

STORY OF A ROMAN LAWSUIT

EIGHTEEN WAX TABLETS SEALED by a Roman Court reveal the following facts: shortly before or after the great earthquake, A.D. 62, a baby girl was born in the quarters of Gaius Petronius Stephanus. The child was called Justa. The mother's name was Vitalis; the father's name, if known, was not publicly acknowledged.

Vitalis had been bought as a slave by Gaius Petronius, probably at the time of his wedding as a gift to his new wife. He had married a freedwoman known as Calatoria Temidis—a name evidently derived from the patrician Calatorius family of Herculaneum (of whom more later), to which she herself may have belonged as a slave. Gaius Petronius was a member of the lower middle class, and it was not inappropriate that he should marry a freedwoman.

Nor was it inappropriate that the slave-woman Vitalis in due course should be freed, most probably by purchase of herself. Also it was necessary to pay the state a freedom tax equal to 5 percent of her assessed valuation. Vitalis assumed her master's name, and thenceforth was called Petronia Vitalis. And the girl Justa was accepted into the master's household and brought up "like a daughter"—though illegitimate. For a decade and more all were in accord, all harmonious and happy.

But the peace dissolved at the birth of children to Gaius Petronius. Friction arose between his wife Calatoria and the freedwoman Petronia Vitalis. Arguments were unresolved, jealousies sharpened. Petronia Vitalis, as a freedwoman, could no longer be constrained to remain in her master's house; she chose to leave. She wanted a home of her own and economic independence. Apparently she was willing to work hard for what she wanted. But her master and his wife refused to relinquish Justa: a child brought up like a daughter, she was looked upon as their own. Now quite grown-up, she was intelligent and pretty, an asset to the household.

Indignant at being deprived of her daughter, Petronia Vitalis brought

suit against Gaius Petronius. After extensive negotiations, the case was settled with the award of Justa to her mother, provided that Gaius Petronius be reimbursed for the cost of Justa's food and upkeep during the years of her childhood and adolescence. Petronia Vitalis, who had done very well for herself, immediately made the payment and received her daughter into her own home.

This happy state of affairs for Petronia Vitalis and Justa was to be all too short, for Petronia died. And, at about the same time, so did Gaius Petronius. It seemed that this drama of little people in the town of Herculaneum had been played to the end. Not so. The widow of Gaius Petronius, Calatoria, brought suit to recover Justa and all the property she had inherited from her mother, on the grounds that Justa had been born while Petronia Vitalis was still a slave—hence Justa was a slave.

It appears from the depositions that Petronia Vitalis had amassed considerable assets, and Calatoria was more interested in this wealth than in the girl herself. As slaves had no property rights, with the reversion of Justa to slavery all she owned would become the property of her mistress.

Justa fought back.

No substantiating documents existed for either side. Before the enormous growth of slavery in Rome, manumission had been a rather complicated process, always legally recorded. A formal statement of freedom was made before the magistrates, or the new freedman's name was recorded in the censors' register, or the master inserted a clause of emancipation in his will. But when the large majority of the population became slaves, the cumbersome rites were dropped; and a letter, or even a verbal declaration by the master in the presence of witnesses, was considered sufficient. In the freeing of the slave Vitalis, Gaius Petronius had remarked merely that the woman was no longer bound. Though he remained her patron, as was customary, no record was kept of the manumission date. Nor, if she bought herself, did Vitalis have a receipt. Thus the sole proof rested on the word of witnesses who allegedly were present at the time; and witnesses were notoriously easy to buy.

The suit was brought before the local Herculanean magistrates, who declared that they lacked jurisdiction over the matter. The case therefore was transferred to Rome, before the tribunal of the city judge, or *praetor*, in the Forum of Augustus. Subpoenas were issued, the witnesses took the stand, and all testimony was recorded. A parade of pros and cons followed,

with the declarations canceling one another. One of the witnesses against Justa was an illiterate, who claimed to have had the confidence of Gaius Petronius; but his testimony was so garbled that even with professional aid it was impossible to put his statements into grammatical, much less credible, form. His evidence, nevertheless, was admitted. The case bogged down, a morass of confusions.

Suddenly a new witness appeared—an authoritative witness who blew away the swampy miasma and cleared the air. He testified in favor of Justa. He was Telesforus, the administrator-manager-bailiff-foreman who had served Gaius Petronius for many years. He was a freedman, and though he still served Calatoria, he dared to testify against her. Moreover, he had come into Gaius Petronius' house through Calatoria, for in her girlhood he had been her tutor. His declaration was matter-of-fact and precise. He had handled the negotiations for the return of Justa to her mother, he said. It was then acknowledged that Justa had been born after the manumission of her mother. The Roman court, he said, should now make the same acknowledgment.

For all of Justa's pleas, the Roman court was not prepared to reach a rapid decision. The judge wished to take the matter "under advisement," to appraise carefully all the possible angles of the case. No decision would be possible before the end of the next year's court session . . . or the end of the year after that . . . or the year after that. The courts, after all, were so heavily burdened. . . .

The depositions in Rome had begun, as shown by the consuls in office, in the year we designate as 75, and carried over into 76. When Vesuvius erupted and buried the records of the case in 79, apparently a decision had not yet been rendered. We shall never know whether Justa was freed or reduced to slavery.

Interesting speculations remain. Why was the administrator Telesforus suddenly moved to testify against his patroness at the moment when it seemed that Justa's case was going badly? What did Justa's status mean to him? Nothing in his declaration had been in the least sentimental or personal. Yet, in describing Petronia Vitalis he had used a curious phrase: he had called her *colliberta mea*—his colleague in liberty, his co-freedperson.

It seems unlikely that class identity would be strong enough to motivate testimony so obviously against Telesforus' own private interests. He must

have had another motivation, a deeper motivation, which made him willing to take the consequences of Calatoria's inevitable animosity toward him. Perhaps his description of Petronia Vitalis was an involuntary admission that he was the unknown father of Justa. If the master Gaius Petronius had been the father, no effort would have been made at concealment; nor would Justa have been relinquished to her mother at any time, in all probability.

When the young slave-woman Vitalis came to the house of Gaius Petronius, Telesforus was an older man, but not himself a slave. As Vitalis was a slave, she could be seduced but not married. Telesforus was the freedman of greatest importance in the household, in a position to use his influence in Vitalis' behalf. Evidently he did so. Very soon Vitalis was freed; perhaps Telesforus provided the money for her self-purchase. When the child Justa was born, she was taken into the household "like a daughter." And finally, it was Telesforus who had carried on effectively the negotiations that returned Justa to her mother. Always, in the background, Telesforus was there; to Justa he assumed the image of a patient and loving father.

The records found in the House of the Bicentenary may well have belonged to the wife of Gaius Petronius, Calatoria. They had been deposited not far from the room of the cross. Was this, then, the family that worshipped in that tiny chapel? Admittedly, tight-fisted Gaius Petronius and avaricious Calatoria do not have the character we usually associate with the early Christians, who became famous for sharing their worldly goods. What of the possibility that Telesforus and Petronia Vitalis, "colliberta," had been converted to the Christian faith? To us today this would seem the more probable alternative. But would a Roman master of the lower middle class designate an entire room of his rented house as a religious center for his freed servants? Hardly. Even the doctrines of Paul—though distinctly not revolutionary in contrast to rival Christian teaching—seemed radical and dangerous to a stereotyped Roman mind. Paul did not question the institution of slavery; but rare would be the master who approved even the slightest hint of rebellion.

In addition, membership in the Christian movement was dangerous. The persecutions of the time of Nero, when the mad emperor flung Christians to the wild beasts and made living torches to light the spectacles, were fresh in everybody's mind. Gaius Petronius and his wife gave

no evidence of the stuff of martyrs. Nor would he and his wife have been happy to lose their investment in their servants, should their servants prove willing to be martyrs.

Nor can it be assumed that Calatoria had moved from the house, and some new Christian family had taken possession. Certainly Calatoria would not have left the court records behind. Had she died, the records would have been disposed of. So we can only conclude that the house was shared with some other family, openly and defiantly Christian, and very modest of circumstance. Perhaps the seal of Marcus Helvius Eros, found on the upper floor, in one of the rooms of the small suite adjoining the "chapel," provides a clue to that other family. The name indicates that the owner was a freedman, probably Greek in origin. As a man's seal was very important to him, it was always guarded jealously. Only in so great a crisis as the eruption would it have been discarded. So we may safely assume that these rooms were occupied by a family other than Calatoria's. Considering the arrangement of the upstairs rooms and their juxtaposition to the "chapel," it is an almost inescapable deduction that the upstairs tenants were associated with the new cult—or in any case had responsibility for the use of the room. We may be reasonably certain, therefore, that this family, known only by the abandoned seal, was Christian.

Calatoria left us the complex documentation of a sordid and selfish lawsuit. The other family, unknown in detail but acknowledging the brotherhood of man, left us the simple documentation of the mark of the cross—a cross hurriedly saved, while others left silver and gold behind.