THE sources for a true appreciation of the man who by his conversion to Christianity opened the door to the conversion of the nations of the earth are lamentably inadequate. The recent attempt made by H. Dörries¹ to curtail them still further by separating legal and other pronouncements issued under Constantine's name as his "self-testimony", and to base upon them an account of his character and work, has, however, one might almost say, fortunately, miscarried. For from a general point of view it seems already inadvisable to rely too much upon such self-testimonies of historical figures of the past. Neither Julius Caesar nor Augustus, neither Frederick the Great nor Catherine the Great, nor any other statesman will be fairly judged if their memoirs, their letters, philosophical essays or political pronouncements are chosen for a starting point of their historical appreciation. Of Constantine in particular I have tried to show that a number of his laws were issued even without his knowledge, and should not be treated as characteristic for his religious policy.² In a somewhat wider setting I have also endeavoured to prove that none of the Constantinian laws in the Theodosian Code has been preserved in its original form.³ They all without exception are regesta of his laws, compiled by a chancellery the members of which were not unanimously in favour of their Emperor's religious policy. The sum total of sources containing a self-testimony of Constantine is thus considerably reduced. It

may also be asked how far the vindication of Constantine's religious edict in Eusebius, *Vita Const.* ii. 26 f., by A. H. M. Jones and T. C. Skeat \(^1\) may not cover changes in the redaction of this and similar documents. The primary source at any rate for the historical appreciation of the great figures of the past should always be the impression made by them upon the people amongst whom they lived.

From this point of view it is to be regretted that the continued interest in Constantine and his period has side-stepped that document which for more than a millennium was regarded as the authoritative appreciation of the great Emperor in the West, and highly respected even by Byzantine and other Eastern historians, the so-called *Actus Sylvestri*. There exist literally hundreds of manuscripts of this remarkable document, but none of them has been printed in recent time.\(^2\) W. Levison \(^3\) has made a comprehensive study of the evidence, which should serve as a starting point for any future research; but it is not, and could not have been final in any sense of the word, and it is much to be regretted that he did not produce an edition, probably because rather than in spite of his knowledge of the manuscript evidence. I intend to do no more here than to assess the possible gain for our knowledge of Constantine which may be reaped from a critical perusal of the *Actus Sylvestri*; and for this purpose I have chosen the very telling, and equally enigmatic, scene of Sylvester's dialogue with the Rabbis.

II

Since, unfortunately, familiarity with the *Actus Sylvestri* cannot be presupposed in this our present generation, certain data have to be established before entering upon our actual task. The *Actus Sylvestri*, alas, were so popular in medieval times that it is difficult to arrive at an authoritative text. Since the end of the fifth century they circulated in two distinct forms, A and B. A, the longer version in two books, was predominantly used in

\(^{1}\) *J.E.H.* (1954), pp. 196 f.

\(^{2}\) I have used the edition of Boninus Mombritius, *Vitae Sanctorum*, ii (1480), 278 f., and compared it with that by Lipomannus-Suius, *De vitiis Sanctorum* (1581), vi. 337 f.

\(^{3}\) *Miscellanea Ehrle*, ii (1924), 159 f.
the West, whilst B, the shorter version, not divided into books, entered the Greek-speaking world. Originally both versions were in Latin, for Mgr. Duchesne's hypothesis of a Greek original became untenable when the true date of the Armenian historian Moses of Chorene had been discovered as being only the eighth century. For thus it was made possible to maintain that he had used no more than a Greek translation of the B version, and not the Greek original of *Actus Sylvestri*. However, the high antiquity of Greek interest in the *Actus Sylvestri* is shown by the fact that the Latin tradition in both A and B versions has preserved the Greek name for mount Soracte as "Sirapti" in practically all manuscripts as well as in the two medieval German epics containing the story of Pope Sylvester.\(^1\) Another important witness for the impact made by the B version upon Byzance is the historian Georgius Cedrenus, who exhibited this version, almost in its entirety, in his history of the world, written at the end of the eleventh century;\(^2\) and more of them could be mentioned.

W. Levison has claimed that both these versions, A and B, were produced successively by the same author; but this I find hard to believe. For the B version exhibits theological formulae which are clearly post-Chalcedon, and which are missing from A, thus showing that it is the later form of *Actus Sylvestri*. At the same time B has a more rational distribution of the subject matter, which I would prefer to ascribe to the author of the Sylvester legend, and marked differences in the disputation of Sylvester with the Rabbis, the authority of which deserves a careful examination. The fact that B is the later version is also emphasized by textual evidence. For B assigns the position of arbitrator in the contest between Sylvester and the Rabbis to the Emperor Constantine, but its wording shows in one or two instances a clear dependence upon an earlier version where several arbitrators are appointed, as is the case in A.\(^3\) It is, however, difficult to assume that B was a mere improvement upon A, for it has been shown by Vacher Burch\(^4\) that it is the B version—in the form preserved by Georgius Cedrenus—where

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\(^3\) W. Levison, op. cit. p. 198.
\(^4\) V. Burch, op. cit. pp. 166 f.
the disputation with the Rabbis shows clear signs of dependence upon Lactantius, *Div. Inst.*, IV, an earlier author than Arnobius minor, the author to whom, according to Levison, the dialogue in the A version is indebted. Consequently we are compelled to conclude that the B version was not derived from A, but from an earlier archetype; and whilst we cannot treat its Chalcedonian formulae as genuine, we should accept its dialogue of Sylvester and the Rabbis in substance, and admit the possibility that its sequence of events represents the author's intentions better than A. Moreover, being forced to admit that A is pre-Chalcedon, we will have to assess the date of the common archetype for A and B not later than the early years of the fifth century.

This result is of very great importance in that it strengthens Levison's thesis that the author of *Actus Sylvestri* must have been aware of his violation of historical truth when he claimed that Sylvester had cleansed Constantine from his leprosy and had baptized him. It also increases the probability, which in any case is considerable, that the introduction of *Actus Sylvestri*, beginning "historiographus noster Eusebius", although it varies significantly in A and B and is missing from several manuscripts, is nevertheless genuine. For the date suggested for the archetype places the author of the *Actus* in the neighbourhood of Rufinus, the translator of Eusebius. The two also appear as related to each other in another respect: Rufinus's deviations from the truth are notorious, at least in so far as his translations from Origen are concerned. By and large, therefore, it is safe to claim that the *Actus Sylvestri* are a conscious fake; and it thus becomes difficult to subscribe to Levison's thesis that the legend was produced simply for the purpose of edification.

Our reserve towards the document increases still more when we see how partial the Roman Church showed itself towards the *Actus Sylvestri* already by the end of the fifth century. Not only did it exhibit the fount in which Constantine was said to have been baptized and make reference to the *Actus* in its official account of the life of Pope Sylvester I; not only did it approve of them

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2 W. Levison, op. cit. p. 186.
being read in churches in Italy and elsewhere by the *decretum Gelasianum*¹, but it is quite evident that the so-called *constitutio Sylvestri*, a forgery of the time of Pope Symmachus (498-514), is under great obligation to the *Actus*, as Levison himself has shown. It is also *publici iuris* that our document has lent its glamour to later forgeries as well, in particular Ps. Isidorus: *similia similibus*. The *Actus Sylvestri* should therefore be regarded as a tainted source. How much so, and with what purpose tainted, can be finally assessed only when the whole body of hagiographical literature which issued from Rome in the time roughly between the years 400 and 470 is taken into account. For we are here faced with the question: What was the purpose of this sudden activity at Rome during that time, in a Church not renowned so far for its fertility in the production of highly imaginative legendry?²

Once more the name of Rufinus has to be mentioned in this connection as the author of the "History of the monks in Egypt"², in order to show that the special hagiographical interest was very much alive in the circles to whom the introduction "historiographus noster Eusebius" points; and the figure of Pope Damasus, the patron of Rufinus, may loom in the background, to make it understandable which conception of the papacy inspired the inventor of the Sylvester legend. For if the date suggested for the archetype of *Actus Sylvestri* is correct, this fabrication is the earliest piece in this group of Roman legends, and should set the standard for the assessment of its successors. For it is also the piece which became most influential, perhaps the most influential of all the legends in the calendar, and this for one very evident reason: it outlines the ideal relation between the model Pope and the ideal Emperor, and—to my mind—cannot be divested of a political purpose, closely related to that of Augustine’s *Civitas Dei*. The famous question of Augustine, "remota enim iustitia quid sunt regna nisi magna latrocinia",³ seems to


² Ed. by E. Preuschen, *Palladius und Rufinus* (1897).

³ Augustine, *Civ.*, IV. 4.—Constantine’s speech is found in Boninus Mom-britius II, 280, b 8 f.
be the leading thought in Constantine's speech on the "pietas imperii Romani" in *Actus Sylvestri*, by which he rejects the plan of the "pontifices Capitolii" to cure his leprosy by means of a bath in the blood of innocent children, and sends home the mothers with their children. At the beginning of the fifth century the question of the relation between Church and State was indeed a burning one, and in the West it could be freely discussed because the power of the Emperor was weakened so much in the days of Honorius.

The weakness of the imperial administration, however, had not impaired the almost unlimited respect for the institutional imperial majesty and, if we consider the content of *Actus Sylvestri* in this light, it becomes clear that it was the intention of the author to outline in them that at the beginning (remember that St. Sylvester's day is 31 December) an ideal relationship between the model bishop of Rome, Sylvester, and the founder of the Christian Roman Empire was inaugurated; and for this he claimed strongly that the Pope should be the "spiritual arm" in the imperial administration. This claim was also made in answer to a burning question. For under the pagan Emperors the Church had traditionally referred the saying of Christ, "be not afraid of them which kill the body, and after that have no more that they can do" (Luke xii. 5; Matt. x. 28) to the imperial government, and had characterized the Emperor as the ruler over the body only.¹ Constantine, with his characteristic quick appreciation of a tangled situation, had countered this by his claim to be regarded as "the bishop of those outside". However, the Church may have been ready to recognize Constantine's apostleship,² but it would not—and could not—endow each and every Emperor with the episcopate. A new situation had arisen, in which the traditional formula: The body for the Emperor, the soul for God, was no longer applicable, but where the Christian Emperor's claim to rule over both the body and the soul had to

¹ Cf. our *Politische MetaPhysik*, ii (1959), 254 f.
² In some forms of the A version, e.g. in Surius, "scales" are said to have fallen from Constantine's body when he was cleansed of his leprosy. Although this may be consistent with the disease, it may also have been stated to emphasize the similarity with St. Paul, at whose baptism "scales" fell from his eyes, Acts ix. 8.
be most strenuously resisted. It is not without significance for the appreciation of *Actus Sylvestri* that the nearest approach to "Caesaro-Papalism" was reached under the reign of Theodosius the Great.  

III

When seen from this angle the story told us in *Actus Sylvestri*, which we will now rehearse shortly, assumes a special poignancy. It begins with the youth of the Saint, outlining that he was hospitable, as befits a bishop (1 Tim. iii. 2), and already as a layman defied the anti-Christian authority of the pagan state and set at naught its representative, the city-prefect Tarquinius. Sylvester is also described as the son of a widow, Justina, a feature which once more reminds us of Timothy; and this parallel is further enhanced by the fact that the Egyptian martyr to whom Sylvester extends his hospitality is called Timotheus. When Sylvester has been freed from his chains by the unexpected death of his persecutor, Tarquinius, which he however had prophesied, Pope Melchiades ordains him presbyter, for as a confessor Sylvester is spared the tedious progress through the lower clerical grades. Shortly afterwards, at the death of Pope Melchiades, clergy and laity together unanimously (perhaps again an allusion to Pope Damasus and his hotly contested election) elect Sylvester as his successor. In this position he not only foregoes the

1 Cf. S. Greenslade, *Church and State from Constantine to Theodosius* (1954), pp. 31 f., and the paper read by W. Ensslin at the Tenth Congress of Byzantine Studies, Salonika, 1953.

2 W. Levison, op. cit. p. 183, makes much of the "gentilicium Perpenna", which he has found in a "praefectus urbi" of ± 440, and thus gets himself into serious trouble with regard to the date of *Actus Sylvestri*. However, the "gentilicium", which is missing from B, is indicative only for the time of origin of the A version, but not of the archetype.

3 Sylvester's father's name in the *Liber Pontificalis* is Rufinus. This is perhaps derived from other Roman traditions about him; but it is tempting to assume the intellectual father of the legend may have left his mark here. Levison, op. cit., 183 is probably right in identifying the Timotheus in the Actus with the Roman martyr of A.D. 303.

4 Cf. Hippolytus, *Apost. Trad.*, X. 1, ed. G. Dix, 1937, 18. The number of years to be spent in the lower clerical orders before ordination to the presbyterate are laid down significantly in the "constitutio Sylvestri" in the *Liber Pontificalis*, ed. Duchesne, I (1884), 171.
quarter share of all charitable gifts to which the bishop is entitled, in favour of the poor and the strangers, but also defends successfully the Roman custom of fasts and feasts against certain Greek visitors.

Here follows, if we accept the logical arrangement of version B, the incident with the dragon. In order to show that the Pope's task is not only concerned with the arrangement of the internal affairs of the Church, the author tells us how Sylvester is called upon to deal with the dragon lying in wait under the Tarpeian rock below the Roman Capitolium in a cave, to which the Vestal virgins had brought sacrifices throughout the centuries of Rome's existence. With a superhuman courage he descends into the cave, accompanied by members of his clergy, and shuts it—or the mouth of the malicious monster, as well as the cave—thus bringing to an end the pagan ritual of the Vestal virgins. We are given to understand that this feat, which could not have been accomplished by human heroism alone, is the necessary preparation for the subsequent conversion of the Roman Emperor and his people.

Upon this scene enters Constantine, who has so far been a persecutor of the Church, and is therefore stricken with leprosy. Sylvester has to go into hiding from the terror of the persecution, and finds a refuge, together with his clergy, in the Sabine hills near Mount Soracte. Physicians and magi have tried and failed to cure the Emperor's disease, but now the "pontifices Capitolii" suggest to him a bath in the steaming blood of male babies. Three thousand of these infants with their mothers are duly brought to Rome at the Emperor's expense; but when Constantine meets the mothers on his way to the Capitolium, instead of going forward with his cure, he delivers a noble speech on the subject of "pietas imperii Romani", by which he says he is prohibited from pursuing this course, which is as nefarious as it is uncertain, and returns to his palace, sending home with rich gifts the overjoyed and surprised mothers with their babies. The same night he is granted a vision in his dreams. He sees the apostles Peter and Paul who betray to him the hiding-place of Sylvester as of the only man who can prepare a bath for him that will cure him. Thereupon the Pope and his clergy are brought
in, fearing the worst. Constantine, however, demands of the Pope to be instructed in Christianity, of which he is so ignorant as to mistake the Apostles for gods. Sylvester duly accepts him as a catechumen, instructs him in the faith and cleanses him in baptism of the impurity of body and soul, whereupon Constantine begins legislating impetuously in favour of the Church.

After these things there follows next the correspondence between Helena and Constantine. The Augusta, living in Bithynia together with the Emperor’s two sons, Constans and Constantius, applauds Constantine’s acceptance of a form of monotheism; but, being deeply impressed with the wisdom of the Jewish Rabbis with whom she converses, exhorts him to accept their purer religion in preference to Christianity. In answer the Emperor summons her to Rome together with her Jewish companions for a public disputation about Christianity and Judaism. She arrives there with a posse of Rabbis, selected by the Jewish “high priest”, who himself excuses his absence with illness. The Emperor appoints two impartial pagans, Craton the philosopher and Zenophilus the civil servant, as arbitrators, the audience is convened, and twelve of Helena’s Jewish retinue are delegated for the contest. On the Christian side Sylvester demands it as his right that he alone should represent the Christian cause. He refutes the Jewish arguments, as he has undertaken to do, by referring to the Old Testament only; but the conflict is not decided in that way. The final test comes only when Zambri, the Jewish miracle-worker, demands that a huge ox should be brought into the arena, and slays the beast by means of whispering the secret name of God in its ear. Being unable to revive the animal, he is accused of sorcery, when Sylvester, not dismayed by this feat of Jewish magic, restores the beast to life in the Name of Jesus Christ. Thus Sylvester’s triumph is complete, and arbitrators, Rabbis, even Helena herself, are baptized by him. An ox has been proved to be the Church’s most successful missioner! Thereafter Constantine is dispatched to found Constantinople, and Helena to the invention of

the Holy Cross (these parts are missing from B), and, if we follow the A version, Sylvester to the taming of the Roman dragon.

IV

When the attempt is made to derive a portrait of Constantine from this phantasmagory—and it is meant to convey a definite impression of the Emperor's character to its readers—we find that all the most impressive features for a popular life of the "hero" Constantine, so carefully collected in Eusebius's *Vita Constantini*, are altogether omitted. Eusebius's assertions about his God-fearing father, Constantius I, and his mother, the devout Christian Helena, are not repeated in *Actus Sylvestri*. Missing are the daring escape from the court of the persecutor Galerius, his proclamation as Augustus by his father's army at the death of Constantius I, and his campaigns in Gaul. Passed over in silence are his victories over the "tyrant" Maxentius at the Milvian bridge, and over the "tyrant" Licinius at the Hellespont; and even the council of Nicea is not mentioned in one word. "Our historiographer Eusebius" has sadly curtailed the information available to him in his biography of Pope Sylvester; and it is salutary for the historian to ponder upon the fact that this was the picture of Constantine which was commonly seen in the West during the Middle Ages. We learn by it, how strongly our account of his life is influenced by the implicit trust which we are accustomed to put in the real Eusebius.

On the other hand, Constantine is represented as a persecutor of the Church, at Rome in particular but also of the whole Catholic Church, and we may well wonder whether Donatist influences might have been at work in presenting him in this garb. In the earlier manuscripts of version A he is also made the son-in-law of that archenemy of the Christian Church, Diocletian; and both these features seem to reflect the certain coolness which existed in the relations between the historical Pope Sylvester I and the Emperor, to which we have drawn attention elsewhere.¹ Constantine's mother Helena, too, is represented in the *Actus Sylvestri* as a God-seeking but rather credulous woman; and the Emperor himself escapes only by a hair's breadth from

the temptation of becoming that which he was wont to call his adversaries, a tyrant. For his intended murder of the innocent would have stigmatized him as such, as in Greek mythology (Phalaris) and philosophy,\(^1\) so also in Christian theology (Herod). Only in recognition of his unexpected withdrawal from perdition, in which he is helped by the idea of the Roman Empire, which is conceived of as a moral institution, Constantine receives—as the historical Constantine seems to have done—a vision in a dream. For, although the inescapable retribution for his misdeeds as a persecutor of the Church had already marked him, and made him unclean, he could still be saved. His vision, however, is not a vision of the Cross, or of Christ's monogram Chi Rho, it is a visitation by the two "Roman Apostles" Peter and Paul, who direct him to the one man who can cleanse him from his leprosy, the Roman Pope Sylvester. At the same time the complete lack of any Christian antecedents in Constantine is emphasized by the fact that he regards the two impressive figures whom he has seen in his dream as gods and thus makes it necessary for Sylvester to enrol him as an ordinary catechumen. After his baptism, however, Constantine has acquired so much knowledge, in particular of the Old Testament, that he appears capable of an active interference in the disputation of Sylvester with the Rabbis.

V

In view of the early date of the archetype of *Actus Sylvesti* the question has to be asked whether the author invented this portrait of Constantine, as he did, because he relied upon the short memories of his Roman readers, even though Eusebius's *Ecclesiastical History* had just been made available to them in Rufinus's Latin version; or whether he drew upon some independent source. Although Rufinus's translation cannot be regarded as a counterblast to the *Actus Sylvesti*—for this assumption would push back their date even further, possibly before A.D. 400, which seems impossible—it is yet reasonable to enquire into the antecedents of the Sylvester legend. A very learned, but also highly imaginative scholar, the late Dr. Vacher Burch of Liverpool, proposed some thirty years ago the thesis that there had been a

\(^1\) Polit. Metaphysik, i (1959), 167 f.
Roman "Life of Constantine" as the basis of the Actus Sylvestri. This source, so he maintained, supported his view that Constantine had never built the basilica of St. Peter, nor any other church dedicated to an Apostle or patron Saint, and had been altogether—if a Christian at all—a very curious type of a Christian. The Roman origin of this assumed source he believed was vouched for by a strong admixture of Sabine folklore to the legend. Unfortunately, Dr. Burch was ignorant of Levison's researches and this fact invalidates, to my mind, his main thesis—quite apart from its persuasiveness or otherwise. However, he deserves our attention for a number of detailed observations which prove that the author of Actus Sylvestri was not only conversant with Eusebius in Rufinus's translation but also with Lactantius and other Latin Christian Fathers.

It cannot be doubted that the author of Actus Sylvestri intentionally neglected the Eastern version of Constantine's life; but it appears, since he knew Lactantius, that he was equally undisturbed by the account of Constantine's vision in De mortibus XLIV. These two observations lead to the conclusion that the Sylvester-legend was in no way intended to give any sort of an historical account of events, but rather a surrealist, timeless appreciation of the Emperor. The quest for an historical source of its subject-matter, I believe, will be unavailing; the task is rather to find the motives for such a compilation, and for this purpose it is as important to study its background. W. Kaegi has shown quite recently how, starting from the Actus Sylvestri, Constantine was regarded throughout the Middle Ages as the model Emperor, and Dr. Burch, although he called it a "new rôle", has established the same view for the whole of the sixteenth century. There is also reason to believe that the disputation with the Rabbis was meant to show the way in which the model Emperor and the ideal Pope, Constantine and Sylvester, were

1 V. Burch, Myth and Constantine the Great (Oxford, 1927).
2 It is nevertheless to be regretted that J. Toynbee and J. W. Perking, The Shrine of St. Peter (1956), pp. 195 f., have taken no notice of the laborious analysis of the evidence for "Constantine's" distich upon the triumphal arch of old St. Peter's in Burch, op. cit. pp. 14 f.
4 V. Burch, op. cit. p. 21, n. 2.
meant to co-operate in the supreme task in which the Church and the Empire were jointly concerned, the conversion of the Jews.

The fact that this is a task in which the Church is concerned, will hardly be doubted; neither can it be denied that already in the course of the fourth century, and mainly under ecclesiastical pressure, the Jews had suffered serious civil degradation by law. The facts, already established by J. Parkes, have been conveniently set out in a recent American study by J. E. Seaver. The disputation thus deals with a question which was very much alive at the time when the archetype of Actus Sylvestri was written. But it has to be made evident why the Roman Church should have considered the conversion of the Jews as the supreme task of Church and Empire at that time. For this purpose we refer to that eschatological prophecy contained in St. Paul, Rom. xi. 25-6:

“For I would not, brethren, have you ignorant of this mystery, lest ye be wise in your own conceits, that a hardening in part has befallen Israel, until the fulness of the Gentiles be come in; and so all Israel shall be saved: even as it is written.”

I have recently drawn attention to the fact that the prevailing historical theory of the time, especially at Rome, the theory of the rise and the fall of the world Empires, saw the last of these Empires in the Roman Empire, after whose fall the end of the world would come. This theory had become popular, in the Roman Church in particular, through the speculations on the Antichrist by one Roman Father, Hippolytus, in the third century. The signs of Rome’s impending fall were clear enough to see, even for the Romans themselves, at the beginning of the fifth century. In 410 the city of Rome itself was stormed by Alaric’s Visigoths, and no Camillus came to the rescue. It was, on the other hand, confidently assumed that the Roman Empire contained the “fulness of the Gentiles”, and their conversion had made an incredibly rapid advance in the course of the fourth century. The general historical situation was therefore such as

2. J. E. Seaver, Persecution of the Jews in the Roman Empire (300-438), Univ. of Kansas Publ., Human Ser. xxx (1952), 19 f. Cf. also Ferrari dalle Spade in Festschr. f. L. Wenger (1945), II, 102 f.
4. Ibid. ii. 126 f.
to give the greatest possible, i.e. an eschatological, significance to Sylvester’s disputation with the Jews.

This preliminary consideration encourages us to assume that the disputation with the Jews formed part of the archetype of Actus Sylvesteri, in spite of the fact that it differs so much in the two existing versions A and B. No argument against its genuineness may be drawn from the fact that it is also missing from a few of the manuscripts, for their number is said to be almost negligible.1 We may also note with satisfaction that Dr. Burch has treated the disputation as genuine,2 although it may be held that it constitutes a major embarassment to any suggestion that the ultimate source of Actus Sylvesteri was an historical account of the life of the Emperor Constantine, if only of a popular sort. The fact to be explained is perhaps that the Liber Pontificalis contains no reference whatsoever to such a disputation; and that, although mentioning the construction of a mausoleum for the Empress Helena,3 it makes no mention of her baptism at the hand of Pope Sylvester, but only of the baptism of Constantine’s sister, Constantia,4 and his daughter. Whether there is any truth in these assertions or not is purely a matter of surmise; but the omission of the Augusta Helena’s baptism seems odd if it is assumed that Actus Sylvesteri lay before the author of the Liber Pontificalis, a fact which may be concluded from the first entry under the name of Pope Sylvester I.5 It would be tempting to assume that this author still possessed the archetype of the Actus, and that the information about the baptisms of Constantine’s sister and daughter—there were two, but Liber Pontificalis does not say whether Constantina or Helena is meant—was obtained

1 W. Levison, op. cit. 192.
2 V. Burch, op. cit. pp. 163 f.
4 Ibid. p. 180, “eodem tempore fecit . . . baptisterium in eodem loco ubi et baptizata est soror eius Constantia cum filia Augusti a Silvestrio episcopo”.
5 Ibid. p. 170, “hie exilio fuit in monte Seracten et postmodum rediens cum gloria baptismavit Constantinum Augustum, quem curavit dominus a lepra, cuius persecutionem primo fugiens exilio fuisset cognoscitur.”
from it. It seems, however, that we have to exclude this additional matter, because it is of alien origin, and at any rate the mausoleum for the Augusta Helena is an historical fact. Thus we have to admit that we cannot draw any valid conclusion from the silence of Liber Pontificalis either. For even if it has to be admitted that the further omission of Sylvester’s struggle with the dragon is more easily explained, since its inclusion would have clashed with the whole character of Liber Pontificalis, the fact remains that the whole of book II of version A of Actus Sylvestri does not figure in the official papal register. This observation may suggest a simple, mechanical explanation for our problem: The compiler of Liber Pontificalis may just have failed to read the Actus—in whatever form—from cover to cover. In this he is not even to blame for any great carelessness. After all, the Liber Pontificalis had the main purpose of registering the various just or assumed titles for the vast possessions of the see of Rome. The entry under the name of Sylvester I already exceeded by far the normal limits of other papal entries, and economy of space was obviously a serious consideration. No donation was apparently recorded on the occasion of the Augusta Helena’s baptism, if such it was. There was, therefore, no need to record her baptism or any further adventures of Pope Sylvester in this particular document.

Having thus—as far as possible—established the material for a Sylvestrian picture of Constantine, we find one line running through the entire Actus Sylvestri, the denial of the Emperor’s spiritual authority. Our document does not in any way question the Emperor’s majesty. The fact that Constantine is entitled to lay down the rules governing the disputation between Sylvester and the Jews is nowhere put into question. It may even be held that Sylvester acts in the disputation as the Emperor’s champion—just as the Rabbis act as Helena’s champions—and in another context I hope to show that this interpretation is indeed the correct one, that the medieval conception of ordeal corresponds

1 Georgius Cedrenus, ed. Imm. Bekker i, (1838,) 494, representing the B version, says only: “αλλα και αυτη η μακαριωτατη βασιλισσα Ελενη προσπευσομαι τοις πσι του αγιου Συλβεστρου παρεκαλειτο τοπον αυτη μετανοιας παρασχηθηναι.” This may be understood as a case of “second penance” only.
more closely to the contest described in *Actus Sylvestri* than the Roman analogy of a gladiatorial contest, or the Byzantine analogy of the parties of the circus. However, although he fights as the Emperor's man, the triumph of Sylvester confirms his spiritual supremacy, not only over Helena, the Emperor's mother, but indeed over Constantine himself. Once more we may refer to the *Liber Pontificalis* for a commentary. This document cannot, of course, by-pass the Council of Nicea, as the *Actus Sylvestri* do. However, it pairs the ecumenical Council with a Roman synod held by Sylvester I in such a way as to make the latter appear as the far more impressive event.¹ To explain this somewhat boisterous attitude we have to remind ourselves that the Roman Church was fighting in this document a battle on more than one front. For it was Ambrose of Milan—Rome's dangerous rival at that time, as the imperial capital of the West—who conformed more closely to the ideal Pope, as outlined in *Actus Sylvestri*, than any of the Roman bishops.

VI

Finally we may ask what familiar features, if any, of the "historical" portrait of Constantine, as it is commonly drawn in our days, may be discovered in the account of him given in *Actus Sylvestri*. There are a number of constitutions and speeches attributed to Constantine in the legend; and it is quite startling to hear from these inventions his familiar voice. We will give two examples. We read, for instance, in a constitution about the Christian chapel which he has ordered to be built in his Lateran palace: "Sit omnibus notum: Ita nos Christi cultores effectos ut intra palatium nostrum templum eius nomini construamus, in quo populus Christianus una nobiscum conveniens deitati eius gratias referamus."² Or we notice in another constitution the

¹ *Liber Pont.*, ed. Duchesne, I, 171, "hic fecit constitutum de omni ecclesia, etiam huius temporibus factum est concilium cum eius praeceptum (!) in Nicea Bithiniae; et congregati sunt CCCXVII episcopi catholici, qui exposuerunt fidem integrum, catholicam, immaculatam, et damnaverunt Arrium et Fotoninum et Sabellium vel sequaces eorum. et in urbe Roma congregavit ipse cum consilio Augusti CCLXVII et damnavit iterum et Calistum et Arrium et Fotoninum et Sabellium; et constituit etc.", whereupon follows the famous forged *constitutio Sylvestri*.

² Boninus Mombritius, I, 281v col. b, 38 f.
famous imperial impatience: "Habeant itaque, habeant iam finem isti errores. Abdicetur ista superstitionem quam ignorantia concepit, stultitia nutrivit et aluit." Of course, this is not the "historical" Constantine speaking or writing, although we may distinguish the same voice in the following "Constantinian" passages: "Quare nullus differat, sed prompto animo ad verissimam viam revertamini, ut quantum ea gratia ad vos pervenero debitas omnipotenti deo vobiscum confitear gratias." Or in the Greek:

"ἡκε πρὸς ἐμὲ, ἡκὲ φημι, πρὸς θεοῦ ἀνθρωπον. πίστευσον ὡς ταῖς ἐμαυτοῦ πεύσει διερηνύσομαι σου τὰ ἀπόρρητα τῆς καρδίας."

It is, therefore, obvious that the author of Actus Sylvestri was endowed with the same training in emphatic rhetoricism as the secretaries of the ecclesiastical bureau in Constantine's chancellery. However, this result is not without weight. It will, I venture to hope, deflate still more the conclusions with regard to Constantine's so-called self-testimony, which are built upon such "personal" documents as his letter to Arius from which our second instance has been drawn. For that letter is not in the least "personal". Sad though it may appear, the idea of Constantine himself fighting for the salvation of Arius's soul has to be dismissed as being unhistorical. On the other hand, this chancellery style was not accessible to all and sundry. An author capable of composing a speech or a constitution with a genuine "Constantinian" ring was no common story-teller at a street corner, and this fact will appear more clearly still when we enquire into the historical antecedents of the disputation of Sylvester with the Rabbis.

Here the first point to be made is that Constantine's legislation concerning the Jews undoubtedly diminished their privileges. It

1 Boninus Mombritius, I, 282 col. a, 42 f.
3 The existence of such a chancellery has now been claimed also by E. Volterra, Mélanges Henri Lévy-Bruhl (1959), pp. 325 f. on the basis of Cod. Theod. III. 16. 1, and Accad. naz. dei Lincei, cl. di scienze morali, sect. VIII, xiii. 61 f.
4 H. G. Opitz, op. cit. 74, nr. 34, § 42.
is, however, incorrect to state with J. E. Seaver,¹ that “at the opening of the fourth century nothing marked the Jew off conspicuously from his neighbor”. The leading authority on the subject, Dr. Guido Kisch, has stated correctly that “although there is no definite proof that a distinctively Jewish dress was worn in antiquity, some biblical precepts necessitated, to a certain extent, a distinction of Jewish attire from that of the non-Jewish environment.”² It is equally fallacious to assume with Seaver that Constantine’s constitution of A.D. 321, permitting the city council of Cologne and, presumably, all other such councils,³ to co-opt Jews as “decuriones”, was of itself a piece of intentionally anti-Jewish legislation. This measure was rather caused by the desperate state of public finance in the Empire of Constantine, aggravated still more at that time—and place—by the impending war against Licinius. The constitution must have made provision for the abolition of the official Emperor worship which the council had to offer, since the Jews were exempt from this part of official administration; but apart from the famous inscription of Hispellum,⁴ nothing is known of the secularization of the imperial cult in the cities of the western Empire. In any case, this legislation⁵ served purely financial purposes and may therefore be dismissed from our consideration.

C’est le ton qui fait la musique, and other Constantinian pronouncements fulfil indeed all the requirements of intentional anti-Judaism. There are two constitutions in particular, Cod. Theod. XVI. 8. 1 and 5, and the much discussed letter in Eusebius, Vita Const., III. 17 f. concerning the Easter date. As

² G. Kisch, Historia Judaica, xix (1957), 91 f.
³ It has to be remembered that the official acts of worship in an imperial “colonia” were different from those in other townships, where local cults prevailed. The exemption of the Jews from the decurionate was based upon their religious status, and nothing seems to be known about the abolition of local official cults at the beginning of the Christian Empire. Cf. also M. Simon, Verus Israel (1948), p. 156, n. 6. On the possibility of an abolition of ritual sacrifices already by a law of Constantine, although the legislation in Cod. Theod. XVI. 10. 2 and 4 is only by Constantius II, cf. H. Dörries, Das Selbstzeugnis (1954), pp. 206 f.
⁴ E. Beurlier, Le culte impérial (1891), pp. 297 f.
⁵ The respective laws are conveniently enumerated in the appendix to J. Parkes, The Conflict between the Church and the Synagogue (1934), p. 379.
regards the latter, common opinion is nowadays very much inclined to accept it as an authentic pronouncement of Constantine’s because of the discovery of that equally disputed document, Eusebius, *Vita Const.*, II. 26 f., on P. Lond. 878, of the first half of the fourth century. This discovery probably invalidates the conclusions drawn by Battifol and others on the grounds of their careful analysis of the text of the letter, as to the spuriousness of Constantine’s proclamation about the Easter date. It does not, however, interfere with Battifol’s observation: “The Emperor speaks here like a bishop” (shame on the bishops!). This is what he says: “And foremost it seemed inadmissible to celebrate that most holy feast by copying the custom of the Jews who, having defiled their hands with lawless transgression, and justly being unclean, blindfold their souls also. . . . Let us have nothing in common with that most hostile Jewish mob. . . . For in what matter can those be right who, after the murder of the Lord, that parricide, are senseless and carried away without any reason, but by an unrestrained impulse, wheresoever their inborn madness takes them?” A curious feat connects this letter with that to Arius, “ο ραπρόκτον θεοκλείας”, the predilection for “parricide” as a term of abuse. Here we may suspect the same mind at work, the ecclesiastical bureau of the imperial chancellery, and he is an earlier confederate of the author of *Actus Sylvestri*.

This episcopal diction is not much mollified in Constantine’s constitution ad Euagrium of A.D. 315 in Cod. Theod. XVI. 8. 1:

Judaeis et maioribus eorum et patriarchis volumus intimari quod si qui post hanc legem aliquem qui eorum feralum fugerit sectam et ad dei cultum resperxerit, saxis aut alio furoris genere (quod nunc fieri cognoscimus) ausus fuerit ad temptare, mox flammis dedendus et cum omnibus participibus concremandus. § 2. Si quis vero ex populo ad eorum nefariam sectam accesserit et conciliabulis eorum se adplicaverit, cum ipsis poenas meritas sustinebit. Dat. XV kal. Nov. Murgillo, Constantino A. IV. et Licinio IV coss.

First of all, although it is difficult to ascribe such an excerpt of a constitution to any particular style, we feel that it smacks of

3 H. G. Opitz, op. cit. 55, nr. 26, §§ 3-5.
4 Ibid. 73, nr. 35, § 33.
Church Latin. Secondly the law illustrates well the way in which the anti-Jewish legislation grew out of an existing precedent. Conversion to Judaism had been prohibited by law first by way of the prohibition of circumcision of adult Gentiles in the later second century, and I would suggest that the clause “poenas meritas sustinebit” has no other purpose than to enhance the continuing validity of those earlier laws. From this point of view the constitution becomes a most interesting piece of evidence, since it shows how cleverly Constantine gave room for a Christian (if such it be) state legislation. The Christian hatred for the Jews was allowed to express itself in violent abuse, as “feralis” or “nefaria secta”, but the practical significance of the law was almost nil. For Jewish riots at which pieces of rock (“saxa”) were hurled at the Christians cannot have been very numerous, and the stake probably remained idle. However, it is to the great discredit of the Christian Church that it demanded that the very means should now be used against the Jews from which her own martyrs had suffered only six years earlier.

This survey of the Constantinian position ties up with the little that is known about the historical figure of the Roman Pope Sylvester I. When the Sylvester in Actus Sylvestri was given the task of convicting the Jewish Rabbis in a public disputation, its author may well have had before him the written record of Pope Sylvester’s disputation with the Jew Noa, and also the anti-Jewish treatise written by the same Pope, of which some fragments are still extant. In general it cannot be denied that anti-Jewish feelings were fervent amongst the Gentile Christians both in the

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1 Cf. e.g. “ad dei cultum respexerit” with Sulpit. Sever., Sacra Hist. II. 40. 9, “ad cultum dei sese conferebant”, as a technical description for conversion to Christianity.


3 D. Gothofredus-Marvilius, ad h. 1. vi. 214; 215a, assumes that the “poenae meritas” meant an arbitrary punishment, according to the decision of the magistrate, which I find hard to believe. But in either case it appears that the polemics of H. Dörries, op. cit., 170, n. 2, against M. Simon, Verus Israel (1948), p. 338, n. 1, are misconceived.

4 Cf. on these remnants of Sylvester’s literary activity H. Vogelstein Rome (1940), p. 105.

5 M. Lat. VIII, 814.
West as well as in the East. A contemporary source to *Actus Sylvestri* is the massive invective against the Jews by John Chrysostom, to which another Eastern source added the “historical” invention that Constantine had ordered the expulsion of all Jews from the territory of the Christian Roman Empire. Such a “radical solution of the Jewish question” was preferred in the East because the eschatological viewpoint: “And then all Israel shall be saved” had been emphasized by Origen, who from the end of the fourth century had assumed in the East the position of arch-heretic. Eschatology, therefore, had to be excluded from the treatment of the Jewish question in the East, where it was on the wane in any case.

Western Christians no less neglected the law of Theodosius I reminding the whole Empire of the fact that Judaism was still a “religio licita”; and Ambrose as well as Augustine figure on the list of its enemies. From this point of view the approach made by *Actus Sylvestri* is even to be commended. It seems to conform to the rule so often pronounced in his lectures by the late K. L. Schmidt: “The Gentiles we have to confute; but with the Jews we have to dispute.” That describes the very position in which Sylvester is symbolically placed by the author of *Actus Sylvestri*, and for this reason the theological approach of J. E. Seaver’s book as well as of that of J. Parkes, *The Conflict of the Church and the Synagogue*, may well be in need of a critical overhaul. It has to be asked, nevertheless, whether the *Actus Sylvestri* did not over-weigh the balance in the disputation with the Rabbis in favour of the Church. Admittedly the outcome, the victory of Sylvester, was a foregone conclusion in this type of literature. The liberality of Justin Martyr’s Discussion with Trypho, where the disputants part in amicable disagreement, was never to be repeated after the political triumph of the Church;

1 Analysed by M. Simon, *Verus Israel* (1948), pp. 256 f.
but we may well ask whether there was any intrinsic probability in the attitude taken by the Empress mother in favour of the Jewish religion? Has she not been brought into the conflict for the purely mechanical reason that the Jews must have an equally exalted sponsor as Sylvester had in the person of Constantine? And is not this idea sufficient proof for Actus Sylvestri being a romance rather than a semi-official forgery?

The fact that Judaism had attracted women members of ruling families in earlier centuries is well attested. Josephus referred on numerous occasions to the conversion of the royal house of Adiabene to Judaism, and it is perhaps of some significance for the interpretation of Actus Sylvestri that the queen mother, who had prevailed upon king Izates of Adiabene to accept the Jewish religion, had also been called Helena. In any case, the incident is mentioned in the Latin Josephus, and Sylvester's reference to Josephus in the course of the disputation makes it clear that the author of Actus Sylvestri had some knowledge of this source. Furthermore, the relations between the house of Augustus and the house of Herod the Great had been very close; and the wife of Nero, Poppaea Sabina, had shown such a special interest in the Jewish rites that Josephus, Ant. XX. 8. 11, added to her name the remark "θεοσεβής γὰρ ἵππον". Titus too, the captor of Jerusalem, had almost been captured himself by Berenice, the sister of Herod Agrippa II. In short, during the first century Judaism had played an important part at the court of the Augusti.

However, still more important than rehearsing these events in ancient history, is that we should establish the fact that the catastrophe which overtook Judaism twice in the sixty years from Nero to Hadrian did not extinguish its missionary efforts, and its attractiveness for the Gentiles. The fact that they both continued may be deduced already from the repeated laws prohibiting the circumcision of non-Jews which have been mentioned; but two questions in particular remain to be answered, the first, by what means did the Jews win the perpetual interest of the Gentiles,

1 E. Schürer, Gesch. d. jüd. Volkes, 3rd edn., iii (1898), 119.
2 E.g. Hegesippus, IV, 25, 3, CSEL., 60, 280.
3 Boninus Mombritius, II, fol. 284v, a b.
and the second, whether they were still conspicuous enough to approach even members of the imperial house. In a recent article E. J. Bickermann has drawn attention to the discussion which went on in Mishna and Talmud about the sacrifices offered to Jehovah by the Gentiles. This discussion reached its height at the beginning of the fourth century, more than two hundred years after the destruction of the temple at Jerusalem with the consequent cessation of official Jewish sacrificial worship. In examining the practical importance of these discussions Bickermann, after dealing with conditions in the pre-Christian era, refers to the well-established Talmudic tradition that a Roman ruler called Antoninus was advised by the Patriarch Judah I (A.D. 170-210) on the method of offering such a sacrifice. If the date of the Patriarch may be used for guidance, the "Roman ruler" could be identified with M. Aurelius or Commodus. Still closer to the time of Actus Sylvestri is another report preserved in the Talmud that a Sassanian queen, the wife of Hormizd II and mother of Shahpur II, the great adversary of Constantine as well as of his son Constantius II, showed great favour to the Jews, so much so that she was given instructions at the order of Rabba-bar-Joseph about the building of an altar to offer sacrifices to the God of heaven.

If thus the historical possibility of the attitude taken by the Empress Helena cannot be denied, it has also to be admitted that the document by which the author of Actus Sylvestri makes her justify her favouring of the Rabbis has been invented with a remarkably clear appreciation of the religious issue involved:

Domino semper Augusto, filio Constantino, mater Helena semper Augusta: Veritatem sapientis animus non recusat, nec fides recta aliquando patitur quamcumque iacturam benevolentiae divinae reputare debere, quod meruisti simulacrorum figmenta deserere. Sed errori applicamus humano quod Jesum Nazarenum deum credere voluisti; et hunc dei filium esse in caelis aestimare qui a Judaeis

2 E. J. Bickermann, op. cit. pp. 141 f.
3 Ibid. pp. 152 f. It may be mentioned that under Augustus daily sacrifice had been performed in the temple at Jerusalem "in the name of the Emperor", H. Willrich, Urkundenfälschungen (1924), p. 9.
5 Boninus Mombritius, fol. 282v b.
extitit oriundus, et magus accusatus sententiam crucis accipiendae defecit. Unde ad veritatis lumen scias attingere cupientibus alteram viam esse non possis nisi Hebraeorum acceperint legem. Pietati autem tuae sanitas reddita probatur quia tu primus inter Augustos idolis renuntiasti. Deus ergo verus, qui est deus Judaeeorum, ut ostenderet illos quos recursasti non esse deos veros fecit te salvari ut deposita formidine simulacrorum probes eos nec sanitetam conferre propitios, nec iratos auferre. Huius erroris finem deserentem deseruit pietatem tuam infirmitas. Nunc ad deum omnipotentem accedentes virtus comitabitur tecum quae superari non potest. Hunc ergo cum coeperis colere, obtinebis Davidicum clementer imperium et Salomonis sapientissimum et pacificum regnum. Eruntque tecum prophetae cum quibus locutus est deus, et omnia quae per eos posse- ceris impetrabis. Vale, etc.

This letter makes it clear that there was a feeling of mental superiority amongst those who had accepted monotheism. It may also well illustrate the constant guard against monarchianism, especially Sabellianism, which was kept by the Catholic Church to the end of the fourth century. On the other hand, we find this quasi-intellectual approach closely related to the material which Bickermann has collected. It was not so much the God of the Old Testament who was worshipped at those “altars for the Gentiles”; Judaism was much rather seen by these worshippers as the purest form of monotheism, the worship of the supreme God—without a name and without an image. Neither did Christianity remain un-influenced by this approach. For here, we believe, lay the roots for the development of the *via negationis* in the definition of the Divine in medieval scholasticism.

One last remark has to be made about the way in which *Actus Sylvestri* treats with the “Jewish high priest”. We feel tempted to see that disparaging remark in connection with the great position which the Jewish Patriarch Gamaliel had obtained under Theodosius the Great and his subsequent fall under Honorius and Theodosius II (Cod. Theod. XVI. 8. 28. A.D. 415). It appears that Gamaliel, who had been accorded the rank of “praefectus praetorio” by Theodosius the Great, had taken it upon himself to decide in law-suits between Jews and Christians, and that he was therefore deprived of this honour by the constitution of Theodosius II. It may even be argued that the institution of two pagan arbitrators for the dispute between Sylvester and the Rabbis is a reflection upon the exercise of

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1 E. J. Bickermann, op. cit. pp. 153 f.
judicial power by Gamaliel in such-like cases. If this supposition should prove to be correct, it would provide us with the year 415 as a *terminus ante quem* for the origin of *Actus Sylvestri*, since no similar position was granted to a Jewish leader at any later date.¹

These considerations may, we hope, show that *Actus Sylvestri* well deserve a more careful study than they have received so far, even by those who seek for more information about the historical Emperor Constantine; and that the seemingly least attractive part of them, Sylvester's disputation with the Rabbis, may yet be the most informative with regard to Constantine as well as in other directions. It has not been my ambition to give more than a very preliminary survey. To do more will not be possible unless and until at least a text—if not a critical edition—is produced; but even such a modest scratching of the surface seems to indicate the promise offered for future research in this field.