The Empress Theodora

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THE courageous attempt recently made by M. Debidour[1] to vindicate the reputation of the empress Theodora has opened up again the stubborn controversy of which Procopius' 'Secret History' is the theme. Stimulated, it would seem, by the appearance of M. Sardou's drama in Paris, M. Debidour has revised and republished his earlier essay, and has boldly challenged a comparison between the Theodora of history and the Theodora of the stage. The verdict of public opinion has, it is true, long since been given on the other side; but the charges of Procopius have never before received the searching criticism which they require, and even now we are fully entitled to ask whether the view upon which that verdict is founded is supported by the facts.

There are few stranger episodes in literary history than the fate of this celebrated empress. For us, to whom her name recalls the beautiful and unprincipled comedian suddenly raised by a freak of fortune from disgraceful obscurity to rule with undisputed power over the destinies of the Roman world, it is difficult to realise how short a time that estimate of Theodora has existed, and how different it is from any picture of her which would have been drawn three hundred years ago. At the dawn of the seventeenth century the romantic version of the empress's early life which we accept to-day was practically unknown. To the historical students of that time Theodora was chiefly remarkable for the prominent place which she had occupied in Justinian's reign. Of her early life nothing was recorded, but it was believed that from the date of

[1] In his monograph *L'Impératrice Théodora*. It is largely a reprint of a Latin essay on the same subject (which was presented to the Sorbonne in 1877), and was published in Paris in 1885.

her accession to the throne she had exercised a powerful influence over her husband. It was known that at a great political crisis she had displayed unwonted courage, that she had taken a leading part in the policy and intrigues of the Byzantine government, and that to her wisdom the emperor had attributed the merit of his legislation. But her virtues had been obscured by grave religious errors, and her attitude towards the popes had proved her to be a lost and impenitent heretic, on whom the greatest ecclesiastical writer of the age had lavished every epithet of theological invective.[2] Such is the brief account of Theodora which was handed down in history and tradition for upwards of a thousand years.[3] Then suddenly a flood of garish light was let in upon the darkness. Disinterred from the library of the Vatican, where it had long lain hidden, and edited by a learned and laborious critic, the 'Secret History' of Procopius was presented to the world. For the first time the character of the empress, as drawn by a contemporary writer, was revealed in the blackest colours. The famous consort of Justinian had, it appeared, been really a woman of the lowest birth and worst character, whose public conduct was signalised by tyranny and excess, and whose private life was disgraced by a turpitude wholly without parallel. From the date of the publication of the 'Anecdotes' Theodora was condemned. The tale of her iniquities, which for nearly eleven centuries had been forgotten or unknown, soon obtained universal credence. The testimony or the silence of all other sources of knowledge was overlooked. And the sombre picture which Procopius painted in the 'Secret History' is the picture to which our eyes have become accustomed to-day. Is it, then, too late to inquire what were the claims of this new and startling version to supersede a record sanctioned by historical authority and by so long a lapse of time?

Several obvious causes have contributed to secure general credit for the disclosures of the 'Anecdotes.' In the first place they are the work of a contemporary writer. Then they are the only full and minute account which we have of Justinian's court and of the private history of the reign. Their author, too, was beyond all doubt the most eminent historian of his day, and his high reputation makes us hesitate to reject as utterly unfounded any statements of his, however extravagant they may appear. Moreover, two very distinguished writers of a later age, who had opportunities of sifting and of refuting these revelations, have deliberately given their sanction to them; and their attitude has naturally gone far to predispose the public in Procopius' favour.

[2] Such as Eve, Herodias, Alecto, and Tisiphone. See Baronius (A.D. 548, No. 24) as quoted by Gibbon (footnote to p. 48 of vol. v. in Smith's edition, which is the edition referred to in these notes).

[3] Until 1623, the date of the publication of the *Secret History*.

The Latin commentator Nicholas Alemannus and the English historian Gibbon are qualified to speak on this question with greater weight, perhaps, than any others, and yet when one comes to examine their motives, neither of them has a very strong reason to offer for the course he takes.

> Of these strange 'Anecdotes' (writes Gibbon), a part may be true because probable, and a part true because improbable. Procopius must have *known* the former, and the latter he could scarcely *invent*.[4]

On this hypothesis Gibbon has stamped with his authority the most extraordinary statements of their author, and the stories which Gibbon related as scandals have, because Gibbon related them, been widely accepted as facts. With Alemannus the reasoning is different, but the result has been the same. Speaking with the weight which, independently of his industry and learning, naturally attaches to the first commentator upon the 'Anecdotes,' Alemannus frankly states the argument which appeared to him conclusive proof of their veracity. It is not worth while, he maintains, to seek evidence to confirm Procopius, 'since nothing is too execrable to be believed' of a woman who tried to overthrow the council of Chalcedon, who established heretics in the high places of religion, and whom the cardinal Baronius portrays as a 'monster' towards the catholic church.[5] We must not forget that the language of Alemannus is significant of the temper in which the 'Anecdotes' were originally welcomed. If the first critic of the 'Secret History' approached his task with so pronounced a bias, it is hardly to be wondered at that the reputation of Theodora has suffered as it has. But perhaps the simplest reason why Procopius' condemnation of the empress has been accepted is to be found in the emphasis and detail with which he has weighted his charges. Of course it has been pointed out[6] that the accusations are unsupported, and that the evidence of the 'Secret History' stands alone. But the majority of writers on the subject seem rather to have avoided facing the issue directly. They have failed to realise that these scandals must be either substantially true or wholly false; and while rejecting in some cases Procopius' circumstantial stories as too extravagant to be credited, they have nevertheless concluded that Theodora was a worthless character, because the stories told against her are so numerous and so bad.[7]

The first question which arises is the question whether the author of the 'Secret History' had any obvious motive for libelling

[4] See footnote to p. 157 of vol. v.

[5] Alemannus' preface to the *Anecdotes*, p. vi (Orelli's edition of 1827).

[6] Especially by Dean Milman, in his notes on Gibbon (vol. v. p. 41).

[7] Elsewhere Gibbon has guarded himself against the 'pernicious maxim that where much is alleged something must be true.'

the empress. It naturally occurs to one that if his attack upon her be not well founded, it must have been prompted by the malice of a disappointed man. The matter of the authenticity of the 'Secret History' has been so fully and repeatedly argued, that we may well be content to avoid that controversy here, and to regard the authorship of Procopius as established. But when that is admitted, our knowledge of its author's career does not greatly help us. We know that at the beginning of Justinian's reign, Procopius, then a young and rising lawyer, was appointed by the emperor to a post closely connected with the person of Belisarius.[8] We know that he remained long in this position, acting sometimes as legal adviser and sometimes almost as confidential secretary to the general, but always, it must be remembered, holding a public office and representing the emperor therein. We know that either in this or in a similar capacity he accompanied his chief for over twenty years in all his campaigns, following him to Persia, to Africa, to Italy, and to Constantinople. We know that he retained the emperor's favour so far as to be admitted to the senate and to receive the high dignity of *illustris*. We know that the histories of Justinian's three great wars and the panegyric of the emperor's buildings were published in the author's lifetime, and form the basis upon which innumerable later chroniclers have built. And we know lastly that in the year 558, ten years after the death of Theodora, the man who had signalised his name by chronicling the triumphs and the wisdom of Justinian and his consort, composed upon the same subject a volume so scandalous and so vindictive that he dared not publish it in his lifetime, but left it to be concealed or neglected for upwards of a thousand years.

But here our knowledge stops. As to Procopius' latter days —whether he retained to the end the emperor's favour, or fell into disgrace and revenged himself by concocting a virulent libel, we have no certainty to guide us. It has been asserted that towards the close of Justinian's reign he received the highest mark of the emperor's confidence and was appointed præfect of Constantinople, and hence, Alemannus argues, there is no room to suppose that the judgment of his latest work was embittered by personal failure.[9] But it is difficult to believe that the Procopius who was præfect of Constantinople in 562 is identical with the author of the 'Secret History.' In the careful appendix which he devotes to this subject Dr. Felix Dahn seems fairly to have disposed of this supposition and of the argument built upon it. Proving first that the 'Secret History' could not have been written before the year 558, Dr. Dahn goes on to show that it could scarcely have been

[8] For Procopius' exact position see Dahn's elaborate work on *Procopius of Cæsarea* (p. 18); the first chapter is a biography of the historian.

[9] Alemannus' preface to the *Anecdotes*, p. xiii (ed. 1827).

written after 562, from the fact that Procopius would never have omitted to mention the downfall of Belisarius, which happened in that year. Following the same line of argument, he reasons that Procopius could not have passed over in silence the terrible invasion of Slavs and Huns which was defeated in August 559, and that hence the 'Secret History' was written before that date. And lastly, from the fact that in the 'Anecdotes' there is no reference to the memorable catastrophe which befell the church of St. Sophia, a church on which Procopius had elsewhere lavished pages of description and eulogium, Dr. Dahn concludes that the author of the 'Anecdotes' had ceased to write before 7 May 559. Then he proceeds to discuss elaborately the question whether the 'Secret History' was completed or not, finally deciding that it was left unfinished and was probably interrupted by the author's death.[10] Of course much of this reasoning must be founded on conjecture. If it be true that the author of the 'Anecdotes' was præfect of Constantinople in 562, it may fairly be inferred that he could not have been animated by disappointed ambition. But if, as seems more probable, he died before the spring of the year 559, it is by no means certain that disappointment and failure did not play a large part in his rancorous attack upon Justinian and Theodora. The question of motive is one which, with our scanty knowledge of Procopius' circumstances, it is almost impossible to decide; but when we consider that Procopius was a native of Cæsarea in Palestine, and that that province suffered perhaps more than any other in Justinian's reign, it does not seem unlikely that a feeling of local patriotism may have contributed to bias his judgment and to colour his views.[11]

Now let us turn to the 'Secret History,' and examine its trustworthiness upon internal grounds. Alemannus claims credit for the 'Anecdotes,' because, he says, they agree so perfectly with the previously published 'Histories.'[12] But at the very outset of his work their author discredits himself. In the preface to his public history we find these dignified words:

> The orator's art calls for eloquence, the poet's for imagination, the historian's for truth. This is the reason why the author of these volumes has not attempted to conceal even the failings of those whom he admired the most, but has, on the contrary, scrupulously set forth in broad daylight all the actions, whether good or bad, of the characters of his tale.[13]

But in the introduction to the 'Secret History,' Procopius destroys

[10] See the long and careful note on this question in Dr. Dahn's appendix (pp. 448–459).

[11] This suggestion is made by Debidour (*L'Impératrice Théodora*, pp. 29, 30) in one of the sections which he devotes to discussing Procopius' motives. It may be worth noticing, but is hardly of much importance.

[12] Preface to *Anecdotes*, p. xii (ed. 1827).

[13] Debidour also quotes the words (pp. 26–7).

the effect of these words by confessing that he is about to reveal for the first time numerous facts, which, from motives of fear or prudence, he had deliberately misrepresented or suppressed.[14] Then follows a long series of inconsistencies and contradictions. The wars which in his previous volumes he had recorded as honourable and glorious, are now little better than wanton massacres. The hero, whose skill and conduct had achieved these conquests and signalised his master's reign, is now only a contemptible and uxorious husband, the slave of a degraded wife. The buildings with which Justinian had strengthened and embellished the empire, are now merely pretexts for extravagance and display. The benevolence which had induced Theodora to found a home for the women whom she had rescued from the streets of Constantinople, is represented in the 'Anecdotes' as an act of arbitrary folly.[15] At one point —in the new version which he gives of the circumstances of Amalasontha's death—Procopius excuses the discrepancy between his present and his former narrative by admitting that previously he had purposely concealed the truth.[16] In another place, in the small matter of the remission of taxes granted to Palestine after the riots and rebellion there, we are enabled by the testimony of Alemannus to convict him of deliberate falsehood.[17] Again, we read in the 'Anecdotes' that Theodora's influence in the government was so overwhelming, that if ever Justinian gave away an office without consulting her, the unhappy recipient of the emperor's favour was doomed to dismissal and disgrace, and in all probability to a dishonourable death.[18] And yet in the history of John of Cappadocia, who was Theodora's personal enemy, and whose tyrannous maladministration was beyond all doubt, we are informed that all the efforts of the empress to dislodge the minister were unavailing until she resorted to trickery and fraud.[19] It is not often that the scarcity of our information permits us to compare the assertions of the 'Anecdotes' with other contemporary records; but the one instance in which we are able to do so gives us a fair sample of the method which Procopius has followed in the 'Secret History.' In the account of Silverius' deposition, which appears in the narrative of the Gothic war,[20] we are led to believe that the pope was guilty of intriguing with the Goths, and was deposed on that account.[21] Subsequently, Liberatus tells us he was sent under arrest to Constantinople; but returning

[14] *Anecdotes*, p. 2 (ed. 1827).

[15] Procopius says it led the women to commit suicide (*Anecdotes*, p. 126).

[16] *Anecdotes*, p. 120.

[17] *Ibid.* p. 90. Alemannus in his notes (p. 370) convicts, while he vainly endeavours to justify, Procopius.

[18] *Anecdotes*, p. 114.

[19] See *Persian Wars*, bk. i. c. 24; *Anecdotes*, p. 132, and other references *passim*.

[20] *De Bello Gothico*, bk. i. c. 25.

[21] Lord Mahon does not hesitate to accept the story of Silverius' guilt (*Life of Belisarius*, p. 225).

later on to Rome, was transported into banishment by the order of Vigilius. As to the details of the story told by Liberatus, there may well be room for doubt; but all authorities are agreed on the main point, that Silverius died in exile.[22] Nevertheless, Procopius does not hesitate to charge Antonina obscurely with Silverius' murder, and a little later on to refer incidentally to one of her servants as the one who had been guilty of the pontiff's death.[23] So far from the 'Secret History' being in complete accord with other authorities, and with Procopius' published works, the discrepancies between them are so marked that they lead one to suspect that the author of the 'Anecdotes' made a collection of scandalous charges, and strung them together without any regard to what he had said before, or without much caring whether they were confirmed or confuted by the facts.

But laying aside the previous works of Procopius, there are sufficient inconsistencies within the 'Anecdotes' themselves. In one place Justinian is described as a wonderfully silly man,[24] and yet, as Alemannus observes, Procopius elsewhere remarks on his keen intellect and constant attendance to business.[25] In another place Theodora is blamed for sleeping all day till nightfall, and all night till daybreak,[26] and yet the author of the 'Anecdotes' is constantly reproaching her for thrusting herself into every department of public affairs. Again we are told that the opposition in the imperial family to Justinian's marriage was so strong, that while the empress Euphemia lived Justinian could never prevail on his uncle to consent.[27] And yet he had sufficient influence to induce his uncle to confer on this abandoned woman, whom the emperor entirely refused to countenance, the lofty title of patrician.[28] But the most striking inconsistency of all is to be found in the account of Theodora's elevation. If the judgment of the 'Anecdotes' is to count for anything, we must believe that, at the time of her marriage to Justinian, Theodora was by common consent the most profligate woman of the age. The 'Anecdotes' inform us that Justinian was equally remarkable for the self-restraint and austerity

[22] See Liberatus (in Migne's *Patrologiæ Cursus Completus*, tom. 68, pp. 1040–1). The authority of Liberatus alone, who was a deacon of the Carthaginian church and who wrote in Justinian's reign, is far better than the obscure hints of the *Anecdotes*. But he is amply supported by other historians, e.g. Anastasius (in Muratori, tom. iii. p. 130), the *Chronicon Vulturnense* (in Muratori, i. 335), Pagi (*Critica*, ii. 568), Amalricus (in Murat. iii. pt. 2, p. 52), and Agnellus (in Murat. ii. 89, 90).

[23] See *Anecdotes*, pp. 6 & 10, and Alemannus' notes.

[24] ἠλίθιος ὑπερφυῶς (*Anecdotes*, p. 60).

[25] See Alemannus' note (p. 336): his attempt to get over the difficulty by saying that one opinion refers to Justinian's old age and the other to his youth is perhaps ingenious, but there are absolutely no grounds for such an explanation. The words are obviously spoken at random, like much else in the *Anecdotes*.

[26] *Anecdotes*, p. 114. [27] *Ibid.* p. 76.

[28] The loftiest title that could be conferred on a subject (p. 74, and note at p. 343), yet Justin's objections to the match were based on Theodora's disreputable character.

of his life.[29] The time of his marriage was a time when he was bent upon conciliating all parties, so as to secure the succession to the throne. He had reached an age when he might well be supposed to have outgrown the passions of his youth.[30] His ambitious calculating temperament would be the least likely to imperil substantial advantages by an act of the grossest imprudence. And yet Procopius tells us that he chose this time to deliberately select for his bride the most infamous woman in Constantinople. Nor is that all. We are asked to believe that this degraded woman was received as Justinian's consort without a word of protest from the church, the senate, the army, or the people, that the Roman world was ready to worship her as a goddess, and that she was immediately raised with their unanimous approval to a rank seldom conferred even upon the wives of emperors.[31]

The credit of the 'Secret History' depends on the degree of confidence which its internal evidence inspires. The question we have to settle is whether we think that its statements bear upon their face the impress of truth and probability or the traces of malice and invention. Among the supporters of Procopius there are few whose judgment, from the point of view of careful criticism, is of more value than Dr. Dahn's; and Dr. Dahn distinctly accepts in its main features the portrait which the 'Anecdotes' draw of Theodora. In the fifteenth chapter of his book, in which he sums up the case for Procopius, we find the following passage:

> If now we ask whether we may accept the picture of the empress drawn in the 'Secret History' for a true and accurate portrait, we can answer unhesitatingly an emphatic Yes. All the principal traits of this picture are certainly correct; and they are borne out not only by the corroborating testimony of other contemporaries, but also to a greater extent by its marked internal fidelity to life.[32] There are portraits of which we feel at the first glance, without knowing the living originals, that they must be accurate in the highest degree: such a portrait is the Theodora of the 'Secret History.'

And although Dr. Dahn admits that there are probably exaggerations in Procopius' version, and accuses him of accepting scandalous reports with the credibility of hatred,[33] yet he holds as clearly established the fact of Theodora's low birth and the degradation of her early life.

As to 'the corroborating testimony of other contemporaries,' we may for the present lay that aside to be dealt with later on. All we have to consider for the moment is the internal probability of the picture which Procopius draws. At the outset we are met

[29] *Anecdotes*, p. 106.
[30] He was forty-one (Debidour, p. 52).
[31] *Anecdotes*, p. 80.
[32] *Grosse innere Lebenswahrheit* is almost untranslatable (p. 379).
[33] See footnote, pp. 379, 380 of Dr. Dahn's work.

again by the difficulty which is always recurring. What are the 'principal traits' of the portrait? How much of the substance of these stories does Dr. Dahn accept, while he rejects the minute circumstantial narrative on which they are built? The charges brought in the ninth chapter of the 'Anecdotes' against Theodora's early career are protected from repetition by their grossness. It is sufficient to say that they impute to the empress a moral turpitude unparalleled in any age. But it is significant that some of the passages in this chapter—some of the features in the portrait which we are asked to accept because of its fidelity to truth—are so coarse and extravagant in expression that even Alemannus thought it necessary to omit them, realising that they discredited their author more than they strengthened his case.[34] Still, after these have been eliminated there is left an abundance of passages as to which there can be little difficulty in deciding whether they bear the stamp of truth or the marks of inventive malice. Here is an instance. In the sixth chapter of the 'Anecdotes' we read that Justinian

was the cause of calamities to the Roman world greater and more numerous than had ever been heard of in any previous age. . . . He never hesitated to murder his subjects and to rob them of their wealth. He thought nothing of destroying multitudes of men though innocent of any crime. . . . He was like a deadly pestilence let loose from heaven. . . . It was not enough for him to have ruined the Roman empire: he devoted his energies to the conquest of Africa and Italy, in order to plunge those countries in misery as deep as he had brought upon the provinces subject to his sway.[35]

Again, in the eighth chapter we read that Justinian was exactly like Domitian,[36] that he

passionately delighted in blood and in gold. . . . He was easily moved to crimes, but could not be induced by any persuasion to perform an act of virtue. . . . If any man were to reckon up from the beginning all the disasters which have ever befallen the Roman race, and to compare them with those of Justinian's reign, I believe he would find that the deaths occasioned by this man far outnumber all those which have occurred in times past.[37]

In another place we find Justinian represented as devising pretexts for massacres in order to deluge his provinces with blood and to carry off the spoil for himself.[38] Later on in the twelfth chapter, the record of human depravity being exhausted, supernatural agencies are called in to account for the crimes of the emperor and his wife.

To me and to many of my order (writes Procopius) they seemed to be not mortals but murderous demons, inflicted, as the poets say, as a curse

[34] See Gibbon's footnote, vol. v. p. 43.
[35] Pp. 48 & 50, ed. 1827. [36] P. 62. [37] P. 66. [38] P. 88.

upon mankind, who, having plotted together how they could most easily and speedily destroy the human race and all its works, had assumed for the purpose human shapes, and as man-demons had convulsed the world.[39]

On the same page it is gravely recorded that Justinian's mother confessed that the emperor was not the son of her husband Sabbatius, but the offspring of an evil spirit. Further on we are told that some of the chamberlains attending in the palace at night saw the emperor rise from his throne and begin to pace the room, when suddenly his head melted into the air and the headless trunk continued its walk uninterrupted.[40] Another of these privileged attendants related that as he was standing one day by Justinian's chair the emperor's head was converted into a mass of shapeless flesh without eyes or distinguishable features.

I write (hereupon observes Procopius naïvely) not what I have seen myself, but what I have been told by those who positively asserted that they saw it.

And in the same connexion it is related that a monk of singular piety, who came to the palace to have an audience of Justinian, started back in horror from the threshold of the imperial chamber, returned home speechless and paralysed with fear, and related to his friends that he had seen the prince of demons sitting upon the emperor's throne.[41] In chapter xv. we read that Theodora

was by nature so savage that no lapse of time, no satisfaction of revenge, no prayers or entreaties, no fear of divine displeasure, could ever stay her fury:

and in the same chapter we are told that the only point of similarity between Justinian and Theodora was 'their greed of gold and blood, and their ignorance of truth.'[42] And so in the latter chapters of the book, where the author goes on to speak of Justinian's administration, and where, as we gather from other sources, there is some foundation of fact for the narrative he gives, we find the same extravagances and the same indications of determined malice. Every measure of the government is represented in the worst light. The administrative reforms of Justinian are contorted until they appear as acts of tyranny and folly.[43] The defects and failures of his system are exaggerated to an incredible extent. We are told that the emperor deliberately selected the worst men he could for his ministers;[44] that he only approved of those officials who plundered the people under their care; and that if his servants abstained from robbing and injuring those they governed,

[39] P. 96. The vehemence of Procopius' language makes it difficult to translate without hyperbole.

[40] P. 99. [41] P. 99. [42] Pp. 112 & 116.

[43] See *Anecdotes*, pp. 148 & 150, and also Reinhart's note, p. 408. [44] P. 158.

they were never permitted to hold office again.[45] At last, in the twenty-second chapter, it is gravely asserted that the minister, Peter Barsames, recommended himself to the empress by the skill in magic which he possessed.[46]

These extracts, it will be seen, are taken from every part of the book, and they may fairly be said to represent its general tone. Do they bear the obvious stamp of truth, or do they, on the other hand, seem to have been dictated by inventive malice? Of course they are extravagant and overdrawn; but so is the whole of the 'Secret History.' What right have we to set these statements aside while we accept the scandalous story of Theodora's early life? The author does not relate some as romance and some as fact. He claims for all alike an equal authority. What grounds has any critic for drawing a sharp dividing line and saying, 'So much of these tales I choose to believe, and the rest I decline to accept'? The story of Justinian's murderous instincts and supernatural powers, the suppressed scandals of the ninth chapter, and the published accusations of the same chapter against Theodora's early life, stand together upon the same level. For all alike the testimony of the 'Anecdotes' is the only testimony we possess. Why should we unhesitatingly reject the first two charges, and at the same time hesitate to set aside the last?

Before we go on to examine Dr. Dahn's loose phrase about contemporary testimony—one of the very few loose phrases into which he is betrayed—let us deal with a point upon which Alemannus lays some stress. It is the question of the marriage law. In his preface to the 'Anecdotes'[47] Alemannus argues with an air of triumph that if any one doubts Procopius' story of Theodora's early life, there is conclusive proof that she must have been an actress in the constitution now incorporated in the code, which, by repealing part of an old law of Constantine's, permitted actresses to marry men of high rank.[48] It is true, Alemannus admits, that this constitution has been generally assigned to Justinian,[49] but that Alemannus thinks he can prove to be a mistake; it ought properly, he says, to be attributed to Justin, and in that case it is obvious that Justinian induced his uncle to issue the edict in order to facilitate his marriage with Theodora. But to this method of reasoning, elaborate and ingenious as it is, there is more than one objection. In the first place—assuming for the moment that Alemannus can prove the constitution to be Justin's—it does not necessarily follow that it was a *privilegium* intended to serve the wishes of Justinian. To

[45] P. 106. [46] Pp. 164 & 166. [47] P. ix.

[48] *Code* v. 4. 23; and Debidour, p. 59.

[49] Alemannus' notes, p. 348. Alemannus in this and the subsequent pages asserts that Justinian's laws on the subject are quite different from this. Well, the facts speak for themselves. Alemannus' method of avoiding a difficulty is never very straightforward or convincing; here his argument seems to me unusually weak.

prove that, it must be shown that the law is an isolated instance of the kind, and could not possibly have been a part of the ordinary legislation of the time. But, on the contrary, we find that it is thoroughly in keeping with the legislation of Justinian. The ordinances of Justinian and Theodora are full of references to the subject, and doubtless the empress took a large share in this as in all Justinian's legal reforms.[50] Her influence seems to have been constantly exerted to ameliorate the condition of women, for, in the language of the *public* history, 'she was naturally inclined to succour women in misfortune.'[51] Thus a rescript confirmed in the code prohibits the owner of a slave to force her to appear upon the stage against her will; and forbids the guarantors[52] of actresses to prevent them from quitting their trade. Another passage permits actresses who have left the stage to contract marriages with dignitaries, without any need of imperial rescript.[53] Later on, the fifty-first novel, published in 537, enables women on the stage to renounce their profession, and fines those who attempt to hold them to it by pecuniary engagements. It also revokes the general prohibition against marriages between persons of unequal rank. And lastly, the hundred and seventeenth novel, published in 541, legalises all marriages between persons of unequal condition, even although such marriages had been contracted before the abrogation of the rescript of Constantine.[54] Is it not possible to believe that these laws, including the one which Alemannus attributes to Justin, were occasioned by a worthier motive than Justinian's eagerness to contract a disreputable match?

But there is a graver objection yet to Alemannus' elaborate hypothesis. His position depends on his being able to prove that the edict in question was framed by Justin and not by Justinian, and that it was issued before Justinian's marriage. The constitution appears in the second edition of the code, published in 534, seven years after Justinian's accession, and it is there distinctly attributed to Justinian.[55] Alemannus too, as has been said, admits that critics[56] have agreed that Justinian was its author, and undertakes to prove that they and the code are wrong. His argument that the code is full of errors may be true enough, but taken by itself it carries little weight. Another of his arguments, that the

[50] See preface to novel 8. [51] *De Bell. Goth.* iii. 31. [52] *Fidejussores.*

[53] These two passages are taken from the *Code* (bk. i. tit. iv. 33). They are quoted by Debidour, pp. 62, 63.

[54] See for all these laws, Debidour's two admirable chapters, pp. 59–64; and also his Latin essay on Theodora—a less popular and perhaps rather more scholarly work—to which reference has already been made.

[55] *Codex Repetitæ Prælectionis*, V. iv. 23 (Debidour, p. 59).

[56] *Docti viri* (note on p. 348). It must be remembered that it is Alemannus who, in questioning Justinian's authorship, attacks the received opinion. The burden of proof therefore lies with him (see pp. 348–352). Gibbon strangely accepts Alemannus' statements on the point without question or examination (vol. v. p. 44).

constitution is headed 'IMP. IUST. AUGUSTUS,' and is therefore as likely to be Justin's as Justinian's, tells of course both ways. But a third argument which he brings forward is more important, both because he lays stress upon it, and also because if unanswered it would go far to establish his case. He points out that the constitution is addressed 'to Demosthenes, prætorian præfect,' and hence, he pleads, it must have been issued in the early years of Justin's reign;[57] because at that time Demosthenes held the office of præfect. But strangely enough Alemannus has himself provided us with the means of detecting his own disingenuity and of disposing of his plea. In another part of his notes he has collected and printed in chronological order the names of the consuls and prætorian præfects under the emperors Justin and Justinian.[58] In that list we find, as he has stated, that Demosthenes undoubtedly held the post of prætorian præfect in the early part of Justin's reign. But looking on a little later in the list we find that Demosthenes held the same office again in two successive years under Justinian[59]—a fact which for the purposes of his argument Alemannus has entirely overlooked. Hence the plea that the constitution must have been issued by Justin because it is addressed to Demosthenes, breaks down. With it breaks the whole chain of reasoning by which Alemannus attempts to prove that public opinion was mistaken in attributing the law to Justinian. There is no ground for rejecting the belief that the edict was the work of the later emperor; but, on the contrary, it seems most probable that it was issued not only after Justinian's marriage, but even after Theodora had received the imperial crown.[60] And if once it be admitted that the constitution is Justinian's, the ingenious argument which has been twisted from it to prove the depravity of Theodora's early career, collapses altogether.

When discussing the credibility of Procopius, both Dr. Dahn and Alemannus speak of the testimony of other historians. Alemannus in particular magnanimously refrains from quoting what other authors, 'and especially Victor, Evagrius, and Liberatus, say of Theodora, Justinian's wife.'[61] Of course if the statements of the 'Anecdotes' regarding Theodora were corroborated by any contemporary writer, they would have a very different claim on our belief. But what are the facts? Search as we may on every side, we can nowhere find a shred of evidence to support the story of Theodora's flagitious life. We are naturally inclined to ask from what source the secret historian drew the materials of his history. The scandals which he relates must, if true, have been the talk of the capital.

[57] *Post annum Justini tertium vel duobus sequentibus* (p. 348): from A.D. 521 to 523.
[58] Notes to *Anecdotes*, pp. 411–413.
[59] Probably about 529 and 530, though it is difficult to calculate exactly.
[60] This was in 527. I should be inclined to date the edict about the year 530.
[61] Preface to *Anecdotes*, p. vi.

Vices and vicissitudes such as those which mark his history of Theodora are not easily concealed or forgotten. Theodora herself had made no secret of the shamelessness of her life. Besides, if Procopius' assertions are not based on popular rumours, what foundation can they have? It is incredible, for instance, that the story of Antonina and Theodosius, which is told in the third chapter of the 'Anecdotes' and repeated by Gibbon at the end of his forty-first chapter, and which is among the worst of the recorded intrigues of the palace, should have been brought to Procopius' ears alone, while it was rigorously concealed from all the rest of the world. Who revealed to the distinguished senator the secrets of Theodora's dungeons? The empress, he tells us, always succeeded in suppressing what she wished to be unknown, so that not even her own accomplices dared to whisper of her crimes.[62] If these stories are not inventions of Procopius, they must have been public property, and known as such to every man and woman in Constantinople, and to every writer of the age. But if that be so, if the shame of the emperor and the iniquities of his consort had become matters of common report, why is it that no other chronicler, either in that generation or in those which followed, has ever hinted in his pages at the most glaring scandal of Justinian's reign?

Let us take up the challenge of Alemannus and examine the authors whom, he implies, he might quote in his support. Two of them are orthodox ecclesiastics, who, it might have been expected, would not have been too tender with the unorthodox empress. And yet one of these, Liberatus, a deacon of the church at Carthage and a staunch supporter of the three chapters, writing at the end of Justinian's reign, can find nothing worse to say of Theodora than that she was an impious enemy of the church;[63] while the other, Victor, bishop of Tunis, whose exile by Justinian on theological grounds might well have embittered him against the court, dilates on Theodora's heresy, but utters no word against her private reputation.[64] Two other contemporary writers, Johannes Lydus and Agathias, both of whom spent a great part of their lives at Constantinople, and one of whom at least possessed an intimate knowledge of the court, are equally silent on the subject. And yet Lydus was a disappointed man who does not hesitate to abuse freely Justinian's system of government and John of Cappadocia's private reputation; while Agathias, writing after Justinian's death, could scarcely have had much to fear.[65] Nor does the judgment of posterity differ from that of contemporary writers, for the

[62] *Anecdotes*, p. 122.

[63] See Liberatus, *Breviarium* (in Migne, 68, pp. 1040 *et seq.*)

[64] See *Chronicle* of Victor Tununensis (in Migne, tom. 68, pp. 956 *et seq.*)

[65] See the work of Lydus (*De Magistratibus*, bk. iii.), and Agathias' *History*, *passim*.

historians of a later age appear to have been as unwilling as their predecessors to publish the iniquitous history of Theodora's life. Malala, who lived and wrote soon after Justinian, and Theophanes, the orthodox and industrious chronicler of the eighth century, have little but acts of charity and devotion to record of Justinian's wife.[66] The silence of Theophanes is the more remarkable because we should naturally look for such an allusion in the strange conversation which he maintains took place in the circus between the Green faction and the emperor, when the malcontents loaded Justinian with abuse and taunted him openly with the delinquencies of his reign. And yet even at that moment the reputation of Theodora, who was specially obnoxious to the Green faction, whose name had been a byword in the circus, and whose elevation was the worst scandal of the time, appears to have been spared by the infuriated mob.[67]

But it may well be argued that some of these chronicles are so slight and fragmentary that it is unfair to attach much importance to their silence. Moreover, it is of course possible that some of these writers may have known the scandalous tales which were told of Theodora—they could scarcely have failed to know them if they existed—and may yet have thought that they did not call for mention in a public record of the times. Or, again, it may have been contrary to their practice to estimate the private characters of the personages whose public acts they relate. Let us, then, take two authors against whom these objections cannot be brought; and first let us take one whom Alemannus himself has called as a witness. Evagrius was born in Syria in the year 536, and attained considerable eminence as a scholar, advocate, and historian. During his boyhood Theodora was reigning at Constantinople with undisputed power. He was brought up in a country where, if the 'Anecdotes' be true, the celebrated empress had some twenty years before exhibited herself and her vices in every city to the public gaze. He must have known and conversed with men who had witnessed and had not forgotten the iniquity of her early life and the extraordinary vicissitudes of her fortune. Writing after Justinian's death, he was uninfluenced by any fear of the consequences if he spoke out. He was fully alive to the defects of Justinian's government, and he paints in colours 'almost as black as those of the "Anecdotes"'[68] the rapacity and exactions of the administration. Nor does Evagrius hesitate to criticise in his history the morals of the Byzantine emperors. In the beginning

[66] See Malala (*Chronographia*, bk. xviii. pp. 440, 441); and Theophanes (*Chronographia*, p. 286 and *passim*).

[67] See Theophanes (*Chron.* pp. 279–282), and Gibbon (vol. v. pp. 51, 52); also Debidour's *Remarks* (p. 86).

[68] See Gibbon's footnote to p. 64 of his fifth volume.

of his fifth book he deliberately turns aside to dwell upon the luxury and profligacy of the younger Justin's life.[69] In the beginning of his third book he draws an even darker picture of the emperor Zeno's private life.[70] And yet when in the fourth book of his chronicle he comes to treat of Justinian and Theodora we cannot find a word of censure or of comment upon the reputation of a sovereign whose career, according to Procopius, was by far the most disreputable of all.[71] Let us take another instance. Zonaras, the eminent historian of the twelfth century, whose judgment Gibbon estimates highly,[72] whose position at court under the Comneni gave him access to the best information, and whose picture of Justinian's administration is only less dark than that of the 'Secret History,' might be expected to be more accurate or less lenient. In his estimate of the sovereigns whose reigns he records Zonaras proves himself to be no courtier. He does not hesitate to expose the faults and follies of their lives. He does not attempt to extenuate the crimes of the empress Martina, the vices of Constantine Copronymus, the sensual corruption of Romanus II, the depravity of the notorious Theophano.[73] He at least, one might fairly argue, would have been the last man to have dealt tenderly with the character of Theodora. And yet, when we search his pages for some confirmation of the 'Anecdotes,' we find that he accuses Theodora of avarice, and condemns the excessive influence which she exercised over Justinian, but nevertheless has not a word to say about the supposed profligacy of her life.[74]

Where, then, are we to look for witnesses to corroborate the testimony of the 'Anecdotes'? Search as we may through the historians of every generation, we find in all the same conspiracy of silence as to Theodora's alleged vices. It is true that if we turn to tradition, we do find at the dawn of the eleventh century and in the writings of a monk of Fleuri, an echo of the scandals of Procopius. But the chronicle of Aimoin is such a tangle of fancy and of fiction that it is almost impossible to discover in it the thread of fact. The best way of testing his authority is to quote the simple story which he tells. Justinian and Belisarius, when young men, were great friends. One day, while out together in search of adventures, they made the acquaintance of two sisters, both of whom were

[69] Evagrius does not mince matters in attacking Justin's morality. ἦν δὲ τὸν βίον ἐκδεδιῃτημένος καὶ τρυφαῖς ἀτεχνῶς καὶ ἡδοναῖς ἐκτόποις ἐγκαλινδούμενος. . . . (*Ecclesiastical History*, bk. v. ch. i.)

[70] Zeno's depravity suggests to Evagrius moral reflections (bk. iii. ch. i.)

[71] Search the fourth book of the *Ecclesiastical History*, which is occupied by Justinian's reign. Chapter xxx. contains some severe criticism of the emperor.

[72] Gibbon (vol. v. p. 64, footnote) says: 'had read with care, and thought without prejudice.'

[73] See Zonaras, *Annales*, tom. iii., and the chapters on Constantine III, on Constantine Copronymus, and on Romanus II, and the following pages.

[74] See Zonaras' chapter on Justinian's reign, in the third volume of the *Annals*.

Amazons by birth, prisoners by fortune, and wholly unprincipled by nature. The name of one was Antonia, the name of the other was Antonina. Antonia fell to the lot of the patrician. Antonina won the heart of his friend. After some time, however, Justinian and Antonia severed their connexion, but not before the Amazonian lady had extracted from her imperial lover a ring as a pledge of fidelity. Years passed. The patrician succeeded his uncle on the throne. Then one day there appeared at the doors of the palace a beautiful woman gorgeously apparelled, who demanded an interview with the emperor. She was led in. At first, it would seem, her former lover did not recognise her features. But the ring was produced, the forgotten vows were recalled, the old passion revived in the emperor's heart, and, overcome by his recollections, he acknowledged Antonia as empress on the spot. The senate and people not unnaturally objected to this unusual proceeding; but the execution of several eminent senators inspired the requisite terror, and Justinian and Antonia were thenceforth obeyed as undisputed sovereigns. That is the narrative of Aimoin.[75] Alemannus quotes him in his support. We need not grudge Alemannus his witness, but it is only fair that if his authority is quoted, his evidence should be given in full. And if we quote the tradition recorded by Aimoin, it is only fair to mention a very different legend which at this time prevailed in the eastern empire. In the same century there was to be seen in the city of Constantinople a stately church dedicated to the Spirit of Charity, on a spot where, if rumour spoke truly, there once had stood the cottage of Theodora.[76] Here, so ran the story, the great empress, coming with her parents from their native town in Cyprus, had maintained herself in honourable poverty by spinning wool; and here it was that the patrician Justinian, drawn thither by the fame of her beauty and learning, had wooed and won her for his bride. This tradition, as narrated by an anonymous writer, may be of little value; but at least it shows that in the city where Theodora had lived and reigned the traditional estimate of her was not the one of Aimoin or Procopius.

Such, briefly stated, is the case against the 'Anecdotes'—that they were first welcomed in a spirit of bigoted partisanship, and that the publicity they have since received has not always been dictated by the highest motives; that they are inspired in many

[75] See Aimoin's extraordinary chronicle (*De Gestis Francorum*, bk. v.) It is not difficult to recognise in the imaginary Antonia a shadowy reproduction of the Theodora of the *Anecdotes*. The narrative is characteristic of Aimoin's style.

[76] See the anonymous writer of the eleventh century on the Antiquities of Constantinople (liber iii. p. 132, in Banduri, *Imp. Orient.* i. 47). It is hardly likely, as Ludewig in his *Vita Justiniani* argues, that had Theodora been guilty she would have taken pains to commemorate her poverty and her former home. She would rather have tried to obliterate all that reminded her and her subjects of her past life.

places by obvious malice; that the assertions of their author are often self-contradictory; that some of their statements are beyond the bounds of reason, and others undeniably perversions of fact; that the improbability of their version of Theodora's life is so extravagant as to make it, if true, the most startling career in history; that the charges they bring against her must, if well founded, have been widely known, and are yet unsupported by any of the historians of that time or since. Are we, then, prepared to accept on this foundation the 'Secret History's' estimate of Theodora? Ought we not rather to be content with what we know, and refrain from rendering the bare chronicle of facts attractive by dressing it up in the stage garb of scandal? Is it not possible to substitute a Theodora of history for the Theodora of romance?

Of the various accounts of the empress's early life nothing is really certain, but it seems probable that she came of obscure and lowly origin, and was raised from poverty to share Justinian's throne.[77] Beautiful, well educated, resolute, and ambitious, she soon acquired a marked ascendency over her husband. Her unflagging energy, her keen clear insight, and her power of grasping details led her to take a prominent part in the tortuous policy of the reign. In the administration of a great empire it is not likely that her conduct was always free from error or partiality, and two grave charges have been brought against her. It is said that she instigated Amalasontha's death. It has been reiterated by ecclesiastical writers that she behaved with arbitrary rigour to the popes. In the latter case the fact that Theodora was a heretic may account for some of the animosity of orthodox historians. The question of Silverius' death has been discussed already, and it is not a matter of great importance whether his deposition was due to Theodora's enmity or to the very natural suspicion that he was intriguing with the Goths. The charge of complicity in the murder of Amalasontha is a more serious accusation. Procopius asserts in the 'Anecdotes' that Peter of Thessalonica, the ambassador whom Justinian sent to Italy in 535, was furnished by Theodora with secret instructions to hasten the queen's death, and attributes to Peter's private intrigues Amalasontha's assassination.[78] This story, which Gibbon has adopted from Procopius, is refuted by an examination of the chronology, which shows that Peter did not arrive in Italy until after Amalasontha's death.[79] But there are extant some fragments of a correspondence between Queen Gundelina and

[77] Debidour (p. 46) accepts the story of Procopius as to her birth and parentage. Without going so far as Ludewig, who traces out for her a lofty parentage, I think Procopius' tale is unlikely, chiefly because it is incompatible with the high degree of culture and education which Theodora possessed, and which seems to have been the chief reason why the ignorant and superstitious Bigleniza disliked the marriage. See the quotations from Theophilus which Debidour gives (pp. 55–58).

[78] *Anecdotes*, p. 120. [79] See M. Guizot's footnote to Gibbon, vol. v. p. 128.

Theodora, in which the queen calls upon the empress to fulfil the promises she had made to her, and in which there is a vague reference to 'a certain person' which has been understood to imply a guilty understanding between them with regard to Amalasontha's death.[80] But it would be ridiculous to attempt to found a charge upon so unsubstantial a foundation. The motive alleged to account for Procopius' theory—Theodora's jealous fear lest Amalasontha's charms might win the heart of Justinian—appears absurd when we recollect that at the time in question Theodora's influence over her husband was perhaps greater than it had ever been before. Nor is it necessary to search far for a reason which could have induced Theodatus to commit a crime which his interest so obviously dictated and his principles were not strong enough to resist.[81]

As to the rest of Theodora's life, we have only passing glimpses here and there. We see her conspicuous in her charities, untiring in her benevolence, active, perhaps bigoted, in her religious zeal. On one occasion we find her sending a cross of pearls to the shrine at Jerusalem. At another time we see her journeying to the warm baths at Pythos, and leaving liberal donations on the way to be given to the poor. On the shores of the Bosporus a stately palace was set apart as a refuge for the unhappy women whom she had rescued from the streets of Constantinople, and more than one beautiful temple owed its foundation to the unorthodox empress.[82] In every department of government her influence was powerful and decisive, and that influence seems to have been generally employed for good. Some of the best provisions of Justinian's legislation are to be attributed to her wisdom.[83] She did not hesitate to oppose the oppressive system of John of Cappadocia, the worst and most worthless of all the imperial ministers.[84] But it was on the occasion of the Nika riots that her high qualities were most conspicuously displayed. At a moment when the victorious insurgents were in possession of the city, when all the efforts of Justinian and Belisarius to quell the tumult had failed, and when the mob had carried off Hypatius and crowned him in

[80] See Cassiodorus, *Variarum*, bk. x. These letters prove that an intimacy existed between Gundelina and Theodora, and one or two references in them are certainly capable of the guilty interpretation which Gibbon gives them. Still they do not seem to me sufficient ground for implicating Theodora.

[81] This is really the strongest argument in Theodora's favour, that Theodatus had an obvious motive for the crime, whereas Theodora had not. The motive of jealousy suggested by Procopius (*Anecdotes*, p. 120) is ridiculous. On the other hand, Debidour very pertinently points out (pp. 96, 97) that the death of Amalasontha militated against the interests of the Byzantine court. Moreover, if Theodora was the accomplice of Theodatus, why did not the latter expose her when Justinian and she denounced him for the murder?

[82] See Malala, *Chron.* xviii. 440, 441 *et passim*; and Theoph. i. 286 *et passim* (both ed. Bonn).

[83] See especially novel 8, and Debidour (pp. 59–74).

[84] See Lydus, *De Magistratibus*, iii. *passim*.

the forum of Constantine, a hurried meeting was held in the emperor's apartments. All present urged Justinian to escape. Alone in the midst of the trembling council, Theodora gave her decision against flight. 'Death,' she pleaded in animated eloquence, 'is a necessity which we all must face; but those who once have ruled an empire must never live in exile and survive its loss.' At length her resolution and her splendid spirit prevailed. It was determined to make a last attempt to regain command of the city. The attempt succeeded, and the throne of Justinian was saved.[85]

Such is the authentic history of Theodora. That she had probably serious faults, few will deny. She may have been ambitious, passionate, arbitrary, intolerant. She may have involved herself too deeply in the dark and ugly labyrinth of Byzantine intrigue. We do not claim for her immunity from the errors and influences of the times in which she lived. But we do claim that she shall not be judged solely by the libels of the 'Secret History,' and that the stain of a profligacy unparalleled in any age shall not, on such authority as that, for ever soil the reputation of a high-spirited and illustrious queen.

C. E. Mallet.

[85] See Procopius, *De Bello Persico* (lib. i. cap. 24, ed. Bonn).