (about whose Jews, for the most part, we know almost nothing), but on the familiar episodes from Alexandria and from the Greek cities in and around Palestine and occasionally further afield, as at Antioch, before and after the first revolt; and it would take into its purview the Trajanic revolt in the Diaspora. What must be said is that the *manifestations* of the conflict took the form of direct attacks, both by the city populations and by their authorities (there was no great gap between the two in a Greek city) upon Jewish cult practices. Paganism is often said to have been tolerant and accommodating. But it was not so towards a monotheistic religion centred upon an invisible God, a religion which could not readily be assimilated, in the usual fashion, into the existing system. From the provisions of the decrees, the problem might be taken as being simply that the Jews did not 'fit in' to the cities where they lived: they were an anomaly and an inconvenience, for example in being unavailable on the Sabbath; and a drain on the cities' finances and solidarity, especially through their collections for Jerusalem. To those who are willing now to accept more or less at face value the ancient pagan charges of Jewish misanthropy, such an interpretation of the decrees will come readily; for, on this view, the essential feature of the situation is the intractable exclusiveness of a people different from others and always difficult and inflexible.⁵² A milder version of this approach lies

⁵² So e.g. Smallwood, *op. cit.* (n. 8), 123–4; A. N. Sherwin-White, *Racial Prejudice in Imperial Rome* (1967), 93; J. P. V. D. Balsdon, *Romans and Aliens*

(1979), 67; M. Pucci, *La rivolta ebraica al tempo di Traiano* (1981), 15.

behind Juster's formulation of the Jewish predicament in the Greek city—' persécutions ou privilèges ' ;⁵³ the implication here is that exemptions were intrinsically necessary, as Judaism prevented the fulfilment of essential obligations in the *polis* : not to make special concession to the Jews *was* to persecute them. It is a mere assumption that the Jews of the cities needed or sought such complete separation or that they always insisted upon special arrangements ; and it is an assumption which should be examined.

As far as the evidence of the decrees goes, it looks rather as though in many cases they became necessary only because of deliberately engineered attacks on Jewish practices. It seems that Jews were made to appear in court on the Sabbath not by accident, but as a provocation, precisely because it was known that this would cause offence. The money destined for Jerusalem was, as we have seen, sometimes seized by the cities : not, surely, as an administrative act, because the collection was deemed illegal, but as one form of violent assault ; out of this arose the need for a special grant of explicit entitlement and protection. Simple dislike came first : this need cause no surprise. Moreover, as far as the Greeks went, this dislike attached itself to the apparent oddity of Jewish religious practices. The rhetoric in Josephus' version of Nicolaus' speech before Agrippa is instructive : Jewish customs are to be praised for their excellence and antiquity, but ' it is these customs which they would outrageously deprive us of by snatching away the money which we contribute in the name of God, and by openly committing sacrilegious theft, by imposing taxes upon us and taking us to court and other public business on our feast days, not because this is required by the contracts, but to insult our cult, towards which they feel a hatred which—they know it as well as we do—is neither just nor legitimate ' (xiv, 45). The speaker is partisan and his language indignant ; those on whose behalf he speaks may have had an exaggerated sense of being persecuted. None the less, his representation is both credible and fully consonant with what we have gleaned from the documentary evidence, and that makes it worthy of serious attention.

It may also be noted that Roman administrative tolerance—the term is regularly applied here too—also had severe limits. It was not difficult as an administrative measure to direct others sometimes towards enforced toleration ; on home ground, it was another matter, and the reign of Tiberius saw the Jews expelled from the city. It is true that Nicolaus' speech envisages the Roman empire as deliberately favouring ethnic diversity ; but this, we have suggested, was a Jewish, not a Roman interpretation.

The *acta* then, are the product of struggles, and of animosities within Greek cities of a kind which we know (as at Alexandria and in the conflicts of 66–73 in many cities) could issue in serious and bloody riots. That is why Josephus, in his last work, *Contra Apionem*, is able to distinguish the Law of the Jews from that of Greeks by the fact that Jews are prepared to die rather than abandon any part of theirs.⁵⁴ We can readily see that for those who lived in such circumstances and with such convictions, every battle for rights and privileges was a battle for their Law and therefore, potentially, for their physical survival.

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⁵³ 213 f.

⁵⁴ *CA* I, 43 ; II, 219 ; 233. Josephus appears to speak of martyrdoms for the Law within living

memory. And, whatever these were, his strong interest in the matter shows it to have active significance for him in this polemical work.