

Herod the Procurator

Was Herod the Great a Roman Governor of Syria?

by

Richard C. Carrier, Ph.D.

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Table of Contents

<u>Introduction to the Problem</u>	3
<u>The Text</u>	3
<u>The Translations</u>	7
<u>The Interpretations</u>	11
<u>The Meaning of 'Procurator'</u>	18
<u>Preliminary Conclusion</u>	27
<u>The Procurator in the Time of Augustus</u>	29
<u>The Grant of the Provincial Procuratorship to Herod</u>	36

Introduction to the Problem

According to Samuel Sandmel, Augustus made Herod the Great “governor over part of Syria” around 20 B.C.¹ Though Sandmel has slightly misstated two passages in Josephus, what those passages mean has long been debated. In 20 B.C. Augustus toured the East, settling various affairs, finally landing in Syria, where he acquitted Herod of charges against him brought by the Gadarenes, and attached the territories of the recently-deceased tetrarch Zenodorus to Herod’s own growing kingdom.² Then Josephus reports something quite astonishing: Augustus “mixed him in with those who were procurating Syria, ordering them to do everything in accordance with his judgement,” or indeed, “he appointed him procurator of all Syria, so the procurators could manage nothing against his advice.”³ This has been variously interpreted, and variously translated, and as translations are themselves a form of interpretation, we will first deal with the text, then the translations, then the interpretations, followed by a new discussion of what it meant for Herod the Great to be, in effect, the procurator-in-chief of the Roman province of Syria in the time of Augustus.⁴

The Text

The texts of Josephus are not in a good state. Only one decent critical edition each of the *War* and *Antiquities* has ever been made, and that is already over a hundred years old, and much in need of revision. This edition, established by Benedict Niese between 1885 and 1895,⁵ has been given too much confidence by later editors, and all other editions rely too

1 Samuel Sandmel, *Herod: Profile of a Tyrant*, 1967, p. 179.

2 *BJ* 1.399-400, *AJ* 15.354-361; corroborated by Dio Cassius, 54.7.4, 54.7.6, 54.9.3, and partly by the *Res Gestae* 11, which notes the founding of the *Augustalia* in honor of Augustus’ return from Syria in 19 B.C.

3 *AJ* 15.360 and *BJ* 1.399.

4 This problem was recently examined in Anthony Barrett, “Herod, Augustus, and the Special Relationship: The Significance of the Procuratorship,” in David Jacobson and Nikos Kokkinos, eds., *Herod and Augustus: Papers Presented at the IJS Conference, 21st-23rd June 2005* (Boston: Brill, 2009), pp. 281-302. The most thorough treatment of the issue of Augustan procurators, verifying the conclusions here to be drawn, is Peter Eich, *Zur Metamorphose des politischen Systems in der römischen Kaiserzeit: die Entstehung einer "personalen Bürokratie" im langen dritten Jahrhundert* (Berlin: Akademie, 2005), esp. pp. 106-58; see also Werner Eck, *Rom und Judaea: Fünf Vorträge zur römischen Herrschaft in Palaestina* (Tübingen: Mohr Siebeck, 2007), pp. 24-48.

5 Benedict Niese, *Flavii Josephi Opera*, 6 vols., 1887-1894.

uncritically on Niese's work, particularly Naber, which is inexcusable given their near-simultaneous publication.⁶ Indeed, no less than sixteen mss. are known today that Niese never examined, and he disregarded on subjective grounds eight more as unworthy of consultation.⁷ To what extent Nodet's work will remedy this situation remains to be seen in our present case.⁸ Earlier editions by Dindorf, Hudson and Havercamp are now widely regarded as substantially inferior to Niese, and do not employ a critical apparatus of any substance.⁹

Other scholars have surveyed the situation but done little to improve it, and disagreements exist. Most important are the introductions by Thackeray. He remarks, for example, that

The difficulties which confront the editor of Josephus arise from a comparative paucity of ancient mss., the inconstancy of some mss., which renders grouping uncertain, and the fact that corruption has often affected the text of all. Each variant is to be considered on its merits; and there is considerable scope for conjectural emendation, on which many eminent scholars have exercised their ingenuity.¹⁰

In Thackeray's opinion, Niese over-estimated the value of one mss. (the Codex Palatinus [Vaticanus] Graecus 14, which is the oldest extant mss., created in the 9th or 10th century),¹¹ and Naber "relied too exclusively" on the other mss., while Thackeray recommends his own combination of mss. that should be given priority. In contrast with this bleak opinion, Feldman defends Niese's text as sound, and claims no new edition is needed. And instead of what Thackeray saw as a frequently corrupt text, Feldman argues:

Since Greek was Josephus' third language (after Aramaic and Hebrew) it is not surprising that his knowledge of Greek grammar and idiom is sometimes deficient, and so his prose is difficult to understand. We should

6 S. Naber, *Flavii Josephi Opera Omnia*, 6 vols., 1888-1896.

7 For this and more detail on the current state of the manuscripts, though over-generous in defending Niese, cf. Steve Mason, ed., *Flavius Josephus: Translation and Commentary*, v. 3, 2000, pp. xxxvii-xxxviii (written by Louis Feldman).

8 Etienne Nodet, *Les antiquités juives*, 1992-2010, has not yet reached even book 12 of the *AJ*, and the apparatus is minimal and thus not encouraging.

9 L. Dindorf, *Flavii Josephi Opera*, 1865; J. Hudson & S. Havercamp, *Flavii Josephi Opera Omnia*, 1726, a revision of Hudson's earlier *Flavii Josephi Opera Quae Reperiri Potuerunt Omnia*, 1720.

10 H. Thackeray, *Josephus in Nine Volumes*, vol. 1, 1926, pp. xvii-xviii; i.e. the Loeb edition.

11 This is certainly correct, as proved by Niese's own extensive hyperbolic praise of it, cf. his *praefatio* to the *AJ* text, pp. xx ff.

not assume that difficulties in the manuscripts result from copyists' errors.¹²

Feldman certainly knows his subject, though I myself have never found Josephus' Greek to be 'deficient' any more than merely *Koinê*, and usually a very nice variety. Indeed, we know that Josephus relied on expert secretaries to prepare his Greek text of the *BJ*, and yet its style does not notably differ from the *AJ*, so this destroys Feldman's entire reasoning here.¹³ Difficulties are more the fault of our being non-native readers two thousand years removed than the outcome of any garbled use of the language by the writer, but this still leads to the same conclusion: we should not be hasty in proposing emendations for what merely seems awkward. Even so, Feldman and Thackeray remain at odds (*ibid.*): while Feldman says "there have been few reasons for challenging" Niese's text, Thackeray says the mss. Niese relied on the most are "when unsupported...seldom trustworthy."

In our current case, Thackeray's caution is proved wiser than Feldman's confidence. Niese's text reads: *enkatamignusin d' autên tois epitropeuousin tês Surias enteilamenos meta tês ekeinou gnômês ta panta poiein* (*AJ* 15.360); and *katestêsen de auton kai Syrias holês epitropon...hôs mêden exeinai dicha tês ekeinou symboulías tois epitropois dioikein* (*BJ* 1.399). No variants for either passage exist in any of the extant mss., epitomes or Latin translations that were examined by Niese, but one: Codex Palatinus is alone among all nine mss. consulted by him in having the feminine pronoun *autên* as the object of the *AJ* passage. This radically changes the meaning of the sentence in a way that contradicts the parallel passage in the *BJ*, and Niese is wholly unjustified in preferring this against all the others which read *auton*. This is a perfect example of what Thackeray warned against: Niese's excessive trust in the relatively untrustworthy Palatinus mss. Thackeray wisely rejected it, and adopted *auton* for the text of the Loeb edition, but still noting *autên* as a variant in his apparatus.

12 Mason, *ibid.*

13 *Contra Apion* 1.50 (with *BJ* 1.pr.6): *chrêsamenos tisi pros tèn Hellênida phônên sunergois houtôs epoiêsamên tôn praxeôn tèn paradosin*, "I composed [the *BJ*] by employing some assistants in the Greek language." Cf. Per Bilde, *Flavius Josephus between Jerusalem and Rome: His Life, His Works, and Their Importance*, 1988, pp. 132-3, 142-3. Josephus' remark in *AJ* 1.7 that "it was for me a slow and delayed process to translate so great a subject into a habit of speech strange and foreign to us" is the sort of exaggerated modesty occasionally found in historical prefaces of the time, and only refers to his translation of the Bible (1.5); a similar hyperbolic apology closes the *AJ* (20.263) where, after asserting his lengthy and diligent education in Greek language and literature, Josephus excuses himself for being unable to *pronounce* Greek with precision, not for being unable to write well (i.e. he is merely apologizing, possibly to audiences at his public readings, for having a Hebrew accent in his diction or a Hebrew style in his composition).

Analysis of this question is key to revealing the sorry state of the texts of Josephus, proving the need is great for new critical work wholly independent of Niese. In his apparatus, Niese says that the reading of *auton* in all the other mss. is “hardly right; it seems a gap ought to be here” (*vix recte; lacuna statuenda vid.*). He does not say why he doesn’t think *auton* can be correct, but the only reason imaginable is that it seems to state the impossible: a foreign client king being made governor of a Roman province. This must be Niese’s reasoning, since there is nothing grammatically wrong with the reading of *auton* (obviously referring to Herod), in fact it is exactly what we should expect given what the *BJ* says, though it is strange that Niese offers no remarks or emendations for *that* passage, even though it says essentially the same thing. But supposing this was his reasoning, why did Niese think *autên* was a better reading? Perhaps because the feminine would not make Herod the object of the sentence, but the territory he was being given (in the preceding passage). The sentence would then read “[Augustus] adjoined this [territory] to those who were procurating Syria, giving orders to do everything with [Herod’s] judgement.” This would make a nice solution: instead of giving Herod power over Syria, Augustus is merely loaning his personal agents in Syria to Herod, ordering them to also work for him in administering financial matters in his newly-acquired lands. This would be legally uncontroversial: the same men serving as employees of Augustus in Syria simply serve as employees of Herod in an adjacent section of Herod’s kingdom. But this all falls apart when we compare this passage with the *BJ*, which definitely excludes this interpretation (even if we tried to emend the text in some plausible way), and the agreement of meaning between the reading of *auton* in the *AJ* and what is stated in the *BJ*, coupled with the noted unreliability of the Palatinus ms., and the universal agreement of all other mss. (and even Latin translations, which have *eum*), certainly excludes *autên* as an acceptable reading. However, it is not certain that this is even what Niese had in mind, since he apparently thought some additional text was required, which he then proposed had fallen out in copying, and therefore he believed the received text was in some sense illegible, but this removes any plausible support he could have had for accepting *autên* as the correct reading.

Through their distortion of Niese’s original note later editors show that they never actually looked at the mss. themselves. As we saw, Niese’s actual words were “*vix recte; lacuna statuenda vid.*” But Naber rewords Niese’s comment to say “*lacunam notavit Ns.*” in other words, “Niese noted a gap,” an ambiguous paraphrase that seems to assert rather than conjecture. Ralph Marcus reworded this yet again in the apparatus to the Loeb edition as “*post hoc verbum lacunam stat. Niese,*” in other words, “after this word lies a gap [according to] Niese.”¹⁴ Thus, what began as a merely conjectured missing word or two became a mythical ‘observed lacuna’ in the text. This gives us little confidence that

14 Both taken from the apparati to the relevant passage in Naber and in Marcus, *op. cit.*

either Naber or Marcus actually examined the Palatinus manuscript for themselves (and one wonders if they examined any), and when we read Niese's own words we see there is no real gap in any of the manuscripts. Niese merely conjectured that *auton* was too incredible to be believed, and since Palatinus was known to contain several lacunae,¹⁵ he could solve his dilemma by simply proposing a lacuna here. But this is groundless. It appears that there is no lacuna, and *auton* is clearly the correct reading. The text here is sound, independently corroborated by two different works, in numerous mss., and it makes perfect grammatical sense.

The Translations

The earliest translation of Josephus into English is that of Theodore Lodge, which renders the text as "Hee made him one of the governors of Syria also, commanding them to execute nothing without his advice," such that Augustus "made him ruler over all Syria and...commanded the governours to doe nothing without Herods counsell."¹⁶ Then follows the Thompson & Price translation: "He likewise conferred on him a supreme authority over the governors of Syria, and directed that his orders and commands should be obeyed in every particular," and once Herod was "appointed governor of all Syria" Augustus "enjoined the governors to consult Herod in all affairs of importance."¹⁷ Both of these translations take substantial liberties with the details, and incorrectly translate as "governor" the Greek *epitropos*, which actually means "procurator," a mistake not made at the time in the Latin translation of Havercamp & Hudson (following older Latin translations traced as far back as the 7th century), which correctly gives, e.g., "*quin et eum cum Syriae procuratoribus coniunxit; eisque, ne quid sine Herodis sententia facerent, imperavit*" for the passage in the *AJ*.¹⁸ As will be demonstrated later, a procurator was in those days a private employee, not a government official.

Fortunately accuracy prevailed, and the still-popular translation by William Whiston, fairly loyal to the text, says "He also made him one of the procurators of Syria, and commanded that they should do every thing with his approbation," and "He also made him a procurator of all Syria...and this was so established that the other procurators could not do any thing in the administration without his advice."¹⁹ The Loeb edition

¹⁵ Cf. Naber's *praefatio* to the *AJ* text.

¹⁶ Theodore Lodge, *The Famous and Memorable Workes of Iosephus*, 1632, p. 407 and 586.

¹⁷ Ebenezer Thompson & W.C. Price, *The Works of Flavius Josephus*, 1777, Vol. 1, p. 604 and Vol. 2, p. 238.

¹⁸ S. Havercamp & J. Hudson, *Flavii Iosephi Hebraei Opera Omnia*, 1782, Vol. 2, p. 610-1.

¹⁹ William Whiston, *The Works of Flavius Josephus*, 1839, Vol. 2, p. 544 and Vol. 3, p. 381. The *Complete Works of Josephus*, 1924, a "new and revised edition based on Havercamp's translation," is actually a

employs the translations of Marcus & Thackeray, which matches the Whiston translation in meaning: “he also associated him with the procurators of Syria, instructing them to obtain Herod’s consent to all their actions” and he “gave Herod the position of procurator of all Syria, for the (Roman) procurators were forbidden to take any measures without his concurrence.”²⁰ This improves on Whiston in one important respect: whereas Whiston’s rendering of the *BJ* allows that the advice merely needed to be sought, not necessarily followed, Thackeray correctly eliminates this interpretation (following the Greek). Nevertheless, this same error is repeated in many of the German and French translations (below). Even the Penguin edition of the *BJ* by Williamson gets the of fice correct, though it is less loyal to the text, stating that “he made him procurator of all Syria, with power to veto any decision of the other procurators.”²¹ Unfortunately Feldman’s translation and commentary has so far skipped book 1 of the *BJ* and only reached book 10 of the *AJ*.²² And though Cornfeld’s edition of the *BJ* gives a correct translation, it has a confusing and not very useful commentary (discussed below). Closely following Thackeray, he writes that Caesar “awarded Herod the position of procurator of all Syria so that other (Roman) procurators were forbidden from taking measures without his concurrence.”²³

These passages have fared worse in other languages in the last century. In German, the *AJ* passage is rendered by Clementz as “Auch brachte er ihn in nähere Beziehungen zu den Statthaltern von Syrien, denen er auftrag, nichts ohne des Herodes Zustimmung vorzunehmen,”²⁴ “He also brought him into a closer relationship with the governors of Syria, instructing them not to act without Herod’s approval,” the key word here being ‘Statthalter’ which regularly means “governor” and thus repeats the old errors of Lodge, Thompson and Price. This error is repeated in his translation of the *BJ*, “ernannte er ihn sogar zum Statthalter von ganz Syrien, sodass die unter ihm stehenden Landpfleger keinerlei Anordnungen treffen durften, ohne vorher seine Zustimmung

verbatim copy of Whiston, who employed Havercamp’s text; cf. Vol. 2, p. 555 and Vol. 3, p. 464.

20 The *AJ* passage was translated by Ralph Marcus and edited by Allen Wilkgren when Thackeray’s death prevented its completion, here quoted from *Josephus in Ten Volumes*, Vol. 8, 1963, p. 175; the *BJ* passage was translated by Thackeray, here quoted from *Josephus in Nine Volumes*, Vol. 2, 1927, p. 189.

21 G.A. Williamson, *The Jewish War*, 1959, p. 74.

22 Mason, op. cit.; this began with v. 3 (out of sequence) in 2000, containing bks. 1-4 of the *AJ*, with tr. and commentary by Louis Feldman; other volumes have followed, unfortunately many still out of sequence, and the relevant books for our purposes have not been completed. In 2008, v. “1b” was published containing only bk. 2 of the *BJ*.; and the *AJ* has been brought up only to bk. 10 (in v. 5, released in 2005).

23 Gaalya Cornfeld, ed., *Josephus: The Jewish War, Newly Translated with Extensive Commentary and Archaeological Background Illustrations*, 1982, p. 76.

24 Heinrich Clementz, *Des Flavius Josephus Jüdische Altertümer*, Bd. 2, 1959 (c1900), p. 353.

einzuholen,”²⁵ “He even appointed him governor [*Statthalter*] of all Syria, so that the ministers [*Landpfleger*] under him were not allowed to issue any orders at all without first seeking his approval.” Thus, not only did he render *epitropos* as ‘Statthalter’, but *epitropoi* as ‘Landpfleger’, which literally means “Land-keeper” and usually refers to prefects (and in modern parlance “governors”), and here, as men giving orders, that is certainly what Clementz had in mind.

The *BJ* passage is given by Berendts & Grass as “Er setzte ihn aber über die Syrischen Gewalthaber und über alle Befehlshaber, auf dass nichts ohne seinen Befehl täten,”²⁶ “He even put him in charge of the Syrian leader and of all commanders, in that they did nothing without his command.” The key words here, ‘Gewalthaber’ and ‘Befehlshaber’ mean, respectively, ‘power-holder’ and ‘command-holder’, neither of which correctly grasps the sense of a procurator, but instead entails actual political-military power. Strictly speaking this is a translation from the medieval Slavic version of Josephus, and though the authors extensively compare it against the Greek text, their German is intended to be loyal to the Slavic. Nevertheless, they claim in a footnote, without argument or explanation, that “the facts are better put in the Slavic” than in the *BJ* or *AJ*. But if they actually have done justice to the Slavic, this clearly is not so.

Michel & Bauernfeind also provide a translation of the *BJ*, writing “Er setze ihn aber auch...als Verweser über ganz Syrien ein, sodaß es den Prokuratoren nicht gestattet war, ohne vorherige Beratung mit ihm Anordnungen zu treffen,”²⁷ “He also appointed him as administrator over all Syria, so that the procurators could not act without first meeting with him for advice.” Here the key word is ‘Verweser’ which refers to any kind of administrator, deputy or agent, and thus is a slightly better choice on account of its ambiguity. But this word has been used to translate other roles (besides procurator: *vicarius, curator, administrator, patricius, patronus, dioecetes*) including those equivalent to “governor” (*praetor, praefectus, legatus*).²⁸ So ‘Verweser’ is not a good choice here, especially when *epitropos* is already rendered ‘Procurator’ when speaking of the other procurators, but not when translating the very same word as the office given to Herod, incorrectly implying that Josephus said something different here.

The most recent German translation of the *BJ*, by Hermann Endrös, is here the very worst of all, following Clementz a bit too loyally. He writes “machte er ihn sogar zum Statthalter von ganz Syrien, so daß es den einzelnen Statthaltern nicht möglich war, ohne Beratung und Fühlungnahme mit Herodes Verfügungen zu treffen,”²⁹ “He even

25 Heinrich Clementz, *Geschichte des Jüdischen Krieges*, 1923, p. 114.

26 Alexander Berendts & Konrad Grass, *Vom Jüdischen Kriege Buch I-IV*, 1924, p. 138.

27 Otto Michel & Otto Bauernfeind, *Der Jüdische Krieg*, 1960, p. 107.

28 cf. “Verweser” in Jacob Grimm & Wilhelm Grimm, *Deutsches Wörterbuch*, 1956, esp. §1 and §2a-c, for Latin equivalents and history of usage.

29 Hermann Endrös, *Der Jüdische Krieg*, 1964, p. 94.

made him governor of all Syria, so that it was not possible for the individual governors to make any provisions without consultation and prior contact with Herod.” Here the only word used in both cases is the incorrect ‘Statthalter’, governor, in the singular and plural.

More confusion lies in the French translation of the *BJ* by Pelletier, which says “Il fit aussi de lui un préfet de toute la Syrie...puisqu'il interdit alors aux préfets de prendre aucune mesure sans l'accord d'Hérode,”³⁰ “He also made him a *prefect* of all Syria... since he then prohibited the *prefects* from taking any action without the agreement of Herod.” This splits the difference between governor (= legate = *propraetor* or *proconsul*) and procurator by translating *epitropos* as *prefect*, but this is still incorrect, since there were distinct differences between a *prefect* and a procurator, as we shall see. A correct translation in French would be *procurateur*. Thus, Savinel renders the *BJ* quite rightly as “il nomma Hérode procurateur général de Syrie, interdisant aux procurateurs de prendre une décision sans le consulter”,³¹ “he named Herod procurator-general of Syria, forbidding the procurators to make a decision without consulting him.” In contrast, the popular D’Andilly translation misses the mark, giving for the *AJ*: “fut d’ordonner aux gouverneurs de Syrie de ne rien faire que par son avis,”³² “[Augustus] gave orders to the governors of Syria to do nothing but what was according to [Herod’s] opinion”; and for the *BJ*: “défendit à tous les gouverneurs de rien faire sans le conseil d’Hérode,”³³ “[Augustus] forbade the governors to do anything without Herod’s counsel.” Both use the incorrect ‘gouverneur’. Unfortunately the Nodet translation and commentary has not as yet reached book 15 of the *AJ*.³⁴

In the end, the oldest 20th century French translation turns out to be the best, though still not as precise as Thackeray’s English. This is the monumental edition by Théodore Reinach.³⁵ Later French translators in my opinion have not uniformly improved on it. Here, Joseph Chamonard gives the *AJ* passage as “Il décida, en outre, de l’associer à l’autorité des procurateurs de Syrie, auxquels il enjoignit de ne rien faire sans prendre l’avis d’Hérode,”³⁶ “He decided, in addition, to introduce him to the authority of the procurators of Syria, enjoining them to do nothing without getting Herod’s advice,” and René Harmand gives for the *BJ* “il nomma aussi procurateur de toute la Syrie...car il défendit que les procurateurs pussent prendre aucune décision sans son conseil,”³⁷ “He also appointed him procurator of all Syria...as he forbade the procurators to make any

30 André Pelletier, *Joséphe: Guerre des Juifs*, 1975, v. 1, p. 120.

31 Pierre Savinel, *La Guerre des Juifs*, 1977, p. 178.

32 Arnauld D’Andilly (adapted by J.A.C. Buchon), *Histoire Ancienne des Juifs & la Guerre des Juifs contre les Romains 66-70 ap. J.-C.*, 1973, p. 489.

33 *ibid.*, p. 671.

34 Etienne Nodet, *Les Antiquités Juives*, begun in 1992; v. 5 with bks. 10 & 11 was published in 2010.

35 Théodore Reinach, ed., *Oeuvres Complètes de Flavius Josèphe*, 1900-1928.

36 *ibid.*, v. 3, 1904, p. 347.

37 *ibid.*, v. 5, 1912, p. 80. This was revised by Reinach.

decision without his advice.” Indeed, Chamonard even appends a footnote to his translation of this passage making explicit the very distinction other translators have missed: “*epitropoi* designates, strictly speaking, the procurators, not the governor of the province,” adding that “the way it is put in the *BJ* is most likely exaggerated,” perhaps thinking along the same lines as Otto (below).

In conclusion, some confusion still exists about how to translate these passages, but the current English authorities are the most accurate, with whose meaning my own translation concurs. If the received text is correct, as it seems to be, in the *AJ* Josephus claims that Augustus “mixed” (*egkatameignumi*) Herod with those who were “procurating” (*epitropeuô*) Syria, and “commanded” (*entellô*) that they do “everything” (*ta panta*) “after” (*meta*) Herod’s “opinion” (*gnômê*). In the *BJ*, clearly describing the same decision of Augustus, Josephus claims that Augustus had “appointed” (*kathistêmi*) Herod “procurator” (*epitropos*) of “all Syria” (*Syrias holês*), “so that” (*hôs* + infinitive = *hôte*) it would be “allowed” (*exesti*) to “the procurators” (*hoi epitropoi*) to “manage” (*dioikeô*) “nothing” (*mêden*) “contrary to” (*dicha*) Herod’s “advice” (*symbolia*). The translation is straightforward and, apart from the surprising meaning, there is no obvious corruption of the text.

The Interpretations

This passage has garnered a lot of attention, but rarely more than cursory treatment. ³⁸ Sandmel took it to mean something impossible to conceive, that a Jewish king was assigned a proconsular command over a crucial Eastern province (or perhaps the prefecture of part of it), by Augustus of all men, who was at the time still playing at having restored the traditional Roman republic. The Senate would have been shocked (and might have started sharpening some knives), and it is doubtful Augustus would have even considered something so insulting to the Roman political mind. Hence most scholars have rejected the notion that Herod was chief *procurator* over a whole province, much less governor. For instance, there is a footnote in Marcus’ translation of the *AJ* stating that “according to *B.J.* i.399, Augustus appointed Herod ‘procurator of all Syria’, which seems an exaggeration unless we read ‘Coele-Syria’ (*Koilês Syrias*) for ‘all Syria’ (*holês Syrias*),”³⁹ citing Walter Otto (discussed below), who actually rejects that emendation, but shared Marcus’ astonishment that Josephus would say something so

³⁸ I will address all distinct arguments forthwith, but some of them are discussed or repeated in other works such as W. Horbury et al., *The Cambridge History of Judaism*, vol. 3, 1999: pp. 118-122; or L.-M. Günther, *Herodes der Große*, 2005: p. 135.

³⁹ Marcus, *ibid.*

remarkable. This conjecture actually goes all the way back to Marquardt and is properly to be attributed to him, as we shall see.

Schürer, of course, is always the first authority to consult on Judaeana affairs. He remarks that “the unbounded confidence which Augustus had in him is shown conspicuously in this, that he, perhaps only during the period of Agrippa’s absence from the East...gave orders to the procurators of Syria (Coele-Syria?) to take counsel with Herod in regard to all important matters.”⁴⁰ Schürer plays down the text by suggesting that the appointment was temporary (a stop-gap for the absence of Agrippa), and as Marcus suggests, perhaps only relating to Coele-Syria. But he correctly characterizes the position as a rare honor, certainly a sign of astonishing trust on the part of Augustus. But Schürer still sees the office as merely an advisory one, contrary to the more adamant language of Josephus. In a footnote Schürer supplies his reasoning: Josephus’ words are “somewhat obscure” and notably different in each passage, and

from the nature of the thing it cannot refer to a formal subordination of the procurators of Syria under Herod, but, as even the expression *symbolias* in the latter [*AJ*] passage shows, only to the fact that the procurators as finance officers for the province were told to make use of the counsel of Herod. Also it is probable that for *Syrias holês* (resp. *Syrias*) we should read *Syrias Koilês* [for this Schürer cites Marquardt (see below)—ed.] ... One should not take the note too seriously, since it evidently comes from the glorifying pen of Nicolas of Damascus.

Thus, Schürer believes that *symbolias* can only refer to Herod’s acting as a *consilium*, a source of advice, without any formal authority, but this does not explain the way the word is used (“so the procurators can do nothing without his advice” does not sound like such an informal arrangement) nor does it address the fact that, following the *BJ*, Josephus apparently felt the word *gnômê* was synonymous in meaning here, a more forceful word that means judgement, opinion, will, and that can even be used for the resolutions of councils and verdicts of courts. Schürer also ascribes to the idea of a dropped *kappa* in the *BJ*, no doubt because this would make Josephus’ statement somewhat less amazing in scale, but since there is little chance of an identical error simultaneously occurring in the *AJ* we cannot find solace in proposing such an emendation to the *BJ* simply because it looks tempting.

Schürer’s one good argument is one that no one else has made a point of noting: Josephus’ principal source for the reign of Herod in *AJ* books 14-17 (and presumably for the parallel material in the earlier *BJ*) is the *Histories* of Nicolaus of Damascus, a close

⁴⁰ Emil Schürer, *A History of the Jewish People in the Time of Jesus Christ*, 1890, eng. tr. by John MacPherson, 1994, 1st div., vol. 1, p. 453.

friend of Herod, who in turn relied on first-hand knowledge and Herod's own *Memoires*.⁴¹ From our knowledge of Nicolaus as an unabashed apologist for his friend, Schürer dismisses the element of exaggeration in Josephus as coming from Nicolaus' "glorifying pen." But this argument cuts both ways. For there could be no more expert an authority on Herod's reign than Nicolaus, giving the report substantial authority. Moreover, this particular passage implicates Augustus and thus faced the danger of condemnation as an obvious lie from Rome, which Nicolaus was still keen to court as a supporter of Archelaus, Herod's successor. And Josephus was well-aware of Nicolaus' bias and sufficiently critical of it not to rely solely on him (cf. *AJ* 16.183-7 and 14.9). In fact, we know Josephus consulted Herod's memoirs directly, and "others" (*tois allois*) who wrote about Herod's reign (*AJ* 15.174), so we cannot be sure the passages that concern us come solely from Nicolaus or if they come from him at all. Finally, even granting that Nicolaus exaggerated, and Josephus accepted that exaggeration uncritically, we still cannot say just what the exaggerated elements of the story are. Schürer tries to hit upon them all, but this is *ad hoc*.

More recent scholars have not given the matter sufficient attention. Perowne garbles the details in the one sentence he devotes to the event, writing only that during Caesar's visit to Syria in 20 B.C. Herod "was made one of the procurators of Syria, and the Roman governors enjoined to act always with his advice,"⁴² which is incorrect (only the procurators were so enjoined, not the "governors"). Zeitlin also softens the report considerably, along the same lines as Schürer and others, when he says "Augustus Caesar also appointed Herod a sort of counsellor to the procurators of Syria; that is, he gave Herod the privilege of counselling the procurators in all their actions, which was a substantial privilege for one of their client-kings."⁴³ Indeed it was, but Zeitlin does not explain why he reduces what Josephus actually says to a vague advisory role. And strangely, despite writing nearly 900 pages on Herod the Great, Schalit completely ignores these passages. He only mentions in passing the addition of the lands of Zenodorus, reported in the very same place in both the *AJ* and *BJ*.⁴⁴

Between the works of Perowne and Zeitlin an article appeared by István Hahn whose title gave the appearance of addressing this very issue in substantial detail, but in fact Hahn devoted merely two paragraphs to it out of a staggering 18 pages (the rest dealing instead with Herod's two prior posts as *strategos*, which we will address later).⁴⁵

41 Cf. *FGrH* §90, §236.

42 Stewart Perowne, *The Life and Times of Herod the Great*, 1959, p. 146.

43 Solomon Zeitlin, *The Rise and Fall of the Judaean State*, 1967, vol. 2, p. 43.

44 Abraham Schalit, *König Herodes: Der Mann und sein Werk*, 1969, p. 327.

45 István Hahn, "Herodes als Prokurator," in Elisabeth Welskopf, ed., *Neue Beiträge zur Geschichte der Alten Welt*, Bd. II (*Römisches Reich*), 1965, pp. 25-43; presented at a conference in 1962. Only the first and last pages (25 and 35) address the appointment in 20 B.C., and only the last does so in any detail.

He repeats the common practice of downplaying the plain words of Josephus by saying instead that Herod was merely made an “advisor [*Rat*] to the procurators of Syria,” and he errs in saying that “The legate [*Der Legat*] of the province was instructed to obey his counsel in every matter,”⁴⁶ whereas Josephus mentions only procurators, not the legate of Syria. Hahn also assumes without argument that Herod’s prior positions as *stratêgos* of Coele-Syria in 47 and 43 B.C. were somehow related to the position of *epitropos* given him by Augustus in the year 20 (based in part on his support of Marquardt’s implausible ‘Coele-Syria’ conjecture), but as we shall see later, such an equivalence is neither logical nor implied by anything Josephus says.

Hahn tries to build this equivalence circuitously by proposing that in both *BJ* 1.399 and 1.225 the “whole Syria” could be a translation error from an Aramaic form for Coele-Syria in the ‘original’ *BJ*. This argument fails for two reasons: first, it has since been demonstrated through grammatical and thematic analysis that the *BJ* as we have it is not a mere translation as Josephus claims, but clearly an original Greek composition;⁴⁷ second, the *hapasês* in *BJ* 1.225 also appears in *AJ* 14.280 but is not associated there with *Syrias* but is matched in both passages with the cognates *epimeleia* and *epimelêtês* (see note below). Moreover, this proposed error would make little sense of *AJ* 15.360 since that was not even reportedly a translation from Aramaic or Hebrew (it was directly composed for a Gentile audience, as explained in *AJ* 1.pr .5-10) and no word corresponding to “whole” appears there.

Uncertain of this connection himself, Hahn concludes:

Josephus provides the following information, which is by no means clear: when Augustus visited the province of Asia ten years after the conclusion of Actium (20 B.C.), he gave Herod the territories of Zenodorus and appointed him at the same time the *epitropos* of all Syria (*BJ*) or—according to the more careful formulation in the *AJ*—placed him among the procurators of Syria and ordered them to do everything according to his opinion. These passages contradict each other: if Herod was *epitropos* of all Syria, he could not be called *symbolos* of the current *epitropoi* at the same time!

Hahn confusedly sees a contradiction where there is in fact a corroboration: when all the procurators of Syria have to obey Herod, then Herod is *de facto* the procurator of all Syria. The *BJ*, as usual, merely compresses what is spelled out in the *AJ*. Contributing to Hahn’s confusion is apparently the ambiguity of the word *symbolia*, which can mean

⁴⁶ *ibid.*, p. 25. All translations from German texts quoted here are my own.

⁴⁷ Cf. Steve Mason, *Josephus and the New Testament*, 1992, pp. 58-9, with Attridge and Bilde cited *ibid.*, p. 83.

simply *concilia*, but can also mean *gnômê* (and Josephus clearly uses them as synonyms in his two versions of this event). Hahn continues:

So the information Josephus provides can only be regarded as historically reliable if the allegedly “procuratorial” powers of Herod regarding “all Syria” consisted simply of the fact that the current Legates [*die jeweiligen Legaten*] of the province were obliged to seek his advice [*Rat*] in every important question. The word *epitropos* is thus not to be taken in the technical, legal sense. The right to be asked by the governors [*die Statthalter*] of Syria did not by any means extend whatever existing procuratorial powers Herod already had—it could not have provided this—but, surely, this was merely what Josephus understood about procuratorial powers. Given the expansion and political-military importance of this kingdom in the border region between the Roman and Parthian empires, a constant mutual contact [*Kontakt*] between the governors [*den Statthaltern*] of the most important eastern province and the most powerful client king could only be desired. As far as we know, it worked in reverse for Herod as well, so that in difficult diplomatic and family questions he had to consult the Legate [*den Legaten*] of Syria.

Hahn, like so many scholars who have examined this issue, clearly does not understand the legal distinction between legates and procurators, and consequently the above paragraph is full of confusions. Since Josephus does not mention legates, but specifically says only *procurators* had to obey Herod, Hahn’s entire reasoning collapses: for instead of what Hahn sees as obscurity, it is because of the specificity of Josephus that we *should* take *epitropos* here in its technical, legal sense. Indeed, Hahn forces himself into an interpretation that is trite and trivial: he claims that Josephus merely meant that Herod and the governors of Syria had to confer with each other. But since that is obvious, and certainly had always been the case already, there could be no reason for Josephus to describe this general political reality in the specific and particular way that he does. It is clear that Herod is being appointed in 20 B.C. to a position with some real and notable authority, and that Josephus is not talking about a general arrangement of cooperation between Roman leaders and client kings.

Some years later, Michael Grant picked up the problem, concluding without argument that

Augustus entrusted Herod with some sort of an appointment in connection with the province of Syria. Probably he was made financial adviser to the imperial agent (procurator) who stood second only to the provincial

governor in a quasi-independent position; and his function may have included lucrative duties relating to the collection of taxes.⁴⁸

Without stating his reasons, in two sentences Grant rejects what Josephus plainly says, that Herod was appointed (chief) procurator with supreme authority over all the other procurators of Syria, and proposes instead that he was made an “advisor” to the (chief) procurator of Syria, perhaps having something to do with tax collection. Grant is also wrong about the imperial procurator being in some sense “second” in command (as will be demonstrated later). His use of the vague word “quasi-independent” also dodges the question of what sort of power, official or otherwise, Herod had just received.

Smallwood gives the issue a sentence and a footnote, concluding that “Augustus appointed Herod financial adviser to the province of Syria with powers to supervise all actions by the procurators there; but what this amounted to in practice is obscure, as there is no record of his advice being either prof ferred or sought.”⁴⁹ She thus shares the predominant view that it was merely an “advisory” role (or maybe “supervisory ,” whatever that would entail), but uniquely bases her reticence on the fact that we have no examples of Herod’s acting in this capacity to judge from. In a corresponding footnote, Smallwood says that the *BJ* version “is clearly absurd,” citing Otto (again as if he supports the theory when in fact he does not) that it is “possible” Josephus had actually written ‘Coele-Syria’, and thus only meant that “Herod was given some specific control over the Decapolis,” similar to previous appointments of Herod as *stratêgos*. Smallwood elaborates, concluding that in 47 B.C. Sextus Iulius Caesar had appointed Herod “to a post in the direct service of the Roman government in Syria as military governor of the Decapolis and the city of Samaria, former Jewish possessions,”⁵⁰ a position later confirmed by Cassius.⁵¹ This supposed parallel, also proposed by Hahn (above), will be addressed in detail later , but we have already noted that this ‘Coele-Syria’ conjecture is unacceptable from the start.

Though aware of Smallwood’s opinion, Baumann, following Hahn, completely missed the distinction that must be made between ‘procurator ’ and ‘governor ’. He, too, devotes a single sentence to the issue, which I translate here:

In 20 B.C. Augustus made the Jewish king the ‘advisor ’ [*der Berater*] to the governor [*der Statthalter*] of Syria; what real authority went along with this remains essentially unclear; one might imagine that in giving this

48 Michael Grant, *Herod the Great*, 1971, p. 149.

49 E. Mary Smallwood, *The Jews Under Roman Rule: From Pompey to Diocletian (A Study in Political Relations)*, 1981, pp. 87-8.

50 *Ibid.*, p. 45, interpreting *AJ* 14.178-80 and *BJ* 1.212-213.

51 *Ibid.*, p. 47, interpreting *AJ* 14.278-84 and *BJ* 1.224-9.

‘role’ [*Funktion*] to Herod, a constant contact [*ständiger Kontakt*] regarding all outstanding problems was meant to be established between the most powerful client-king in the East and the governor [*Statthalter*] of the most important eastern province.⁵²

By mistaking Josephus as referring to ‘the governor’ of Syria, Baumann’s conjecture is wholly moot, and his reduction of the text to meaning only an ‘advisory’ role unjustified. Ultimately, Baumann’s (repeating Hahn’s) interpretation is even more ambiguous than what Josephus actually says (e.g., what exactly does *Kontakt* mean?).

A year before Baumann’s work came out, Cornfeld’s translation of the *BJ* with ‘extensive commentary’ was published. He appends a confusing explanation of 1.399 in a sidebar (ibid. op. cit., above), stating that this meant Herod was made procurator of those provinces already formally annexed to his territory, which is clearly not what Josephus says. Cornfeld confusingly uses the word “province” as a synonym of “territory” throughout his commentary, rather than employing it in the formal Roman sense, a choice certain to confuse less expert readers, as when he says this procuratorial power extended over “the provinces south of Damascus up to the borders of Herod’s kingdom.” Finally, as Cornfeld puts it:

Imperial procurators were high officials responsible mainly for the collection of taxes paid to Rome. Herod played a certain role in the administration of Syria after the year 20 B.C. (at the zenith of his rule) as a result of the decree of Augustus to the imperial procurators *in provincia* to permit him to take part in their deliberations and decisions.

We will seek greater clarity on this point later, but for now observe that, contrary to the picture painted here, procurators were not of officials, but private employees, of widely varying rank and responsibilities, and as such there would have been no need of a ‘decree’ from Augustus to establish what Josephus describes: as his personal agents, no legal manoeuvre was needed for Augustus to tell them what to do.

Finally, Peter Richardson follows the trend in devoting a single sentence to the question, noting that “In a further mark of his esteem, Augustus gave Herod procuratorial responsibility in Syria, probably confined to border regions, though Josephus’ description makes it sound more extensive and important.”⁵³ Again without saying why, Richardson rejects what Josephus says and comes up with his own conjecture that the appointment only concerned “border regions” (probably following Marquardt’s

⁵² Uwe Baumann, *Rom und die Juden: Die römisch-jüdischen Beziehungen von Pompeius bis zum Tode des Herodes (63 v. Chr.-4 v. Chr.)*, 1983, p. 213.

⁵³ Peter Richardson, *Herod: King of the Jews and Friend of the Romans*, 1996, p. 234.

conjecture of Coele-Syria for “all Syria”), simply because what Josephus said entailed something “more extensive and important” than Richardson thought possible. Since then only Anthony Barrett has gotten close to a correct analysis of the matter, which corroborates what I will argue here.⁵⁴

The Meaning of ‘Procurator’

All this brings us back to Walter Otto, who writes that “Augustus instructed the officials [den Beamten] of the Roman government in Syria to handle all affairs there solely in agreement with Herod, but of course gave no legal authority over the province to the vassal Herod, although a passage in Josephus seems to suggest this.”⁵⁵ He then elaborates in a lengthy footnote what he means, the most anyone had ever written on the subject (until Barrett). My translation of his note follows:

The passages are obscure, and in the one from the *AJ* something is probably missing, but in any case it seems impossible to me to read *epitropos* here in the technical sense of *procurator*, not only because it is a Roman office, but simply the fact that Herod is being granted this title (just as, e.g., in Caesar’s grant of such a position to Herod’s father, Antipater, the word *epitropos* is not used by Josephus in its technical meaning, cf. *BJ* I 199: *pasês epitropos Ioudaias*; also *AJ* XIV 143 and 166). Naturally it is completely impossible to conclude from this, with Gardthausen, op. cit. I 818, that Herod was appointed chief tax-farmer of Syria [on which see below—ed.]. And it’s undesirable to change *holês* in the *BJ* to *Koilês* (as suggested by Marquardt, *Röm. St.-V.*² I 408, 2, but he incorrectly assesses the whole position of Herod), so one must take the passage from the *BJ* as a huge exaggeration, since it results in the impossibility of putting the vassal Herod over an entire Roman province (cf. p. 19, where the same impossibility has already been rejected once), and instead base the facts on the passage in the *AJ* (particularly the word *gnômê*, the *symbolia* in the *BJ* representing yet another amplification).

⁵⁴ See Barrett, op. cit. (though correct and valuable in his analysis, he is hesitant to declare a certain conclusion because, I believe, he overlooks the fact that, as we shall see, in principle and in practice the same person could be appointed both procurator and prefect, and Josephus only says that Herod was appointed the one, not the other; by contrast, Eck, op. cit., correctly detects the fact of dual appointment, but doesn’t discuss Herod in this connection, as he only treats events after 6 A.D.).

⁵⁵ Walter Otto, “Herodes,” *Paulys Realencyclopädie der Classischen Altertumswissenschaft*, Suppl. II, 1913, p. 71.

The emendation of the *holês* to *Koilês* in the *BJ* could well resolve the difficulty, if for instance one puts it on a level with information such as in *BJ* I 213 and *AJ* XIV 180 [where Sextus Iulius Caesar, as governor of Syria, makes Herod *stratêgos* of Coele-Syria and Samaria in 47 B.C.—ed.]. Since, however, this emendation creates a contradiction with the passage in the received text of the *AJ*, it seems to me that avoiding it is the better method.

Otto's conclusion is somewhat contradictory: he says Augustus instructed "the officials" to follow Herod's orders, but that this was not a legal authority over the province. It is hard to understand how these two states of affairs could be any different: the administration acting "solely" (*durchweg*) in agreement with Herod gives Herod *de facto* legal authority over the province. But Otto is correct that a "vassal" being given command of a Roman province presents an apparent contradiction, and he can only say that Josephus must be exaggerating.

It is strange that Otto never emphasizes that Herod's authority in both passages is specifically restricted to procurators. Josephus pointedly avoids mention of any actual government officials (neither prefects nor legates nor any military officers of any kind), and Otto's translation of *epitropos* as 'Beamte' has become obsolete and is now misleading, thus obscuring this fact further. Today 'der Beamte' usually means a local official, civil servant, or bureaucrat, while forty years ago its most basic meaning was any agent who handled money in trust—as Grimm & Grimm put it, Beamte most readily meant any *munere fungens*.⁵⁶ Hence the word might have been a natural choice for Otto, referring (we can suppose) to Caesar's private agents, but today that sense is almost totally lost. Even so, whatever he meant, Otto never points out the distinction Josephus was making, and seems to think (wrongly) that having authority over procurators was equal to having "legal authority" over Syria. Though Otto does admit the passages are not very clear, they are clearer than he makes them out to be.

Otto then gives his reasoning for regarding these passages as exaggerations. He remarks in passing that maybe something is missing from the text of the *AJ* (clearly echoing Niese's remark, discussed above). But apart from the incredible thought of a vassal king ruling a Roman province, he principally rejects taking *epitropos* as meaning simply procurator [*Prokurator* = one who has power of attorney] for two reasons: he assumes only Romans could be procurators, and that in a preceding parallel instance the term must have had a different meaning: Julius Caesar's making of Antipater "*epitropos* of all Judaea." But Otto's reasoning is unsound. On the one hand, Herod was a Roman

⁵⁶ Contrast "Beamte" in the *Oxford-Duden German Dictionary*, 1990, with that in the *Deutsches Wörterbuch*, 1956.

citizen,⁵⁷ and procurators were private employees (as we shall see), and thus there could be no objection to Augustus hiring Herod to manage affairs in Syria as a procurator. Even freedmen could hold that position, so it would not offend the sensibilities of the Roman elite to hire a foreign king to do the same job.⁵⁸

In fact, the precedent Otto points to could well be a similar procuratorship—Otto certainly offers no good reason to think otherwise. This point needs closer examination, as it begins to explain the resolution of the entire difficulty. Josephus writes:

Caesar declared Hyrcanus quite worthy of the high priesthood, and gave Antipater his choice of office. But Antipater put the choice of honor back on the honor-giver, and he was appointed procurator of all Judaea [*pasês epitropos Ioudaias*] and also received the task [*prosepitunchanô*] of rebuilding the walls of his country that had been torn down. [*BJ* 1.199]

Caesar appointed Hyrcanus high priest and left it to Antipater to decide upon an office that he would take for himself, but he put the decision back upon Caesar, who appointed him procurator of Judaea [*epitropos tês Ioudaias*]. He also entrusted Hyrcanus with the task of raising up the walls of his country, since Hyrcanus had asked for that favor, for they had been in ruins since Pompey tore them down. [*AJ* 14.143]

These two passages together paint the following picture: Julius Caesar confirmed Hyrcanus in power (he was both king and high priest, which was usually the case until Herod's accession), and honored Hyrcanus' right-hand-man Antipater (Herod's father) with the official title "procurator of all Judaea." Then in the *BJ* Josephus says Antipater was also tasked with rebuilding walls, but in the *AJ* it is Hyrcanus who receives this task, having asked permission for it. However, this apparent contradiction is easily resolved by examining exactly what Josephus says. For Hyrcanus could naturally deputize Antipater, now as procurator of Judaea, to actually do the work, and the use of the verb *prosepitunchanô* ("also hit upon, also stumble upon") in the *BJ* suits this interpretation perfectly. Indeed, it is possible that the rebuilding efforts were aided by funds supplied by Caesar himself, which would require a procurator to administer, making further sense of Antipater being given this title. But even absent that conjecture, as procurator of Judaea, Antipater would be the man in charge of any Roman money sent their way, to be used or kept in trust, as well of any lands or other property interests Caesar held in Judaea. Above

57 Client kings usually were, and indeed Herod had inherited his citizenship from his father: *BJ* 1.194; *AJ* 14.137, 16.53.

58 Freedmen as imperial procurators: P. R. C. Weaver, "Freedmen Procurators in the Imperial Administration," *Historia: Zeitschrift für Alte Geschichte* 14.4 (October 1965), pp. 460-69.

all, he would be responsible for collecting and managing the tribute owed by Judaea to Caesar.

Alternatively, or additionally, the title of procurator may have meant here an agent of Hyrcanus, not of Caesar. In such a case, Caesar was merely confirming Antipater's position as Hyrcanus' deputy, using Roman legal terms, since both men were Roman citizens (see note above), and an exact title would matter under Roman law. Royal power was usually conceived as a private family affair rather than a public trust, so that, in contrast to a Republic, a *royal* procurator could be in all respects the same as a governor. This last possibility has one strong point in its favor: in *AJ* 14.127 Antipater is described as "the deputy-governor [*epimelêtês*] of Judaea [or 'of Jewish affairs'] by order of Hyrcanus." The title *epimelêtês* ("one who cares for") often refers to an official curator or deputy (and more commonly the holder of a public trust rather than a private employee). So this can refer more easily to a governor or even a general, than can *epitropos* ("one who is entrusted with"), but otherwise these terms are similar in meaning.⁵⁹ It makes sense that Caesar simply conferred upon Antipater the position he already had by order of Hyrcanus, but now in Roman terms, and with Caesar's sanction, thus securing Antipater against any changes of mind that might strike Hyrcanus. This would have ample precedent in the conduct of affairs in Hellenistic kingdoms, where kings would put all the money in the hands of agents who accompanied their generals, thus hindering their generals from hatching designs of their own.⁶⁰ It also makes sense of later passages where Antipater is clearly building his power base by collecting and spending the king's revenues (e.g. *AJ* 14.163-4). Consequently, we have no reason to conclude with Otto that "the word *epitropos* is not used by Josephus in its technical meaning" in this instance.

Otto has also plainly misread the meaning of *AJ* 14.166, which he also offers as evidence for his position. There, Josephus writes, in the words of Antipater's wealthiest subjects, "for Antipater and his sons are not procurators [*epitropoi*] of your affairs now, don't let that idea into your head at all, but have obviously conspired to be despots," and as evidence they offer the fact that Herod had conducted illegal executions. It seems Otto took this to be evidence either that Antipater was not a procurator (though in fact it proves he was, since the meaning of the passage is that he has overstepped his role as procurator), or that Josephus was here using the term without its technical meaning (though there is no particular reason to think so). But even if Josephus was here using the term metaphorically, it does not mean he has done so elsewhere, particularly since this is not Josephus speaking, but a rhetorical speech put in the mouth of advisors to Antipater,

59 E.g. Josephus uses them interchangeably of the men who supervised the money of priests: *BJ* 2.123-135.

60 On both the private nature of royal wealth and the division of military and finance officers (*stratêgoi* and *oikonomoi*), cf. Peter Green, *Alexander to Actium: The Historical Evolution of the Hellenistic Age* (1990), pp. 187-200.

where the employment of such a metaphor would have made the chastising remark all the sharper (“these guys aren’t acting like procurators, but despots!”).

When we examine all uses of *epitropos* by Josephus we find that he was not very inclined to use it non-technically or metaphorically. In pre-Roman contexts it often referred to a king’s steward,⁶¹ except when used as part of the periphrastic title “steward of the kingdom” (*epitropos tēs basileias*) or “steward of the empire” (*epitropos tēs archês*) which referred to a regent.⁶² Again, given the private, family nature of royal power, in contrast to the distinctions made between public and private rights in Roman law, a king’s procurator could effectively be a governor, but this concept would not translate into an Augustan context. When the term did not mean steward or regent, it was used for a variety of official deputies (in the Davidic kingdom, for example) that resembled Roman procuratorships, and is typically distinguished from offices of real power. For instance, in *AJ* 7.369 Solomon places *epitropoi* in charge of certain treasuries, villages, fields, and beasts, while other men are appointed governors (archons), generals (hegemons), centurions (hekatontarchs) and platoon commanders (taxiarchs). The role of *epitropoi* is typically financial,⁶³ and distinguished from military or judicial power.⁶⁴ Even a king’s son could have one,⁶⁵ or a Roman emperor’s mother.⁶⁶ Only once does Josephus use the concept in a clearly non-technical way.⁶⁷

In strictly Roman contexts, Josephus appears to always use the word in its technical sense. Josephus never uses it for a person of senatorial rank. He describes Herennius Capito as a procurator of the particular town of Jamnia, demanding the payment of tribute owed to Caesar (*AJ* 18.158); and Sabinus as “Caesar’s procurator of Syrian affairs” overstepping his authority by persuading soldiers to help him seize money owed to Caesar, forcing the governor to intervene (*AJ* 17.221ff.; *BJ* 2.16ff.). Josephus also refers generally to Caesar’s *epitropoi* as men who collected money (*AJ* 16.26.). There is one notable exception: he often uses the word in reference to the prefects of Judaea,⁶⁸ and one might infer from this that Josephus is using the term loosely as synonymous with prefect. However, this equation has no other precedent in his writings. Since these prefects were also procurators (as we will see later), Josephus could still be using the term accurately, with its technical meaning. Though it is significant that

61 E.g. *AJ* 7.268, 18.194 (a slave as king’s steward); *VJ* 126; *BJ* 1.487.

62 E.g. *AJ* 10.5, 12.360, 15.65, 20.31; *BJ* 1.209.

63 E.g. *AJ* 8.59, 8.162; *BJ* 2.14.

64 E.g. *AJ* 9.247, 11.61, 12.221; in *CA* 1.98 having the powers of an *epitropos* is distinguished from “all the other authority of a king.”

65 *AJ* 17.69; *BJ* 5.592.

66 *AJ* 19.276 (a slave steward of Antonia, mother of Claudius).

67 *AJ* 10.278, where the verbal form is used to refer to divine providence (via God’s stewardship of the universe).

68 *AJ* 15.360, 17.221, 20.107, etc.; *BJ* 1.538, 2.16, 2.117, etc.

Josephus thinks of them primarily as procurators, this may have more to do with the theme of his history (e.g. the oppressive abuse of Roman taxation, and the inappropriate Jewish response to this) than with him using ‘procurator’ as synonymous with ‘prefect’. For Josephus otherwise distinguishes *epitropoi* from hegemon (which generically encompassed all governors, including prefects) and military officers,⁶⁹ and the previous evidence supports the notion that Josephus always had such a distinction in mind. It is also clear that Josephus knew the procurator of Judaea had special powers beyond a mere procuratorship: he knew the Judaeian procurator was also called a prefect or a governor,⁷⁰ and when the office began under Coponius in 6 A.D., Josephus introduces it in the *AJ* as one “governing Judaea with authority over everything” rather than as a procuratorship,⁷¹ and in the *BJ* he says Coponius was sent as a procurator “who also took from Caesar the authority to kill,” i.e. he was *also* made a proper prefect with *ius gladii*,⁷² hence Josephus did not assume that procurators had such powers otherwise.

There are two other points made by Otto. First, Otto rests his case that “putting the vassal Herod over an entire Roman province” is an “impossibility” on an earlier parallel conclusion. The event in question is the assignment to Herod in 43 B.C. of a position of power in Syria, with a substantial army and navy, by Cassius and Brutus as they went to face Octavian (the later Augustus) and Marcus Antonius in the Roman civil war. But Otto’s disbelief is not that justified. The situation of these men was desperate, they had to resort to extreme measures to cover the Eastern frontier and maintain a source of supplies while they brought the bulk of their forces to fight for control of Rome, and consequently it would not be surprising in this instance if they gave excessive and over-reaching powers to an allied king-to-be. Whereas, in contrast, the situation of Augustus in 20 B.C. was the normative behavior of a proconsul in peacetime acting legally (or at least wishing to appear as such) within a unified Roman empire. This still produces an *a fortiori* argument: if it was an amazing action for Cassius and Brutus, one could conclude, as Otto does, that it was a truly inconceivable one for Augustus. However, this argument does not actually apply to the action of Augustus, since Cassius and Brutus made Herod the *epimelētēs* of all the forces remaining in Syria (*BJ* 1.225; *AJ* 14.280), as *stratēgos* of Coele-Syria (*AJ* 14.280), not an *epitropos*, the latter being a substantially different and certainly less significant position.

Josephus does appear to say that this special appointment by Cassius and Brutus made Herod “deputy-governor” (*epimelētēs*) of “all Syria” (*Surias hapasēs*) in the *BJ*, but, unlike our present case with Augustus, the passage in the *AJ* expands and clarifies the brevity of the *BJ*: it says Herod was given the “whole care” of the “army” in Syria

69 E.g. *AJ* 18.170, 19.292; *BJ* 6.238, 7.9.

70 *eparchos*: *AJ* 18.33, 19.363; *hēgemôn*: *AJ* 18.55.

71 I.e. *hēgēsomenos Ioudaiôn tēi epī pasin exousiai*: *AJ* 18.2.

72 *mechri tou kteinein labôn para Kaisaros exousian*: *BJ* 2.117.

(*straton...tên epimeleian hapasan AJ 14.280*), not a formal position of deputy-governorship of all Syria (that is, as an administrative province with legal jurisdiction over Roman citizens), and thus *epimelêtês* is probably used non-technically here. Smallwood proposes that (in the *BJ*) *Syrias hapasês epimelêtên* “is probably an error” for *stratêgon Koilês Syrias* (the exact words of the *AJ*),⁷³ but it seems more likely an error (or a deliberate metonymy) for *tên epimeleian hapasan*, since the two key words here are nearly the same and appear adjacent to each other in both the *BJ* and the *AJ*. It is remotely possible that Josephus originally wrote, or intended to write, *Syrias hapanta epimelêtên*, “the whole caretaker of Syria,” since a scribal mistake of *-anta* for *-ês* is not only feasible, but here likely, by confusion with either the proximity of *Syrias* or the *-ês* termination on the otherwise masculine *epimelêtês* (and indeed taking *hapanta* with *epimelêtên* is the more difficult reading). But such an emendation is not needed, since the received text can already be read as having the same meaning. Smallwood’s argument about two different positions being implied here is thus moot: Josephus is talking about a single state of affairs in both cases, not two separate offices. The term *epimelêtês* in the *BJ* merely picks up the non-technical *epimeleia* in the *AJ*, as a description of the consequences of making Herod the official *stratêgos* of Coele-Syria at that time.

Thus, this does not serve as a parallel for *epitropos*. For *epimelêtês* is not a technical word for a Roman office anyway, thus leaving Josephus greater license for its use: it can describe a prefecture (*AJ 18.89*) or a governorship (*AJ 17.6*) on the one hand, or a property manager on the other (*BJ 2.123, 129, 134*), even those whom King David appointed to build the temple (*AJ 7.364*) or take care of city walls (*AJ 7.67*). And unlike this case under Cassius and Brutus, in the Augustan case both the *AJ* and *BJ* completely agree on the term used and Herod’s apparent powers. It is important to note the fact that *epitropos*, and its verbal cognate *epitropeuô*, always carry the forceful if not official connotation of taking charge, whereas *epimeleia* first and foremost means just “care bestowed upon, attention paid to,” an informal notion, and *epimelêtês*, though it can refer to military commands, often denotes a financial role (as seen above). In the same way, Herod’s vast benefaction of grain to all Judaea and neighboring territories during a famine is called an *epimeleia* (*AJ 15.315*), as is Agrippa’s appointment by Claudius to the task of refurbishing the Temple (*AJ 20.222*), and also the Jews’ custody and care of the priestly vestments (*AJ 18.90*). Thus, Herod’s position in Syria “as a whole” under Cassius and Brutus may have been one of controlling funds and supply lines, or providing for the military defense of all of Syria from his official strategic position in only Coele-Syria. This is implied by what Josephus says in *BJ 1.225*, where Herod’s role in providing *tas chreias* (“useful things,” possibly equipment and supplies) is stated as the reason for giving him this *epimeleia* in the first place. He might command an army to that end, but

73 Op. cit., p. 47, n. 8.

not hold supreme military command in Syria, and thus Josephus may simply be saying that Syria was then *de facto* protected solely by Herod's forces (Roman legions having to be posted elsewhere).⁷⁴ The financial connotations, and the theme of "care" that Josephus' words promote, suits such a role. The specific mention of Coele-Syria also supports this interpretation,⁷⁵ since this was a precious source of supply for the armies of Cassius and Brutus, and a region none were better positioned to defend and manage at that time than the Hasmoneans. And since this appointment sounds a lot like the one made by Sextus five years earlier (see above), it is reasonable to take this as simply a confirmation of Herod in an office he already held. Hahn equates this with a *strategia* established in the area by previous Hellenistic kings, and argues that the position given to Herod in 47 and 43 B.C. was just a carry-over of this.⁷⁶ I think this connection is inconclusive, and the point not very helpful, since the Romans could have modified the powers or borders involved and thus little can be established by seeking an analogy with Greek practice in this case. But if Hahn is correct, this also supports the view that the positions in 47 and 43 were identical and plausible. Therefore, we cannot say from this instance that Josephus tended to overstate the powers given to Herod by Romans, certainly not in a way that would undermine what he says Herod received from Augustus in 20 B.C.

Nevertheless, Otto argues that this action of Cassius and Brutus could not have happened because Appian says otherwise. Appian reports that "Cassius left his nephew (*adelphidoun*) in Syria with one legion (*enos telous*) and sent his cavalry in advance into

74 On the Roman use of client kings and their armies in this way (and Herod in particular) see Denis Saddington, "Client Kings' Armies under Augustus: The Case of Herod," in David Jacobson and Nikos Kokkinos, eds., *Herod and Augustus: Papers Presented at the IJS Conference, 21st-23rd June 2005* (Boston: Brill, 2009), pp. 303-23.

75 What was Coele-Syria? Smallwood, *op. cit.*, p. 45, n. 4, makes a case that Josephus can only mean by 'Coele-Syria' in this case (though not in every case) 'Decapolis' for three reasons (see also Barrett, *op. cit.*, p. 283): (1) this equation had wide precedent (cf. Abraham Schalit, *Scripta Hierosolymitana* 1 (1954), pp. 64-77; Smallwood also suggests that extant coinage, and Claudius Ptolemy, *Geog.* 5.14, 18, corroborate this); (2) it was made by Josephus elsewhere (*AJ* 13.355-6, 192; 14.79; 16.275; and *BJ* 1.103, 155); and (3) it is required here by the fact that the Lebanon-Antilebanon valley also given this name was at the time ruled by the Ituraean king Ptolemy. Though 'Coele-Syria' could also mean all Syria and Palestine together, this meaning is impossible here, for that would put Herod above Hyrcanus, who was then king of Judaea, and the term would also already encompass Samaria, making specific mention of that territory redundant in the earlier parallel assignment to Herod of the same command by Sextus in 47 B.C. (*BJ* 1.213 and *AJ* 14.180). Samaria is also adjacent to the Decapolis, making a command of "Samaria and Coele-Syria" quite logical if "Decapolis" was meant. Hahn argues against this equation on various grounds (cf. *op. cit.*, below, pp. 28-31), and he favors the Lebanon-Antilebanon valley. Both are vital production centers key to the success of any military campaign. I do not intend to resolve this dispute since I do not believe it is relevant to what happened in 20 B.C.

76 Hahn, *op. cit.*, pp. 26-8.

Cappadocia” (*Civil War* 4.63). Otto believes this refutes Josephus, but Appian is not referring to the same event. Cassius left a legion with his nephew , according to Appian’s narrative, before Cassius reduced Asia and Rhodes, and thus well before he marshalled everything he had for the great confrontation at Philippi. In contrast, Josephus is reporting that Herod was given command in Syria as Cassius and Brutus left for Macedonia, and thus *after* the actions in Asia and Rhodes. There certainly were no Roman legions in Syria at that time: all were going with Cassius, if they had not been sent ahead already, and the dispositions in Syria had already changed even before that (cf. e.g. *BC* 4.74). Nothing can be inferred from Appian’s silence regarding Herod, since Appian never mentions the affairs of Herod. In the whole surviving corpus of Appian, a mere five words are devoted to the king: *idoumaiôn de kai samareôn hêrôdên*, when Antony marched east against Parthia, he made “Herod [king] of Idoumaia and Samaria” (*BC* 5.75). This is simply one item in a quick list of the kings set up by Antony in various places at the time, and is not well informed (it fails to mention the more important fact that he was made king of Judaea, and still had to win his kingdom by the spear). Thus, Appian clearly had no detailed sources on Herod. Since Appian is notorious for just this sort of patch-work source-dependency,⁷⁷ Otto is quite wrong to regard him as a better authority than Josephus on this point.

Finally, Otto confusingly draws exactly the opposite conclusion from Schürer regarding the relationship of the two words *gnômê* in the *AJ* and *symbolia* in the *BJ*. Whereas Schürer thought *symbolia* entailed a merely advisory role (thus implying that *gnômê* was the exaggeration), Otto thinks *gnômê* justifies the weaker conclusion of a non-official relationship and that *symbolia* is the exaggeration. I think if any such argument is to be advanced, Schürer’s is the correct one, for *gnômê* is stronger, having readier of ficial implications than *symbolia*, which has readier links to the informal concept of *concilia*. However, if Otto instead had his eye on the *dicha* in the *BJ*, which does unambiguously assert what the *meta* in the *AJ* implies, then his view (perhaps like Chamouard’s, above) might make sense, since he clearly wants Josephus to say that they merely had to seek, not necessarily follow , Herod’s advice, though that is not what Josephus is saying. Even the *meta...gnômês* of the *AJ* must be strained to bring out such a weaker idea, and the *BJ* outright excludes it. We should sooner regard Josephus as intending the same meaning in both passages, and merely varying his idiom. Although it remains possible that he took the opportunity to correct in the *AJ* some such mistakes made in the *BJ*, the meaning of these two passages is simply too close to imagine such a correction here.

Otto also rejects the conclusions of Gardthausen and Marquardt, which we will now examine. About Gardthausen there is not much to say , since he gives no argument,

⁷⁷ Cf. Gregory Bucher, “The Origins, Program, and Composition of Appian’s *Roman History*,” *TAPA* 130 (2000), pp. 411-458.

but simply asserts that Augustus “gave explicit orders to his officials [*seinen Beamten*] in Syria, when dealing with important questions, to put themselves in agreement with the king, whom, as Josephus reports, he made the chief tax farmer [*General-Steuerpächter*] of the whole province of Syria.”⁷⁸ Gardthausen makes it seem with this remark that this is what Josephus said, when in fact it is mostly Gardthausen’s conjecture. Josephus does not overtly limit Herod’s influence to “important questions,” and it is not *immediately* obvious that Herod was made ‘chief tax farmer’ of Syria by being in charge of Caesar’s ‘agents’ there (though that is a far more sensible conclusion than Otto claims). It is notable that, unlike Otto, Gardthausen uses “*his* officials” thus preserving some sense of the private vs. official nature of their position.

Marquardt says even less, simply noting that Caesar had once made someone with a royal title a procurator of Caesar, if we take *epitropos* to have that meaning in regard to Herod. To this remark he appends a footnote that the *BJ* passage (translating his German) “only seems correct if we read *Koilês* instead of *holês*, because Josephus mentions a *stratêgos tês Koilês Syrias* already” as we’ve seen earlier, “and Herod had never had anything to do with the true Syria before.” He then proposes that Herod was given the procuratorship of the territory previously given to Cleopatra by Antonius. But here Otto is correct in dismissing Marquardt as badly confused about the situation, although Hahn makes a much clearer case along similar lines.⁷⁹ The only argument of Marquardt’s that is worth attention is that Herod had been *stratêgos* of Coele-Syria before, and had never had any power over all Syria, “therefore” Josephus must have meant a similar position again, and this (he suggests) would fit the fact that the loss of a single *kappa* in the *BJ* is plausible. However, as we’ve already noted, this emendation does not make sense of the parallel passage in the *AJ* where no equivalent error is likely, and making Herod an *epitropos* in peacetime holds no parallel at all with making him a *stratêgos* in wartime. And last, but not least, the fact that Herod had never held any position over all Syria before does not exclude the possibility of being given his first such role in 20 B.C.

Preliminary Conclusion

All the many attempts so far to explain or dismiss what Josephus meant in this case are in varying degrees incorrect, incomplete, or not well-founded. From a plain reading of the text, what Josephus describes as happening in 20 B.C. bears no relation at all to any prior *strategia* assigned to him, and cannot be emended or interpreted to have such a

⁷⁸ V. Gardthausen, *Augustus und seine Zeit*, T.1 Bd.2 (1896), p. 818.

⁷⁹ Joachim Marquardt, *Römische Staatsverwaltung*, Vol. 1 (1881), p. 408 (1975 Arno edition); cf. Hahn, *op. cit.*

connection. Nor was it a description of a merely advisory role or of a general state of formal cooperation between the Roman and Jewish government. It was an appointment to a specific office with some sort of real authority. According to Josephus, Herod was not appointed as *stratêgos* in wartime, but *epitropos* in peacetime, and not of Coele-Syria, but of all Syria. Likewise, Josephus says nothing about Herod's role being temporary or limited only to important matters, nor is there any reason to suppose he means *epitropos* in some non-technical way. Indeed, far from being obscure, Josephus is explicit in identifying Herod's new position as a *procurator* with authority over other *procurators*, and not as having anything to do with Roman magistrates, officers, judges, or any of their representatives governing Syria, and thus Josephus is certainly not describing any sort of authority related to the dissemination of justice or control of the military. In short, Josephus did not say Herod was made a Roman governor of Syria.

Moreover, the two versions Josephus gives of this event do not contradict each other, nor is one an exaggeration of the other. Rather, as is usually the case, the *AJ* merely amplifies the compressed account of Herod's rise to power in the *BJ*. The *AJ* says those acting as *procurator* in Syria (and this entails *all* Syria) had to follow Herod in every matter, and this entails that Herod was put in command of all the Syrian *procurators*. Thus, when the *BJ* says he was made procurator of all Syria, it is certainly stating the obvious—if not an actual office that the *AJ* version describes without naming. Moreover, the appearance of *symbolia* in the *BJ* cannot be read as referring to an informal *concilia*, because the construction Josephus uses disallows such a meaning, stating quite the opposite: the procurators were not allowed to act *against* his *concilia*, and thus the *BJ* is describing just what the *AJ* says, real and final authority over the Syrian procurators. Josephus does not say the procurators had to consult Herod but didn't have to follow his advice, for he does not say they were “not allowed to act” *without* his advice (e.g. *ater*), but that they were “not allowed to act” *against* his advice (*dicha*). Moreover, the *AJ* makes absolutely clear that the former is not what Josephus meant, and the *BJ*'s use of the phrase “procurator of all Syria” also contradicts such a reading. Finally, we are left with no *plausible* explanation for how or why Josephus would make this up or exaggerate the truth (on two different occasions no less), and thus we have no particular reason to disbelieve it. The only thing that is obscure in all this is just why Augustus did this or how Herod was intended to use this position or how he actually did so. But some reasonable conjectures on these points will be advanced below.

Central to this conclusion is an understanding of a clear and crucial distinction between procurators (*epitropoi*) as private employees, and magistrates (propraetors, proconsuls, quaestors, etc.) and their official appointed representatives (prefects = *eparchoi*). The fact that this distinction has eluded almost all of the many scholars who have addressed this event indicates that it cannot be assumed. Therefore, a demonstration

of this distinction will follow, and finally an examination of what it really meant for Herod to be procurator of all Syria.

The Procurator in the Time of Augustus

The term *procurator*, from *curator pro*, “one who cares for,” means someone who takes care of something on someone else’s behalf, for which the best English translation is usually “manager” or “agent.” It was never an official term for any magistracy or promagistracy in the Roman constitution.⁸⁰ The word referred instead to anyone who managed someone else’s property, in a relationship like an apartment manager to a landlord or collection agent to a creditor, or anyone having anything akin to a “power of attorney.” In the Republic and well into the Imperial period it was a private, non-governmental civilian office, and is equivalent to a role that would be filled today by, say, the U.S. President’s private estate lawyer: certainly a man with great influence, but no more of official legal or military power than any other citizen.⁸¹ As Cassius Dio puts it, speaking of the pre-Claudian administration, “In those days those who managed the emperor’s money were not allowed to do more than collect the customary revenues, and in the case of disputes to accept judgment in court, according to the laws on an equality with private citizens.”⁸² His remark suggests things had changed by the time of the Severans, and in regard to certain civil cases it appears they had (as we’ll soon see). But Dio’s observation accords with the picture painted by Tacitus, who claims that adherence to proper legal processes was a prominent feature of the reign of Augustus and only began to deteriorate later in the reign of Tiberius.⁸³ Likewise, the Younger Pliny praises the fact that, in contrast to the abuses of Domitian, procurators in his day (under Trajan) had to face uncorrupted courts to win disputes, and even lost cases.⁸⁴ Though procurators occasionally overstepped their authority, this was illegal, and such overzealous procurators were typically punished. The most prominent case is that of “the procurator of Asia, Lucilius Capito” whom Tiberius claimed had only been given “authority over his personal slaves and money” and if he had “usurped the power of a praetor and deployed

80 On this and following points see the extensive study of the imperial procuratorship by Eich, *op. cit.*, pp. 85-188 (and on this point specifically, also Eck, *op. cit.*).

81 For this and what follows, the supreme references are A.N. Sherwin-White, “Procurator Augusti,” *Papers of the British School at Rome* 15 n.s. 2 (1939) and H.-G. Pflaum, *Les procurateurs équestres sous la Haut-Empire romain*, 1950, though more recent work cited below qualifies and improves upon these.

82 Cassius Dio 57.23.

83 Tacitus, *Annals* 4.6.

84 Pliny, *Panegyricus* 36.

troops” he must be condemned. He was.⁸⁵ This appears to have been the normal reaction of the emperors at least into the reign of Tiberius, and, as further evidence shows, even into the time of Caracalla and perhaps Severus Alexander.⁸⁶

In other words, procurators in Augustan times did not have any legal or military authority: they did not hear cases or lead troops, and in fact when faced with any dispute they had to appeal to the courts as any other private citizen would. They were subservient to all the laws and legal authorities, and were certainly not “second only to the provincial governor” in any provincial administration. They were not even a formal part of the administration, though they were certainly intimately involved with it. Also, procuratorships were only held by persons of the rank of Knight or lower, and often included freedmen (who weren’t even full citizens). Like all salaried jobs, the position was looked down upon as a subservient and distasteful occupation by the more aristocratic elite, and no one of senatorial rank (much less proconsular rank) would ever allow himself the disgrace of holding such a position (and no one would insult them by offering it). Even so, a procuratorship was no doubt lucrative, since imperial procurators usually handled large sums of money.

The role of procurators could be much greater than we would imagine given our experience with government, since the Romans were long accustomed to contracting out tasks, like collecting taxes or building public works, to private citizens (the *publicani*), and by Augustan times it was routine for countless public duties to be carried out with private funds, since the emperor had more land and money than the government did—thus, e.g., we know hundreds of tons of silver and gold were spent out of Augustus’ own pocket to pay and feed the army, to buy up land to retire them on, and even to pay the taxes in arrears for whole provinces or dole out grain to millions of people, to build countless public buildings, maintain public roads, and just about every conceivable thing we would expect only a government to pay for.⁸⁷ The vast sums and innumerable projects involved meant that a huge staff of managers was needed to oversee and pay for it all. Moreover, by right of conquest, as well as outright purchase, not to mention countless inheritances, the emperor was the largest landholder in the Western world, and someone had to manage all those properties and collect the rents. In all these cases, the task fell to the procurator, whom the emperor hired as a private employee.

Their specific responsibilities could vary immensely, however. Jones distinguishes two general types: “the procurators of provinces, who handled all the emperor’s financial affairs within each, and the lesser procurators who were bailiffs of individual estates

85 Tacitus, *Annals* 4.15. In fact Cassius Dio’s comment (see note above) was made in the context of this trial.

86 Millar, *op. cit.* (1965), below, p. 365. The case of Sabinus, related by Josephus (as mentioned earlier), came to the same conclusion.

87 Augustus, *Res Gestae* 1, 3, 5, 15-24.

which the emperor owned in a private capacity .”⁸⁸ Millar seeks greater specificity , and identifies five distinct categories: (1) “Procurators governing small provinces,” which were “originally called *praefecti*” though in fact these were always prefects, some merely holding the procuratorship at the same time (a point I shall return to); (2) “Procurators of imperial provinces governed by *legati*” who were in charge of “the collection of tribute from their provinces, the payment of troops and so forth,” although this would only be true insofar as Caesar ’s own money went to these ends (and not state money from the SPQR); (3) “Procurators with a variety of functions in Rome, Italy and the Provinces” such as those in charge of “libraries, imperial games, roads, indirect taxes (as opposed to tribute) and so forth,” perhaps in many cases even as private contractors handling public money; (4) “Procurators of *senatorial* provinces” who were in charge of “imperial properties in these provinces” as a whole (such provinces otherwise being governed by the Senate and not, at least officially, the emperor); and (5) “Procurators of [individual] Imperial properties (estates, villas, mines, quarries, etc.).”⁸⁹ In general, there were procurators of relatively high rank, assigned to and serving entire provinces, to whom many more procurators of various lesser ranks would be subservient. Among the latter, there were procurators who engaged in collecting moneys, and others who engaged in spending them. In the first of these two groups, some collected tribute payments (those promised by treaty to the emperor personally rather than the SPQR, and sometimes also taxes owed to the state, in which case acting as public contractors on behalf of the SPQR), others collected rents on properties owned by the emperor . In the second, some paid soldiers or bought their grain, while others handled more specific tasks like building roads or putting on games. Needless to say , these duties insinuated procurators into the practical functions of government at all levels and thus, despite their constitutionally private status, they could appear to be *de facto* members of the provincial administration, especially at times by wielding (or threatening to wield) their influence on their employer (the emperor himself). Indeed, their private financial role did not preclude being given a body guard to protect the goods and money in their care, and no doubt these troops could be employed as a press gang when a procurator could get away with it. ⁹⁰ But the sources clearly suggest that such extra-legal activity among procurators was frowned upon by Tiberius and certainly Augustus, and punished when found out.

88 A.H.M. Jones, “Procurators and Prefects in the Early Principate,” *Studies in Roman Government and Law* (1960), p. 123.

89 Fergus Millar, “Some Evidence on the Meaning of Tacitus *Annals* XII.60,” *Historia: Zeitschrift für alte Geschichte* 13 (1964), pp. 180-7, supplemented with even more evidence in “The Development of Jurisdiction by Imperial Procurators: Further Evidence,” *ibid.* 14 (1965), pp. 362-7. His treatment is already extensive, but Eich, *op. cit.*, even more so.

90 E.g. Pliny, *Epistles* 10.27, where an imperial procurator, a freedman of Trajan, is given soldiers for his task of buying up grain for the army. Jones and Millar, *op. cit.* below, give many more examples (the Sabinus episode in Josephus being another).

The procurator is particularly to be contrasted with the *praefectus*, or prefect, “one put in charge of.” This was primarily a military term, though of course in Augustan times there was little distinction between the government’s administration and the military (nor had there ever been—the Roman state was fully militarized from as far back as records attest).⁹¹ The office of prefect had a definite place in the Roman constitutional tradition, as an officer delegated by a magistrate to be his official deputy, with real military and police authority, and sometimes even judicial authority. This post was ordinarily only held by Knights, and always military officers of non-Senatorial rank, and certainly never by freed slaves, who, as only partial citizens, would not have been legally eligible for the delegation of *imperium*. Senators who were delegated authority by higher-ranking magistrates were granted the more prestigious title of *legatus* (“legate”), a general term usually entailing a *propraetor* or *proconsul*—if they had achieved the relevant rank: i.e. any senator who had held the supreme post of consul (of the empire) was thereafter eligible to serve as *proconsul*, “on behalf of the consul,” whereas any senator who had only obtained the rank of praetor, or who was acting on behalf of a praetor, would serve as *propraetor*, “on behalf of a praetor.” Roman provinces were governed first and foremost at the end of a spear, for military power was synonymous with keeping order. Thus, when a province or regional command was too small to be governed by any of these Senatorial legates or magistrates, it was governed by a prefect, a distinctly lower-class officer deputized to act in their name.

The lines later blurred between prefects and procurators, hence many prefects in later sources are referred to, seemingly interchangeably, as procurators, and one possible reason for this is not hard to guess at. As the empire became more and more like an undisguised monarchy, and the public and private treasuries more and more blurred, the power of procurators became more and more real—even when still informal, their authority could be hard to challenge. Disobeying a procurator surely became in due course synonymous with disobeying their employer—who happened to be the emperor, and (as one might say) you didn’t take the emperor to court. So it would not be surprising if we found, well after the Julian period, imperial procurators sharing the emperor’s status in being above the law. That was a view of the emperor’s legal status that was certainly post-Augustan. But there is a more demonstrable reason for the lines to be blurred at this level of the Roman government: it was often practical to simply hire an existing prefect as a procurator, since his private role as financial agent of the emperor would then be immediately backed up by his formal constitutional power as a prefect.

We have evidence of this practice already in the Republic. As Jones puts it, “it was apparently not unusual for proconsuls to grant prefectures (including command of

⁹¹ For the thoroughgoing militarization of the Roman Republic from its earliest days, where no real distinction existed between public administrators and military officers, see William V. Harris, *War and Imperialism in Republican Rome: 327-70 B.C.* (New York: Oxford University Press, 1979).

troops) to the procurators of important persons, in order to give them power to collect their principals' debts."⁹² He cites many examples from Cicero, who thought the practice was a bit fishy (*ad Att.* 5.21.10, 6.1.4-6, 6.2.8, 6.3.5-6). As we might expect, this was done to facilitate even the *publicani* collecting taxes (2 *Verr.* 3.75). In seeking imperial examples Jones may be speculating too far when he sees this practice in cases like that of Capito (cf. note above), for had he been a prefect his actions would not have been illegal (as we're told they were); or in cases like that of Catus, procurator of Britain, who had a large contingent of troops with him including centurions (T. Tacitus, *Annals* 14.31-2), for the presence of *centurions* could easily suggest instead that he was merely being *assisted* by a prefect (and thus not necessarily one himself).

Even so, the practice of appointing procurators as prefects, or vice versa, is well attested. In the reign of Augustus, the supreme example is the prefect of Egypt, who was also the procurator of Egypt.⁹³ Egypt is an excellent example of the strange (to us) character of ancient government: all land in Egypt was originally owned by the kings. Upon his victory over Queen Cleopatra, all of Egypt became the private possession of Augustus, and he kept it that way to prevent any Senatorial upstarts from using it as a base to launch another civil war. Thus, all "taxes" in Egypt were technically paid directly to Augustus and not to Rome as such, and hiring the prefect of the province to be chief procurator as well would be too convenient to pass up. It is also fairly certain that all the prefects of Judaea were also procurators. For example, under Tiberius, Pontius Pilate was, besides the prefect of Judaea, also procurator there.⁹⁴ Pilate clearly engages in actions related to collecting and spending imperial money, suggesting procuratorial duties, though of course his actual *legal* powers would stem solely from his attested position as prefect.⁹⁵ But the decisive evidence is the contemporary Philo, who reports that "Pilate was one of the prefects appointed procurator of Judaea" (*Leg. ad Gaium* 299); Josephus also calls Pilate a procurator in *BJ* 2.169. Josephus, in fact, routinely calls the prefects of Judaea procurators (as noted earlier), and their activities often clearly involved financial matters. Upon the removal of Archelaus in 6 A.D. all the king's land and property no doubt became the private possession of the emperor, and tribute previously paid directly to the emperor continued to be so, making the role of the Judaeian procurator of sufficient gravity that prefects had to be assigned the duty.⁹⁶

92 Jones, op. cit., p. 124.

93 Philo, in *Flaccum* 3-4; cf. Jones, op. cit., pp. 120-2.

94 Josephus, *AJ* 18.60, *BJ* 2.175, etc. Using many other sources (including papyri) further examples adduced by both Eich and Eck (op. cit.) are quite numerous.

95 An inscription confirms that Pilate was the *prefect* of Judea: cf. V. Ehrenberg & A.H.M. Jones, *Documents Illustrating the Reigns of Augustus and Tiberius*, 2nd. ed. (1976), §369.

96 Of course, after the Jewish War, *all* Judaea became the emperor's property by right of conquest (*BJ* 7.216).

There is no evidence that any province, no matter how small, was ever governed by a procurator lacking a prefecture. In the words of Jones, “two emperors so careful of constitutional proprieties as Augustus and Tiberius” would not have made mere procurators provincial governors, “and a careful examination of the evidence has made it very improbable that they did,” noting that inscriptions from the period always describe small-scale governors as *praefectus*—or *praeses* or *pro legato* (which mean essentially the same thing).⁹⁷ Jones believes that this began to change in the reign of Claudius, but his evidence is re-examined and the conclusion refuted by Millar.⁹⁸ In general, Jones’ contrary evidence is either ambiguous as to whether attested procurators were in fact also governors, or fails to account for procurators acting illegally, procurators who were also prefects, etc. In the latter category are some cases where the men in question are referred to in sources by the lesser title only by way of abbreviation, or perhaps covert social commentary, as when Tacitus describes Pilate as a procurator in his account of Christianity in the context of the Neronian fire (*Annals* 15.44); for we know in fact (from epigraphic evidence) that Pilate was a prefect, and Tacitus (as a consular senator) would know that, but Tacitus would surely have found it more suitably embarrassing to say that Christ was executed by a procurator, which fact also played into Tacitus’ running theme throughout the *Annals* that procurators were being given more authority than they ought.⁹⁹

Millar could not find any evidence before Severus of procurators exercising jurisdiction, and abundant evidence that emperors actively opposed procurators assuming such powers.¹⁰⁰ Millar discovered that “The legal evidence shows clearly that procurators never had a recognised right to exercise criminal jurisdiction,”¹⁰¹ though beginning some time late in the 2nd century procurators gradually acquired the right to judge certain *civil* cases that concerned them. Of course, this may have simply been another convenient abuse of the constitution, this time taking advantage of the fact that any citizen (perhaps even freedmen) could be appointed *iudex* (not a magistrate, but only a judge hearing

97 Jones, op. cit., p. 117; epigraphic evidence is discussed pp. 124-5, showing that this attention to constitutional accuracy extended even to the reign of Trajan if not beyond. Further evidence is provided by Millar, op. cit. (1965) pp. 364-5.

98 Jones, op. cit., p. 125, also pp. 118-9; both of Millar’s works on this, cited above, address the issue in detail. See also the more recent and quite thorough analysis in Eich, op. cit.

99 See Tacitus, *Annals* 4.15, 12.49, 12.54, 12.60 (on which see below), 14.32, 14.38-39, and of course 15.44 (frequently identifying prefects only by their concurrent position as procurator, and calling attention to the resulting injustice). On such methods in Tacitus see the analysis of T. J. Luce, “Tacitus on ‘History’s Highest Function’: *praecipuum munus annalium* (Ann. 3.65),” *Aufstieg und Niedergang der Römischen Welt* II.33.4 (New York: Walter de Gruyter & Co., 1991), pp. 2905-27 (supplemented by *Ann.* 16.16 and 4.33).

100The evidence is collected by E. Beaudoin, *Les grand domaines dans l’Empire romain* (1899), pp. 178ff.

101 Millar, op. cit. (1965), pp. 364-5.

specific cases), which is an extension of the same device as appointing a procurator *praefect*. This is the more likely explanation of the acts of procurators of large imperial estates who, though only beginning under Claudius, may have been given some sort of seigniorial authority on the private property of the emperor, allowing them to act in the place of the emperor when dealing with tenants, workers and other inhabitants on the emperor's own land, as Millar argues.¹⁰² Brunt challenged this conclusion, but somewhat unsoundly in my view, and I suspect they were both overlooking the real explanation.¹⁰³ Brunt makes the correct observation, but overlooks its importance, that many of these procurators may in fact have also been praefects, citing inscriptions naming some of them "procurator and praefect" as their full title.¹⁰⁴ So in the same fashion the others may have been appointed *iudex*. Brunt himself finds examples of this clearly being the case.¹⁰⁵ So even the Claudian act may simply have formalized the practice, which had already been normalized, of the emperor simultaneously appointing praefects to be his procurators—and now perhaps appointing other of his procurators to be judges over their own cases (which Tacitus suggests might already have happened on isolated occasions before). There is no evidence of it being otherwise.

We know Tacitus had a bee in his bonnet over the granting of imperial powers to procurators (as noted earlier) and thus had every reason to be overly rhetorical in emphasizing what annoyed him about this. The passage in dispute by Millar and Brunt is a rant against appointing Knights to government (a privilege which, Tacitus laments, had used to be reserved for Senators). He begins with the general complaint, that Claudius often said *parem vim rerum habendam a procuratoribus suis iudicatarum ac si ipse statuisset*, "that his own procurators ought to have the same judicial power as if he himself were speaking," and that the Senate passed a decree confirming this *plenius quam antea et uberius*, "more fully and broadly than before." Reading between the lines, the actual Senate's decree may have simply assigned the office of *iudex* to imperial procurators (while limiting their jurisdiction to civil courts, and even then only to cases involving imperial property—judging from the later epigraphic evidence collected by Millar and even Brunt). But Tacitus gives as his first example (of what he is saying was then expanded under Claudius) the Egyptian "procurator" being given judicial powers by Augustus, and we know this was accomplished by appointing that agent praefect, and not by simply granting judicial power to procurators. Tacitus then names other examples of (what in fact were) Knights being appointed simultaneously as procurators *and* praefects

102 See Millar, op. cit. (1964), p. 187, in regard to Tacitus, *Annals* 12.60.

103 P. A. Brunt, "Procuratorial Jurisdiction," *Latomus* 25.3 (July-September 1966): 461-89.

104 Brunt, op. cit., p. 463, n. 2.

105 Brunt, op. cit., p. 469. It should be noted that apart from my mild critique, the evidence and analysis of Brunt and Millar are not only correct but essential reading for any question concerning imperial procurators, though their evidence and analysis has been perfected and expanded by Eich, op. cit.

(a detail Tacitus elides so as to make the facts seem more shameful). So when he closes this rant with the quip that *Claudius libertos quos rei familiari praefecerat sibi et legibus adaequaverit*, “Claudius even made the freedmen who governed his private estates equal to himself under the law,” Tacitus is most likely (and intentionally) glossing over the actual fact of the matter: that Claudius was appointing his procurators to be prefects (these would almost certainly have only been Knights) or in some cases simply *iudices* (judges), so they could simultaneously make and adjudicate their own claims (and it is here that freedmen would be involved). Even if we take Tacitus more literally, Millar’s conclusion then prevails: the only freedmen procurators Tacitus mentions being given judicial powers are those in command of his private estates. And yet I doubt this was accomplished in any other way than simply declaring them civil *iudices* with confined jurisdictions. All the other procurators were equestrian prefects. But however one reads Tacitus on this point, he still says that this development only began under Claudius. In the time of Augustus it is clear that procurators *in and of themselves* were nothing more than the private employees of the emperor, and had no more formal legal authority than private citizens.

The Grant of the Provincial Procuratorship to Herod

Ten years after Actium, Augustus set about putting the provincial affairs in order, beginning with Sicily, then working his way to Greece, and via Samos to Asia, and finally to Syria before returning to Rome. In the spring of 20 B.C. Augustus left his winter quarters on Samos and came to Asia, going as far as Bithynia. He doled out money here and there, raised the tribute owed from various places, set up or put down various local laws, and punished municipalities for abusing Roman citizens. He intimidated or negotiated with the Parthians to retrieve some lost legionary standards. But he waged no campaigns. He also reorganized and divided up various border lands among loyal allied kings, among whom was Herod, who received the lands of the just-deceased tetrarch (and his rival) Zenodorus.¹⁰⁶ When he arrived, Augustus was also approached by representatives of the Gadarenes charging Herod with being violent and tyrannical. Josephus suggests that they were attempting to get their territory taken away from him and annexed to Syria, where (it was thought) Roman governance would be more tolerable (*AJ* 15.354-356). They charged Herod with “wanton acts of violence, robberies, and destruction of temples” (*hybreis kai harpagas kai kataskaphas hierôn*), but then, predicting after only the first day of the trial that Caesar was going to rule for Herod, they committed suicide instead, leaving Caesar free to acquit Herod of all charges (*AJ* 15.357-

¹⁰⁶ Cassius Dio 54.7-10.

358). Josephus then describes Herod as having reached the pinnacle of good fortune, being held in the highest possible esteem by both Augustus and Agrippa (*AJ* 15.361).

It is in this context that Augustus appoints Herod chief procurator of all Syria. As we've already demonstrated, this did not mean he was governor of Syria. He had no judicial, magisterial, or military powers there. But his position can be considered akin to the procurators of Judaea and Egypt *without* the powers of a prefect, and thus more like the procurator of Asia, whom we know (from the case of Lucilius Capito discussed previously) had the charge of the emperor's own slaves, funds and properties. In the categorization of Jones, Herod was *procurator Syriae*, the highest ranking procurator who handled all the emperor's financial affairs within Syria, and, as Josephus explicitly states, was in charge of all the lesser procurators in that province—an estate manager on a grand scale. In Millar's more precise scheme, Herod was a procurator of Type 2, whom we know from other evidence would have managed the collection of tribute from all Syrian towns and regions owed to Caesar directly (as opposed to SPQR), and spent some of that revenue in the payment of troops and other tasks (such as, perhaps, constructing aqueducts or other public works, as we know Pontius Pilate arranged in Judaea). He would presumably also be in charge of collecting rents and handling other affairs in respect to the emperor's private landholdings in the province. As a mere practical matter he could not have micromanaged every procurator in Syria, but (if we accept the appointment as genuine) he certainly had supreme authority over them and set the agenda for how things would be done. And lacking evidence to the contrary, we can assume he held this job until his death.

There is no doubt that this was a prestigious and rare, if not unique, honor to be won by a foreign king. But there was no one more able or likely to have won it than Herod. Augustus heaped good fortune upon him and gave him little trouble to his dying day. Legally there could be no objection, for Herod was a Roman citizen, and the job was suitable even for freedmen. Socially there would be little protest, for even so high a position as *procurator provinciae* was so far beneath a senator that it was only held by knights and freedmen. Herod was an extremely wealthy and Hellenized king of renowned competence and loyalty to Rome, who ruled over both Jewish and Gentile territories. For him to assume a job on a par with imperial freedmen would be regarded by some as befitting a foreign but respectable potentate, and whoever would be bothered by it would not be able to stir enough outrage to deter Augustus from hiring him, as we might infer from the sorry case of the Gadarene accusers. (Herod would not have been of senatorial rank, of course, because although he certainly would have met the wealth requirement, he never won formal election to the senate. His formal status would have been that of a knight.)

The case of the Gadarenes may also illuminate the emperor's motives. No doubt the complaints of the Gadarenes were based on Herod's notoriously harsh exactions of

tribute, and possibly extra-legal actions to that end. Soldiers requisitioning taxes could be no different in appearance than bandits looting a town or temple. That Caesar so obviously favored Herod in this case as to drive the accusers to suicide might suggest that he approved of Herod's efficiency in securing the one thing Romans wanted most from their provinces: profit. After income, security took a close second, glory a distant third, as a reason for bothering to have provinces in the first place. It is possible that Augustus was sufficiently impressed with Herod's ability to organize and extract revenues that he decided not only to annex the lands of Zenodorus to Herod's kingdom, but even to put Herod in charge of exactions and financial affairs in the neighboring province of Syria, leaving all the emperor's employees there at his disposal. This action also makes sense in the context of the Gadarene case for another reason: Josephus argues that one of their motives was to have their lands transferred from Herod to Syria to escape his harsh methods. But by putting Herod in charge of exactions in Syria as well, the emperor would have completely thwarted this ulterior motive, ensuring no such cases would arise again. The message thus sent was that subject peoples in Syria-Palestine could no longer escape Herod's methods of tax collection.

From this position, if we accept it (and I don't see any reason not to), Herod would surely skim a sizeable bounty off the top and profit immensely from the Roman peace. It might not be coincidence that it is shortly after this year that all of Herod's most ambitious building projects began. At the same time he would have a positive interest in keeping that peace to ensure the steady flow of revenues from provincial economic success, while the emperor would benefit from Herod's apparent financial genius and general ruthlessness. Augustus would not have been the first to see Herod's potential in this regard: Cleopatra had previously hired Herod to do much the same for her holdings in Arabia (*AJ* 15.96ff.). Herod was still legally subject to all Roman magistrates, legates, and prefects in Syria, and technically (whatever actually transpired in practice), as an ordinary citizen there, he would have had to fight and win all relevant disputes in the courts. And nevertheless, though not a governor of Syria, Herod must have had substantial influence on Syrian affairs as Caesar's chief financial manager in that province.