

THE TRINITY REVIEW

For though we walk in the flesh, we do not war according to the flesh, for the weapons of our warfare [are] not fleshly but mighty in God for pulling down strongholds, casting down arguments and every high thing that exalts itself against the knowledge of God, bringing every thought into captivity to the obedience of Christ. And they will be ready to punish all disobedience, when your obedience is fulfilled. (2 Corinthians 10:3-6)

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Julius and the Roman Prerogative, Part 2

By Timothy F. Kauffman

Editor's Note: This is the conclusion of the last Trinity Review by Mr. Kauffman, who finished speaking of the Council of Nicaea. Here he begins his discussion of the Council of Sardica.

Council of Sardica (343 AD)

The Council of Sardica in 343 AD was occasioned by the raucous judicial proceedings that ensued when Eusebius of Nicomedia pressured Athanasius “to admit Arius and his fellows to communion.” To Eusebius, it was a civil dispute because of Constantine’s requirement to “grant free admission to all who wish to enter into the Church.”¹ To Athanasius, it was a doctrinal dispute, because Nicæa had only recently excommunicated Arius and his party. He refused to admit Arius, so Eusebius appealed to the Emperor who threatened to depose Athanasius from his see in Alexandria.² Athanasius responded, initially in writing and finally in person (330 AD), not only defending his position on doctrinal grounds, but also defending his episcopate against new and scurrilous charges levied by

Eusebius: that one of his presbyters had broken a chalice, and that Athanasius had been subsidizing an insurrectionist. Constantine heard the charges, dismissed them, rebuked the accusers and sent Athanasius back to Alexandria vindicated.³

The Eusebian party continued to agitate, resurrecting the charge of the broken cup—alternately attributing it to Athanasius or to his presbyter, and now accusing him of murder as well. The Emperor commissioned the civil Censor of Antioch to investigate the charges, and the Censor subpoenaed Athanasius.⁴ Constantine was aghast at the turbulence, writing to Athanasius: “if they excite any further commotion of this kind, I will myself in person take cognizance of the matter, and that not according to the ecclesiastical, but according to the civil laws.”⁵ Undeterred, the Eusebian party “persuaded the Emperor to give orders that a Council should be held afresh at Tyre,” and Athanasius was compelled to appear to defend himself on the charges of violence and murder. The charges of murder were dismissed when the alleged victim was presented

¹ Athanasius, *ACA*, Part II, Chapter 5 “Letter from the Emperor Constantine,” 59.

² Athanasius, *ACA*, Part II, Chapter 5 “Letter from the Emperor Constantine,” 59.

³ Athanasius, *Festal Letter 3*, 1; Athanasius, *ACA* Part II, Chapter 5 “Letter from Constantine, Maximus, Augustus, to the Church at Alexandria,” 62.

⁴ Athanasius, *ACA*, Part II, Chapter 5, 63 & 65.

⁵ Athanasius, *ACA*, Part II, Chapter 5, “Letter from Constantine to Athanasius,” 68.

alive to the court, and the charges of violence were remanded to a commission for further investigation.⁶ Athanasius, fearing for life and limb,⁷ fled to Constantinople,⁸ “where he protested against the Count and the conspiracy against him, and requested either that a lawful Council of Bishops might be assembled, or that the Emperor would himself receive his defense concerning the charges they brought against him.” The Emperor summoned the parties to himself, whereupon the Eusebian party appeared, this time with yet another charge against Athanasius: that he had attempted to use his undue influence “to stop the exports of grain from Alexandria to Constantinople.”⁹ Athanasius was unable to persuade the court of his innocence and was exiled to Gaul.¹⁰

In 337 AD, Constantine died, being succeeded by his three sons, Constantine, Constantius, and Constans. Athanasius returned to Alexandria under an imperial rescript from Cæsar Constantine exonerating him and restoring him to his episcopal see.¹¹ Unabated, the Eusebian party continued to harass him, and deposed Athanasius again at a council in Antioch (338 AD), this time on charges of “murders and butcheries” that allegedly occurred upon his return from exile.¹² They ordained Gregory of Cappadocia as bishop of Alexandria his place.¹³ In a vast campaign of defamation, the Eusebians wrote to the Cæsars and the bishops of the world accusing Athanasius of even more crimes, and turning Cæsar Constantius against him. Constantius was persuaded to write letters supporting the Eusebian party, to send Gregory to Alexandria under a military escort¹⁴ and to instruct the civil prefect to install Gregory as bishop of Alexandria.¹⁵

In the chaos following the Eusebian onslaught, a council was convened in Rome to resolve the matter. Who actually called the council is disputed, due in no small part to Athanasius’ discrepant accounts. In one place he suggests that “the brethren at Rome” had called a council,¹⁶ but in another place he writes that the Eusebians asked Julius “to call a council, and to be himself the judge,”¹⁷ and still elsewhere has Julius suggesting “a Council ought to be held.”¹⁸ Julius’ own letter to the Eusebians claims that they “requested me to call a Council together,”¹⁹ but the Eusebians demurred, saying it was not they but Julius who had called for a council. Julius denied the accusation but acknowledged that “the proposal would have been reasonable and just” even if he had.²⁰

Athanasius sailed to Rome to attend the council, but when the Eusebians realized he would be present to defend himself, they declined to appear.²¹ The council exonerated Athanasius without the participation of the Eusebian party, and the Eusebians conducted their own separate hearings without Athanasius.²² Both *ex parte* decisions were forwarded to the imperial palace—“a report of the Council held at Rome, and of the proceedings against the Churches at Alexandria”—whereupon Constans and Constantius called yet another council in Sardica to settle the matter once and for all.²³

The Appellate Context of Athanasius’ Trial

We have explored the origins of Constantine’s reforms, and the Church’s gradual reception of them, so that Athanasius’ trial may be understood in its native appellate context. With that context established, the history of the trial is found to be

⁶ Athanasius, *ACA*, Part II, Chapter 6, “Documents connected with the Council of Tyre,” 71-72.

⁷ Athanasius, *ACA*, Part I, Chapter 1, “Encyclical Letter of the Council of Egypt,” 9. *NPNF-02*, volume 4.

⁸ Athanasius, *ACA*, Part II, Chapter 6, 86.

⁹ Athanasius, *ACA*, Part I, Chapter 1, “Encyclical Letter of the Council of Egypt,” 9; Part II, Chapter 6, 87.

¹⁰ Athanasius, *ACA*, Part II, Chapter 6, 87.

¹¹ Athanasius, *ACA*, Part I, Chapter 1, “Encyclical Letter of the Council of Egypt,” 7; *HA*, Part I, chapter 8.

¹² Athanasius, *ACA*, Part I, Chapter 1, “Encyclical Letter of the Council of Egypt,” 3 & 5.

¹³ Athanasius, *ACA*, Part I, Chapter 2, “Letter of Julius to the Eusebians at Antioch,” 30.

¹⁴ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 30; *HA*, Part II, 9-10.

¹⁵ Athanasius, *Epistola Encyclica*, 2.

¹⁶ Athanasius, *Epistola Encyclica*, 7.

¹⁷ Athanasius, *ACA*, Part I, Chapter 2, 20; see also Part I, Chapter 1, 1.

¹⁸ Athanasius, *HA*, Part II, Chapter 9.

¹⁹ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 22.

²⁰ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 22.

²¹ Athanasius, *ACA*, Part I, Chapter 2, 20.

²² Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 35.

²³ Athanasius, *HA*, Part III, Chapter 15.

pregnant with Constantinian judicial terms, theory and practice. The reader may now recognize the fundamentals of Constantine's reforms in this brief survey of *Eusebius v. Athanasius*.

Athanasius had been condemned in a civil trial at Tyre (335 AD) where "a Count presided" instead of a bishop, "an executioner attended" and the litigants were introduced to the court by "an usher instead of the Deacons."²⁴ Athanasius was then replaced by Bishop Gregory in a civil trial at Antioch (338 AD), for they "nominated a stranger to be Bishop, and sent him to Alexandria with a military force."²⁵ Confident that they would prevail in yet another civil trial, Athanasius' accusers welcomed an appeal,²⁶ but Athanasius wisely expressed a desire to change the venue to an episcopal court, "that a lawful Council of Bishops might be assembled."²⁷ Stepping into his role as appellate judge under the auspices of *episcopalis audientia*, Julius initiated the process of discovery and began to solicit written evidence from both parties: "[T]hey then requested me to call a Council together, and to write to Alexandria to the Bishop Athanasius, and also to Eusebius and his fellows [in Antioch], in order that a just judgment might be given in presence of all parties."²⁸

However, as soon as Athanasius' accusers "heard that the trial was to be an Ecclesiastical one, at which no Count would be present, nor soldiers stationed before the doors,"²⁹ they lost the "advantage" of a civil trial and began to plot another course.³⁰ Missing a critical deadline to submit relevant testimony, they complained that "the interval" between the announcement of the appeal and the court date "was too short."³¹ Julius responded that if they remained uncooperative and continued to dither, they would be "branded" in infamy (*infamati*), just as the Arians had before them.³² While Julius tried valiantly to secure the cooperation of the plaintiffs, they began to

circumvent him and seek relief in "greater courts" and even "before the three Augusti."³³ Not only had they attempted to work around Julius, but they also continued violating appellate procedures by introducing "fresh reports against us,"³⁴ advancing with new charges against Athanasius, "not with the same offenses which they had published against him at Tyre."³⁵

Here we see the wheels of Constantine's appellate process in motion, as litigants and judge attempt to navigate tedious and dangerous judicial waters, either to comply with the rigors of the appeals process (as with Julius and Athanasius), or to work within or without the system to their advantage (as with the Eusebian party). We see a process of *apellatio* unfolding as civil decisions in Tyre and Antioch are challenged at a court in Rome. We see Athanasius expressing a desire to change from civil courts to *episcopalis audientia* — as was his right — and we see his accusers surprised to learn of that change of venue; indeed, under Constantine's reforms, Athanasius was under no obligation to inform them in advance. We see strict adherence to *instructio plena* as Julius struggles to compile evidential statements so that his dossier will meet the Emperor's rigorous standard of objectivity. We see the litigants struggling to keep up with the Emperor's strict timeline, the plaintiffs complaining that Athanasius was *persona potentior*, and the defendant objecting that his accuser was introducing on appeal new charges "which he neglected to assert in the trial" at Tyre. We see the defendants complaining that the plaintiffs had engaged in *supplicare causa pendente*, not only appealing the case to higher courts, but to the Imperial Court itself, even while Julius' lower court was still deliberating in Rome.

These historical details are nuanced and subtle and are therefore typically overlooked in historical

²⁴ Athanasius, *ACA*, Part 1 Chapter 1, "Encyclical Letter of the Council of Egypt," 8.

²⁵ Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 29.

²⁶ Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 22.

²⁷ Athanasius, *ACA*, Part 1 Chapter 1, "Encyclical Letter of the Council of Egypt," 9.

²⁸ Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 22.

²⁹ Athanasius, *HA*, Part II, Chapter 11.

³⁰ Athanasius, *HA*, Part II, Chapter 12.

³¹ Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 25.

³² Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 23; Migne PG 25, 286.

³³ Athanasius, *ACA*, Part I, Chapter 1 "Encyclical Letter of the Council of Egypt," 3.

³⁴ Athanasius, *ACA*, Part I, Chapter 1 "Encyclical Letter of the Council of Egypt," 3.

³⁵ Athanasius, *ACA*, Part I, Chapter 1 "Encyclical Letter of the Council of Egypt," 9.

analyses of Athanasius' tribulations. But the trial of Athanasius took place in a very tightly regulated and thoroughly documented imperial judicial setting at a time when the Church was just learning how to litigate and appeal effectively. These details, though tedious, cast much-needed light on the litigation itself and its ultimate outcome. Most importantly for our purposes, they display in explicit relief the "custom" Julius famously accused the Eusebians of violating.

"The Custom Has Been for Word to be Written First to Us"

What is typically lost in the historical analysis of Julius' reference to "the custom" for "word to be written first to us" is the fact that the Eusebians had already written to him multiple times. It is a remarkable fact that even as Julius complained of their violation of the "custom" of writing "first to us," both he and Athanasius freely acknowledged that the Eusebians had *on multiple occasions* already cooperated with his "interrogation" *in writing*. The Eusebians had written to him, not once, not twice, but *thrice*, and Julius' rebuke was in response to their *third written communication*. Julius acknowledges this repeatedly: "When the persons whom you, Eusebius and his fellows, dispatched with your letters, I mean Macarius the Presbyter, and Martyrius and Hesychius the Deacons, arrived here...they then requested me to call a Council together"³⁶; and "I have read your letter which was brought to me by my Presbyters Elpidius and Philoxenus."³⁷ Athanasius also attests to multiple "letters from Eusebius" to Rome,³⁸ and that the Eusebian party had delivered their request for a new council "in writing to Julius."³⁹ Indeed, the one thing that every party to the proceedings acknowledged *from the start* was that "Eusebius and his fellows *wrote long ago to Julius*."⁴⁰

Whence, therefore, Julius' indignation? Why demand at this point that the Eusebians write "first to

us," when it is a matter of record that they had severally written to him "first," *and in fact had initiated the very appeal in writing*? The answer — profound for its judicial simplicity — lies in the sudden shift in the plaintiffs' disposition toward Julius when they lost the "advantage" of a *civil appeal*, an advantage they had enjoyed in Tyre and Antioch. Knowing they would now have to prosecute the imagined offense *in an episcopal court*, there was nothing left to be gained by proceeding in an orderly, respectful manner. In their final written response to Julius, not only had they replied "in an unbecoming and contentious temper,"⁴¹ but far worse, they had not even answered Julius' additional questions about their initial complaint: "And why was nothing said to us concerning the Church of the Alexandrians in particular?"⁴² Julius' role as appellate judge was to compile a balanced dossier, including the *written* responses of both parties to his questions. Yet in response to his *written* request for additional *written* information, they had provided nothing *in writing* — "nihil nobis *scriptum*"⁴³ — about their charges against the Alexandrian Church, *the very nexus of the dispute*. The English translation — "why was nothing said to us?" — utterly misses the very fulcrum of Julius' frustration: "why was nothing *written* to us?"

Not only had they refused to answer Julius' lawful questions *in writing*, but they had also begun to prosecute the matter *in writing* to other courts, and — most audaciously — *directly to the Emperors*:

[T]hey cease not to disturb the ear of royalty with fresh reports against us; they cease not to *write letters* of deadly import ... They have dared *in their letters* to the Emperors to [charge] him with a number of murders and butcheries, and that not before a Governor, or any other superior officer, but before the three Augusti.⁴⁴

³⁶ Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 22.

³⁷ Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 21.

³⁸ Athanasius, *ACA*, Part I, Chapter 1, 1.

³⁹ Athanasius, *ACA*, Part I, Chapter 1, 2.

⁴⁰ Athanasius, *ACA*, 1, Chapter 3, "Encyclical Letter of the Council of Sardica," 44, *emphasis added*.

⁴¹ Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 21.

⁴² Athanasius, *ACA*, Part I, Chapter 2 "Letter of Julius to the Eusebians at Antioch," 35.

⁴³ Migne PG 25, 307.

⁴⁴ Athanasius, *ACA*, Part I, Chapter 1 "Encyclical Letter of the Council of Egypt," 3.

The Eusebians were quite willing to continue submitting their evidentiary communications in writing. They just preferred to submit them directly to the Emperor instead of to Julius: “[T]hey see that they are not likely to get the better in an Ecclesiastical trial, [and] betake themselves to Constantius alone.”⁴⁵

Thus did the Eusebians violate the foundational principles of Constantine’s reforms. They had resisted the change of venue to an episcopal court (*episcopalis audientia*); they had stopped cooperating in Julius’ statutory process of discovery (*instructio plena*); they had supplicated a matter before the Emperor while the outcome in a lower court was still pending (*supplicare causa pendente*). Julius was doing his level best to compile the dossier, but the Eusebians had taken matters into their own hands.

Their disregard for that lawful and orderly sequence is plainly evident when Julius’ reference to “custom” is read in its native context. While the English translation tends to suppress his poignant judicial indignation, the Latin does not. Everything was supposed to be compiled in writing by the appellate judge, and the Eusebians had begun to prosecute the matter independently:

And why was nothing said to us (*nihil nobis scriptum*) concerning the Church of the Alexandrians in particular? Are you ignorant that the custom has been for word to be written first to us (*primum nobis scribatur*), and then for a just decision to be passed from this place? If then any such suspicion rested upon the Bishop there, notice thereof ought to have been sent to the Church of this place (*ad hanc Ecclesiam illius rescribendum*); whereas, after neglecting to inform us (*nobis non indicata*), and proceeding on their own authority as they pleased, now they desire to obtain our concurrence in their decisions, though we never condemned him.⁴⁶

The “custom” to which Julius refers is therefore quite obvious: the practice of submitting written evidence to the court of first appeal *before taking the matter to a higher court*. Upon this reading it becomes abundantly clear that the Roman court was not Supreme, and Julius was not the church’s Chief Justice. Rather, we see in Julius a frustrated mid-level episcopal judge, caught up in the tedium and rigor of a reformed judiciary, whose own *sententia*, far from being the final say, would soon be subject to judicial review in a higher court — the Council of Sardica.

Correctly Understanding the Roman Prerogative

The Roman Catholic apologist claims that Julius’ exoneration of Athanasius is ancient evidence of Roman episcopal and judicial primacy. Fr. Ray Ryland, former Episcopal priest turned Roman Catholic apologist, claimed of Athanasius: “When he appealed to the Pope, Pope Julius I condemned both councils [Tyre and Antioch], and reinstalled Athanasius in his see.”⁴⁷ Others observe: “Athanasius was formally exonerated when the synod and letter of Julius overturned the sham proceedings at Tyre.”⁴⁸ However, a sober and contextual reading of history corrects that ambitious retelling.

As we observed above, after the council in Rome, Constans and Constantius convened a council in Sardica to settle the matter,⁴⁹ the honorable Bishop Hosius of Spain presiding.⁵⁰ Hosius acknowledged in his Synodal letter that Julius had not settled anything, for “this holy Council...in the city of Sardica” was convened “that all dissension may be done away.”⁵¹ By this statement Hosius implicitly relegated Julius to his lower court of appeal, and explicitly testified that his decision had not been final. We find in the Synodal Letter of Sardica language that speaks of a judicial review of Julius’ dossier: “...we found also,

⁴⁵ Athanasius, *HA*, Part II, Chapter 9, emphasis added.

⁴⁶ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 35; Migne PG 25, 307.

⁴⁷ Ryland, Ray (15:28-15:35).

⁴⁸ Campbell, Phillip. “The Obedience of Athanasius.” *Unam Sanctam Catholicam*, 11 October 2015,

unamsanctamcatholicam.com/2022/07/04/the-obedience-of-athanasius/.

⁴⁹ Athanasius, *HA*, Part III, Chapter 15.

⁵⁰ Athanasius, *ACA*, 1, Chapter 3, “Encyclical Letter of the Council of Sardica,” 49.

⁵¹ Athanasius, *ACA*, 1, Chapter 3, “Encyclical Letter of the Council of Sardica,” 44.

on reading the Reports...⁵²; "...the subsequent parts of the book were read, and the parts preceding the queries themselves"⁵³ Upon review, that august Council decided that Gregory must be "deposed by a judgment of the whole sacred Council," and that Athanasius must be restored to his see.⁵⁴ Those are not the words of bishops who believed Julius had *already* deposed Gregory and had *already* "reinstalled" Athanasius! Indeed, had Julius "formally" exonerated Athanasius and "reinstalled" him, there would have been no need for Sardica, and no need for Athanasius to be subject to yet another trial there, but Emperor Constantine's appellate process practically demanded it.

Thus, the ancient canons of Sardica endure as a testament of Julius' limited jurisdiction and subordinate role in the trial of Athanasius. As we observed in "Nicæa and the Roman Precedent,"⁵⁵ there were two functioning metropolitans in Italy at the time of Nicæa — the Metropolitan of Milan, and the Bishop of Rome in the *Urbis Romæ* — just as there were two in the Diocese of Oriens — one in Antioch and one in Alexandria. The 6th canon of Nicæa had settled metropolitan jurisdiction in Oriens by assigning Egypt, Libya and the Pentapolis to Alexandria, and the rest of the diocese to Antioch.

Nicæa had acknowledged, but had not formalized, that similar arrangement in Italy. Additional administrative guidance was therefore necessary at Sardica. According to Canon 9, if an appellant filed for relief outside of Rome, but within the greater Diocese of Italy, the appeal would be routed first through Milan, the Metropolis of Italy, and thence to the Imperial Court; but if he filed within the city and suburbs of the *Urbis Romæ*, as Athanasius had, the Bishop of Rome would compile the dossier and deliver it to the Emperor:

⁵² Athanasius, *ACA*, 1, Chapter 3, "Encyclical Letter of the Council of Sardica," 37.

⁵³ Athanasius, *ACA*, 1, Chapter 3, "Encyclical Letter of the Council of Sardica," 47.

⁵⁴ Athanasius, *ACA*, 1, Chapter 3, "Encyclical Letter of the Council of Sardica," 39, 43.

⁵⁵ Timothy F. Kauffman, "Nicæa and the Roman Precedent," *The Trinity Review*, May-July 2016.

⁵⁶ *Council of Sardica*, Canon 9. *NPNF-02* volume 14, Philip Schaff and Henry Wace, editors, Henry Percival, translator,

[I]f in any province whatever, ... he that is in the largest city, that is, the metropolis, should himself send his deacon and the petitions ... *But those who come to Rome* ought, as I said before, to deliver to our beloved brother and fellow-bishop, Julius, the petitions which they have to give, in order that he may first examine them, lest some of them should be improper, and so, giving them his own advocacy and care, shall send them to the Court.⁵⁶

The *general* rule of Sardica, therefore, was that "in any province whatever" appeals to the Imperial Court must first be routed through "the metropolis." But the *particular* rule in Italy was that appeals were to be handled by the Bishop in Milan, unless the appeal was initiated within the *Urbis Romæ*. Julius' judicial reach within Italy, therefore, was formally limited to Rome by the 9th of Sardica, a *status quo* that had existed in practice for decades, as attested by the 6th of Nicæa.

But that is hardly the end of the story. The incorrigible Eusebian party abstained even from Sardica,⁵⁷ and the Emperors' patience was exhausted. The records of Sardica were forwarded to the Imperial Court, where Constantius reviewed them himself and rendered a final decision in writing, restoring Athanasius to his seat in Alexandria.⁵⁸ Julius had rendered his *sententia* three years earlier, but neither Julius (at Rome) nor Hosius (at Sardica) could resolve a matter in which the plaintiffs refused to participate. Thus, the Emperors insisted correctly that it was neither Julius' nor Hosius' "sentence," but rather "*our sentence*" by which Athanasius was finally restored "to his country and to the Church."⁵⁹

By this, Julius' diminutive stature in the judicial hierarchy is revealed in the light of day. His own ruling in Rome was subject to review at Sardica

Christian Literature Publishing Co., 1900, 423, emphasis added.

⁵⁷ Athanasius, *ACA*, 1, Chapter 3, "Encyclical Letter of the Council of Sardica," 48.

⁵⁸ Athanasius, *ACA*, 1, Chapter 4, "Letters of Constantius to Athanasius," 51.

⁵⁹ Athanasius, *ACA*, 1, Chapter 4, "Letter of Constantius, to the Bishops and Presbyters of the Catholic Church," 54, emphasis added.

under Hosius, for Julius well understood the 5th of Nicæa to require that “the decisions of one council should be examined in another.”⁶⁰ And even Hosius’ decision was subject to further review in the Imperial Court. *Only then* was Athanasius finally restored to his see. Rather than early evidence of Roman primacy, the “custom” to which Julius had referred was that the litigants were expected to cooperate in discovery by writing “first to us” — that is, to the lower court — and waiting for a formal decision before supplicating higher courts for relief. That is not a claim of primacy. Quite the contrary. It is the frustrated indignation of a mid-level appellate judge trying to comply with the new judicial regulations, and wishing his wily plaintiffs would do the same.

“What we have received from...Peter”

We close by dispelling the Roman apologist’s last, fleeting hope that Julius’ ostensible “custom” of Roman judicial primacy was a tradition that had been handed down from Peter himself.⁶¹ Indeed, Julius attested, as he admonished the Eusebians, that he was merely passing on to them “what we have received from the blessed Apostle Peter.”⁶² But had Peter really been the source of Julius’ “custom” of writing “first to us”? By no means!

As he closed his letter to the Eusebians, having excoriated them for their violation of the “custom,” he also criticized their attempt to prosecute the matter independently, and by the most violent and abusive means. Neither Paul, nor the fathers, nor Peter had authorized such impertinence:

Not so have the constitutions of Paul, not so have the traditions of the Fathers directed; this is another form of procedure, a novel practice. I beseech you, readily bear with me: what I write is for the common good. For what we have received from the blessed Apostle Peter, that I signify to you.⁶³

The Church’s plodding fourth century embrace of episcopal courts (*viz.* Arles, Nicæa, and Sardica), and the absence of synodal appeal prior to Constantine, indicate that Julius was by no means claiming to have received such a custom from Peter. Even Julius acknowledged that the very idea had only recently been “noticed and recommended” at Nicæa. Certainly this “custom” had not originated from the Apostles. What then had Julius received from Peter?

A cursory reading of Julius’ epistle reveals that he had invoked three authorities in succession — Paul, the Fathers and Peter. Julius had invoked “the constitutions of Paul” when he advised the Eusebians that they should not have “let the sun go down upon their vexation” (*Ephesians* 4:26).⁶⁴ He had invoked “the traditions of the Fathers,” by referring to Nicæa, for “your refusal is not becoming” when the obligation to cooperate “is of ancient standing, and has been noticed and recommended by the great Council.”⁶⁵ What Julius “received from the blessed Apostle Peter” and now “signify to you” is that to which he refers in his next sentence: the Eusebians must disavow their practice of lording their authority over the sheep: “[T]he people have to grieve for those [bishops] who are forcibly taken from them, while...they are obliged to give over seeking the [bishop] whom they desire, and to receive those they do not.”⁶⁶ Such behavior Peter would have detested, for shepherds were not to rule “as being lords over God’s heritage, but being ensamples to the flock” (*I Peter* 5:3).

The Eusebians’ procedural and ecclesiastical abuse had violated the Pauline proscription against unresolved anger and had disregarded Petrine exhortations toward godly shepherding. But the prerogative of the Roman church to compile a dossier and render a verdict before the litigants advanced their case on appeal was a custom that came down to Julius neither from Paul, nor from Peter, but from the Imperial Palace. Nicæa had “noticed and

⁶⁰ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 22.

⁶¹ Ryland, Ray (16:00-16:08).

⁶² Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 35.

⁶³ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 35.

⁶⁴ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 22.

⁶⁵ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 22.

⁶⁶ Athanasius, *ACA*, Part I, Chapter 2 “Letter of Julius to the Eusebians at Antioch,” 35.

recommended” that custom, obligating the Eusebians to answer Julius’ questions *in writing*, and then await his decision before taking the matter to a higher court. In truth, Julius’ “custom” attests simultaneously to the lower stature of his own court and to the primacy of Constantine’s reformed judiciary. Any other bishop in any other metropolis would have asked the Eusebians exactly the same questions, in the same terms, and in the same tone, for the same reason. The Eusebians were required to await the decision of a lower court of appeals before advancing to the next higher court, just like everyone else in the empire. Such a “custom” contains not a hint of the ancient Petrine, Roman, Papal ecclesiastical and judicial primacy of the Catholic apologist’s unrequited yearning.

New Episodes of Trinity Foundation Radio

The messages from the 2023 Reformation Day Livestream are posted or soon will be to our Trinity Foundation Podcast archive. Mr. Timothy F. Kauffman’s message “The Scripture Is Not Bound” from *2 Timothy 2:9* has been posted, and Mr. Steven T. Matthews’ message “Antichrist’s Illegal Alien Assault on America” where he discusses *Exsul Familia Nazarethana*, the 1952 Apostolic Constitution of Pope Pius XII will be posted soon.

New Book Soon

The Grand Old Doc: Articles on the Thought of Gordon H. Clark by Douglas J. Douma will soon be published and available for purchase.

Work is also continuing on the next ten-year compendium of *The Trinity Review*, titled *For the Truth: The Trinity Review 2009-2018*, and I hope to have it published in early 2024 Lord willing.