

# NERVA, THE *FISCUS JUDAICUS* AND JEWISH IDENTITY\*

By MARTIN GOODMAN

In A.D. 96 Nerva courted popularity in Rome for his new regime by changing the way in which the special tax on Jews payable to the *fiscus Judaicus* was exacted.<sup>1</sup> The reform was widely advertised by the issue of coins, under the auspices of the senate, with the proclamation 'fisci Judaici calumnia sublata'.<sup>2</sup> Precisely how Nerva removed the *calumnia* no source states, but it can be surmised. The tax did not cease to be collected, for its imposition was still in operation in the time of Origen and possibly down to the fourth century A.D.<sup>3</sup> It is a reasonable hypothesis that Nerva's intention was to demonstrate publicly his opposition to the way in which his hated predecessor, Domitian, had levied the tax, and to procure release for those described by Suetonius (*Dom.* 12. 2) as particular victims of Domitian's tendency to exact the tax 'acerbissime'. According to Suetonius, these unfortunates were those who either 'inprofessi' lived a 'iudaicam vitam' or 'origine dissimulata' refused to pay the tax: the people thus trapped by Domitian and, if the hypothesis is correct, exempted by Nerva were those who failed to admit openly to their Jewish practices and/or those who hid their origins (presumably as Jews). I shall argue in this paper that by removing such people from the list of those liable to the Jewish tax, Nerva may unwittingly have taken a significant step towards the treatment of Jews in late antiquity more as a religion than as a nation.

The problem which faced Nerva had arisen in A.D. 70 when Vespasian, after the destruction of the Jewish Temple in Jerusalem, imposed a tax of two *denarii* on Jews, to go to the rebuilding of the temple of Jupiter Capitolinus in Rome, burnt down in the previous year. Contemporary sources make clear who was liable to pay: an *amphodarches* in Arsinoe in A.D. 73 drew up a list of Jews for the purpose (*CPJ* 421), and ostraca from Edfu reveal payment by women, children and slaves as well as adult males.<sup>4</sup> Josephus wrote in *BJ* 7. 218, composed by the early 80s A.D. at the latest, that *all* Jews now pay to the Capitoline god what they had previously paid to the Jerusalem Temple. As Suetonius stated (*Dom.* 12. 2: 'imposita genti tributa'), Jews paid the tax because of their religion, but they were defined as Jews by their ethnic origin. It was simply assumed that all ethnic Jews subscribed to the national cult. Vespasian's definition of a Jew ought to have been clear, for the Roman state was usually precise about who paid what taxes, and those paying at Edfu in the 70s included Roman citizens (*CPJ* 162, 174). Collection was taken seriously from the start, with the establishment of a separate *fiscus* and a special *πρόκτωρ* in charge of its administration evident at Edfu by A.D. 80.<sup>5</sup> The assumption that ethnic origin presupposed religious practices is entirely in accordance with standard pagan use of the Greek term Ἰουδαῖος, Latin *Judaicus*, before A.D. 70.<sup>6</sup> Nor is this very surprising, since it was also the standard Jewish assumption as found in Philo and Josephus.<sup>7</sup>

What, then, was Domitian doing with the exaction of the tax which caused such an uproar? No source suggests any change in the formal definition of the tax, only in who was affected when it was exacted *acerbissime*. It was long assumed that the vulnerable who suffered with regard to the tax under Domitian were gentiles who had taken up Jewish practices,<sup>8</sup> but L. A. Thompson has argued that this is an impossible

\* A version of this paper was read to the Oxford Philological Society in February 1988 and to the London Ancient History Seminar in October 1988. I am grateful for the comments and criticisms of those who were present.

<sup>1</sup> On the *fiscus Judaicus* in general, see V. A. Tcherikover and A. Fuks, *Corpus Papyrorum Judaicarum* I (1957), 80–2; II (1960), 111–16.

<sup>2</sup> H. Mattingly and E. A. Sydenham, *The Roman Imperial Coinage* II (1926), 227 (no. 58), 228 (no. 82).

<sup>3</sup> Origen, *Ep. ad Africanum* 20 (14) (ed. de Lange, *Sources chrétiennes* 302 (1983), 566); on the cessation of the tax, see J. Juster, *Les Juifs dans l'empire romain* II (1914), 286.

<sup>4</sup> The ostraca from Edfu relevant to the Jewish tax

are published in Tcherikover and Fuks, *op. cit.*, II, 119–36 (= *CPJ* 160–229).

<sup>5</sup> *CPJ* 181; see the discussion in Tcherikover and Fuks, *op. cit.*, II, 115.

<sup>6</sup> See, e.g., Hecataeus of Abdera, *ap. Diod. Sic.* 40. 3 and *Jos., c. Ap.* 1. 183–204; Agatharchides of Cnidus in *Jos., c. Ap.* 1. 205–11; Cic., *Pro Flacco* 28. 66–9; *De Prov. Cons.* 5. 10; Varro, *ap. Augustine, De Civ. Dei* 4. 31; for other texts, see M. Stern, *Greek and Latin Authors on Jews and Judaism* I (1974).

<sup>7</sup> Philo, *Virt.* 212, and *passim*; Josephus reserves the term Ἰουδαῖος for Jewish history after the Babylonian exile, preferring Ἰσραηλίτης for the earlier period.

<sup>8</sup> E. M. Smallwood, 'Domitian's attitude towards the Jews and Judaism', *Classical Philology* 51 (1956), 1–13.

reading of Suetonius: in these years such gentiles were accused of ἀθεότης and executed, so they could not have been given legal recognition by a tax at the same time. It seems more likely that those at risk were ethnic Jews who had given up public identification with their religion either by hiding their continued Jewish practices or by pretending that their customs had nothing to do with their Jewish ethnic origins, which they dissimulated.<sup>9</sup> Thus Suetonius (*Dom.* 12. 2) narrated the story of an old man of ninety who was stripped before a court to see whether he was circumcised: he could hide all other aspects of his Jewishness, but not this.

If it was this group of non-religious ethnic Jews who were persecuted for the tax by Domitian, it is a reasonable hypothesis that what Nerva did to end the *calumnia* was to release such people from payment. It is certain that such individuals no longer paid by the early third century, for, according to Cassius Dio (66.7.2), who characteristically back-dated his definition to A.D. 70, the tax was levied (presumably in his day) from those Jews who still observed their ancestral customs (so presumably not from those who had ceased such observances); the disapproval of Domitian implicit in Suetonius' account suggests further that this reform had come about at least by the date of the composition of the biography of that emperor, in the 120s A.D. or earlier. It can be readily appreciated that the removal of such men from liability to the tax might be considered by Nerva as a means to court popularity in the city of Rome. Such apostate Jews would include men like Tib. Iulius Alexander, the former prefect of Egypt, who was described by Tacitus (*Ann.* 15. 28. 3) with no mention of his Jewish ethnic origin.<sup>10</sup> It may be assumed that Romans accepted the right of ethnic Jews like other people to assimilate into the Roman citizen community or other peregrine communities so long as they gave up their peculiar customs, and Domitian's behaviour was an affront to this attitude.

If it is correct to interpret Nerva's removal of the *calumnia* in this way, his reform will have restricted liability for the tax to those who practised Judaism *professi*, i.e. openly. But such a solution to Domitian's excesses brought its own problems, for it was not easy for the state to recognize when a Jew was living a Jewish life. Simple observation of which individuals had Jewish customs would not suffice, for far too many gentiles in Rome had taken up Jewish practices without considering themselves, or being considered, Jews: the sabbath was widely observed,<sup>11</sup> avoidance of certain meats would implicate vegetarians such as Pythagoreans,<sup>12</sup> many gentiles might attend synagogues out of curiosity,<sup>13</sup> even circumcision could be endured for non-Jewish reasons.<sup>14</sup> A sacrifice test like that used for Christians by Pliny might have worked, but despite its use at the instigation of a renegade Jew in Antioch in A.D. 67 (*Bῆ* 7. 50–1), it seems never to have been used against Jews by the Roman state.

Requesting individual Jewish communities themselves to identify which Jews were religiously observant would not have proved any more effective. Jews could not conceive of an ethnic Jew ceasing to be part of the nation with which God's covenant had been made, and they might readily claim as one of them a non-observant ethnic Jew, if only out of spite. Thus Josephus, unlike Tacitus, was clear about the Jewish origins of Tib. Iulius Alexander, despite the fact that he lacked πρὸς τὸν θεὸν εὐσέβεια and 'did not stay in the customs of his ancestors' (*Aῖ* 20. 100). It would in any case be difficult to decide *which* Jewish community in a town had the right to define its members, for there is no reason to believe that rabbinic authority in the definition of Jewishness was widely accepted even in Palestine at so early a date, let alone in the diaspora.<sup>15</sup> The only alternative, it seems to me, must be that Jews were taxed if, and only if, they declared themselves as Jews—that is, if they carried on their Jewish

<sup>9</sup> See L. A. Thompson, 'Domitian and the Jewish tax', *Historia* 31 (1982), 329–42.

<sup>10</sup> On Tib. Iulius Alexander, see V. A. Burr, *Tiberius Iulius Alexander* (1955). What happened to those with only one ethnically Jewish parent?

<sup>11</sup> See R. Goldenberg, 'The Jewish Sabbath in the Roman world up to the time of Constantine the Great', *ANRW* II. 19. 1 (1979), 414–47.

<sup>12</sup> Seneca, *Epist. Moral.* 108. 22.

<sup>13</sup> Cf. Jos., *Bῆ* 7. 45; Acts 13. 26; 17. 4.

<sup>14</sup> For circumcision as a custom also of the Colchi and Egyptians, see Diod. Sic. 1. 28. 2–3. See in general J. Nolland, 'Do Romans observe Jewish Customs?', *Vigiliae Christianae* 33 (1979), 1–11.

<sup>15</sup> On the limits of rabbinic authority, see M. Goodman, *State and Society in Roman Galilee, A.D. 132–212* (1983), 119–34.

customs *professi*. The incentive to make such a declaration was presumably the freedom to carry on religious practices without odium, what Tertullian described, rather enviously, as 'vectigalis libertas' (*Apol.* 18), freedom of worship bought at the price of the Jewish tax. Such privileges as avoiding court cases on the sabbath and escaping charges of impiety for publicly boycotting civic cults were worth two *denarii* a year.<sup>16</sup>

The (presumably unintended) side-effects of this new Roman criterion for Jewish identity—a Jew was anyone who volunteered to pay the *fiscus Judaicus* to the Roman state—were considerable, not least in a new awareness of the notion of a proselyte.

Jews before A.D. 96 seem to have been remarkably unconcerned about which of the gentiles who adhered to their communities were to be considered by them as Jews and which were just friendly pagans. The notion that religious conversion could give an outsider full membership in the Jewish community had evolved gradually within Jewish society from the sixth century B.C. By the first century A.D. it was generally accepted by Jews: Philo, among others, was explicit about the possibility of proselytism (*Virt.* 108).<sup>17</sup> But references to proselytes are very rare in the first century—Josephus never used the term—and references to so-called godfearers are so vague that the existence of a specific category of such people in this period has with justification been denied.<sup>18</sup> Two remarkably vague statements in Josephus are outstanding. Josephus wrote of gentiles in Antioch whom the Jews had made 'in a certain way part of themselves' (*Bḡ* 7. 45), an expression which leaves it unclear whether they were seen as having become Jews or not. Even stranger is the description of Herod put by Josephus into the mouth of the Hasmonaean Antigonus at *Aḡ* 14. 403, where Herod is depicted as Ἰδουμαῖος, τουτέστιν ἡμιίουδαῖος.

Although in theological terms this notion of a half-Jew is incomprehensible, for the Hebrew Bible assumes that people either are part of God's covenant with Israel or they are not, the description is a symptom of a highly ambivalent attitude towards the Idumaeans in Jewish texts.<sup>19</sup> The Idumaeans, descendants of the biblical Edomites, were conquered by the Hasmonaean John Hyrcanus in c. 125 B.C. and incorporated within the Jewish state, the males undergoing circumcision.<sup>20</sup> Idumaeans of later generations seem to have had no doubts about their Jewishness, and they played a leading part in the revolt against Rome in A.D. 66–70, describing themselves as kinsmen of the inhabitants of Jerusalem.<sup>21</sup> At *Aḡ* 13. 258, Josephus appears to have accepted this evaluation, for he stated there that the Idumaeans were circumcised and so became Ἰουδαῖοι; but the jibe against Herod as a half-Jew warns that prejudice lingered, and it was no accident that the Idumaeans who were involved in the great revolt from A.D. 68 never won any power as national leaders in the independent Jewish state despite their leading military role.<sup>22</sup>

In contrast to this vagueness among Jews before A.D. 96 about who was, and who was not, a proselyte, and therefore about which friendly gentiles were Jewish, a new clarity was to be found after A.D. 96. Most striking is the formal designation by Jews in a synagogue inscription of a group of gentiles as honoured pagans—*theosebeis*—in early third-century Aphrodisias: these gentiles seem to have been viewed distinctly *not* as half-proselytes but as pagans whose role as friendly towards Judaism was not seen to require them to become Jewish.<sup>23</sup> From the same period or slightly earlier

<sup>16</sup> On Jewish privileges as recorded by Josephus, see T. Rajak, 'Was there a Roman Charter for the Jews?', *JRS* 74 (1984), 107–23.

<sup>17</sup> Discussion and references in E. Schürer, rev. G. Vermes, F. Millar and M. Goodman, *The History of the Jewish People in the Age of Jesus Christ* III. 1 (1986), 169–76.

<sup>18</sup> A. T. Kraabel, 'The disappearance of the "God-Fearers"', *Numen* 28 (1981), 113–26.

<sup>19</sup> The context of the description as a 'half-Jew' is polemical and the lineage qualifications for a king may have been more stringent in Jewish eyes than those for an ordinary citizen (cf. Deut. 17. 15), but Josephus

included the slur in his history without comment or objection. Herod could have been attacked quite easily as a half-Jew in a different sense because his mother was a Nabataean Arab (*Jos.*, *Bḡ* 1. 181).

<sup>20</sup> *Jos.*, *Aḡ* 13. 257–8. See now A. Kasher, *Jews, Idumaeans and Ancient Arabs* (1988).

<sup>21</sup> *Jos.*, *Bḡ* 4. 272–82; cf. M. Goodman, *The Ruling Class of Judaea* (1987), 189–93; Kasher, *op. cit.*, 224–39.

<sup>22</sup> See Goodman, *op. cit.*, 222–3.

<sup>23</sup> J. Reynolds and R. Tannenbaum, *Jews and God-fearers at Aphrodisias* (Camb. Phil. Soc. Supp. xi) (1987), with my review in *JRS* 78 (1988), 261–2.

derive rabbinic discussions in the Tosefta of precisely what constituted righteous behaviour for the 'sons of Noah', that is, for gentiles who did not convert.<sup>24</sup>

No less far-reaching was the change in Roman perceptions of Judaism. Neither Roman nor Greek pagans before A.D. 96 seem to have been fully aware of the Jewish concept of a proselyte. Most of the texts often cited as evidence of a Jewish proselytizing mission in this period need not be read as referring to this notion at all,<sup>25</sup> one passage alone, written by a pagan before the end of the first century A.D., Horace, *Sat.* 1. 4. 142–3, may imply the notion that a gentile could become a Jew, but even this ('veluti te/Iudaei cogemus in hanc concedere turbam') also makes sense if it describes how Jews force others to agree with their political views.<sup>26</sup> This silence about proselytes in the pagan literature on Jews written before A.D. 96 must be taken as significant not only because that literature was quite extensive—fifty-five Greek and thirty-four Latin authors who composed works before that date are listed in Stern's *Greek and Latin Authors on Jews and Judaism*, even though admittedly most of the extant extracts, particularly those in Latin, are neither long nor informative. More importantly, some comment on proselytism was surely to be expected if such pagan writers were aware of the notion, for the whole idea that a personal decision to dedicate oneself to a particular cult could bring membership of the ethnic group to which that cult specially belonged was quite foreign to Greek and Roman attitudes to citizenship. Furthermore, although Domitian was exceptional in condemning to death or confiscation of property on grounds of ἀθεότης those who 'drifted into Jewish ways' (Cassius Dio 67. 14. 1–2), few other Greeks or Romans can have approved of such neglect of the gods (cf. Pliny, *Epp.* 10. 96. 10 on the deserted temples of Pontus); however, complaints that such atheism was the natural corollary of gentiles becoming Jewish are not to be found before A.D. 96. Romans were very much aware before this date of the spread of Jewish customs among gentiles. They appear to have viewed with increasing suspicion and hostility in the early principate the infiltration into the city of Rome of such customs, defined as *superstitio*. Judaizing pagans could be punished for 'externa superstitio': such was the fate which threatened Pomponia Graecina in A.D. 57 (Tac., *Ann.* 13. 31), and along with those of the Jewish gens expelled from Rome in A.D. 19 were others 'similia sectantes' (Suet., *Tib.* 36). But the charge in such cases, if they are accurately reported, was apparently not that such gentiles had become Jewish.

This apparent Roman ignorance about the concept of a proselyte is in marked contrast to the explicit evidence under Trajan and Hadrian of gentiles becoming Jews and abandoning pagan cults. Epictetus in a discourse of c. A.D. 108 made the following observation: 'Whenever we see a man halting between two faiths, we are in the habit of saying, "He is not a Jew, he is only acting the part". But when he adopts the attitude of mind of the man who has been baptized [*sic*] and has made his choice, then he both is a Jew in fact and also is called one ...' (τότε καὶ ἔστι τῷ ὄντι καὶ καλεῖται Ἰουδαῖος, Arrian, *Diss.* 2. 9. 20). Juvenal (*Sat.* 14. 96–104) made a clear distinction between gentile sympathizers who simply revere the sabbath and those who adore nothing but clouds, avoid pork, get circumcized and (crucially) despise the laws of Rome. Tacitus complained bitterly that gentiles who have 'transgressi in morem eorum' learn first of all to despise the gods, disown their country, treat their families as 'vilia' (*Hist.* 5. 5. 2); that good pagans were lured from their ancestral cults became a major part of the polemic against Judaism as it had always been a major charge against Christians, all of whom, at least in the early years, were culpable of abandoning traditional customs. The existence of proselytes is recognized most clearly of all in the formulation by Cassius Dio (37. 17. 1): Dio asserts that the people of Judaea are called Ἰουδαῖοι and that the title applies also to other persons who, although of alien race, τὰ νόμιμα αὐτῶν ... ζηλοῦσι.

<sup>24</sup> Tosefta, *Avoda Zara* 8 (9): 4; cf. D. Novak, *The Image of the Non-Jew in Judaism* (Toronto Studies in Theology xiv) (1983).

<sup>25</sup> See, as an extreme example, the texts cited by D. Georgi, *The Opponents of Paul in Second Corinthians*

(1987), 96–101.

<sup>26</sup> Cf. the arguments, not all of them equally strong, of J. Nolland, 'Proselytism or politics in Horace, *Satires* 1, 4, 138–143?', *Vigiliae Christianae* 33 (1979), 347–55.

Thus if the hypothesis is correct that Nerva's removal of the *calumnia* of the *fiscus Judaicus* should be understood by reference to the abuses under Domitian, it may be suggested that, by a reform intended to help apostate Jews, Nerva for the first time gave Roman legal recognition to Jewish proselytes, since after A.D. 96 the Roman definition of a Jew depended on his or her public declaration of Judaism and acceptance of the burden of the consequent tax. Jews from now on were defined as such by their religion alone rather than their birth. In the short term the emphasis on a public profession of allegiance may have provided the model for the state's treatment of Christians—as has long been noted, what mattered for Pliny in Pontus in c. A.D. 110 was not what Christians did so much as whether they admitted publicly to being Christians, and public apostasy brought immediate acquittal.<sup>27</sup> A more general consequence may have been the development of a new attitude within the state towards groups of citizens, which defined their membership by their dedication to particular religious practices. The suspicion with which such religious cult groups were perceived by the state in the middle Republic has been emphasized by John North in a study of the suppression of the Bacchanalia in 186 B.C.<sup>28</sup> By the fifth century A.D. the civic status of many citizens as discussed in the Theodosian Code was largely defined by their profession of religious affiliation.<sup>29</sup> Nerva's reform of the *fiscus Judaicus* may be regarded as a stage in this process.

*Oxford Centre for Postgraduate Hebrew Studies and St Cross College, Oxford*

<sup>27</sup> G. E. M. de Ste Croix, 'Why were the early Christians persecuted?', in M. I. Finley (ed.), *Studies in Ancient Society* (1974), 210–49, 256–62.

<sup>28</sup> J. North, 'Religious toleration in Republican

Rome', *Proc. Cam. Phil. Soc.* n.s. 25 (1979), 85–103.

<sup>29</sup> Cf., e.g., *Cod. Theod.* 16. 7 (*De apostatis*), 16. 8 (*De Judaeis, caelicolis et Samaritanis*).