

## ARTICLE IV.

## PAUL'S PHRASEOLOGY AND ROMAN LAW.

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LOYALTY to the inspiration of the New Testament, and to the divine origin of Old Testament truths reproduced and exalted in it, does not forbid studious inquiry into the mould of its language. The dress of religious thought may be human, historic, ethnic, individual, while the body is from God. The New Testament differs from the Old in that it was not produced in purely Oriental surroundings. When revelation struck the Greek language and the institutions of the Roman Empire, it struck modes of expression and forms of diction entirely novel to an Asiatic Jew.

There is more evidence of the Apostle Paul's familiarity with Roman law than there is of his acquaintance with Greek literature; at least with such literature at large, other than the writings of Aratus and Cleanthes, natives of Southern Asia Minor like himself. That his education and mental habits should lead him, in conveying ideas and truths more profound and spiritual than his hearers and readers had yet grasped, to clothe them with a "costume"—to use Professor Stuart's favorite term—drawn from sources well known to them as to him, was altogether natural. How, indeed, could he help it? Why should the Holy Spirit prevent his doing so? He evidently did not. It is a growing impression among scholars that Paul's great difficulties and obscurities would largely disappear if we knew better the sources of that figurative diction of his, which, it has been observed with dis-

crimination, is never poetical or ornamental, but always logical and legal. How could it have been otherwise, indeed, with his cast of mind and training?

But a judicious appreciation of what has just been mentioned will not ascribe every comparison the Apostle makes of spiritual to secular things to the ready influence of Roman law. Some things in a lax way attributed to this influence the present writer has shown elsewhere<sup>1</sup> are independent of it. The more common error, however, has not been on that side, but the opposite. We may, perhaps, find in the former the best starting point for an investigation of the latter.

I. Assuming that Paul wrote Heb. ix., it is clear that he *might* have alluded to a divine "will" or "testament" had he been addressing Roman Christians. If neither of these is true, we should then need to see—in order to be satisfied of any such allusion—that the subject-matter required such a reference to the peculiar, the exclusively Roman, legal instrument; that *διαθήκη* is the Greek equivalent for *testamentum*; that this peculiar Roman form in the disposal of heritable property had become as much Greek as Roman, and that all this was familiar to the (unknown) writer of this epistle—a Hebrew convert to Christianity, it is agreed. But this nowhere appears. Indeed at Athens, only a child-

<sup>1</sup> In an article on "Roman Law and Contemporary Revelation" to appear in the *Green Bag* (Boston, law monthly) in 1895. As that paper is in a sense preliminary to this, it ought to be read first, in order to a "large, sound, roundabout," and just judgment of what is here said. To avoid crossing from the border land between law and revelation into the field of biblical interpretation, the former paper was confined to cases in which it is a mistake to regard the Apostle's form of expression or of thought as shaped by his knowledge of Roman law. The prominence of the topic first touched there is due to such facts as these: Succession to an estate was one of the three great principles at Rome of the early *jus civile*; and the title "de testimonio" was one of the four *libri singulares* studied in the first year of a law student's four years' course, along with the Institutes of Gaius. But that Paul knew all this and pursued such a course of study does not of itself prove the presence of law phraseology in any particular passage of his writings.

less father could make a will; while there never was a time when any Roman could not. (Sand. Just.)

There are two New Testament passages where the Roman meaning of "testament" is crudely possible, being our Lord's words as He gave the cup anticipating the speedy "pouring out" of His blood. But curiously enough the Revision does not say "testament" here, where it should, if ever, but "covenant."<sup>1</sup> A richer meaning, and free from embarrassment would be the rendering, "This is my blood of the new dispensation poured out [Luke in R. V.] unto remission of sins." In Heb. ix. the allusions to blood and death are plainly drawn into the writer's exposition of the remission of sins through Christ, not from the necessity of a Greek word, but from the ratification of the dispensation by offering His life "without blemish unto God," and from almost all things "cleansed with blood" in the old "dispensation"—which is even expressly noted. Moreover (ver. 12, 18), the Roman *testamentum* did not require "the death of the testator" at all, as both dispensations did that of the ratifying victim.<sup>2</sup> Is it not in every way inadmissible here?

<sup>1</sup> The word for this, *συνθήκη*, is *never* used in the New Testament; for inspiration would hardly recognize equality in contracts between God and man, as objectionable an idea as inheritance of salvation by men from God. Our Authorized Version says "covenant" nineteen times ("testament" thirteen); the Revision says "covenant" thirty-one times, admitting "testament" twice in Heb. ix. 16, 17, though not in eleven instances of *διαθήκη* before and after them. The Greek word in question occurs in the whole New Testament in three Gospels, six Epistles, in Acts, and the Apocalypse. A Roman will after death is a facile analogy to resort to; but did the apostle do it? Cf. *συνθήκη* and *συνάλλαγμα* with *compactus* and *contractus*. Luther goes so far as to render the first by "testament" twenty-nine times, which he could not have done had he known Roman law as Paul did; why should our Revisers render it by "covenant" twice more?

<sup>2</sup> In this Review for April, 1894, pp. 263, 264, Dr. W. H. Ward treats the two verses under discussion (16, 17) as a "tortuous bit of argument," by the author, an "extraordinary side-tracking of his illustration on another sense of the Greek word." (Argument by illustration?) One can no more accept this description in view of the facts given above, than he

In his Commentary on Galatians, Luther says that the Pauline "similitude of our heritage is familiar and well-known to all men." But surely it could not be as it was known to Paul. Some fifteen times, each, are used the terms for heir and inheritance, and ten times the corresponding verb, meaning to be heirs or to inherit. Nine of these occur in the Epistle to the Hebrews, where, indeed, the meaning must be that common to their way of thinking and that of the Gentiles, and to the ancients and moderns.<sup>1</sup> Is there, now, any peculiar feature of Roman law which must have shaped exceptional phraseology of Paul's?

II. Such phraseology occurs in Rom. viii. 17: "if children, then heirs; heirs of God and *joint heirs with Christ.*" Meyer's commentary on this is as follows:—

"Not something *greater* than κληρον. θεοῦ, on the contrary in substance the *same*, but *specifically characterized* from the standpoint of our fellowship with Christ, whose *co-heirs* we must be as κληρον. θεοῦ, since having entered into can the averment that our Lord's death had no "relation to the Old Testament Sacrificial System" in view of the words here about His offering His blood "without blemish unto God" (ver. 14; cf. Matt. xxvi. 28), and those in Eph. v. 2, "and gave Himself up for us, an offering and a *sacrifice to God* for an odour of a sweet smell." Cf. Gesenius on Isa. liii.

Since the above text was written, recent German scholarship has given a similar judgment in the German *Christian World* (No. 30, 1894, art. by Von Dobschütz; abstract in *The Thinker* of Oct.). "The Greek word διαθήκη, which Luther rendered mostly (twenty-nine times) by 'testament,' only four times by 'covenant' (Luke i. 72; Acts iii. 25, vii. 8; Rom. ix. 4), has certainly in profane authors always the meaning of a last disposition; *but in Old Testament language* [see Gen. vi. 18 and more than two hundred and fifty later passages in the Septuagint] *it is always 'covenant' without any reference to death*, and is therefore only chosen instead of the usual Greek word (συνθήκη), in order to make it plain that the question is not one of an agreement with equals, but a compact in which the covenant God takes the supreme initiative, and the covenant people are subordinate. The same applies to 'inheritance' and 'inherit.' Only in isolated passages does this refer in the New Testament to the legacy of a dead man (Matt. xxi. 38; Mark xii. 7; Luke xii.; Gal. iv.)."

<sup>1</sup> So in Apoc. xxi. 7; Jas. ii. 5; and 1 Pet. i. 4, -iii. 7, 9. Neither of these three apostolic writers knew Rome and her laws as Pau. did.

sonship through the *υιοθεσια*, we have become Christ's *brethren* (ver. 29). Moreover, that Paul has here in view, not the analogy of the Hebrew law of inheritance that conferred a man's intestate heritage only on sons of his body, if there were such, but that of the *Roman* law (Fritzsche, Tholuck, van Hengel) is the historically necessary supposition, which can least of all seem foreign and inappropriate in an Epistle to the *Romans*."

Just this and all this Luther on Galatians and Hodge on Romans missed. Shedd on Romans at one point antagonized it; needlessly, it would seem. He says: "To have the Roman law particularly in his eye would be utterly incongruous with St. Paul's feelings." Tholuck merely quotes Grotius as remarking that the Apostle's words tally not only with Israelitish law, but *also* [?] with that of the Gentiles.

More appreciative, it seems to me, is a writer in the *Contemporary Review* (Aug. 1891), who styles Rom. viii. 17, "*the most daring of theological conceptions*." "If we were not so thoroughly familiar with [it], would [it] not strike us as peculiarly forced and unhappy? If these words had not been used by St. Paul, would any modern divine have ventured to use them as explanatory of the relation between God and the human soul? To our minds, heirship involves no more than the idea of the acquisition of property by succession, and *the idea of succession is manifestly inapplicable to the Eternal God*. [Can the conclusion, then, be avoided?] That the heirship to which St. Paul alludes is Roman and not Hebrew heirship, is evident not merely from the accompanying reference to adoption (*υιοθεσια*), but also from the fact that it is a joint and equal heirship."

It was indeed a copartnership, not only between the heirs in common,<sup>1</sup> but also between them, and each of them,

<sup>1</sup>"No distinct traces of primogeniture appear in our authorities." (Clark, *Early Roman Law*, 28. So too, Coulanges, *The City*, p. 110; Gibbon, iv. 360.) "Neither barbarian nor Roman was accustomed to give

and the parent. "He was in law the same person with them." (Maine.) Certain heirs were "called self-successors (*sui heredes*), because they are members of the family; and even in the lifetime of the parent are deemed to a certain extent coproprietors." (Gaius ii. 157.) In the Code of Justinian the theory of Paul's time openly appears: "father and son are by nature almost understood to be one and the same person." (2 C. vi. 26.) Justinian remodelled long after Paul the system of intestate inheritance; but the theory of the identity of all the members of the family, which was not affected by the death of parents, and was "much older than any phase of testamentary jurisprudence," was how much earlier in original legal ideas or in philosophy than all forms of inheritance? One of the later statements of it is by Julius Paulus (third cent.)—the next largest contributor after Ulpian (both contemporaries of his) to the Digest of Justinian—2,080 fragments—who said: "when the father dies it is not so correct to say that [the children] succeed to his property, as that they acquire the free control of their own." Estates being indeed by the Romans held to be permanent, so was the legal personality of the first owner, in which he and his successors were thus blended together. It was a relation "inter vivos," and not a succession "mortis causa," as inheritance is with us, and is everywhere outside Roman law. And Paul's *Roman* readers would see the point of his extraordinary and otherwise inexplicable idiom at once. The idea of "the death of the testator" or that of a will as "of no strength at all while the testator liveth," being impossible, therefore, even unthinkable here, as it is improbable in Heb. ix., they took home to their believing hearts the strong consolation that any preference to the eldest son or his line." (Maine, 222.) The relation of the Roman theory of coheirship to wills would take us too far. A remark of Dr. Shedd here is important: "Fellowship in the inheritance, and not equality in it, is the chief thing." The *nature* of Christ settles this. (Cf. Tholuck.) But such fellowship between us and Christ is a very wonderful thing, as marvellous as sonship to God. (1 John iii. 1.)

their inheritance of eternal life, besides being a glorious futurity, was also a present participation and possession. Their associations relieved them from looking after the present tense in connection with eternal life as we do.

It is easy to believe now that the Apostle had these things familiar to him in mind when he wrote also to the churches of Galatia: "thou art no longer a bond servant, but a son; and, if a son, then an heir through God." The Greek text used by the revisers omits here *χριστοῦ*, and places *διὰ* before *θεοῦ*. We shall see presently the divine method of conferring through Christ spiritual sonship and heirship. Meyer says here:—

"With respect to the *legal* aspect of the conclusion, *εἰ δὲ υἱὸς καὶ κληρ*—in which, by the way, the father is conceived as dividing his inheritance during his lifetime,—the idea is not based on the *Jewish* law of inheritance according to which the (legitimately born) *sons* alone,—so Grotius, [but cf. quotation from him in Tholuck], if there were such, were, as a rule, intestate heirs. The apostle's idea is founded on the intestate succession of the *Roman law*, with which Paul as a Roman citizen was acquainted, as in fact it was well known in the provinces and applied there as regarded Roman citizens. According to the Roman law sons and daughters whether born in marriage or adopted children (and Paul conceived Christians as belonging to the latter class)<sup>1</sup>

<sup>1</sup> If so, how could he mean the Jewish heirship? Godet on Romans well says here: "To be an heir of God is identical with being a possessor of life. . . . To be an heir with Christ is not to inherit in the second instance, to inherit *from* Him; it is to be put in the same rank as Himself; it is to share the divine possession *with* Him." And Christ was God to Paul. Gibbon (ch. xlv.) says of the first proprietor, "his children [were] the *partners* of his wealth" (vol. iv. 359). Cf. remark of Dobschütz quoted on page 442. No Jewish son was "clothed with the person of his father," or inherited such family power. "All the descendants through the male line were in the power of the same person (*pater familias*). And it was this that constituted the link of family relationship between them. Not the natural tie of blood." (Sandars' *Introd.* to *Inst. Justinian*, p. 29.)

were intestate heirs." So likewise Ellicott on Galatians.<sup>1</sup>

That in the Roman Empire the owner of property could alienate part of it from the natural heirs by legacies, or make others his heirs, or some one *in solido*, was a familiar fact. Also that he could bestow it upon a slave, who was thereby emancipated, though otherwise he was part of the *familia* which passed by inheritance, and, as a chattel, denied the title of a person. If made an heir also, he became *haeres necessarius*, i. e., powerless to reject the inheritance bestowed upon him. So, if the testator doubted what would become of his estate, he commonly named a slave as coheir with others. The after condition of the freedman differed from his previous one as much as that in Israel of the son of the bondmaid, Ishmael, from that of Isaac, the son of the free-woman. Now Roman sons were under a *patria potestas*, fearfully despotic, from the time of Romulus down to the two hundredth year of the Empire (Becker); even to "very late days in the history of the Empire" (Amos). So Paul was led to say (Gal. iv. 1), "so long as the heir is a child, he differeth nothing from a bond servant, though he is lord of all." Gaius thus describes the status: "A man has power over his own children begotten in civil wedlock, a right peculiar to citizens of Rome, for there is scarcely any other nation where fathers are invested with such power over their children as at Rome." This extended to life and death, as it gave all its peculiar character to the Roman family, and was just as valid as to children by adoption as to children by descent. "Sui heredes," says Justinian, "even in the father's lifetime, are considered owners of the inheritance in a certain degree." (Ed. Sand. p. 290.)

<sup>1</sup> "Where the Greek education was unknown, the new religion seems to have made no progress at all. The regions where it spread most rapidly were those where the people were becoming aware of the beauty of Greek letters and the grandeur of Roman government, . . . St. Paul came into South Galatia just at the time when the Roman spirit was beginning to permeate the country, and the four places where he is recorded to have founded churches were the four centres of Roman influence." (Ramsay, Church in the Roman Empire, p. 147.)

all readers of history may have gathered from the slaying of Virginia by her father in the Forum. Gaius adds—what is specially pertinent here, “I am aware that among the *Galatians* parents are invested with power over their children.” (Comm. i. § 55.) From these Galatian Gentiles Paul had gathered converts into Galatian churches.

And it is very plain at a glance that the rest of Paul's language is of a like Roman cast: “but is under guardians and stewards (R. V.) until the time appointed of the father.” The first of these terms is in Greek, *ἐπιτρόπους*, Thayer's definition of which is, “one who has the care and tutelage of children, either where the father is dead, or where the father still lives.” The other term is *οἰκονόμους*, “the manager of a household or of household affairs,” for “the children not of age.” They are nearly synonymous terms of office; but Roman or Galatian in place of Jewish. The “guardian” was the “tutor” of Roman law,<sup>1</sup> that is, the protector of his person and estate. The “steward” was the slave of the “tutor,” appointed by him, when necessary, “as a bailiff to manage some distant portion of the infant's property.” Poste on Gaius says that the ward was called *infans, fari non protere* up to the age of seven. The law of tutelage was minute and careful, and abounds, says Phillimore, in “admirable proofs of wisdom.” The expression “until the time appointed by the father,” would be better rendered “until the time of the father's appointing”—i. e., the period

<sup>1</sup>Not to be confounded with *παιδαγωγός* of chap. iii. 25, whose office was so different and inferior, though the R. V. translates this “tutor.” The writer in the *Contemporary Review*, to whom we owe much, differs with Professor Thayer as to tutelage of a child whose father was living. It was “a device for artificially prolonging the *patria potestas*, notwithstanding the decease of the father.” “If the father when he died was *sui juris*, the child, young as he was, became *sui juris* also; for he was no longer subject to a *patria potestas*. He should be placed at once under the charge of a guardian.” (Hadley, 148.) The pedagogue was a later servant, employed after Romans and Greeks mingled. (Becker's Gallus, p. 188.)

over which the father's power of appointing a guardian extended. The period was arbitrarily fixed, and could not be extended by the father's testamentary directions. The child, "so long as he was a *filius familias*—that is, so long as his father lived—was not less in the condition of a bond servant at forty than at fourteen." (Cont. Rev.) By what analogy then known could the inspired writer have more vividly portrayed the being aforesaid under the divine law?

III. But the most important of Paul's uses of language-forms taken from Roman law is found in his phraseology about Christians as children of God by adoption. It seems to have been his habit, along with his view of Father and Son in the Godhead, to regard the former as relatively the spiritual father of all spiritual persons—as all natural persons are naturally his offspring—and the great saving change in them he conceived not only as a renewing by the Spirit, but as a reception by its Head into the spiritual family of God. The latter view seems generally to take the place with him of the New Birth.<sup>1</sup> But his Jewish education and theology and the language of the Old Testament supplied him with no such idea. Adoption into a family in which one was not born was unknown to the Jews. As a legal proceeding, recognized by its own peculiar and notable usages, it was as

<sup>1</sup>Titus iii. 5-7 cannot be regarded as an exception, but rather as an explanation of the source of heirship, "that we might be made heirs." This one instance of recognition of regeneration is in strong contrast to the frequently recurring language of John, which ran steadily in so different a channel from Paul's. Had "new birth" been a Latin expression akin to *adoptio*, could the origin of the latter in Roman law be missed? "The adoption of children," says Professor Sheldon Amos, "in the broader sense which included the form of adoption (*arrogatio*) by which a son who was no longer under his father's power was brought under the power of a new father, fictitiously so called, was at all times a prominent feature in Roman law, and the rules regulating it vacillated very slightly during the thousand years which the true history of that law covers" (p. 275). From its metaphorical use in the New Testament the element of fiction is excluded by such declarations as those in John i. 13; 1 Pet. i. 23. See Smith, above.

much an invention of the Romans as a written and witnessed will. The usage regulated by it was so common that it originated new family names, like Scipio *Emilianus* (adopted by E.). Julius Cæsar adopted his nephew Augustus, and half a dozen other emperors became such in the same way, e. g., Nerva, Trajan, Hadrian, and Marcus Aurelius. In Judæa this usage "would have been inconsistent with the law of the inheritance of property." (Smith, Dict. Bib.)<sup>1</sup> "In a juridic sense absolutely unknown. The family records of the chosen people were kept with scrupulous care in order that the lineage of the Deliverer might be identified. Fictitious kinship could manifestly find no recognition in Hebrew genealogies." In one of his smaller works Dr. Edersheim observes that "the relationship between parents and children was especially tender and close, widely differing from the state of absolute possession as property,—body and soul,—in Greece<sup>2</sup> and Rome." (Laws and Polity, Jew.)

It was impossible, therefore, that Jewish life could have suggested to Paul the phraseology or the idea even, which he applied to the new spiritual relation of Christians. Turn-

<sup>1</sup> "The instances [in O. T.] occasionally adduced as referring to the custom (Gen. xv. 3; xvi. 2; xxx. 5, 9) are evidently not cases of adoption proper." (*Ibid.*) A radical difference between the Roman and the German family is maintained. In the latter, "Parental authority was not a *jus*, as *patria potestas*." Though adoption of some sort, therefore, existed in Anglo-Saxon and ancient German law—an example in Beowulf is cited—it "did not even place the one adopted under the parental authority of the adopter." (Mr. Earnest Young on Anglo-Saxon Law.) Of this, however, and of early Hindoo usages, referred to by Mr. Maine, probably Gaius, and certainly Paul, knew nothing. Mr. Austin ascribes the scantiness of Roman criminal law to the reach and extent of the *patria potestas*. (Lect. Jurisp. xlv.) Cf. Gibbon, iv. 374, and Mommsen's Hist. Rome.

<sup>2</sup> Less always in Greece than in Rome. And Justinian entirely changed adoption in an age later than Paul's. So Paul could not have then used it figuratively. The adopted son did not pass into the family of the adopter, but only into the succession of the estate. How unlike Christian adoption this of Justinian! Cf. the Apostle's namesake, Julius Paulus, for the softening of the *patria potestas*.

ing, however, to Roman custom and law we discover at once the mould of his conception. The *patria potestas*, says Professor Hadley, "was so momentous a thing, it affected so long and so deeply the interests of the person subject to it, that adoption, the creation of a new *patria potestas*,<sup>1</sup> could not fail to be an important institute of Roman law. The effect on the adopted person was to sever all legal ties which bound him to his original family.<sup>2</sup> He lost all rights of inheritance which before belonged to him. By the law he was regarded and treated exactly as if he had always been a member of the family into which he had come by adoption." (125-126. Cf. p. 279 on change of right of a nation.) He was "loosed from the law" of his real father,—something abhorrent to Jewish feeling. "He assumed the new family name, partook in its mystic sacrificial rites, and became to all intents and purposes, a member of the house; nor could the tie thus formed be broken save through the ceremony of emancipation. . . . It constituted as complete a bar to intermarriage as relation by blood." (Cont. Rev.) Justinian reduced very much the formalities and the effects of adoption, as he reduced its correlate institution *patria potestas*; but this was four hundred years after Paul, who knew both, instead, as they were known to Gaius. (See Poste and Clark.) Nor are *any* ceremonial forms, more or less elaborate, essential to the apostolic metaphor. The gist of it was that *an adopted child was in Roman law, as to his fam-*

<sup>1</sup> For "in the primitive view, relationship is exactly limited by *patria potestas*." (Maine.)

<sup>2</sup> Free persons are meant. Conybeare and Howson are in error (ii. 175, note) in implying that the transaction concerned slaves alone. These were only adopted if manumitted. A glance at the ten paragraphs of Gaius, de Adoptionibus, i. 97-107, would have prevented mistake, but these able and learned authors wrote twenty years before Poste issued his English edition of Gaius. Gibbon (Decline and Fall, i. 776-778) observes in his well-known forty-fourth chapter, "the claims of adoption were not less sacred or less rigorous than those of nature." (iv. 343, ed. 1850, Bost.)

*ily status, born again, a new creature.* From this, by analogy, came the phrases as to his new heirship through God and coheirship with Christ, and from this alone.

The word by which Paul designates metaphorically this entirely new relation to God was *υιοθεσια* (*υιός-τιθημι*, the putting one in place of a son). Yet the thing was Roman rather than Greek, for while, as Thayer observes (Gr. Eng. Lexicon, N. T.), the phrase, adopted son, comes down from Pindar and Herodotus, yet no Greek formalities, it may be suggested, appear corresponding to the Roman *adoptio* and *adrogatio*. It was very natural then that Paul, magnifying in a letter to those familiar with these national and exclusively Roman usages, the spiritual advantages of Israelites, should say, "*whose is the adoption.*" Nor that he should say to "all that are in Rome, beloved of God, called to be saints," "but ye received the spirit of adoption, whereby we cry, Abba, Father"; and should portray the looking forward to its full fruition—"the revealing of the sons of God"—at the resurrection, as "waiting for the adoption, *to-wit*, the redemption of our body. For by *hope* were we saved." It is well said by Conybeare and Howson: "this adoption is not perfect during the present life; there is still a higher sense in which it is future, and the object of earnest longing." Writing to "the faithful in Christ Jesus" in the proconsular capital beyond the Ægean Sea, of the spiritual blessings to which they were chosen in Christ before the foundation of the world, the almost inevitable language of an apostle who was born a Roman citizen is, "having foreordained us unto adoption as sons through Jesus Christ unto himself." Once more, setting forth to Galatian Christians, a little farther east (whither the Roman *prætor* (*peregrinus*) had borne the same law-concepts and usages that have been employed in these passages), how all races are one in Christ, and are Abraham's spiritual seed, he referred to Christ as "born under the law, that he might redeem them which were under the law, that

we might receive the adoption of sons." Wherever, then, Christians are spoken of as sons, the meaning is strictly adopted sons; wherever they are exalted as heirs, it is as adoptive, not natural heirs. That which is born of the flesh is flesh; and that which is born of the Spirit is spirit. But we received not the spirit of the world, but the spirit which is from God. For as many as are led by the Spirit of God, they are the sons of God. And because ye are sons, God sent forth the Spirit of His Son into your hearts, crying, Abba, Father. "By the aid of this figure the Gentile convert was enabled to realize in a vivid manner the fatherhood of God, the brotherhood of the faithful, the obliteration of past penalties, the right to the mystic inheritance." (Cont. Rev.) "The word *υιοθεσία* is used by Paul alone.<sup>1</sup> It signifies acceptance to the state of children, and presupposes, therefore, that those accepted had *not been God's children*. Hence it is clear that the expression has no reference to physical existence, by which all natural men also are children of God, but to the inward life only." (Ols. on Rom.) "The possibility of the *υιοθεσία* is entirely brought about through Christ's atonement." (Ols. on Eph.) Says Meyer on Romans: "Not sonship in general; it does not represent believers as children of God by birth, but as those who by God's grace have been *assumed* into the place of children, and as brethren of Christ." (Cf. Id. on Eph. i. 5.) "Before Christ men never possessed the *υιοθεσία* here referred to, although the old theocratic adoption of the Jews was never lost" (Meyer.) The reference here is to the chosen people as a people. (Rom. ix. 4.) "The term reminds us of the fact," observes Godet on Romans, "that Jesus alone is *Son* in essence (*υιός μενόμενης*, only Son). To become sons of God we must become incorporated into Him by faith." Lightfoot and Ellicott agree that the word never means simple sonship; "*always adoption, no other interpretation,*" says

<sup>1</sup>Cf. Thayer. Greek-English Lexicon, p. 706.

Meyer. These citations are sufficient as to the word. Elliott adds that the texts in Galatians and Romans, so decisive, must appropriately be explained "*on the principles of the Roman, and not of the Hebrew law.*"<sup>1</sup> It must be overwhelmingly evident that these scholars, essayists, and thinkers are all untouched by the whim, lately creeping in among us from over the sea, that all human beings are created children of God at the outset, spite of the broad and firm New Testament distinction between *υἱὸς τοῦ θεοῦ* or *τέκνον τ. θ.* in the ethico-religious sense, and *γένος τ. θ.* in the natural one.<sup>2</sup> And is it not quite as evident that the Scripture writers could not have been forced to entertain the fancy that the spiritual man is derived from the natural man by evolution?<sup>3</sup> And

<sup>1</sup> Nothing need be made here, specially, of the fact that to the Romans "the family tie meant, not common blood, but communion in the same family cultus"; "without a religious bond it was inconceivable." (Ramsay, p. 190.) Something far higher affirmed by our Lord in Matt. xxiii. 8, 9.

<sup>2</sup> Paul's discrimination in the words for mere offspring and the true filial relation has been overlooked. Perhaps the pressing need in our land of emphasizing the common creative origin of Southern slaves with white men has led to it. A single sentence added to his address on Mars Hill, Acts xvii. 28, would have conveyed the modern idea (ancient, also, but then obsolete) of the method of creation had it been true. His speculatively religious (*δαισιδαίμονιστῆρος*) Athenian hearers might have thought their time well spent in hearing and talking over *this* "new thing," and would have never "mocked" in the sequel, his "new teaching." But would Gal. iv. 5, and Eph. i. 5, in this case, have ever been written? or the inference from adoption to heirship, so thoroughly Roman, in Ep. Rom. viii. 14, 17? Indeed, would Scripture instruction as to the New Birth, including our Lord's doctrine, asserting a supernatural as against a natural process, have ever been given?

<sup>3</sup> No one has yet had the hardihood to propound this as a comprehensive hypothesis of our becoming children of God. But discrete spiritual qualities have often been confounded with or traced to natural and non-spiritual ones. Indeed, the Unitarian philosophy of religion steadily does this. And if it be true, as some think of late, that mere physical altruism evolves, or creates, intelligent love, by "resident forces," in the material antecedent, why should not this developed altruism in turn (though non-holy) create by such forces the holy affection towards God required in the Scriptures? In this and adjacent regions of thought the

how can this notion ever "break forth from God's holy word"?

Full well the Apostle knew that neither Greek nor Jewish habits of mind could furnish exact and correct expression of the deep Christian truths with the revelation of which by epistle he was charged. Equally well he knew that Roman habits and institutions offered the perfect basis of figure which he needed. Why, then, should we hesitate to see and to say that Divine Inspiration guided and prompted him in choosing the figures of speech he did?

If some reader wonders that Bible expositors have not generally made clear this significant Latin mould or costume of Paul's teachings, let me hasten to say that it was not till 1816 that Niebuhr, exploring the library of the cathedral chapter of Verona, Italy, for something else, came upon a palimpsest which, underneath certain writings of St. Jerome, contained the long-lost elementary treatise of Gaius, one of the five great Roman lawyers. Writing of the early law of the Republic, Gaius gives it as it was in Paul's time. It was not, however, till 1861 that Sir Henry I. S. Maine's<sup>1</sup> "epoch-making book" made even English legal scholars aware of the wealth which had come into their hands. Ten years later came Mr. Poste's invaluable edition of Gaius with elucidations. The only monogram yet in English on our subject helpful to New Testament students that we have heard of is that in the *Contemporary Review* for August, 1891, quoted above. These publications will richly repay the attention of American exegetes and theologians. Why not that of any preacher?

"The Fathers derived many illustrations from Roman jurisprudence"; but modern Protestant commentators have "universal hypothesis" is notably weakening. The "ascent of man" in that direction is impossible.

<sup>1</sup> His essay on Roman Law came out in 1856; his Ancient Law, here referred to, in 1861.

not done so.<sup>1</sup> Calvin and Luther lived some three centuries before the Institutes of Gaius were recovered; the former was for his time well trained in Roman law before he turned to theology. The latter was not.<sup>2</sup> Lord Mackenzie quotes Melancthon and Leibnitz on the high value of Roman law as a professional study. The historians note the influence of Christianity upon it and upon the life of the Empire, but not the influence the other way so clearly.<sup>3</sup> The religious cyclopædias are unsatisfactory. Kitto's first edition—to go no farther back—(1845) drew some light from the neglected source, and hinted that “a more minute investigation might

<sup>1</sup>Olshausen clearly saw the point of the Apostle's figurative language, but does not note its origin. If the word of God had explicitly affirmed that men are God's holy spiritual children *by nature*, or had not explicitly and with emphasis and repetition denied it, no able expositor would have known what to do with such language; nor would it have occurred in Scripture. Nor the revelation of the Son as Propitiation, or of the Spirit as Author of the New Birth. That is, *the whole revelation of the Trinity* would have been lacking, and that of Christian Redemption as well.

<sup>2</sup>The absence of all allusion to the Roman law, both its language and its concepts, is as complete and marked in Calvin as in Luther. Very wide is the mistake of those who suspect the Genevan of importing his theology in any respect from his law studies. But as to forms of language there was surely time between his day and that of Meyer for that progress in interpretation which the expositions of the latter disclose. As to the *spiritual sense*, however, of Paul's ideas underneath their Roman costume, no one surpasses Calvin in insight and vigor. Cf. Com. on Rom. viii. 17, “Si vero filii,” etc.

<sup>3</sup>“If we compare the Institutes of Justinian with those of Gaius, we find changes in the law of marriage, of succession, and many other branches of law, in which it is not difficult to recognize the spirit of humanity and reverence for natural ties which Christianity had inspired. The disposition to get rid of many of the more peculiar features of the old Roman law, observable in the later legislation, was partly indeed the fruit of secular causes; but it was also due in a great measure to the alteration of thought and feeling to which the new religion had given birth.” (Sandars' Justin. Intr. pp. 21, 22.) “Justinian achieved the final triumph of the natural over the legal family . . . all rights of succession to the property of an adopted child being reserved for the natural parent just as if no adoption had taken place.” (Amos, 275.)

discover" more. McClintock and Strong merely compile Kitto's matter, but follow it with a paper contradicting it, and with sketches of modern Mohammedan usage that throw no light on Roman ones. The writer in Smith ventures the general remark that "to illustrate the position of the Christianized Jew or Gentile, Paul aptly transfers well-known feelings and customs." Schaff-Herzog (1891) looks for "the opening of new treasures of theological science" from that quarter. So exhaustive a work as Conybeare and Howson on "The Life and Epistles of St. Paul"—issued in the sixties, and needing now annotation from Gaius and the learning his Institutes have begotten—has but this sentence (i. 12): "The idea of law had grown up with the growth of the Romans, and wherever they went they carried it with them." Before Niebuhr's rare "find," all that was known of Gaius, the second in rank of the great Roman five who embalmed for posterity the products of the peculiar genius of their nation, was five hundred and thirty extracts in the Digest of Justinian.<sup>1</sup> Yet history tells us that "for three hundred and fifty years the *élite* of the youth of Rome were initiated in the mysteries of jurisprudence by the manual of Gaius"—as Justinian called him—"Gaius noster." He probably published his treatise before the death of Marcus Aurelius,<sup>2</sup> A. D. 180.

<sup>1</sup> "The era of those who may be called the classical jurists cannot be sharply defined, except by saying that it began—so far as any monuments of it remain—with Gaius and ended with Modestinus. (A. D. 245. Justinian died A. D. 563.) Gaius must have been born after the accession of Hadrian, A. D. 117, and probably wrote up to the times of Marcus Aurelius." (Amos, *Hist. and Prin. of the Civil Law of Rome.*) The rescript of Theodosius II. and Valentinian III., A. D. 436, directed "the same authority to be accorded to the writings of Gaius as to the writings of Papinian, Paulus, Ulpian, and Modestinus." (Amos.)

<sup>2</sup> Cicero, who often disclaimed legal learning, had less advantages as a law student than those of after centuries, but he must have been impressed with its importance by each Scævola whose pupil he was, one of whom was "the first juris-consult who applied a scientific method to the treatment of the law." (Hadley, *Lect.*) His sense of the value of the

It may soften our sense of the shortcomings of Christian expositors, if we notice those of Gibbon and his great editor, Milman. The latter praised "the profound knowledge of the laws" of the Empire shown by the historian in his "Decline and Fall," while he placed at the head of his "most temperate and skillful guides on civil law," Heineccius, who died at Halle, 1741, seventy-five years before Gaius was recovered by Niebuhr. But Phillemore (54 note) says of Milman, this admiring editor, he "knows little of Roman law, and nothing of jurisprudence." The year before Gaius reappeared, however, Savigny (Middle Ages, 1815) supplied the churchman with some corrections of the historian,<sup>1</sup> while Warnkonig (1821), Gaius (Berlin ed., 1824), Hugo (Hist. Rom. Lan. 1825), and Walker (1834) furnished many more. Gibbon's forty-fourth chapter now bristles with editorial footnotes that quite transform the statements of the text. Heineccius comes in for a liberal share of contradiction by Milman's new authorities.

Those who love both secular and sacred learning may then well rejoice in the statement of Poste, the accomplished translator and editor of Gaius, that now "knowledge of the laws under which Horace and Cicero lived, is almost as accessible as is the knowledge of the laws of England of the present day to the English layman."

law in his day to the orator and the statesman is vigorously given in *De Oratore*. St. Augustine, A. D. 372, resorted to Rome to study it, where Gaius was the first author used. (Amos.)

<sup>1</sup> Starting, however, with Gibbon's account of the status of a son and a daughter under the *patria potestas* (Bost. ed., Vol. iv. 341, 346) and taking in the qualifications that are authorized, we can see how Galatian Christians, knowing all this better than we moderns do, would be struck with Paul's words (Gal. iv. 1-9) and realize the wondrous change from bondage under the rudiments of the world, and natural birth under law to the liberty of children and heirs of God through regeneration.