The observation of changes in the use and understanding of a word leads to a clearer notion of its history. And if the word in question is seen in its thematic and structural context, its history will often reflect a larger process in the general history of human thought and culture. To illustrate this, it will be necessary to investigate the full complex of words belonging to the same theme. Hence I shall attempt to use the Latin terminology of the farreaching complex of crime and guilt as the foundation for a perception of Roman thinking in this area.

Language in its vocabulary and structure is as a whole one of our most important bridges to other forms of thinking. In the case of Greek or Latin an analysis of the use and development of single words or groups of words can be especially helpful, since here we approach a form of being and thinking which is partly familiar to us, but for the greater part rather foreign. Through such an analysis we penetrate through words to the ideas themselves.

As an example of the importance of close observation and analysis of single terms as a means of access to a foreign way of thinking let us consider the title of this paper, namely 'Crime and punishment, guilt and expiation'. Crime and punishment is the title of a famous novel by Dostoyevsky, equivalent to the original Russian title Prestuplenie i nakazanie. Similarly the Italian translation of the title is Delitto e castigo, or the French Crime et châtiment. In German the title is not translated literally as 'Verbrechen und Strafe', crime and punishment, but Schuld und Sühne, which means guilt and atonement or expiation. Thus the objective terms for definite facts are replaced with two terms at once subjective and evaluative, implying and evoking certain emotions. In other words, the same facts are seen under a moral aspect not included in the original wording: the title becomes programmatic.

The German title, though not an exact translation of the words of the author, nevertheless suits the tenor of the novel, marking a terminal point of an inner development. The protagonist of the plot, the atheistic and nihilistic student Raskolnikov, sees his deed, the murder of the pawnbroker,
first as a necessary act committed for the good of humanity. Only gradually does he comprehend his deed with a feeling of guilt, a guilt which he finally admits and for which he willingly accepts the legal punishment of exile. The objective crime thus becomes a subjective guilt, and the punishment becomes an act of atonement. The moral aspect, developed during a process of growing consciousness, awareness and inner moral judgement, is here accompanied and deepened by a Christian religious line of thinking.

This example should illustrate the possibility of different ways of seeing and judging the same fact by means of different words. At the same time it should form a kind of introduction to the fundamental problem of the complex in question: the decisive role of consciousness and evaluation.

We can observe three possible aspects of the concept of guilt: the objective legal aspect, implied by the term *crime*; the subjective moral aspect of *guilt* and finally the religious aspect of *sin*. With this background in mind we may well ask ourselves how and to what extent such categories influenced the Romans in their thinking.

The starting point and base of my investigation will be the terminology itself. I shall begin with an overview of the whole spectrum of Latin terms on this theme. The interpretation of the different concepts and a comparison with respective Greek terms will indicate something of the typical Roman way of thinking. Next I shall give a systematic review of the varieties and extent of the Roman treatment of the theme under the three aspects of law, morality and religion, without departing from the fundamental basis of language. In the third part of my paper I shall treat a few selected texts which will show the words, as it were, in action. These texts suggest a completed phase of development, but, at the same time, they give an indication of future developments.

I. The Latin terms for crime and punishment, guilt and expiation

If a list is made of Latin terms in the conceptual field of crime or guilt, one is surprised at the sheer quantity of expressions and differentiations which involve a high degree of evaluative terms. Such quantity and differentiation in themselves already justify an interest in the theme and provide a sign of its eminent importance.

I shall give the words in alphabetical order, together with a short description of their content and the changes in the development of meaning, in which — let me say this in advance — we can observe a general trend towards moralization as well as towards intensification. The notes contain some basic texts for each term, usually without further explanation and also selected bibliographical information (articles from the *ThLL* are not included, although I owe a great deal to them as well as to the material itself).
crimen, perhaps related to cernere, is primarily the accusation brought against a person, justly or unjustly, and secondarily the subject-matter of the accusation, the crime.\(^2\)

culpa means causation involving responsibility, that is guilt.\(^3\)

delictum, from delinquere, is shortcoming, deficiency in regard of a duty, and tending toward the moral sense of a culpable failure.\(^4\)

flagitium, correlated with flagitare, was primarily the scolding of someone in public, so as to bring dishonour to him (as already in the Twelve Tables),\(^5\) further, the action itself which gave rise to such public disgrace.

fraus is the deceitful action against a person with the intention of injury or damage, a central and rather strong word, inadequately rendered by 'fraud'.

Let me dwell on this for a moment: fraus is initially a legal term, belonging — with flagitium — to the oldest vocabulary available to us. In the older legal texts 'fraus' means initially an objective act of damage, whereas the voluntary damaging of a person would have to be described as 'dolus malus'. But the meaning 'damage' is already an extenuation of the original sense — which, as two famous experts in Roman law, Hugo Krüger and Max Kaser have shown\(^6\) — is the breaking of a commandment, and a central commandment at that.

A formula such as 'sine fraude' means that there is no breach of a commandment, and therefore no sanction (that is punishment) is necessary.\(^7\) Hence the extenuated meaning 'damage': on the one hand (passively) the damage suffered, especially punishment, on the other hand (actively) the damage done to a person.

In at least one case fraus automatically involves a subjective element, too: 'fraus' of a 'patronus' versus his client, a violation of 'fides' that can scarcely be thought of as involuntary and is therefore punished (according to the Twelve Tables legislation) with exclusion from the community, with the 'sacer esto' formula.\(^8\) Because it was part of the Twelve Tables it had a strong influence on the language of later jurists and on the meaning of 'fraus' in general. Let me cite Krüger-Kaser (art.cit.p.172) on this matter: 'Auf den fraus-Begriff selbst hat diese Deutung insofern abgefärbt, als darauf das Element der Täuschung, des Betruges zurückzuführen sein wird, daß der fraus als bewußter Schädigungs衙andelierung eigentümlich ist'.

From at least the late decades of the Roman Republic fraus takes on the meaning of a conscious and voluntary act of damage by means of deceit and fraud. Significant is the affinity to 'malitia', as actually testified in several cases. It is the same development from an objective to a subjective way of thinking that we shall find in other terms of guilt originally belonging to the legal vocabulary.\(^9\)

I continue the alphabetical enumeration:
inituria is not injustice in general but an action, mostly of a violent character, which ranges in the legal field from verbal injury to severe bodily injury and violation.\textsuperscript{10}

lapsus, slipping or falling, in its metaphorical sense plays only a minor part in the complex of terms for guilt and means mostly a mistake or pardonable error.\textsuperscript{11}

macula is also rather colourless in its metaphorical sense, at least in the time before the Christian authors, and usually means blame. Sometimes, however, it acquires more force from its context, and this, seen in relation to the whole development of meaning, leads to a gradual intensification.\textsuperscript{12}

More interesting for our theme is maleficium, originally no more than a vile action. Parallel with the growing deterioration of malus in a moral sense from bad to evil the word undergoes a similar intensification. maleficus is the term for the positive villain, the evildoer guided by 'maltita',\textsuperscript{13} far stronger than the Greek term 

The next term is nefas, a central word, not on the legal level — here it is scarcely testified — but in a religious and consequently in a moral sense. Primarily it means anything that is not 'fas', not right or not allowed, forbidden.\textsuperscript{15} From its context however, intensified by attributes like dirum or immene, it acquires the meaning of atrocity with an emotionally charged atmosphere. Thus it is used especially by the poets since Vergil, as a kind of expression which evokes horror and shuddering. In the tragedies of Seneca it is accordingly the central key word.\textsuperscript{16}

noxia and its derivative noxius can — like nocere and nec/necare — be traced back to an Indo-European root *nak or *nek with the sense of wound, kill or destroy. This group of terms thus refers primarily to a factual act of damage since the time of the Twelve Tables. In its extra-legal application it soon acquires a subjective and more significant meaning, to which I shall return later. In this context we may also include sons, a name for the perpetrator of a deed, then the guilty or even the sinner, a word I shall deal with in connexion with noxius.

peccatum, again a verbal derivative, plays only a minor part in pre-Christian times, in frequency as well as in intensity. If there exists an etymological connexion of peccare with pes, as indicated by some testimonia, the original meaning of peccatum would be that of stumble, straying from the way,\textsuperscript{17} in its metaphorical sense nearer to 'error' than to 'culpa'. The term becomes intensified in the rhetorical and philosophical language from Cicero onwards, influenced by the obvious identification with the central Greek term ἠμαρτήματος/ἁμαρτία.
scelus is probably related to Greek σκέλος, thigh. Its Indo-European root *squel means bending. Thus scelus would be crime with the implication of the distorted or inverted. From the outset, however, it is used for exceptionally vile crimes such as malicious murder, sacrilege and high treason. In extra-legal texts it can be a very effective word, mostly — as nefas — intensified by attributes. In addition there is an element not signified by the presumed etymology, the element of something fatal and pernicious, of being under a curse. scelestus is therefore not always a criminal but also a man accursed and ill-fated, bringing misfortune to others.

At last a more general term, vitium, defect, a word including rather technical mistakes as well as moral guilt, vice, not legally punishable, but in spite of that (or rather in consequence of that) subject to moral condemnation of the community and liable to the judgement of the censors.

If we compare this broad spectrum of expressions, which could easily be enlarged, with the corresponding Greek spectrum, we find here in contrast a rather small number. There is ἁκομιά/ἁκασία, an action or attitude opposed to the legal norm, further αἵκα, causation, and the central terms ἁμαρτία ἁμαρτία from ἁμαρτάω, the factual transgression due to error, guilt or culpable error. A central role is also played by the ritual term μιαμός, pollution, contamination, which has no verbal equivalent in Latin, although it is not lacking in conceptual equivalents. There is further ἡσεβέσια, which in Greece (that means especially at Athens, according to our sources) signifies a legal case, subject to capital punishment, an indication of the unity of state and religion. This unity is even more significant in Rome, yet again there is no verbal equivalent. The Latin impietas is by comparison rather colourless and general, and it does not signify a legal case, which would be more concretely ‘de laesa religione’ or something similar.

There is a further remarkable feature: while the two central terms for guilt in Greek — and in Hebrew as well — are of a metaphorical and symbolic nature, namely, the image of pollution and that of missing something or deviating, in Latin these two metaphors play only a minor part or — in the case of pollution — scarcely any part at all. Even the Latin key term in the field of pollution macula remains colourless and without force.

It is different, however, with the related metaphor of disease and infection, the latter especially in the terminology of contingere, contactus/contagio/contagium. Here we have the symbol of touch and contact: by the ‘contagio sceleris’, an event of sacral-magical character, one may infect oneself with the ‘scelus’ of another by touching him (which in Greek again is expressed by the metaphor of pollution). With the growing subjectivization of religious concepts the primarily objective fact is easily changed into a culpable involvement.

Like the metaphor of pollution, that of missing a goal, of aberration,
of the crooked or distorted is also a kind of primordial symbol among the concepts of guilt. In Latin the notion of the missed or crooked is, among the multitude of available concepts, of little, or at least not of central consequence: leaving aside the special case of scelus, treated above, labi/lapsus is rather weak. The connexion of peccare with pes, with the resulting sense of stumbling or slipping, is, as said before, plausible, but cannot be proved beyond doubt. Furthermore it began to flourish only among the Christians, who were influenced by the Hebrew-Greek usage of language.

Among Latin terms the chief emphasis lies on the concepts of action: the Romans think in concrete-practical terms rather than in a metaphorical or symbolic way. And, as everywhere, the judgement of others, public opinion, is of the highest importance, as shown by the central terms crimen or flagitium.

The terminological spectrum of another set of terms, punishment and expiation, is easier to survey and more consistent in itself. I will draw your attention only to a group of originally sacred terms, again in a broader spectrum: expiare/expiatio, luere, lustrum/lustrare/lustratio, piaculum, purgare (or expurgare), all for the most part terms denoting activity. I will treat the concept connected with this group more fully later.

Concerning the use of metaphors, one can say that in the field of expiation the concept of purification — which as such presupposes the concept of pollution — is of great importance also in Latin, though there is no single central term for it as there is in Greek with the central term παντελωμονόζι or καθαρισμός.

In my second section I shall now go on to treat the complex of my theme under the three main aspects of Law, Morality and Religion.

Such a systematic division is only partly justified. Originally sacred and legal law, together with moral commandment, formed a unity, reflected for example in the above-mentioned 'fraus' of a patron against his client. The separation into individual strands is the result of a mental process. In Rome, above all, many elements of the old, magically founded tribal community remained extant. Therefore the different parts naturally overlap, and the historical evolution, as I mean to show, will bring mutual influences and newly converging lines of thought.

II A. Fundamental traits and developments of the legal concept of guilt

I need not dwell on the importance and the role of Law in Rome. Daily life, even in the private sphere, was from the earliest period subject to precisely defined and codified legal rules. The single person was not considered as an individual but as member of a community which reacted very sensitively to any kind of disturbance. What was primarily aimed at in cases of disturbance was regulation. With regard to the legal realm, in any situation,
from water damage to theft and murder, the first step was a clear analysis of the facts. It had to be ascertained who was the cause of the act or the person responsible (as the ‘pater familias’ is responsible for those subject to his ‘potestas’). The intention was reparation and a just recompense, but not punishment (though at first we have a strict application of the talionic principle: an eye for an eye).

The next step is the consideration of a case of damage as a criminal act, which implies on the side of the agent consciousness and volition. These had to be considered, and thereby subjective elements are mixed with the facts. In this stage the punishment of the guilty one was aimed at, but punishment only: the idea of reform or further deterrence was not included.

A further step leads from the factual act to the attitude that can be deduced from it, that is, to the character of the culprit, for which forensic rhetoric gives ample proof. Here I refer to Rhetorica ad Herennium with its treatments of the argumentation of the ‘public prosecutor’ on the one hand, and of the ‘counsel for the defence’ on the other. This form of subjectivization is at the same time an approach to the moral level; legal and moral concepts even coincide with another.

This has been only a sketch of the evolution from damage to crime and then further to guilt. I now wish to elaborate and explain it more fully by way of a history of words, that is, by the example of the ‘noxa-group’, with a glance at sons for comparison.

The ancient definitions of noxa and noxia lead to confusion rather than clarity, the more so since the tradition in the case of two words so similar in phonetics and derivation is totally unreliable. Moreover all explanations refer more or less to formulations found in the Twelve Tables, which in later times were not so easily understood in the original sense. Without treating the complex problem in detail, I will only summarize the results: noxa or noxia denotes primarily the damage and secondarily the direct author of it, which, according to the Twelve Tables, can be a son, a slave or a beast, subject to the noxial liability of the owner. On the other hand, noxa especially refers to the reparation of the damage, in terms of which the person or animal that actually committed the deed was originally handed over to the injured party as compensation — treating the human or animal agent as an article of value. Hence the meaning of the word expands by transfer from ‘damnum’ to ‘poena’, and on the other hand, in the course of an inner development, to ‘culpa’, comprehending causation as well as responsibility.

While in the old sense noxa/noxia could mean the damage as well as the causer of the damage, without necessarily seeing him as a person in the full sense, we now have for the causer the adjectival derivation noxius, appropriate to the new conception of guilt which implies consciousness, that is personality.
Moreover, *noxius* is used exclusively in connexion with a person. There are no early textual testimonia for the use of the word in regard to, say, natural forces, that is, a cause without the element of personal responsibility, which is quite contrary to the use of *nocere* and its participial adjective *nocens*. Only when the original context was no longer present, from the Late Republic, when the confusion about *noxa/noxia* began, was *noxius* used not only for the realm of guilt, but also for that of damage, in the sense of 'damnosus'.

As for the realm of guilt, there is at the same time a tendency towards generalization and intensification, particularly in forensic rhetoric which, aiming at the persuasion of the audience, has to be firmly connected with contemporary speaking and thinking and hence makes suggestive use of moral categories. According to this tendency the term *noxius* means not only the charging of a person with a concrete culpable deed, but moreover indicates a depraved being laden with guilt and tending to future guilt; the delinquent becomes a villain. This development seems to be favoured by the new connexion of *noxius* with the realm of damage. *Nocens* can now be used as a synonym; since it was originally a present participle, it includes the aspect of duration as such. *Noxius/nocens* is now conceived not only as the guilty, but the fundamentally conscious and voluntary evildoer, an aspect comparable to that of 'pestifer' in regard to a person.

Somewhat different is the history of *sons*, literally 'that being the man, the real person'. The use of the term in our testimonia is from the first narrowed to a special meaning in the legal field: the apprehended criminal, the one who is found guilty and therefore held responsible. In contrast to the *noxa*-group, *sons* is not attested in the sense of mere damage or even a delict by mistake. Besides, *sons* remains a factual term at least with the prose-writers, that is, the concrete criminal sense of the word is preserved and the moral component is left out.

A special development in poetry is the transfer of the term to the inhabitants of the penal region of the underworld, as to a Tantalus or Sisyphus. This goes back to Vergil, *Aen.* 6.570: 'continuo sontes ultrix accincta flagello/ Tisiphone quatit insultans'. It is remarkable that the poetic successors of Vergil who make use of this motif prefer instead of *sons* the terms *noxius* and *nocens* which had already acquired wider and deeper connotations. Only gradually, since Seneca, *sons* also gains some ground in this context. The other appearance of *sons* in Vergil, at the same time a second exception in usage, shall be treated in the next part.

### II B. The moral aspect

This part is actually not on the same level as A and C. Apart from a few exceptions, we find no special terminology but only the adaptation of legal or sacral terms. The mutual relations between the fields of law and ethics
are especially relevant to general moral conceptions, where the moral aspect of a given fact is more evaluative and subjective than the legal aspect. A tendency towards thorough evaluation, whereby a factual fault becomes a total moral disqualification, is quite noticeable and even affects terms that were originally legal, like fraus or noxius, as shown above.

So far we have described a situation within Latin, but the case is somewhat different in the field of philosophy, which was so strongly influenced by Greek. In consequence of an emphasis on basic principles which belong to the genre, we find characteristically in the works of Cicero and Seneca a radical departure from certain negative, but conventional ways of thinking and acting, and this leads to an intensification of the meaning of the terms. This holds good for example for all terms of fraud and deception, as fraus, dolus, insidiae, terms which could also be used in a neutral sense or even almost in admiration.33

When this tendency towards intensification is connected with the general development, there is also another factor: we can see that it was especially Cicero, the first to transpose Greek philosophy into the Latin language, who was compelled to find Latin words corresponding to the Greek terms. Most of the terms which he introduced were accordingly employed for purposes of translation. Cicero clearly tends not only to choose nearly-related Latin words whenever possible; he also tends to choose words with established meanings, whose capacity for intensification had not yet been exhausted. This concerns especially words like vitium and peccare/peccatum which were originally moral terms, at least when used figuratively.

Vitium, originally including rather technical mistakes as well as moral guilt (see p.77), is used by Cicero as equivalent to Greek κακία in the case of a single moral fault. For moral depravity in general he forms in a kind of linguistic experiment vitiositas, instead of a more obvious derivation from malus.34 No doubt the attempts of Cicero in the field of linguistic innovation were not always happy, and so in the case of vitiositas there is no successor until the Christian authors. Yet we find vitium in the sense of ‘nequitia’ as well as of ‘culpa’ in Horace,35 and both the elder and the younger Seneca can use the intensified moral meaning of vitium quite naturally and freely (see n.23).

Like vitium, peccare also shows from the first the coexistence of a factual and a moral sense. It means on the one hand to make a mistake — for example a stylistic one36 —, on the other hand to commit a recognizable and above all self-recognized offence. This use of peccare, in a context of regretful self-criticism, is frequent and even predominant in our early testimonia.37 To be sure, these confessed offences are usually neither grave nor intentional ones; for the most part, they were caused by juvenile and thus pardonable frivolity and thoughtlessness. And, like vitium, peccare and
its derivative *peccatum* also become aggravated by the obvious identification with the central Greek terms for guilt ἁμαρτάνω, ἁμάρτημα/ἁμάρτια.

Quite a new turn is given to *peccare/peccatum* by Christian authors, again by way of identification with the ἁμαρτάνω-group. That in its turn had become in the Septuaginta the central translation-terminology for the Jewish conception of guilt which, besides the legal component, primarily and above all includes a theological component. Thus the meaning of *peccatum* changes from guilt to sin, a culpable offence against God, committed intentionally and consciously (this is a new aspect, too); with that it becomes the term for original sin. This transfer to the divine level was not primarily implied in *peccare/peccatum*; it is a genuine Christian innovation. There are only three pre-Christian *testimonia* with the substantive (the earliest in Vergil) which concern the divine level. The further Christian intensification, implied in the new special use as well as in the choice of the word as such, actually follows the same tendency as that shown above for Cicero: the Christian authors, too, preferred words not yet worn out or exhausted in their negative content.

This innovation of the meaning of *peccare*, though in itself remarkable, corresponds in other respects to the general pre-Christian development: I have already mentioned the growing tendency towards the fundamental principle, the drawing of a conclusion about the person as such from a single fact. Connected with this is also the strong emphasis on consciousness and volition. A will to injure, even a pleasure in evil extending as far as total perversity, is presupposed. For that I mention only the characterization of Caesar by Cicero in *De officiis* 'tanta in eo peccandi libido fuit, ut hoc ipsum eum delectaret peccare, etiam si causa non esset'. And there is a growing tendency to present a person so characterized as a 'hostis deorum', too. Here I refer only to Cicero's portrayal of Catiline.

But this critical and fundamental assessment of behaviour can be aimed not only at others, but also at one's own person, as we have seen in the inclination to confession shown for the use of *peccare*. Together with a kind of collective consciousness of guilt, that is, collective self-criticism, there also develops in the Late Republic, in view of the ruin of the ancient order, a further, personal consciousness of guilt, again not so much in regard to a factual act; the concrete culpable act is merely the starting-point for an insight into one's own inner fundamentally guilty, 'sinful' being. As documentation for this development of the concept of guilt I cite first the above-mentioned second *testimonium* for *suns* in Vergil, in the lament of the cruel tyrant Mezentius after the sacrificial death of his son, *Aen.*10.851sqq.:

> idem ego, nate, tuum maculavi crimine nomen, pulsus ob invidiam solio sceptrisque paternis: debueram patriae poenas odiisque meorum: omnes per mortes animam somtem ipse dedissem.
Here we have *anima*, the most extensive Latin concept of person, and *sons*. The confession implicit in that connexion is at the same time the manifestation of the self-knowledge of the tyrant, beginning at line 851 in the context of the lament. The content of *sons*, in this context and by the connection with *anima*, has shifted from the concrete criminal act to the totality of the person. This Vergilian turn has also a rich and lasting after-effect in later literature. And here also the synonymous *noxius* and *nocens* are preferred to the original *sons*.41

I said at first that for the moral aspect of guilt — in contrast to the legal and sacral aspect — we have with a few exceptions no special terminology, but this statement has to be modified in regard to the last-mentioned realm of insight into one’s own guilt. The coining of expressions for a personal feeling of guilt is a special achievement of the Romans, an achievement not only in the linguistic field but also in the history of ideas. Here the connexion between the development of an idea and the formation of its linguistic expression, between thought and language, appears most clearly. This concept of conscience and of remorse has both in its conciseness and in its extent no parallel in Greek and is comparable only to certain Jewish conceptions.

I give a short survey.42

In contrast to the conception of guilt, whose vast spectrum of special terms allowed an exact and differentiated comprehension of the phenomena, the concept of conscience coincides simply with the words *consicous*/*conscientia*. Yet here also we have an inner development of a primarily factual term, the development from the shared knowledge of a matter to conscience:

*consicous*, documented since Plautus, means first a person sharing the knowledge of something with another persona. Objectively this includes the possibility of knowing about a crime, which easily leads to becoming accessory to a crime; to this extent ‘shared knowledge’ can be ‘shared guilt’.43 The early *testimonia* for the combination ‘sibi consicous’ are also factual.44 Nevertheless a single instance of the related combination ‘animus conscious’ in Plautus shows that the fundamental concept of conscience is considerably older than its theoretical comprehension.45 But it may be not merely by a chance of tradition that the *testimonia* for the realm of conscience in the narrower sense begin only with the author of the *Rhetorica ad Herennium*.46 He is also the first to use the noun *conscientia* which — unlike the adjective — is from the very first used negatively. Shared knowledge means now, almost exclusively, shared guilt; *conscientia* as self-reflective conscience would be ‘mala conscientia’.47

In the succeeding period this fully developed concept of conscience undergoes a downright inflation. The old conception of the ‘Furiae’ as ‘ultrices scelerum’ is rationalized into the concept of conscience.48 In Cicero and
Sallust we meet everywhere the villain driven by ‘conscientia scelerum’. Let me quote only Sallust, *Catil.15.4sq.*:

namque animus inpurus, dis hominibusque infestus, neque vigiliis neque quietibus sedari poterat; ita conscientia mentem excitam vastabat. igitur colos exanguis, foedi oculi, citus modo, modo tardus incessus: prorsus in facie vultuque vecordia inerat. 49

A man tortured by the knowledge of his evil deeds craves for deliverance; while the villain may turn his inner ‘furor’ against the outside world, the more ‘normal’ reaction is shame, repentance and readiness to atone. The terms of atonement, because they belong originally to the realm of the sacred, I shall treat in part C. Here I shall only make a few remarks about the concept of repentance, in which also the word and the idea largely coincide: *paenitet, paenitentia*.

*paenitet* is likewise originally a strictly factual term without any moral implication. It means being discontented with a deficiency, first in a quantitative sense and, beginning with the early Ciceronian period, also qualitatively, and in regard to one’s own acts or those of others, whereby it easily changes from mere dissatisfaction to positive regret. Hence comes the special meaning of a retrospective view of one’s own actions which are to be answered for and recognized as faulty. Regret changes, via ‘conscientia’, to remorse. The following three texts illustrate this triple step quite clearly:

1. Plaut.*Stich.550sq.* ‘duas dabo ..., una si parumst; et si durarum paenitebit, ... addentur duae (sc. puellae)’.
2. Cic.*inv.2.9* ‘quodsi ea, quae in his libris exponuntur, tanto opere eligenda fuerunt, quanto studio electa sunt, profecto neque nos neque alios industriae nostrae paenitebit’.
3. Cic.*div.l.63* ‘eos ..., qui secus quam decuit vixerunt, peccatorum suorum tum (i.e. morte instante) maxume paenitebit’.

The noun *paenitentia* is not documented earlier than the Augustan period. It is determined wholly by the qualitative-emotional aspect, though the remorse follows actions caused by mistakes or rashness rather than real offences. 50 As a moral concept it plays a greater, even a central role in the Christian authors, where the repentance is of course especially connected with offences against the divine. Yet we must realize that the fundamental expression of this central Hebrew-Christian concept had been found in Rome previously and independently. Here again the Christian authors writing in Latin could make use of a ready-made linguistic instrument.

If we consider the Greeks, the corresponding term for remorse is from the first more rationally conceived: *μετάνοια* — the changing, the revising of thought.
Regarding the concept of conscience, συνειδητήσιον/συνειδησία, the Greek equivalents for conscientia, seem to lag behind the Latin development.

Thirdly I come to:

II C The religious aspect of the concept of guilt

While the legal and the moral levels could be separated from each other only in a modified way, we can speak of a thorough autonomy of the realm of the sacred as such, especially in regard to the concept of guilt. Ancient images, words and rites have survived into a time when they must have appeared anachronistic, and were regarded as such by most educated people, as we see in the philosophic dialogues of Cicero. Yet again Cicero himself uses such expressions quite naturally in his speeches; he makes use of their recognized validity and their magical-sacred character for driving home his point in a more atmospheric and suggestive than logically argumentative way.

The tendency to preserve ancient words, the understanding of whose original meaning became increasingly difficult, was observed previously in our treatment of the legal field. In the realm of the sacred this preservation was of central importance, as the very basis of state and community. And here we perceive a proximity to the original content of the legal concept of guilt. It was aimed at redress and compensation, at the restoring of the relation between the human and the divine levels, the so-called ‘pax deorum’, when that had been disturbed by a conscious or unconscious, individual or collective act. The objective element is still extant in that almost technical system of action and counteraction, that is expiation, the central feature of Roman ‘religio’; the great importance of magical elements is only seemingly in contradiction with it. The truth is that the elements of a tribal community based on the magical-sacred, so conspicuously preserved by the Romans, were originally not of a subjective, but of an objective nature.

The strands come together especially in the rhetorical and poetic language: the words are used for a total moral condemnation of a personal disruptive factor. The religious vocabulary is employed for the stigmatization and tabooing of the opponent as, for instance, in the case of ‘monstrum’.

At the same time in the context of the above-mentioned development of a personal-subjective feeling of guilt the vocabulary of sacral expiation prepares the starting-point for a possible redemption from guilt. Thus it becomes subjectivized and intensified, although the original objective character is still transparent.

Now I will present and interpret some specific Roman terms and concepts in their textual context, using as a basis the comprehensive complex of
'devotio' which plays a central part in the sacral relation between guilt and expiation, the word as well as the concept and ritual act.\textsuperscript{51}

'Devotio' means the consecration of a single member in the interests of the community as a form of expiation; it really is the offering of a pact with a certain claim to success, because of the advance payment. In that ritual the interlacing of practical, almost businesslike thinking and the magical or sacred is striking. 'Devotio' in its strict sense as a technical term of archaic Roman sacral law, is a special form of 'votum': the Roman commander consecrates himself before a battle, together with the enemy host, to the powers of the underworld, the chthonic gods, and afterwards seeks death in battle. With his death the pact is closed. The curse which the commander has brought upon himself by that 'devotio' to the 'inferi' is turned against the enemies. From this connexion issues the general meaning of execration or curse.

Tradition has it that such a 'devotio' was accomplished by three generations of the Decii Mures, first in the year 340. Of this we have a continuous narrative in Livy 8.6 and 9sqq., the first part also in Valerius Maximus (1.7.3):

During a war with the Latins both Roman commanders had a dream, in which victory was prophesied to the army whose commander would consecrate himself and the enemy host to the Di manes and Terra, to whom an army and a commander is owed: \textit{deberi}. Here we have on the human side a deficiency in regard to the divine, a debt in the objective sense of 'debitum'. The 'pax deorum', the equilibrium between the human and the divine level is obviously disturbed, see in our context § 11: \textit{averruncundae deum iae}. \textit{averruncare}, to avert an evil, is also a technical term of ancient Roman sacral language; 'ira' is a condition, as it were, contrary to that of 'pax'. For the restoration of the equilibrium this obligation, in whatever way it had been brought about in the first place, is to be met by way of an expiatory sacrifice, by the required victim or a substitute. I quote from the version of Valerius Maximus: \textit{luce proxima consulibus sacrificio vel expiaturis, si posset averti, vel, si certum deorum etiam monitu visum foret, exsequituris, hostiarum exta somnio congruerunt} — \textit{expiare/expiatio} is the act of atonement or expiation; the term for the means of that expiation is \textit{piaculum}.

The two commanders come to an agreement: the one, whose battle-line is the first to yield would be dedicated for the 'devotio'; that means, the gods themselves are to choose by way of the fortune of war, Liv.8.6.13

'\textit{ut, ab utraque parte cedere Romanus exercitus coeptisset, inde se consul devoveret pro populo Romano Quiritibusque}', and in the parallel version of Valerius: '\textit{ut is capite suo fata patriae lueret}'.

The original sense of \textit{luere} is here clearly perceived: \textit{luere} means originally 'loosen', not, as generally assumed, to 'expiate'. Etymologically re-
lated to Greek λύειν, it means primarily to release someone from an obligation, hence the special sense of expiation.52

The one dedicated to the 'devotio' is Decius. The 'devotio' is celebrated in a solemn ritual, Livy chapter 9. In the formula of the consecration the Di Manes are named in the last, most emphatic place of the invocation; according to the dream-vision the 'devotio' is to them and Terra. The central passage of the supplication runs 'uti ... hostes ... terrente formidin morteque addicitis' (§ 7). The consecrated general rides into battle 'conspectus ab utraque acie, aliquanto augustior humano visu, sicut caelo missus piaculum omnis deorum irae qui pestem ab suis aversam in hastes ferret' (§ 10).

As we see, the 'devotio' is connected with the idea of the scapegoat, the motif of the 'unus pro omnibus' that we find often in historical as well as in poetical contexts. The sacrifice can be voluntary, as in the case of the Decii, or in the case of Curtius, who threw himself into the chasm which had opened in the Forum.53 An older involuntary form of human sacrifice is reflected for example in Vergil, Aen. 5.814sq., in the speech of Neptunus to Venus 'unus erit tantum, amissum quem gurgite quaeres, unum pro multis dabitur caput'. The victim will be Aeneas' helmsman Palinurus.54

In the 'devotio' of the younger Decius in the year 295, Liv. 10.28sq., the magical and chthonian character of the event is even more pronounced. So already in the opening speech of Decius, § 13: 'datum hoc nostro generi est luendis periculis publicis piacula simus. iam ego mecum hostium legiones mactandas Telluri ac Dis Manibus dabo', and especially in his addition to his father's consecration-formula, 16sq.: 'praes se agere sese formidinem ac fugam caedemque ac cruentum, caelestium inferorum iras, contacturum funebribus diris signa tela arma hostium'.55

The term of piaculum is here connected in a singular way with the motif of 'contagio': he who is consecrated to the 'inferi' carries the curse into the enemy host, like a contagion, by immediate and bodily contact. The personal character of the younger Decius as such is surely Livy's own elaboration, depicting in this regard a considerably later level of development.

III. In close connexion with the theme of 'devotio' I now come in the last section of my paper to a few texts which may illustrate the living presence of that magic and sacred realm and its gradual integration and merging into a new level of consciousness.

I begin with a passage from Cicero's Pro Sulla, § 76. After a retrospective characterization of the Catilinarians as a most infamous gang of criminals Cicero draws a peculiar conclusion: 'ex magnis et diuturnis et iam desperatis rei publicae morbis ista repente vis erupit, ut ea confecta et eicta convalescere aliquando et sanati civitas posset. itaque eos non
ad perficiendum scelus, sed ad luendas rei publicae poenas Furiae quaedam incitaverunt'.

The concept of personal 'piaculum' appears here in a peculiar connexion with the motif of the 'Furiae' as 'ultrices scelerum': the Catilinarians, in order to pay for their previous crimes, are driven by the Furies to the utmost point of outrage. With their ruin they not only pay for their own crimes but at the same time expiate the community. The metaphor of disease is implied: in the Catilinarian conspiracy all negative elements are concentrated as in a boil; when it bursts, it brings both salvation and healing.

The next text to which I would call your attention is from the speech of Cato in the second book of Lucan's Pharsalia: Cato, the only innocent in the midst of general depravation, depicted by Lucan as a titanic superman, almost a supergod, is offering himself as a willing scapegoat for the guilt of others. This may remind us of the younger, more 'conscious', Decius. I cite lines 304–7, 312–13:

\begin{verbatim}
sic eat: immites Romana piacula divi
plena ferant, nullo fraudemus sanguine bellum.
o utinam caelique deis Erebique liceret
hoc caput in cunctas damnatum exponere poenas!
\end{verbatim}

\begin{verbatim}
hic redimat sanguis populos, hac caede luatur
quidquid Romani meruerunt pendere mores.
\end{verbatim}

The old terms of sacral language are still extant; the objective sacral aspect however is now subordinated to individual subjective and moral criteria. The hero sees himself in the position of an accuser, in opposition to a set of gods not corresponding to his demand for divine guarantors of a moral order. Even if the cited passage, especially through the motif of the redeemer, almost presents Cato as a kind of pagan Christ, his readiness for self-sacrifice is nevertheless not an act of submission to the divine but rather one of rebellion.

The main conceptual background of the 'devotio' and kindred lines of thought has turned out to be the concept of the guilt of the community, developing from an objective offence or debt to a subjective guilt. Peculiarly significant for the whole complex was, especially in the last two passages, the combination of magical elements from a primeval tribal society with a vehement criticism of contemporary morals and the general state of affairs: this reflects a fundamental trend toward moral subjectivism, beginning in a programmatic sense with the indeed 'censorius' moral criticism of the elder Cato. The general atmosphere in the last phase of the Republic, as depicted above by Cicero, represents a culmination and temporary breathing space before the later development, reflected in Lucan.
An impressive depiction of that atmosphere is also provided by the poems of Horace on civil war, where all the different lines converge in a multi-tensioned unity and where also a personal feeling of guilt and repentance finds valid expression. These feelings are here personally expressed in regard to the speaker as well as the community. Self-responsibility and collective responsibility make up an interesting reciprocal kind of unity. Consciousness of guilt, willingness to atone and, based on that, finally even hope of certain redemption, are recurrent motifs.

A peculiar feature of this poetry is the conception of hereditary guilt, not in the sense of exoneration or as a mere objective co-responsibility, but including a concept of personal guilt, which implies consciousness and volition. I cite the end of the seventh *Epode*, in which the 'vates' Horace, similar to a prophet of the Old Testament, stands up before the Roman people, lines 13sqq.:

```
furone caecus, an rapit vis acrior,
an culpa? responsum date!
tacent et albus ora pallor inficit
mentesque perculsae stupent.
sic est: acerba fata Romanos agunt
scelusque fraternaliae necis,
ut immobedit fluxit in terram Remi
sacer nepotibus cruor.
```

Even in the outward appearance the movement concentrates more and more, from 'furor' to 'vis' and finally to 'culpa'. Let me quote from the interpretation of the ode by Doris Ableitinger-Grünberger,56 p.13f.:

'Drei mögliche Ursachen der permanenten inneren Krise werden angeführt. "Furor caecus" entspricht dem griechischen γατζαλα und bezeichnet den blinden Wahnsinn, der den Menschen unversehens überkommt, "vis acrior" fällt in den Bereich der σερarov und kommt in seiner Bedeutung ... dem Begriff der "violentia" sehr nahe. Mit starker Betonung und ohne jedes Beiwort tritt "culpa" an das Ende der Frage, in der sich schrittweise die Verantwortlichkeit des Menschen verdichtet und in diesem letzten Begriff ihre größte Konzentration erfährt.' That the addressed turn pale is all that is needed for an answer, since 'pallor' is infallible evidence of 'conscientia sceleris'.57 The 'sic est', acknowledging the resultant 'culpa', is followed by the concept of an original and hereditary guilt of the Romans: the fratricide at the founding of Rome which finds its continuation in the civil wars, a curse — *sacer cruor* — and at the same time a renewed guilt. In this formulation, the concept of hereditary guilt is no mere development of Roman concepts of collective responsibility and guilt. Rather the Horatian conception comes close to the ancient Greek concept of a curse on the generations of a family, as that connected with the house of Tantalus. Yet the
Horatian concept of the hereditary guilt differs from that of a generation-curse, inasmuch as it involves a feeling of personal guilt. In the context of the generation-curse the concept of personal guilt usually appears only as seen from the outside.58

The personal feeling of guilt as depicted by Horace has a closer parallel in Jewish concepts, which later led to the formulation of the Christian idea of hereditary sin.59 It was Otto Seel who drew attention to the 'eigentümliche Affinität und Wesensähnlichkeit zwischen dem Gottesvolk Israel und dem populus Romanus'. Concerning the conception of guilt I quote from Römertum und Latinität, Stuttgart 1964, p.122: ‘Und so ist, in Rom wie in Israel, im Bereich der Schuld kein echter Gegensatz zwischen Individuum und Gemeinschaft, zwischen aktuell Gegenwärtigem und geschichtlich Überkommenen denkbar.’

Whether the Horatian conception of original sin and remorse can really be traced back to Jewish concepts (as can be made plausible for the fourth Eclogue of Vergil in regard to the concept of the Messiah), or whether we have here an independent and personal formulation, based on Roman concepts somehow similar to the Jewish ones, I would not dare to decide. Even if it were a direct loan, the personal achievement and its Roman roots would be of central importance: spiritual borrowing is based on free choice and inner dispositions.

Moreover we find similar thoughts in Vergil. Let me recall once more the ‘animam somet ipsum dedisse’ of Mezentius. The image of the reunited brothers — ‘Remo cum fratre Quirinus’ — at the end of Jupiter’s speech in the first book of the Aeneid (v.292), as a symbol of the ‘pax Augusta’, might at the same time be a response to the Epode of Horace, symbolizing the redemption from curse and guilt. Although without a personal turn, Vergil, too, had assumed a kind of original outrage as an explanation of the civil wars: the perjury of Laomedon in the Georgica 1,501sq. ‘satis iam pridem sanguine nostro/ Laomedonteae luimus periurias Troiae’.

With that he goes even further back to a genealogical origin, which on the one hand is more absolute, yet on the other hand, because of the temporal distance, not so immediately ‘present’ and therefore less depressing. Horace will refer to it in his third Roman Ode, where the curse is somehow dormant (carm.3.3.18sq, cf.61sq).

The theme of ‘satis iam’ Horace had treated already in an earlier ode, at the beginning of the second Ode ‘iam satis terris nivis atque dirae/ grandinis pater misit’ eqs. The ‘ira deorum’ breaks over Rome in terrible thunderstorms; the reason for it is given in the picture of the overflowing Tiber, v. 17sq. ‘Iliae dum se nimium quereni/ iactat ultorem’. The immediate reference is to the murder of the descendant of Ilia, Caesar. But in the naming of the mourning Ilia, that is Rhea Silvia, the mother of Romulus and Remus, we might see an allusion to that original guilt, whereas the
motif of hope, beginning with ‘iam satis’, is continued in ‘nimium’. But before the rescuer approaches, Mercury/Augustus as ‘Caesaris ultor’, there is a kind of confession, v. 21sqq.:

\[
\begin{align*}
\text{audiet civis acuisset ferrum,} \\
\text{quo graves Persae melius perirent,} \\
\text{audiet pugnas \textit{vitio parentum}} \\
\text{rara iuventus.}
\end{align*}
\]

Again the motif of civil war: civil war, fratricidal war, is seen as a punishment and at the same time as a multiple repetition of the crime.

The motif of turning against the outer foe, beginning at v. 22, a kind of counter-program to the civil wars, becomes dominant in the last verses, 51sq. ‘neu sinas Medos equitare inultos/ te duce, Caesar’. It was already discernible in the first verses of \textit{epod.7}, where the retrospective view of the past was contrasted with the hint of program in the present. Finally, as a possibility of purification by enemy blood, it appears in the last passage of \textit{carm.1}.35, the third central poem with the motif of civil war and guilt. Here it is directly connected with the confession, at lines 33sqq.:

\[
\begin{align*}
\text{heu, heu, cicatricum et sceleris pudet} \textit{61} \\
\text{fratrumque. quid nos dura refugimus} \\
\text{aetas? quid intactum nefasti} \\
\text{liquimus? unde manum iuventus} \\
\text{meta deorum continuat? quibus} \\
\text{pepercit aris? o utinam nova} \\
\text{incude diffingas retusum in} \\
\text{Massagetas Arabasque ferrum!}
\end{align*}
\]

Towards the end of the Republic a conception of guilt had developed which closely resembles the Christian concept of conscience and sin, although the motif of expiation by enemy blood should be a warning against too rash and too complete an identification. But this development comes to a temporary end with the Augustan reformation. Even in the poetry of Horace the Roman guilt is increasingly seen in retrospect, corresponding to that retrospection of the guilt from the fratricide to the perjury of Laomedon. In the latest poems of Horace the theme of guilt no longer has a place; the salvation seems to be a final one.

Yet the question obtains new actuality in the following period: the poetry of Lucan, and above all that of Seneca, will take up the same lines, though in a more pessimistic and hopeless tenor. With both poets the motif of the end of the world — not previously formulated in that way — plays a major part in connexion with the conception of guilt. The ancient motif of the generation-curse, in the Horatian formulation of a hereditary guilt in the double form of personal and metapersonal guilt, can be found in.
the tragedies of Seneca, and later it is the central theme of the *Thebaid* of Statius. Whereas in Horace the hope of redemption for the individual as well as the community was founded on the possibility of expiation, given the necessary repentance, in Seneca and Statius the 'redemption' can only be the total extermination of a generation incapable of conversion and repentance.

Albeit pessimistic, Seneca's view of man in his philosophical works is nevertheless not quite as hopeless. In the development of the individual terms for guilt Seneca plays a central part in the process of intensification and moralization of those concepts, as mentioned previously. It is thus not by chance that for the Christian authors Seneca, too, plays a decisive part in the development of linguistic tools for the field of guilt and expiation.

Let me summarize:

We can say that in Rome there were almost ideal conditions for the development of a concept of guilt in its full sense, that is including consciousness and volition.

An exceptionally elaborate sacral and legal structure was the basis of the state; its highest aim was the preservation and restoration of an interpersonal equilibrium and above all an equilibrium between the human and the divine level. In cases of disruption there was a broad ritual and legal spectrum of counteractions, and there was consequently a differentiated supply of special terms to be applied to the individual case. Characteristic of the history of most of these terms is the development particularly in the legal area from an objective fact to subjective responsibility, and accordingly an inner development and intensification, in the sense of a movement from an act to the agent, from the single case to the principle. The trend towards moralization and subjectivization combines with a very functional and concrete form of thinking, which leads to a sometimes peculiar intertwining of subjective and objective elements. A culmination of this movement is reached in the time of the Late Republic, when even a kind of consciousness of sin has developed. A further step in the direction of spiritualization and intensification is taken in the post-Augustan period, to be connected especially with the name of Seneca. From there it merges almost immediately into the Christian terminology.

To come back once more to the title of my paper, I should think that a Roman — at least from the time of Cicero — would in translating the title of the novel of Dostoyevsky rather have followed the German translation: 'Schuld und Sühne', guilt and expiation, or in Latin, say, 'De culpa commissa et expianda'.
NOTES

* A shorter version of this paper was read at the 19th Biennial Conference of the
Classical Association of South Africa in Cape Town, on January 23, 1991. The
original conception has been retained; the notes are for the most part a substitute
for the content of the handouts. For the translation of my German draft into
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I dedicate this paper to Prof. Dr. Werner Suerbaum on the occasion of his 25th
anniversary as incumbent of a chair in the Institut für klassische Phäiologie, Munich.

jemand bei den Griechen und Römern suchen will, es gibt für ihn keinen anderen
Weg als durch die Sprache’.

2. ad 1 cf. e.g. Plaut. Pseud.427 ‘homines qui gestant quique auscultant crimina’, ad
2 e.g. Cic. de orat.2.199 ‘id C. Norbano in nefario criminé atque in fraude capitali
esse ponendum’.

3. Cf. the differentiation made by Publilius Syrus, L 12 ‘lapsus semel fit culpa, si
iterum cecideris’.

4. See the definition Paul. Fest.p.73 ‘delinquere est praetermittere, quod non opperet
pretererit; hinc deliquia et delicta’ (cf. Char. gramm. p.387,11 ‘delictum et peccatum:
qui deliquit, non fecit, quod facere debuit; qui peccavit, hoc fecit, sed parum recte’).
For the actual use cf. e.g. Cic. Mur.61 (ironic reference to the Stoic doctrine) ‘omnia
peccata esse paria; omne delictum scelus esse nefarium’ eqs.

5. Lex XII tab.8.1 (Cic. rep.4.10.12 apud Aug. civ.2.9) ‘si quis accentavisset sive cærmen
condidisset, quod infamiam faceret flagitiumve alteri’. For the history of the word
cf. M. Reichenbecher, De vocum quae sunt scelus, flagitium, facinus apud priscos
scriptores usu, Diss. Jena 1913.

is based to a large extent on this article).

7. The basic text is Lex XII tab.3.6 ‘si plus minusve secuerunt, se (=sine) fraude esto’
(cf.e.g. Lex repetund.CIL 15836,69 ‘sed fraude sua extra ordinem dato solvitoque’).

8. Lex XII tab.8.21 ‘patronus, si clienti fraudem fecerit, sacer esto’.

9. For this last stage of development cf. e.g. Cic. Cluent.70 ‘ad omne malitiam et
fraudem versare mentem coepit (sc. Oppianicus)’; Pis.44 ‘infrenatum conscientia
scelerum et fraudum suarum’; Q. Rosc.20 ‘ex fraude, fallaciis, mendaciis constare
totus videtur’ (cf. Cluent.72 ‘ex fraude et mendacio factus’).

10. Cf. e.g. Gaius inst.3.223 ‘poena ... insinuariam ex lege XII tabularum propter mem-
brum ... ruptum talio erat’ eqs.

11. For details and documentation see J.J. Dillon, Lapsus: A study of the word and its
synonyms from the classical age to St. Cyprian, Ann Arbor 1982 [microfilm].

12. For the progression from ‘proprie’ through ‘tropice’ to ‘translate’ see e.g. Plaut. Capt.
585 videm in illi maculae corpus totum maculis luridis (sc. motu animi) →
Poen.198sq. ‘inest amoris macula huic homini in pectore, ... quae elae ne uti quam
potest’ (sim. ‘tropice’ e.g. Cic. B. Rosc.66 ‘paternus ... sanguis, ex quo si qua macula
concepta est, ... elui non potest’) → Cic. Sest.63 ‘macula regni publicati maneret,
quam nemo iam posset eluere’; Verr.2.5.121 ‘maculös furtorum et flagitiorum ... sanguine eluere’.

13. Cic. nat.deor.3.75 ‘est ... malitia versata et fallax ratio nocendi’.

15. Cf. Cic. parad.25 ‘quidquid non oportet, scelus esse, quidquid non licet, nefas putare debemus’; Att.1.13.3 ‘rem ad pontifices relatam idque ab ipsis nefas esse seculatum’. For the history of the word see P. Cipriano, Fas e nefas, Biblioteca di ricerche linguistiche e filologiche 7, Roma 1978.


17. Cf. e.g. Cic. de orat.3.198 ‘ut in versu volgus, si est peccatum, videt, sic, si quid in nostra oratione claudicat, sentit’; parad.20 ‘si quidem est peccare tamquam transire lineas’, but see also Aug. quaest.hept.3.20.2 ‘peccatum ... unde sit dictum, quod graece ἄμαρτία dicatur, in neutra lingua mihi interim occurrit’ (i.e. Augustine could not find an etymology). For the history of the word see A.E. Wilhelm-Hooijbergh, Peccatum. Sin and guilt in ancient Rome, Diss. Groningen 1954, see also above p.81.

18. See the definition Cic.parad.25 ‘quidquid non oportet, scelus esse, quidquid non licet, nefas putare debemus’ against the actual use even in the earliest testimonia, e.g. Enn.scaen.286 (Medea) ‘inspice hoc facinus (sc. Sol) prurium fiat, prohibesseis scelus’ (still useful as documentation is Reichenbecher, n.5).

19. See Enn.scaen.349sqq. (Thyestes) ‘nolite, hospites, ad me adire: ilico istic/ ne contagia mea bonis umbrave obsit ./ tanta vis sceleris in corpore haeret’ (cf. e.g. Sen.Herc.f.1318sq. [Hercules] ‘dextra contactus pios scelerata refugit’, for the ‘contagio-sceleris-motif’ see also n.43).


23. For this I refer again to the passage from Ennius’ Thyestes cited above, n.19. The idea is of some importance in Cicero’s speeches, aiming at a pedagogic or polemic effect, e.g. Cluent.193 ‘nemo ... inventus est, qui non contagionem aspectus (sc. Sannias) fugeret’ (cf.Caes.Bell.Gall.6.13.7 ‘qui bus ita est interdictum [sc. sacrificiis], hi numero impiorum ac sceleratorum habentur, hos omnes decedunt, aditum eorum sermonemque defugiant, ne quid ex contagione incommodi accipiant’); Sull.6 ‘in hoc crimine non solum levitatis est culpa, verum etiam quaedam aditum eorum scelerata, si defendas eum, quem obstrictum esse patriae parricidio suspicere’. More generally the metaphor is used by the elder Seneca in relation to the vita, contr.2.1.21 ‘vitia contactu ipso nocent transiente’. This use is taken up and developed by his son, first ‘in imagine’ with vitium as ‘vitiwm corporis’ dia5.8.1 ‘ut quaedam in contactos corporis viwm transiit, ita animus mala sua proximis tradit’; then 9.7.3 ‘serpent enim vita et in proximum quemque transiliunt et contactu nocent’ (cf.Plin.nat.18.8 ‘tubesque animi contacta aduit culpantium’). Concerning the importance of the sacral-magical metaphor of contact and touch in Roman thought in general, see H. Wagenvoort, Imperium. Studien over het “Mana”-begrip in eene en taal der Romeinen, Amsterdam 1941, especially chapt.I contactus p.14ff., and contagio, 126ff. A more literal variety of the metaphor is the motif of the touch of
a demon which fills men or beasts with fury. I have treated it at some length in my postdoctoral dissertation "Vorstellungen vom Bösen in der lateinischen Literatur bis Tacitus. Begriffe, Motive, Gestalten," to be published in 1992.


27. For further examples see K. Latte, ‘Religiöse Begriffe im frühromischen Recht’, *ZRG* 67 (1950) 47–61 = *Kl. Schr.* 329–340 (see above, n.21).

28. The basic texts are Festus p.174 ‘no(xia) ut Ser. Sulpicius Ru(fus ait, damnum significat), apud poetas autem et oratores ponitur pro culpa. at (ad cod.) noza peccatum, aut pro peccato poenam ut Accius in Melanippo “tete esse huic noxae obnoxium”. item cum lex iubet noxae dedere, pro peccato dedi iubet. Caecilius in Hypobolimaeo Chereestrauto: nam ista quidem noxa multibrest magis quam viri’ (suppl.sec.Pauli Diac.ex.: ‘noxia apud antiquos damnum significat, sed a poetis ponitur pro culpa, noxa ponitur pro peccato aut peccati poena’); *Serv.Aen.1.41* ‘(unius ob noxam ... Alacis) noxam ... pro “noxiam”. et hoc interest inter noxam et noxiam, quo “noxia” culpa est, “noxa” autem poena’ (Serv.auct. ‘quidam “noxa” quae nocuit, “noxia” id quod nocitum accipiunt’; a different explanation is given by Nonius 438.19sq. ‘noxa et noxia hanc habent diversitatem, quod est “noxia” peccatum leve, ... “noxia” nocentia’ (in its last part the passage documents the later development)); *Inst.Just.4.8.1* ‘noza autem est corpus quod nocuit, id est servus; noxia ipsum maleficium veluti furtum, damnum, rapina, iniuria’.


30. I do it without *testimonio* and refer for full documentation and further discussion to my presentation in *Vorstellungen vom Bösen* (see above, n.23).

31. Cf. e.g. Plaut. *Capt.476* ‘quam in tribu sonto aperto capite condemnant reos’; *Cic.leg.3.6* ‘minoris magistratus ... vincula sonto servanto, capita lati vindicanto’ eqs.; *Tusc.2.41* ‘cum ... sonto ferro depugnabunt’ (ac. in ludis gladiatoriiis).

32. So we speak of successors less in a terminological sense than in regard to the motif, which up to the Christian writers becomes more and more intensified and is transferred from the mythical realm increasingly to that of reality. I give a kind of survey by quoting some central texts in chronological order: *Tib.1.3.74* ‘versantur celeri noxia membra [sc. Ixionis] rota’. *Prop.4.11.17* (a dead woman pleads with Pluto) ‘immatura licet, tamen hoc non noxia veni!’ *Ov.Ibis* 173sq. ‘in loca ab Elysiis diversa fugabere campia,/ quasque tenet sedes noxia turbæ, coles’ (cf. *Sen.Herc.f.1221sqq.* ‘dira Furiarum loca/ et inferorum carcer et sunti plaga/
decreta turiae'); Sen. Phaed. 1226 sqq. (Theseus) 'graviora vidi, quae pati clausos iubet / Phlegethon nocentes igneo cingens vado: / quae poena memet maneat et sedes, / sic, umbrae nocentes, cedite'; Lucan. 3.12 sqq. (the soul of Julia is speaking) 'sedibus Elysiis campoque expulsa piorum / ad Stygias, inquit, tenebras manesque nocentes / post bellum civile trahor'; Stat. Theb. 1.56 sqq. (Di, santes animas angustaque Tartara poenis/ qui regitis, tuque ... Tisiphone' e.g.; Claud. rapt. 2.302 sqq. 'tu (sc. mors) damnatura nocentes, tu requiem latura piis, te iudice santes / improba cogentur vitae commissa fateri'; Prud. cath. 5.125 'spiritibus ... nocentibus/poenarum celebres sub Styge feriae'.

33. Cf. e.g. Sall. Catil. 26.2 'neque illi (sc. Ciceroni) tamen ad cavendum dolus et astutiae deerant'.

34. Cic. Tusc. 4.34: 'virtutia contraria est vitiositas — sic enim malo quam malitiam eam appellare quam Graeci voxlae appellant; nam malitia certi cuiusdam vitii nomen est, vitiositas omnium — et quia concitatur perturbationes' e.g.; cf. fin. 3.30 'quas ... xolas; Graeci appellant, vita malo quam malitiae' (antea: 'turpes actiones, quae orientur et vitii').

35. Hor. Carm. 1.2.23 sqq. 'audiet pugnas vitio parentum / rara iuventus' (v. 47 'nostris vitii').

36. See e.g. Cic. de ont. n. 17.

37. A typical example is Plaut. Aul. 738 'fateor peccavisse et me culpam committere scio'.

38. Cf. e.g. Rhet. Her. 1.14.24 'deprecatio est, cum et peccasse se et consulto facisset confiteatur, sc. reus' (sim. Cic. inv. 1.15 'et peccasse et consulto peccasse'), where the 'consulto-aspect' has to be deduced expressis verbis, with Aug. epist. 119.15 'primum peccatum, hoc est primum voluntarium defectum'; lib. arb. 3.184 'non solum peccatum illud dicimus quod proprie peccatum vocatur — libera enim voluntate et ab sciente committitur — sed' e.g.

39. Verg. Aen. 10.31 sqq. (Venus speaks to Jupiter) 'si sine pace tua ... Troes Italiam petiere, luant peccata' (Serv. 'dicimus ... et luo poenam' et 'luo peccatum', nam peccatum solvitur poena), cf. georg. 4.453 sqq. 'non te nullius exercet numinis irae, magna luim commissa'.

40. off. 2.34; see e.g. also Catull. 91.9 sqq. (to a friend who has betrayed him) 'tantum tibi gaudium in omnii culpa est, in quacumque est aliquid sceleris', or Sall. Catil. 5.2 'huc (sc. Catilinae) ab adulescentia bella intestina, caedes, rapinae, discordia civilis grata fuere'. I have dealt with the theme of delighting in evil more fully in Vorstellungen vom Bösen (see above, n. 23).

41. I again give a history of the 'anima-sons-motif' in the form of some important testimonia: in direct imitation of Vergil Ov. met. 6, 617 sqq. (Procne, speaking of Tereus) 'saut per vulnra mille / somem animam expellam' (but cf. the 'contamination' with the other Vergilian passage Aen. 6.570 [above p. 80] met. 10.349 sqq. in the monologue of Myrrha: 'nec temtes atro crinitas arque sores, quas facibus saevis oculos atque ora petentes/ noxia corda vident?'; a more 'Vergilian' version is offered by Stat. Theb. 1.56 sqq., n. 32); Sen. (? Oct. 240 sqq. (Nero) 'hic hostis deum/ hominumque ... / spiritum fratri abstulit,/ hauit cruorem matris — et lucem videt/ fruiturque vita noxiam atque animam trahit' (cf. 629 sqq. 'veniet dies tempusque, quo reddat suis/ animam nocentem sceleribus'), cf. Tac. ann. 14.48.4 (with particular reference to a reus laesae maiestatis) 'in insula publicatis bonis quo longius sit/ terram traxisset'; Lact. mort. pers. 1.5 'caelestibus plagis et cruciatus meritis nocentibus animas profuderunt' (sc. persecutors of the Christians).

42. For further discussion and documentation see Vorstellungen vom Bösen (above, n. 23). See also H. Chadwick, 'Gewissen', RAC 10 (1978) 1025—1107; R. Mudder, De
This development is documented by the following testimonia:

1. Plaut. Aul. 38 sq. ‘anum foras extrudit, ne sit conscia/, credo aurum inspicere volt’;
2. Ter. Haut. 121 ‘filium abisse comperi ex iis, qui ei fueri conscii’;
3. Rhet. Her. 3.20.33 ‘eius rei multos ... testes et conscios’;
4. Cic. Verr. 2.4.139 ‘socios furtorum, conscios flagitiorum’ (cf. the connection with the ‘contagio-sceleris-motif’ 5.183 ‘ad quos conscientiae contagio pertinebit’).

44. Cf. e.g. Ter. Ad. 348 ‘conscia mihi sum a me culpam esse procul’.
45. Plaut. Most. 544 (the slave Tranio) ‘quam timeo miser: nihil est miserius quam animus hominis conscius’.
46. See e.g. Rhet. Her. 2.19.29 ‘nocens, conscius sui peccati’.
47. A central passage is e.g. Rhet. Her. 2.5.8 ‘consecutio est, cum quaeritur, quae signa nocentis et innocentis consequi soleant. accusator dicet ... adversarium ... erubuisse, sepalluisse ... , quae signa conscientiae sint’.
48. So e.g. Cic. Leg. 1.40 ‘at vero scelerum in homines atque in deo impietatum nulla expiatione est. itaque poenas luunt, non tam iudiciis, sed angore conscientiae fraudisque cruciatus’.
49. Cf. the description of Catiline’s followers 14.3 ‘omnes quos flagitiium, egestas, conscius animus exagitabat’.
52. Liv. 7.6.4 sq. (Curtius) ‘manus nunc in caelum, nunc in patentes terrae hiatus ad deos manes perrigentem se devovisse; equo deinde quam poterat maxime exornato insidentem, armatum se in specum immisisse’.
54. See also 29.3 sq. (the declaration of the pontifex after the death of Decius) ‘vicesse Romanos defunctos consulis fato; Gallos Samnitesque Telluris Matris ac Deorum Manum esse; rapere ad se ac vocare Decium devotam secum aciem f(?)urarumque ac formidinis plena omnia ad hostes esse’.
56. See also epist. 1.1.61 ‘nil conscire sibi, nulla pallescere culpa’ (cf. the ‘siggia conscientiae’ Rhet. Her. 2.5.8 above, n.47).
57. Cf. e.g. Aesch. Agam. 1500 sqq., where Klytämaiastrea tries to justify her murderous act to the chorus with reference to the ‘alastor’, the avenging spirit of the house.
But the chorus rejects this: she herself is guilty; the alastor had at most been a helper.

59. See e.g. Job 14.4 'quis potest facere mundum de immundo conceptum semine? nonne tu qui solus es?'; psalm.50.4sqq. 'multum lava me ab iniquitate mea et a peccato meo munda me/ quoniam iniquitates meas novi et peccatum meum contra me est semper (gr.ἀνοίγει/ἀμαρτία)/ tibi soli peccavi et malum coram te feci .../ ecce in iniquitate conceptus sum et in peccato peperit me mater mea'; and then Paul.Rom.5.12 οὗτοι δέωτε δι' ἐνὸς ἀνθρώπου ἡ ἁμαρτία εἰς τὸν κόσμον εἰσηλθεν καὶ διὰ τῆς ἁμαρτίας δὲ θάνατος, καὶ οὕτως εἰς πάντας ἀνθρώπους δὲ θάνατος διήλθεν, ἐπὶ δὲ πάντες ἡμαρτον.

60. lines 4sqq. fusum est Latini sanguinis, non, ut superbas invidae Carthaginis
Romanus arces ueret,
intactus aut Britannus ut descenderet
Sacra catenatus via.

61. Cf. carm.3.24.50 'scelerum si bene paenitet'.
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