

THE ROLE OF THE SENATE IN THE AUGUSTAN REGIME

The masters of the Roman world surrounded their throne with darkness, concealed their irresistible strength, and humbly professed themselves the accountable ministers of the senate, whose supreme decrees they dictated and obeyed.

Gibbon, *Decline and Fall* 1, p. 68 (ed. Bury)

I

Consultation of the senate by Augustus and Tiberius: general remarks

Discussions of the constitution of the Principate are usually focused on the powers of the emperor, and relatively little attention is given to the role of the senate; by exception much has been written on its jurisdiction, with which I shall not be concerned. Despite his theory of a dyarchy of emperor and senate, which I do not wish to revive, Mommsen, partly because he devoted separate volumes to each, did not exhibit the extent to which Augustus and Tiberius at least worked through the senate, and on occasions attributed to them legal powers to act by their own authority, when in reality (as I shall argue) they caused the senate to take action as the only proper means of effecting their wishes. More recently, F. de Martino in his admirable account of the Principate dedicates only one out of twenty-seven chapters to the composition, functions and procedure of the senate. For Syme it was simply an 'organ that advertised or confirmed the decisions of the government'.¹ This description does not bring out the truth that it was performing a role essential to Augustus' design. For though in effect he founded a monarchy, he commonly thought it expedient or necessary to obtain for his measures senatorial approval. That this was the practice of Tiberius in his early years is clearly attested, and some suppose that he behaved in an entirely different manner from Augustus. This view seems to be mistaken, and the mistake is of some consequence. Initiative in general, and ultimate control, lay with Augustus, but it was important to him not merely to preserve the forms of the old Republic, so far as that was compatible with the retention of personal power, but also to do all he could to make his policies acceptable to upper-class opinion, which was represented in the senate, and at times perhaps to conform to that opinion. On receiving the appellation of *pater patriae*, an honour which marks the climax of his *Res Gestae*, Augustus expressed the hope that he might retain the approval of the senate to the end of his life (Suetonius 58. 2). That was a wise objective: a régime based on its consent was likely to be more durable.² It is not my contention that emperors after Tiberius went so far as he and Augustus had done in consulting the senate, though the instances of such consultation which can be cited from later reigns, when autocracy was more overt, suggest *a fortiori* that they would have been apt to occur in the earliest period of the new system.

According to Tacitus, until A.D. 23 Tiberius allowed public business and the most important private concerns to be handled by the senate; a little later, he repeats that

¹ F. de Martino, *Storia della costituzione rom.*² 4, 1974, ch. XXII; R. Syme, *Roman Revolution* (henceforth *RR*) 406 f. In general I cite modern discussions only when they provide the evidence on matters which cannot or need not be fully examined here. *St.R.* = Mommsen, *Röm. Staatsrecht*³. Suetonius with no further indication = his life of Augustus. I am indebted for some useful comments to Miss S. Martin.

² Brunt, *Biblioteca di Labeo* 6 (1982), 236 ff.

in that year everything was still handled by that body; it was then actually called on to decide a criminal charge against the former imperial procurator of Asia. Suetonius remarks that in the early part of his reign there was no matter public or private, great or small, on which the senate was not consulted, and Dio that he took hardly any decision by himself, referring the smallest matters to the senate; this does not of course imply that he did not himself suggest what action should be taken. Suetonius specifies that the senate debated *vectigalia* and monopolies, the construction and repair of public works, the levy and discharge of soldiers and the disposition of military forces, the prorogation of magistrates and appointments to army commands, and the form and content of replies to kings. Some of these generalizations can be illustrated by specific instances (*infra*). Like Augustus, Tiberius objected to being styled 'master' by citizens, but he addressed the fathers as his 'good, fair and indulgent masters' and professed to be acting as their servant, in the manner proper to a Republican magistrate. Suetonius comments that he 'speciem libertatis quandam induxit, conservatis senatui ac magistratibus et maiestate pristina et potestate'. *Maiestas* is a remarkably strong term, predicated in the Republic of the Roman people and (less often) of the magistrates who were its representatives and who were protected by the laws that penalized any 'diminution' of the people's *maiestas*: Cicero brings in the senate once only (*Sest.* 12), when it is linked with the people. It is in imperial writings, first in Livy, and especially under Augustus and Tiberius, that we begin to hear of the majesty of the senate. Thus Velleius asseverates that the senate regained majesty in 27 B.C., and then, inconsistently, that it accrued to the senate under Tiberius. In his reign a decree of the senate claims it for the whole senatorial order. It was no doubt enhanced by the various social distinctions reserved to senators and members of their families, which Augustus augmented. At the end of Augustus' reign libels on men and women of the order were made offences by senatorial decree under the law of *maiestas*. In these ways and also in the acquisition of new functions, judicial, legislative and electoral, the senate became grander to outward view, just when it was losing that *auctoritas* by which it had previously exercised a genuine control over the state in normal conditions.³

To return to Suetonius, his word 'induxit' is ambiguous; it might mean either 'exhibited' or 'introduced'. Seager, who regards Tiberius as a 'Republican', apparently takes it in the latter sense, and contrasts him with Augustus, who 'had already irrevocably undermined the senate's capacity for independent action' and who 'had had no respect for the traditions of senatorial government'.⁴ This view strikes me as implausible for two reasons.

(1) In 5 B.C., when possessed of tribunician power and *imperium*, Tiberius had chosen to retire from his public duties, once it had become manifest that Augustus preferred his grandsons as successors, at least if they had attained sufficient maturity by the time of his own death. With both dead, in A.D. 4 Tiberius readily accepted as Augustus' adoptive son and colleague the legal powers that would entitle him to remain in control of the state on Augustus' demise. He must have foreseen his accession for the ten years

³ Tiberius: Tac. *Ann.* 4. 6. 2; 15. 2; Suet. *Tib.* 30; Dio 57. 7. 2. 'Dominus': Suet. 53; Dio 55. 12. 2 (Aug.); *Ann.* 2. 87; Suet. *Tib.* 27; Dio 57. 8. 1 f. Tiberius' speech, Suet. *Tib.* 29, cf. Cic. *Sest.* 137. *Maiestas*: Suet. *Tib.* 30; cf. Vell. 2. 89. 3; 126. 2; and other texts cited by B. Levick, *JRS* 73 (1983), 97 ff. on v. 6 of the Larinum s.c. of A.D. 19; cf. Brunt, *JRS* 51 (1961), 76 on senatorial privileges. Extension of law of *maiestas*; *Ann.* 1. 72. 3; Tiberius treated as binding a *senatus consultum* surely passed 'auctore Augusto' which condemned Cassius Severus (*Ann.* 4. 23. 3) with retroactive effect.

⁴ Tiberius 1972, 247 f.; Syme, *RR* 418; Tacitus 427 f. had adumbrated the theory of Tiberius' Republicanism, on which Seager expatiates.

that preceded it. If in A.D. 14 he professed reluctance to become the new emperor, he was doing no more than Augustus had done in 27 B.C. and on each successive renewal of his power; at most he may have carried on the show rather longer. Even his suggestion that he might assume charge only of a 'part of the commonwealth' may have been made to show his readiness to implement a recommendation which Augustus, if we accept Dio's account, had included in a memorandum to be read to the senate after his death, that the conduct of affairs should be entrusted to more than one person;⁵ however, Augustus may really have been indicating in this way only his wish that Germanicus should be associated with Tiberius in the tasks of the *princeps*, just as Tiberius had been associated with himself; in some degree Tiberius did fulfil this wish, by immediately seeking proconsular *imperium* for Germanicus, or rather its renewal (cf. Syme, *Roman Papers* 3, 1021 f. on *Annals* 1. 14. 2). Tiberius' behaviour at his accession need not then be viewed as proof either of a sincere dislike of imperial power or of his own peculiar hypocrisy: he was imitating Augustus, and maintaining like him the quasi-Republican façade of the system.

(2) Such imitation was characteristic of Tiberius. He avowed that he respected all Augustus' words and deeds as having the force of law. This principle of policy was known to the contemporary provincial Strabo⁶ and continually underlies his actions, even when he did not declare it publicly.⁷ It is therefore likely that he sought to allow the senate precisely the same scope as in Augustus' time, though like any other imitator he may at times have parodied the original.

It may be said that whatever 'induxit' meant for Suetonius, he was certainly impressed by the apparent omniscience of the senate under Tiberius. Presumably this seemed to him paradoxical since he accepted the tradition that Tiberius was a tyrant. We may safely infer that the practice of later rulers with this reputation was very different. But to judge from what we learn of senatorial proceedings under Trajan from Pliny, even that 'optimus princeps' referred only minor matters to the senate (apart from political trials);⁸ no doubt Trajan's own policy conformed to senatorial sentiments and interests, but the senate as such was no longer the instrument through

⁵ *Ann.* 1. 12. 1, cf. Suet. *Tib.* 25. 2; Dio 57. 2. 4. Augustus' memorandum (Dio 56. 33) also allegedly included the 'consilium coercendi intra terminos imperii' of *Ann.* 1. 11. 4, which does not, however, unambiguously imply that the advice was embodied in writing: Tacitus may mean that Tiberius purported to be conveying advice he had received orally; in that case it seems unlikely that this was the only such injunction that he mentioned, and Dio may have wrongly supposed that he was reading the others he reports from a document additional to the three that Augustus certainly left, to be read in the senate (Suet. *Aug.* 101). It then becomes conceivable that Tiberius imputed to Augustus policies that he had alone formulated, though I see no reason to suspect this, and would still think it significant that he chose to shelter under his predecessor's authority.

⁶ For diverse views see G. Downey, *ANRW* II, 2, (1975), 106 ff.; and Seager ch. III; B. Levick, *Tiberius the Politician* (1976), chs III-V.

⁷ *Ann.* 4. 37. 3 (cf. 1. 77. 3); 3. 6. 2; Dio 57. 8. 4 with *Ann.* 4. 42. 3; Strabo 6. 4. 2. On the reliability of Tacitus' reports of Tiberius' speeches see Syme, *Tacitus*, App. 39. Downey 114 fails to read the clear message of Tacitus and invokes less secure inferences from the coinage to illustrate Tiberius' loyalty to Augustan precedents. See nn. 3, 5, 33, 62; for defence policy, *Ann.* 2. 26; 6. 32. 1; *Agr.* 13. 2; for other matters 1. 14. 4; 54. 2; 77. 3; 2. 59. 2; 3. 63 (cf. Suet. *Aug.* 65. 2; Dio 54. 29. 6); 18. 1; 29. 2; 56. 3; 68. 1; 71. 2; 74. 4; Tacitus' references to Augustan precedents may be drawn from Tiberius' utterances. On Drusus' death Tiberius spoke of abdication (4. 9); so too Augustus 'non desit quietem sibi precari et vacationem a re publica petere', at least once in a letter to the senate (*Sen. de brev. vitae* 4. 2 f.). Tiberius' solution to the credit crisis of A.D. 33 – lending money free of interest for three years (*Ann.* 6. 23) – was perhaps suggested by such loans made by Augustus in c. A.D. 3 (Dio/Zonaras 55. 12. 3a). Cf. also text to n. 67.

⁸ See e.g. *ep.* 3. 20. 12; 4. 12. 3; 4. 25. 5; 5. 13. 6–8; a trial extending over three days as 'pulchrum et antiquum' (2. 11. 18; cf. *Paneg.* 76). Cf. Tac. *Ann.* 13. 49.

which imperial decisions were necessarily formulated. Suetonius indeed does not record that Augustus himself had adopted the practice imputed to Tiberius. But it would be illegitimate to deduce that it was peculiar to Tiberius. The appearance of senatorial freedom in his reign deserved remark (*Tib.* 26–32) precisely because it did not seem to accord with his reputation in the tradition, and because it made a contrast with his own behaviour in the later part of his reign when ‘he unmasked the autocrat’ (33). Augustus had not degenerated in the same way. Suetonius himself dilates on the freedom of speech men had enjoyed in his time, and Dio too says that he encouraged senators to express their views (Part II). He makes Tiberius assert in his funeral speech on Augustus that he had communicated all the most important matters to the senate, and had voted on business himself like any other member of the house. The speech is of course Dio’s composition, and reflects his own interpretation of Augustus’ conduct; in his view, though Augustus founded a monarchy, he had allowed Republican practices (which Dio miscalls ‘democratic’) to persist, and had preserved senatorial freedom. Tiberius, he adds, was to prove a very different kind of ruler, thus anticipating Tiberius’ ultimate failure to remain faithful to the Augustan pattern. Dio also makes Maecenas urge Augustus, while governing monarchically, to let it appear that the senate was sovereign, and in particular to make it the instrument of legislation, to give it the right to hear embassies from enemies and allies, and to encourage senators to state their real views. No doubt the speech was a tract for Dio’s own time, but here, as often, he was pleading for a return to the practices of Augustus.⁹ Tacitus’ allusions to the dying or specious freedom which was still found in Tiberius’ early years (n. 109) imply that appearances and reality were very different, not that there had been any change for better or worse with Augustus’ death.

It is then likely that in continually consulting the senate Tiberius was following the model of Augustus. Of course the emperor was himself the leading senator, and for all kinds of reasons his opinion would be adopted, whenever he chose to voice it. Thus numerous senatorial decrees would be made ‘auctore principe’; Tiberius preferred to be styled ‘suasor’ (Suet. *Tib.* 27). Since decisions taken were then in effect decisions by the emperor, historians more interested in the reality than in the forms are apt to ignore the senate’s role altogether and to make the emperor alone responsible, in the same way as we may write that Henry VIII forbade appeals to the Pope, or that Peel abolished the corn laws, without necessarily mentioning the relevant Acts of Parliament. As a result he has sometimes been credited with powers that he did not possess, or at least did not exercise without consent of the senate and sometimes of the assembly. But it will be quite evident from what follows that the formalities are often disregarded in our sources for the reign of Augustus, and sometimes for that of Tiberius.

Tacitus is usually rather more revealing than Suetonius and Dio, perhaps because he has more room for details. In particular his narrative may suggest, without explicitly mentioning, reports to or debates in the senate and consequential decrees, when he inserts some decision within a context which is otherwise demonstrably concerned with miscellaneous senatorial proceedings, placed at the beginning or end of a year, and presumably recorded on the basis of the *acta senatus*, whether these were consulted by Tacitus himself or by the authority or authorities he followed. In at least one case we can discern the same kind of source for Dio’s notices of miscellaneous transactions; the examples in Tacitus are numerous.¹⁰

⁹ Suet. *Tib.* 26–33 (the context shows that he means ‘autocrat’ by ‘principem’ in 33. 1); cf. *Aug.* 35; 51; 54. 6. Dio on Augustus as monarch: 52. 41. 1; 53. 17. 1; 56. 39. 5, but for consultation of senate see n. 106. Maecenas’ speech, 52. 31. 1 and 32. 2; Tiberius’ eulogy, 56. 40. 3 and 41. 3; contrast with Tiberius, 56. 43. 4–45. 1.

¹⁰ See nn. 50, 54, 62, 66 f., 79, 84 (Tacitus), 54, 55 (Dio) with text.

Moreover, Dio's frequent omission of the formal part taken by the senate in decisions is venial, since he himself rectifies this in general terms. As we have seen, in Tiberius' funeral speech he stresses Augustus' practice of consulting the senate, and at the outset he says of his *legislation* that he did not issue enactments by his own *fiat*, but only after publishing his proposals and encouraging amendments, evidently to be made by senators; it was indeed for this purpose that the *consilia semenstria* (n. 29) were instituted, though the whole senate 'took decisions', as in earlier days. It had of course been constitutional practice in the Republic for *rogationes* to be submitted first to the senate. Elsewhere Dio gives further details of the manner in which Augustus consulted the senators on 'legislative enactments', and the context reveals that this phrase (as in 54. 30. 2) includes not only *rogationes* but other rules not embodied in statutes. Dio often ignores the formality of comitial procedure altogether, but as in his view 'nothing was done (by the senate as well as by the assembly) that did not please Caesar' (53. 21. 6), he can also pass over consultation with the senate; his generalizations should in themselves correct this impression.¹¹

Thus he tells us that in 30 Augustus increased the number of patricians without adding that he acted in virtue of a *lex Saenia*.¹² Whatever truth may underlie the accounts in Dio and Suetonius of Augustus' *cura legum et morum*,¹³ it is at least beyond doubt that in 19, 18 and 11 he carried Julian laws through the *comitia* with senatorial approval (*RG* 6. 2), yet Dio's language might suggest that he legislated by a blanket authority the senate had conferred on him in advance (54. 16. 1; cf. 10. 6). Later legislation in the reign was promoted by magistrates obviously with Augustus' sanction. Thus a *lex Pacuvia* changed the name of Sextilis to August in 8 B.C. (Macrobius 1. 12. 35), though Dio (55. 6. 6), like Suetonius (31. 2), writes as if Augustus made the change himself. Dio treats the *lex Aelia Sentia*, which he does not cite by name, as an imperial regulation (55. 13. 7). In confused accounts he ascribes amendments of the *lex Iulia de maritandis ordinibus* to Augustus' decision, though he adds an uninformative reference to the *lex Papia Poppaea* of A.D. 9 (54. 16. 7; 56. 10).¹⁴

Suetonius is just as indifferent in this instance (34), and elsewhere, to comitial formalities. He is content to refer to the restrictions imposed on manumissions (40. 3) without reference to the *lex Aelia Sentia* or *Fufia Caninia*, and to regulations of seating at shows as decisions by the emperor or in one case by the senate, though some at least were probably embodied in a *lex*,¹⁵ just as some of the judiciary reforms listed by Suetonius and Dio may belong to Augustus' *leges iudicariae*.¹⁶ However, Augustus' reign saw the beginning of the development by which the senate replaced the *comitia* as the source of new law. In effect the *S.C. Calvisianum* of 4 B.C. (EJ 311 V) amended the *lex Iulia repetundarum*, and a decree of the senate procured by Augustus extended the scope of the *lex Iulia maiestatis* (n. 3). We cannot always be sure whether new rules reported by Suetonius or Dio were sanctioned by the senate alone or by the assembly as well. We should not, however, normally regard them, whatever our sources may appear to suggest, as merely imperial enactments. It may be noted that Suetonius and Dio are just as apt to make out that such enactments were issued by

¹¹ 53. 21. 3–6. In the context *ἐκρίνε* hardly refers to judicial business (W. Kunkel, *Kl. Schr.* 275 n. 11). Cf. 55. 3–4. 1; 25. 4; 56. 28. 5.

¹² 52. 42. 5; cf. 49. 43. 6, but see *RG* 2. 1; Tac. *Ann.* 11. 25.

¹³ See briefly Brunt and Moore on *RG* 6. 1.

¹⁴ Cf. Brunt, *Italian Manpower* 560.

¹⁵ Riccobono, *Acta Divi Augusti* (1945), 201 f. (Suet. 40. 1; Pliny, *NH* 33. 32; Quint. *Inst.* 3. 6. 18 f.), but the law might be Caesarian. Dio dates two changes to 26 B.C. (53. 25. 1) and A.D. 5 (55. 22. 4), but the former (cf. Suet. 44. 1), and probably both, were made by *s.c.* alone.

¹⁶ Suet. 31. 3; 36; Dio 54. 18. 3; Riccobono (n. 15) 142 ff.

imperial authority under Tiberius, for all that they say of his respect for the senate, as under Augustus; Tacitus is more often but not always careful to record the senate's role. Many examples will be given below under specific headings: I now list some miscellaneous examples, not all certain.

23 B.C.	Grant of immunity to doctors (Dio 53. 30. 3).
22	Sumptuary measures. ¹⁷
	Judiciary rules. ¹⁸
17	Revival of <i>lex Cincia</i> . ¹⁹
8	Measure against <i>ambitus</i> . ²⁰
	Rule on reception of slaves' evidence against masters. ²¹
2	Limitation of number of Roman corn recipients. ²²
A.D. 11	Restrictions on <i>vaticinia</i> . ²³
	Permission for Equites to appear as gladiators. ²⁴
12	Restrictions on exiles (Dio 56. 27. 1).
<i>ann. inc.</i>	Introduction of postal voting for decurions of Augustus' colonies (Suet. 46).
	Limitation of height of buildings in Rome (Strabo 5. 3. 7; cf. Suet. <i>Aug.</i> 89. 3).
A.D. 16	Ban on <i>mathematici</i> . ²⁵
19	Rules to deter men and women of rank from infamous occupations. ²⁶
	Banishment of Jews from Italy. ²⁷

Rules affecting the senate and magistracies

It surely goes without saying that Augustus cannot have arbitrarily prescribed senatorial property qualifications and privileges, or general rules for the procedure of the house; we can presume senatorial decrees, though our sources seldom make this clear.²⁸

According to Suetonius Augustus 'established for himself councils to be chosen by lot for periods of six months, with whom he might discuss in advance matters that were to be brought before the full house'; Dio makes it plain that this probouleutic committee, which was of course distinct from the *consilium principis* that advised the emperor in his executive capacity, was designed to discuss future legislation, and it was this function that it performed in considering the *S.C. Calvisianum*. We must not understand Suetonius to mean that it was brought into being solely by the emperor's will; in A.D. 13 it was remodelled by senatorial decree, admittedly when it was also authorized to act on the senate's behalf.²⁹

¹⁷ Dio 54. 2. 3; Augustus' sumptuary law (Suet. 34; Gell. 2. 14. 4; perhaps Dio 54. 16 under 18 B.C.) is surely later. Cf. *Ann.* 2. 33; 3. 52. 5; Suet. *Tib.* 34 for senatorial debates on sumptuary rules under Tiberius: Dio 57. 15. 1 makes him issue commands.

¹⁸ Dio 54. 3. 6, too early for the judiciary laws (n. 16).

¹⁹ Dio 54. 18. 2; cf. the debate and decrees under Claudius, *Ann.* 11. 5–7.

²⁰ Dio 55. 5. 3. Augustus' law on *ambitus* seems to date to 18 (54. 16. 1; cf. Suet. 34; Riccobono [n. 15] 140).

²¹ Dio 55. 5. 4. Tacitus wrongly regarded Tiberius' application of the rule as an innovation (*Ann.* 2. 30. 3; cf. 3. 67. 3).

²² Dio 55. 10. 1. Cf. *Italian Manpower* 382.

²³ Dio 56. 25. 5.

²⁴ Dio 56. 25. 7. This modified an earlier *s.c.* (Suet. 43. 3).

²⁵ Suet. *Tib.* 36; Dio 57. 15. 7. Tacitus reports a *s.c.* (*Ann.* 2. 32. 3); cf. Ulpian, *Collatio* 15. 2. 1.

²⁶ Suet. *Tib.* 33, but cf. *Ann.* 2. 85. 1; Papinian, *Dig.* 48. 5. 11 (10). 2, and the *s.c.* discovered at Larinum (see n. 3).

²⁷ Suet. *Tib.* 33, but cf. *Ann.* 2. 85. 4.

²⁸ Dio 53. 25. 1 (cf. n. 15); 54. 17. 3 and 26. 3 (census fixed in 18; cf. Suet. 41. 1); 54. 30. 1 (religious ceremonial); 54. 35. 1; 55. 3 with 4. 1 (acknowledging decrees) and 26. 1 (rules on quorum etc.). See also Suet. 35. 3 and 44 (cf. n. 15).

²⁹ Suet. 35. 3; Dio 53. 21. 4 f. (not necessarily implying 27 B.C. as the date); 56. 28. 2; EJ 311 V (cf. also Suet. *Tib.* 35 for another change in the probouleutic committee). The true *consilium principis* consisted of such advisers as the emperor chose on each occasion to consult, including Equites like Maecenas or Sallustius Crispus (*Ann.* 1. 6. 3; 3. 30).

In 27 B.C. Augustus restored popular elections.³⁰ He continued to arrange for the election of candidates he preferred by *commendatio* or *suffragatio*, apparently by an informal exercise of his *auctoritas*, and not in virtue of any right to name persons whom the electors were legally bound to return 'sine repulsa et ambitu'.³¹ In A.D. 5 the *lex Valeria Cornelia* prescribed that senators and Equites should vote in ten special centuries named after the dead princes, C. and L. Caesar. The function of these centuries was to 'destine' candidates for the consulship and praetorship: they would, it seems, vote first, and their verdict, which was announced at once, would guide the remaining centuries. The *Tabula Hebana* shows that a law of A.D. 19 redistributed these privileged voters into fifteen centuries, five of which were to be named in honour of the dead Germanicus. Another epigraphic fragment indicates that in 23 five new centuries were created for the same voters in honour of Drusus. Though a comitial law, the *Tabula Hebana*, which contained other honours for Germanicus, no doubt all in accordance with the decrees mentioned by Tacitus (*Annals* 2. 83), who gives only a selection, is couched in terms proper to a decree of the senate; like the *lex de imperio Vespasiani*, it was so much of a formality putting it to the people that it was not thought worth the trouble to redraft it with the enacting imperatives appropriate to a *lex rogata*. We may assume that the *lex Valeria Cornelia* was similar in character, and that the creation of the ten centuries was approved by the senate among other honours to C. and L. Caesar. I remain of the opinion that it had no political importance; it is not mentioned, any more than its later modifications, by our literary sources. The *Tabula Hebana* also shows that the ten centuries were part of the normal machinery of the *comitia centuriata* at the time they were increased to fifteen. But, according to Tacitus (*Annals* 1. 15), the real choice of candidates was transferred to the senate for the first time at the election of praetors just after Tiberius' accession. Syme was surely right in holding that 'the consular historian' cannot have been mistaken in dating the change; subsequently, as we know from other evidence, though the people or *plebs* still met for elections, they were faced with a single list of candidates chosen by the senate (subject of course to imperial commendation), and we may presume that the presiding magistrate would not take account of votes cast for any one whose name did not appear in the senate's list. As A. H. M. Jones saw, the 'destining' centuries were now as much of a formality as the *comitia centuriata* to which they belonged. It is evident that the change was made with the senate's consent and indeed with their warm approbation.³² Since Tiberius was not an innovator, he was probably carrying out a plan already entertained by Augustus; however, as it had not been brought into operation for the election of the new consuls, which had taken place before Augustus' death, the timing was certainly due to Tiberius.³³

I may add a few words about Dio's reports that Augustus at times actually 'appointed' magistrates; again Dio is careless of formal technicalities. He tells that in years of electoral turbulence Augustus 'appointed' a consul for 19 and all magistrates in A.D. 7. Mommsen supposed that he did this in virtue of that general discretionary power which the draftsmen of the *lex de imperio Vespasiani* deemed him

³⁰ Dio 53. 21. 6; cf. Suet. 40. 2.

³¹ B. Levick, *Historia* 16 (1967), 209 ff.

³² EJ 94a and 94b; cf. de Martino (n. 1), ch. XXIII with bibliography; add M. Panni, *Comitia e Senato* (1974); A. J. Holladay, *Latomus* 37 (1978), 874 ff. I adhere to the view of the documents expressed in *JRS* 51 (1961), 71 ff., except that 'solent' in EJ 94a v. 6 excludes Syme's mode of reconciling them with *Annals* 1. 15; this leaves that proposed by A. H. M. Jones as the necessary solution. On the drafting as s.c. cf. Brunt, *JRS* 67 (1977), 95.

³³ However, Vell. 2. 124. 3, 'ordinatio comitiorum quam manu sua scriptam divus Augustus reliquerat', need refer only to Augustus' list of *commendati*; cf. Pliny, *Paneg.* 72. 1.

to have possessed. But neither Dio nor anyone else records the grant of such overtly autocratic rights to any emperor before Gaius, and it would have been entirely incompatible with the quasi-Republican façade with which Augustus chose to veil the completeness of his control.³⁴ It is true that in these instances Dio uses a verb (*ἀπέδειξε*) stronger than that (*συνίστη*) by which he normally renders the Latin 'commendavit' (e.g. 55. 23. 2). He does so again, when he says that Augustus 'appointed' Tiberius consul for the second time in 8 B.C., and Cn. Cornelius Cinna consul for A.D. 5, and that Tiberius in the latter part of his reign would 'choose' consuls for varying periods, sometimes 'appointing' men for the whole year.³⁵ On these occasions there was no emergency. What he means, I think, is that Augustus (or Tiberius) prevailed on all candidates to withdraw except those he selected.

Something more may be said of Tiberius' election in 8 B.C. Like other princes Tiberius had been given in 24 the right to stand for offices five years before the legal age. Such privileges to members of the imperial family,³⁶ like the honours accorded to them on their decease,³⁷ were the subject of senatorial decrees, though Dio seldom makes this plain and sometimes writes as if they were granted by the emperor.³⁸ In the same way Tiberius, who had been consul in 13 B.C., required in 8 a dispensation from the *lex annalis*; that too will have been given by the senate on Augustus' motion, and of course this was equivalent to appointment, since no one would venture to stand against him.

Dio also writes of the 'appointment' by Augustus of (a) the urban praetor in 28 and many later years (Dio 53. 2. 3); (b) of ten rather than eight praetors from 23 onwards; (c) of the censors of 22. The procedure to be envisaged is different, I suggest, in each case. (a) On sundry occasions Augustus procured the assignment of the urban praetorship *extra sortem* to a member of the college he selected.³⁹ (b) In 23 he held the praetorian elections before abdicating the consulship, and declared ten instead of eight candidates elected, to fulfil what must have been a senatorial decree (*infra*), that henceforth the *aerarium Saturni* was to be administered by two additional praetors. Subsequent changes in the number of praetors were also presumably effected by the action of presiding magistrates, with the approval of the emperor and perhaps of the senate.⁴⁰ (c) In 22 Augustus induced the consuls to hold censorial elections, perhaps *ex SC*. He may well have proposed the names of those to be returned.⁴¹

It is no less characteristic of Dio's indifference to forms that he makes the emperor confer tribunician power or *imperium* on his co-adjudors, though we know that his initiative required the sanction of senate or people.⁴²

Measures that concerned eligibility for office or the number and functions of the magistrates should also have been approved by the senate. In fact Dio records that in 13 B.C. during Augustus' absence the senate decreed that offices in the vigintivirate might be filled from Equites, who were not to be under obligation to pursue a senatorial career thereafter, and that in default of candidates for the tribunate *ex-quaestors* should be appointed by lot (54. 26. 5-7). It is then unlikely that in 12 B.C.

³⁴ Dio 54. 10. 2; 56. 34; cf. *St.R.* 2, 916 with 909, and *contra*, Brunt, *JRS* 67, (1977), 114.

³⁵ 55. 6. 5; 55. 22. 1; 58. 20. 1 f. Mommsen himself (also citing *Dig.* 1. 2. 2. 47) thought that here Dio referred only 'to factual influence on the elections' (2. 923 n. 1).

³⁶ Dio 53. 28. 3; 54. 19. 6; 56. 17. 3 with 18. 1; Tac. *Ann.* 3. 29.

³⁷ *RG* 14; *ILS* 139; *EJ* 94a (cf. *Ann.* 2. 83); 94b (cf. *Ann.* 4. 9).

³⁸ Dio 53. 30. 6; 54. 10. 4; 55. 9. 4; 10. 6.

³⁹ So Mommsen, *St.R.* 2. 215 n. 3, conjecturing a *s.c.*

⁴⁰ 53. 32. 2 (cf. Vell. 2. 89). In A.D. 11 Augustus allowed the election of 16 (56. 25. 4, cf. *Dig.* 1. 2. 2. 32); for these and later variations cf. *St.R.* 2. 202 f.

⁴¹ 54. 2. 1; cf. Suet. 40 ('creavit').

⁴² Brunt, *JRS* 67 (1977), n. 5.

Augustus personally authorized the magistrates to nominate Equites with a census of a million sesterces as tribunes, when there was again a dearth of candidates, on the basis that their nominees should be free to enter the senate or not as they chose (54. 30. 2), a measure repeated in A.D. 12 (54. 27. 1). Suetonius (40. 1) is still more incorrect in saying that in such circumstances he appointed ('creavit') Equites as tribunes. Special measures in filling minor offices had also been adopted in the 20s, for it was in that decade that P. Paquius Scaeva was *decemvir stlitibus iudicandis* and then *quattuorvir capitalis*, when already of quaestorian rank, and in each case, be it noted, 'ex senatus consulto' (ILS 915).

We may also assume that the re-allocation of quaestors' duties in 9 B.C. (Dio 55. 4. 4) had the senate's sanction.

Appointment of promagistrates

As Dio tells us, proconsuls were appointed for one year by the senate (53. 13. 3), after sortition from those eligible, though later, i.e. by his own time, they were chosen (or prolonged) by the emperor (53. 14. 3f.); when that change occurred we cannot say, but as late as Domitian's reign sortition was still employed, even though the informal permission of the emperor was required by anyone who wished to let his name go forward (Tac. *Agr.* 42). It was also irregular to hold more than one praetorian or consular proconsulship, or apparently to be legate of a proconsul for more than one year.⁴³ However, P. Paquius Scaeva was sent out a second time as proconsul to Cyprus 'extra sortem auctoritate Augusti Caesaris et senatus consulto', and C. Pontius Paelignus was twice legate of a proconsul 'ex s.c. et ex auctoritate Ti. Caesaris'.⁴⁴ Similarly Tiberius urged the senate to select an experienced proconsul for the war against Tacfarinas in Africa, suggesting possible names only at their request (*Annals* 3. 32 and 35). In A.D. 6 several proconsuls were kept in office for a second year, instead of being replaced by successors chosen by lot; Dio (55. 28. 2) does not state explicitly how this decision was taken, but presumably it was by a senatorial decree that Augustus promoted; his statement that Augustus simply assigned Asia to a proconsul for a second year in 12 B.C. should not be accepted (54. 30. 3). In the same way, under Claudius, Galba governed Africa in a time of turbulence for two years 'extra sortem electus ad ordinandam provinciam' (Suet. *Galba* 7). It was surely always the senate which in form chose or prorogued a proconsul 'extra sortem'. Galba's elder brother had been forbidden by Tiberius to draw lots for a consular province and had committed suicide (ib. 3. 3; *Annals* 6. 40. 2). Clearly Tiberius' action was a fearful mark of imperial displeasure, for which there can hardly have been many or any precedents. By this time the practice of electing suffect consuls for the second half of each year, which had been normal since 5 B.C., had had the result that there were now more consulars, as there had normally been more praetorians, available for the government of senatorial provinces than there were places to be filled.

No doubt the senate could also waive the rule that a five-year interval must pass between magistracy and promagistracy (n. 51). Several ex-consuls were not subjected to this rule between 27 and 5 B.C. (n. 46). However, we cannot be sure that it had been revived as early as 27 B.C.; Dio mentions it in his analysis of the system of the Principate, every detail in which, as he was aware, was not applicable from the first.⁴⁵

⁴³ *St.R.* 2. 257 n. 3.

⁴⁴ *ILS* 915; 942. A contemporary does no more than record three legateships of a proconsul, *ILS* 943. Cf. *St.R.* 2. 250.

⁴⁵ Dio 53. 14. 2. But cf. 12. 7. f., 13. 2, for other rules later than 27 B.C. In 16. 1 and 18. 4 Dio shows that he did not mean to date all the features of the system described in 12–19 to that year.

It seems to me most unlikely that Augustus or Tiberius ever needed to manipulate the procedure of sortition,⁴⁶ given that they could and did openly propose departures from it, when they thought fit, and could be certain that their proposals would be accepted; nor should we doubt Dio's assertion that it was only later that the emperor normally appointed proconsuls.

Provinces and external affairs

Augustus' provinces were granted to him by law in accordance with *senatus consultum* in 27.⁴⁷ The senate surely approved any later changes in the distribution. As late as Trajan's reign, when Bithynia was converted into an imperial province, Pliny was despatched as legate 'ex senatus consulto' (*ILS* 2927). Dio says that in 11 Dalmatia (Illyricum) was 'given' to Augustus, presumably by the senate (54. 34. 4). Probably the senate was asked to sanction the transfer of Sardinia to an equestrian governor in A.D. 6, though Dio (55. 28. 1) says nothing of this. The transfer of Achaëa and Macedon to the emperor in A.D. 15 is noticed by Tacitus in the context of senatorial business.⁴⁸

I suggest that the conversion of client states into imperial provinces was also formally approved in the same way. Egypt and other territories annexed were officially 'brought under the power of the Roman people'.⁴⁹ Strabo expressly states that Cappadocia was made a province by 'Caesar and the senate' (12. 1. 4); Tacitus affords indirect confirmation. He recounts in succession the prosecution before the senate of Archelaus king of Cappadocia, the annexation of his realm, the reduction of the tax on sales by auction (which, I shall argue later, required the senate's sanction), disturbances in Commagene and Cilicia, and the appeals of the Syrians and Jews for an abatement of taxation (which again, I think, the senate alone could have formally granted), and then proceeds: 'igitur haec et de Armenia quae supra memoravi apud patres (Tiberius) disseruit', with a view to obtaining a command for Germanicus throughout the east (*infra*); the disturbances in Commagene and Cilicia no doubt afforded part of the case that he made out. Probably the whole section derives ultimately from the *acta senatus*, and though this hypothesis still permits us to suppose that Tiberius did no more than report his decision to annex it, his general respect for the senate makes it plausible that he would have sought an endorsement of his policy, which would not have been refused.⁵⁰ It is true that Dio does not hint at senatorial approval of the annexation of Galatia (53. 26. 3) or other territories, and that in his detailed narratives of the relations between Herod and his successor, Archelaus, with Rome, Josephus has not a word of the senate; it is Augustus alone who settles disputes between Herod and the Nabataean king, or members of his own family, or hears Jewish complaints against their rulers; at most he consults a council of his 'friends' (*Ant. Jud.* 17. 249, 301, 317), which should not be identified with the *semenstre consilium* of the senate, and even then he takes the final decisions after dismissing his advisers. He does not seem to have had Herod's son, Archelaus, tried by the senate before deposing him, the procedure that Tiberius employed with his namesake, the Cappadocian king; it may be that in this point at least Tiberius adopted a different procedure. Josephus'

⁴⁶ Pace Syme, *RR* 330; 395. M. Lollius (*cos.* 21), proconsul of Macedon c. 19–18, P. Silius Nerva (*cos.* 20), proconsul of Illyricum c. 17–16, and M. Vinicius (*cos. suff.* 19), if proconsul of Illyricum c. 14–13, were presumably appointed *extra sortem*, cf. *RR* 329.

⁴⁷ Brunt, *JRS* 67 (1977), 96 f.

⁴⁸ *Ann.* 1. 76. 2.

⁴⁹ *RG* 27. 1 (cf. Brunt, *JRS* 56 [1966], 90 f.); 30. 1; *ILS* 918.

⁵⁰ *Ann.* 2. 42–43. 1; cf. Dio 57. 17. 3–7.

narrative does not, however, imply that Augustus did not at least report some of his decisions concerning Judaea to the senate and obtain its approval for the ultimate annexation; Josephus would have had no interest in formalities. No doubt the senate had no effective voice. And that is true for Tiberius too. The condemnation of Archelaus of Cappadocia, his old enemy, and the annexation of his realm were foregone conclusions.

Dio says that Augustus, apparently in 27, assigned the senatorial provinces, Asia and Africa, to consulars, and the rest to praetorians. This is surely at best anachronistic; until c. 11 B.C. there were legions in the proconsular provinces of Illyricum and Macedon, and our expectation that consulars might be appointed to command them is confirmed by actual instances (n. 46). It is in any case unlikely that Augustus 'assigned' proconsular provinces, an old prerogative of the senate, and the pre-eminence of Asia and Africa among them more probably grew out of practice. Dio also alleges that Augustus revived the interval of five years between magistracy and promagistracy in accordance with the *lex Pompeia* of 52, but Suetonius is obviously right in making him merely 'auctor' of this measure.⁵¹ The provision of salaries for proconsuls etc. should also have been approved by the senate (53. 15. 4).

In virtue of *maius imperium* the emperor was always free to interfere in senatorial provinces, and it was in any case natural in view of his supreme *auctoritas* that individuals and cities in those provinces should seek his help, just as they might have sought that of any Republican magnate. As Millar has shown,⁵² he was hardly less active in senatorial than in imperial provinces. In the first Cyrene edict Augustus published his recommendations to the proconsuls of Crete and Cyrene concerning murder trials, recommendations which they were hardly likely to ignore, on the basis that they should be adopted until he himself found a better plan or the senate considered the matter, but there is no indication that he intended to have the question brought before the senate; the rules that he prescribes in the third and fourth edict do not even refer to that body (EJ 311). I find this surprising. Early in Tiberius' reign a proconsul of Africa is said to have built a road by the emperor's order (EJ 291). One may still doubt if Dio was right in dating unambiguously to the very inception of the Principate the practice whereby emperors gave general instructions (*mandata*) to proconsuls leaving for their provinces.⁵³ The promise made by Nero at the outset of his reign that the senate would retain its ancient functions, and that Italy and the 'public' provinces should apply to the consuls for access to the senate (*Annals* 13. 4), is probably good evidence for normal procedure in the time of Augustus and Tiberius. This is sometimes blurred in literary sources. Dio says that Augustus abolished and Agrippa restored the freedom of Cyzicus (54. 7. 6; 23. 7), but Tacitus' account of its renewed loss of freedom in A.D. 25 is set in a senatorial context; the same is true of the restoration of freedom to Rhodes in 53.⁵⁴ In 25 B.C. the senate approved a treaty with Mytilene, though admittedly not until Augustus, then in Spain, had been consulted.⁵⁵

⁵¹ Dio 53. 14. 2; cf. Suet. 36; nn. 45–46.

⁵² *JRS* 56 (1966), 156 ff.

⁵³ 53. 15. 4. See F. Millar, *The Emperor and the Roman World* 313 ff.

⁵⁴ *Annals* 4. 36. 2 (cf. Dio 57. 24. 6, vague on procedure; Suet. *Tib.* 47, making Tiberius alone responsible); 12. 58 (cf. Koestermann *ad loc.*). Rhodes' deprivation of liberty in 44 is in a senatorial context in Dio 60. 24. 4. There is a difficulty: Suet. *Nero* 7 says that Nero pleaded for the Rhodians in Greek before Claudius as consul, *sc.* in 51, and though Suetonius' implied date is evidently wrong, Nero's patronage of Rhodes at this time is confirmed (*JG* 12. 1. 2); we may perhaps think of preliminary (and in fact decisive) proceedings before the emperor.

⁵⁵ R. Sherk, *Roman Documents from the Greek East* (1969), p. 149, from col. c.

Suetonius says that Tiberius rebuked consulars in command of armies for not sending written reports to the senate, and for referring to him the award of military decorations which they had the right to bestow themselves (*Tib.* 32. 1). The second generalization may be based on a single instance,⁵⁶ which Tacitus gives: Tiberius complained that L. Apronius, proconsul of Africa, had not decorated a soldier with the *corona civica* (*Annals* 3. 21. 3). In any case Suetonius' 'consular commanders' should probably be confined to the proconsuls of Africa. In Augustus' reign Agrippa had displayed characteristic 'moderation' in not making any report direct to the senate (*Dio* 54. 11. 6; 24. 7); this presumably means that despite his special position he deemed it proper to conduct himself as if he were a mere legate of the emperor, and we may infer that legates were expected to report to Augustus. The letters C. Caesar sent from the east which his brother Lucius read out in the senate (*Dio* 55. 10a. 9) were perhaps addressed to Augustus and communicated by him to the father. Tiberius will hardly have changed the Augustan practice.

On the other hand, as Millar also remarked (n. 52), decrees of the senate were operative in imperial as well as in senatorial provinces. The *S.C. Calvisianum* is one example, published in all provinces by an edict of Augustus. Dio refers to another edict, of A.D. 11, forbidding provincial councils to vote thanks to governors; this too was surely another case in which Augustus published a senatorial decree.⁵⁷

Although the conduct of foreign relations was really in the emperor's hands, the senate continued to give audience to embassies from peoples and kings; in 23 Augustus brought a refugee prince from Parthia, and envoys from the Parthian king, before the house. In old age he entrusted to three consulars the task of answering embassies from cities and kings when the final decision was not to be taken by the senate and himself, a practice that still went on in A.D. 11; it was then no novelty that Tiberius consulted the senate on the form and substance of replies to kings.⁵⁸ This was proper especially when ambassadors 'sought *our* friendship', i.e. that of the Roman people (*RG* 31. 2; 32. 2). In 20 Augustus explained his settlement of the east and treaty with Parthia in a despatch; it was no doubt in response that the senate voted supplications and a temple to Mars Ultor, as Dio mentions in an anticipatory passage.⁵⁹

In fact supplications, triumphs, and distinctions for imperial generals were always decreed by the senate, obviously after reports of campaigns had been received.⁶⁰ Such reports constituted a natural mode of publicizing imperial successes and enhancing the emperor's reputation. Tacitus expressly refers to the accounts that Tiberius gave the senate of Germanicus' campaign in A.D. 14 and of the suppression of the mutinies, and of eastern affairs in 17; on the latter occasion he procured a decree to invest Germanicus with *imperium maius* in the eastern provinces. C. Caesar had received a similar mission in 1 B.C. and parallels suggest that Dio is inexact in stating that Augustus simply conferred proconsular *imperium* on him (55. 10. 18); a senatorial decree can be assumed, passed after Augustus had expounded the need for the appointment. It would seem that in A.D. 17 Drusus' command in Illyricum was similarly justified. Evidently it was in reporting on his success there that Tiberius dilated on the danger that Maroboduus' power had represented. So too he had a despatch read to the senate on the death of Arminius. Tacitus also informs us that after the Gallic revolt of A.D. 21 had been suppressed he sent a written account of

⁵⁶ See F. B. Marsh, *Reign of Tiberius* (1931), 272 ff. on this habit of Suetonius.

⁵⁷ *Dio* 56. 25. 6. Cf. the decree of Nero's reign promoted by Thrasea Paetus, *Ann.* 15. 20–2.

⁵⁸ *Dio* 53. 26. 1; 53. 33. 1; 55. 33. 5; 56. 25. 7; Suet. *Tib.* 30.

⁵⁹ 54. 9. 1; cf. 54. 8. 3 f.

⁶⁰ e.g. *RG* 4. 2; *ILS* 918; 921 etc.; *St.R.* 2. 854; 885; 3. 1108.

it to the senate. Tacitus adds that 'he did not subtract from or add to the truth', which implies that Tacitus believed that he had independent testimony to the events concerned; however, it may well be that much in our narratives of transactions in imperial provinces or beyond the frontiers derives from official reports that emperors made to the senate. For example, Tacitus' account of Armenian affairs on the eve of Germanicus' mission clearly reposes at least in part on the speech of Tiberius I have mentioned. If this evidence comes almost exclusively from Tiberius' reign, and not from that of Augustus, the reason need not lie in Tiberius' peculiar deference to the senate, but only in the fact that Tacitus provides a fuller account of events after 14 than any which we possess for transactions under Augustus. In fact Augustus reported orally in 13 on his achievements abroad during the preceding triennium; this does not imply that he had sent no previous despatches to Rome (Dio 54. 25. 5). Mommsen was obviously right in saying that the emperor was under no necessity to make such reports, but only in the sense that there was no means of compelling him to fulfil an obligation which was surely at first accepted without demur.⁶¹

The army

Suetonius noted that Tiberius consulted the senate on the recruitment and discharge of soldiers. Tacitus supplies more information: Tiberius informed the mutineers that it was for the senate to decide on their demands, and though he says that Tiberius ratified the concessions they extracted, he does so in recording the emperor's report to the senate, and the notice of Tiberius' withdrawal of the concessions in the following year again comes in the context of senatorial proceedings, so that we may infer that on both occasions he obtained the senate's sanction. Mommsen thought this procedure unusual and unnecessary, and indeed Suetonius makes Augustus personally determine the conditions of military service, and create the military treasury fed by new taxes out of which their bounties on discharge could be paid. But here Dio shows that Suetonius is inexact: it was in the senate that Augustus fixed new terms for military service in 13 B.C., and they were surely the subject of a senatorial decree; we are expressly told of a 'vote' by which they were modified in A.D. 5. The senate undoubtedly approved the new taxes and the establishment of the military treasury (*infra*). In 13 B.C. (and indeed at the end of his reign) there were still legions not under Augustus' command; it was no doubt on that account that the senate had not entirely committed to his discretion the ordering of levies, but remained competent in theory (Dio 53. 15. 6), and it would also have been improper for him to make regulations for the whole army by his own authority. Once again then Tiberius was following Augustus' example; it is irrelevant that the soldiers themselves rightly thought that the emperor was really responsible.⁶²

Finance

By annual publication of accounts (eventually abandoned by Tiberius), as well as by the statements of the financial position communicated to the senate in 23 B.C. and after his death, Augustus showed that he purported to be accountable for his use of public funds.⁶³ I have no doubt that he received a vote from the senate, as Republican

⁶¹ *Ann.* 1. 52. 2; 2. 43. 1 (whence 2. 1-4); 44. 2 (note 'praetendebantur'); 63. 3; 88; 3. 47. 1. Contrast *St.R.* 2. 956 f.

⁶² *Suet. Tib.* 30; *Ann.* 1. 25. 3; 26. 3; 39; 52. 3; 78. 2, on which see *St.R.* 2. 956, cf. *Suet.* 49. 2; Dio 54. 25. 5 f.; 55. 23. 1.

⁶³ Dio 59. 9. 4 (cf. *Suet. Gaius* 16. 1); cf. 53. 30. 2 (23 B.C.); 56. 33 (A.D. 14; cf. *Ann.* 1. 11. 4; *Suet.* 101).

proconsuls had done, to cover his public expenditure. Mommsen saw that he had no title to impose new taxes on citizens, but strangely supposed that he was empowered himself to revive the levy of *tributum*, and that in A.D. 6 he simply enforced a memorandum of Caesar, which had legal validity under the *lex Antonia* of 44 B.C., in imposing the 5% estates duty. But Dio's account shows that it was only after encouraging senators to propound various schemes for raising new revenue that Augustus came forward with the plan for the estates-duty; his appeal to Caesar's memorandum need be no more than part of his argument in favour of the new tax. Dio does indeed write as if in the end Augustus himself imposed the tax, without needing the senate's sanction, but this is impossible: the tax actually had to be approved by a *lex*; Mommsen quite arbitrarily rejected juristic testimony to that effect. The estates duty was so much disliked that in A.D. 13 Augustus suggested to the senate the alternative of a land-tax; here again there is nothing to show that he himself could have brought back the levy of *tributum*; that had always been a matter for the senate, and now the senate viewed the estates-duty as the lesser evil.⁶⁴

Our evidence on the estates-duty helps to make it certain that Augustus 'brought in' the 2% tax on sale of slaves only in the sense that he secured approval of it.⁶⁵ Tacitus reports an edict of Tiberius in which he explained that the 1% tax on sales of auctions was indispensable to the *aerarium militare*. This is mentioned in the context of senatorial proceedings; probably the edict announced the decision of the senate taken on Tiberius' advice. (We may compare Augustus' publication by edict of the *S.C. Calvisianum*.) Two years later in 17 Tiberius declared that the new revenue from Cappadocia made it possible to halve this tax; the notice is embedded in an account of senatorial business, and again I infer that the decision was formally made by the senate.⁶⁶ It was also surely the senate which had to consider at the same time the petition of Syria and Judaea for a reduction in tribute, with what outcome we are not told. Tacitus indeed makes Tiberius in the same year exempt Sardis after an earthquake from payment for five years of all that was due to *aerarium* or *fiscus*. But though he could obviously remit payments to his privy purse, it is less clear that he could grant immunity from *tributum*. Perhaps he undertook to make the payments from his own funds on behalf of Sardis, as Augustus had done for Asian cities after earthquakes in 12 B.C., or perhaps he procured exemption from the senate. Sardis was in fact only the most grievously afflicted of the Asian cities in 17, and it is manifest from Tacitus' narrative that others received relief from the senate; so too it was the senate that granted remissions or exemptions on other occasions under Augustus, Tiberius and Claudius. Moreover what Tacitus tells us of Sardis evidently comes from the *acta senatus*, and we may safely infer that that city too benefited from a senatorial decree as well as from imperial liberality.⁶⁷ The emperor was not yet in overt formal control of public finance in Augustus' time.⁶⁸

⁶⁴ *St. R.* 2. 1014 (for the *Lex Antonia* Broughton, *MRR* 2. 316 gives references); but cf. Dio 55. 25; 56. 28. 4-6; Macer wrote two books 'ad legem vicensimam hereditatium' (*Dig.* 2. 15. 13; 11. 7. 37 *pr.*).

⁶⁵ Dio 55. 31. 4; it was evidently received by the *aerarium Saturni* (cf. n. 85).

⁶⁶ *Annals* 1. 78. 2; 2. 42. 4 (cf. *St. R.* 2. 1014 n. 3 on problems which do not affect my argument here).

⁶⁷ *Annals* 2. 42. 5; 47, with which compare for Augustus' liberality *RG* Appendix 4; Dio 54. 30. 3, and for the senate's role in his time Suet. *Tib.* 8; for other instances see *Annals* 4. 13. 1; 12. 61. 1; 62 f.; cf. 58. 2, with n. 54.

⁶⁸ Mommsen also inferred from *Annals* 13. 51 that the emperor could by edict regulate the administration of taxes in Italy, in this case the *portoria*. Here we may note: (a) an inference from Nero's practice to that of Augustus may not be legitimate; (b) if the manuscript of 13. 50. 2

Administration of the *aerarium Saturni* was indeed removed by his desire from quaestors, and committed from 28 to men of praetorian rank selected by the senate, and from 23 to two praetors. Suetonius makes him 'auctor' of these measures, implying that he promoted senatorial decrees. Tacitus assumed or knew that the administrators between 28 and 23 were called prefects. Mommsen, who has generally been followed, laid down that prefects in the Principate were as such mandatories of the emperor; this view will be challenged later. No doubt the prefects appointed to administer the treasury from the time of Nero, who replaced the quaestors (holding office *extra ordinem* for three years and chosen by the emperor), under whom Claudius had placed the treasury, were of this category, since they were imperial nominees. However, the change that Nero made was probably approved by the senate, as it followed a complaint made in the house of the conduct of the quaestors. Under Claudius or Domitian, as under Augustus, the senate can resolve that the consuls should order the administrators of the treasury to make disbursements for secular games (cf. n. 73).

By Augustus' own testimony the *aerarium militare* was created in A.D. 6 on his 'advice', i.e. by the senate, though Suetonius says simply that he founded it, and Dio that he 'ordered' that it be administered by three ex-praetors, holding office for three years. They too were prefects, but at first they were chosen by lot and had two lictors; later, they lost the lictors and were imperial nominees. It seems evident that initially they were not mere mandatories of the emperor. In any case their authority derived from the senate.⁶⁹

Religion: sacred and secular buildings

The senate had always exercised a general supervision over the state religion. We must not then take too literally the account given by Suetonius of Augustus' work in 'restoring' it, which ignores the senate's role (29; 30. 2; 31). Dio too sometimes writes in the same way. After 12 B.C. Augustus might no doubt have done much as Pontifex Maximus, but in many cases we know by chance or can safely infer that apparently personal actions of his own were the subjects of senatorial decrees.

Thus Suetonius says that he reformed the calendar (31. 2); Censorinus records a *senatus consultum* (*de die nat.* 22). Both Suetonius (31. 1) and Dio (54. 17. 2) report measures taken to preserve authentic Sibylline oracles and to destroy others; precedent would have enjoined action through the senate,⁷⁰ and in A.D. 32 a proposal by a *quindecimvir* to recognize the authenticity of another book of oracles was made to that body; Tiberius did not approve, but in part because there was an insufficient number of senators present (*Annals* 6. 12). Probably Tiberius obtained senatorial authority in 19 for his investigation of the genuineness of other prophecies in circulation, especially as this was occasioned by the alarm that one such oracle inspired in the senate (Dio 57. 18. 4. ff.).

Suetonius affirms that Augustus thrice closed Janus (22), but as Augustus (*RG* 13)

is sound (which I myself doubt) there was a prior debate in the senate: an edict could certainly give effect and publicity to a *s.c.*; (c) administration was in any event a magisterial function, though Nero was apparently entrenching on praetorian responsibility; cf. *Dig.* 39. 4. 1 *pr.* I do not doubt that in the end the emperor assumed absolute control; cf. for instance *ILS* 309 with Dessau's notes (Hadrian).

⁶⁹ *Aerarium Saturni*: Suet. 36; Dio 53. 2. 1 and 32. 2; Tac. *Annals* 13. 28 f. For Claudius cf. Suet. *Cl.* 24. 4; Dio 60. 24. 1–3. Note *FIRA* 1² no. 40 III, cf. n. 73. *Aerarium militare*: *RG* 17; Suet. 49; Dio 55. 25. 1–3.

⁷⁰ Dion. Hal. 4. 62. 6; Lact. *Div. Inst.* 1. 6. 14.

and indeed Dio (51. 20) show, these solemnities were decreed by the senate. The calendars refer again and again to *feriae* which it ordained,⁷¹ and as we have seen, it was the senate which voted supplications, as it did for Augustus fifty-five times (RG 4. 2); every five years it also decreed *vota* for his life (RG 9. 1). Augustus himself in listing his sacral honours or services to public religion sometimes acknowledges the part played by the senate, but not invariably. By his testimony it inserted his name in the hymn of the Salii (RG 10. 1), consecrated the altars of Fortuna Redux and Pax Augusta and ordered annual sacrifices there (11), and required the consuls to celebrate *ludi Martiales* each year, after he himself had presided on the first occasion in 2 B.C. (22. 2). We may then postulate that the senate formally made the various regulations which Dio (55. 2–5) and Suetonius (29. 2) aver that Augustus issued concerning the place that the temple of Mars Ultor was to have in the future religious and civic life of the city. The institution of the *ludi Martiales* was actually ratified by statute (RG 22. 2), in conformity with the old practice whereby the people had to authorize any new regular expenditure for religious purposes.⁷²

Augustus makes no mention of the *ludi Augustales*, which according to Dio (54. 34. 2) were celebrated first in 11 B.C. by a decree of the senate, perhaps because it was only after his apotheosis that they became an annual event, again by senatorial resolution (*Annals* 1. 15. 2; Dio 56. 44. 4), if not by *lex*. In 17 it must have authorized the Secular Games, though the literary sources are silent, and Augustus was content to say (RG 22. 2), quite correctly, that he celebrated them with Agrippa acting on behalf of the college of *quindecimviri*; this can be presumed, since under Domitian and even under Severus its authority for Secular Games was still deemed proper.⁷³

In particular it had been the function of the senate in the Republic to vote grants from the *aerarium* for religious expenditure, in so far as it could not be met from temple funds, private munificence, or contributions made by magistrates, such as those who presided over games.⁷⁴ Such contributions were customary, and it was therefore for the senate to determine which magistrates were to be liable. No doubt it transferred the *cura ludorum* from aediles to praetors (in so far as they were not already responsible), fixed the sums to be allowed them from the *aerarium*, and circumscribed their own expenditure, even though Dio (54. 2. 4) represents these measures as imperial ordinances.

We read of a Republican law that no magistrate might dedicate a temple except by command of the senate or of a majority of the tribunes (Livy 9. 46. 7) and of declarations by the *pontifices* in 154 and 123 B.C. that a dedication was invalid unless made by a person whom the people had designated by name for the purpose (Cic. *Dom.* 136). In fact temples had been dedicated by dictators, consuls, praetors, and sometimes by censors and aediles, or by persons who were no longer in office but who met the cost out of *manubiae* or aedilician fines, but who were perhaps always specifically authorized to act as *duoviri aedi dedicandae*; perhaps the pontifical rule did not apply to the higher magistrates, at least if they obtained the senate's sanction.⁷⁵ Augustus built numerous temples from his *manubiae* and other 'private' funds, and

⁷¹ The evidence is conveniently assembled in EJ pp. 44 ff.

⁷² *St. R.* 3. 339.

⁷³ Mommsen, *Ges. Schr.* 8. 587 ff., based on (a) *s.c.* from a later celebration which refers (with virtually certain supplementation) to that authorizing the games in 17 (*FIRA* 1² 40. III); (b) *Inscr. Ital.* 13. 1, pp. 62–3 (A.D. 88); (c) *CIL* 6. 32326, 5–48 (A.D. 204). The extant fragments of the *acta ludorum* for 17 are from supplemental decrees (*FIRA* 1² 40. I–II).

⁷⁴ G. Wissowa, *Religion u. Kultus der Römer*² (1912), 406 ff.

⁷⁵ *St. R.* 2. 618 ff.; 3. 1050.

he induced some of his victorious generals to do likewise; they doubtless acted under a commission granted in due style.⁷⁶ Of Augustus' own new temples that of Mars Ultor was undoubtedly authorized by the senate, voting in Dio's language at the 'command' of Augustus (54. 8. 3), and in so far as tradition required him to obtain sanction for other dedications, he surely conformed to it. Nor can it be true that he himself granted to C. and L. Caesar the right to consecrate buildings 'by a kind of consular office', presumably as *Iiviri aedibus dedicandis*;⁷⁷ like the other honours the young men received, these too must have been decreed by the senate, if not by the people as well.

The apotheosis of Augustus was of course authorized by the senate, which voted the temple built presumably at their own cost by Tiberius and Livia, and made other provisions for the cult at Rome.⁷⁸ It is within a section of his narrative devoted to senatorial proceedings that Tacitus states that in 15 the Spanish petition for a temple at Tarraco was granted, and we can therefore infer that though this petition came from an imperial province, it was no less a subject for senatorial decision than similar requests from Asia and Baetica to establish cults for Tiberius himself.⁷⁹

Augustus boasts of his personal expenditure on public buildings, secular as well as sacred (*RG* 19–21). It needs no proof that he was not accountable for sums disbursed from his own funds. It is another matter when Mommsen claims that from his time the emperor did not normally deal with the senate on building questions, and that Tiberius was unique in departing from this practice. In fact Augustus himself invokes senatorial authority for his repair of temples, and though he says nothing of this when recording his reconstruction of the Via Flaminia, the arch at Ariminum set up in 27 B.C. records that this and the other most frequented roads were built *by his advice* as well as at his cost. Hence, *contra* Mommsen, Helvidius Priscus was speaking as a constitutionalist in proposing that the senate should restore the Capitol in A.D. 70 with Vespasian's assistance. It is irrelevant that emperors appointed private agents to supervise constructions committed to their care.⁸⁰ Of course it only enhanced an emperor's glory if he proposed in the senate the erection of some useful or splendid edifice, and added that he would, if the fathers approved, himself undertake the responsibility and the expense.

Curators and prefects

Agrippa administered Rome's water supply after his aedileship in 33, maintaining the system with a gang of slaves which he bequeathed to Augustus and which Augustus transferred to the state (together with the subsequent cost). On Agrippa's death in 12 B.C. Augustus took over the responsibility, and exercised it through senatorial *curatores*. The senatorial decrees of 11 B.C., supplemented in 9 by a *lex*, all of which Frontinus transcribed, lay down their rights and duties, and also show that there was an earlier decree, which had entitled Augustus to appoint them, and no doubt placed him in control. Thus he, and they, acted 'ex senatus consulto', though that is never made explicit in inscriptions of *curatores aquarum*. The decrees surely indicate the manner left obscure by Suetonius in which Augustus normally remodelled the administration of the city, and of Italian roads. The *curatores aquarum* are allowed *apparitores* who are to receive the same pay and subsistence from the *aerarium* as those

⁷⁶ Suet. 29. 5; cf. e.g. *ILS* 886; Dio 54. 25. 2.

⁷⁷ Dio 55. 10. 6; cf. *St.R* 2. 621 n. 1.

⁷⁸ *Ann.* 1. 10; 1. 54. 1; Dio 56. 46 etc.

⁷⁹ *Ann.* 1. 78. 1; 4. 15. 3; 4. 37.

⁸⁰ *St.R* 2. 950, citing Suet. *Tib.* 30; Tac. *Hist.* 4. 9 (Helvidius). But see *RG* 20. 4 f.; *ILS* 84 (no matter that 9371 says simply 'viam Aemiliam...muniendam curavit'). Some roads were rebuilt at public cost, Dio 53. 22. 2.

of the *praefecti frumento dando*, and they themselves are to have the same exemption from judicial duties as those prefects and the *curatores viarum*. This in itself suggests that these officials too acted under senatorial decrees. Dio says that in 22 Augustus ordered that two ex-praetors be chosen by lot to superintend the grain doles; in 18 the number was increased to four, and the mode of appointment slightly varied. This 'legislative' measure, like all others, must have emanated from the senate, and in fact inscriptions of all periods normally attest the appointment of these *praefecti* 'ex senatus consulto', a phrase which ceases to appear in the epigraphic titulature of other senatorial curators after Tiberius' time. The *curatores viarum* were Augustus' nominees, like the *curatores aquarum*, but one early holder of the post is said to have held it 'ex senatus consulto' (*ILS* 915), and Dio in stating that Augustus was 'chosen' to exercise the *cura* through his deputies implies that it was devolved on him by the senate.⁸¹

Inscriptions are sometimes explicit that Augustus himself and annual magistrates carried out public works, as in the Republic, in accordance with senatorial decree,⁸² though neither Augustus nor the consuls needed to mention this. It must be without significance that one Augustan worthy omits the appendage 'ex s.c.' from his title as curator of temples and other public buildings, as also from that of *praefectus frumento dando*. So too under Tiberius we find *curatores locorum publicorum iudicandorum ex s.c.*, and again one such official of his reign omits the appendage.⁸³ Dio says (57. 14. 8) that Tiberius appointed the first *curatores riparum et alvei Tiberis* (from men named by lot), a board of five; they too acted 'ex s.c.'. It looks as if the constitution of the permanent board, which Suetonius misdates to Augustus' reign, followed on the initial grant of an extraordinary commission in A.D. 15 to two consulars, which Tacitus records in a narrative of senatorial proceedings, and on the report they made to the senate; Tacitus passes over the measure finally taken.⁸⁴

We may also reasonably hold that the arrangements made for protection against fires in Rome, which placed the responsibility first on the aediles and later under the superintendence of praetors, aediles or tribunes, each within a particular *regio* of the city (Dio 55. 8. 7), were formally instituted by the senate, though Dio does not make this explicit. Nor can Augustus have transferred the responsibility from magistrates to an equestrian prefect and a corps of Vigiles without the senate's sanction; they must have been paid from the start, as in Dio's day, from the *aerarium Saturni*, but a new tax had to be imposed to put that treasury in funds. Apparently he gave out that the Vigiles would soon be disbanded, probably in justifying the new measure to the senate. Dio's notice of the innovation comes in a section of his narrative which probably derived ultimately from the *acta senatus*.⁸⁵

⁸¹ Frontinus, *de aquis* 98 ff.; cf. Suet. 37; Dio 54. 1. 4 and 54. 17. 1; cf. *ILS* index pp. 359; 388 (*praefecti frumento dando*); 54. 8. 4; *ILS* 915, but cf. index pp. 359 f. (*curatores viarum*); note the *démarche* on neglect of the roads made by Cn. Domitius Corbulo in A.D. 21, inset by Tacitus, *Ann.* 3. 21. 5 amongst senatorial proceedings; cf. Dio 59. 15. 3, explicit as to the senate. Corbulo would hardly have ventured to assail imperial nominees.

⁸² *ILS* 5746; 5923 f.; 5937; cf. 5922 (Rep.), but see also 5936; 5938 ('ex s.c.' omitted). Vell. 2. 92. 2; Ovid, *ex Ponto* 4. 5. 19 f.; 9. 43–6 show consuls letting public contracts and exercising censorial jurisdiction in cases arising from them in 19 B.C., A.D. 14 and 16, as in the 70s (Cic. *Verr.* ii 1. 50 ff.; cf. *St. R.* 2. 461–3).

⁸³ *ILS* 5939–41, but cf. 942.

⁸⁴ Dio 57. 14. 8; cf. Tac. *Ann.* 1. 76 and 79; EJ 296; *ILS* 5923d; 5924d; 5925; from Claudius' time the *curatores* acted 'ex auctoritate principis', 5926–5931. Republican censors (5922a–c) and Augustan consuls (5923a–d), or Augustus himself (5924a–d), had hitherto done the work 'ex s.c.'.

⁸⁵ Dio 53. 24. 6; 54. 2. 4; 55. 8. 6 f.; 26. 4 (24. 9–27. 5 seems to be from *acta*). No weight can be given to statements made by Strabo (5. 3. 7) and Paul (*Dig.* 1. 15. 1–3) that Augustus simply decided to take charge; the judicial powers of the prefect may also have been acquired or enlarged later. Suetonius simply ascribes all successive measures to Augustus (30). New tax: n. 62.

Here too we are told that consulars were given charge of the corn-supply. This device was repeated in the next year, A.D. 7, when Dio says that Augustus appointed them. We should not conclude that unlike the *curatores viarum* and *aquarum*, they lacked authority conferred by the senate. The same authority was probably granted to the equestrian prefect of the *annona*, first appointed between 7 and 14. He was of course the deputy for the emperor, on whom the responsibility for ensuring the procurement of grain now lay, but Tiberius in complaining of the burden still wrote to the senate in terms that imply that it was a question on which proposals might properly have been made by magistrates to that body.⁸⁶

The new administrative officials were either senators or Equites and might be called either prefects or curators. All Equites and some senators were nominated to these posts by the emperor, but other senators were chosen by lot. All curators were senators, but senators could also be designated as prefects – not only the *praefecti frumento dando*, who are indifferently styled *curatores frumenti dandi*,⁸⁷ but also the *praefectus urbi*, who held a post that perhaps became permanent only under Tiberius, the *praefecti aerarii militaris* and presumably the administrators of the *aerarium Saturni* in 28–23 B.C. (n. 69). I have already noticed Mommsen's thesis that a prefect was not a magistrate but a mere mandatory and representative of a magistrate who appointed him.⁸⁸ Even if this be true, it does not of course follow that the emperor did not initially seek the senate's approval for establishing each prefecture. But it would be an oddity if his representative or mandatory were not selected by himself but chosen by lot, as were the early prefects of both treasuries and the grain-dole commissioners. Moreover jurists in later times had no scruple in treating the prefect of the city as a magistrate with *imperium*.⁸⁹ So too *legati Augusti* and indeed legates of proconsuls had praetorian *imperium* in the provinces; the equestrian prefect of Egypt was also granted *imperium* by statute (*Dig.* 1. 17). No doubt in 27 Augustus was empowered to nominate legates with *imperium* under the law by which he was assigned certain provinces, but he must then have lacked legal title to appoint a prefect of the city with *imperium*; this follows from the rapid abdication of his first nominee, M. Valerius Messalla, apparently on the basis that his position was unconstitutional.⁹⁰ We may then deduce that on later occasions when Augustus or Tiberius made appointments to the post they had been specifically empowered to do so, probably by *senatus consultum* and *lex*;⁹¹ from 37 at least such a power was doubtless included in the *lex de imperio* enacted for each new emperor.⁹²

Furthermore, Mommsen's conception of *praefecti* was arbitrary and unfounded. He himself recognized that it did not fit the Republican *praefecti Capuam Cumas*, annually elected magistrates since the third century, nor the municipal *praefectus pro Iiviro*; as the designation in these cases did not correspond to his definition, he held that 'it was denatured: this is historically explicable without difficulty' (n. 88). No doubt he could have similarly treated Livy's reference to the election of a fifth-century *praefectus annonae*, which he rejected as a late invention.⁹⁴ But Livy's use of the term shows that a contemporary of Augustus was not conscious of what Mommsen took to be its

⁸⁶ Dio 55. 26. 2 and 31. 4; cf. Tac. *Ann.* 1. 7. 2; 3. 54. 4 f.

⁸⁷ E.g. in the same s.c. of 11 B.C. (Frontinus, *de aquis* 100).

⁸⁸ *St.R.* 1. 663 (cf. 3. 557), followed by Ensslin (*RE* 22. 1258) and others.

⁸⁹ T. J. Cadoux, *JRS* 49 (1959), 155, though I do not follow him in doubting imperial appointment (Suet. *Tib.* 42. 1; *Dig.* 1. 12. 1. 4).

⁹⁰ Tac. *Ann.* 6. 11. 4; Sen. *Apoc.* 10. 2; Jerome, *ad ann. Abraham* 1991.

⁹¹ Tac. *Ann.* 6. 11; cf. Dio 54. 19. 6; on the appointment of L. Calpurnius Piso by Augustus or Tiberius see *PIR* C. 289 at p. 64.

⁹² Brunt, *JRS* 67 (1977), 98.

⁹³ Festus 262 L; *ILS* 910; Dio 54. 26. 7; *St.R.* 2. 608–10.

⁹⁴ *RE* 22. 13. 5 ff. (Ensslin).

proper sense.⁹⁵ That is not surprising, as it had been 'misused' since the third century! In fact *praefectus* in itself can mean no more than that the person so called had been put in charge of some task, with no implication that he had been commissioned by a magistrate rather than by senate and people; and one can see no reason why M. Scaurus, whom the senate 'put in charge' of the procurement of grain in 104 B.C., should not have been styled *praefectus annonae* (Cic. *Har. Resp.* 43). There is indeed nothing to show that the *praefecti frumento dando ex s.c.* were mandatories of the emperor; the *cura annonae*, which he came to exercise through his *praefectus annonae*, concerned the procurement of grain and not the distribution of the dole.⁹⁶ Equally the designation of *praefecti aerarii Saturni* (or *militaris*) is not in itself proof that they were deputies of the emperor.

II

How far was the senate 'free'?

There was then no part of public policy and administration under Augustus and Tiberius in which the senate did not remain in appearance the great council of state. The initiative indeed came, as the literary sources continually state or imply, from the emperor. In fact Tiberius initiated little. He played the role that Millar, on the whole rightly, imputes to emperors of doing little more than react to events. Augustus, on the other hand, was a great innovator,⁹⁷ and the senate was correspondingly involved in the work of reform. But what did it matter? Was not the senate itself a packed body? Did it actually possess any significant freedom, any real power to influence imperial policy?

Augustus, it is true, held three *lectiones* of the senate. But Suetonius (who refers only to two) and Dio both make it his purpose to reduce the senate to its Sullan size of about six hundred, an objective attained partly by natural wastage, but also by the deliberate exclusion of men *morally* or *socially* disreputable. (In 29 even prominent Antonians like C. Furnius and C. Silius were not removed, and there is no reason to suppose that persons of less note suffered, merely as *political* opponents.) In general recruitment to the senate was again automatic through the quaestorship. Augustus admitted hereditary claims to membership. Obviously he also furthered the advance of new men, but his choice was limited by the property qualification, and he would usually have known little of the sentiments of those who entered at the age of about twenty-five. Claudius held that it was the policy of both Augustus and Tiberius to fill the senate with 'the flower of the colonies and *municipia*, good men and rich'. In that case the house was fairly representative of the Italian upper class.⁹⁸

In the Republic it had traditionally been guided by 'principes', mostly those who had reached the consulship.⁹⁹ No doubt in one way or another Augustus exercised great influence on elections to the highest office, as did Tiberius.¹⁰⁰ Yet the consular

⁹⁵ Livy 4. 12. 8; cf. *St.R.* 2. 672 n. 1.

⁹⁶ G. E. F. Chilver, *AJP* 70 (1949), 7 ff.; Mommsen misunderstood this (*St.R.* 2. 673).

⁹⁷ Millar does not, I think, note his case as an exception in *JRS* 56 (1966), 156 ff., nor in *The Emperor and the Roman World*.

⁹⁸ *RG* 8. 2; Suet. 35; Dio 52. 42; 54. 13 f.; 54. 26. 5; 54. 35. 1; 55. 13. 3, on which see A. H. M. Jones, *St. in Rom. Government and Law* Ch. II. I do not accept the view of Syme, *RR* 349 (cf. his index for Silius and Furnius) on the *lectio* of 28. Syme 358 ff. illustrates Claudius' remark (*ILS* 212. II. 1 ff.). Cf. also Jones ch. III.

⁹⁹ L. Wickert, *RE* 22. 2029 ff. (list: 2014 ff.).

¹⁰⁰ Jones (n. 95) somewhat underrates Augustus' influence (ch. III); cf. *Annals* 1. 15. 1. Tiberius: 1. 81; 4. 6. 2; cf. *ILS* 9483 (Favonius, a man probably known to us under some other name; cf. Sulpicius Quirinius for a man with two *gentilicia*); Dio 58. 20 (concerning Tiberius' later years).

Fasti were still resplendent with the names of the old nobility.¹⁰¹ As Tacitus remarks, the aristocratic survivors of civil wars and proscriptions could count on promotion in proportion to their servility, and came to prefer the new security to the perils of the old régime. He does not fail to pillory the subservience of scions of the great houses.¹⁰² By contrast some parvenus could display a rare and unbending attachment to senatorial rights and traditions. One such figure in Augustus' day was apparently the great jurist, Antistius Labeo;¹⁰³ Thræsea Paetus and Helvidius Priscus were to come.

According to Suetonius Augustus tolerated opposition and even abuse in the senate and courts, and warned Tiberius that it mattered little if men spoke ill of him, provided that they could do him no harm. Initially Tiberius adopted the same attitude.¹⁰⁴ It was defamation of men and women of rank as such and not specifically of the emperor and his family that Augustus, followed by Tiberius, allowed to be treated as an offence under the law of *maiestas* (n. 3). Augustus professed as much dislike of adulation as his successor.¹⁰⁵ Dio says that he encouraged free speaking in the senate; both he and Suetonius mention various devices he allegedly employed for this purpose. For instance, he would call on consulars to give their opinions without following a fixed order. This would have been pointless if he had stated his own view first, and we may guess that like Tiberius on one celebrated occasion he chose to speak at the end.¹⁰⁶ Tiberius would sometimes remain silent or resort to studied ambiguity (though he could be plain enough at other times), and here too he may have imitated Augustus.¹⁰⁷ It is a plausible conjecture that Augustus hoped to ascertain the true sentiments of senators through the more informal consultations with the *seminstria consilia*;¹⁰⁸ chosen by lot, their members might constitute a cross-section of the house. There were clearly genuine discussions of the best mode of raising new revenue for the *aerarium militare*, even though Augustus evidently left the house in no doubt that some new tax on citizens was essential (n. 69). The postponements and modifications of Augustus' marriage legislation illustrate his readiness to respond within limits to the opinions of the higher orders. Very probably in this matter he altered course after debates similar to that which led under Tiberius to some further mitigation in the rigour of the law.¹⁰⁹ We have some other instances of true debates in the house, chiefly under Tiberius, of whose reign Tacitus provides so much fuller an account.¹¹⁰ Suetonius asserts that he permitted decrees to be passed contrary to his expressed judgement (*Tib.* 31), but no instances are known, and none can have been of any moment. Private initiatives in the senate were apparently rare in his reign, and often trivial; more than once Tiberius would frustrate them as foolish, and thus deny the senate the opportunity to learn from its own errors.¹¹¹ I see no reason to suppose that

¹⁰¹ Brunt, *JRS* 51 (1961), 73 ff.; cf. *Annals* 4. 6. 1.

¹⁰² *Annals* 1. 2. 1; 8. 4; 2. 32. 1 f.; 3. 47. 3 (cf. 4. 66. 2); 3. 57. 1; 3. 65; 4. 74. 4 f.; cf. Syme, *Tacitus* 573 f.

¹⁰³ *PIR*² A 760 (cf. E. Badian, *Polis and Imperium, St. in honour of E. T. Salmon*, ed. E. A. Judge [1974.] 152), esp. *Annals* 3. 75. (The difficulty in Tacitus' statement on the consulship of Ateius Capito, cf. Syme, *Tacitus* 761, is resolved if Zosimus 2. 4. 2 refers to a treatise in which he 'expounded' the Secular Games *post eventum*.)

¹⁰⁴ *Aug.* 51, 54-6; *Tib.* 28 f. Cf. Dio 54. 27. 4.

¹⁰⁵ *Aug.* 53; *Tib.* 27; cf. *Annals* 3. 65.

¹⁰⁶ Suet. *Aug.* 35; Dio 53. 21. 3; 54. 15. 6; 55. 4. 1; 55. 25. 4 f.; 56. 28. 4-6; Tac. *Ann.* 1. 74. 5.

¹⁰⁷ Silences: *Annals* 1. 74. 4; 77. 3; 2. 35. 2; 4. 37. 1. Ambiguity, e.g. 1. 11. 2; 3. 22. 2; 51. 2. But cf. 4. 2. 3; 30. 2; 31. 2; 70 f., or his letter in 3. 53 f. and speech in 4. 37 f.

¹⁰⁸ J. A. Crook, *Consilium Principis* (1955), 9 f. See n. 29.

¹⁰⁹ *Annals* 3. 25-7; cf. Brunt, *Italian Manpower* 558-60 for Augustus (note Suet. 89. 3).

¹¹⁰ E.g. Dio 54. 16. 3-5; *Annals* 1. 77; 2. 33; 35 f.; 3. 33 f.; cf. next note.

¹¹¹ *Annals* 1. 76; 3. 52-5.

he allowed the senate more freedom or power than Augustus had been willing to concede.

At the very outset of Tiberius' reign there remained 'only traces of dying freedom' (*Annals* 1. 74. 5), and the emperor provided only 'an appearance of liberty' (1. 77. 3); adulation was rife,¹¹² and Tiberius lamented that the senators were 'men ready for servitude' (3. 65). This was the inheritance of Augustus' domination; already in his time every one had 'awaited the emperor's commands' (1. 4. 1), though it is no less to be remarked that freedom, though dying, was not yet extinct, and that the few who displayed some measure of independence had been advanced to eminence before A.D. 14.¹¹³ Augustus himself is said to have complained that once Agrippa and Maecenas were dead, there was none to give him true counsel (Seneca, *de benef.* 6. 32); if he was thinking primarily of his intimate advisers, the observation applied *a fortiori* to the senate. Fear can hardly account for servility before Tiberius' later years. The explanation may lie partly in the equivocal position of the 'first man in the state'. All real power was in his hands, and yet he professed to be an accountable minister. How could men be sure when he was seeking advice for form's sake, or sincerely wished for counsel and was prepared to act in accordance with the general wish? Moreover, his patronage in the conferment of offices and privileges was vast, and those whose careers depended on his favour (cf. n. 102) might naturally think it best to say what they supposed, not always correctly, to be in his mind rather than to speak their own. Even so, by consultation with the senate a ruler might sometimes be able to sense the unspoken feelings of the members (e.g. *Annals* 2. 38. 4). It was thus an error for Tiberius to isolate himself at Capri. Prudence indeed demanded that the emperor should rule by the consent of the order from which he drew most of his chief advisers and agents. Proceedings in the senate gave him the opportunity at least to publicize and justify his policy. It may well be that both Augustus and Tiberius desired, however unavailingly, to achieve more than this: to ascertain what the majority really wished, and to adjust their policy, accepting compromise, at any rate when this did not adversely affect their own ultimate control, or what they regarded as the vital interests of the state. But whatever their intentions may have been, it is beyond question that the new system involved continual reference of all sorts of measures to the senate for its approval in accordance with Republican practice.

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¹¹² *Annals* 1. 2. 1; 7. 1; 11; 14. 1; 2. 38. 4 etc. (cf. n. 102).

¹¹³ E.g. L. and Cn. Piso (2. 34 f.) and M. Lepidus (4. 20).