

## CLAUDIUS IN TACITUS

*In memoriam Ronald Syme*

The utterances of Claudius were celebrated, or rather notorious. Suetonius, like Tacitus himself, points out that he could be eloquent but that, especially when he spoke impromptu or added unrehearsed remarks to a prepared speech, he revealed that he had no sense of what was appropriate to his dignity as Princeps, or to the time, place and audience. The biographer cruelly collected various examples of his subject's verbal ineptitude.<sup>1</sup>

At least one contemporary already found Claudius an irresistible object of imitation and parody. In the *Consolation to Polybius* addressed to the Emperor's secretary *a studiis*, Seneca, trying to flatter his way out of exile in Corsica, brings on the freedman's imperial master to console him for the loss of his brother. Seneca's Claudius recounts a series of examples of loss culled from the 'public fasti and annals', and then details those in his own family, giving the exact relationship of each to himself: that was a trick the real Claudius used in the speech on the admission of Gallic senators, the Letter to the Alexandrians, and other documents. The discourse is studded with rhetorical questions and examples of *praeteritio*, techniques also paralleled in the documents.<sup>2</sup> After Claudius' death, Seneca entertained the court with a satire in which Augustus runs through the members of his family in Claudian vein and blames Claudius for his ill-treatment of his own relatives. Also in the *Apocolocyntosis*, it can be argued, the Fates and Hercules are made to parody bits of the Emperor's speech on the Gallic senators.<sup>3</sup>

That Claudian speech, partially preserved for us on the Lyons Tablet, Tacitus certainly knew well. He may even have known it before he came to write about Claudius, if an allusion to it is properly detected in Book IV of the *Annals*.<sup>4</sup> Why should he not have been sufficiently intrigued by it to investigate other speeches? Indeed it was on this assumption, the natural one to make, that Syme managed to excavate a great deal of Claudian material in the *Annals* for Appendices 40 and 41 to his *Tacitus*. His primary interest was in Tacitus' sources of information and, in particular, his use of the *acta senatus*, but his discussion includes some important observations about the way in which the historian transformed what he found.

The way in which Tacitus made use of Claudian material is a subject that merits further investigation. For this purpose, the one adopted here, it is unimportant

<sup>1</sup> Suet. *Claud.* 39.2–40.3; Tac. *Ann.* 13.3.2.

<sup>2</sup> Sen. *Polyb.* 14–16.3 on which see H. Dahlmann, 'Zu Senecas Trostschrift an Polybius', *Hermes* 71 (1936), 374–5. Details of relationship 15.4–16.1, cf. E. M. Smallwood, *Documents Illustrating the Principates of Gaius, Claudius and Nero* (Cambridge, 1967), no. 369 (*ILS* 212), col. II.2; 35; no. 370 (*P. Lond.* 1912), II.27; no. 368 (*ILS* 206), lines 8; 11. Rhetorical questions and *praeteritio*: 14.4–5; 15.1, cf. Smallwood no. 369, col. I.28–37.

<sup>3</sup> *Apoc.* 10ff.; on 3.2 and 6.1, see *CQ* 32 (1982), 416–17.

<sup>4</sup> On *Ann.* 4.65, see R. Syme, *Tacitus* (Oxford, 1958), pp. 709–10, suggesting another allusion at 3.26.3; A. Momigliano, *Gnomon* 33 (1961), 56–7, who, while denying a wider use of Claudian speeches by Tacitus, admits his knowledge of the speech on the Lyons Tablet and the allusion to it at *Ann.* 4.65; C. Questa, *Studi sulle fonti degli Annales di Tacito*<sup>2</sup> (Roma, 1963), pp. 231–2, who agrees with Momigliano on the first two points but is cautious about the derivation of 4.65; G. Townend, 'Claudius and the Digressions in Tacitus', *Rhein. Mus.* 105 (1962), 358ff., who thinks Tacitus shows here knowledge of the Claudian speech but through an annalistic source.

whether Tacitus used the senatorial record, as Syme insisted, or a collection of the Emperor's speeches, or even a reliable literary source. It is fortunate too that one fact that is vital to such a study is certified by Tacitus himself: he had the complete and authentic speeches to hand, for on two occasions he notes with confidence points that Claudius omitted.<sup>5</sup> What I hope will emerge is that Tacitus handled Claudius' remarks with far more  *finesse*  than his sneering biographer and that he used the imperial speeches to bolster both the good and the bad side of his portrait.

As a preliminary to this investigation of Tacitean technique, however, it is necessary to clarify briefly the two-sided nature of the Tacitean portrait of Claudius, a feature that it shares with the characterizations by Suetonius and Cassius Dio. The condemnatory side of the literary tradition depicts the Emperor as susceptible to manipulation by his minions because of his timidity, absent-mindedness and gullibility (e.g. Suet. *Claud.* 29; Dio 60.2.4). Like Suetonius, Tacitus makes use of the key words *ignarus* and *inscitia* (11.2; 11.3; 11.25). Everyone has his favourite Tacitean vignette: Claudius working away as censor while his wife is marrying the consul-elect (11.13); Claudius asking the husband of a woman he had just driven to suicide why she had not accompanied him to a dinner (11.2); Claudius formally summoning his freedmen secretaries to a council of state for deliberation about his next choice of wife (12.1). Yet the most effective means Tacitus found was omission. No summary of the reign, like the one that closes the six Tiberian books, is appended to Book 12, and though the book ends in a sense with the death of Claudius, as Book 6 did with the death of Tiberius, Claudius is not allowed to have the stage to himself. Not only does he have no obituary here, but his death is presented as a step on the way to the accession of Nero, an event that fills the final chapter. Tacitus makes his purpose evident by repeating the vote of a public funeral and of divine honours to Claudius in the proper place early in Book 13. For Tacitus, the decisive event in the latter half of Claudius' reign was the change of wife, marked by the division between Books 11 and 12. Even Claudius' death was just a means to Agrippina's winning of the throne for her son.<sup>6</sup>

It is in Nero's funeral address early in Book 13 that Claudius has his final summing up. It is, significantly, two-sided both in content and in reception.<sup>7</sup> Titters greet the reference to the deceased's *providentia* and *sapientia*: clearly the succession was in everyone's mind. But before that, Nero's account of his predecessor's intellectual accomplishments and his general success in foreign policy has been heard with respect. To this respectable side of Claudius belongs also his work as censor in replenishing the patriciate, so essential to the state religion, and minimizing the invidia of expulsion from the Senate. This side of Claudius appears in Suetonius and Dio as well. Suetonius mentions his *civilitas* (12), his care of Rome and the corn supply (18), his public works (20), his correction of religious abuses (22), only later going on to add that he did not make his own decisions (25.5). Dio notes that Claudius behaved well when free of the influence of his minions (60.3.1), and he approves particularly of his relations with the Senate and his decisions on foreign policy in the first year (60.6–8).

<sup>5</sup> *Ann.* 12.11 (omission of Tiberius' sending kings to Parthia); 12.22 (omission of Lollia Paulina's marriage to Gaius).

<sup>6</sup> See *Nero* (London, 1984, rev. 1987), p. 86. For the significance of book divisions in Tacitus, U. Knoche, 'Zur Beurteilung des Kaisers Tiberius durch Tacitus', *Gymnasium* 70 (1963), 211ff., especially 216–17.

<sup>7</sup> For Tacitus' postponement of the Claudian summing up and the two-sided character of his portrait, K. Seif, *Die Claudiusbücher in den Annalen des Tacitus* (Mainz, 1973), pp. 295–8.

Though our interest here is in studying Tacitus' portrait, not in evaluating the truth of that portrait, it is perhaps worth noting that the Janus-like Claudius was not the creation of those who suffered under his régime, for it is already found in the anxious letters from Augustus to his wife Livia, Claudius' grandmother, which are quoted verbatim by Suetonius (*Claud.* 4) and relate to Claudius' early manhood when he was aged sixteen to twenty-one. Indeed some of the documents from the Emperor's own pen<sup>8</sup> exhibit the same puzzling combination of qualities that worried Augustus as much as it delighted the ancient authors, namely reason and tact on the one hand; on the other, self-absorption, political naiveté, myopic enthusiasm for detail and irrelevant erudition.

Tacitus' treatment of the speech advocating the admission of some Gallic chieftains to the Roman Senate at *Annals* 11.24 is the key example of his use of Claudian material in the Emperor's favour. Claudius is actually presented in a better light than he deserved. Instead of what we have preserved on the Lyons Tablet, an *ad hoc* plea bolstered by a miscellaneous collection of precedents for change, bad jokes personal reminiscences and pedantic learning, the historian offers us a concise coherent statement of how this move would fit into the Roman tradition of assimilating the best of its subjects in order to revitalize Roman society, a process, which, it is suggested, will continue in the future.<sup>9</sup> No other oration of Claudius, however, is given in direct speech or accorded such sympathetic treatment by Tacitus.

It will be prudent to confine our discussion at first to material explicitly indicated as Claudian by Tacitus (11.15; 12.11; 12.22.2; 12.52.3; 12.53.2–3; 12.61.1) and to the antiquarian digressions that most scholars think can be plausibly traced to Claudian speeches (11.14 on the alphabet; 11.22.2–6 on the quaestorship; 11.25.2 on patricians; 12.23.2–24 on the pomerium).<sup>10</sup>

Tacitus shows no sign of disapproval when Claudius adduces arguments to persuade the Senate to strengthen the college of the *haruspices* (11.15), combining his enthusiasm for things Etruscan with a distrust of foreign superstition. That distrust at

<sup>8</sup> The Lyons Tablet is a prime example, see *CQ* 32 (1982), 404ff. The edict on the Alpine tribes (Smallwood no. 368 = *ILS* 206) was ridiculed by Mommsen in *Hermes* 4 (1870), 99ff. as characteristic of the 'gelehrten Verkehrten auf dem Throne' in its idiosyncratic form and expression. U. Schillinger-Häfele, 'Das Edikt des Claudius CIL V 5050', *Hermes* 95 (1967), 353ff., though defending the coherence of the subject matter of the edict successfully, does not convincingly explain away the peculiarities of the opening sentence, with its anacoluthon and bewildering detail and asides, as an anticipation of the structure of the imperial *sententia* that will eventually result from Planta's judgement. M. Benner, *The Emperor Says: Studies in the Rhetorical Style in Edicts of the Early Empire* (Göteborg, 1975), pp. 100ff. suggests that the anacoluthon is the result of oral dictation: if so, that would only strengthen Tacitus' implication that Claudius was exceptional in the amount of preparation he needed in order to speak well (*Ann.* 13.4.2).

<sup>9</sup> As argued in *CQ* 32 (1982), 416–17.

<sup>10</sup> For earlier bibliography, see Syme, *Tacitus*, p. 705 n. 6. After Syme, Momigliano and Questa (above n. 4) doubt that Claudius' speeches (except for that on the Lyons Tablet) are a direct, or even indirect, source for Tacitus, though Questa (p. 231) inclines towards Syme's view that *Ann.* 11.14 on the alphabet may go back to the Emperor's speech (which, he adds, will depend on his earlier treatise), as does E. Koestermann, *Cornelius Tacitus Annalen III* (Heidelberg, 1967), p. 53 (or from the treatise). Koestermann also accepts speeches as the source for 11.22.2–6 (p. 71); 11.25.2 (p. 83); 12.24 (p. 147, with doubts about 12.23.2). Townend (above n. 4) believes that all these excursions derive ultimately from Claudius' speeches, but that Tacitus knew them only through an annalistic source. A. Mehl, *Tacitus über Kaiser Claudius* (München, 1974) credits 11.14 and 12.23 to Claudius' speeches; M. T. Boatwright, 'Tacitus on Claudius', *CJ* 80 (1984), 36ff.; 'The Pomerian Extension of Augustus', *Historia* 35 (1986), 17–19 accepts such an origin for 12.23.2–24; Questa (p. 229 n. 4) prefers to trace 11.22 to the autobiography of Claudius (Suet. *Claud.* 41.3).

least probably appealed to Tacitus who was proud of being a priest of the state religion himself.<sup>11</sup> And a chapter earlier, we can at most detect a genial kind of humour in the historian's treatment of Claudius' addition of three new letters to the alphabet (11.13–14) and of his attempts, which ultimately failed, to establish them in regular use. Syme's idea that Tacitus is making fun of the Emperor's pedantry is perhaps confirmed by the fact that his excursus omits all indication of why these particular letters were felt to be necessary, a point that we know Claudius made in the book he had written on the subject.<sup>12</sup>

The digression on the history of the quaestorship is attached by Tacitus to Dolabella's proposal to require the quaestors-elect to give gladiatorial games (11.22.2–6), a proposal that Tacitus deplores. The digression, however, seems more relevant to a measure of Claudius, attested elsewhere (Suet. *Claud.* 24; Dio 60.24.1), abolishing two of the old quaestorian *provinciae* in order to release quaestors to manage the public treasury, for it concerns the history of changes in the number and functions (latterly financial) of quaestors. It seems reasonable then to suppose that the digression comes from Claudius' speech in support of the latter measure; that Dolabella, in giving his assent to the Emperor's idea, added his own proposal; and that the Emperor, who is later credited with all these measures (Suet. *Claudius* 24; Tac. *Ann.* 13.5.1), agreed to have this addition made to his *relatio*. Tacitus uses the account of the history of the office to discredit the addition as contrary to Roman tradition, but his target is Dolabella, not Claudius whose role regarding the quaestorship he avoids mentioning here.<sup>13</sup>

These measures, like the adlection of Gallic senators, belong to Claudius' censorship of A.D. 47–8. So does the creation of patricians (11.25.2) where Tacitus shows himself well-disposed towards the criteria the Emperor used (cf. his approval in 4.6.2 of *nobilitas maiorum* as a criterion) and without malice in giving the historical summary he probably derived from Claudius' speech on the occasion. Tacitus could afford to be generous about them because the whole censorship is carefully framed by his account of Messallina's marital intrigue so as to demonstrate both the non-separation of palace and state that Nero was to criticize on his accession (13.4) and the absent-mindedness of the Emperor, unaware of what is going on in his own household as he bustles about on state business.<sup>14</sup> The historian shows here subtler humour as well as fairer judgement than the Emperor's biographer (*Claud.* 16) who ridicules the imperial censor for issuing twenty-two edicts in one day and getting his facts wrong in excluding senators from the rolls, an operation which Tacitus thinks he carried out with delicacy and tact (11.25, cf. 12.52).

Even later in his account, the antiquarian digression on the original position of Rome's sacred boundary that follows Claudius' extension of the pomerium at

<sup>11</sup> Syme, *Tacitus*, pp. 467–9; 518; 532; Seif (above n. 7), p. 78.

<sup>12</sup> Syme, *Tacitus*, p. 515. On Claudius' book, Suet. *Claud.* 41.3; the grammarian Priscian accepted the usefulness of the digamma which allowed 'v' to be distinguished from 'u' (Keil, *Gramm. Lat.* ii.15).

<sup>13</sup> The use of the word *censeo* for Dolabella's proposal persuades me that Furneaux, ii.29 and Koestermann (above n. 10), p. 70 were right to suppose, as against R. J. A. Talbert, *The Senate of Imperial Rome* (Princeton, 1984), p. 238, that Dolabella was giving his *sententia* and exercising his right to go beyond the *relatio*. On Tacitus' target, Seif (above n. 7), p. 94. This digression is the most extreme case of his presenting Claudian material without explicit acknowledgement (below, pp. 487–9). See also n. 43 below.

<sup>14</sup> Seif (above n. 7), pp. 15–18; 74; 84. For the purpose of this discussion his distinction between censorial measures proper (11.13–15 and 23–5) and measures passed during the censorship (11.22 and possibly even 11.14 on the alphabet) is unimportant.

12.23.1–24.1, is defended by Tacitus as not unworthy of knowledge. Some scholars have detected criticism of imperial hybris or vainglory, especially since Agrippina's domination of Claudius is depicted in the preceding and succeeding chapters.<sup>15</sup> But neutral measures immediately precede, while there is a clear indication of the historian's favourable attitude in the fact that he accepts Claudius' claim to be acting *more prisco* in extending the boundary to celebrate *foreign* conquests, for that claim was dubious.<sup>16</sup> Either Tacitus deliberately connived with Claudius here, as in the speech on the Gallic senators where he followed Claudius in omitting, in his account of amicable Gallo-Roman relations, the serious revolt of Florus and Sacrovir,<sup>17</sup> or he at least did not go out of his way to check up on Claudius in the hope of finding evidence against his claims. The same probably applies to the mention of Augustus as a precedent and the corresponding omission of Caesar, whose extension of the pomerium is in fact better attested. Tacitus is probably following Claudius here, who liked comparing himself to Augustus (e.g. *Ann.* 12.11) and preferred a more respectable precedent, though in this case it was a false one.<sup>18</sup>

The treatment of Claudius' speeches after his censorship is, on the whole, more critical. Not only does Tacitus twice point out imperial omissions (12.11; 12.22), but he moves from genial humour and implicit irony to unambiguous ridicule and explicit attack.

In the year 49, Parthian envoys came to request the return of a prince of the Arsacid ruling house who was living as a hostage in Rome and whom they wished to install as king in place of the tyrannical Gotarzes (12.10). They were heard in the Senate, and, in answer to their flattering remarks about the beneficial effect on rulers of contact with the Roman Emperor and Senate, Claudius made a speech (12.11) boasting about Parthian subservience to Rome and comparing himself to Augustus (the Tiberian precedent, Tacitus notes, he omitted). He ended with advice to the new ruler and his subjects: Meherdates is to adopt *clementia* and *iustitia*, qualities not familiar to barbarians, and to behave as a leader of citizens rather than a master of slaves. It is a pompous address, made more ludicrous by what precedes and what follows. Three chapters earlier we have been told that Agrippina had acquired *dominatio* over the state and ruled them all as slaves. In the chapter that follows the speech, Meherdates himself rejects the more pertinent military advice of the Roman legate sent to accompany him (12.12), and is then defeated by Gotarzes, who cuts off his ears and spares him as a demonstration of his own *clementia* and of *Rome's* disgrace (12.14.3).

Then at 12.53 Claudius puts to the Senate a proposal designed to deter free women from cohabiting with slaves and gives the credit for the suggestion to his own ex-slave

<sup>15</sup> D. W. T. C. Vessey, 'Thoughts on Tacitus' Portrayal of Claudius', *AJP* 92 (1971), 404; Seif (above n. 7), p. 192; Boatwright 1984 (above n. 10), 41–3, who finds Tacitus' treatment balanced.

<sup>16</sup> The pomerial cippi marking the new Claudian boundary proclaim, 'auctis populi Romani finibus pomerium ampliavit terminavitque', alluding principally to the conquest of Britain (Smallwood no. 44 = *ILS* 213). The pedant in Seneca's *De Brevitate Vitae* 13.8 emphasizes that pomerial extensions could be made only when Rome acquired territory in Italy, and he may well have been attacking Claudius' extension, see *JRS* 52 (1962), 109–10; *Seneca, a Philosopher in Politics* (Oxford, 1976), pp. 401–7; Boatwright 1986 (above n. 10), 18–19.

<sup>17</sup> Smallwood no. 369 (*ILS* 212), col. II.33–5; Syme, *Tacitus*, p. 461; *CQ* 32 (1982), 406.

<sup>18</sup> Syme, *Tacitus*, p. 378 n. 5, 433 n. 7, 705; *Historia Augusta Papers* (Oxford, 1983), pp. 134–5 adducing the 'Sabine figment' Titus Tatius as a characteristic Claudian touch; and the works cited in n. 16. B. Levick, 'Antiquarian or Revolutionary? Claudius Caesar's Conception of his Principate', *AJP* 99 (1978), 79ff. believes that Claudius took Caesar for his model but concedes that 'it was a personal and private act' not emphasized in public.

Pallas. In addition to the implicit irony of the situation, Tacitus openly ridicules the statement of Claudius that Pallas, rather than accept a financial reward, would prefer to remain content with the honours offered him by the Senate and stay within this 'former poverty'. He not only places the episode just after another imperial speech (12.52.3) praising senators who leave the House voluntarily rather than add impudence to poverty, but goes on to note that Pallas was rich to the tune of three million sesterces and that the resulting senatorial decree, set up for public inspection, praised Pallas for his *antiqua parsimonia*.<sup>19</sup>

Finally, ridicule is combined with express criticism. Only senatorial transactions are recorded for the next year, A.D. 53, except for the marriage of Nero to Octavia, which provides the occasion for a demonstration of eloquence by the young prince before the Senate (12.58). He makes successful requests for privileges for various cities. Tacitus lets him off lightly, admitting his eloquence and criticizing only his use of mythological stories about Troy as a historical claim for benefits from Rome. Two *at*'s mark off Claudius' contribution to senatorial proceedings (59–61): support of an unjust condemnation, a proposal enhancing the powers of financial procurators, and, finally, a speech proposing to give privileges to the island of Cos. For this last, the Emperor provides antiquarian background, complete with variant versions and the names of descendants of Aesculapius who had continued his school. (Some of this is clearly open to the same criticism as Nero's Trojan stories.) Then, freedom from tribute is proposed in recognition of the services of Claudius' doctor Xenophon who had made the request. Not satisfied with the irony to be provided six chapters later (12.67) by Claudius' death at the hands of his doctor, Tacitus comments here that Cos had rendered services to *Rome* which could have been adduced in legitimate support of such a grant, but that Claudius could not be bothered to conceal the *facilitas* with which he customarily gave in to personal requests. Passienus Crispus, who had lived through six years of the reign, had remarked on the lack of *iudicium* that governed a *beneficium* from Claudius.<sup>20</sup>

Tacitus' emphasis here contrasts with his indulgence in rendering the speech on the Gallic senators, where he simply omitted what Claudius said about the personal services of the Gauls to himself and his father (col. ii.10ff.).<sup>21</sup> The point is then hammered home in the chapter after the Cos affair when envoys from Byzantium back up their request for tax relief by adducing all of their past services to Rome (12.62). Syme surmised that this historical excursus also derived from a speech of Claudius who, according to Tacitus, did weigh in later to note Byzantium's burdens in the Bosporan war (12.63.3). But it is a fair objection that Tacitus contrasts the Emperor's performance with that of the Byzantines, who did the thing properly. The geographical excursus in 12.63.1–2, however, could owe something to Claudius' speech.<sup>22</sup>

If Tacitus has done what Syme suggests, however, he has committed a great act of subversion, worse even than what will later be suggested for the preceding chapter *Annals* 12.60: in fact, deliberate misrepresentation. The possibility brings us to a more

<sup>19</sup> Syme, *Tacitus*, p. 539. For the senatorial decree, see Pliny, *Ep.* 8.6.4ff. P. R. C. Weaver, *Familia Caesaris* (Cambridge, 1972), pp. 164–5 suggests that the problem was particularly likely to arise with imperial slaves and hence was of interest to Pallas.

<sup>20</sup> Sen. *Ben.* 1.15.5. Seneca adds that one had to accept the *beneficia* of Claudius as if they were gifts from mutable fortune.

<sup>21</sup> *CQ* 32 (1982), 405, 414.

<sup>22</sup> Syme, *Tacitus*, p. 707. The objection is made by Seif (above n. 7), pp. 229–30. Townend (above n. 4), 358–9 rejects the description of Byzantium (12.63) as Claudian.

general question: how far Tacitus used Claudian material without explicit acknowledgement. It is hard to resist the idea that the antiquarian excursions on the alphabet, the quaestorship, the patricians and the pomerium do derive from speeches in support of the proposals by the scholarly Emperor, especially in the case of the alphabet, on which Claudius had already written (above, p. 485). That view, adopted by many scholars (see n. 10) gains in plausibility if we can explain why Tacitus should have presented the Claudian material in this oblique way.

If we consider how brief most of the utterances expressly attributed to Claudius are in Tacitus' account and how free of Claudianisms he has made the one long speech he gives the Emperor, we may find the explanation offered by Syme very attractive: 'To pile summary on summary of Claudian orations would be clumsy – and it would accord that ruler a prominence in history which Tacitus of set purpose denies him.'<sup>23</sup> In other words, the transfiguration of Claudian material by Tacitus is another of his techniques, like the book division marking the change of wife and the lack of an obituary, for conveying the passivity of the Emperor. As Ryberg observed, 'He is rarely the subject of an action, but is more often referred to indirectly or mentioned in a subordinate clause. His actions are frequently recorded as if they resulted from someone else's motives instead of his own. Direct mention of his name is often avoided by the use of passive verbs or impersonal expressions.'<sup>24</sup> Or, to let Tacitus speak for himself, 'Claudius' mind contained no sentiment, favourable or hostile, that was not urged and imposed on him' (12.5.3). Of course, Tacitus could have assumed that many of his more acute readers would realize and relish what he had done, even those without direct access to senatorial records. For not only were Claudius' utterances notorious for their idiosyncrasies, as argued above, but the audiences that Seneca, Suetonius and Tacitus had in mind were brought up on a diet of rhetoric and were highly sensitive to style.

It is not then fanciful to search the incontrovertible Claudian utterances on inscriptions and papyri, and the less, but still reasonably, reliable explicit citations by Suetonius and Tacitus himself for clues to unattributed Claudian material in Tacitus. Unfortunately, it is difficult to take the next step and determine what Tacitus has actually done with this copious Claudian material, for we have little direct evidence for the techniques used by the historian to transform and manipulate it. Most of the documentary evidence for Claudius' speeches, edicts and letters comes from the early part of the reign for which the account in the *Annals* is missing, and we rarely have even alternative literary accounts of the speeches Tacitus does report.

We have, however, one example of a speech which is known from Suetonius to have emanated from the Emperor and to have been transferred to other speakers by Tacitus. As an example of Claudius' absent-mindedness and obliviousness, his biographer notes his repeated declarations, just before he adopted the future Nero, that no one had ever been adopted into the Claudian family before (Suet. *Claud.* 39). In Book 12 of the *Annals*, under the year 50, Tacitus recounts arguments that the freedman Pallas used to persuade his imperial master to adopt Agrippina's son and goes on to say that the Emperor then spoke before the Senate in the same vein (12.25). The historian adds the reaction of those in the know (the *periti*) to the imperial speech: 'They remarked that the line of the patrician Claudii had continued uninterrupted from the founder Attus Clausus, without the use of adoption', exactly the point that Suetonius attributes to Claudius himself.

<sup>23</sup> Syme, *Tacitus*, p. 710. Note his observation (p. 196 n. 2) that in the *Histories*, Vitellius, a passive character, is not allowed an oration.

<sup>24</sup> 'Tacitus' art of innuendo', *TAPA* 73 (1942), 404 n. 83.

According to Tacitus, Pallas argued that, just as Augustus promoted his stepsons while his grandsons were alive, just as Tiberius adopted Germanicus when he already had a son, so now Claudius should protect Britannicus and the state by taking on a youth to help him with his responsibilities. As we have seen, Claudius was given to recitals of family history, so it is reasonable to assume with Syme that Tacitus took the material for Pallas' advice, for which he could hardly have had direct evidence, from Claudius' speech in the Senate.<sup>25</sup> These arguments are demolished by Tacitus in one sentence, which indirectly condemns the Emperor for heeding and using them, 'Claudius was thus persuaded to give precedence over his son to a boy three years his senior'. His readers would realize that the parallel drawn with Augustus' treatment of his stepsons while his grandsons were alive was bogus, as there no adoption had been involved, and Tacitus had already provided material earlier in the *Annals* that subverts the other parallels: Tiberius was in the shade while Gaius and Lucius were alive (6.51.1); he acted under orders from Augustus in adopting Germanicus (1.3.5); he subsequently lived in fear of his adoptive son's ambitions (1.7.6).<sup>26</sup>

The part of the imperial speech that Suetonius directly attests, however, is transferred by Tacitus to the *periti*. Suetonius uses it to illustrate the Emperor's ineptitude: why should Tacitus, otherwise so critical here, now apparently protect him? Commentators are baffled or unhelpful. Syme suggests that Tacitus wished to save the dignity of history; Koestermann and Seif are unconvinced; Mehl admits that no good explanation has yet been given.<sup>27</sup> Perhaps Tacitus has done something similar to what he had already done in reporting the speech on the Gallic senators, when he inferred from Claudius' defence of his actions the criticisms he was answering and made them explicit.<sup>28</sup> But whereas, on that earlier occasion, Tacitus exaggerated, in order to ridicule, the arguments of the Emperor's critics, putting them first (11.23) and allowing him to answer them convincingly (11.24), here the critics' remarks are put after the imperial speech and complete Tacitus' deflation of the case for adoption. This again is a much subtler treatment than Suetonius meted out.<sup>29</sup>

#### ANNALS 12.60

We come now to the famous excursus into Roman history that follows Claudius' proposal of A.D. 53 that procurators concerned with his own property should be allowed to exercise jurisdiction. It would not be unreasonable to develop the hypothesis that the material in Tacitus' excursus derives from the Emperor's speech to the Senate in support of his proposal, as in the case of the alphabet and the pomerium. Indeed the first sentence of this excursus (sentence 3 below), representing the new measure as the culmination of privileges granted by Augustus and afterwards, has been readily accepted as Claudian for a century.<sup>30</sup> The rest of the passage,

<sup>25</sup> Tacitus, p. 707; Mehl (above n. 10), p. 132 n. 298.

<sup>26</sup> Seif (above n. 4), pp. 195–6.

<sup>27</sup> Tacitus, pp. 316; 707; Koestermann (above n. 10), p. 150; Seif (above n. 4), pp. 199–200; Mehl (above n. 10), p. 134 n. 323.

<sup>28</sup> Note that Suetonius shows Claudius producing precedents for the adlection of freedmen 'reprehensionem verens' (*Claud.* 24).

<sup>29</sup> It is even possible, as Mehl suggests (n. 25 above), that Claudius actually gave credit to Pallas in the Senate for suggesting the adoption. Tacitus may have preferred an oblique indication of that here, saving this particular Claudian *gaucherie* for the later proposal about the sexual conduct of slaves (12.53) when it would have greater effect.

<sup>30</sup> It was first suggested by C. Lécrivain, 'La juridiction fiscale d'Auguste à Dioclétien', *Mélanges d'archéologie et d'histoire* 6 (1886), 93 n. 3.



however, presents great difficulties of interpretation, particularly in connection with Claudian authorship, which Syme nonetheless advocated.<sup>31</sup> For convenience, the chapter is broken up into sentences here:

- (1) eodem anno saepius audita vox principis, parem vim rerum habendam a procuratoribus suis iudicatarum ac si ipse statuisset.
- (2) ac ne fortuito prolapsus videretur, senatus quoque consulto cautum plenius quam antea et uberius.
- (3) nam divus Augustus apud equites, qui Aegypto praesiderent, lege agi decretaque eorum proinde haberi iusserat, ac si magistratus Romani constituissent; mox alias per provincias et in urbe pleraque concessa sunt, quae olim a praetoribus noscebantur.
- (4) Claudius omne ius tradidit, de quo totiens seditione aut armis certatum, cum Sempronius rogationibus equester ordo in possessione iudiciorum locaretur, aut rursum Serviliae leges senatui iudicia redderent, Mariusque et Sulla olim de eo vel praecipui bellarent.
- (5) sed tunc ordinum diversa studia, et quae vicerant publice valebant.
- (6) C. Oppius et Cornelius Balbus primi Caesaris opibus potuere condiciones pacis et arbitria belli tractare.
- (7) Matios posthac et Vedios et cetera equitum Romanorum praevalida nomina referre nihil attinuerit, cum Claudius libertos, quos rei familiari praefecerat, sibi et legibus adaequaverit.

First of all, the version of Republican history given in (4) is rough, to say the least: Marius and Sulla are said to have fought primarily over the question of which order should man the juries, and the rhetorical plural *Serviliae leges* is confusing.<sup>32</sup> Yet it is probably legitimate to assume that Claudius, despite his erudition, exaggerated and oversimplified (as the Lyons Tablet demonstrates) and that Tacitus has compounded this by ignorance and abbreviation.<sup>33</sup> Again, it would not be rash to assume that Tacitus is responsible for making Claudius hand over *omne ius* (4), whereas in fact only civil, not criminal, jurisdiction was involved and only in fiscal cases, and for implying at the very end of the passage (7) that *all* who benefited were freedmen, when the majority of the procurators concerned were probably *equites*.<sup>34</sup>

The intractable problem is that, because of the violent hostility with which Tacitus infuses the passage, it is difficult to reconstruct from it a plausible argument in favour of the proposal which the Emperor is putting forward, or indeed to extract from it a plausible argument of any kind. One must sympathize with Millar who argued that it was not possible to analyse Tacitus' confusing and rhetorical language so as to gain a clear conception of what he intended to convey and, reasonably enough, turned to an examination of other evidence to elucidate Claudius' measure.<sup>35</sup>

In studying Tacitus, however, rather than Claudius or procurators, it is impossible to evade the problem of construing the passage. There can be little doubt that Tacitus' emotion is one ingredient in the obscurity of the argument, which swings abruptly from a proposal that the judicial decision of the imperial procurators be accorded the

<sup>31</sup> Tacitus, p. 195; 378 n. 3; 705. B. Levick, *Claudius* (London, 1990), p. 50 accepts that Tacitus' account of the background to the proposal came in part from Claudius' speech.

<sup>32</sup> The first law, the Lex Servilia Caepionis of 106 B.C., probably did not return the courts to senators but instituted mixed juries of senators and equites; the later law, the Lex Servilia Glaucia, certainly reinstituted equestrian juries.

<sup>33</sup> Oversimplification by Claudius: Smallwood no. 369 (*ILS* 212), col. II.1-4 (on which see *CQ* 32 (1982), 406; 412 n. 26) and n. 17 above; by Tacitus: Syme, *Tacitus*, p. 378.

<sup>34</sup> For the type of jurisdiction involved, see F. Millar, 'Some Evidence on the Meaning of Tacitus *Annals* XII.60', *Historia* 13 (1964), 180ff. and 'The Development of Jurisdiction by Imperial Procurators', *Historia* 14 (1965), 362ff.; P. A. Brunt, 'Procuratorial Jurisdiction', *Latomus* 25 (1966), 461ff. D. L. Stockton, 'Tacitus *Annals* 12.60: a Note', *Historia* 10 (1961), 16ff. usefully summarizes earlier views.

<sup>35</sup> Millar (above n. 34). He was responding to the attempts at analysis of the passage by Stockton (above, n. 34) and R. Seager, 'Tacitus *Annals* XII.60', *Historia* 11 (1962), 377ff.

same force as those of the Emperor (1); to a sketch of the process by which judicial powers once reserved to senatorial magistrates and promagistrates have come to be extended to others (3); to a survey of the struggles which placed the juries of the criminal courts in the Republic now in the hands of senators, now of equites (4); to a reference to various equites who wielded power in the state unofficially through their influence with Caesar and his successor (6 & 7); to the final statement which clearly returns to the proposal and now characterizes it as putting on an equal level with the Princeps and the laws freedmen who were in charge of the Princeps' property.

On the other hand, apparent irrelevance, abrupt transitions and dubious parallels are familiar to us from Claudius' own utterances preserved on documents, notably on the Lyons Tablet. There the Emperor piles up Roman precedents for change in support of his move to adlect some Gallic leaders into the Senate: he mentions that Rome was once ruled by kings and then dilates on kings of foreign extraction before the expulsion of the last Tarquin and the abandonment of kingship finally brings him to later changes in the constitution (1.9–36). Two kinds of precedent, relevant to his proposal in different ways, one for change in general and the other for the infusion of new blood into Rome's governing class, are thus combined in a confusing way. Claudius then moves on to changes in the extent of the empire, before again coming to a closely relevant kind of change, namely extensions of Roman citizenship (1.37ff.). Later on, the mention of senators from Vienne in Narbonensis to illustrate the virtues of provincial senators leads him to speak of his equestrian procurator Julius Vestinus and to support honours to his sons (2.9–14). Then a bogus parallel is drawn: having men of Gallic extraction in the Senate is no more to be regretted than for a senator to have ancestors bearing an honorific cognomen derived from the name of the Gallic tribe they have conquered (2.23–6).<sup>36</sup> Claudius' stylistic habits – his tendency to anacolouthon, to parentheses, to excessive and irrelevant detail and distinctions – point to the same habits of mind.

*Annals* 12.60, admittedly, exhibits little that can be claimed as Claudian in vocabulary or syntax, but that can be due to rewriting and compression by Tacitus. Syme was only able to point to *saepius* in the first sentence as an echo of the Emperor's habit of saying that he has *often* turned to his present subject.<sup>37</sup>

It is at least worth trying to construe the passage on the assumption that it is an elaborate and not entirely successful attempt by Tacitus to sabotage Claudius' argumentation, not by commenting explicitly on it (as in the following chapter about privileges to Cos), but by combining editorial comment with a summary of the original speech.<sup>38</sup>

Two preliminary points must be made. First, I assume that the last sentence returns

<sup>36</sup> I am not convinced by the attempt of Schillinger-Häfele, 'Gerechtigkeit für Claudius', *Historia* 38 (1989), 116–17, based on an idea of Vittinghoff, to read a more intelligent meaning into this sentence, i.e. that historical change, such as that in the fortunes of the Allobroges (implied by this parallel), is to be accepted. For the immediate context concerns Gallic origins, and the emphasis must therefore be on Persicus' descent.

<sup>37</sup> *Tacitus*, p. 705. The habit is exemplified in Smallwood no. 375 (*ILS* 214) and perhaps indirectly attested by Suetonius (*Claud.* 39) who notes that Claudius often repeated himself in speeches on different occasions: the speeches themselves may have drawn the biographer's attention to the habit. Was L. Vitellius imitating one of Claudius' favourite expressions by way of flattery when he said 'saepe facias' (Suet. *Vit.* 2.5; cf. p. 499 below)?

<sup>38</sup> In contrast to Tacitus' criticism of Claudius' argument with regard to Cos, the editorial comment in *Annals* 12.60 does not take the form of criticism of what the Emperor *said* (for Tacitus is not here explicitly presenting his arguments), but of what he *did* in implementing the senatorial decree he had proposed, e.g. 'Claudius handed over'; 'Claudius made freedman equal to himself.'

to the content of the senatorial decree and that the *liberti quos rei familiari praefecerat* are not freedmen secretaries like Pallas and Narcissus, but, as most scholars are now agreed, procurators looking after the Emperor's property, in whose ranks some freedmen were to be found, as in other categories of procurator.<sup>39</sup> Second, I believe that attempts to unravel the thought of the passage have been bedevilled by the conviction that the theme throughout is equites. In fact, the basic theme is the extension to others of powers that properly belong to magistrates and promagistrates.<sup>40</sup> Equites figure prominently in the argument because the social order next to the Senate was the one to benefit most from this process, as indeed they undoubtedly did from the new extension by Claudius. This transference of magisterial power was an issue that Tacitus felt strongly about. Thus he comments with approval on Tiberius' attack on his procurator of Asia, Lucilius Capito, for usurping as a procurator powers that belonged to a praetor, i.e. a governor of senatorial standing (*Ann.* 4.15). He also praised the early years of that Emperor's régime because cases between the Emperor and private individuals were judged in the ordinary courts (*Ann.* 4.6.4; cf. Pliny, *Pan.* 36.).

In his customary way, Claudius may have assembled on this occasion some precedents, of greater and lesser relevance, for the grant of jurisdiction that he wished the Senate to approve. As often, he started (3) with his respected great uncle Augustus who gave the Prefects of Egypt jurisdiction on a par with Roman magistrates (*Dig.* 1.17.1: 'vice proconsulis'). He probably went into some pedantic detail about other non-magistrates in Italy and the provinces who gradually acquired such powers under his imperial predecessors. Claudius may then have pointed out (4) that even in the Republic judicial powers had at times passed from the hands of senators into those of equites (though, of course, the parallel drawn between jury duty in criminal cases and the exercise of *cognitio* in civil ones, alone at issue here, is very dubious). Claudius may even have noted by way of concession to criticism, as in the Lyons Tablet where he admits the superiority of Italian over provincial senators (2.5–8), that powers of jurisdiction were important privileges that had even occasioned civil war. He then presumably went on to indicate that, under Caesar and Augustus, non-magistrates had acquired influence over even more important areas of public business, through their personal influence with the ruler (6).<sup>41</sup> No doubt Claudius mentioned more respectable friends of Augustus than Vedius Pollio (7), whose luxury Tacitus had condemned earlier in the *Annals* (1.10.3): Maecenas and Sallustius Crispus spring to mind.

In Claudius' mind, this last type of transferred power was just as relevant as the earlier examples because he saw himself not as directly handing over powers that an ordinary magistrate or promagistrate would otherwise be exercising, but one that otherwise *he* would be exercising (1 & 7). We may infer from this that cases concerning the *fiscus* were already being referred to the Emperor by cowardly

<sup>39</sup> The point was made forcibly by Millar (above n. 34) and refined by Brunt (above n. 34) against Stockton (above n. 34) and Seager (above n. 35). See more recently, W. Eck, 'Die Staatliche Administration des Römischen Reiches in der Hohen Kaiserzeit', *100 Jahre Neues Gymnasium Nuremberg* (1989), 214–15.

<sup>40</sup> Seager (above n. 35), 378–9, while according prominence to the theme of equites, did properly emphasize that it was not the unifying theme of the passage and at least allowed that the first section was dominated by the theme of the delegation of judicial powers to anyone not covered by republican precedent.

<sup>41</sup> Caesar, though not the most respectable precedent, does receive a mention, along with Augustus as here, in the Lyons Tablet (Smallwood 369 = *ILS* 212, col. II.33) and appears in *Ann.* 11.25.2. On Balbus, see *CQ* 32 (1982), 409.

governors and that he was looking for some way to lighten his burden. 'If it is a financial case involving the imperial fiscus and concerning the imperial procurator, the proconsul will be best advised to leave it alone': the practice that the jurist Ulpian was to urge on proconsuls had presumably already gained currency.<sup>42</sup>

The above is, of course, only one possible reconstruction. Claudius may have arranged his points quite differently. But if it even approximates to what he said, it enables us to see where Tacitus had injected editorial material, namely in sentences 4, 5, and 7.

Tacitus highlights two points with particular vehemence: first, the casual way in which Claudius had breached the constitutional principle that only magistrates and ex-magistrates should exercise jurisdiction. He just *handed over*, by the rubber stamp of a *senatus consultum*, privileges that had been the object in the Republic of open political struggles from which a whole order benefited. Now individual agents of the Emperor received these privileges because of their influence with him (2, 4, 5). Second, Claudius was not even content to give such privileges to holders of important posts or illustrious equites, as his predecessors had: mere freedmen who looked after his private property received them. One may imagine that the *praeteritio* in the last sentence (7) emanates from Claudius: compare the long one beginning 'Quid nunc commemorem' on the Lyons Tablet (I.29ff.). But the devastating conclusion attached to it, 'Since Claudius now made freedmen appointed to manage his personal estates equal to himself and the laws' is Tacitus' masterly addition.<sup>43</sup>

It is only fair to Claudius to point out that Suetonius sees the proposal 'ut rata essent quae procuratores sui in iudicando statuerent' as an example of deference to the Senate, along with asking permission to bring the praetorian prefect and tribunes into the Curia (*Claud.* 12.1).<sup>44</sup> Clearly he lacked the senatorial prickliness of Tacitus who may have had particularly in mind the use Domitian made of procuratorial jurisdiction to promote the interests of the fiscus (*Pan.* 36.3–5).<sup>45</sup>

<sup>42</sup> *Dig.* 1.16.9, praef.: 'sane si fiscalis pecuniaria causa sit, quae ad procuratorem principis respicit, melius fecerit (proconsul), si abstineat.' To Claudius the situation may have looked similar to that in Smallwood no. 368 (*ILS* 206) where after a *delator* had reported to him, he allowed a personal agent, using the imperial procurators of the neighbourhood as his *consilium*, to settle a boundary dispute, in which imperial properties were involved, in the north of Italy (though not in a province with a senatorial governor), see Brunt (above n. 34), 465.

<sup>43</sup> Cf. the similarly abrupt and telling return to the opening point at 11.22 fin. where Claudius may have argued that the number of twenty quaestors remained after Sulla, though the senatorial monopoly of juries which had necessitated the increase ended, and should be retained now to keep the senatorial numbers from exceeding 600, thus justifying the abolition of the *quaestor Gallicus* and the *quaestor Ostiensis* (above, p. 485). Tacitus, whose target here is not Claudius, takes the last point about the maintenance of the number of quaestors and uses it to stress the open access to rich and poor men of ability to that office, precisely the point with which he opened the digression.

<sup>44</sup> Levick (above n. 31), pp. 50–1 now suggests that Suetonius may refer to an earlier grant of jurisdiction in the first instance, Tacitus to a later augmentation of the grant making procuratorial decisions inappellable. While the imprecise formulation of each author could be reconciled with either interpretation of the measure each reports, it can offer no support for such a distinction. Moreover, the chronology of Suetonius, *Claudius* 12.1–2 does not point unambiguously to an early date (as Levick admits), and the strength of Tacitus' reaction here makes it implausible that he had had occasion to treat of a grant of procuratorial jurisdiction earlier in his account. It is perhaps best not to multiply entities, especially as Tacitus' reaction is more understandable if primary jurisdiction was the issue.

<sup>45</sup> A. Wallace-Hadrill, reluctant as he is to admit that Suetonius as an *eques* had a different political stance from senators like Tacitus and Pliny, concedes that his view of the Principate lacks the tension of theirs (*Suetonius* (London, 1983), 110–12). I owe the point about Tacitus and Domitian to Elizabeth Wright of St Hilda's College.

## JUDICIAL PAPYRUS BGU 611

This damaged papyrus contains a substantial oration without revealing the name of the speaker. Its attribution to Claudius, long accepted, has recently been impugned. Sadly, the loss of the early Claudian books of Tacitus prevents us from discovering if Tacitus made use of the speech in its proper chronological place in his narrative. Though it may seem odd to switch the discussion now from Claudius in Tacitus to Claudius on papyrus, there is a connection. For there may be an allusion to the speech in the surviving Claudian section of the *Annals* which would not only confirm its Claudian authorship, but illustrate another type of Tacitean subversion.

When the papyrus was first published, it was identified as an oration delivered before the Senate by Claudius, and by 1929, when J. Stroux produced the definitive edition of the text and analysis of its contents, he noted that the attribution was generally accepted. That was still the case, as a glance at no. 44 in the second edition of Riccobono's *Fontes iuris Romani antijustiniani*, i (1941) or no. 236 in Cavenaile's *Corpus Papyrorum Latinarum* (1958) will show, until Millar in his *Emperor and the Roman World* (1977) expressed a doubt in a footnote (p. 350 n. 59): 'I cannot see any reason why this speech should be attributed, as is normally assumed, to Claudius, or even with certainty to any Emperor.' Talbert, in his recent book on the *Imperial Senate* (1984), though still sceptical, is more sympathetic to the attribution, but makes no use of the powerful arguments of Stroux, which were strengthened in 1931 by von Woess, nor of the illuminating discussion of the end of the speech by Eduard Fraenkel.<sup>46</sup>

The literal translation that I append is based on the text given in E. M. Smallwood, *Documents Illustrating the Principates of Gaius Claudius and Nero* (Cambridge, 1967). The original line divisions are not preserved and the line numbers are approximate.

**Speech of Claudius(?) to the Senate**

(Smallwood, *Documents* 367; BGU 611)

## Col. I

...it seems hard that they should be included in the five decuries.  
 Take care, to be sure, that no one who is twenty-four years old  
 be assigned as a recuperator: for it is not unfair, to my mind, that  
 the judges in cases concerning servitude and freedom should be those 5  
 who do not need the protection of the Lex (P)laetoria in handling their own  
 affairs...I think, conscript fathers, that often on other occasions and  
 particularly at the present time, I have remarked astonishing tricks on 10  
 the part of those engaged in lawsuits who, having underwritten a case...

## Col. II

...that to have won the case should not profit the plaintiff.... So that  
 these tricks should not be to the advantage of malicious litigants, let us,  
 if you agree, conscript fathers, decree that those judges who have not  
 completed trials in progress within the allotted days be forced to decide 5

<sup>46</sup> J. Stroux, *Eine Gerichtsreform des Kaisers Claudius (BGU 611)*, *Sitzungsberichte der Bayerischen Akademie der Wissenschaften* 8 (München, 1929); Talbert (above n. 13), pp. 296-7 and Appendix 4; F. von Woess, 'Die Oratio des Claudius über Richteralter, Prozessverschleppung und Anklägereyrannei (BGU 611)', *ZSS, Rom. Abt.* 51 (1931), 336-68; E. Fraenkel, 'Eine Formal des Vortrags im Senat', *Philologus* 85 (1930), 355ff., reprinted with additions in *Kleine Beiträge zur Klassischen Philologie*, ii. 477-8.

cases even in the court recesses. And I know well that vexatious litigants will not lack numerous ploys against which, I hope, we will invent remedies. In the meantime it is sufficient to have blocked this method which is all too widespread among all those who conduct cases in a malicious manner. For I cannot tolerate at all the tyranny of prosecutors who, when they have accused their enemies before the investigation council (of the praetor), leave them on the list of defendants and go on journeys as if they had done nothing, while nature itself, even more than the laws, links prosecutor and defendant in an indissoluble bond. The fastidiousness of the defendants, who now eschew putting on mourning and letting their beards and hair grow to make their case appear more pitiful, plays a part in making the behaviour of the accusers seem less detestable.

## Col. III

But it is for them to consider what advantage these instruments for moving pity provided by nature offer them. From the accusers, let us remove this arbitrary tyranny by giving the praetor power to summon the accuser after the period for collecting evidence has passed, and, if he neither appears nor has a proper excuse, let him pronounce that he is guilty of undertaking a malicious prosecution.

If these proposals meet with your approval, conscript fathers, signify this straight away, simply and sincerely. But if they do not, find other solutions; but do it here in our meeting place, or if you want to take time to consider at greater leisure, take it, provided that in whatever place you are convened, you remember that you should give your own opinion. For it is far from appropriate to the dignity of this order, conscript fathers, for one member only, the consul designate, to give his opinion here, and that copied word for word from the proposal of the consuls, and for all the others to utter the single word 'I agree', and then to say, when they have left the session, 'We gave our view'.

There is room here only for a summary of the principal arguments which Stroux thought pointed to Claudian authorship and which still seem entirely convincing.

*Chronological indications*

In the first line reference is made to five *decuriae* or panels of *iudices* for whom the age limit is to be lowered. Since we know that it was Caligula who added one to the four decuries of Augustus (Suet. *Cal.* 16.2; Pliny, *NH* 33.33), the terminus *post quem* for this pronouncement is A.D. 37.

In Column III.8 the term [*calumnia*] is applied to the abuse with which the bulk of the speech is concerned, namely, the failure of prosecutors to continue with a case they have brought. In A.D. 61 the SC Turpilianum separated off the particular type of *calumnia* being dealt with in Column III as *tergiversatio* (*Dig.* 48.16.1) and assigned it a penalty rather than leaving it as here (III.6) to the discretion of the praetor to punish as *calumnia* or not.<sup>47</sup> So the *terminus ante quem* for these provisions is A.D. 61.

These limits, however, depend on assuming either that we have here one oration and not two, as was assumed in early editions, or that we have two orations close in time because e.g. they have one speaker.<sup>48</sup> In fact, Stroux produced powerful reasons

<sup>47</sup> Stroux (above n. 46), 52ff.; von Woess (above n. 46), 359–60.

<sup>48</sup> A certain confusion reigns in the standard collections where Stroux is usually cited with respect and his chronological limitations adopted, but the notion of two separate speeches persists, e.g. R. Cavenaile, *Corpus Papyrorum Latinarum* (Wiesbaden, 1958), no. 236 '*orationes* de Claude'; R. Taubenschlag, *JJP* 6 (1952), 121–42. In Riccobono *FIRA*<sup>2</sup> vol. i, p. 285 the title has been changed from *Orationes* in the first edition to *Oratio Claudii* but the papyrus is described as containing two speeches, perhaps both by Claudius. Hence Talbert (above n. 13) App. 4 who assumes there are two speeches each apparently (p. 442) dateable between 37 (or 41) and 61.

for the unity of the discourse. The idea of two speeches arose from the gap in the papyrus at the end of Col. I.8 after *au)xilio*. But, whereas at the end of Col. III the number of the act is recorded, there is no such indication here. Moreover, whatever word(s) occupied the lacuna of four or five letters before *p]uto*, it is hard to imagine a speech beginning so lamely. In addition to these negative arguments, Stroux demonstrated that there is enough unity of theme for Col. I.1–8 to be part of the speech in Columns II and III. Reforms in jurisdiction are the subject of discussion throughout, and the opening, which concerns lowering the age limit for jury service (except where the case concerns free or servile status), ties up with the proposal in Column II to punish *iudices* who show themselves too weak in the face of delaying tactics by the parties to a suit with loss of their recesses: clearly both would contribute to the prompt handling of cases, the first by making more *iudices* available for service at any one time; the second by providing an incentive for pressing on to completion. The relationship between the subjects dealt with on the papyrus is at least as close as that between the boundary and citizenship topics treated in the Edict on the Alpine tribes (*ILS* 206 = Smallwood 368).<sup>49</sup>

If we have one speech, the limits of A.D. 37 and 61 apply to the whole.

#### *Status of the speaker*

Talbert rightly points to Col. III.13–14, where the speaker offers the senators extra time to consider the proposal, as an indication that the speaker is presiding over the Senate meeting and making the proposal (*relatio*) on which he is about to call for opinions (*sententiae*). The speaker must then be either the Emperor or a presiding magistrate. This argument is greatly strengthened by the observation made by Fraenkel that Col. III.10–11 gives the traditional formula for putting a proposal to the Senate: he was able to trace it back to Plautus.<sup>50</sup>

One might be tempted to argue that for any chairman other than the Emperor to say that he had previously noted the problem under consideration would not add much weight to his argument, but allowance must be made for the pomposity that tempts anyone in such a position. It is harder to believe that an annual magistrate, probably the consul who might not even be in office for a year, would give a general description of the way senators behave in the third person ('*exierint*' in the last line), thus dissociating himself from those in whose ranks he would very soon find himself once again.

The most compelling reason, however, for thinking that the speaker is an Emperor is provided by the final reprimand that follows and glosses the traditional formula in which the *relatio* is made, for it fits into a long tradition of imperial lectures on the need for senatorial freedom of speech.<sup>51</sup>

#### *Which Emperor?*

Given that the speech was delivered between A.D. 37 and 61, are we listening to Gaius, Claudius or Nero? Even without the rather charming suggestion by von Woess that only a man of mature years could speak so naturally about the unsuitability of men

<sup>49</sup> Schillinger-Häfele (above n. 8) shows how the information given by the *delator* provides the link between the two issues of territorial boundaries and citizenship.

<sup>50</sup> Fraenkel (above n. 46) adduced Plautus, *Epidicus* 263ff. '*immo si placebit utitor; consilium si non placebit, reperitote rectius*', and later examples in Horace, *Epist.* 1.6.67–8 and Cassius Dio 55.4.1; 55.25.4–5 (transactions in the reign of Augustus).

<sup>51</sup> Suet. *Aug.* 35.4; *Tib.* 30–1; Pliny, *Pan.* 66.2–4.

under twenty-five for important responsibilities (Col. I.5–8),<sup>52</sup> it is hard to resist the claim of Claudius. The speech exhibits his well-attested interest in jurisdiction (Suet. *Claud.* 14), and indeed in expediting judicial proceedings (Suet. *Claud.* 23), as well as his concern with dress in that context (Col. II.18–III.3, cf. Suet. *Claud.* 15.2). The view taken on the latter point also reflects his interest in old Roman customs (Suet. *Claud.* 22). Then there is the petulant and intemperate way in which he expresses his personal feelings. With ‘I cannot tolerate at all the tyranny of prosecutors’ of Col. II.11–12, it is tempting to compare the outburst preserved on the Lyons Tablet, ‘to say nothing of that brigand – and I hate that wrestling wonder’ (Smallwood 369 = *ILS* 212, Col. II.14–15). Suetonius preserves others (*Claud.* 40.2–3). Related to this habit is what Talbert calls the ‘hectoring tone’ of what is ‘arguably among the least conciliatory of any surviving speeches to the Senate by any Emperor down to the third century’. Stroux, more colourfully, called it ‘the threatening wag of the finger’.<sup>53</sup> Both the accused (Col. III.2) and the senators (III.15ff.) are scolded here: the senators are again the target in the Lyons Tablet (I.5) and the Alexandrian Jews are pilloried in the Letter to the Alexandrians (Smallwood 370, Col. IV. 77–100).<sup>54</sup>

There are also linguistic points in favour of the identification of the speaker with Claudius, but they are not very strong. The ‘saepe’ of Col. I.1.8 recalls Claudius’ habit of reminding his hearers that he has often turned to this particular subject (above, p. 491 and n. 37). The speaker’s reference to his proposals as ‘remedia’ at Col. II.7 again reminds one of the edict on public transport (Smallwood 375 = *ILS* 214). In addition, one can point to the slight anacolouthon at Col. III.5, recalling the mighty one in the opening sentence of the Edict on the Alpine tribes (Smallwood 368 = *ILS* 206), and the taste for parenthesis (Col. I.4; II.2–3) familiar from the Lyons Tablet (Col. I.16–17) and the Edict on the Alpine tribes (lines 10, 14).

*If the speaker is Claudius, when is he speaking?*

Col. I.8–9 shows that he had been in a position of authority long enough to have remarked on these abuses before. He is probably holding the office of consul, as he envisages the consul designate being the first to be called on for his *sententia* (Col. III. 19), for one of the consuls would probably be giving the *sententia prima* were he simply presiding as Princeps.<sup>55</sup> Of Claudius’ four consulships as Princeps, the last in 51 can be plausibly excluded because of the silence of Tacitus, whose narrative begins in mid-47, about these proposals.

Although 42 and 43 are possible, Stroux (p. 39) argued in favour of 47 on the grounds of proximity to the imperial edict on jurisdiction that Cassius Dio places in 46 (60.28.6; cf. Suet. *Claud.* 15.2). That edict also deals with delays caused by non-

<sup>52</sup> von Woess (above n. 46), 344: hence not Gaius or Nero.

<sup>53</sup> Talbert (above n. 13), p. 297; Stroux (above n. 46), p. 83, ‘sieht man ihn mit dem Finger drohen.’

<sup>54</sup> Cf. also Tac. *Ann.* 12.52.3 where the attack on some poor senators for adding impudence to poverty may well come from the *oratio principis* just cited.

<sup>55</sup> Tac. *Ann.* 3.17.4: ‘primus sententiam rogatus Aurelius Cotta consul (nam referente Caesare magistratus eo etiam munere fungebantur)...censuit.’ The imperfect tense indicates that this was a regular practice at the time and though Tacitus clearly thought of it as a practice that no longer obtained in his day, Talbert (above n. 46), p. 263 has no reason to think it was exceptional with Tiberius. (In fact he cannot properly infer (pp. 166; 242) from Pliny, *Ep.* 2.11.19–20 that Trajan did not follow the practice in 100, since (ibid. 10) Trajan was presiding as *consul* at the time of the Marius Priscus trial). Claudius may well have done what Tiberius did in this respect.



appearance of one party to a suit, though it is concerned with imperial jurisdiction, not the ordinary counts that are the subject of the papyrus, and the problem addressed in the edict is the failure of the accused, not the accuser, to appear. Clearly the abuses addressed have different causes – fear of condemnation in the imperial court; malice against personal enemies in the *quaestiones* – and it is hard to feel that the remedy in the edict, that the absent accused be condemned summarily without a chance of making an excuse or securing a postponement, has the same claim to justice as the reforms suggested in the papyrus. But Claudius himself may have believed that his righteous indignation and firm reaction in the two cases were similar and justified.<sup>56</sup> Moreover, the last remarks on the papyrus accord well with the concern for senatorial dignity that Claudius was to show in his censorship, assumed later this same year (Tacitus, *Ann.* 11.13; 25). Nonetheless, there is no reason to rule out 42 or 43 as possible dates for the speech, or, since the argument about the speaker being consul is not conclusive, any other date in his reign before mid-47, to give Tacitus the benefit of the doubt.

What effect Claudius actually had on the behaviour of the Senate is described by Tacitus in the fourth chapter of his extant narrative, which begins in Book XI with the trial of Valerius Asiaticus in 47. After the consular had been condemned for treason and adultery, his alleged paramour, the elder Poppaea Sabina, was driven to suicide and two of her associates condemned before the Senate for treasonable dreams. A proposal that rewards be given to those instrumental in the arrests and convictions was then laid before the House. Among the senior consulars who were asked to give their *sententiae*, probably soon after the consuls-elect, was P. Cornelius Lentulus Scipio, the husband of Poppaea.<sup>57</sup> He did so in these words: ‘cum idem de admissis Poppaeae sentiam quod omnes, putate me idem dicere quod omnes’ (‘Since I take the same view of Poppaea’s misdeeds as everyone else, take it that I express the same opinion as everyone else’).

Tacitus remarks that this was a graceful compromise between conjugal love and senatorial compulsion, for a senator, even under the Republic, was under the necessity of answering the question put to him.<sup>58</sup> Obviously there are two layers of meaning here. The surface meaning, dictated by *senatoria necessitas*, is that Scipio believed in Poppaea’s guilt, as did the other senators, but preferred simply to signify his assent to the opinions of the others rather than to make explicit his belief in her guilt and in the justice of these rewards by giving an opinion in his own words. The underlying meaning, consistent with his *coniugalis amor*, is that he did *not* believe in Poppaea’s guilt any more than any of the others did but gave his assent to their *sententiae* for the same reason that they spoke them.

We may compare Pliny’s account of senatorial meetings later under Domitian: ‘Who dared then to open his mouth or say a word except the poor wretches called on for the first speech? The rest, too terrified to move, endured the necessity of giving assent in silence and without rising from their seats (*mutam et sedentariam adsentienti necessitatem*)... A solitary senator expressed a view for all to follow though none approved, least of all the man who gave it. Nothing displeases everyone as much as what is done under the pretence of pleasing everyone’ (*Pan.* 76.3). Tacitus had already

<sup>56</sup> See Appendix, below, pp. 500–1.

<sup>57</sup> *PIR*<sup>2</sup> C 1398. He held the consulship in A.D. 24 and was therefore in his late fifties. The ex-consuls were called, as in the Republic, first after the consuls-elect, and seniority was an important consideration in determining the order, see Talbert (above n. 13), pp. 41–2.

<sup>58</sup> See Talbert (above n. 13), pp. 252–3.

shown in the *Histories* the variety of styles in which senators bowed to necessity – ‘ceteri vultu manumque, pauci, quibus conspicua dignitas aut ingenium adulatione exercitum, compositis orationibus adsentiebantur’ (4.4.3) – and was about to describe Thrasea Paetus responding to syncophantic proposals ‘silentio vel brevi adsensu’ (14.12.1).

Claudius was consul in 47 and may well have been presiding over that session of the Senate, for Tacitus represents his colleague L. Vitellius as *adding* to the *relatio*.<sup>59</sup> It might, however, be one of the consuls who succeeded Claudius after two months (Suet. *Claud.* 14) who was presiding. In any case, the Emperor could not complain of the senator P. Cornelius Scipio that he had remained seated and uttered the one word *adsentior*.<sup>60</sup> Scipio stood and delivered a proper *sententia*. It is, however, very tempting to think that Scipio’s compromise between compliance and opposition was achieved by an ironic allusion to the Emperor’s reproach to the Senate for its sycophantic use of *adsentior*: the reproach was now answered by a *sententia* which implied that, under such a Princeps, the nearest a senator could come to exercising free speech might be to say simply ‘I agree’.

Scipio himself must have remembered that lecture of Claudius, especially if it was delivered earlier in that same year. Tacitus, who lays particular stress on Scipio’s statement, is even less likely to have forgotten it. Although the suggestion cannot be proved in the absence of clear verbal resemblance between the utterances of Claudius and Scipio, that absence certainly does not disprove it, for we are not comparing like with like. We have only Tacitus’ version of Scipio’s opinion while we lack his version of the Emperor’s speech which, on this hypothesis, the opinion was designed to echo. Tacitus may well have made it easy for his readers to recognize Scipio’s allusion from his own account of what Claudius said.

We may compare the more comical instance in the *Annals* when L. Vitellius is persuading the Senate that Claudius should marry Agrippina, despite the fact that marriage of paternal uncle and niece was regarded as incestuous at Rome. Tacitus makes him end with a parody of the final phrase of Claudius’ speech on the Gallic senators, as the historian had rendered it one year and eighteen chapters earlier, ‘One should not be afraid of innovations; this too will one day be a precedent.’ And Vitellius’ speech may have included such a deliberate echo, though he would have intended it as flattery.<sup>61</sup>

If Tacitus helps to confirm the Claudian authorship of the speech on judicial reform, that is only incidental to our study of his technique. The aim has been to show how Tacitus makes use of Claudian utterances in building up his complex portrait of the Emperor. From improvement to sabotage, from sympathy to parody, the manipulation of the Emperor’s arguments shows the same wide range of response to his words as Tacitus clearly felt towards the Emperor himself. Whether or not his readers were persuaded by his portrait, they would certainly have been entertained.

<sup>59</sup> For consular cooperation in the presidency of the Senate, see Talbert (above n. 13), p. 225.

<sup>60</sup> Senators, as in the Republic, did not rise to express simple agreement with a previous speaker when they did so silently by gesture (as in Pliny, *Pan.* 76.3) or by a monosyllabic *sententia*: see Talbert (above n. 13), p. 255, who relates the practice to the Emperor’s reproach in *BGU* 611, col. III.21–2.

<sup>61</sup> *Ann.* 12.6.3: ‘morem accommodari, prout conducat, et fore hoc quoque in iis quae mox usurpentur’, cf. 11.24.7: ‘inveterascet hoc quoque...’, on which see Syme, *Tacitus*, p. 331; Koestermann (above n. 10), p. 118.

## APPENDIX: CLAUDIUS' JUDICIAL EDICT OF A.D. 46

ὁ δ' οὖν Κλαύδιος ταῦτά τε οὕτως ἔπραττε, καὶ ἐπειδὴ πλῆθος τε δικῶν ἀμύθητον ἦν καὶ οὐκ ἀπῆντων ἐπ' αὐτάς οἱ τι προσδοκῶντες ἐλαττωθήσεσθαι, προεῖπε διὰ προγράμματος ὅτι καὶ κατὰ ἀπόντων αὐτῶν ἐντὸς ῥητῆς τινος ἡμέρας δικάσει, καὶ ἐνεπέδωσε τοῦτο. (Dio 60.28.6)

absentibus secundum praesentes facillime dabat, nullo dilectu culpane quis an aliqua necessitate cessasset. (Suet. *Claud.* 15.2)

Stroux (above n. 46), p. 39 and von Woess (above n. 46), 353–4 noted that this edict was related to the speech on the judicial papyrus *BGU* 611 in the abuses it mentions and the type of remedy adopted. V. Scramuzza, *The Emperor Claudius* (Cambridge, Mass., 1940), pp. 46–7, 110 suggested that Dio actually referred to the speech on the papyrus. He also defended the principle involved in the edict, 'that if one of the parties to a suit did not appear at the trial, the judges would decide in favour of the party present', on the ground that it was not an innovation, but an old Republican tradition retained by Claudius and his successors.

It was A. N. Sherwin-White who, in *Roman Society and Roman Law in the New Testament* (Oxford, 1963), pp. 25 n. 3, 113–15, pointed clearly to the different objects of the two measures. The edict in Dio concerns the Emperor's own jurisdiction, whereas the senatorial decree proposed on the papyrus would cover trials before a praetor and *iudices* in the *quaestiones*. Moreover, the absentees who are to be discouraged by the edict are shown, by the use of the expression ἀπαντᾶν ἐπὶ δίκην, to be defendants only, whereas, in the papyrus speech, it is vexatious accusation that concerns Claudius.

Benner (above n. 8), p. 111 suggested that the clause in Dio beginning ἐπειδὴ may state what the edict itself stated as the Emperor's motive, i.e. to deal with an excessive number of trials and with the failure of defendants to turn up. The solution proposed would not necessarily reduce the number of accusations (unless we assume that accusers were bringing cases which they never intended to lead to conviction, perhaps to damage an enemy's reputation), but it would save time because cases would not drag on through repeated postponements.

According to Dio, the Emperor proposes to give sentence against the defendant by a given day even in his absence. The day is presumably the end of a fixed period, perhaps that scheduled for hearing the case, cf. Livy 39.17; *Dig.* 48.6.8. Suetonius, clearly referring to the same measure, adds to our information that no excuses for absence were to be accepted. Dio says that the Emperor carried out his threat, and Suetonius agrees. He also provides elsewhere four examples of the conviction of unheard defendants, not apparently willing absentees (*Claud.* 38.2; *Claud.* 29.1, on which see Brunt, 'Did Emperors Suspend the Law of "Maiestas"?', *Sodalitas: Scritti in onore di A. Guarino* (*Bibl. Labeo* 8 (Naples, 1974)), p. 476; cf. *Claud.* 15.3). Such cases explain the two jokes in Seneca's *Apocolocyntosis* about Claudius' habit of hearing only one side of a case (12.3, vv. 20ff.; 14.2–3; cf. also 10.4).

Sherwin-White argued that Claudius was here very much out of line with traditional Roman practice and indeed with the practice of the Principate even later. Though criminal trials were carried to completion in the absence of the defendant, there was considerable unease about the practice, perhaps already in the Republic (T. Mommsen, *Strafrecht*, p. 333), certainly in the early empire. Dio 54.3.6 reports disquiet under Augustus about such a conviction in a *quaestio*; in *Acts* 25.16 the procurator Porcius Festus states that the accused must meet his accuser face to face and have a chance to defend himself; Pliny, *Ep.* 4.11.6 expresses strong distaste for the condemnation of a Vestal *absentem inauditamque*, and Suetonius and Tacitus

adopt the same attitude. A papyrus from the time of Domitian (*FIRA* III, no. 369) shows the Prefect of Egypt similarly exasperated by the failure of defendants to answer his summonses, but his edicts threaten to condemn defendants in absence only after they have been formally summoned again. Moreover, when two defendants finally appear before him, they are apparently allowed a postponement because they offer an acceptable excuse, namely, that they must secure certain documents before pleading their case. Even on *BGU* 611, the accuser who fails to appear when summoned to prosecute his case is only liable to condemnation for *calumnia* if he has no sufficient excuse (col. III.6–8). Indeed, by a rule not later than Trajan, a year's grace was allowed absentee defendants in which to clear themselves (*Dig.* 48.17.5). Moreover, Trajan, making an exception to the principle 'absentem in criminibus damnari non debere', allows it only where the defendant has defied repeated warnings, and Ulpian interprets his ruling in the sense that no penalty greater than *relegatio* is to be imposed (*Dig.* 48.19.5 pr.).

In allowing no period of grace and no excuses then, Claudius would certainly have seemed to be acting harshly. His measure would have seemed even more severe if it included no restriction on the penalty that could be imposed on an absent defendant, but that point we cannot establish. All we can say is that two of the cases involving unheard defendants in Suetonius involve *relegatio* (*Claud.* 38.2), the other two (*Claud.* 29.1) the death penalty.

The evidence for the edict is, however, so summary that we might suspect that this appearance of harshness results from the omission by Dio and Suetonius of various qualifications and refinements in its terms. Could not Dio's phrase about delivering the sentence by a given day conceal some provision for a second summons like that in the edicts of the Prefect of Egypt? Perhaps too, as in the Egyptian situation, excuses could be offered in person and postponement secured.

Against this is the fact that Dio and Suetonius attest, not just a threatening measure, but the regular carrying out of that threat to condemn the accused in absence. This is rendered more plausible by the other evidence of Suetonius and the *Apocolocyntosis* that Claudius was willing to convict without a hearing. The repeated and specific criticism of Claudius' conduct does suggest that something was seriously amiss in this area. Claudius seems to have been less concerned to secure the attendance of the accused for the purpose of holding a fair trial, than to expedite cases even if a basic principle of justice was thereby sacrificed. But perhaps he did not even realize that he was violating such a principle, just as, in the case of the procurators in *Ann.* 12.60, he may simply have been trying to lighten the burden of fiscal cases referred to him (pp. 491–2 above), without realizing that, in the eyes of men like Tacitus, a fundamental constitutional principle was being breached. A. H. M. Jones ('Procurators and Prefects', *Studies in Roman Government and Law* (Oxford, 1960), p. 125) described Claudius on the latter occasion as behaving 'with a typical lack of tact'. That would be an even more charitable assessment in the case of the judicial edict of A.D. 46.