

## LIVY 40.51.9 AND THE CENTURIATE ASSEMBLY

In 179 B.C. the censors M. Aemilius Lepidus and M. Fulvius Nobilior brought about a reform in the voting. The only evidence for this is a single sentence in Livy (40.51.9):

mutarunt suffragia regionatimque generibus hominum causisque et quaestibus tribus discripserunt

The meaning of these words has often been discussed but never in a fully systematic manner. Further, the attempts to discover their meaning have always been made in an effort to throw light upon some other problem. They are thus transported into the historical context in question, such as the vicissitudes of the freedman vote or the reforms of the *comitia centuriata*.<sup>1</sup> Yet the formulaic nature of the sentence and its virtual independence from its immediate context make it essential to examine it in its own right in order objectively to establish its meaning. Only then should the question of historical context be considered. The purpose here is to provide a systematic analysis of each element in this sentence. If the results of this are accepted it will become apparent that Livy 40.51.9 relates to central questions concerning the census and the centuriate assembly.

As it stands the sentence is entirely divorced from what precedes and follows it, with the exception of the subject, the censors.<sup>2</sup> Not only is there nothing in the surrounding context to explain it; there is nothing remotely comparable anywhere else in Livy. This, together with the precision of the language, the institutional content, and the formal and formulaic sound of the whole, suggests that Livy has either lifted the sentence out of an official document or is using the terminology characteristic of such documents. This procedure is a familiar one in Livy. On occasion he appears to quote directly from the text of a law or *rogatio*, while frequently an abundance of technical terminology indicates paraphrase.<sup>3</sup> An apt illustration of both methods can be found

<sup>1</sup> The main discussions of Livy 40.51.9 have been: L. Lange, *Röm. Alt.*<sup>3</sup> iii. 265, 354; Th. Mommsen *StR*<sup>3</sup>, iii. 1. 185 (with n. 1); F. Smith, *Die römische Timokratie* (Berlin, 1906), 140f.; G. W. Botsford, *The Roman Assemblies* (New York, 1909), 85 n. 3; G. De Sanctis, *Storia dei Romani* (Torino, 1916), iii. 1. 380; idem (Torino, 1923), iv. 1. 606–7; A. H. McDonald, 'The History of Rome and Italy in the 2nd Century B.C.', *Camb. Hist. Jour.* 6 (1939), 134; L. R. Taylor, *The Voting Districts of the Roman Republic* (*MAAR*, 1960), 139–40; C. Nicolet, 'La Réforme des Comices de 179 av. J.-C.', *Rev. Hist.* 39 (1961), 341–58; F. Càssola, *I gruppi politici Romani nel III secolo A.C.* (Trieste, 1962), 96; G. Pieri, *L'histoire du Cens jusqu'à la fin de la république romaine* (Paris, 1968), 155; S. Treggiari, *Roman Freedmen during the Late Republic* (Oxford, 1969), 44–5; R. E. A. Palmer, *The Archaic Community of the Romans* (Cambridge, 1970), 73–4; H. H. Scullard, *Roman Politics 220–150 B.C.*<sup>2</sup> (Oxford, 1973), 182–3. These works will be cited usually by the author's name.

<sup>2</sup> Both censors are the subject of 40.51.8, Aemilius alone of 40.52.1.

<sup>3</sup> So McDonald, 'The Style of Livy', *JRS* 47 (1957), esp. 155–6: 'We find phraseology in Livy that is technical to the point of legalism; it may also bear the marks of antiquarian research... Livy exploited these elements of archaic formalism, as Cicero accepted them for laws about religion... Livy's technical vocabulary is revealed in connexion with the despatch of Roman envoys and their reports, the reception of foreign embassies, the records of censors' activities...'; cf. e.g. the war vote of 201 B.C. (31.6.1). In what follows there will be frequent use of expressions such as 'Livy quotes' or 'Livy paraphrases'. These are of course a form of shorthand to avoid endless perambulations concerning which source Livy might or might not be using and how far removed he is from anything that might be called a 'primary source'. For these matters see the convincing treatment of T. J. Luce in *Livy* (Princeton, 1977), ch. 5. The extreme brevity of 40.51.9 might

in the account of the censorial law and edict of 169 B.C. aimed at raising extra troops for the war in Macedonia.<sup>4</sup>

Whatever the background of 40.51.9, it is clear that all the words in it, with the possible exception of the first, belong to a formal terminology and therefore have a precise meaning. This being so, collectively they must contain a great deal of information. It is the intention here to begin inquiry by analysing the structure of the sentence and its clauses, and the usage and possible meanings for each word or phrase, without reference to any historical context into which the sentence might or might not fit. In order to come as close as possible to the technical meanings particular attention will be paid to usage in certain authors: to Cicero and to Livy on the one hand, in that they were thoroughly versed in the formulaic and legal language of Roman institutions and tend to use terms with greater care and precision than most; to Plautus and Terence on the other hand, in that their writings are roughly contemporary with the reform of Aemilius and Fulvius. They should also help in interpreting official Latin, which preserved many archaisms of form and usage.<sup>5</sup>

# I

The first clause of 40.51.9 – ‘mutarunt suffragia’ – is entirely simple in structure. The subject is the censors. *Mutarunt* might connote either a minor alteration or a radical reform, but about its object, *suffragia*, there is more that can usefully be said. *Suffragia* here has been translated as ‘the method of voting’, ‘the arrangement for voting’, ‘the voting conditions of the (centuriate) assembly’.<sup>6</sup> Now *suffragium*, in both singular and plural, has four identifiable meanings: a vote actually cast (‘suffragiis populi creatus’);<sup>7</sup> the action of voting (‘inire suffragium’);<sup>8</sup> the right to vote (‘civitas sine suffragio’);<sup>9</sup> and the century as a body of voters which collectively holds one vote.<sup>10</sup> The isolation of the *suffragia* of Livy 40.51.9 demands a meaning which can be independent of context. Thus of the four possibilities, three must be ruled out. The censors did not attempt to alter a particular set of votes, because an individual voting session is not

suggest the *Annales Maximi* as the source. For the nature of these ‘descriptive summaries of events’, ‘short, declarative sentences with no attempt at continuous prose, much less historical narrative’ to provide ‘brief but authoritative information’ for the public, see the comprehensive treatment of B. W. Frier, *Libri Annales Pontificum Maximorum: the Origins of the Annalistic Tradition* (Rome, 1979), esp. chs. 5 and 8.

<sup>4</sup> 43.14.5–9.

<sup>5</sup> Cf. archaism such as the genitive form *procum* or *procum patricium*, Cic. *Orat.* 156, Festus 290 L; or *olla centuria*, Var. *LL* 7.42; cf. Cic. *Leg.* 3.11; *Lex de viginti quaestoribus*, 1.5 (*olleisque hominibus*). In the following I have depended particularly heavily on the concordances of Merguet and Abbott, Oldfather and Canter for Cicero, Packard for Livy, Lodge for Plautus, McGlynn for Terence, Merguet for Caesar, and on the *Thesaurus Linguae Latinae*.

<sup>6</sup> Respectively Sage in the Loeb translation, Botsford and McDonald.

<sup>7</sup> Kübler’s ‘Einzelstimme’ (*RE* iva, 1931, 654–8 s.v. *suffragium*). This is by far the most common meaning of *suffragium* in both Cicero and Livy. It is also used in both singular and plural for the collective vote of the people: in the singular, Livy 28.27.14, 6.41.6, 4.43.12; Cic. *Leg. Agr.* 2.31; in the plural, Livy 7.17.12, 5.11.2, 27.30.9; Cic. *Planc.* 11, *Mil.* 25, *ibid.* 96, *Imp. Pomp.* 58.

<sup>8</sup> Kübler’s ‘Abstimmung’. E.g. Livy 25.3.15, 45.39.20, 6.38.4; Cicero, *Sest.* 109.

<sup>9</sup> E.g. Livy 1.43.10, 38.36.7; Cic. *Phil.* 7.16, *Leg. Agr.* 2.17.

<sup>10</sup> Kübler’s ‘Stimmkörper’. This usage is most familiar in the phrase *sex suffragia*: see Festus 452 L s.v. *sex suffragia*; Cic. *De Re Publica* 2.39 (for the greater reliability of this reading see L. R. Taylor, *AJP* 82 [1961], 337–45, and *ibid.* 84 [1963], 66–7); *Phil.* 2.82 (for the text, see e.g. L. R. Taylor, *The Roman Voting Assemblies* [Ann Arbor, 1966], 96–7 with n. 28); possibly Cic. *De Re Publica* 4.2 (see C. Nicolet, ‘Le cens sénatorial sous la République et sous Auguste’, *JRS* 66 [1976], 24–5). Cf. Livy 5.18.1, where a reference to the voting of prerogative *suffragia* is to be understood (and possibly Cic. *Mur.* 47; cf. *Ps. Sall. ad Caes. sen.* 2.8).

at issue. They were not making technical changes in the method of casting the votes: *suffragia* in the sense of the *action of voting* always occurs as an integral part of a phrase such as 'ad suffragia vocare'. Similarly, the sense of *right to vote* is produced only by context. The only remaining possibility is the connotation of *suffragia* as the collective vote of the centuries. This, then, is the meaning here.

## II

Let us turn now to the second clause of the sentence: 'regionatimque generibus hominum causisque et quaestibus tribus discripserunt'. The usual function of *que* in linking two clauses is to add a second clause explaining or clarifying the first.<sup>11</sup> Thus this second clause expands the enigmatic statement that precedes it: the procedure through which the *suffragia* were changed is described in the even more obscure words which follow.

The censors are still the subject of the verb in this clause, *discripserunt*, which has as its direct object *tribus*. The adverb *regionatim* qualifies the manner in which the censors 'discribed' the tribes. The function of the ablatives (or datives; see below) which also qualify the action is less clear. To start at the beginning, grammatically speaking, the phrase 'tribus discripserunt' is almost invariably taken to mean that the censors distributed the people among the tribes: 'the citizens were now registered in the tribes by birth etc.', 'iscrivendo i cittadini nelle varie tribù...'<sup>12</sup> Dependent upon this type of translation are the frequent interpretations of the measure as one which allowed freedmen or men without land to register in the rural tribes. An initial though not formidable obstacle to translation is posed by the form of the verb. The manuscript gives the form *descripserunt*, although most texts have emended to *discripserunt*.<sup>13</sup> The confusion between these two forms is not recent and was already widespread in ancient times, as is known from inscriptions. The difference is not a trivial one, as the meanings of the two words *describere* and *discribere* are quite distinct.

The latter carries a connotation of distributing and dividing, the former mostly one of describing or defining. To determine which verb is at issue one has to rely on the general sense of the passage in question, although some cases admit of uncertainty.<sup>14</sup> It is not possible to construe the verb in Livy 40.51.9 as *describere*, as one translation does – 'they constituted the tribes' – and some interpretations imply:<sup>15</sup> *describere* in the sense of constituting is used only of philosophical or legal concepts, most notably of *officia* and *iura*, and of taxes.<sup>16</sup> This passage, on the other hand, has a construction closely parallel to that of, for example, Caesar *B.G.* 7.19.2: 'generatimque distributi (Galli) in civitates...'. The tribes are being distributed or divided. One aspect of this

<sup>11</sup> Cf. Draeger's example, Plaut, *Bacch.* 156–7 'ne Phoenix tuis factis fuam | teque ad patrem esse mortuom renuntiem', Dr A. Draeger, *Historische Syntax der Lateinischen Sprache*, ii.2 (Leipzig, 1881), -que: 36–46.

<sup>12</sup> Respectively, McDonald and De Sanctis.

<sup>13</sup> *Describere* and *discribere* are confused elsewhere in the Livian manuscripts, e.g. 25.31.9; 30.26.6; cf. 30.37.5. Three times in the early books editors have emended the *describere* of the manuscripts to *discribere*: 1.19.6; 1.42.5 (see Ogilvie, *Comm. ad locc.*); cf. 4.4.2. The only other case relating to *discribere* in the *Codex Moguntinus*, the manuscript for 40.51.9, is 33.42.8, where *Mog.* gives *diviserunt* as against the *discripserunt* of B. (This is perhaps an example of *Mog.* substituting an explanatory annotation for the word in the text; see McDonald *OCT*, Bks 31–35, xxxviii.)

<sup>14</sup> For these problems see *TLL*, v. 1, col. 1354, s.v. *discribere*.

<sup>15</sup> Sage in the Loeb translation.

<sup>16</sup> *TLL*, v. 1, coll. 662–3.

process is invariably overlooked. *Discrĭbere* and *distribuere* always govern not only a direct object but also an implicit or explicit indirect object. This can be expressed in the accusative case, governed by *in*, or in the dative case.<sup>17</sup> It is of course possible that *generibus hominum, causis* and *quaestibus* are datives expressing the indirect object, the units into which the tribes were distributed. However, much more satisfactory sense is made by reading these as ablatives of instrument.<sup>18</sup> That is, they indicate the means by which the division was made – the criteria on which it was based – as do the similar ablatives in Cicero's 'discriptus populus censu, ordinibus, aetatibus' (*De Legibus* 3.44). Thus the tribes were being divided up or distributed *regionatim* into smaller, more numerous groups by means of the criteria expressed in the ablatives. The indirect object is not expressed in this part of Livy's sentence. Nevertheless, it is probable that it has already been mentioned, namely, under the term *suffragia*. The units into which the tribes are distributed would therefore be the centuries.<sup>19</sup>

It must be emphasised that the very different process of distributing the people among the tribes is always expressed in the contrary manner. With one or two exceptions due to stylistic variation, the people are always the direct object of the verb, the tribes the indirect object.<sup>20</sup> In Livy 40.51.9 the division of the people at issue is subsequent to the distribution into tribes – a two-stage division therefore of the kind that is found, for example, in Cicero, *De Legibus* 3.7:

populique partes in tribus distribuunt, exin pecunias, aevitatis, ordines partiunt, equitum peditumque prolem describunt.

First of all the people is divided into tribes, whence it is divided into groups based on wealth, age and *ordo*.<sup>21</sup>

The forward position and the adverbial form of *regionatim* almost certainly emphasise the primary role of the *regiones* in the division of the tribes. What are these *regiones* by which Aemilius and Fulvius proceeded to make further divisions? Nothing is known of an official regional division of Roman Italy before that of Augustus. However, Italy must always have fallen naturally into specific areas defined by peoples

<sup>17</sup> E.g. 'in singulos iudices', Cic. *Cluent.* 74; 'in quinque classes', idem, *R.P.* 2.39; 'suis comitibus compotoribusque', idem, *Phil.* 5.22; 'civitatis', idem, 2 *Verr.* 5.62. The result thus achieved is a *discriptio* which can take the genitive either of the original group to be divided, as Cic. *De Domo* 129 'servorum omnium vicatim celebrabatur tota urbe discriptio', or of the resulting groups, as in Livy 4.4.2 'census in civitate et discriptio centuriarum classiumque non erat'.

<sup>18</sup> So Kühner, *Ausführliche Grammatik der Lateinischen Sprache*<sup>2</sup>, revised C. Stegmann (Hannover, 1914), ii. 1, 391, who classes them with ablatives accompanying verbs of measurement, judgement, establishing, etc.

<sup>19</sup> So the year could be divided into twelve months (Livy 1.19.6 'in duodecim menses describit annum'); Macedon into four regions (Livy 45.18.7 'in quattuor regiones describi Macedoniam ... placuit); or land into plots of ten *iugera* (Cic. *Leg. Agr.* 2.79 'in iugera dena describat [scil. agrum Campanum]).

<sup>20</sup> E.g. Cic. *R.P.* 2.14 'populumque... in tribus tris curiasque triginta discripserat'; *Leg.* 3.7 'populique partes in tribus distribuunt'; Livy 45.15.1 'in quattuor urbanas tribus discripti erant libertini'; Val. Max. 2.2.9; Sen. *Ep.* 89.3; cf. Cic. *Leg.* 3.44; *Comm. Pet.* 30.

<sup>21</sup> It is not clear whether it is *describere* or *discrĭbere* that is wanted for the third verb. If *discrĭbere*, the sense is that the *proles* is being divided up into two groups, *equites* and *pedites*, the genitives taking the place of the indirect object. The same progression is given in the *Pro Flacco* (15): 'quae scisceret plebes aut quae populus iuberet, submotā contione, distributis partibus tributim et centuriatim discriptis ordinibus, classibus, aetatibus'. The usual punctuation of this passage, placing a comma before *tributim*, ignores the parallelism with *Leg.* 3.7 and at the same time produces an incomprehensible text – a man's tribe in no way determined his social, wealth or age group. See also *Leg.* 3.44.

and by geographical factors.<sup>22</sup> Cicero can write of 'discribing' Italy into regions on an *ad hoc* basis: (*Ep. ad Fam.* 16.11.3.10) 'Italiae regiones discriptae sunt, quam quisque partem tueretur'. The *regiones* which lie behind the term *regionatim* must have been similarly specific areas, although we can only speculate about their precise nature.

*Regiones*, then, are not out of place in 179 B.C. The word *regionatim*, however, is rare. Adverbs of this type – *vicatim*, *pagatim*, *tributim* – have the force of 'by or according to *vicus*, *pagus*' and so on. And Suetonius once uses *regionatim* in a similar way: (*Div. Jul.* 39.1) 'edidit... ludos etiam regionatim urbe tota'.<sup>23</sup> These analogies indicate a similar interpretation for Livy 40.51.9.

### III

The groups into which the tribes were divided on this regional basis are indicated by *generibus hominum*, *causis* and *quaestibus*, which, it has been argued, are more likely to be ablatives than datives. It tends to be assumed that the first of the ablatives in Livy's text, *generibus hominum*, means something like 'birth' and refers to the distinction between free-born citizens and freedmen.<sup>24</sup> One exception has been Palmer, who argues that *genus* here has the sense of 'stock', 'race' or 'people'.<sup>25</sup> Palmer noticed that 'the phrase *genera hominum* has the ring of a formula'. It is maintained here that this is an integral formula, there being no room for redundancy in this short and concise sentence, and that it is important to consider it as a whole.

Apart from its most common meaning of 'mankind', *genus hominum* can refer to at least three different kinds of group. First, it can have Palmer's sense of a people.<sup>26</sup> Secondly, it can be used in a general way to refer to a type of person.<sup>27</sup> Finally, it can be used of more specific classes of people, having much the same application as *ordo*. These two expressions are often used together and even interchangeably in Cicero, while both Cicero and several other writers often use *genus hominum* where one might expect *ordo*.<sup>28</sup> This usage appears in Livy also, who tends to use 'omne

<sup>22</sup> See e.g. Cic. *Rab. Perd.* 8 (Apulia and Campania); *Planc.* 22 (defining an area from Sora to Allifae as 'tota illa nostra regio'); Livy 27.42.17 (Lucani); 27.7.7 (Bruttii); 22.9.5 (Luceria and Apulia).

<sup>23</sup> Cf. e.g. Livy 30.26.6: 'etiam quod magnam vim frumenti ex Hispania missam M. Valerius Falto et M. Fabius Buteo aediles curules quaternis aeris vicatim populo discripserunt' and Caes. *Bell. Alex.* 5.3: 'distributi [nostri] munitionum tuendarum causa vicatim'. *Regionatim* does occur once elsewhere in Livy (45.30.2): 'regionatim commercio interruptis'. The meaning of this phrase is not clear. The force of analogy, however, would suggest an interpretation along the lines of 'to those region by region (that is, in each region) broken up in their commerce'.

<sup>24</sup> As by Botsford, McDonald, Taylor, Treggiari, Scullard.

<sup>25</sup> Mommsen saw that *genus* does not in the main concern what we might call 'birth', 'sondern zunächst das angeborene, dann überhaupt das Merkmal einer Person', *StR*<sup>3</sup> iii. 1, 9 n. 2. Ample instances of the various meanings of *genus* are given in *TLL* vi. 2–3, coll. 1885–97, s.v. *genus*.

<sup>26</sup> E.g. Pl. *Trin.* 542; Cic. *Div. Caec.* 28; Livy 36.17.5; 38.17.3; 42.51.8; Paul. *exc. Fest.* 165L; Sall. *Cat.* 6.1.

<sup>27</sup> E.g. Pl. *Ps.* 153 'plagigera genera hominum', that is, 'slaves'; the six kinds of men of Cic. *Catil.* 2.17–22; idem, *Post Red. ad Quir.* 21.

<sup>28</sup> The most significant passages of this kind are to be found in the Verrines, e.g.: (2.2.137) 'ordo aliqui censorum est, conlegium, genus aliquod hominum? nam aut publice civitates istos honores habent, aut, si generatim homines, ut aratores, ut mercatores, ut navicularii: censores quidem qui magis quam aediles?'; (2.2.166) 'quod genus hominum, quem numerum, quem ordinem proferre possum qui te non oderit, sive civium Romanorum sive Siculorum'; similarly 2.2.149; 2.2.17; cf. 2.3.27 and *Leg. Agr.* 2.84. *Ordo* and *genus hominum* are also used together in connection with the senate, 2 *Verr.* 1.22, and 5.177.

genus hominum' much as he would use 'omnes ordines'.<sup>29</sup> Further, it is the sense of *genus hominum* which occurs most frequently in Plautus. In one particularly interesting passage Plautus cites examples of *genera hominum* with centuriate *ordines* in mind.<sup>30</sup> Also in the centuriate context are a number of texts which give *genus hominum* with *aetas* in much the same way as Cicero pairs *ordo* with *aetas*. A particularly clear example of this is

*De Domo* 75: constat enim nullis umquam comitiis campum Martium tanta celebritate, tanto splendore omnis generis hominum aetatum ordinum floruisse.<sup>31</sup>

There is by now a strong possibility that Livy 40.51.9 is a text of this type. Direct parallels have been observed with passages such as *De Legibus* 3.7 and, further, it has been seen that the most common use of *genus hominum* in Cicero and Plautus, and therefore the most likely sense of the term in official or older Latin, is closely akin to that of *ordo*. But the passage which throws the most light on Livy 40.51.9 is Cicero 2 *Verr.* 2.123:

iste, qui omnia iura pretio exaequasset omniumque rerum dilectum atque discrimen pecunia sustulisset, non modo illa quae erant aetatis ordinis quaestusque permiscuit, sed etiam in his duobus generibus civium novorum veterumque turbavit.

Here we have *discrimina* not only of *aetas* and *ordo* but also of *quaestus* and *genera civium*.

When it comes to *causis*, however, no such clear indication is forthcoming. *Causae* here have to be something which concerns the censors.<sup>32</sup> *Causa* does have a meaning which might be relevant – that of *condicio*. And indeed this is the interpretation which is usually given to the *causae* in this passage. Still, what this *condicio* could refer to is another question. It has been suggested that it refers to 'conditions' of the citizen, such as possession of children of a definite age.<sup>33</sup> This explanation is based on a desire to reconcile the sentence with information which Livy gives later concerning the position of *libertini* in 169. There is no evidence that *causa* ever had such a meaning.

Cicero several times compares *causa* with *condicio* or with *ius civitatis* – something which could be of interest to censors.<sup>34</sup> In these instances *causa* is used to connote

<sup>29</sup> E.g. 27.51.3 and 22.61.14. So also 10.21.3–4; 21.12.8; 10.24.9. Cf. the similar usage in Cic. *Sest.* 124.

<sup>30</sup> *Poenulus* 831f.:

quodvis genus ibi hominum videas quasi Acheruntem  
veneris,  
equitem peditem, libertinum, furem an fugitivom  
velis,  
verberatum, vinctum, addictum: qui habet quod det,  
utut homo est,  
omnia genera recipiuntur.

Both in sentiment and in the way it is expressed this passage is very close to *Trin.* 490f., where Plautus explicitly mentions the property assessments of the census in connection with the social division between rich and poor: a division which separated men in different *ordines*, *ibid.* 451–3. Cf. also *Curc.* 499; *Mos.* 657. With Plautus' *genera hominum* one might compare Caes. *B.G.* 6.13.1; *idem, B. Afr.* 19.1.

<sup>31</sup> Comparable associations are to be found in Suet. *Cal.* 34.1 'adversus omnis aevi hominum genus grassatus'; Livy 26.9.13 'omnium generum atque aetatum'; Caesar, *B. Afr.* 87.2 'cuiusque generis aetatisque'. *Genus* by itself can also be used for *ordo*, as *equestre genus*, Vell. 2.88; *libertinum genus*, Tac. *Ann.* 2.85; 4.62; Suet. *Aug.* 44, although examples tend to be late.

<sup>32</sup> The censors did, on one occasion at least, concern themselves with *causae militum*; see Livy 43.14.9 and 43.15.8 (169 B.C.). However, this task was usually assigned to tribunes of the *plebs* or consuls, e.g. Livy 34.56.9, 11.

<sup>33</sup> So Botsford, followed by Taylor, Scullard and McDonald.

<sup>34</sup> E.g. *Pro Balbo* 36; *ibid.* 45; cf. *ibid.* 35; 2 *Verr.* 5.49; *Caec.* 98. Cf. Livy 38.39.5; 38.39.7; 39.26.10.

in a general way the status or condition of a man as a citizen, or of a city-state. More generally still *causa* can be used of any situation or circumstances in which a man may find himself. In one interesting passage *causa* is grouped with *aetas* and *fortuna*, familiar words in the language of the social hierarchy of *ordines*.<sup>35</sup> From Plautus we learn that *causa* did have a more specific connotation in earlier Latin, that is, a financial one. So, for instance, *Truculentus* 229:

numquam amatoris meretricem oportet causam noscere,  
quin, ubi nil det, pro infrequente eum mittat militia domum.<sup>36</sup>

Again, the usage of Cicero and Plautus combines to provide the most probable sense of *causa* in a context which demands very specific meanings. *Causae* are the financial circumstances of citizens, the *aestimatio* of which was a major part of the censor's task.

And finally to *quaestibus*. At least this time the meaning – 'trade', 'profession' – is relatively uncontroversial. But why *quaestus*? In the late republic, *quaestus* was a derogatory term usually meaning 'gain'. Sometimes it is used to mean 'occupation', but almost all examples of this refer to *meretrices* or *lenones*. An important exception is Cicero, *De Officiis* 1.150–1, where *quaestus* refers to trades in a general way.<sup>37</sup> In earlier times this seems to have been the principal use of *quaestus* to judge from Plautus' employment of the word.<sup>38</sup> The earlier respectability of the term *quaestus* explains why it appears in Livy 40.51.9. As is by now apparent, Livy is quoting a censorial formula which, like so much of the rest of the censorial language, was preserved in an archaic form into the late republic.

In summary, I propose the following translation of Livy 40.51.9: 'They altered the centuries and assigned the tribes to the centuries region by region, taking account of social position, financial circumstances and occupation.'

#### IV

The meaning that has now been established for this sentence rules out most interpretations of its historical context which have previously been suggested. These see the reform in terms of assigning citizens to tribes. It has been shown that the phrase 'tribus discripserunt' cannot have this meaning; such a sense would have had to be conveyed in the manner of 'populum in tribus discripserunt'. However, some of the historical contexts proposed may nevertheless be involved.

<sup>35</sup> 2 *Verr.* 1.152 'itaque tibi, Hortensi, non illius aetas sed causa, non vestitus, sed fortuna popularis videbatur, neque te tam commovebat quod ille cum toga praetexta quam quod sine bulla venerat' and the explanation: 'quod ornamentum pueritiae pater dederat, indicium atque insigne fortunae, hoc ab isto praedone ereptum esse graviter tum et acerbe homines ferebant'. Also Cic. *Leg. Agr.* 3.9. *Conditio* is used more explicitly in connection with social status; of the *equites*, *Cluent.* 154; of slaves, *Cat.* 4.16. Cf. Livy 23.35.9.

<sup>36</sup> Also, e.g., *Asinaria* 519–20. Cf. P. J. Miniconi, *Causa et ses dérivés* (Paris, 1951), 29–30. In the *Truculentus* passage there is a nice pun playing on this sense of *causa* and on that in 'causam militis cognoscere'.

<sup>37</sup> 'iam de artificiis et quaestibus, qui liberales habendi, qui sordidi sint, haec fere accepimus. primum improbantur ii quaestus, qui in odia hominum incurrunt, ut portitorum, ut faeneratorum. illiberales autem et sordidi quaestus mercenariorum omnium, quorum operae, non quorum artes emuntur... etc.' Similar are Livy 21.63.4 'quaestus omnis patribus indecorus visus' and 22.26.1 'ex eo genere quaestus pecunia a patre relicta' (of Terentius Varro, whose father was said to be a butcher, *lanius*).

<sup>38</sup> E.g. *Rudens* 290–1: 'omnibu' modis qui pauperes sunt homines miseri vivont, praesertim quibu' nec quaestus est neque didicere artem ullam'; *Asinaria* 186: '...ad suum quemque hominem quaestum esse aequomst callidum'; *Persa* 53–6. Of course, Plautus also uses *quaestus* of *meretrices* and *lenones*: *As.* 215, 511; *Poen.* 1140; *Cist.* 41.

First, there is the widely held view that the reform of 179 established the position of freedmen in the tribes which they held in 169, on which Livy gives this information (45.15.1–2):

in quattuor urbanas tribus discripti erant libertini praeter eos, quibus filius quinquenni maior ex se natus esset, – eos, ubi proxumo lustro censi essent, censi iusserunt – et eos, qui praedium praediae rustica pluris sestertium triginta milium haberent, – \*\*\*censendi ius factum est–.

All *libertini* had been confined to the urban tribes by the censors of 220 B.C.<sup>39</sup> Subsequently, freedmen with a child or with a farm or farms in the country valued at over 30,000 *sesterces* were allowed to register in the rural tribes.<sup>40</sup> There are two factors which would admit of the inclusion of new provisions for freedmen in the reform of 179. On the one hand, the *libertini* did form an *ordo*, which could also be referred to as a *genus*.<sup>41</sup> On the other hand, the provision that country property must be evaluable at more than 30,000 *HS* would appear to be a reference to the property qualification of the first class of the centuriate assembly.<sup>42</sup>

Secondly, there are two suggestions that Livy 40.51.9 concerns the enrolling of new citizens at the census. De Sanctis suggested that the affair included the admission to the tribes of Latins who had migrated to Rome. This work was undone by a law of one of the consuls of 177, C. Claudius Pulcher, although the substance of the centuriate reform was preserved.<sup>43</sup> According to Palmer, what is going on is the enrolling of the new citizens from Formiae, Fundi and Arpinum (which had been incorporated with full citizenship in 188 B.C.) as well as the changing of the tribes of citizen colonists.<sup>44</sup> It is certainly possible that the inclusion of Latins or other Italians in centuries is included in the changes.

What, then, is Livy 40.51.9 all about? The answer: on the face of it, nothing very radical in institutional terms, although something which may well have had political implications. For the censorial formula which Livy has preserved describes fairly nearly the centuriate assembly as we know it. It corresponds closely to the Ciceronian formulae for the arrangement of that assembly (for example *De Leg.* 3.7; see above), while the differences do not produce a picture inconsistent with the one which can be pieced together of the more detailed make-up of the classes and centuries. The most notable differences are the references to *regiones* and *quaestus*: local region and occupation.

Now Livy, whose account of the Servian constitution is notoriously anachronistic in its emphasis upon wealth qualifications in terms of coined money, does give in his introduction to this account a more general description of the graded nature of Servius' assembly:

(1.42.4) ita Servium conditorem omnis in civitate discriminis ordinumque quibus inter gradus dignitatis fortunaeque aliquid interlucet posterius fama ferrent.<sup>45</sup>

<sup>39</sup> *Per. Liv.* 20.

<sup>40</sup> As it stands the text leaves open the question of whether or not the freedman with a child is to be resident in an area belonging to a rural tribe. Most probably the assumption is that the provision applies to those freedmen who, had they been *ingenui*, would as a matter of course have been registered in a rural tribe.

<sup>41</sup> *Genus*: see locc. cit. n. 31. *Ordo*: e.g. Livy 42.27.3; 43.12.9; Cic. *Phil.* 2.3.

<sup>42</sup> See M. H. Crawford, *Roman Republican Coinage* (Cambridge, 1974), ii. 631; cf. H. Mattingly, 'The Property Qualifications of the Roman Classes', *JRS* 27 (1937), 99–107, esp. 104 n. 15.

<sup>43</sup> De Sanctis, *Storia*, iv.1.606–7; Livy 41.8.6–12; 41.9.9.

<sup>44</sup> Livy 38.36.7–9; Palmer, loc. cit. (n. 1).

<sup>45</sup> For various *discrimina*, compare 6.35.6.



That is, the *descriptio* of the centuriate assembly depended not just on distinctions of property but on several different kinds of *discrimina*. The terminology here recalls a passage considered above (2 *Verr.* 2.123):

omniumque rerum dilectum atque discrimen pecunia sustulisset, non modo illa quae erant aetatis ordinis quaestusque permiscuit, sed etiam in his duobus generibus civium novorum veterumque turbavit.

Here *quaestus* is mentioned in the same breath as *aetas*, *ordo* and *genera civium*. In a striking passage, Florus makes a more explicit statement about these *discrimina* and their relevance to Servius' *distributio*:

(1.6.3) ab hoc populus Romanus relatus in censum, digestus in classes, decuriis atque collegiis distributus, summaque regis sollertia ita est ordinata res publica, ut omnia patrimonii, dignitatis, aetatis, artium officiorumque discrimina in tabulas referrentur.

Other references to the antiquity of some *collegia*, some ascribed to the monarchy, together with the provision for separate centuries in the military assembly for professions of a military nature, strongly support the view, wherever Florus found it, that trades on the one hand and *collegia* on the other were taken into account from a very early date in the division of the people in the *comitia centuriata*.<sup>46</sup>

However, what the relevance of occupation was can only be guessed at. It is almost certain that a man will have mentioned his occupation, if he had one, during the course of giving a *ratio* of his property at the census. Certain occupations and official positions were kept on separate lists, and it was such distinct lists, drawn up at the census, which defined a group as an *ordo*.<sup>47</sup> Apart from the classes, which were themselves *ordines*, only a few *ordines* formed distinct voting categories within the *comitia centuriata*. The most notable of these are the *equites*, the *fabri*, the *tubicines* and the *cornicines*. The senate possibly voted apart in the *sex suffragia*.<sup>48</sup> The centuries of craftsmen were assigned to particular classes regardless, presumably, of individual wealth. These centuries may well be the groups intended by Livy's *quaestibus*. However, it is possible that classification of a similar sort applied to men in other occupations also. One may wonder how diligently the censors' officials worked out the worth of each individual in order to assign him to the appropriate slot in a rigid schema of property qualifications. Doubtless, great care will have been taken over men likely to qualify for membership of the first class. Similarly, care will have been taken to establish whether a man satisfied the minimum property requirement for a place in the classes. Further, the great majority of the citizens will have been involved with the land in some capacity or another. Thus the *iuratores* will have had to make at least a rough and ready calculation of value on the basis of acreage and livestock to distinguish the peasant at subsistence level from the *arator* who was comfortably off with 80 *iugera*. Nevertheless, it is possible that general guidelines were laid down for the classification of non-agricultural occupations, so that, for at least some of these, *quaestus* determined voting class. There is a certain amount of evidence that censors did concern themselves with occupations, as well as a number of laws barring those practising or having practised particular *quaestus* from membership of certain *ordines*.<sup>49</sup>

<sup>46</sup> Plin. *NH* 34.1; 35.159; Dio Cassius 38.13; Suet. *Jul.* 42.3; idem, *Aug.* 32.1; Livy 1.43.3, and 7; Dion. Hal. 4.17.3; Cic. *De Re Publica* 2.39–40.

<sup>47</sup> Cf. C. Nicolet, *L'Ordre Equestre* (Paris, 1966), 167–9.

<sup>48</sup> See C. Nicolet, loc. cit. (n. 10). Other familiar *ordines* such as the *tribuni aerarii* or *scribae*, while requiring a property qualification in the later republic, nevertheless did not constitute separate voting categories in the *comitia centuriata*.

<sup>49</sup> One thing at least that is known about the enigmatic *lex Metilia de fullonibus dicta* (220 B.C.) is that it was proposed to the assembly by the censors (Plin. *NH* 35.197). The censors of

The second difference between the Ciceronian formulae and Livy 40.51.9 is that in the latter the tribes are to be divided up, in the first instance, *regionatim*. Now, the only division in the centuriate assembly which we know to have had some local basis is that of the centuries in the first class after the third-century reform. In this class there was a century of juniors and a century of seniors for each of the 35 tribes. Many scholars follow the view of Mommsen and Tibiletti that this arrangement was applied in classes two to five also. In these classes, it is argued, the tribal centuries were combined, for the purposes of voting, by lot in twos and threes to form one hundred fictional centuries, thereby maintaining the old total of 193.<sup>50</sup> I do not myself subscribe to this view, for reasons which have been argued in detail elsewhere.<sup>51</sup>

Nevertheless, whatever view is taken of the reformed assembly, it is possible that Livy's *regionatim* refers to the dividing of each tribe into centuries of juniors and seniors. This is not an entirely satisfactory solution. Why, on this view, would Livy introduce the notion of *regiones*? Surely a simple reference to the age division would better describe this aspect of the distribution of the tribes. Further, by the second century B.C. the tribes had become geographically disparate and no longer corresponded to coherent regions of Italy.<sup>52</sup> It is true that several of the tribes included huge, continuous tracts of territory. Yet they were all, to a greater or lesser extent, represented in a number of separate areas across the map of Italy, while most geographic regions contained elements from several different tribes.

It is preferable to take *regionatim* as an allusion to some other local division in the centuriate assembly. That the census and centuriate system must always have had a local basis in the tribes has been argued strongly by Lily Ross Taylor.<sup>53</sup> However, there are indications that, from the beginning, the centuriate assembly had, or perhaps more importantly, was thought to have had, a local character beyond that afforded by the tribes. The most extensive surviving account of the formation of the assembly, that of Dionysius, closely associates its institution with the introduction of tribes based directly on the land.<sup>54</sup> Dionysius also connects the institution of census and centuries with the *pagi*. Much of what he says about the *pagi* is anachronistic and has been corrupted in the manuscripts. However, the idea of a connection is there and certainly Dionysius was not mistaken in the belief that the *pagus* was a very ancient institution.<sup>55</sup>

312/11 B.C. took away one of the *iura* of the *tibicines* (Livy 9.30.5). The *aratores* and *pecuarii*, as might be expected, were of particular concern. According to Varro, a *lex censoria* required that flocks of sheep being driven from Apulia to Samnium be declared to a *publicanus* (RR 2.1.16). Cato's speech 'de agna musta pascenda', ORF fr. 89-92, shows that as censor he was involved in *res pecuariae*. (Cf. also Gell. NA. 4.12; Plin. NH 13.24, 14.95.) For *quaestus* and *ordines*, cf. the *senatus consultum* in force in the reign of Tiberius banning young men of the senatorial and equestrian orders from performing as actors and gladiators, Suet. Tib. 35.2; the *lex Acilia Repetundarum* (FIRA<sup>2</sup> i.7) 13 and 16 (restored), excluding former gladiators from elections to the panels of 450 jurors; the *Tabula Heracleensis* (FIRA<sup>2</sup> i.13), which excluded public criers and undertakers from the municipal magistracies and senates (94-6, 105-7; cf. Cic. Fam. 6.18.1) and gladiators, prostitutes, and those who trained gladiators or ran gladiatorial schools or brothels from the senates (111-12, 123, 126-40).

<sup>50</sup> The seminal discussions are Mommsen *StR*<sup>3</sup> iii. 270-9; G. Tibiletti, 'Il funzionamento dei comizi centuriati alla luce della Tavola Hebana', *Athenaeum* 27 (1949), 210-45.

<sup>51</sup> For a detailed argument, see 'The Reform of the *Comitia Centuriata*', forthcoming in *Historia*.

<sup>52</sup> See L. R. Taylor, *Voting Districts*, ch. 7 *passim*, with a list of the tribes and the areas they probably comprised before the Social War, 95-8.

<sup>53</sup> 'The Centuriate Assembly before and after the Reform', *AJP* 78 (1957), 339-43.

<sup>54</sup> 4.14-15.

<sup>55</sup> It is to be associated with a number of ancient rites - Paganalia, Terminalia, Faunalia, Ambarvalia; see, under the individual festivals, Warde Fowler, *Roman Festivals*; Wissowa,

While we know that under the empire a man had to declare at the census the *pagus* in which he lived, it is possible that this practice had its origins in the republic.<sup>56</sup> By the late second century a system of *pagi* had begun to be extended throughout Italy for the purposes of administration. For example, the *pagi* found in Campania from this period onwards appear to have been introduced from Rome, most probably in connection with the inclusion of the Campanians in the Roman census from 189.<sup>57</sup> This suggests that a specific form of local organisation was considered necessary for the taking of the census. That the censors were in control of a local network extending throughout the *ager Romanus* and furthermore were able to track down citizens by means of the census is indicated by the way in which they were able to bring their machinery to bear in the matter of the levy of 169.<sup>58</sup>

One might speculate about whether or not the earliest centuries had been related to centuries of land. The Romans themselves believed that the *centuria in agris* was an ancient institution and there are shreds of evidence that this was so.<sup>59</sup> From this one might suspect that there had originally been a direct connection between the men who owned the plots in a century of land and those who were formed into a century of soldiers in the military organisation. If so, with the expansion of the Roman territory and citizen population, the centuries of the *comitia centuriata* would themselves have expanded, as did the tribes, thus losing their original correspondence to small blocks of centuriated land.

I would suggest that it is something of this sort which is involved in the *regionatim* of Livy 40.51.9: that is, that the centuries of classes two to five had some geographical, territorial aspect. There can be no proof for such a theory. Nevertheless, there must have been a workable organisation for these centuries. Even for those who subscribe

*RKR*<sup>2</sup>; Latte, *RRG*. There are various indications of the great age of these rites. Preserved in Ovid, *Fasti* 2.667–70, is the tradition that Terminus was already present on the site of the temple of Jupiter Capitolinus before that temple was built. From Cato, *De Agri Cultura* 141, it is known that lustrations of the fields were accompanied, in earlier times, by a prayer to Mars. Originally a god of agriculture, Mars gradually assumed the character of a god of war and was eventually replaced in the area of agriculture by Ceres. Cf. also the so-called Seven Pagi on the right bank, an area of extreme strategic importance to the Romans which, according to the tradition, changed hands several times in the late sixth century (Dion. Hal. 2.55.4; 5.31.4; 5.36.4). Their name would appear to date to well before the establishing of the historical tradition. Dionysius twice refers to them as τοὺς καλουμένους Ἑπτὰ πάγους (2.55.4; 5.31.4), and Plutarch once as the land ἣν Σεπτεμπαγίον καλοῦσιν (*Romulus* 25.5).

<sup>56</sup> Ulp., *De Censibus*, Dig. 50.15.4.

<sup>57</sup> So M. W. Frederiksen, 'Changes in the patterns of settlement', *Hellenismus in Mittelitalien*, ed. P. Zanker (Göttingen, 1976), 341–55, esp. 345–6, 351. This was Frederiksen's reconsidered view; cf. his earlier 'Republican Capua: A Social and Economic Study', *PBSR* 27, n.s. 14 (1959), 90.

<sup>58</sup> Livy 43.14–15.

<sup>59</sup> According to the tradition, the century of land properly comprised 100 plots of two *iugera* each, Sic. Fl. 153.26L; Paul. *exc. Fest.* 47L; Var. *RR* 1.10.2; Hyginus 110.4L; but cf. Var. *LL* 5.35. Cf. O. A. W. Dilke, *The Roman Land Surveyors* (Newton Abbott, 1971), 133. The distribution of such plots, called *heredia*, was thought to date back to the earliest times (see Paul. *exc. Fest.* and Varro locc. cit. supra). The term *heredium* itself was indeed ancient; see Plin. *NH* 19.50 on its frequent use in the Twelve Tables. Pliny translates *heredium* as the modern *hortus* – a small plot of land; see also the definition of Festus – *praedium parvolum* – Paul. *exc. Fest.* 89L. The notion that early Roman citizens were given plots of two *iugera* each turns up in other contexts also; see e.g. Plutarch *Publ.* 21 on the division of the land by the Anio among Appius Claudius and his followers. (For *πλέθρον* as *iugerum*, cf. W. Becker, *RE* xxi.1.235 s.v. *πλέθρον*; Taylor, *Voting Districts* 48 with n. 3.) There are indications of another belief that the system of centuriation was derived from the Etruscans. For example, it was thought that the *limites* originated in the *disciplina Etrusca*, Var. *LL* 7.7. A case for an Etruscan connection has been made by Dilke, op. cit. supra, 32–3. Such a borrowing is most likely to date to the late sixth century.

to the view of the reformed assembly proposed by Mommsen and Tibiletti there remains the question of the nature of the centuries prior to the reform. How did a man at any time from the earliest to the latest years of the republic know which century to vote in? In 242 B.C., before the creation of the last two tribes, the consuls and praetors were elected by the centuriate assembly as usual. How was it done? In 44 B.C. the second class was called forward to the vote and the whole election was completed 'citius quam dixi'.<sup>60</sup> Clearly no last-minute scramble as lots were drawn and voters tried to find their way to the correct century. If the centuries had a local character, there can have been no doubt concerning the appropriate century in which to vote. Perhaps there were 25 centuries to each of the four lower classes, divided equally among the tribes or across the geographical regions of Italy.<sup>61</sup> Citizens from new areas of *ager Romanus* will have been told at the census which region or group of regions they would be voting with. The exact regional composition of the centuries will have been continually adjusted by the censors to keep in line with additions to the *ager Romanus*.<sup>62</sup>

This analysis of the relevance of *regiones* and *quaestus* to the divisions of the *comitia centuriata* also explains the significance of the antithesis in Livy 40.51.9 between the adverbial *regionatim* and the ablatives 'generibus hominum causisque et quaestibus'. They represent, in fact, two categories of division. For the horizontal units of the centuriate organisation – *equites*, *classes* and *ultima centuria* – were determined by *genera hominum*, *causae* and *quaestus*, while the vertical units, the individual centuries within the classes, were determined by *regiones*. One final word may be said about why we hear nothing of these regional centuries. From a very early date the century ceased to have any importance as an administrative unit. It had no function and barely any existence or identity beyond the actual time of voting. The tribes, on the other hand, had an administrative reality outside the *ovile* and the *saepta*. It is for this reason that the sources commonly write of the role of the tribe in politics and history, while the century remains faceless. Furthermore, the regional division did not apply to the first class, the only class with any true political significance.

## V

These, then, are some of the complex structures that lie behind the classes and centuries. The question of how their arrangement was altered by the censors of 179 re-emerges. Adjustments were made, but what they were cannot be known. What we are told could be consistent with numerous theories. It is even consistent with the view that 179 saw the very institution of the classes of the *comitia centuriata*: the censors might have been establishing rather than altering the arrangement.<sup>63</sup> Nor is the view that this was the occasion of the great reform of that assembly incompatible with the formula which Livy records.<sup>64</sup> Against such radical interpretations is the fact that Livy,

<sup>60</sup> Cic. *Phil.* 2.82.

<sup>61</sup> If so, the distinction between *iuniores* and *seniores* was abolished in the second and third classes, although this did not mean that the censors ceased to record a citizen's age.

<sup>62</sup> For this reason Palmer may well be right in suggesting that the reform of 179 concerned the enfranchisement of Formiae, Fundi and Arpinum in 188 and the founding of citizen colonies during the 180s.

<sup>63</sup> As F. Smith maintained (loc. cit. [n. 1]).

<sup>64</sup> Propounded in particular by Nicolet. A perennial obstacle to this view remains in the three references in Livy to tribal centuries in the first class at the end of the third century: 24.7.12; 26.22.2–11; 27.6.3. Nicolet's attempts to explain away this evidence (art. cit. [n. 1], 351–3) are not at all convincing. However, to those who still wish to maintain this view it is urged that

who is our main source for the nature of the reform and a major source for the early history of the assembly, passes no comment.

A much more likely interpretation is that the censors were making an adjustment in the membership of individual centuries using routine procedures. An adjustment to the arrangement of the assembly itself could not simply have fallen from the record of what was after all a reasonably well-documented period of history. Nor was Livy one to pass over a matter of potential institutional importance without comment or question. Furthermore, 40.51.9 shows no sign of being the garbled result of some ill-understood annalistic account. The language is precise and meaningful, and on its own terms by no means obscure.

Most probably the reason for the appearance of a comment of this sort on the census of 179 is that at this census the adjustments made involved some important and sizeable new groups of citizens. This may well have included the colonists of the new and large colonies sent out between 184 and 181, whose positioning in the centuriate assembly must necessarily have been altered by their new home, status and possibly property qualification. The *libertinum genus* also may have been involved. It is possible that, as from this censorship, if a member of that *ordo* qualified on the grounds of wealth for the first class and if he were resident in an area included in a rural tribe, the restriction which barred him from registering in the rural tribes would be waived in order that he might take his place in the appropriate tribal century of the first class. What we have, then, is an internal reshuffling – *mutarunt suffragia* – not an institutional reform.

## VI

The purpose of this article has been to establish the meaning of the formula given in Livy 40.51.9 and its consequences for the nature of the *comitia centuriata*. As regards the political realities, the field for speculation is open.

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it can be held without any corruption of Livy's text such as is proposed by Nicolet (357) on the basis of Laelius Felix' schematisation of the three assemblies, *ap. Gell. N.A. 15.27.5*. (The similarity between the two passages is in fact restricted to the use of the phrase *generibus hominum*.)

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