

**THE POLITICS OF PUBLIC RECORDS
AT ROME
IN THE LATE REPUBLIC AND EARLY EMPIRE**

by

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ABSTRACT

This study explores the relationship between political developments and the keeping of public records at Rome during a crucial time of transition in the inter-connected fields of constitutional law, politics, and administrative practices. The political value of control over records is illustrated in the Struggle of the Orders and remained a dominant issue. That knowledge is power was a reality implicitly recognised in the aristocratic constitution of the Republic, geared as it was to maintain popular political ignorance generally and so to perpetuate the dominance of a particular minority class. Throughout Republican history the question of exposure or repression of such knowledge was grounded in the socio-political tensions of a class-struggle. Translated into the changed setting of the early Principate, the same awareness of the value of control over access to state knowledge is exhibited by the emperor. Particularly relevant was the Augustan ban on the publication of senatorial proceedings, since the relationship between senate and emperor was an area where the increasingly autocratic nature of the emperor's position was most difficult to disguise.

The study of Republican times follows a chronological format. There is a survey of important advances in the public's knowledge of state-records, which includes a brief evaluation of the historicity of alleged archival practices from the earlier Republic for the extent to which they reflect the importance attached to public records of the later era. The procedures of archival storage in Rome and the publication of senatorial decrees to the Roman population and the provinces are examined. The developing concept of accountability is also traced, culminating in Julius Caesar's consular enactment of 59 B.C. which ordered the publication of the hitherto confidential proceedings of the senate's meetings. The senate's loss of control over public access to its business underlined de facto the constitutional sovereignty of the People since it signified the latter's right to enforce accountability from its erstwhile rival, the senate.

At this point a new interpretation of the nature of the acta populi and acta senatus is offered upon re-examination of the ancient literary evidence, which necessarily undermines certain traditional assumptions that regard these two new sources as separate journals. This is followed by an attempt to trace both the continuation of, and departures from, traditional senatorial and administrative practices relating to state records amidst the changing political setting of the Civil Wars. The chapters on Imperial times trace the outworkings of the emperor's influence in senatorial, financial, judicial, and provincial affairs, indicating how control of, and channelling to the emperor of, administrative data relating to these aspects of government was achieved through the infiltration of the imperial civil service into public business. Also indicated is how the growing imperial civil service served to entrench the emperor's power in government not only on a political but on an administrative basis, although its existence (particularly in finance) had originally been justified by the emperor's averred sense of Republican accountability. Special attention is directed to Augustus' reversal of Caesar's enactment concerning the publication of senatorial records, and their continued compilation as an archival journal for exclusive imperial use, which subtly effected a sense of accountability in senators towards the emperor. The emperor's correspondence of an official nature to his agents of senatorial, equestrian and freedman status is examined, and likewise that to individuals and communities throughout the empire, demonstrating the development of a body of imperial administrative and legal precedent. Access to these records of precedent housed in the imperial headquarters was restricted to application and the fulfilment of procedural formalities, and exemplifies the political value of control over access to records even of a purely administrative nature.

By the end of the period under discussion, all key areas of government are shown to have come under direct imperial supervision. In this process a distinct change in the nature and function of state-records is discernible, and centred on the issue of accountability. The traditional magistracies' focus of responsibility was re-directed from the Senate and People to the emperor, who came to represent executive authority in the state, and as such, the transition from Republican government to Imperial government was complete.

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KEY TO ABBREVIATIONS

AE	L'Année Epigraphique
AJP	American Journal of Philology
ANRW	Aufstieg und Niedergang der Römischen Welt
BGU	Berliner griechische Urkunden
CAH	Cambridge Ancient History
CIL	Corpus Inscriptionum Latinarum
CJ	Codex Justinianus
CQ	Classical Quarterly
CR	Classical Review
CW	Classical World
Dig.	Digest
EJ	V.Ehrenberg and A.H.M.Jones, <u>Documents illustrating the Reigns of Augustus and Tiberius.</u>
ERW	F. Millar, <u>The Emperor in the Roman World.</u>
FIRA	Fontes Iuris Romani Antejustiniani
IG	Inscriptiones Graecae
IGRR	Inscriptiones Graecae ad Res Romanas pertinentes
ILS	Inscriptiones Latinae Selectae
JRS	Journal of Roman Studies
P.Oxy	The Oxyrhynchus Papyrii
PIR	Prosopographia Imperii Romani
RDGE	R.K. Sherk, <u>Roman Documents from the Greek East.</u>
REAH	R.K. Sherk, <u>The Roman Empire : Augustus to Hadrian.</u>
SIG	Sylloge Inscriptionum Graecarum
SEG	Supplementum Epigraphicum Graecum
TAPA	Transactions and Proceedings of the American Philological Association
ZPE	Zeitschrift für Papyrologie und Epigraphik.
SIR	R.J.A. Talbert, <u>The Senate of Imperial Rome</u>

KEY TO EDITIONS CONSULTED

Unless otherwise specified in the text, the Loeb Classical Library has been consulted for all the ancient literary sources. These include the works of Tacitus and Dio, for which no standard system of referencing exists. Editions of other literary sources consulted are :

M. Cornelii Frontinis Epistulae (ed. M.P.J. van den Hout). Leiden : E.J. Brill, 1954.

Menander Rhetor (eds. D.A. Russell and N.G. Wilson). Oxford: Clarendon, 1981.

The New Phrynichus (ed. W.G. Rutherford). London : MacMillan, 1881.

INTRODUCTION

This study explores the relationship between political developments and the keeping of public records at Rome during the Late Republic and Early Empire. This period has been focused on because it was a crucial time of transition in the interconnected fields of constitutional law, politics, and administrative practices.

The political value of control over records is illustrated in the Struggle of the Orders and remained a dominant issue to the end of the Republic. Among the issues determining publication and confidentiality of certain state-records under the Republic was the notion of accountability. In its lesser administrative sense, this is apparent in the submission of reports prepared by returning provincial governors for filing in the Aerarium. In the political sense, accountability by those in authority was asserted as a democratic right of those with electoral entitlement. That knowledge is power was a reality implicitly recognised in the aristocratic constitution of the Res Publica, geared as it was to maintain popular political ignorance generally and so to perpetuate the supremacy of a particular minority class. Throughout Republican history the question of exposure or repression of such knowledge was grounded in the socio-political tensions of a class-struggle. Thus, when state affairs were voluntarily made available to the state, considerations of propagandistic expediency would have determined the nature and the mode of publication. Translated into the changed setting of the early Principate, the same awareness of state-knowledge as a source of superior control is exhibited by the emperor. Particularly relevant was Augustus' attempt, however indirect, to influence public opinion concerning his relationship to the senate through his ban on the publication of the senate's proceedings. This was because the workings of the senate were in reality the forging of a working relationship between the senate and the

princeps in a setting where the autocratic potential of his position was most difficult to disguise.

This study follows a chronological format for Republican times, commencing by way of background with a survey of important advances in the public's knowledge of state-records, both legal and political, dating from earlier Republican times, in the context of the then current socio-political tensions. The historicity of alleged archival practices from these times is also evaluated briefly for the extent to which they reflect the importance attached to public records of the later era. Of parallel significance to these advances in public access to records, is the developing concept of accountability, from its origin as a quest for plebeian protection against patrician magistrates who exploited mass ignorance to ensure a minority-class domination, to its culmination in Julius Caesar's publicity measure of 59 B.C. which acknowledged the Populus as constitutionally sovereign to exercise the right of accountability from the senate through publication of the details of its business.

The scenario of the aristocratic post-Punic War senate, its forces and values, is examined, likewise the procedures of archival storage in Rome and publication of senatus consulta to the Roman population and the provinces. In this definitive context, the revolutionary nature of Julius Caesar's consulship in his disregard for the traditional confidentiality of the senate's decision-making processes, may be interpreted in true focus. Evaluated as a testimony to the class-struggle and to the forces at work in the politics behind state-publicity in the Late Republic, Caesar's enactment which ordered the publication of the hitherto confidential proceedings of the senate's meetings, signified not only the ultimate exploitation of the popularis recognition of popular sovereignty, but also a dangerous betrayal by a noble of his own class, of the upper-class solidarity that underwrote the very survival of the

aristocratic Republican constitution. At this point a new interpretation on the nature of the acta populi and acta senatus is offered upon re-examination of the evidence in the ancient sources, which necessarily undermines certain traditional assumptions that regard these two news-sources as separate journals. This is followed by an attempt to trace, amidst the changing political setting of the Civil Wars, both the continuation of, and departures from, traditional senatorial and administrative practices relating to state-records.

The chapters on Imperial times (chs. V - VIII) follow a topical rather than chronological format, as the outworkings of imperial influence in different spheres of government demand separate examination. The first of these chapters provides the political context of the chapters to follow, indicating important factors in Rome in Augustus' relations with the Senatus Populusque Romanus that contributed to the gradual centralization of authority, both administrative and political, in the princeps. The growth of an imperialized state-administration under Augustus was an insidious development, as well as a diplomatic feat, and is reflected in his progressive control over public administrative records and the channels of access thereto as they came to form part of the imperial portfolio, senatorially conferred but based in the emperor's headquarters on the Palatine. The early emperors' equivocal role and emergent autocratic potential in senatorial business are apparent in the new developments concerning the compilation and publication of this administrative material. Particular focus is directed on the imperial acta publica and acta senatus. As an exposé of imperial propaganda interests behind the publication or confidentiality of political business, examination of the imperial acta senatus provides a convenient starting-point for evaluation of the transformed role of state-records. In nature and content these records were public, but were henceforth to be inaccessible to the public.

The three chapters that follow (chs. VI - VIII) trace this trend in the spheres of state-finance and the emperor's communications in his magisterial capacity with the imperial provincial service and with the general public respectively. These branches of the imperial administration were operated by imperial agents and generated a mass of state-data which was compiled for its relevance to the imperial interest. As such, it was retained in the imperial archives. The development of the officia a rationibus, ab epistulis, and a libellis, in the exercise of the emperor's magisterial prerogative reflects the increasingly undisguised materialization of the emperor's autocracy in the financial, administrative, and judicial spheres of government, as these officia bypassed the state's superior claims of accountability despite the public nature of their business. The emperor's self-chosen accountability to the state had originally justified the development of a bureaucratic accountability of his representatives to himself, but the inherent absolutism of his prerogative soon displaced the expedient of this Republican nicety. This is demonstrated as early as Tiberius' reign in his uncontested discontinuation of the Augustan publication of the rationes imperii. By the beginning of the second century A.D., bureaucratic accountability was extended to state-appointed officers as well, witnessed for example in the issue of imperial mandata to proconsular governors, which implies that their recipients were bound by the same rules of accountability as imperial appointees.

During the early Principate the Republican practice of accountability downwards from senate and magistrates was thus re-aligned to current political realities so that accountability came to be directed upwards to the emperor, who represented and gradually subsumed executive authority in the state. Parallel to this development was the closure to the public of records of such business in which imperial interests were vested. The emperor's control of these public

records symbolized essentially the completeness of his control over the empire's administration, and as such demonstrates the relation between political developments and administrative records. The progressive disclosure of the intrinsic absolutism of the emperor's position was manifested thus in the administrative outworkings of his inexorable auctoritas. The imperial supervision of records of this provincial, judicial, and financial data, and its inaccessibility to the public except on approved application, indicates on the one hand the continued awareness of the power of such knowledge, and on the other hand the total reversal of the purpose of public records from Republic to Principate.

CHAPTER I

1. RECORDS IN REPUBLICAN ROME

1.1 THE POLITICAL SETTING

Throughout the Republican era of Rome the privilege of access to information of political importance was possessively guarded by the ruling class¹ as an assurance against any challenge to its pre-eminence. Parallel to the gradual upward mobility into the political élite by ambitious wealthy plebeians, however, advances in the public's knowledge of state-business were made. Under the aristocracy's almost secretive rule, necessitated by class-interests and hallowed by tradition, the political impulses behind such advances were rooted in plebeian aspirations. These never died out, despite the formation of a patricio-plebeian nobility in the Middle Republic and the momentous political equalization of the orders in 287 B.C. through the Lex Hortensia. The so-called Struggle of the Orders persisted although seldom apparent above the surface, because in losing their wealthy fellow-champions to the new nobility the plebeians lost their magisterial representatives. After the Gracchi's shattering impact upon the constitutional stronghold of

¹ Throughout this study, a broader interpretation of the word 'class' has been adopted for its connotation of group identities defined not only according to purely political but also economic strata. This is demanded by the emergence of a new nobility of plebeian and patrician composition during the course of the Struggle of the Orders, when diverging economic interests between the poor and rich of plebeian status effected a transformation of the earlier status-groupings; similarly the varying supranational composition of the senatorial ordo in Imperial times affected the Republican status - groupings as wealthy provincials were admitted to the senate and so undermined the Roman upper-class' Republican definition as the political class of the Empire. See also G.E.M. de Ste Croix, The Class Struggle in the Ancient Greek World from the Archaic Age to the Arab Conquests.

the nobility in the late second century B.C., a new era of possibility was inaugurated for plebeian aspirations. The Late Republic featured a more forcible and articulate manifestation of these plebeian aspirations, expressed as a growing awareness of popular sovereignty. This trend was recognised by popularis politicians, whether out of expediency or genuine political principle, and became a force in high politics as members of the ruling class sought to exploit it for individual or collective advantage.

One such seemingly popularis measure is of great importance to this study, concerning as it does, the publication of hitherto confidential senatorial material. This was Julius Caesar's enactment as consul in 59 B.C., ~~the~~ ^{of which} political significance [^] has possibly not been fully appreciated in these Late Republican developments. The whole subject of confidentiality and exposure of state-business in Rome has intrinsic political connections with, and cannot be considered apart from, the class-tensions in which it was rooted. To illustrate this, and provide a background to the Late Republican scene, three important advances in publicity during the Early and Middle Republic will first be examined. They are:

- (a) the codification of the Twelve Tables;
- (b) the institution of a plebeian archive;
- (c) the publication of the Legis Actiones.

(a) The Codification of the Twelve Tables - 450 B.C.

The patrician monopoly of knowledge of the law was one of the primary bulwarks of the oligarchic edifice in the Early Republic. That their superiority of station was strengthened by the patricians' sense of legal immunity is clear from the notorious inconsistency and harshness of

magisterial jurisdiction.² That the law was unknown to the plebeians made their powerlessness more acute, affording an ignorance which the patricians could and did abuse. The plebeians' imperative for protection against injustice is demonstrated clearly by the tribunes' sacrosanctitas and power of intercessio, unilaterally bestowed prerogatives which if violated, the plebeians swore on oath to vindicate.

In 462 B.C. the tribunus plebis, C. Terentilius Harsa, began the agitation for the laws to be compiled and published, and according to Livy, proposed that a commission of five be appointed to draft laws pertaining to consular imperium.³ The proposal was rejected by the senate, only to be accepted a decade later. The constitution was temporarily suspended while the decemviri consulari imperio legibus scribendis drafted the laws, in 451 B.C.

According to Livy, whether plebeians should be

² This social inequality was even embedded in the later Twelve Tables, since these show (i) that the securing of one's rights depended on self-help in that a plaintiff had to be able to force the defendant to attend the court, and (ii) that the law distinguished between patroni and clientes, and thus that those of lesser status had fewer rights.

³ Livy III.9.5. The historicity of Livy's account here has been questioned. Th. Mommsen (Staatsrecht II, 702,n.2) believes that Terentilius proposed the appointment of quinque viri consulari imperio de legibus scribendis, and not, as in Livy's account, quinque viri legibus de imperio consulari scribendis. According to R.M. Ogilvie (A Commentary on Livy, p.412), the consuls' powers and prerogatives could not have been subject to such investigation, whereas the Decemvirate ultimately was a commission legibus scribendis; since Livy elsewhere affirms his interpretation of the nature of the Decemviral commission (IX.2; XXIV.9; XXXI.7), it cannot be that Livy's text in III.9.5 is corrupt, and so we must assume that a deliberate distortion, either by Livy or his source, had been carried out.

permitted to participate in this work was disputed for some time, and the plebeians finally yielded on condition that certain laws should not be abrogated.⁴ These laws included the Icilian law concerning the Aventine, and other sacral laws, which have been interpreted to refer to the establishment of the tribunate.⁵ The necessity of demanding these conditions illustrates the current class tensions, and is confirmed by Dionysius of Halicarnassus who ascribed as the chief motive of the senate in prolonging the Decemvirate, the suppression of the prized tribunate, 'which they desired above all things'.⁶

According to legendary accounts, the first Decemvirate was succeeded by a second the following year, comprising five patricians and five plebeians, which added the last two Tables. The tyranny they sought to establish resulted in their downfall, allegedly through a plebeian secessio, and 449 B.C. saw the re-establishment of the constitution. The interpretation of the decemviral system as a potentially enduring constitutional innovation has been put forward, which would have attempted to resolve the rivalry between the patrician consulships and the plebeian tribunate by substituting a magisterial college of ten.⁷ Although clearly advantageous to the senate as a guarantee against the re-institution of the tribunate, there remains the insoluble question as to what would have so attracted plebeian leaders that they would have forfeited the

4 Livy III.32.5-7

5 See B.O. Foster, Livy vol. II (Loeb edition), p.108, n.1.

6 Dion. of Hal. X.58.1.

7 This interpretation is rejected by E. Staveley in his review of Tra Legislatori e Tiranni by G. Poma (Bologna, 1984), in Gnomon 58 (1986), pp.633-634.

tribunate's existence, and so this emphasis on the constitutional significance of the Decemvirate must be discarded.⁸ The Twelve Tables they codified were nevertheless a milestone in the struggle for legal equality among the orders, while the weakening of patrician resistance to the proposal of 462 B.C. is indicative of the strength of plebeian determination, likely sustained by the prevalence of injustice that even the tribunes could not fully counter.

The Twelve Tables are the codification into the statutory law of existing Roman customary law in its public and private, criminal and sacral aspects. The Greek influence is a matter of controversy. According to tradition the decemviral work was preceded by a commission to Athens,⁹ and Cicero draws a parallel between the Twelve Tables and Solon's laws, claiming that in the case of funerals,¹⁰ the limitation on expense and public mourning was borrowed for the most part from Solon.¹¹ Dionysius of Halicarnassus more generally states that the Twelve Tables derived from the laws of the Greeks and from unwritten Roman usages.¹² The nature of the customs embodied in the code certainly do reflect the predominantly agricultural and pastoral character of the Early Republic, and the Greek features could conceivably have derived from the law-codes of the Greek cities in southern Italy.¹³

⁸ E. Staveley, art. cit., p.635.

⁹ Livy III.32.1.

¹⁰ Table X, in N. Lewis and M. Reinhold, Roman Civilization Sourcebook I, pp.108, 109.

¹¹ Cic. De Leg. II.23.59

¹² Dion. of Hal. X.57.5.

¹³ N. Lewis and M. Reinhold, Roman Civilization Sourcebook I, p.102.

Livy records two traditions concerning the publication of the Twelve Tables on bronze plaques in the context of events of 449 B.C.,¹⁴ preferring that which credited the consuls Valerius and Horatius. The other tradition ascribed publication to the plebeian aediles acting on the orders of the tribunes. The source of the latter may have been Licinius Macer,¹⁵ of known popular sympathies, while one may suspect that the former tradition derived from Valerius Antias who propagated it for his family's glory. A further discrepancy in the sources exists over the mode of publication. Livy records how in 450 B.C. the Decemvirs set up their proposed law-code on wooden tabulae for public scrutiny and advice. After senatorial and then comitial approval, the laws were inscribed on bronze (in aes incisas ... proposuerunt).¹⁶ Pomponius however claims that they were written on wood: quas in tabulas ~~te~~boreas† (roboreas Edd.) perscriptas pro rostris composuerunt.¹⁷ This claim would seem to be supported by the appellation of the law-code in the plural, namely Duodecim Tabulae, because the earliest extant bronze laws are all of one piece and would have been referred to in the singular as tabula.¹⁸ The name Duodecim Tabulae thus implies that they were written on wood, a mode of publication which would parallel that of the near-contemporary Solonian νόμοις. It has been posited that the discrepancy could be resolved by supposing that the provisional promulgation of the laws was made on wood and that

14 Livy III.57.10.

15 R.M. Ogilvie, A Commentary on Livy, p.507.

16 Livy III.57.10; Dion. of Hal. X.57.5-7.

17 Dig. I.2.2.4.

18 R.M. Ogilvie, A Commentary on Livy, p.507.

the definitive version was on bronze.¹⁹ In view of the evidence of near-contemporary Greek practice stated above and the fact that the younger authorities knew only the bronze version,²⁰ another interpretation is likely, namely, that at the beginning of the first century B.C. the law-code was restored and set up in bronze, possibly when Sulla reconstructed the Curia,²¹ and so the younger authorities had only the evidence of a bronze version.

After the Gallic sack of Rome in 390 B.C. in which the original tablets were destroyed, substitutes were made according to Livy, who relates that a collection of treaties and laws, including the Twelve Tables, was compiled and furthermore that only some of it was published to the people.²² The sections pertaining ad sacra were withheld. In the present absence of a complete definitive text of the code, it has been questioned whether certain sections were omitted, since in the code sacral matters are limited to funerals and burials. But it is unlikely that more esoteric knowledge and interpretation of sacral rites were embodied in the Twelve Tables as these were tools for popular manipulation²³ and as such would always have been kept confidential. The withholding of sacral information, referred to by Livy, most probably related to material that would have been withheld in the pre-Gallic sack era anyway since patrician monopoly over ancestral religious law was

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- 19 Th. Mommsen, Staatsrecht III.371, cited in R.M. Ogilvie, op.cit., p.507.
 20 Diodorus XII.26.1.
 21 R.M.Ogilvie, A Commentary on Livy, p.507.
 22 Livy VI.1.10.
 23 Cic. De Leg. II.31.

of great political significance, superstition being a means of control over the plebeians. That Livy recounted this instance of confidentiality asserts again the importance attached to knowledge and how the monopoly thereof was intrinsic to the aristocracy's tenacious grip on its supremacy. The focal point of the Struggle of the Orders in terms of group identities defined according to economic as opposed to merely political strata, was essentially a struggle to attain, on the part of the poor, and to monopolise, on the part of the wealthy, access to knowledge in judicial and religious spheres. Control of this knowledge determined the status quo. Plebeian inroads into this, as the course of the struggle illustrates, was always at the cost of the patricians' unilaterally bestowed privilege.

The present lack of a complete authoritative text of the Twelve Tables cannot be ascribed to non-publication after 390 B.C. and must be attributed rather to the accident of history. Cicero's statement that in his youth school boys learnt the Twelve Tables²⁴ supports the likelihood of the publication or circulation of a definitive text. The extant excerpts contain evidence of a gradual modernisation of the language which has cast doubts on its authenticity as a document of the fifth century B.C.. Nevertheless the sometimes archaic Latin in the fragments would tend to support their antiquity.

By acceding to this plebeian demand for the codifica-

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Cic. De Leg. II.9 and 59, and see the review of the arguments over the XII Tables' antiquity, in H.F. Jolowicz, A Historical Introduction to the Study of Roman Law, pp.109-110.

tion and publication of the laws, the patricians did benefit in that the circumstances in which the tribunician intercessio might be invoked were now defined and thus limited. But it conversely undermined the indispensability of patroni as their clientes could appeal to the tribunes, whose intercessio provided a more direct procedure and access to justice. Above all, the existence of an agreed code of legal rules meant that observance thereof could be more effectively enforced by the tribunes.

The significance of the publication of the Twelve Tables is clear from the tremendous check it would have placed on the hitherto unrestricted patrician licence to exercise the law arbitrarily, screened by the prerogative of magisterial authority. In this early history of the class tensions it was not so much reform as certainty that was sought by the plebeians, as the continued harshness of the debt laws illustrates.²⁵ And the reluctance of the patricians to concede this reflects the importance that their extra-legal freedom afforded them in their quest to consolidate their supremacy.

(b) The Institution of the Archive of the Plebeians - 449 B.C.

The year 449 B.C. has been called a landmark in the

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Emphasis in the literary sources of this period on the prevalence of debt-bondage, is substantiated by Table III. The law of debt entailed 30 days' grace between the announcement of debt and arrest if no surety was forthcoming, to be followed by 60 days before execution or enslavement abroad. (N. Lewis and M. Reinhold, Roman Civilisation Sourcebook I, pp.103-104).

advance of popular liberties²⁶ through the passing of the Valerio-Horatian laws.²⁷ In spite of the strained relations between the orders particularly after the fall of the Decemvirate and the Second Secession, or possibly because of it, the two consuls of 449 B.C. according to Livy, were 'favourable to the people without in any way wronging the patricians, though not without offending them; for whatever was done to protect the liberty of the plebeians they regarded as a diminution of their own power'.²⁸ At this point it is necessary to recognise that Livy tended to interpret Early Republican political trends anachronistically and that this source must be evaluated accordingly. Livy himself conceded that evidence from this period was of uncertain authenticity.²⁹ His reference to the consuls' dilemma may thus be seen as a retrojection of the dilemma of the Late Republican populares. However interpreted, Livy's indictment of the patricians in this passage certainly articulates the danger that plebeian concessions posed to patrician supremacy.

Of great importance as an advance in the exposure of political business, was the institution by these consuls of an archive of the plebeians. Copies of senatorial decrees, possibly only those relating to the plebeians but not specified as such by Livy, were henceforth to be deposited at the temple of Ceres under the protection of the aediles of the plebeians.³⁰ The authenticity of this account is

²⁶ N. Lewis and M. Reinhold, Roman Civilization Sourcebook I, p.109.

²⁷ The prevalence of Leges Horatiae makes their historicity questionable. See R. Develin, 'Provocatio and plebiscites', Mnemosyne 31 (1978), pp.45-60.

²⁸ Livy III.55.1-2.

²⁹ Livy VI.1.1-2.

³⁰ Livy III.55.13.

supported by the aediles' appellation. Deriving from aedituus it suggests that they were overseers of the plebeian aedes; thus its historicity is likely.³¹ This development provided a check to the optional observance of legislation by the patricians, while the serious need of such a constitutional safeguard is indicated by Livy, because up to this time the decrees 'were wont to be suppressed or falsified at the pleasure of the consuls'.³²

The availability of these archival records to the general plebeian public is to be questioned.³³ It is probably more accurate to interpret this advance as one of limited exposure of state business, primarily for the tribunes in their capacity as plebeian spokesmen. However limited, it was nevertheless more than adequate in its fifth century context when the unity of rich and poor classes in the plebeian order was at its peak. The tribunes were - if one can believe the legendary history of this period - uncorrupt protectors of the plebeians, championing the rights of the unprivileged generally at this time: respective political and economic aspirations of rich and poor were not yet divisive forces in plebeian solidarity, with consequent 'party' interests among the tribunes. It must be acknowledged that trends in this direction are evident in 450 B.C. when the Second Decemvirate included five plebeians. This could be interpreted as collusion between patricians and upwardly mobile

31 R.M. Ogilvie, A Commentary on Livy, p.503.

32 Livy III.55.13.

33 A factor that would have weighed against the 'democratic' opening up of public records was presumably the scale of illiteracy among the less affluent. See further W.V. Harris, 'Literacy and epigraphy I', ZPE 52 (1983), pp.87-111.

plebeians, unless it was a plebeian condition for the extension of the decemviral constitutional arrangement. Although nowhere attested in the sources, this might be supported by Livy's account of the plebeian exclusion, on terms, from the First Decemvirate.³⁴ Therefore the entrustment of certain political knowledge to their spokesmen at this time was a definite restriction on the patricians.

The tribunes' vigilance over plebeian interests in these early years is illustrated in Valerius Maximus' description of how the tribunes, being forbidden entry to the senate house, seated themselves in front of the door in order to scrutinise the senate's decisions and veto any of which they disapproved.³⁵ This prohibition of tribunician entry into the Curia would not have applied after 449 B.C. at the latest, and may even have referred to the period pre-472 B.C. when a degree of official recognition was first accorded to the tribunate. This alleged scrutiny of the senate's decisions is questionable since these were rarely circulated outside the senate. Such scrutiny and vetoing must have occurred inside the Curia during sessions. The first instances of tribunician participation in the senate are recorded in Livy from 445 B.C. onwards;³⁶ the second such mention would suggest that the tribunes lacked confidence in exercising their veto in the senate.³⁷ Therefore their participation could well have dated from this time. Valerius Maximus' description ante valvas is further questionable since the Curia in its present form has no entrance-hall but only double

³⁴ Livy III.32.

³⁵ Val. Max. II.2.7, cited in N. Lewis and M. Reinhold, Roman Civilization Sourcebook I, p.97.

³⁶ Livy IV.2.13; 6.6; 12.4-5; 26.7-10.

³⁷ Livy IV.6.6.

doors leading onto the Forum. This means that the tribunes would have sat outside the building, an unlikely position from which to scrutinise and veto senatorial decisions. The tribunes' alleged subscription of 'C' (censuere) to indicate their approval³⁸ would rather suggest that this activity occurred within the senate, and probably only after the establishment of the plebeian archive.

The plebeian access to political business of the state in this way, however indirect, served to undermine the patricians' monopoly of political knowledge which they regarded as their exclusive right. It represented an inroad into the world of secretive oligarchic machinations, and by conferring the right to certain political knowledge on plebeian spokesmen, conferred too the power with which to enforce compliance from their patrician legislators.

(c) The Publication of the Legis Actiones - 304 B.C.

A further onslaught against the patrician monopoly of the law again entailed exposure of confidential material. Although the Twelve Tables had provided knowledge of the law, legal inequality still existed because the formulae in which court proceedings were conducted, were unknown to the general populace. Under the cloak of religious tradition the pontifical college had perpetuated patrician supremacy through this secret knowledge and so held enormous power over the plebeians seeking their legal advice. In 304 B.C. however, these procedural forms were published to the people. It is disputed in tradition whether Appius Claudius Caecus was responsible or Gnaeus

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Val. Max. II.2.7, cited in N. Lewis and M. Reinhold, Roman Civilization Sourcebook I, p.97.

Flavius, son of his freedman Annius,³⁹ who was elected to the aedilate upon renouncing his occupation as a scribe on the current aedile's staff.⁴⁰ His aedilate was remarkable for his publication of the ius civile, the formulae of which had been filed away in penetralibus pontificum according to Livy,⁴¹ as well as his publication of the dies fasti which Pliny claims was on the encouragement of his patron-employer, Appius.⁴² Prior to this latter publication it had been customary for the general public to make daily enquiry from a few leading citizens as to whether legal proceedings could take place.⁴³ This dependence of the whole plebeian public on a few prominent members who alone had access to information which could be and was used to their own advantage, was thus undermined. Gn. Flavius' popularity among the plebeian public as a result of these publications bears witness to its former handicap and inequality before the law. If, on the other hand, Appius had instigated Flavius, this would have been explicable in the context of opportunistic exploitation of the current conflict between the orders. Livy's description seems to favour this interpretation, although it could suggest an anachronistic perspective of this early period through the Late Republican political association of words he uses, such as forensis factio, humiliores, and turba. Appius' other measures, although later revoked, indicate the same intention to gain popular influence; for example, his appointment as censor of freedmen's sons to the senate, the inclusion of

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Pliny, N.H. XXXIII.17.

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Livy IX.46.1; Aulus Gellius VII.9.2.

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Livy IX.46.5.

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Pliny, N.H. XXXIII.17.

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Pliny, N.H. XXXIII.17.

freedmen into the tribes, and his regrouping of tribes. To have instigated the publication of the ius civile and the dies fasti would have undermined Appius' political opponents and expediently have increased his own following of grateful plebeians, in particular those who were otherwise destitute of the legal representation afforded by a patron-client relationship.

Its impact on the patrician hold over the legal process through the pontificate may well be connected to the tribunician Ogulnian laws of 300 B.C.. Through these laws the pontifical and augural colleges were opened to plebeians for the first time, with reservation of a specific number of offices for plebeians.

1.2 ARCHIVES IN THE REPUBLIC

The development of archival practices at Rome had its origin in the preservation of laws and owed its impetus to prevailing socio-political struggles. The immutable authority vested in written laws and the importance of public access to this authority, was extended to other records of state so that the maintenance of archives remained a political issue throughout the Republic. Literary sources of the first century B.C. reflect the political value attached to records, which at this time was closely related to the rising consciousness of popular sovereignty.

Archaeological evidence of written state records from early Rome is restricted to the inscription recorded on the column below the Black Stone in the Forum. The palaeography of the inscription, the use of Veientine tufa, and the ancient references to the black marble pavement and

inscribed stele, point to a late-sixth century B.C. origin.⁴⁴ The archaic Latin and damaged surface of the inscription present too many difficulties for a conclusive interpretation of the text, thus it is unclear whether it was a law, or merely of funerary or religious significance.⁴⁵ The reference to a king PECEI would also date it to the regal period, although this could possibly allude to the post-regal rex sacrorum.⁴⁶

The literary sources however suggest that record-keeping was a common phenomenon from early regal times. According to Livy, the priest-king Numa Pompilius (715-672 B.C.) gave written instructions regarding religious rites to the priests.⁴⁷ A later king Ancius Marcius (640-616 B.C.) re-discovered the importance of state-sacrifices and ordered the pontifex to copy out the relevant instructions from Numa's commentarii.⁴⁸ This was displayed on an album since the people were expected to conduct their sacrifices from henceforth in accordance with Numa's prescriptions. The historicity of these traditions recorded by Livy and the extent of literacy they imply, are however to be questioned on the basis of archaeological and comparative evidence. Livy is referring here to events c.715-672 B.C. (in I.20.5) and c.640-616 B.C. (in I.32.2), whereas archaeologically Rome emerged as a true urban centre perhaps only as late as c.570 B.C.⁴⁹ This emergence occurred under Etruscan

44 See further A.E. Gordon, Illustrated Introduction to Latin Epigraphy, pp.78-79.

45 A.E. Gordon, op. cit., p.80. See also the translation offered by P. Mackendrick, The Mute Stones Speak (New York, 1976).

46 A. Degrassi, Inscriptiones Latinae Liberae Rei Publicae, cited by A.E. Gordon, op. cit., pp.78-79.

47 Livy I.20.5.

48 Livy I.32.2.

49 Scholars differ on the date of Rome's emergence as a city. E. Gjerstad's traditionally accepted dating scheme has recently been opposed and dates are being pushed back.

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influence, as did the introduction of writing. Furthermore, analogy with Greece would reinforce the improbability of written records in such an early period. Solon traditionally published his laws in Athens in the early years of the sixth century B.C., yet in 411 B.C. his constitution was apparently unknown in Athens. This implies that there were no written records to consult, and also that there could not have been many literate Athenians in the sixth century B.C.. The likelihood of written priestly records at Rome (in Livy I.20.5) and of a literate Roman population (in Livy I.32.2) in the eighth and seventh centuries B.C. is thus remote. The tradition of written priestly rules must belong to a later era but was probably retrojected into the regal period by early Roman annalists in order to enhance their stature and authority or to give their own works an air of documentation.

This retrojection of priestly instructions is believed also to have occurred with regard to the ius fetiale which scholarly analysis has dated to c.120 B.C. despite its traditional antiquity.⁵⁰ These literary anachronisms appear to have coincided with the rise of antiquarianism as a result of interest aroused at this time by the publication of alleged priestly archival records. Livy's attribution of the responsibility for this record-keeping to the college of pontiffs is similarly anachronistic, since until the third century B.C. this college occupied a low position in the official order of precedence.⁵¹ The

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See further T.P. Wiseman, review of Il Foro Romano : Periodo Arcaico, by F. Coarelli, (Rome, 1983), in JRS 75 (1985), esp. pp.229-230; and M. Torelli's chapter in CAH VII (2nd ed.), pp.30-51 esp.37.

See further R.M. Ogilvie, A Commentary on Livy, p.127.

R.M. Ogilvie, A Commentary on Livy, p.127, citing Festus 198L and Aulus Gellius X.15.21.

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pre-eminence of the pontificate was effected only in the third century B.C. when the plebeian gens Marcia was in the ascendant and its claim to have supplied the first pontifex resulted in the backdating of the pontificate's power to Numa.⁵²

The fact that the early Roman annalists found retrojection of later material necessary does however indicate a contemporary sense of the importance attached to the archival recording of rules and procedures. Likewise that public access to these records is alleged during the early period, also demonstrates its importance in the second and first centuries B.C.. Thus even though the historicity of Livy and his sources' accounts concerning early written records is to be doubted, these writers do reflect a contemporary awareness of the political significance of record-keeping in the Late Republic.

Retrojection of priestly records may have been encouraged by the known existence of the commentarii pontificum. These records were singled out by Livy from the otherwise unspecified mass of documents, both private and public, that were allegedly nearly all destroyed in the conflagration of the city under Gallic attack in 390 B.C.⁵³ Further the unknown annalist Clodius, quoted by Plutarch, claimed that the ancient ἀναγραφαί which had disappeared in this catastrophe were replaced by others containing falsifications in favour of individuals who were later of importance.⁵⁴ Even in the first century B.C. sacral laws purportedly by Numa were still extant.⁵⁵ The date of the earliest preserved tabulae pontificum is a subject of scholarly dispute, while Livy's

52 R.M. Ogilvie, A Commentary on Livy, p.100.

53 Livy VI.1.2.

54 Plut. Numa I.1, cited by P. Fraccaro, 'The history of Rome in the regal period', JRS 47 (1957), p.62.

55 Cic. De Re Publica V.2.3; cf. II.14.26.

attribution of the existence of these commentarii to the pre- 390 B.C. era would tend to be undermined by his tendency to retrojection in the interests of authenticating his narrative. In fact, P. Fraccaro would posit that only from c.300 B.C. did the priestly recording of commentarii begin, and that they took liberties in recalling earlier events.⁵⁶ Another view, defending Livy's historicity, would suggest that attempts immediately post- 390 B.C. were made to replace the destroyed tabulae pontificum on the basis of memory.⁵⁷ The success of this attempt might be supported by R.M. Ogilvie⁵⁸ who has discerned details of information in Livy which, in his opinion, derive ultimately from the commentarii pontificum, if indeed Livy had recourse to this source; otherwise it could be that a number of tabulae prior to 390 B.C. actually survived.

Although the earliest preserved tabulae are of uncertain date, the role of the priestly college of pontiffs in the keeping of records for the state in both sacred and secular aspects, is clear. The pronounced role of religion in public life would have contributed to this archival phenomenon: public sacrifices and auspices accompanied most state-acts, such as the making of foreign treaties, elections, the convening of senatorial and comitial meetings. These priestly commentarii have been generally accepted to have been the content of the later Annales Maximi which were published in eighty books by the pontifex maximus, P. Mucius Scaevola, in about 123 B.C.

This acceptance is based on the unified correlation of five ancient sources referring to these series of records.

⁵⁶ P. Fraccaro, art. cit., p.62.

⁵⁷ J.E.A. Crane, 'The Annals of the pontifex maximus', CP 35 (1940), pp.380-382.

⁵⁸ R.M. Ogilvie, A Commentary on Livy, p.6, footnote 1.

According to Cicero, '... ab initio rerum Romanarum usque ad P. Mucium, pontificem maximum, res omnes singulorum annorum mandabat litteris pontifex maximus referebatque in album et proponebat tabulam domi, potestas ut esset populo cognoscendi; hique etiam nunc Annales Maximi nominantur'.⁵⁹ Servius states, 'Tabulam dealbatam quotannis pontifex maximus habuit, cuius diligentiae annuos commentarios in octoginta libros veteres retulerunt eosque a pontificibus maximis, a quibus fiebant, annales maximos appellarunt.'⁶⁰ Macrobius writes 'Pontificibus enim permissa est potestas memoriam rerum gestarum in tabulas conferendi et hos annales appellant equidem maximos quasi a pontificibus maximis factos.'⁶¹ Cato in his *Origines*, quoted by Gellius, claims, 'Non lubet scribere, quod in tabula apud pontificem maximum est, quotiens annona cara, quotiens lunae aut solis lumine caligo aut quid obstiterit.'⁶² Lastly Dionysius, writing on the date of the founding of Rome, states,⁶³ οὐ γὰρ ἤξιόν ἐστιν... ἐπὶ τοῦ πικρὰ τοῖς ἀρχιερεῦσι κεμένους πίνακος ἑνός καὶ μόνου τὴν πίστιν ἀβασάνιστον καταλιπεῖν.

As J.E.A. Crake concludes, all five authors speak of a *tabula*, or πίναξ, kept by the *pontifex maximus* on which he recorded all events of interest that happened in the state;⁶⁴ three of these passages claim that the tablets, or their contents, were subsequently known as *Annales Maximi*. Since this title dates from about 123 B.C., it explains why Cato does not mention it, and likewise Dionysius, who was very likely using Piso as his

⁵⁹ Cic. *De Orat.* II.52.

⁶⁰ Servius, *In Aen.* I.373, cited in J.E.A. Crake, art. cit., p.376.

⁶¹ Macrobius, *Sat.* III.2.17, cited in J.E.A. Crake, art. cit., p.376.

⁶² Aulus Gellius II.28.6.

⁶³ Dion. of Hal. I. 74.3.

⁶⁴ J.E.A. Crake, art. cit., p.376.

source.⁶⁵

Questions concerning the nature and content of these entries - whether they were of purely religious import or contained more general information - are restricted, owing to the fact that the only extant quote from the original concerns auspices. Aulus Gellius provides this reference from Verrius Flaccus, which allegedly also appeared in the eleventh book of the Annales Maximi.⁶⁶ It recounts in detail some malicious directions given by Etruscan aruspices concerning the expiation of a prodigy. Being of singularly religious constitutional significance, it complicates the issue, and Fraccaro surmises that this version of the event would not have appeared on the album, but must have been in memoranda added later by the pontiffs.⁶⁷ Other ancient sources contribute further to our knowledge. Cato the Elder who wrote before the publication of the Annales Maximi, states disapprovingly that as the pontifical commentarii recorded only corn values and eclipses, they should not be used as ^{the only} basis for Roman history.⁶⁸ Later in the first century B.C. Cicero confirmed Cato's statement, attesting that the Annales Maximi covered eclipses.⁶⁹ Cicero further relates that the tabulae pontificum contained 'res omnes singulorum annorum', dating 'ab initio rerum Romanarum usque ad P. Mucium pontificem maximum'.⁷⁰ The exact nature of res omnes presently eludes us due to lack of evidence;⁷¹ but for the present purpose, it has been

65 J.E.A. Crake, art.cit., p.376.

66 Aulus Gellius IV.5.6. See also L. Holford-Strevens, Aulus Gellius (London, 1988), p.183.

67 P. Fraccaro, art. cit., p.61.

68 Cato the Elder, quoted by Aulus Gellius II.28.6.

69 Cic. De Re Publica I.25.

70 Cic.De Orat.II.52

71 The present writer is aware of a recent attempt to prove that the Annales Maximi were somehow lost soon after they had been published, and so to account for their non-

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sufficiently illustrated that sacred and secular business were not distinguished in the commentarii, and that the priestly college of pontiffs was responsible, even if unofficially, for recording this information for the Roman populus.

Hopeful historiographical questions turn upon the content of these pontifical records, and their availability to, and use by, Roman historians. A characteristic feature of these histories is the abundance of legendary material for the regal and Early Republican period on the one hand, and of contemporary information on the other hand, with a great dearth during the Middle Republic.⁷² To explain this dearth, it has been posited that a parallel may be drawn from Greek history, namely the preservation of details of the heroic past through the medium of oral tradition.⁷³ That the content of literary material increases after 300 B.C. may however be due partly to the fact that the First Punic War would have been within the lifespan of Rome's first historians or at least of their informants, and partly to a more adequate recording of events in the priestly commentarii. This of course is based on the assumption that these records were indeed used as a source. It has likewise been suggested that through the publication of the Annales Maximi the important Sullan annalists, Valerius Antias and Claudius Quadrigarius, had material unknown to their predecessors.⁷⁴ Because their works have not survived, this possibility must remain open; yet if so, the question arises as to why extant quotations from this source are so rare. Only

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availability by Cicero's day, but this theory seems improbable.

72 J.P.V.D. Balsdon, 'Some questions about historical writing in the second century B.C.', CQ n.s.3 (1953), p.161.

73 T.P. Wiseman, review article, 'Roman legend and oral tradition', JRS 79 (1989), p.129.

74 J.P.V.D. Balsdon, art. cit., p.164.

three references are made to it.

Cicero indirectly implies that the early Roman annalists must have been familiar with the commentarii or the Annales Maximi,⁷⁵ when he states that they followed the similitudo scribendi of the tabulae pontificum, recording 'sine ullis ornamentis monumenta solum temporum, hominum, locorum gestarumque rerum'.⁷⁶ Yet, as Fraccaro points out with regard to literary trends c.100 B.C., the change apparent in Roman literary style was not necessarily due to a new source or influx of material, as one might expect the Annales Maximi to have been, but due rather to a new literary, Hellenistic influence which favoured detail and elaboration.⁷⁷

The purpose of the Annales Maximi's publication, as suggested by E. Rawson, would also undermine suppositions of its historiographical value, namely that its publication occurred at a time of popularis attacks on the traditional priestly stronghold of the nobility and could have been a defensive response to bolster their traditional authority, using material selectively and allegedly based on evidence from the tabulae pontificum, presumably omitting much which could not be treated aetiologically.⁷⁸ That its worthiness, or rather unworthiness, as a source for earlier Roman history must have been recognised by the ancients, would seem to be implied by their neglect of it. For instance, when a query regarding the quaestorship of 146 B.C. arose in the correspondence between Cicero and Atticus,⁷⁹ recourse to the Annales Maximi is never mentioned although its title would suggest a comprehensive

75 P. Fraccaro, art. cit., p.60.

76 Cic. De Orat. II.53.

77 P. Fraccaro, art. cit., p.63.

78 E. Rawson, 'Prodigy lists and the use of the Annales Maximi', CQ 21 (1971), p.168.

79 Cic. Ad Att. XIII.30 and 32.

documentation of such information.

Another attested source of such material, namely a list of magistrates, is known to us however. Licinius Macer, used by Livy, referred to the libri lintei of antique origin as a source for his history.⁸⁰ It was housed in the Temple of Moneta, whose date of construction (344 B.C.) may not necessarily have a bearing on the date of the libri lintei's beginning. Its chronology differed from that of another source at Livy's disposal, namely the official Fasti, but that is of little import for the present purpose. What is of significance is that record-keeping of events which related to the Roman community as a whole, of both sacred and secular nature, was in the custody of the priestly colleges. This arose from their responsibility to guard valuable documents and bullion in temples, in the absence of state-appointed officials for this purpose. Record-keeping, although a prominent feature, was thus not exclusive to the priesthoods. The use of temples as repositories for archival records rather substantiates their role as guardians. We hear of no uniquely secular public-building housing these records of state until the construction of the Tabularium in 78 B.C..

Another feature that characterises Roman record-keeping is the non-distinction between private and official information. The family tabulina of the nobility are of especial interest here. In the absence of a state-archive to house documents of an official nature, such as memoranda of senate-meetings and memoranda of magisterial business, these commentarii came to be housed in the private tabulina of aristocratic office-holders. In this way, important state material was consigned to private responsibility: later in this study the ready fraudulent

⁸⁰ Livy IV.20.8.

possibilities which this absence of an official definitive record of such memoranda afforded, will be explored. Possibly, these records were kept to initiate sons into public life, in addition to serving as a check against later accusations. But the archives of the Roman nobility were also the repository of the family reputation. The busts of illustrious ancestors in the atrium, and the elaborate funeral ceremonies, testify to a degree of family pride unique to the Roman race.

In the enhancement of family reputation through political prestige or military exploits, against the background of inter-familial electoral rivalry, records were bound to be kept and cherished for future generations. The laudatio funebris and funerary elogium furnished opportune mediums of articulating such accounts for posterity as they glorified the achievements of the deceased and his ancestors. Coupled with the encomiastic devices of Roman oratory, the content would have been further enhanced even to the point of falsification. Those records were drawn upon by later historians, and as archival sources they furnished accounts of welcome detail, if biased and imaginative, of the glorious roles of their ancestors in the history of the Roman state. The bias and embellishments, if not plain falsities, of these records were recognised by writers in antiquity, such as Livy and Cicero. For example, in VIII.40.4, Livy stated that facts had been distorted by the great families, while in Praef.VIII, he recognised that poetical fables had also been woven into Roman history. An example of Roman historians' critical evaluation of the early sources is evident in XXXVIII.56.5 where Livy stated that even statues and monuments which contained inscriptions did not completely decide historical verities, and that pseudo-orations might even

pass for genuine.⁸¹ Cicero claimed that Roman history had become quite distorted by laudatory speeches at funerals, 'for much is set down in them which never occurred, false triumphs, too large a number of consulships, false relationships and transitions of patricians to plebeian status ...'.⁸²

The ready housing of official material in aristocratic tabulina reduced the necessity of establishing state-archives for these memoranda. Possibly it was even actively discouraged by the prestige-conscious nobility. Such documents tended to remain in private hands as late as Cicero's day, when he referred to records of the senate in its judicial capacity being retained by individuals.⁸³ Other state-documents originating from institutions of government, as opposed to individual magistrates, did have need of an official place of storage however.

The use of various temples instead of public buildings as repositories for such documents was a feature which continued throughout the Republic. One means of recording state-acts was the preservation of foreign treaties and alliances on bronze tablets, which ancient sources attest were publicised by being posted up at the Capitoline Temple of Jupiter,⁸⁴ the Aedes Saturni, and at the Aedes Fidei temple on the Quirinal.⁸⁵ The Aventine Aedes Cereris was the headquarters of the plebeian aediles, housing a treasury into which was channelled the property of those guilty of assaulting plebeian magistrates,⁸⁶ and

81 R.B. Steele, 'The historical attitude of Livy', AJP 25 (1904), p.16.

82 Cic. Brutus 62.

83 Cic. Pro Sulla 42, in the context of the Catilinarian conspiracy (63/62 B.C.).

84 Polybius, Histories III.26.1; SIG³ II.694; Suet. Vesp. 8.5.

85 Dio XLV.17.3.

86 Dion. of Hal. VI.89.3; X.42.4; Livy III.55.7.

the plebeian archive.⁸⁷ The Atrium Libertatis contained the offices of censors, certain census tablets, and some laws on bronze tablets.⁸⁸ Other censorial documents were housed in the Aedes Nympharum on the Campus Martius, which Clodius burned.⁸⁹ The chief temple repository used for state purposes was the Aedes Saturni, which functioned as the aerarium of the state.⁹⁰ Public documents were posted up on the temple's outer walls and adjacent columns.⁹¹ Throughout the Republic two urban quaestors functioned as state-treasurers, administering the treasury under the general supervision of the senate.

As the quaestors' duties entailed the recording of receipts and expenditures by the state, these quaestorial documents were kept in the treasury too. Its function as quaestorial record-office was thus the genesis of the Aerarium as the state-archives, in addition to being the treasury. It has been suggested that perhaps only bullion was kept in the temple and that the Aerarium's offices adjoined it, perhaps at the rear in the Area Saturni, until 78 B.C. when some at least of its records were transferred to the Tabularium.⁹²

A partial absorption of documents related to other departments of government gradually took place, for instance, certain censorial records. The nature of some of the censors' functions made such absorption natural: fiscal responsibilities, such as assessing taxes, farming them

87 Livy III.55.13.

88 Livy XLIII.16.13; XLV.15; Festus (241) claimed that the Atrium housed an archives of laws.

89 Cic. Pro Milone 73.

90 Livy attests that the Aerarium housed public funds, precious metals and military insignia from an early date, for example, in III.31.4; III.69.8; IV.22.2; VII.23.3.

91 Dio XLV.17.3; Varro, De Lingua Latina V.42.

92 S.B. Platner and T. Ashby, A Topographical Dictionary of Ancient Rome, p.464.

out to publicani, contracting for the construction of public buildings and roads, and maintaining an inventory of state-owned land, all generated financial records which were of relevance to the Aerarium.⁹³

In addition to these records, the Aerarium housed certain documents of the senate. There was no secretarial office, with public clerks, or archive, specifically attached to the senate in order to handle its documents and the registration thereof. As the senate was the highest council of state, records of its transactions and decisions were valuable and demanded preservation. The state-treasury was thus a fitting repository. And it is in this connection, as state-archives, that the Aerarium is mentioned most in our sources.⁹⁴ The use of the Aerarium at least by 189 B.C. to house state-documents of a non-financial nature, and the consulta of the senate, emerges in Livy XXXIX.4.9, which covers a dispute between the consul Marcus Aemilius, and the proconsul Marcus Fulvius over the latter's claim for a triumph after his victorious campaign against Ambracia. In Fulvius' denigration of Aemilius, he asked 'what justice could be expected from a man who had deposited in the treasury a decree of the senate passed stealthily and in a poorly attended meeting'.

In the first century B.C. Cicero referred to a liber containing senatus consulta passed in the consulship of Cn. Cornelius and L. Mummius, dating back to 146 B.C., which the Aerarium held.⁹⁵ This incidentally would also

⁹³ E. Posner, Archives in the Ancient World, p.171; cf. F.W. Walbank, A Historical Commentary on Polybius vol.I, pp. 694 - 5.

⁹⁴ Bound up with the development of public archives would have been the provision of bureaucratic support staff. See further Chapter II of this study.

⁹⁵ Cic. Ad Att. XIII.33.3: '... reperiet ex eo libro in quo sunt senatus consulta Cn. Cornelio, L. Mummio coss'.

indicate that the individual tabulae upon which the senatus consulta were written, were transcribed into continuous codices. Another much later reference⁹⁶ to liber sententiarum in senatu dictarum suggests that sententiae which did not become senatus consulta were also filed here. If the word sententiae referred to here has the force of 'decisions', they probably referred to senatus auctoritates. Although lacking the force of law which could only be granted by popular assemblies, these senatus auctoritates were nevertheless of sufficient note to warrant preservation.

The dual purpose of the Aerarium Saturni, to house the state treasury and both financial and non-financial documents, lasted until 78 B.C. when an adjacent building was constructed as a division of the Aerarium. This was the Tabularium, which, as the name indicates, was to be the new record-office of the state. No evidence for the division of functions between the two buildings exists. Until the quaestors were deprived of their treasury duties in Augustus' reign, from whence praefecti aerarii of praetorian rank were instituted, it would seem that the two quaestores urbani headed both the treasury and the archival administration.

The location of the Tabularium is not attested in the literary sources but archaeologically by the existence of two stone tablets.⁹⁷ These tablets honour Q. Lutatius Catulus (consul 78 B.C.) as having headed the construction of the building. The unusual choice of building material, Gabine rock, made the Tabularium fire-resistant, and indicates an awareness of the need to protect valuable state-documents. This precaution, as well as the building itself was possibly the result of a fire on the Capitoline

96

CIL VIII 23246.

97

CIL VI 1313; 1314.

in 83 B.C., which necessitated the re-building of the Temple of Jupiter, and may also have affected the Aerarium. It is not possible to infer from the archaeological remains of the Tabularium, of which only the first floor has survived, what the functions of this building were, but one may surely accept that its unusually functional name was related to its purpose, namely, as a repository for records.⁹⁸

In conclusion, we may observe a gradual concentration on the Aerarium Saturni as official state-repository, of all the diverse temple archival locations. This was in line with its development from being a purely quaestorial archive to a stronghold of important state-documents, until it came to be associated largely with the senate, containing not only senatus consulta, but probably also senatus auctoritatas and commentarii from provincial governors, in the absence of a specifically senatorial record-office.

The Tabulae

Throughout the Republican and Imperial periods under discussion, there are numerous literary references to wooden tablets as the common writing material at Rome. Few such tabulae have survived due to the perishability of wood. Widespread official use of tabulae in the machinery of Roman administration is indicated also in the literary sources, and was due possibly to their re-usability of their waxen surface; papyrus, by contrast, was not so easily re-usable. Tabulae were used for accounts,⁹⁹ lists

⁹⁸ Contra P. Culham, 'Archives and alternatives in Republican Rome', CP 84 (1989), p.102, who sees the primary purpose of the Tabularium's construction as 'an architecturally impressive terminus to the forum area' and as a sheltered public concourse.

⁹⁹ Suet. Div. Aug. 32.2.

of voting,¹⁰⁰ censorial registers,¹⁰¹ wills,¹⁰² and general public records.¹⁰³ The last reference concerns the need for finance in 210 B.C. for the war preparations against Carthage, and records that men were so ready to offer spontaneous contributions that the 3-man commission was not equal to the task of collecting the subscriptions, nor were the scribes to recording them. The word tabella, a diminutive of tabula,¹⁰⁴ was similarly used for these purposes. Wooden tablets remained the preferred writing material in Rome down to the end of the Republic and beyond, although papyrus was in common use in the Eastern Mediterranean. Possibly the cheapness and availability of wood in Italy contributed to the Romans' tenacity in this respect.

Roman tabulae were of two varieties. The surface of the tabula alba was painted white or covered with gypsum, and was written on with ink or paint. This variety was most commonly used from the earliest times for public notices. The word album frequently functioned as a metonymy for the whitened tablet. The use of this type of tablet for record-keeping of a less proclamatory nature, is seen in Cicero's usage of the phrase album referre meaning to enter in or record in, the public records.¹⁰⁵ Although its historicity is to be rejected, Livy claims that sacrificial instructions from Numa's commentarii were displayed to the public on just such a whitened board;¹⁰⁶ likewise Cicero's assertion¹⁰⁷ that from the beginning of the Republic the residence of the pontifex maximus, the Regia, allegedly sported a whitened tablet upon which

100 Cic. In Pis. 5.11.
 101 Livy IV.8.4; VI.27.6.
 102 Suet. Vit. 14.3.
 103 Livy XXVI.36.II.
 104 Plautus, Curculio III.412.
 105 Cic. De Orat. II.52.
 106 Livy I.32.2.
 107 Cic. De Orat. II.52.

events of public importance were written daily.¹⁰⁸ Public news of a more proclamatory character was also displayed in albo, such as the praetors' annual edicts¹⁰⁹, and later the imperial edicts. This incidentally, paralleled the Greek usage of λεύκωμα to publicise laws.

The second variety of wooden tablet was the cera or tabula cerata. Overlaid with a layer of wax, the surface of the tablet was protected by a surrounding frame and was inscribed upon with a stylus. The literary references to this waxen variety indicate possibly its more frequent archival usage.¹¹⁰ The word cera was used as a metonyme not only for tabula, but also for page or leaf.¹¹¹ Writing tablets of two leaves (diptycha), three leaves (triptycha), or even more (polyptycha), were formed by joining separate tablets with two hinges. As such they could also be designated tabellae duplices. This made up a caudex or codex,¹¹² that could be further bound with a thong (codex ansatus).¹¹³ The so-called Anaglypha Traiani dating from early second century A.D., presently situated in the Curia, shows these codices in official usage.¹¹⁴ This commemorated an amnesty granted by Hadrian in A.D. 118, whereby records of debts owing to the Aerarium and Fiscus were burnt, and depicts bundles of these wooden codices containing debt records being stacked up for the

108 Cic. De Orat. II.52.

109 Seneca, Ep. 48.; also Paulus, Sent. I.1.t.14; and Quintilian XII.3.11.

110 For example; Plautus, Asinaria IV.763; Curculio III.410; Horace, Ep. I.62; Livy I.24.7; Suet. Div. Iul. 83.

111 This is apparent in Suet. Nero 17; Horace, Serm. II.5.54; Cic. II Verr. I.36.

112 Cic. II In Verr. I.46.

113 CIL X 7852 = ILS 5947 (Proconsular decree in Sardinia, A.D. 68).

114 S.B. Platner and T. Ashby, A Topographical Dictionary of Ancient Rome, p.454.

fire.

The use of bronze tablets or those of other material for specifically archival consignment is nowhere attested, except in two examples which are clearly unfounded: Pompey's bill concerning provincial governors' tenures was allegedly inscribed on aes and deposited in the Aerarium;¹¹⁵ and imperial speeches had apparently by the end of the third century A.D. long been kept in books of ivory.¹¹⁶ The use of bronze tablets for purposes of record-keeping occurred only in the context of publication and commemoration of foreign treaties, etc, and were permanently posted up, for instance, on the walls of temples.¹¹⁷ This is clear from Suetonius' account of how Vespasian 'undertook to restore the three thousand bronze tablets (aerearum tabularum) which were destroyed with the temple ... regarding alliances, treaties, and special privileges granted to individuals'.¹¹⁸ Appian mentions too that when the Roman treaty with Antiochus III of Syria was ratified in 189 B.C., it 'was engraved on a bronze tablet and deposited on the Capitol (where it is customary to deposit such treaties).'¹¹⁹ The use of bronze tablets in this more public usage will be further discussed under the chapter to follow.

115 Suet. Div. Iul. 28.3.

116 Historia Augusta : Tacitus 8.2, 'Nam diu haec senatus consulta quae ad principes pertinebat in libris elephantinis scribebantur.'

117 Even though the published bronze tablets may have been the definitive versions of documents rather than the texts in the Aerarium: see P. Culham, CP 84 (1989), p.100.

118 Suet. Vesp. 8.5.

119 Appian, Syrian Wars 39.

CHAPTER II

2. SENATUS CONSULTA IN REPUBLICAN HISTORY

2.1 THE SENATORIAL BACKGROUND

The Republican constitution in Polybius' account (c.140 B.C.) is represented as an ideal mixture of monarchic, aristocratic, and democratic elements.¹ In reality, however, the era under discussion by Polybius marked the climax of the senate as the constitutional stronghold of aristocratic domination, as the chief policy-making body which had been largely unopposed until this time. Thereafter the emergence of new tensions in the current 'aristocracy',² threatened this stronghold from within, and was characterised by exploitation of the long-standing rivalry amongst the orders. Leaders with popularis stances were elected to the tribunate and with massed support challenged the domination of the senatorial ordo by pushing through bills against the senate's wishes. As an ultimate gesture of independence from senatorial tradition, tribunes began also to exercise their potential to impeach other magistrates. To understand so-called Roman Revolution of the Late Republic which resulted from this challenge to senatorial supremacy, it is necessary to examine first the nature of this supremacy.

The social history of the Roman Republic reflects essentially the tenacious will of the nobility to preserve the domination of their class in all aspects of civil life.

¹ Polybius, Histories VI. 11-18.

² The concept of 'aristocracy' needs careful examination due to its changing composition and the effect of current trends. See P.A. Brunt, 'Nobilitas and Novitas,' JRS 72 (1982), pp.1-17. For the present purpose a broader definition of 'aristocracy' has been adopted.

The resulting group-solidarity safeguarded for centuries their monopoly of government, while screened by the bulwark of tradition, they pursued a vision of politics unique to their class - the social prestige of magisterial office, the auctoritas and dignitas that status alone could confer. Through intermarriage, adoptions, amicitiae, the noble houses formed alliances amongst themselves which served to increase their influence in decision-making and their hold on the electorate through expanded clientela.³

The Republican constitution functioned as a vehicle for the acquisition of prestige in aristocratic ranks, providing place and office for the members and supporters of the leading factions. Struggles for ascendancy in the senate were thus rooted in a factional context, without which no support would be forthcoming, since political and familial connections, with consequent clientela, and wealth, were the prerequisites for any aspirant. Prosopographical study⁴ has uncovered the nexus of personal loyalties holding various noble houses together,⁵ showing the real if unpublicised basis of Roman public life in these political combines that were the sources of power through which election to office and legislative political action were largely initiated and controlled.⁶ The political infra-structure comprising these aristocratic combines was the entrenchment of upper-class interests. The constitutional system perpetuated this status quo in such a way, that what the res publica signified in political terms had meaning only for the

³ E.S. Gruen, The Last Generation of the Roman Republic, p.47.

⁴ For example, by Münzer, Gelzer, Syme, Badian.

⁵ B. Twyman, 'The Metelli, Pompeius, and prosopography', ANRW I.1, p.828.

⁶ T.R.S. Broughton, 'Senate and senators of the Roman Republic: the prosopographical approach', ANRW I.I, pp.253, 258.

upper-class.⁷ Later it will be seen how the Republic came to be the aristocratic interpretation of preservation of their interests in the ideology of Republicanism, which provides an emphatic historical assertion of the final synonymy of constitution with aristocratic supremacy.

Apart from this, there were insurmountable barriers of inequality separating the voting public from the ruling class, which had resulted from the dexterous ways in which the nobility ensured the handicapped status of the plebeian masses. The Roman franchise and its rights belonged to every adult male citizen, yet the electoral, legislative, and judicial procedures were such as to negate its meaning. The system of clientela was a significant element in this handicapped status, circumscribing the voters' choice, as a client reciprocated his patron by ceding his political birthright.

The so-called Roman Revolution which effected ultimately the disintegration of the Republic, was marked by the disappearance of that identity of interest amongst members of the ruling class, which would formerly have checked the rise of any demagogues in its ranks. Direct canvassing of the plebeian populace through the appeal of popularis policies challenged the traditional system. The solidarity of the ruling class was undermined and its supremacy was endangered.

7

Contra F.G.Millar, 'The political character of the classical Roman Republic, 200-151 B.C.', JRS 74 (1984), pp.1-19; 'Politics, persuasion and the people before the Social War (150-90 B.C.)', JRS 76 (1986), pp.1-11.

2.2 PROCEDURE AND STORAGE OF SENATUS CONSULTA

The function of the senate, in strictly legal terms, was to advise the annual magistrates. Constitutional procedure entailed that the senate be convened by a magistrate with imperium, or later, a tribune, who would preside over the proceedings. He would present a relatio and by way of discussion would request sententiae from his senatorial colleagues, in order of seniority. It was these sententiae that represented the wish or will of the senate. Voting then took place concerning the sententiae that had been expressed. The voting represented the majority view of the senate, and having requested the advice of this illustrious body, a magistrate was morally bound to follow its instructions. Yet, theoretically, the senate was an advisory council, and so its consulta were also theoretically only advisory. The senatus consulta⁸ had no legislative standing, unlike the leges. The synonymy of expediency and constitutional procedure may be observed here. Since the whole senate was the consilium of higher magistrates, its considered consulta represented the wishes of the highest council of state. The authority wielded by prestige - the collective dignitas of this council - was to Romans as valid as that wielded by constitutionally conferred office. A SC therefore embodied an authority that few magistrates who had requested it, would ignore; or indeed, in the Roman context of expedient politics, would generally wish to. By the power of intercessio or obnuntiatio, any one of the ten tribunes could veto a SC, but even then it was called a senatus auctoritas, and still wielded influence.

The development of the senate's authority had paralleled the development of Rome as a superpower in the Mediterra-

⁸ Senatus consultum will henceforth be designated SC.

nean. As the demands of knowledge in finance, foreign affairs, military activities, constitutional questions, formulation of charters for coloniae and drafting of leges provinciae increased. It fell to the senate to undertake these responsibilities on behalf of the Populus Romanus. The SCC mentioned in literary sources such as Livy, reflect the many aspects of the senate's activities in these areas.⁹ Until 61 B.C., when the meeting-days of the senate were regulated by the Lex Pupia,¹⁰ senators were liable to be summoned on almost any day of the year. Business in the Curia continued even on the dies nefasti, unlike other organs of government, and this reflects the importance of the senate's availability.

The procedure of formulating SCC remained constant throughout the Republic. After the senate meeting, the relator of a proposal would commit to written form the decision of the consilium, with the help of witnesses. This could even be completed at the relator's home, according to Cicero.¹¹ The number of senatorial witnesses appear usually to have been two or three,¹² but by the end of the Republic the requirement of seven to twelve witnesses was normal.¹³ The basic structure of the SC remained unaltered down to the Principate, when serious modifications were introduced.¹⁴ It comprised four main sections: the prescript, the theme, the full motion and the mark of approval.

The prescript contained the name and rank of the presiding magistrate/s, followed by the phrase senatus consulit,

⁹ R. K. Sherk, RDGE, introduction p.4, footnote 1.
¹⁰ Cic. Ad Qu. Fr. II. 11 (12).3.
¹¹ Cic. Ad Fam. IX.15.4.
¹² See further R.K. Sherk, RDGE, introduction pp.7-8.
¹³ B. Levick, 'The senatus consultum from Larinum', JRS 73 (1983), p.100.
¹⁴ See further R.K. Sherk, RDGE, introduction pp.7-8.

the day and month of the sitting, the place, and the witnesses' names. The theme contained the relatio presented by the magistrate and his reasons for doing so, following the formula 'quod (relator's name) verba fecit de ...'. This was followed by the full motion which, in strictly legal terms, was the advice rendered by the senate to the magistrate who had requested its opinion. As merely advice, it would be couched in appropriate language. If instructions were included, they were encased in the formula 'si ei/s videbitur' or 'ita uti ei/s e republica fideve sua videatur ..',¹⁵ The senate's approval was then signified by censuere or merely 'c'.

After the SC had been transcribed by the relator and witnesses, it was not returned to the senate for confirmation. This meant that there was no official verification of the senate's decision, and possibly interpretation thereof, in the wording of the decree. Rather, the responsibility lay with the relator of the decree simply to register it at the Aerarium as a state-act once he had compiled it on the senate's behalf. It would then be filed away in the state-archives. This act of depositing a SC at the Aerarium was a procedure known as deferre ad Aerarium.¹⁶ It served to validate a decree and give it legal authority. The almost irrevocable legal standing afforded a state-decision by its registration at the Aerarium may be glimpsed even in Imperial times.¹⁷ In A.D.21 Tiberius was to order a ten-day interval between the passing of a decree on a judicial matter, and its registration¹⁸ : this was probably to give him sufficient time to study a decree while absent from Rome in ^{Campania,}

¹⁵ R.K.Sherk, RDGE, introduction p.8.

¹⁶ Livy XXXIX 4.8; Tac. Ann. III.51.3; XIII.28.3; Suet. Div. Aug. 94.3.

¹⁷ See further chapter V of this study.

¹⁸ Tac. Ann. III.51.3. It is unclear whether the time stipulation applied only in the case of judicial decisions.

but it nevertheless indicates the legal finality of a SC once it was filed in the Aerarium.

The Jewish historian Josephus likewise substantiates this stamp of validity that a SC acquired on registration.¹⁹ A decree concerning re-affirmation of the privileges of the Jews had been passed by the senate on Julius Caesar's instigation in Feb 44 B.C.. Although passed with senatorial approval, its failure to be registered in the Aerarium according to correct procedure rendered it invalid, hence the necessity of re-applying later to the consuls of 44 B.C. to have the senate confirm Caesar's original decision. The importance of the Aerarium as the registry-centre of SCC, in the absence of any such office attached to the Curia, is clear.

The fraudulent possibilities with which deferre ad Aerarium was fraught, were apparently recognised by the ancients but seemingly little was done to improve the procedure. Livy recorded that as early as 449 B.C. SCC were to be delivered to the aediles of the plebeians at the Temple of Ceres, because 'up to that time they were wont to be suppressed or falsified at the pleasure of the consuls'.²⁰ Thus the plebeian archive, as mentioned earlier, was to act as a check on the aristocracy, keeping perhaps only the decrees of relevance to the plebeians.

In 189 B.C. a dispute arose between the consul Marcus Aemilius and the proconsul Marcus Fulvius concerning the latter's claim for a triumph after the victorious campaign against Ambracia. As stated above, Livy related Fulvius' scathing rhetoric concerning Aemilius, in asking 'what

¹⁹ Josephus, A.J. XIV.219-222, esp 221.
²⁰ Livy III.55.13.

justice could be expected from a man who had deposited in the treasury a decree of the senate passed stealthily and in a poorly attended meeting ...'.²¹ Whatever the verity here, contemporary awareness of latent opportunities to abuse the senatorial procedure of passing SCC is apparent.

In the Late Republic, falsification of senatorial decisions would appear to have become politically lucrative. Plutarch attests that '... though many used improper methods to get writings filed with the quaestors, and though previous quaestors had been accustomed to receive false decrees at the request of those they wished to please', M. Porcius Cato stood out as quaestor urbanus because '... though many testified to the fact, he would not believe them, nor would he file the decree away until the consuls had come and taken an oath to its validity'.²² The facility with which such falsifications could be carried through indicates a lack not only of safeguards, but of communication between the different spheres of government.

The frequency of fraud in dealing with state-documents was evidently paralleled elsewhere. In 62 B.C. the Lex Licinia Julia laid down an important safeguard concerning bills of legislation under discussion.²³ A copy of the proposed bill was to be lodged in the Aerarium to preclude unauthorised changes in the text while it was being discussed. The need for such a preventive measure suggests that a fraudulent situation was being directly addressed. As it dealt with legislation, which was in the sphere of the popular assemblies' activities, the Lex Licinia Julia had popularis overtones in line with its proposers'

21 Livy XXXIX.4.8.
 22 Plut. Cato Minor 17.3.
 23 Cic. Ad Att. II.9.1; IV.16.5.

stance. The absence of a similar law regarding texts of SCC under discussion cannot imply absence of the need for one, as the above literary references indicate.

Another instance of falsification, this time by omission instead of commission, occurred a few months before Augustus' birth in 63 B.C.. According to Julius Marathus, a portent occurred at Rome foretelling the birth of a king for the Roman people. The senate thereupon decreed that no male child born that year should be reared. But those senators with pregnant wives, being secretly hopeful, saw to it that the decree was not filed in the Aerarium.²⁴ This SC was therefore without effect as it was without the authority that only registration at the Aerarium could give. The potential to falsify senatorial decisions during their passage of transcription from senate-meeting to Aerarium, seems to have remained unchecked in Republican times. Our evidence becomes more obscure when we consider the further procedures of registration and subsequent storage of SCC at the Aerarium. At this point it may be profitable to attempt a reconstruction of the staff organisation at the Aerarium, as background to the process of classifying incoming documents.

At the head of the Aerarium in Republican times were the two quaestores urbani, amongst whose duties, financial and administrative, was the receipt of SCC, as illustrated in Plutarch's account of Cato above. After this formality the quaestors' authority seems to have been nominal, and through the sources later we shall glimpse the powerful role of their subordinate functionaries, the scribae, who as professional scribes seemed to hold considerable sway over what happened in the Aerarium. Scribes were state-employed officials, and unlike the *δημόσιοι* of the Greek

²⁴ Suet. Div. Aug. 94.3

cities, they were not public slaves but citizens. The existence of a civil service, in late Republican times at the least, may be seen through a fragment of the Sullan law dealing with the twenty quaestors and their staff of viatores and praecones, the Lex Cornelia de XX quaestoribus.²⁵ The portions of this document which are most relevant to the present purpose are no longer extant, and we may assume that the missing sections must have dealt with the clerical grade of scribae. The sub-clerical grades of viatores and praecones were apparently organised into decuriae which were attached respectively to the various magistracies. The decuriae of the quaestores, which concern us here, numbered three each of scribae, viatores, and praecones. The tasks of the latter two grades were more mundane and not of great relevance to the subject under discussion. The three decuriae scribarum served in the Aerarium annually in rotation.²⁶ After the Sullan reforms, each decuria comprised twelve members, and when serving in the Aerarium as scribae librarii quaestorii, each scribe had a full staff of librarii subordinate to him.²⁷ Epigraphic references substantiate this picture. For example, CIL VI 1815 with 32266 mentions a scriba librarius quaestorius trium decuriarum, and in CIL II 3596 reference is again made to a decurialis scribae librarii quaestorii trium decuriarum.

The method of an official's appointment to a magistrate is unclear because of conflicting evidence.²⁸ Pliny mentions that a provincial quaestor drew his scriba by

25 CIL I 202.

26 A.H.M. Jones, 'The Roman civil service', Studies in Roman Government and Law, p.154.

27 R.K.Sherk, RDGE, p.18.

28 A.H.M. Jones, op. cit., p.155.

lot²⁹ as if from a pool, a typical Republican arrangement. This is confirmed by Cicero's description, '... scribas item universos, quos cum casu hic dies ad aerarium frequentasset, video ab exspectatione sortis ad salutem communem esse conversos'.³⁰ In the Verrines however, Cicero records that Verres' scriba had served him successively as legate, praetor, and propraetor,³¹ and must therefore have been chosen by Verres and not allotted to him. This scriba of Verres was nevertheless clearly a member of the ordo scribarum and enrolled in a decuria.³² After a scriba or any other such state-employed official was nominated as a member of a decuria, usually by the magistrates of the college which he served, he had a freehold in his office and could be removed only for misconduct.³³ Membership of a decuria seemed to symbolise status, with lucrative opportunities if attached to a provincial quaestor. Thus, although it did not offer continuous employment, it was a prestigious membership. In relation to the specific functions of the scribae and other clerical staff at the Aerarium, our evidence peters out into generalities. Nevertheless through the literary examples to follow, the entrenched power of these officials is displayed with its consequences on the safeguarding of state-documents under their management.

As a complimentary aside in the Verrine Orations, Cicero refers to the public scribes, that, (scribarum ordo) 'est vero honestus, quod eorum hominum fidei tabellae publicae periculaque magistratum committuntur ...'.³⁴ Although this account concerns the scribae who were allocated to the quaestors for provincial service, and deals exclusive-

29 Pliny, Ep. IV.12.
 30 Cic. In Cat. IV.15.
 31 Cic. II Verr. III.187.
 32 Ibid.
 33 A.H.M. Jones, op. cit., p.155.
 34 Cic. II Verr. III.183.

ly with their keeping of financial records, these scribae belonged to the same decuriae as those who remained at the Aerarium and on annual rotation might serve there as well. At the Aerarium, financial and non-financial records were entrusted to the scribae. This reference provides little enumeration of their exact duties, but does indicate their important responsibility for the state-records. This is confirmed in Plutarch's account of the feud between the diligent quaestor Cato and his subordinates, the scribae,³⁵ who were clearly used to being in control and resented his interference in what they regarded as their sphere. Because the quaestorship was an annual magistracy, and the occupants were young and inexperienced, the scribae were far superior in administrative knowledge and experience. This technical superiority lent opportunity to fraudulent practices amongst the scribae themselves, which Cato had found himself up against.

These deficiencies in the quaestorial administration of the Aerarium had their effect on the lower ranks of librarii (copyists) and other apparitores too. Cicero implies this disquieting independence of the Aerarium staff concerning the leges: 'We have no guardianship of the laws, and therefore they are whatever our apparitores want them to be; we get them from the librarii, but we have no official records'.³⁶ Beyond the rhetoric, it is apparent that the exercise of authority and reciprocal accountability between the quaestors and their staff was absent. Although the copying of leges, as opposed to SCC, is in question here, it is most likely that the latter, as with all other state-documents housed in the Aerarium, followed the same procedure and was also under the administration of subordinate staff. Elsewhere Cicero seems to confirm

³⁵ Plut. Cato Minor 16.2; 17.

³⁶ Cic. De Leg. III.46.

this picture as he refers to the practice of commissioning someone in order to find out certain information from the book containing the SCC which had been passed in 146 B.C.,³⁷ The first part of the relevant paragraph in Cicero's letter is missing therefore certainty as to who was to be commissioned is not permissible; one may conjecture that it referred to a clerk in the Aerarium.

After the quaestor's receipt of a SC inscribed on a tabula, it was presumably handed over to subordinate staff for filing. The evidence points to the retention of these tabulae in the archives as the original copies. At some later stage the tabulae could well have been copied into a liber, as the Ciceronian illustration above indicates.³⁸

Examination of some aspects of the SC de Asclepiade³⁹ of 78 B.C. yields some evidence of the filing system at the archives. The subject matter of this decree concerns certain privileges accorded three Greek naval officers as amici populi Romani, in recognition of their service to the Roman state during the Italic War. Whether this referred to the Social War of 90-89 B.C. or the Civil War of 83-82 B.C. is not stated, but the name of the proposer provides a clue. As consul of 78 B.C. the proposer Q. Lutatius Catulus may well have been a Sullan, a likelihood supported by the fact that his father had been a victim of Marius. As Sulla had not been able to reward his soldiers in the period 87-82 B.C., Lutatius may have been doing this on Sulla's behalf. These privileges were fiscal, juridical, and honorary, and benefitted the three officers and their children and descendants.

³⁷ Cic. Ad Att. XIII.33.3 (45 B.C.).
³⁸ ibid.

³⁹ In R.K. Sherk, RDGE, no. 22, p.125 = CIL I 588.

This SC was inscribed in Latin and Greek on the same bronze tablet. It followed the set format of Republican practice, but with the exception of the first three and final two lines of the accompanying Greek translation, which one may assume reflected the format of the missing opening section of the Latin text. These lines are engraved in larger letters than the rest of the text, which could accentuate the point that they were not part of the original decree itself. This feature is apparent in reverse on the extant tablet of the so-called SC de Bacchanalibus of 186 B.C. where the consular letter to the Teurani which introduces the SC is in a smaller script.⁴⁰

On the basis of the Greek text of the later decree, the missing Latin version has been reconstructed, and in the heading it names the consular year and month when the SC was decreed: 'Co(n)s(ulibus) Q. f. Catulo et M. Aemilio Q. F. M. n. Lepido, pr(aetore) urbano et inter peregrinos L. Cornelio ...f, Sisenna, mense Maio'. The date of the consulship of Q. Lutatius Catulus and M. Aemilius Lepidus is known to have been 78 B.C., and the text proper of the decree shows that the former was responsible for proposing this measure in the senate. The reference to the month of May duplicates the date given in the text proper, namely a.d. XI k. Iun. in line two. In the absence of any other likely reason, this would seem to point to an archival procedure. The decree was passed on 22 May and must have been deposited in the archives before 1 June in order to have the qualifying phrase, mense Maio, of line two in the Latin text. From this we can glean that SCC were registered on receipt and classified for storage in monthly divisions within the consular year.

Whether the dating on this tablet derived from the Aerarium or from the three Greek beneficiaries who were respon-

⁴⁰ CIL I 581. See A.E. Gordon, Illustrated Introduction to Latin Epigraphy, plate 6 no. 8.

sible for its publication, has however been a subject of scholarly dispute.⁴¹ But the issue seems to have been resolved on consideration of the two types of filiation, respectively Latin and Greek, apparent in the text. The three Greeks who erected the tablet also inscribed their own names in the last three lines, according to established practice. These names follow the Greek method of filiation, namely the simple genitive, without the addition of *υἰόν*. By contrast, the prescript which ends with the reference to 'the month of May' gives the Roman names in the strictly correct Roman way. Likewise in the body of the text the names of the Greek officers are transcribed in the Roman manner, for example, in lines 6 and 10, *Ἀσκληπιάδην φιλίνου υἰόν κλαζομένιον...*. The presence of *υἰόν* is Roman practice, not Greek, and indicates that the prescript and body of the text were a careful copy of the wording of the original Latin text. Thus the postscript, which reflects the Greek practice of filiation, was appended subsequently, probably by the three Greek officers. Latin grammatical practice here shines through the Greek translation, and this would point to a Roman origin. Since applications for official copies of decrees were addressed to the Aerarium, it may be assumed that competency for authoritative and official translations would likewise reside with the Aerarium staff. If the Aerarium was indeed the Roman origin of the Latin filiation apparent in the Greek translation of the SC, then this office-information of consular year and month was clearly of archival significance. By naming the tablet's archival classification, the location of the original in the Aerarium was indicated. Further, the purpose of its transcription on an official copy of the

⁴¹ P. Willems, Le Sénat de la République Romaine, II (Louvain - Berlin, 1883), p.218; cf. L. Gallet, Revue historique de droit français et étranger, 4^a ser. 16 (1937), pp.255-264, cited by R.K. Sherck, RDGE, pp.131-132.

decree and later on a bronze tablet, may well have been to vouch for its authenticity and accuracy.⁴²

Similar information which was clearly not part of a decree itself, is given in other extant documents. For example, the SC de Aphrodisiensibus⁴³ of 39 B.C. wherein the first three lines formed a heading to the copy inscribed on the tablet: [Ἐπὶ Γαίου Καλουσειοῦ Γαίου υἱοῦ, Λευκίου Μαρτίου Λευκίου υἱοῦ ὑπάτων, ἐκ τῶν ἀνε[ν]εχθέντων δογμάτων συνκλήτῃ, δέλτῃ [? πρώτη κηρώμασι τετάρτῃ, π]εμπτῷ, ἕκτῃ, ἑβδόμῃ, ὀγδόῃ, ἑνάτῃ, ταῖς δὲ τεμιακκαῖς δέλτοις ἐπὶ Μάρκου Μαρτίου- [..... c. 18 τεμια]ῶν κατὰ πόλιν δέλτῃ πρώτη, ...

This excerpt makes it clear that two official records of SCC were kept, presumably at the Aerarium, namely the book in which the original tablets of SCC were filed upon receipt at the Aerarium, and the quaestorial book of records into which they were later transcribed.⁴⁴ That this SC was apparently to be located in the first tablet of the quaestorial records, demonstrates that these records must have been kept in monthly sub-divisions. This must have been the first tablet for the month of October, as J. Reynolds concludes⁴⁵ that it is impossible that the first tablet of the year should carry a S.C. dated 2nd October in a year of much senatorial business following Mark Anthony and Octavian's decision to have their acta ratified by SCC, according to Dio.⁴⁶ The probability of monthly sub-divisions could also be extended to the receipt-book of SCC because the numeration was continuous throughout the year. The number of waxed

42 R.K. Sherk, RDGE, introduction p.10.
 43 J. Reynolds, Aphrodisias and Rome, p.57.
 44 J. Reynolds, *op. cit.*, p.65.
 45 J. Reynolds, *op. cit.*, p.66.
 46 Dio XLVII.34.1.

sides cited in the extant part of 1.2 is also too low for a SC passed at that time of the year.⁴⁷ Evidence from this SC would thus confirm the information pointing to monthly sub-divisions of records which the SC de Asclepiade contained in the words 'μηνὸς Μκίου'.

Likewise, Josephus records a decree⁴⁸ with information extraneous to the content thereof:

Δόγμα συγκλήτου ἐκ τοῦ ταμείου ἀντιγεγραμμένον ἐκ τῶν δέλτων τῶν δημοσίων τῶν ταμειυτικῶν κοίντῳ Ῥουτιλίῳ Κοίντῳ Κορνηλίῳ Ταμίαις κατὰ πόλιν δέλτῳ δευτέρῳ κηρώματι πρώτῳ.

Here reference is made to the quaestorial records, tablet and column, from which the relevant decree concerning Jewish privileges was to be copied. Josephus' transcription of this decree, confirming a formerly unregistered decree, includes evidence again of two separate sets of records, namely the set containing original tablets of SCC registered at the Aerarium, and the quaestorial set of (in this account, two-leaved) tablets into which the original text had been copied:⁴⁹

ἀνενεγκεῖν τε ταῦτα εἰς δέλτους καὶ πρὸς τοὺς κατὰ πόλιν ταμίαις ὅπως φροντίσωσι καὶ αὐτοὶ ἐν δέλτοις ἀναθεῖναι διπτύχοις.

Further, the SC de Panamara⁵⁰ of 39 B.C. contains an irregularity in the set format of a decree, which similarly points to Roman archival practice. This is the dating by consular year in lines 3-5:

47 J. Reynolds, op. cit., p.66
 48 Josephus, A.J. XIV.219.
 49 Referred to in A.J. XIV.221.
 50 R.K. Sherk, RDGE, no.27, p.158.

νν Λευκίῳ Μαρκίῳ Κησωρίνῳ καὶ Γαίῳ Κκλουησίῳ
 ὑπάτοις πρὸ ἡμερῶν δεκκοκτῶ κκλκνδῶν ζεπτενβρίων
 ἐν τῷ νκῷ τῷ τῆς Ὀμονοίας.

In addition to dating by year and month, the wooden tabulae in the archives were also numbered on receipt and apparently stored according to that system. This is shown in the decree of L. Helvius Agrippa of A.D.68. '.... ex codice ansato L. Helvi Agrippae procons. ... tabula V VIII/et VIII et X (II. 2-4)'.⁵¹ Unfortunately, archival terminology is inconsistent in the Greek, which is the language of the majority of the extant texts. The SC de Agro Pergameno,⁵² contains a reference to δέλτος ὁ Β γ κ[ηρωμα--], again naming codex, tabula, and cera. But in the SC aliaque acta de Oropiorum et Publicanorum Controversias⁵³ of 73 B.C., for instance, discrepancies are apparent in the use of the Greek δέλτος. In line 31 δέλτος translates as codex, but in line 58 of the same text, it signifies tabula.⁵⁴ Confusing terminology must therefore render a fuller knowledge of the details of the archival filing system at the Aerarium impossible.

2.3 PUBLIC ACCESS

Access to official documents lodged in the Aerarium be-tokened the ability to influence events. Thus the question arises to whom such details of state-business would have been of interest. The instances of forgery mentioned in the preceding section occurred at the behest of members of the governing class. No such attempts by members of the general populace are recorded. It was the furthering of individual political interests within the governing class that resulted in these illegalities concerning

51 CIL X 7852 = IL5 5947.

52 In R.K. Sherk, RDGE, no. 12, line 20, p.64.

53 R.K.Sherk, RDGE, no 23, pp.134-135.

54 See further, R.K. Sherk, RDGE, introduction pp.10-11, footnote 20.

state-documents. Similarly the Lex Licinia Junia of 62 B.C., which prohibited alteration of the wording of bills under discussion,⁵⁵ was aimed at the upper, political class which had the knowledge to tamper with such texts.

During the Struggle of the Orders it apparently sufficed that a plebeian archive gave the tribunes access to SCC, as representatives of the general populace. In the period from 146 B.C. under discussion, we know of no general public, meaning plebeian, access to state-documents, nor even a demand for such access. If this access existed for the common plebeian, we have no reference to its usage. But perhaps direct access was not necessary. Details of regular official business were known to popularis tribunes who acted as channels of enlightenment in inciting popular assaults on the bulwarks of senatorial authority in the Late Republic. The popular backing given to popularis politicians was based on the public's belief that they were safeguarding popular rights, and this would explain why the general public had little need of direct access to state-records. In the Late Republic the terms 'Popularis' and 'Optimate' emerged to distinguish between two respective sources of political support. Despite this rift, the members of the governing class were motivated by the same ambitions as before, and to them, details of state-documents were of prime interest, the working material of their quest for greater prestige and power. Indeed, the instances of public access recorded in the literary sources all relate to members of the governing class, and reflect their political interests.

The prosecution of one L. Alenus who forged an admission card⁵⁶ demonstrates that access to this archival material

⁵⁵ Cic. Ad Att. II.9.1; IV.16.5.

⁵⁶ Cic. De Nat Deorum III.74, '... cum chirographum sex primorum imitatus est'.

depended on permission. The authorization of this card was not the responsibility of the quaestores urbani in charge of the Aerarium, but of the six chief scribae, the sex primi who headed the three decuriae of quaestorial scribes. Permission for this privilege was termed potestas inspiciendi describendique.⁵⁷ Possibly a man's status could render such permission superfluous, since we hear of no permission being granted to Cato Minor, who had a copy compiled of all the state finances since Sulla's day, for his own private use.⁵⁸ Possibly his magisterial position afforded him this access; but that permission had been granted is implicit in the fact that a commission of five talents was payable for the tabulation. The practice of commissioning someone, presumably on the Aerarium staff, to copy information from the state-records, could substantiate the Ciceronian reference mentioned earlier, wherein Atticus is advised to adopt this course in his investigation of the magistrates in office in 146 B.C..⁵⁹

Apart from the indirect access through the commissioning of a copyist, there is evidence of direct consultation of the state-records themselves. Again in the thorough execution of his duties as a senator, Cato Minor is reported to have sent his slaves daily to the Aerarium to transcribe the latest records of the state's financial business.⁶⁰ That admission, even if restricted by permission on application, was vulnerable to misuse is suggested by certain incidents in the Late Republic. In the context of the political violence of the Late Republic,

57 Cic. Pro Balb. 14.32, that loss of civil rights arising from conviction in a criminal trial meant one was debarred from consulting the laws; Plut. Cato Minor 18.5.
 58 Plut. Cato Minor 18.5.
 59 Cic. Ad Att.XIII.33.3.
 60 Plut. Cato Minor 18.5.

Cicero successively accused Publius Clodius⁶¹ and his henchman Sextus Clodius⁶² of setting fire to the Aedes Nympharum in order to destroy certain records of the censorial archives lodged there. Cicero himself was not above reproach, since Plutarch alleges that he entered the archives during Clodius' absence from Rome and destroyed certain tabulae of the tribunes, containing their records of office and specifically, material favourable to his rival Clodius.⁶³ An extreme lack of administrative control and security is evident, despite the potestas inspiciendi describendique, if state-documents could even be destroyed on the premises of the Aerarium. This was recognised by none other than Cicero himself when he bewailed as mentioned earlier, 'we have no custody of the laws and therefore they are whatever the apparitores want them to be; we have to ask the copyists for them, but we have no memory confided to the public records.'⁶⁴

From these references, permission to have access to the state archives would seem to be either ad hoc or ad hominem or ex officio, and actual access in Rome seems to have been solely of interest to, and in reality only achievable by, the upper-class section of the populace. Access upon application by the provincial public to these records is attested in the many copies of SCC published locally in the Near East, and significantly, the documents so published were not of general import, but related specifically to the interests of a region, city, or an individual. This will be discussed in the next section.

61 Cic. Pro Milone 73.
 62 Cic. Pro Caelio 76.
 63 Plut. Cicero 34.
 64 Cic. De Leg. III.46.

2.4. PUBLICATION

Public announcement of information relevant to the general populace seems from the earliest Roman times to have been both written and ^{oral}. The practice of renuntiatio by the sub-clerical grade of praecones in the public service,⁶⁵ is attested well into Imperial times; while the alleged official publication of Numa's sacrificial and other religious prescriptions,⁶⁶ and the posting of the pontifical alba outside the Regia 'ab initio rerum Romanarum',⁶⁷ have already been noted. The tradition of such pontifical alba suggests that it was transmitted by men familiar with the written method, which implies that it may have been the practice in the Late Republic to post up notices of current political measures affecting the general public, for its perusal. If this took the form of a SC, the magisterial relator would be responsible, in the name of the senate, for publicising the contents,⁶⁸ just as magisterial edicts were posted up by those responsible.

The earliest extant SC is the SC de Bacchanalibus,⁶⁹ dating from 186 B.C.. The inscription which informs us of this SC is not simply the text of the SC, but is actually a letter from the consuls of 186 B.C. to the Teurani notifying them of the senate's decision to outlaw the Dionysian cult, and making careful provision for the publication of the SC for the general public. Probably

65 As in Livy XLIII.16.8. For their existence on the quaestorial staff, see the Lex Cornelia de XX quaestoribus in CIL I 202.

66 Livy I.20.5.

67 Cic. De Orat. II.52.

68 As in the SC de Bacchanalibus of 186 B.C. = CIL I 581.

69 CIL I 581. According to line 3 of the text, the ruling applied to all foederatei. Livy (XXXIX.17.4) indicates that it was to be operative in Rome and the rest of Italy.

the threat to social order posed by the cult warranted official publication of the senatorial decree. The instructions entailed that the decree was to be engraved on a bronze tablet and posted up in a public place. In addition, it was to be publicly proclaimed on three successive market days in conventionis.

Despite this recorded instance of the publication of a SC, which obviously affected many ordinary citizens and non-citizens, one may question whether the senate felt any responsibility to publicise to the lower non-political classes, details of state-business that by design and by tradition fell outside of the latter's realm of consideration, such as finance and foreign affairs. Since its consulta were officially advice to the magistrates who requested it, this seems to have precluded its publication as a state-order which in effect it was. Nevertheless, Suetonius records the destruction of three thousand bronze tablets on the Capitol during the civil strife of 69 A.D.. Vespasian apparently undertook to restore these, making a thorough search for copies. These tablets were the 'most ancient records of the empire, containing the decrees of the senate and the acts of the commons almost from the foundation of the city, regarding alliances, treaties and special privileges granted to individuals'.⁷⁰ Suetonius' enumeration of the various types of content is valuable, because at first sight these tablets could be interpreted to be SCC on all matters referred to the Senate.

To deal first with the SCC regarding treaties mentioned by Suetonius. When Rome concluded foedera with foreign states or cities, a copy of the treaty was made for both parties for publication in their respective capitals. Evidence from the Greek East attests two significant

⁷⁰ Suet. Vesp. 8.5.

points in this respect.⁷¹ SCC were passed for the authorising of these foedera, and secondly, they were published alongside the treaties in the Near East. It is therefore probable that the same practice occurred in Rome, whereby treaties were posted up on the Capitol accompanied by the authorising SCC, so it is these SCC to which Suetonius is referring. This is confirmed in the text of the treaty between Rome and Pergamum or maybe Elaea⁷² of 129 B.C., which states: ἀνκκειμένο[υ] δὲ ἐ[ν Ρώμη]ι ἐν τῶι ἱερῶ[ι τοῦ] Διὸς τοῦ Καπετωλ[ίου πί]νακος [χ]αλκο[ῦ καὶ] ἐν αὐτῶι κατατετα[γμένων] τοῦ [τε γε] γονότος | [δ]όγματος [ὑ]πὸ τῆς [συγκλήτ]ου περὶ τῆς συμμα[χ]ίας, ὁμοίως δὲ καὶ τῆ[ς συνθήκ]ης κτλ.

The reason behind the senate's publication of SCC relating to treaties was not to involve the general public in its decision-making processes, but rather to advertise to Roman citizens the triumphs of Roman diplomacy. Publication also served as a visible record that could be checked by citizens from the other state signatory to the treaty. The publication in Rome of a SC relating to a decision to sign a treaty would thus have been on the senate's initiative and at state expense.

Another example is the SC de Aphrodisiensibus⁷³ of 39 B.C. which belongs to a dossier of archival documents inscribed on stone in the agora of Aphrodisias. This SC confirms the granting of privileges by Marcus Antonius in recognition of the community of Plarasa-Aphrodisias' loyalty to Rome during the Parthian invasion of the East under Q. Labienus in 40 B.C.. These privileges entailed the status of friend and ally of Rome, freedom from

⁷¹ R.K. Sherk, RDGE, introduction p.11.

⁷² Quoted in R.K. Sherk, RDGE, p.12. footnote 24 = SIG³ no. 694.

⁷³ R.K. Sherk, RDGE, no.28, p.163.

levies, immunity from all taxation, and other honours including the inviolability of its sanctuary of Aphrodite.⁷⁴ The decree ordered that copies of both itself and the accompanying treaty were to be inscribed and published on the Capitol as well as in Plarasa-Aphrodisias (line 92); two copies in fact were to be kept in Aphrodisias. This latter provision had long precedent in the Republic.⁷⁵ For example, in lines 29 seq. of the Pergamene treaty, two copies were to be set up at Pergamum, one in the temple of Demeter and one in the Bouleuterion. From this it is possible to draw a parallel and suggest the restoration of a missing word in the text of the SC de Aphrodisiensibus. One copy of this SC and accompanying treaty was probably set up in the sanctuary of Aphrodite, as the focus of not only religious but also political sympathy;⁷⁶ the second venue, like that in the so-called Piracy Law found at Delphi,⁷⁷ could well have been the agora. In this law ἐν ἀγορᾷ is an alternative venue of publication to ἐν ἱερῶ, which would support the restoration of the missing word⁷⁸ in the SC de Aphrodisiensibus' text, as ἀγορκίς.

The other type of SCC mentioned by Suetonius, concerning privileges to individuals, does not however appear to have been an official publication. This is indicated by the SC de Asclepiade⁷⁹ at line 25, wherein senatorial permission is specifically granted to either or both of the two consuls to set up a bronze tablet ἐν τῷ Καπετωλίῳ on behalf of the three beneficiaries of the decree. That this was done at the expense of the beneficiaries is

⁷⁴ Later referred to in Tac. Ann. III.62.

⁷⁵ See above SEG XV 762.

⁷⁶ J. Reynolds, *op. cit.*, p.91.

⁷⁷ FIRA I.9. lines 20f, cited in J. Reynolds, *op. cit.*, p.91.

⁷⁸ J. Reynolds, *op. cit.* p. 91

⁷⁹ R.K.Sherk, RDGE, no.22, p.127. = CIL I 588.

supported by the fact that the final two lines of the inscription contain their names in larger letters and must have been appended to the decree on their own initiative.⁸⁰ The SCC concerning privileges to individuals that Suetonius refers to, must have been erected similarly at private expense on the Capitol by the individuals concerned. Such a method of advertisement was a common feature throughout the provinces, and accounts for the large number of senatorial decrees which have been found in the Near East. The extant decrees from the Near East were not of general import but characteristically related to specifically local interests, and were sometimes accompanied by a covering letter from a consul or praetor.⁸¹ These decrees were official copies of the originals, originating from the Aerarium in Rome. Usually Greek translations, they were sometimes engraved with their Latin counterpart, as in the case of the SC de Asclepiade of 78 B.C.

The question arises at this point as to who was responsible for the Greek translation of the Latin copies. Since the copies were erected at private expense, they were not official publications. But R. Sherk has noted that the Greek translations of these Latin documents show a remarkable consistency in phraseology and vocabulary,⁸² and this would seem to reject the possibility of the local Greek provincials translating a Latin text. However well the provincials were educated, individual or regional linguistic traits would be reflected. More specifically, the occasional color latinus would point to the likelihood of a Roman origin for the Greek translations. On the

⁸⁰ R.K. Sherk, RDGE, introduction p.12, and p.131.

⁸¹ See further R.K. Sherk, RDGE, nos. 4, 7, 8, 14, 18, 20, 23, 26, 28.

⁸² Contra J. Reynolds, *op. cit.*, who comments on the inconsistency in the way in which Latin formulae were translated into Greek.

basis of the evident uniformity in method and technique in the translations above, it is probable that they were official translations.⁸³ The only place where a continuity of translation style and vocabulary was achievable, and where indeed the technical knowledge of drafting state-documents resided, was the Aerarium with its staff of professional scribes.⁸⁴ As R.K.Sherk points out, there was no Republican counterpart to the later ab epistulis of Imperial times: the closest would have been the personnel employed in the Aerarium.⁸⁵

Apart from the senatorial decrees of provincial significance, the two varieties of SCC mentioned by Suetonius, (namely the senatorial ratification of treaties and the privileges granted to individuals) as well as the SC de Bacchanalibus which of necessity demanded official promulgation - we have no literary or epigraphic evidence of the vast mass of other types of SCC being published, whether privately or officially, in Republican times. That these other types must have been numerous may be deduced from the tremendous amount of public business transacted almost daily in the senate. In the context of Republican politics, it was clearly preferable to the governing class that knowledge of much of this business remained their monopoly. Non-publication of state-business, however mundane in content, had a political value in that it entrenched state-affairs as an upper-class preserve. The subject of publicity and confidentiality of state-business and the records thereof was of immediate relevance to the supremacy of the governing class. As such, it readily accounts for the absence of general publications of state decisions by the senate on behalf of the Populus Romanus.

83 R.K. Sherk, RDGE, introduction p.13.

84 R.K.Sherk, RDGE, introduction pp.18-19.

85 ibid.

These political implications were only underlined by Julius Caesar's order in 59 B.C. that senatorial business be henceforth publicised. In motive and effect it was a calculated popularis gesture aimed at undermining the senate's assumed authority.

CHAPTER III

3. SENATORIAL BUSINESS DURING THE CIVIL WARS

The Civil Wars in which the Republic disintegrated, were essentially factional conflicts. New forces were unleashed into the political arena, and as the latent power of military patronage was realised as a means to political supremacy, the conventional intrigues and internal rivalries between factions in the ruling class, which had formerly constituted political life in the Republic, were overshadowed by the newer, more violent conflicts. The validity of the traditional Republican constitution as the battleground for factional disputes in fact was rejected. For the hereditary aristocratic ruling class, this meant the overthrow of their ancestral supremacy, which, based on alliances and wealth, was no longer relevant in the revolutionised socio-political situation where military clientela substituted for aristocratic combines, and armed conflict for circumscribed political machinations.

The factional conflict between Julius Caesar and Gn. Pompey which heralded the Civil War of 49 B.C. centred on constitutional issues, namely the date at which Julius Caesar's governorship of Gaul was to be terminated, and whether a candidate for a consulship might be allowed to stand for election in absentia. Nevertheless at the time it was interpreted in terms of the familiar morality of power and competition for prestige amongst leading aristocrats. Coupled with the suddenness of the precipitating events in 49 B.C., it precluded a broader vision of the magnitude of the issue at stake. For the issue came to be the survival of the existing socio-political structure, the political system constructed out

of vested class-interests, the Res Publica of the Roman aristocracy. The most immediate effects of the Civil War at Rome was the suspension of traditional state-business, first, through the majority departure of Pompeian senators to Brundisium at the beginning of 49 B.C., and then, in the political vacuum thus created, Julius Caesar's repeated appointment as Dictator, probably rei publicae constituendae causa, with the commission legibus scribundis.¹

Through Caesar's relations with the three organs of Republican government, the senate, magistrates, and people, the extent of the disruption of constitutional procedures may be gauged. Because of his freedom from the tribunician veto as dictator, the role of the Populus Romanus was restricted, and so their tribunician protectors were curbed by the man who in 49 B.C. had adopted a popularis stance in defence of tribunician rights. As will be illustrated later, the laws passed during this time were either through partisan tribunes in the popular assemblies, or were on the strength of his commission legibus scribundis. The electoral activities of the assemblies appear to have been likewise circumscribed through Caesar's presidency, the presence of his military clientela, and the absence of outspoken opponents in Rome.²

Caesar's control of political appointments would have restricted the exercise of political liberty by the upper class, and the results of the magisterial elections from 49 B.C. to 44 B.C. would therefore unambiguously reflect the success of Caesarian adherents. In 48 B.C. Caesar was

¹ Caesar's first dictatorship is known to have been to conduct elections, the rest were probably rei publicae constituendae.

² CAH vol.IX (1st ed), p. 731.

voted the power to select all the curule magistrates.³ As late as Oct 46 B.C., after Munda, Cicero was referring to Caesar's arrangements for candidates for office, questioning whether one Celer was to be elected to office in the usual way by voting on the Campus Martius or was to be nominated by Caesar in Spain.⁴ In addition to the numerous promotions to pro-magisterial appointments such as provincial commanders and legates, Caesar also appointed M. Antonius as his Master of Horse in Rome ensuring that the city would remain under Caesarian control during his frequent absences on the battlefield. Given the current state-of-emergency, M. Antonius' powers were nonetheless extensive and those of a dictator, as Cicero's correspondence shows.⁵

With regard to senatorial business, and specifically the passing of SCC, the new autocratic element was particularly evident. In Caesar's exercise of his dictatorial prerogative, even in his consular duties, the senate's traditional deliberative and advisory role was nullified. Caesar formulated his decisions as state-acts privately and in the company of his friends and secretaries, not in the senate. The function of the senate, comprising predominantly Caesarian partisans, was merely to act as a means of record and publication, and so the formality of an affirmative vote by the senate might be observed, but this was not even the rule, as Cicero discovered.⁶ In Ad Fam. IX.15.4, Cicero complained that he found himself the recipient of thanks from foreign kings for supporting and witnessing favourable SCC, at the passing of which he was absent and in ignorance. However

³ Dio XLII 20.4.

⁴ Cic. Ad Att. XII.8 (intercalary month 46 B.C.).

⁵ Cic. Ad Att. X.10, stating that M. Antonius had specific instructions from Caesar to allow nobody whatsoever to go out of Italy (3 May 49 B.C.).

⁶ R. Syme, The Roman Revolution, p.55.

rhetorical in expression, Cicero attests therefore not only the suspension, but an un-Republican disregard, of traditional senatorial procedures that was not warranted by the current state-of-emergency. Caesar's example was apparently followed by his successor M. Antonius, as Cicero in Ad Fam. XII.29.2 claims. Here Cicero declares that all the SCC deposited at this time (the months following the Ides of March) were forged. In respect of the necessity of registering such decisions as state-acts at the Aerarium, conventional procedure of acquiring this stamp of validity was strictly adhered to, and the opportunities for fraud so prevalent during the Republic likewise continued.

A brief mention of some legislation passed in Rome during these years will reflect the extent of Caesarian control over the Republican organs of government and their procedures. The literary sources tend to emphasise business in which Caesar was involved, which, given the circumstances is not unexpected. Therefore one needs to allow for a volume of routine business that went on without his control and is not accounted for in these sources. Measures passed by the senate and popular assemblies were of particular relevance to Caesar's position of supremacy. The absence of overtly expressed opposition meant that these measures could be partisan and exclusively advantageous to Caesar. This is clear from the conferment on Caesar in 48 B.C. of the extraordinary power to select all the curule magistrates, as mentioned above.⁷ In the assembly, the tribune M. Antonius effected the restoration of exiles who had been condemned under the Pompeian law of 52 B.C.,⁸ as well as the sons of those proscribed under Sulla.⁹ The support from

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8
9

Dio XLII. 20.4.

Cic. Phil. II.98; Ad Att. X.4.8 (14 April 49 B.C.).

Dio XLI.18.2; XLIV.47.4; Suet. Div. Iul. 41.

those quarters that would accrue thus to Caesar, indicates the political motive behind these two measures. Conversely, bills to disadvantage Caesar's opponents were also passed in the assembly, for example, the tribune A. Hirtius' proposal in 48 B.C. that penalties be instituted against Pompey's supporters.¹⁰ Apart from Caesar's extraordinary tenures of the dictatorship on the appointment of the popular assembly, several unique measures honouring his constitutional position are recorded. These include the dispensation, as early as 48 B.C., of not having to report back to the senate or the people on the use of his troops;¹¹ the measure that magistrates were to swear to uphold the validity of Caesar's acta;¹² and the oath taken by all senators in 44 B.C. to protect his person.¹³ The traditional processes of the senate and assemblies through which these measures were formally conducted, served to elevate them above partisanship and in fact constitutionalised their factional aspect. As such, they demonstrate Caesar's indirect control of governmental processes.

Despite Caesar's known imperious attitude as early as 49 B.C.,¹⁴ and his largely unconstitutional position from 48 B.C. onwards, the legislation passed up to 46 B.C. may be said to have been not un-Republican in itself. From 45 B.C. to 44 B.C. however, a trend towards autocracy is clearly perceptible in the measures elevating Caesar to an unprecedented quasi-monarchic position. In the brief factional peace after the final annihilation of Pompeian forces at Munda in March 46 B.C., there was apparently no

10 cf. Dio XLII. 20.1.

11 Dio XLII.19.3 - 20.5.

12 Appian, Bell. Civ. II.106.

13 Appian, Bell.Civ. II.124 and 145; Suet. Div. Iul. 84.2; 86.1.

14 Apparent in his declaration that all (senatorial) authority shall proceed from himself, in Cic. Ad Att. X.4 (14 April 49 B.C.).

question of a return to pre-Civil War political traditions. Cicero's correspondence contains an ambiguous reference to Caesar's anticipated arrangements with the electoral candidates for 45 B.C., implying that finality rested with Caesar in these matters. It seems that elections for 45 B.C. were suspended until Caesar's return from Spain.¹⁵ In his absence, his Master of Horse, M. Aemilius Lepidus, administered Rome on his behalf with the aid of Prefects.¹⁶ Having no Republican precedent, their insignia nonetheless included the lictors, dress, and curule chair, like those of the Master of Horse. Two of them undertook the state's financial administration in the absence of quaestors, and the others performed the duties of the curule aediles. They were not replaced by the Republican magistracies until Caesar had returned to preside over the curule elections.¹⁷

After Munda, Caesar made no apparent attempt through his presumed dictatorial commission rei publicae constitutendae causa¹⁸ to adapt the constitution to safeguard it against any further coups d'état. The partisan legislation of this period tended rather to concentrate on elevating him to unique positions of honour, distancing his dictatorship still further from the constitutional authority on which it was based. The surviving aristocrats, both Caesarians and pardoned Pompeians, came to see in the suspension of normal political operations only a subversion of Republican tradition, according to which the political system was the vehicle to the acquisition of prestige consonant with their ancestral class. But this suspension was not the only prominent dictatorial prerogative: it was Caesar's

15 Dio XLIII.48.1, restricts this only to the quaestors.

16 Dio XLIII.48.1.

17 T.R.S. Broughton, MRR vol. II, p.313.

18 The exact purpose of his dictatorship, whether rei gerendae or rei publicae constitutendae causa, is disputed.

willingness to be perpetual dictator and to use his powers to transform the traditional character of Republican government in his own interests. The ancestral preserve of the Roman nobility was being opened to admit non-Romans and even non-Italians through the Dictator's expansion of the senatorial order, eventually to 900 members, although often through the Republican cursus honorum. This supranational cultivation of the Empire's upper-class presented to the Roman aristocracy, which had hitherto always enjoyed pre-eminence in the Empire,¹⁹ the prospect of being submerged as a political class. Not only did this threaten to impose a new character on the senate, but these new members owed their position and allegiance to the Dictator. His own support base was thus strengthened, and as such, his factio would represent the government and his supremacy be assured. Suetonius catalogued the ways in which Republican laws and traditions were flouted,²⁰ and culminated his account with Caesar's claim that the Republic 'was nothing, a mere name without body or form.'²¹ Although a mere name, it was the name of a system in which his fellow aristocrats' interests were hereditarily vested: the preservation of these interests was central to their ideology of Republicanism, and the object of Caesar's assassination.

The Ides of March 44 B.C. did not however bring with ^{them} resumption of the free workings of the Republican organs of government. Vested interests in Caesar's order, through magisterial office and provincial command, held sway after his death as the surviving consul M. Antonius' artful presentation of alternatives to the senate revealed. After reminding the senate that almost all its members had held office under, or were designated to do so

¹⁹ M. Gelzer, Caesar: Politician and Statesman, p.278.

²⁰ Suet. Div. Iul. 76.

²¹ Suet. Div. Iul. 77.

by, Caesar, M. Antonius stated, 'If you are willing to resign these offices (for this is entirely in your power), I will put that question to you first'.²² The senators' response was immediate and telling: 'They rose immediately en masse, and with loud clamour protested against new elections or submitting their claims to the people. They preferred to keep a firm hold on what they possessed.'²³

A precarious balance between the Caesarians and Republicans was achieved during the following months, but according to Cicero only a month later, 'The tyranny lives though the tyrant is dead!'²⁴ From Cicero we know that the very things which made Caesar hated were being upheld as law, that even the consuls and tribunes for two years to come were to be of his original choosing, that '... nothing could be more topsy-turvy than to belaud the slayers of the tyrant to the skies and to defend the tyrant's acts'.²⁵

While apparently respecting traditional Republican procedure, the Caesarian consul M. Antonius circumvented a return to pre-Civil War practice by having the acta of the Dictator authorised with the force of law. These acta were exploited to include unpublished material found in Caesar's commentarii, possession of which Antonius had earlier secured from Caesar's widow. Cicero is our main source for this period, and illustrates the stages of development in the exploitation of these acta. On March 17th, Caesar's acta were expediently ratified by the senate, and Cicero commented on M. Antonius' honesty that 'nothing then but what was known to all men was being

²² Appian, Bell. Civ. II.128.

²³ Appian, Bell. Civ. II.129.

²⁴ Cic. Ad Att. XIV.9.2 (17 April 44 B.C.).

²⁵ Cic. Ad Att. XIV.6.2 (12 April 44 B.C.).

found in Caesar's notebooks'.²⁶ By April, Cicero was lamenting to Atticus over the failure of Brutus' intentions, namely that all Caesar's acts, notes, words, promises, and projects had more validity than if he were himself alive.²⁷ He exclaims, 'We could not bear to own Caesar^a as our master, but we bow to his notebooks'.²⁸ Later in May, Cicero adds, 'Now we can't move an inch without being pulled up by a reference to Caesar, not only his measures but his intentions'.²⁹

Apart from Caesar's unpublished acta, forgeries under cover of his alleged intentions were also presented. Cicero described in his correspondence how M. Antonius posted up in return for a massive bribe, a law allegedly carried by Caesar in the popular assembly that the Sicilians become Roman citizens, an intention which apparently was never mentioned in Caesar's lifetime.³⁰ Elsewhere Cicero declared that 'things that Caesar neither did nor ever would have done or permitted to be done are now brought out from his forged memoranda'.³¹ Not only did M. Antonius forge acta, decrees, and treaties in Caesar's name,³² but in Cicero's view his house had become a veritable factory of forged note-books, signatures, and tax-exemptions, by the Dictator.³³ Elsewhere in Cicero, beyond the rhetoric, a glimpse is afforded us of the new unconstitutionalism under the consul's vicarious ascendancy. According to M. Antonius, Caesar had actually demanded that his and his colleagues' decrees as contained in writings and note-books should

26 Cic. Phil. I.2.
 27 Cic. Ad Att. XIV.10.1 (19 April 44 B.C.).
 28 Cic. Ad Att. XIV.14.2 (27 April 44 B.C.) Penguin edition.
 29 Cic. Ad Att. XIV.17.6 (4 May 44 B.C.) Penguin edition.
 30 Cic. Ad Att. XIV.12.1 (22 April 44 B.C.).
 31 Cic. Ad Att. XIV.13.6 (13 April 44 B.C.) Penguin edition.
 32 Cic. Phil. V.12.
 33 Cic. Phil. II.36..

remain valid.³⁴

Among the legislation for which M. Antonius claimed the authority of Caesar's acta, were bills benefiting social groups and client communities. The reciprocal benefit to M. Antonius requires no amplification.

For example:

- the law granting land to Caesarian veterans³⁵;
- a Lex Antonia adding a third panel to the juries, comprising centurions without census ratings³⁶;
- a law to recall exiles³⁷;
- the law (mentioned above) granting Roman citizenship to all Sicily;
- the law restoring kingship rights to Deiotarus of Galatia³⁸;
- the law relieving Crete of vectigalia.³⁹

The granting of favours to individuals was another expedient use to which Caesar's note-books were put. In M. Antonius' correspondence with Cicero, he refers to Caesar's memorandum to him concerning the recall of an exile, Sex. Cloelius, at Antonius' own petition.⁴⁰ Likewise, C. Cassius Longinus is informed by his friend Cicero that a relative of his had 'found soothing syrup in Caesar's fresh memoranda'.⁴¹ Similarly, in Ad Att. XV.26.1, Cicero mentions a rumour that one L. Piso wanted to go on a mission with a forged decree of the senate.

Through all this, runs the theme of M. Antonius'

34 Cic. Phil. VIII.26.

35 Cic. Phil. V.27.

36 Cic. Phil. I.19-20.

37 Cic. Phil. II.98; Dio XLV.25.2; Appian, Bell. Civ. 57.

38 Cic. Phil. II.93-94; Ad Att. XIV.12.1 (22 April 44 B.C.).

39 Cic. Phil. II.97; Dio XLV.32.4.

40 Cic. Ad Att. XIV.13A (22-25 April 44 B.C.).

41 Cic. Ad Fam. XII.2.2 (September 44 B.C.).

expediency. According to him in one instance, he felt he had a duty to uphold Caesar's memorandum.⁴² It is possible to generalise from this specific occasion because under the cloak of this duty, M. Antonius' primacy at Rome was perpetuating the suspension of public business. Caesar's example with regard to the passing and registering of senatorial decrees, was followed likewise by M. Antonius. Cicero refers to a notorious decree presented by one Sempronius to which he was allegedly witness, when at the time he was absent from Rome, and another decree alleged by rumour to have been witnessed by a mutual friend, L.Lamia.⁴³ Cicero then assures his correspondent that all the decrees of the senate deposited at this time were forged.

In spite of M. Antonius' political primacy at this time as leader of the Caesarian factio, he was clearly aware of the value, if not necessity, of military support. As early as May 44 B.C., he was known to be doing the rounds of Caesar's veterans, encouraging them to stand by Caesar's measures and to take an oath to that effect.⁴⁴ Three days later Cicero writes of the rumour that soldiers had collected secretly for a forthcoming senate-meeting, and that it seemed to him that senators would be safer anywhere than in the Curia.⁴⁵ The meeting in question was the decisive one of the Kalends of June, on which a commission of senators was to have been formed to review Caesar's memoranda, and the acta produced therefrom.⁴⁶ The formation of such a commission was apparently one of the terms of the SC that had originally ratified Caesar's

42 Cic. Ad Att. XIV.13A (22-25 April 44 B.C.).

43 Cic. Ad Fam. XII.29.2 (Spring 43 B.C.).

44 Cic. Ad Att. XIV.21 (11 May 44 B.C.).

45 Cic. Ad Att. XIV.22.2 (14 May 44 B.C.).

46 Cic. Phil. II.100; Ad Att. XVI.16 A.6. (3-6 July 44 B.C.). and 16C.II.2 (after 6 July 44 B.C.).

acta. By this SC the two consuls, M. Antonius and P. Cornelius Dolabella, had been authorised to review, with the participation of a special commission, measures in Caesar's memoranda which he had intended but not published. The battle over Caesar's papers culminated at this senate-meeting on the Kalends of June when M. Antonius successfully carried a motion which nullified the earlier SC, by appointing the two consuls only as the commission. Cicero's scathing description of M. Antonius surrounded by armed men at this senate meeting,⁴⁷ after his aforementioned tour of the veterans' colonies, explains the senate's preferred oversight of this original stipulation.

The era of the domination of Caesar's notebooks with the precarious balance between Caesarians and Republicans, was superceded by the rise of C. Octavianus, Caesar's nephew, with his summons to the veterans to avenge their Emperor's death. With this, factional conflicts among Caesar's successors broke out and perpetuated the use of military force to decide a political issue. The battlefield replaced the forum as the political arena, and thus the civil wars continued.

The extent to which the institutions and therefore procedures of the Republic remained active in the preceding period, indicates the control of legislative procedure by the Dictator, and then vicariously by his successor M. Antonius for the furtherance of his own interests. Formalities of senatorial legislation were observed, although they were accomplished through an arbitrary exercise of autocratic power. The introduction of the military as a decisive force in Republican politics could not be reversed, and although under the shadow of

⁴⁷ Cic. Phil. II.100.

this threat, the evidence does demonstrate that Republican procedures, particularly regarding the passing and registering of senatorial decrees, were still deemed necessary for their validity as state acts.

The regime of M. Antonius was succeeded after further factional manoeuvres between Caesar's successors, by the appointment of the Tresviri rei publicae constituendae in Nov.43 B.C., subsequent to C. Octavianus' successful march on Rome in quest of the consulship. The tribunician Lex Titia through which the Triumvirate was established is only referred to briefly by Appian,⁴⁸ and so evidence regarding the extent of their constitutional powers is rather limited. The regime of the Triumvirs was recognised in terms as constitutional as Caesar's dictatorship. But unlike the latter the Triumvirate was superimposed on, and did not replace, the institutions of the res publica.⁴⁹

This could have been because their focus was on their extensive military activities in the East against Brutus and Cassius, and also because neglect of Republican niceties could be exploited to his own advantage by any member of the Triumvirate against another. Military force however had proved a sure political guarantee, as it had imposed the Triumvirate on the Republican constitution, and so through the proscription of their enemies and their appointment of the city magistrates, the Triumvirs effectively controlled the political life of Rome. The Triumvirs' relationship with the three traditional organs of government, the senate, magistrates, and people, was similar to that of Caesar, although they showed a marked concern to have their actions constitutionally approved

⁴⁸ Appian, Bell Civ. IV.2.7.

⁴⁹ F.G.B. Millar, 'Triumvirate and Principate', JRS 63 (1973), p.61.

and ratified.⁵⁰ The opportunism underlying this concern is demonstrated in the flagrant illegalities and arbitrary use of force that characterised the regime, and the occasions of violent interference in the magistrates' duties.⁵¹

A brief survey of the workings of the Republican institutions of this era will demonstrate the extent to which Republican procedures were still honoured, and the degree to which the traditional institutions were subject to the individual powers of the Triumvirs. There is a marked absence of extant legislation at Rome from this period, possibly accounted for by the greater importance of the various factions' military activities in the East in the sources. We do hear of magistrates carrying out their traditional duties, such as sacrifices,⁵² games and festivals,⁵³ and the construction and dedication of public buildings,⁵⁴ thus we may assume that routine business of an unimportant nature, viz. that which was of indifference to the Triumvirs, continued to be dealt with by the senate.⁵⁵

There is evidence that the consuls and other magistrates carried through important business for which senatorial ratification was still solicited, although such business was usually of political relevance solely to the Triumvirs. This opportunistic use of traditional procedures to officialise business of a non-routine and scarcely Republican nature, was fostered for the

50 F.G.Millar, art. cit., p.54.

51 See further F.G.Millar, art. cit., pp.50-51.

52 Dio LI.21.1-2.

53 Dio XLVIII.32.4; Vell. Pat. II.79.6; Dio XLVIII.20.1.

54 Dio XLIX.42.2 - Aem. Lepidus Paullus, suff. con. of 34 B.C., dedicating the Basilica Aemilia; Dio XLIX.43.1 - on aedile Agrippa's building program of 33 B.C..

55 For example, the senatorial ratification of Herod's kingship of Judaea in 40 B.C. (Josephus, A.J. XIV.386-389).

constitutional aura it afforded such business. For example:

- In 42 B.C. the consul Munatius Plancus twice proposed a decree for safe-conduct for L. Antonius. Admittedly this was on the instigation of his brother, M. Antonius, but it does illustrate an attempt to use and preserve traditional procedures.⁵⁶
- In 41 B.C. the senate decreed that Marcus' brother, L. Antonius, a factional opponent of Octavian, was an enemy of the state.⁵⁷
- In 40 B.C. on Octavian's instigation the senate condemned to death for treachery Q. Salvidienus Rufus, a military commander of Octavian's forces, and once a protégé consul.⁵⁸
- In 40 B.C. senate decreed in the formula of a SCU that the Triumvirs were to have the cura of the city.⁵⁹
- In 39 B.C. senate ratified all the acta of the Triumvirs to date.⁶⁰
- In 32 B.C. the consuls C. Sosius and Cn. Domitius Ahenobarbus opposed Octavian on the issue of the publication of M. Antonius' Alexandrian Donations. According to Dio, M. Antonius wanted this document to be ratified by the people,⁶¹ and thus publicised. In the deteriorating relationship between the two Triumvirs the consuls were known to have been supporters of M. Antonius. Soon afterwards, they and three hundred other senators left Rome to join M. Antonius in Ephesus. This incident highlights the importance attached to official records, and that

56 Appian, Bell. Civ. IV.37.

57 Florus II. 16, cited by F. Millar, art. cit., p.54.

58 Dio. XLVIII.33.2-3.

59 Dio XLVIII.33.3.

60 Dio XLVIII.34.1.

61 Dio XLIX.41.4.

access to any form of publication was a matter worth fighting for.

- In 30 B.C. the senate, or rather the remainder thereof, declared M. Antonius a public enemy, in the context of the propaganda war between Octavian and M. Antonius.⁶²
- In 30 B.C. the suffect consul had the responsibility of publicly announcing M. Antonius' death.⁶³ Although not strictly a magisterial necessity, this act served opportunistically to ally the constitution and the state with Octavian, in what was in reality a factional struggle.

Important state-business of a factional dimension was thus carried through the senate as well as business of a typically Republican nature. The continuation of traditional routine procedures is notable in both types of business. This display of respect by the Triumvirs for Republican formalities in state-business, and thus for the traditional constitution, was not difficult when the city-magistrates were their own personal nominees, and exploitation of the political institutions could be accomplished under constitutional guises, with the Triumvirs' praetorian cohorts lingering in the background of Rome. The Triumvirs' power of appointment became in time a currency of patronage, which in tandem with the proscription of political dissidents, acquired an opportunistic flavour in the scramble for promotion. This in turn served well in consolidating the Triumvirs' extra-constitutional power over the political scene.⁶⁴

In relation to the functions carried out by the popular assemblies during the Triumvirate, although the electoral

⁶² Appian, Bell. Civ. IV.45.

⁶³ Appian, Bell. Civ. IV.51.

⁶⁴ See further E.G. Millar, art. cit., p.52.

procedure appears to have been superceded by the Triumvirs' right of appointment, there is evidence of legislative activity. This commenced with the tribunician Lex Titia of 43 B.C., which established the powers of the Triumvirate,⁶⁵ and also gave a legal basis to the proscriptions. The Lex Munatia Aemilia was likewise in the Triumvirs' favour, granting them the right to confer Roman citizenship and grant immunitas⁶⁶; further laws decreed the deification of Julius Caesar and confirmed other honours, including the oath taken by all senators to maintain his acta. The assemblies' compliance with Triumviral wishes must have been virtually guaranteed because M. Antonius sought its ratification even in 32 B.C. for his Eastern arrangements.⁶⁷

The continuation of public business through the assemblies and senate is therefore substantiated by our sources. Likewise, it is clear that this public business was conducted under the shadow of the Triumvirs who were not averse to using violence to achieve their ends. Therefore the use of traditional procedures during these years in no way indicates a resumption of normal political life.⁶⁸ One may reasonably expect that this traditionalism would have extended to the hallowed formalities of registering and storage of state-decisions undertaken by assemblies and senate. The keeping of official records and the validity acquired by registration, served to give constitutional sanction to the most unconstitutional decisions. This is particularly evident in the public proclamation of the proscriptions of 42 B.C., which opens with the conventional terminology of an edict,⁶⁹ by

⁶⁵ Appian, Bell. Civ. IV.2.4-7.

⁶⁶ Referred to in R.K. Sherk, RDGE, no. 58i, p.295 = CIL XVI 11 = IGLS III 718.

⁶⁷ T.R.S. Broughton, MRR vol. II, p.358.

⁶⁸ F.G. Millar, art. cit., p.54.

⁶⁹ Appian, Bell. Civ. IV.2.8ff.

virtue of Octavian's imperium consulare.⁷⁰

Valuable evidence that the keeping of public records continued in its usual role in the government of the provinces, is given in the SC de Aphrodisiensibus⁷¹ of 35 B.C.. The heading to this document contains references to the public archives in Rome, indicating the normal operation of the state's administrative machinery at this clerical level. Similarly, the Epistula ad Plarasenses et Aphrodisienses,⁷² and the accompanying SC (39 - 35 B.C.), which responded to a request from the above communities for official copies of various documents from the archives in Rome. Although it is not conclusive whether M. Antonius or Octavian was the author, the SC demonstrates the authority of Triumviral decrees even in the provinces, which one would expect to be beyond the sphere of their imperium consulare. Lines 3-6 state: 'Whatever rewards, honours, and privileges which the triumviri rei publicae constituendae by their own decree have apportioned or will apportion, have granted or will grant to the people of Plarasa-Aphrodisias, all are to be valid'.⁷³ Detailed administrative niceties were clearly of constitutional importance to the Triumvirs, as the Epistula Octaviani de Seleuco Nauarcha of 36-34 B.C. shows.⁷⁴ This letter ordered the Syrian city of Rhosus to file in its public archives the document granting Roman citizenship to one of its citizens, and in addition to send copies of Octavian's epistula to be registered in the cities of Tarsus, Antioch, and Seleucia.

As F. Millar points out, the formal exercise of

70 F.G. Millar, art. cit., p.59.

71 R.K. Sherk, RDGE, no.29, p.170.

72 R.K. Sherk, RDGE, no.28, p.164 = EJ no.299.

73 R.K. Sherk, RDGE, commentary to no. 28, pp.167, 168.

74 R.K. Sherk, RDGE, no. 58i, p.295 = CIL XVI 11 = IGLS III 718.

traditional functions by senate and people did not constitute the continuance of the free play of politics.⁷⁵ The evidence indicates that the institutions of the res publica persisted through the Triumviral period, and that moreover, the Triumvirs showed concern to have their own actions formally approved and ratified by them.⁷⁶ What is significant for this study is the evidence that traditional formalities regarding state business were clearly observed. The disruptive effects on state records of the Triumviral period's civil wars extended no further than the political milieu in which state-decisions were actually made. The formalities of acquiring senatorial ratification, the registering of SCC, the storage of leges and SCC in the Aerarium where further clerical procedures were carried out, remained essentially the same from the pre-Civil War Republic through the Triumvirate. Although the aristocratic political system of the Republic disintegrated during the Civil Wars, this fact impinged on the keeping of public records only insofar as the content of legislation itself implied the abrogation of free constitutional procedures. The procedures of validating state-acts remained the same, and this is likewise true for the public promulgation of state-decisions. As noted above, the proscription-lists exemplified the new practice because although illegal in themselves, they were embodied in an edict, which was a means of constitutional expression by virtue of the Triumvirs' constitutionally conferred imperium consulare. Similarly, in the aftermath of the Ides of March, Cicero refers to M. Antonius as consul posting up the law granting Roman citizenship to the Sicilians, which had

⁷⁵ F.G.B. Millar, art. cit., p.54.

⁷⁶ This is apparent in the documents found in the Near East, with their recurrent formalism and repeated references to the institutions of the res publica (F.G.B. Millar, art. cit., p.58).

allegedly been carried by Caesar in the Assembly.⁷⁷ Constitutional and administrative formalities thus continued during this period, but always in accordance with the demands of a new regime, in which the traditional morality of power was re-defined in terms of autocracy.

⁷⁷ Cic. Ad Att. XIV.12 (22 April 44 B.C.).

CHAPTER IV

4. THE 'ACTA SENATUS' OF THE REPUBLIC AND THE IMPERIAL ACTA4.1 THE POPULARIS SETTING

In 59 B.C. Julius Caesar as consul enacted that 'tam senatus quam populi diurna acta confierent et publicentur'.¹ Thus for the first time in the history of the Roman Republic the acta of the senate, the proceedings of this venerable body's meetings, were to be compiled and publicised officially for the public's information. Prior to this, the consulta of the senate had been recorded and occasionally published but the actual minutes of the senate's sittings had never been compiled, except in the private capacity of senators as commentarii for their family archives.

A brief survey at this point of the current political arena at Rome, its forces and tensions, will further our insight into Caesar's intentions. This is necessary because Caesar's enactment was a significant assertion of his readiness, even at the cost of undermining the traditional political status quo, to use any means to acquire political support. His election to the consular office had been opposed by a strong coterie in the senate led by L. Lucullus and M. Porcius Cato, which had successfully arranged the election of their own representative, M. Calpurnius Bibulus, to the collegiate office. The friction between the two consuls culminated in Bibulus' self-imposed domestic exile for most of his term of office, and his continual recourse to the auspices to counter Caesar's consular activities. Caesar's

¹ Suet. Div. Iul. 20.1.

acquisition of political connections to date was marked by the opportunism usual to the Roman aristocracy, and a pragmatic exploitation of popularis issues where this furthered his ambitions. Opportunism and expediency energised the morality of power behind every ambitious Roman: politics constituted a vehicle to dignitas and auctoritas within limits clearly defined by tradition on the one hand, and the demands of upper-class preservation on the other.

The ascendancy of Gn. Pompey in the post-Sullan years was another factor in Caesar's opportunistic rise, as he attached himself indirectly to Pompey's following by working in his interests while Pompey was abroad in the East until 62 B.C.² Caesar, of the patrician nobility, followed the traditional political route of forming alliances with powerful individuals or other noble houses for mutual advancement. His solicitation of Pompey's support for his consular candidature in 60 B.C., and the subsequent formation of an amicitia with Pompey and M. Licinius Crassus, credit-king among lesser senators, was therefore no departure from traditional practice. It was a conventional political amicitia for the furthering of mutual interests.

Pompey was however undergoing a political eclipse in Rome at this time through the withdrawal of senatorial support, despite, or more probably because of, his vast prestige acquired abroad during the 60's B.C.. Prosopographical evidence has revealed that apart from the Catonian factio, there were ranged against him the powerful noble houses of the Lentuli, Metelli, Calpurnii Pisones, Lepidi, and

² L.R. Taylor, Party Politics in the Age of Julius Caesar, p.122.

Claudii, at this time.³ This was a significant breakdown of the support-base of his earlier career, and for amicitiae Pompey was now obliged to explore avenues other than through the leading consular houses. Political support at this time (62 B.C.) was of paramount necessity for Pompey because his proposals of two measures, which he was honour-bound to have passed, had been defeated at senatorial level. These were the settlement of his veterans after the Mithridatic War and the ratification of his settlement of the East. The defeat of Pompey's proposals was a successful attempt by other senators to undermine his prestige among his clients acquired abroad, and among his soldiers - a clientela vastly exceeding that held by any other Roman aristocrat.

The formation of what history has called the First Triumvirate in 60 B.C. saw the solution of Pompey's dilemma, and was also an unexpected catalyst for the career of Caesar. Caesar's solicitation of Pompey's support in 60 B.C. shows an expedient and artful manipulation of Pompey's political isolation among members of the ruling class. Pompey's military clientela upheld Caesar's illegalities by their persuasive presence in the comitia. As consul, Caesar secured the authorisation of Pompey's two measures but at the cost of suspending the constitution, so powerful was the opposition. The initial rejection of these two measures through senatorial channels led to their authorisation by popular law and violence. The agrarian bill for Pompey's veterans was passed, and the Eastern settlement was ratified in its entirety without prior scrutiny of a senatorial commission. The active role of Pompey's veterans in the proceedings only confirmed and strengthened his opponents' fear of Pompey's intentions. To the opposition, the

³ E.S. Gruen, 'Pompey, the Roman aristocracy, and the conference at Luca', Historia 18 (1969), p.86.

Triumvirate was represented foremost by Pompey.⁴ In this legislation the consular veto, tribunician vetoes, and auspices were conspicuously disregarded, and Caesar's consular colleague was forced to resort to omens to keep Caesar's legislation technically invalid. A similar unconstitutionality was apparent in the passing of other bills in 59 B.C., for example when Caesar effected, for a bribe, the ratification of Ptolemy Auletes' position as king of Egypt;⁵ in the passing of another Lex Julia Agraria for needy citizens, in May;⁶ and in the passing of the tribunician Vatinian law for his proconsular command of Cisalpine Gaul and Illyricum,⁷ which overrode the senate's prior decision regarding proconsular provinciae for that year and indeed the operation of the Lex Sempronia de provinciis consularibus. To this command the senate was induced to add, with Pompey's backing, Transalpine Gaul.⁸ Caesar's neglect of constitutional procedures evidenced here, and his use of violence, discredited him however: if Cicero can be believed, Caesar had lost any popular support by April of that year.⁹

To assert himself as a constitutionalist was expedient but Caesar's use of political gestures does not seem to have resuscitated his popularity as the electoral failures of his adherents in subsequent years attest.¹⁰ These political gestures included his revival of the custom of being followed by his lictors in the months when he did not hold

4 E.S. Gruen, 'Pompey, the Roman aristocracy, and the conference at Luca', Historia 18 (1969), p.89.

5 Cic. Ad Att. II.16.2 (May 59 B.C.); Suet. Div. Iul. 54.3.

6 Cic. Ad Att. II.16.1; Dio XXXVIII.7.3; Plut. Caes. 14.1.

7 Cic. In Vat. 36; Plut. Caes. 14.6.

8 Cic. Ad Att. VII.3.3 (18 Feb. 49 B.C.).

9 Cic. Ad Att. II.17-19 (esp.19) (April 59 B.C.).

10 See further E.S. Gruen, The Last Generation of the Roman Republic, chapters III and IV.

the fasces,¹¹ and a stringent Lex Iulia de pecuniis repetundis regulating procedures and demands of provincial governors.¹² Through this law Caesar's strategy of affecting a show of political integrity is clearly apparent but his concurrent unconstitutionalism made it a sham. His bill on the publication of the senate's minutes, which was a milestone in the exposure of state business to the public, may be interpreted in the same light.

It is unclear whether the translation of Suetonius' passage relating to this publication, 'Inito honore primus omnium instituit, ut tam senatus quam populi diurna acta confierent et publicentur',¹³ should read 'Caesar's first act as consul ...' or 'He was the first Roman to enact that the daily proceedings of the senate and people be compiled and published.' A conclusive date cannot therefore be offered for this bill. T.R.S. Broughton follows the first interpretation,¹⁴ but in fact either view would coincide with the political image Caesar was attempting to project. Caesar's election to the consulship and his tenure thereof was marked by political tension, violence and unconstitutionalism; at any point in 59 B.C. a lawful image was needful. In the same vein as the Lex de repetundis, this bill on the senate's minutes' was essentially a defiant act and a sham. It appeared to suggest that Caesar was a champion of the right operation of the senate, although his unconstitutional tactics had turned its business into a farce. By seeming to oppose the corruption and pursuit of sectional

11 Suet. Div. Iul. 20.1.

12 Cic. Pro Ses. 135; In Vat. 29.

13 Suet. Div. Iul. 20.1.

14 T.R.S. Broughton, MRR vol. II, p.188, but it is to be questioned whether this interpretation does not demand an emendation of the text, to read 'primum [an adverb] omnium'.

interests endemic in senatorial politics, this bill implied a commitment on Caesar's part to adopt overtly popularis tones. Cicero's claim that by April of 59 B.C. Caesar had lost all popular support¹⁵ indicates that his abuse of popularis sentiments must have been recognised by this time.

Caesar's bill on the senate's proceedings was not, in the context of Late Republican politics, in the senate's vested interests. In view of the strength of the senatorial opposition already mentioned, Caesar's bill was more than just a popularis measure. His past reputation as a popularis politician - unpopular among the Sullan oligarchs - was now compounded with an amicitia,^{the} threatening potential^{of which} he had shown himself not unwilling to realise in the furthering of his ambitions. Dangling the concept of popular sovereignty, this measure was passed. The anticipated effect of this blow upon the senatorial opposition was to advertise Caesar's popularis measures and to expose the erstwhile concealed details of his adversaries' opposition. Once popular with the people, and having the support of Pompey's veterans, such exposure could have been expected to stir up popular hostility against Caesar's opponents and resuscitate his constitutional image.

Implicit in this enactment was also the undermining of the traditionally aristocratically-based political structure. For the proceedings of the highest council of the state to be made public, even in edited form, was a betrayal of that unwritten class-loyalty among the senatorial order which underwrote its political and social supremacy. The proceedings were not just made available for public consultation but were publicised, since publicentur has the

¹⁵ Cic. Ad Att. II.17-19 (esp.19) (April 59 B.C.).

force of 'to be circulated'. It was a political move to expose the intrigues of senators, which, based on alliance, not policy, were formerly protected by the hallowed secrecy of the Curia, whose threshold was not crossed by the common people. This bill compromised the senate's legitimate entitlement to treat some issues as confidential, and would tend to drive out of the senate discussion of sensitive matters. Decision-making might then have been transferred to executive action or some smaller cabal. In view of the Triumvirate's proven ability to sweep aside constitutional obstacles, it is possible that Caesar was hoping to engineer an unofficial transfer of decision-making to his coterie of amici. This measure had the potential further to disintegrate the facade of traditional secrecy, which shielded aristocratic power-politics, by its assertion of popular sovereignty - a sovereignty that would sweep aside the nobility's morality of power in the interests of perhaps sounder government and more welfare-orientated policies. The social structure at Rome had so far precluded this otherwise 'inevitable' democratic progression. The social structure reinforced the political, seeming to have arrested through the deeply embedded practice of dependence, any significant move towards lower class solidarity that could have undermined the political order. This practice of patronage and clientage cut across class-lines and through the vertical social cohesiveness it created, had propitiously served to check resistance to the status quo. Thus the popularis recognition of popular sovereignty in its true historical perspective was too fissured to have any great impact on the establishment, but as a force in high politics, it could be exploited by members of the ruling class for individual or collective advantage. Caesar's previous popularis activities show how close he dared to go to break the oligarchic stronghold manned by his political enemies in the senate, for example, his support in

restoring the tribunician rights of 71/70 B.C.; his initiative in reinstating popular elections for the priesthoods; his restoration of Marius' trophies in 65 B.C. as aedile.

Caesar's enactment was therefore of two-fold significance, namely an end to secretive government before the assertion of popular sovereignty, and secondly, the dangerous betrayal by a noble of his own class. This endangered the upper-class solidarity that underwrote the very survival of the Republican constitution. In the later disintegration of the aristocratic Republic through civil wars and the life-dictatorship of one man, this betrayal of the governing class as early as 59 B.C. acquires importance as a precursor to Caesar's political vision as dictator, namely, his promotion of upward social mobility empire-wide. Then, his reforms and indeed his impenitent position realised the greatest threat on an ideological level to the ancestral ruling class.

Syntactic analysis of the Suetonian reference also confirms the political sense behind Caesar's measure. According to B. Baldwin, in all other plain tam/quam sequences in Suetonius, the more important item of the two invariably goes with tam.¹⁶ Therefore, in tam senatus quam populi diurna acta, the emphasis is on business in the senate, by custom hitherto confidential. In any case, the business of the Populus, being conducted usually in the open Forum, was not confidential and needed no advertisement. Suetonius, in recording this event, omits any explanation of Caesar's intentions. Its value for propaganda however is indicated retrospectively by the fact that Augustus later saw fit to suppress the publication of senatorial business.¹⁷ This suppression

¹⁶ B. Baldwin, 'The acta diurna,' Chiron 9 (1979), p. 191.

¹⁷ Suet. Div. Aug. 36.

may, on one hand, have been highly favourable to Augustus' image since it would have justified his pretence that senatorial libertas was intact. On the other hand, this act also served to restrict public knowledge of the workings of the senate, which were in fact the workings of the new and delicate relationship between senate and princeps behind the facade of Republican political imagery.¹⁸ Compulsory attendance at the Curia by senators during this time no doubt served to make redundant the publication of senatorial news. Augustus' measure was a development in line with the autocratic basis of the Principate, since continual and increased centralisation of the workings of power in the person of the princeps was imperative for his political survival, and indeed for the new political order at Rome. In conclusion, these two literary references to the acta senatus found in Suetonius, would seem to indicate then, that the respective publicity and suppression of detailed senatorial business were grounded in unequivocal propaganda interests.

4.2 THE PROBLEM OF THE SOURCES

Despite the political enormity of Caesar's seemingly popularis enactment, our knowledge of this record of senatorial business - indeed the fact of its existence in Republican times - resides entirely in a few extant literary references to them dating from the Imperial era. Examination of these references for the light they cast on the nature of the Republican acta senatus would seem to uncover a basic misapprehension concerning the latter which has been founded upon this Suetonian allusion. When considered in conjunction with the counterpart

¹⁸ See further chapter V of this study.

'publication' mentioned by Suetonius, namely acta of the populus, a new interpretation of the whole concept of the Republican acta senatus will emerge that necessarily challenges certain traditional assumptions regarding these records.

After the two Suetonian references to the acta senatus already noted, the next reference would seem to suggest that despite the Augustan prohibition on its public circulation, these acta¹⁹ nevertheless continued to be compiled. This concerned evidence for Augustus' birthplace at the Ox-heads on the Palatine, which emerged in the recording of a judicial case before the senate wherein one C. Laetorius was pleading for a milder punishment on a charge of adultery because of his youth and patrician station. His greatest defence to the senate rested on the fact that Augustus had allegedly been born in a part of his house, which was thereupon consecrated as a shrine by senatorial decree.²⁰

The date of this hearing is not attested, but closer inspection of the deification that warranted consecration of a shrine verifies the placing of this event after Augustus' death. Since it was recorded after his death, this reference cannot necessarily be regarded as conclusive evidence for the continued compilation of the acta of the senate during Augustus' reign after his prohibition on its publication. Further, Augustus' known attendance at and interest in senatorial meetings would have rendered this compilation superfluous to him personally, while his fellow-members' obligatory attendance would have precluded such a necessity. If

¹⁹ To avoid inconsistencies in the treatment of the word acta, its force as a plural will be recognised in English except when it designates a journal.

²⁰ Suet. Div. Aug. 5.

continued it would have been most likely as a documentary record for archival consignment, possibly in imperial custody. This view would seem to be supported by further evidence from Imperial times.

A further development in the concept of acta senatus took place in Tiberius' reign. In Annales 5.4, Tacitus describes how the emperor commissioned one Junius Rusticus to compile the acta patrum. According to Tacitus, Tiberius' personal choice apparently credited Rusticus with some insight into the imperial mind, which would suggest that this compilation was intended primarily for the emperor's use. This would have been indispensable in view of Tiberius' absences from Rome, particularly during the last years of his reign when he took up residence on the island of Capri. It was shortly before his death on Capri, according to Suetonius,²¹ that he received the news in the acta senatus that certain accused persons, whose names he had reported to the senate, had been discharged without a hearing or further investigation. This extract provides our only extant evidence concerning the extent of circulation and contemporary readership of the acta senatus, and in conjunction with Tacitus Annales 5.4., could indicate that the acta senatus was a journal solely for imperial perusal. This would support the abovementioned reason for the continued compilation of the acta of the senate.

The five references above all date from Imperial times when the existence of the acta of the senate in the form of a journal, although probably archival, is historically indisputable. The substantive force in the Latin word acta in the last three references is apparent in its usage as the appellation of this journal, namely the acta senatus. Scrutiny of the first two Suetonian references,

²¹ Suet. Tib. 73.1.

on the other hand, would suggest that the acta in these instances have a more verbal than substantive force, to be understood as 'activities/doings/business'. Speculation on the distinction between the verbal and substantive forces in the Latin word acta would therefore support the possibility of a new interpretation regarding the publication of the acta of the senate in Republican times.

The acta senatus as a journal is never mentioned in the Republican era, although the activities and business of the senate were clearly publicised after 59 B.C., as evidenced in Cicero's correspondence. The existence of a Republican journal called the acta senatus is therefore an assumption based on an anachronism, an interpretation which has been fostered by the traditional emphasis on the substantive force in the word acta, and so providing the acta of the first two references by Suetonius²² with the ready-made appellation and form of a journal, as it was known by writers in Imperial times. This emphasis on the substantive force of acta has of course been encouraged by other literary references to acta of various kinds which clearly are appellations of journals. Understanding the first two Suetonian references to mean that Julius Caesar and later, Augustus, ordered knowledge of the activities of the senate to be respectively publicised and suppressed, therefore suggests another perspective: that this information was indeed publicised and suppressed, but not under the name of a publication called the acta senatus.

Despite the absence of specific reference to a journal called the acta senatus in Republican sources, there is frequent mention in both Republican and Imperial eras of a

²² Suet. Div. Iul. 20; Div. Aug. 36.

publication known variously as the acta, acta diurna, acta populi, acta urbana, acta urbis, and acta publica. This has been generally assumed²³ to be the counterpart publication of the hypothetical acta senatus journal of Republican times recorded by Suetonius, namely the populi acta diurna.²⁴ Literary references from the Republic to these different acta will now be explored for the light they shed on the alleged publication of senatorial business under Julius Caesar. Cicero is our primary source.

Ad Att. III.8.3 contains the earliest extant allusion (58 B.C.) to the recently instituted publication. Cicero is awaiting acta mensis Mai, pending which he is going no further than Thessalonica. In Ad Att. III.15.6 the implication is clear that the acta provided comprehensive political coverage and more than just a list of resolutions. In Ad Att. VI.2.6 Cicero writes from Laodicea (50 B.C.) that he has the acta urbana up until 7th March, and indicates that the acta gave him information on Curio's priorities. In Ad Fam. II.15.5 later that year, he writes from Sida to M. Caelius Rufus, in part chiding him for an inadequate report on the adulterer Servilius Ocella, which did not appear in the acta. This would suggest that the journal covered court news. In Ad Fam. X.1.2 (Sept 44 B.C.), Cicero wrote to L. Munatius Plancus about conditions prevailing in the city, the current lawlessness and unconstitutionalism in which the senate and Populus had no power. Cicero is brief, assuming that the acta was already being sent to the latter. In Ad Fam. XII.23.2, writing from Rome to Q.

²³ For example, R.J.A. Talbert, The Senate in Imperial Rome, chap. 9; R. Syme, Tacitus vol.I, p.120n; A.N. Sherwin-White, The Letters of Pliny, p.342; H. Furneaux, Tacitus Annales vol.I, pp.18-19; Th. Mommsen, Staatsrecht III, 1015-1021.

²⁴ Suet. Div. Iul. 20.1.

Cornificius, governor of Cilicia, Cicero imagines that the rerum urbanarum acta is being sent to him. In Ad Fam. XII.8.1 of June 43 B.C., Cicero writes to C. Cassius Longinus concerning M. Lepidus' inconstancy as reported in the acta indicating that this journal would reflect Lepidus' statements or actions. In Ad Fam. XI.25.1, Cicero is writing to Decimus Brutus, encouraging him to victory. He is purposely brief because he knew the acta were being sent to Decimus. In Ad Fam. XII.22.1 Cicero writes to Q. Cornificius from Rome (44 B.C.) concerning M. Antonius' speeches about Cornificius. Cicero supposes that omnia acta are being fully reported (perscribi) to Cornificius by others. Ad Fam. X.28.3 refers again to res urbanas actaque omnia being sent to a correspondent, C. Trebonius. In Ad Fam. XII.28.3, again to Q. Cornificius, Cicero assumes that political business is being related to him by those 'qui ad te acta debent perscribere'.

These references to the word acta clearly support the likely existence of a journal in circulation. The last three references indicate something of the mechanisms of its circulation, since the use of the verbs perscribere and perferri could suggest that the acta was publicised but that its circulation depended on its being copied by private enterprise. A limited number of copies was probably made available at places where private citizens could read and/or copy them. An isolated allusion to official transcribers of state-business in Cicero's Pro Sulla 42 could provide a clue as to the means of Republican publicity: 'When I knew that the evidence had been entered in publicis tabulis, but that those records would be kept after our ancestral custom in the custody of private persons, ... I at once gave orders that it should be transcribed by all the public clerks (librarii), distributed everywhere, given the fullest publicity, and made known in detail to the Roman people. I sent it

broadcast through all Italy, to all the provinces'.

Official transcription is here attested for purposes of publicity, and Cicero, however hyperbolic, indicates that widespread circulation of news was possible, even to the provinces. In the absence of conclusive evidence, the mode of publication of the acta in the Late Republic must remain unknown, whether it was circulated on papyrus copies or copied from official notice-boards by private slaves, or scribes, or 'publishers'.

The nature of its content is evident from the above-mentioned Ciceronian references. It is clearly political, with one recorded incident of social interest.²⁵ Since Cicero found it to contain adequate coverage of the political scene - adequate enough to preclude appending his own version on political matters to his correspondents - it must be assumed to include coverage of the political business that Cicero as a senator was involved in. The acta must therefore have contained information on senatorial business.²⁶ Given Cicero's use of this publication as a substitute for the political content of his letters to certain friends, and the apparent absence of a journal specifically publicising senatorial proceedings as opposed to publicising business of the Populus, as ordered by Caesar in 59 B.C., the evidence would suggest then that the acta in the Ciceronian references was in fact a compilation publicising all political acta, both senatorial and non-senatorial.

This speculation would therefore question the separate identities of the acta senatus and the acta populi as

²⁵ Cic. Ad Fam. II.15.5.

²⁶ R.M. Ogilvie, A Commentary on Livy, p.503, makes this assumption too.

journals, as suggested by the Suetonian reference.²⁷ Re-examined in this light, Augustus' prohibition on the publicising of the acta of the senate, which has generally been interpreted to mean the suppression of a separate journal could plausibly mean that the hitherto unrestricted access to knowledge of the political business conducted in the senate, was now to be terminated. This represented a kind of censorship because continued publication of certain political material would have been considered imperative for the sake of Republican appearance.

A new picture of the publication of the acta in Republican times thus emerges. The Ciceronian acta was indeed a journal (the Suetonian diurna is anachronistic), its sources of political information being the acta which were transacted by the senate and the Populus Romanus. It was thus a single compilation whose sources are named by Suetonius, the 'tam senatus quam populi diurna acta.'²⁸ Its coverage of political business was as complete and unrestricted as Caesar had intended for popularis reasons, namely, exposure of all legislative, political, and judicial deliberations. With the establishment of the Principate, however, this would have been politically embarrassing to a monarch clothed with Republican regalia, and therefore the public's knowledge of senatorial meetings had to be restricted. Hence the Suetonian reference that Augustus forbade the acta of the senate, meaning the deliberations of the senate to be publicised. Tiberius did not repeal this prohibition by Augustus, but thought it prudent for a record still to be compiled of the senate's proceedings. That it was primarily for his own perusal is suggested by Tacitus'

²⁷ Suet. Div. Iul. 20.1.

²⁸ Suet. Div. Iul. 20.1.

description of its compiler²⁹ and his single reference to the emperor regarding its readership.³⁰ This is the origin of the acta senatus as a journal, and the beginnings of its imperial archival consignment.

Contemporary knowledge in the Imperial era of the acta senatus as a record distinct from the acta diurna would explain its retrojection thus into Republican times, since all references to the former date to writers of the Imperial era. Literary references to the continued publication of the Republican acta continue unchanged into Imperial times as the acta diurna, acta urbana, acta publica, and acta. Consideration of these imperial acta publica will confirm how Suetonius could assume the separate identities of the acta senatus and acta populi as journals in Republican times. The nature of the Imperial acta diurna's content is distinct from Republican times, where Cicero found its political coverage sufficiently detailed. A severe pruning of political news is conspicuous in the imperial acta diurna and would confirm Augustus' 'censorship' exercised earlier. The predominantly social nature of these acta of Imperial times may be illustrated here:

1. Suet. Tib. 5 That Tiberius' birthplace and date, at Rome on the Palatine, 16 Nov 42 B.C. were recorded both in the fasti and acta publica.

²⁹ Tac. Ann. V.4, 'Componendis patrum actis delectus a Cesare eoque meditationes eius introspicere creditus'. H. Furneaux Ad Ann. 5.4.1 gives the title of the official as curator actorum senatus and cites CIL IX 2456.

³⁰ Suet. Tib. 73.

2. Val. Max. II.9.3 That charges under the sumptuary laws were well covered in the acta.

 3. Pliny, N.H. VII.60 On a freedman offering in 4 B.C. a sacrifice on the Capitol accompanied by an unusually vast family, a fact which Pliny found in actis temporum divi Augusti.

 4. Suet. Cal. 8.2 On conflicting testimonies concerning Caligula's birthplace and date. In the acta, he found that Antium was his birthplace (31 Aug A.D. 12).

 5. Tac. Ann. III.3 That Tacitus failed to discover either in the historians or in the acta diurna, whether Germanicus' mother, Antonia, partook in his funeral ceremonies, although his other relatives were recorded by name.

 6. Dio LVII.12.2 On Livia's exalted position in society after Augustus' death, that she could receive even the senate in her house if they wished to greet her - a fact which was entered in the public records (< τὰ δημόσια > ὑπομνήματα).

 7. Dio LVII.21.5 That Tiberius, allegedly out of jealousy, forbade the name of the architect who corrected a defect to a prominent portico in Rome to
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be entered in the records.

8. Dio LVII.23.2 On Tiberius accusing individuals of slighting remarks, that he would have them punished by having their names entered in the public records (*τὰ κοινὰ ὑπομνήματα*).
9. Dio LX.33.1 The acta recorded Agrippina's entitlement to receive visitors in public.
10. Suet. Cal. 36.2 On Caligula's conduct with married women, that he sometimes sent them a bill of divorce in the name of the absent husband, and had it entered in the acta. This suggests that the emperor could intervene at will.
11. Tac. Ann. XII.24 On the history of the pomerium, that the new limits determined by Claudius were recorded in the acta publica. As an honour to victorious generals who extended the empire's boundaries, the extension of the pomerium by Claudius was of political importance to him because of his lack of a military reputation.
12. Pliny, Ep. V.13.8 To Julius Valerianus, on the tribune Nigrinus' appeal to the emperor concerning corrupt counsels and lawsuits for money. The emperor's decree was published in
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the acta publica. This occurred in a senatorial context but it seems that only the emperor's decree appeared in the acta.

13. Suet. Claud.41.3

On Claudius' introduction of three new letters to the alphabet, that they could still be seen in numerous books, in the acta diurna, and in inscriptions on public buildings. This shows that the emperor could use the acta as a channel to propagate imperial fancies.

14. Pliny, N.H. X.5

Recording the testimony in the acta of a phoenix brought to Rome from Egypt in A.D. 47, 'although nobody would doubt that this phoenix was a fabrication'.

15. Tac. Ann. XIII.31.1

Referring to Nero's vast amphitheatre on the Campus Martius constructed during his second consulship in A.D. 57, with an acid allusion to the Elder Pliny's interests³¹ in his comment that such details were fitting for the acta diurna, not the pages of history.

16. Seneca, De Ben.
II.10.4

That charity towards other people should be kept private and not sent to the acta to be

³¹ Pliny, N.H. XVI. 200.

publicised.

17. Seneca, De Ben.
III.16.2 Attesting dersively to the preponderance of divorce-cases in the acta.
18. Tac. Ann. XVI.22.6 Describing Cossutianus Capito's insidious influence on Nero regarding Thrasea Paetus, that the acta diurna 'is scanned throughout the provinces and armies with double care for news of what Thrasea has not done'. This shows that imperial propaganda could misfire because the public appeared here to react positively to Thrasea. As Thrasea had been absent from the senate for three years, this incident cannot be regarded as evidence of senatorial news appearing in the acta diurna.
19. Petronius, Sat.LIII Describing a parody on the style of the acta diurna.
20. Dio LXVII.11.3 That Domitian forbade his victims' names to be published, which would indicate a degree of imperial censorship over the contents of the acta.
21. Pliny, Ep. VII.3.3 To Cornelius Tacitus, sending him an account of an incident which 'could hardly have escaped you, since it appeared in the acta
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publica'. This incident occurred in a senatorial context where the consuls were sitting in their administrative capacity.

22. Quintilian IX.3.18 Deploing the idiom saucius pectus, that it was iam vulgatum actis. This could be indicative of the literary style and matter of the acta.

The following summary of the above extant items of the imperial acta diurna will highlight further the nature of this journal's content in both social and political spheres. The absence of senatorial business, which characterised the Ciceronian acta of Republican times, is noteworthy.

SUMMARY OF EXTANT REFERENCES TO THE IMPERIAL <u>ACTA DIURNA</u>		
	SOCIAL ITEMS	
	PUBLIC INTEREST	IMPERIAL INTEREST
Commemorative		Tac. <u>Ann.</u> XII.24 (no.11); Tac. <u>Ann.</u> XIII. 31.1 (no.15).
Newsmongering	Val. Max.II.9.3 (no.2).	Tac. <u>Ann.</u> XVI,22.6 (no.18).
Births		Suet. <u>Tib.</u> 5 (no.1); Suet. <u>Cal.</u> 8.2 (no.4).

SUMMARY OF EXTANT REFERENCES TO THE IMPERIAL <u>ACTA DIURNA</u> .Cont.		
	SOCIAL ITEMS	
	PUBLIC INTEREST	IMPERIAL INTEREST
Funerals		Tac. <u>Ann.</u> .III.3 (no.5).
Divorces	Sen. <u>De Ben.</u> .III. 16.2 (no.17).	Suet. <u>Cal.</u> 36.2 (no.10).
General	Plin. <u>N.H.</u> .VII.60 (no.3); Dio LVII.21.5 (no.7); Plin. <u>N.H.</u> .X.5 (no.14); Sen. <u>De Ben.</u> .II. 10.4 (no.16); Petron. <u>Sat.</u> LIII (no.19); Quint.IX.3.18 (no.22).	Dio LVII.12.2 (no.6); Dio LX.33.1 (no.9); Suet. <u>Claud.</u> .41.3 (no.13).
	POLITICAL ITEMS	
	PUBLIC INTEREST	IMPERIAL INTEREST
Legislative		Plin. <u>Ep.</u> .V.13.8 (no.12).
Administrative	Plin. <u>Ep.</u> .VII.33.3 (no.21).	
Judicial		Dio LVII.23.2 (no.8); Dio LXVII.11.3 (no.20).

The extent of imperial control over the content of the acta is suggested by the predominantly social and imperial nature of these references. Pliny offers evidence for this imperial control in his Panegyricus, wherein he describes how in the current reign the Conscript Fathers have saved acclamations, etc, from oblivion by sending them to be publicised in the acta publica, and by inscribing them in bronze.³² Clearly, senatorial business even in its more positive aspects had been denied advertisement before. Pliny continues, that hitherto only emperors' speeches had been made safe for all time by records of this kind (ie. in the acta publica and inscriptions), and that acclamations went no further than the senate's walls. Now, according to Pliny, all these have been sent out into the world (in vulgus) and passed on to posterity. Clearly, Pliny's emperor Trajan was liberal as regards publication of such positive senatorial business as acclamations. This is countered by an assertion concerning a later emperor. Fronto declared to M. Aurelius that he did not wish his laudatio in praise of the emperor Antoninus Pius to be hidden in the acta senatus,³³ implying that incidents which occurred in a senatorial context were habitually consigned to the archives and not sent out to the acta publica to be publicised.

This study has attempted to reconstruct the nature of the relation between the official publications of Republican and Imperial times respectively. The picture that has emerged would tend to undermine the traditional belief in the Republican existence of the journal called the acta senatus, proving that this belief is founded on a retrojection from Imperial times. It is posited then that the content of the Ciceronian (and Asconian) acta publica suggests that this was in fact the sole official

³² Pliny, Pan. 75.1-3.

³³ Fronto, Pan. 26.5N (=p.24 [van den Hout]).

publication in Republican times, whose sources of information Suetonius had indeed named - the acta of all organs of government, the Senatus and Populus Romanus.

4.3 TRANSCRIBING PROCEDURES

Literary references are our only evidence for the existence of the acta of the senate and people in published form during Republican times. Knowledge of the acta publica's content and redaction is a subject of meagre and piecemeal evidence. Reconstruction on the basis of such sparse material may be minimal but it may serve to clarify certain issues with regard to the transcription and nature of this record in the Republic.

The question of who was responsible for the compilation of the record is closely linked to the question of its fullness as a daily account of public business. Cicero, who is our main source as to the senatorial content of the publication, found nothing to criticise in its manner of presentation. This would indicate that to the contemporary critical senatorial reader who had possibly attended the meetings so publicised, it was an accurate account. The possibility of such accuracy being achieved other than through a verbatim transcription is remote. Verbatim transcription would exclude the editorial powers that could distort accuracy and bias its presentation. Since Cicero never complains of this, presumably it never occurred, at least when it mattered to him. In further support of such accurate and copious content, Cicero clearly found the fullness of the record sufficient to preclude him recording his own memoranda of the latest proceedings to send to his correspondents. This is shown in Ad Fam. X.1.2; X.28.3.; XI.25.1; XII.22.1 and XXI.23.2.

In view of the impracticalities attendant on such a bulky verbatim record, R.J.A. Talbert has suggested the possibility of a mixed account of verbatim recording and edited version.³⁴ In such a mixed record, the speeches of the more senior senators might have been reproduced in full, with those of the more junior in briefer form. Apart from a reduction in the bulk of the record, the editorial function with its potential to bias would be extremely limited, which would not run counter to Cicero's evident satisfaction in this respect.

Whether or not transcription was verbatim, state-control over this official publication would appear to have extended only to the supplying of clerks to attend senate-meetings and the subsequent public promulgation of the proceedings. We hear of no ab actis in Republican times in charge of the copyists, which could suggest that if the equivalent position existed, it was not an office of interest or aspiration to the governing class. Quite possibly a scriba from the civil service filled the position, maybe as part of his duties on the consular staff.

Only one instance of intervention by a Republican state-officer is recorded in the sources, namely, that during his dictatorship, Caesar apparently caused his refusal of the diadem which M. Antonius had publicly offered him in 44 B.C., to be inserted in this publication.³⁵ His supreme position as dictator afforded him this prerogative. Although we hear of no such interventions in the subsequent years, it would be unwise to argue from silence that Caesar's successors did not attempt to influence or

³⁴ R.J.A. Talbert, SIR, p.321.

³⁵ Dio XLIV.11.3; Cic. (Phil.II.87), a contemporary source and therefore to be given priority, claims that the episode was recorded in the fasti.

ensor the content of this publication. Control of the ancient media was a relevant political issue, as the long history of the subject of confidentiality and exposure of state-business attests throughout the Republic.

With regard to the recording process, more clarity is perhaps present. In R.J.A.Talbert's view, there is no certainty that shorthand writers were regularly present at sessions from the introduction of published senatorial business in 59 B.C..³⁶ It would be difficult to imagine how detailed records of the proceedings - so detailed that their transcription in the acta publica of Cicero sufficed to stand for his own memoranda - could have been taken, if not by such clerks. Few senators would have been willing to oblige at every meeting in the manner of the four senators chosen by Cicero during his examination of informers concerning the Catilinarian conspiracy in 63 B.C.. In the absence of official record-keeping at this time, Cicero had apparently requested them to make a written account of all statements, questions, and replies, choosing the senators who could most easily take down what was being said because of their memory, practice and speed of writing.³⁷

In addition, Plutarch furnishes the information that shorthand writers were first used in the senate during Cicero's consulship of 63 B.C..³⁸ The occasion was the aftermath of the Catilinarian conspiracy wherein Cicero wished a verbatim record to be made of Cato's speech urging the death penalty.³⁹ According to Plutarch, Cicero had distributed clerks who excelled in shorthand, in various parts of the senate house, 'for up to that time

³⁶ R.J.A.Talbert, SIR, p.316.

³⁷ Cic. Pro Sulla 41 and 42.

³⁸ Plut. Cato Minor 23.

³⁹ R.J.A.Talbert, SIR, p.316.

the Romans did not employ or even possess what are called shorthand writers, but then for the first time, we are told, the first steps towards the practice were taken'.⁴⁰ The competency of Latin shorthand writers at this time is therefore attested. The presence of shorthand writers in the senate house after this time is supported also by Asconius' description of Clodius' funeral pyre in 52 B.C., in the Introduction to his Commentary on Cicero's Pro Milone; cremavitque subselliis et tribunalibus et mensis et codicibus librariorum.⁴¹ These codices librariorum would have been wax-tablets, useful for their inflammability.⁴² Seneca defines caudex as plurium tabularum contextus, and also states that publicae tabulae codices dicuntur.⁴³ The librarii attested in the Asconius quotation would have had a similar function to the copyists mentioned by Cicero in his aspersions on the power of the Aerarium staff.⁴⁴

Two further literary references have been adduced to confirm the activities of shorthand writers in the senate at this time, although on perhaps more tenuous grounds. Suetonius, on Caesar's speeches, discusses the reason why the oration For Quintus Metellus was more probably the version taken down by shorthand writers rather than the one published by Caesar himself, and bases his conclusions on the respective use of the third and first person in the two texts.⁴⁵ The second reference is a passage from Asconius⁴⁶ which has been open to diverse scholarly

40 Plut. Cato Minor 23.3

41 B.A. Marshall, A Historical Commentary on Asconius, pp.29, 169.

42 H. Sanders, 'Codices librariorum', CP 29 (1934), p.251.

43 Seneca, De Brev. Vit. XIII.4.

44 Cic. De Leg. III.46.

45 Suet. Div. Iul. 55.2.

46 Asconius, The Commentary on the Speech Pro Milone, 42.2, in B.A. Marshall, A Historical Commentary on Asconius, p.191.

interpretations.⁴⁷ It concerns two different versions of Cicero's Pro Milone of 52 B.C., which have been accepted and rejected respectively as the verbatim copy taken down by shorthand writers and the later version published by Cicero himself.

Storage of this copious record in Republican times is another unsolved question. Lack of evidence, literary, epigraphic, and historiographic, means that the duration or manner of its preservation, if at all, must remain unknown. But, though suppositions cannot be substantiated, it is not impossible that the archives in the Tabularium, connected by stairway to the Curia, housed these Senatorial records along with other official transcriptions of state-business. And if the responsibility of recording it, verbatim or otherwise, fell to scribae of the consular college, it is even more likely that they were filed with the consular commentarii. An extract of these consular records of 73 B.C. has been preserved,⁴⁸ referred to under the title of *συμβουλευμένων δέλτωι*. This could also indicate the measure of state control over the publication of the acta of the senate. Given the known Republican tendency to use available administrative resources rather than innovate, it is quite likely that the transcription of the senatorial acta was ultimately the responsibility of the executive magistrates, the consuls.

⁴⁷ R.J.A. Talbert, SIR, pp.316, 317, who cites R.A. Coles 'Reports of proceedings in papyri', Papyrologica Bruxellensia 4 (Brussels, 1966), pp.9-13; contra J.N. Settle, 'The Trial of Milo and the other Pro Milone', TAPA 94 (1963), pp.268-280.

⁴⁸ In the SC aliaque acta de Oropiorum et Publicanorum
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controversiis, in R.K.Sherk, RDGE, no. 23 line 58, p.133 =
IG VII (1892), 413, and W. Rollo, Archivum Historicum
Romanum , pp.32, 36.

CHAPTER V

5. RECORDS IN IMPERIAL ROME

5.1 THE POLITICAL CONTEXT OF THE PRINCEPS' ADMINISTRATIVE EXPANSION

Against the background of the sweep of Republican history, the Principate was a response to the demands of new political realities. These realities symbolised the passing of the era of aristocratic politics through the realisation of the political importance of military clientela as the source of auctoritas. The emergence of the Principate from its immediate Civil War context was essentially the completion of the revolutionary process activated in 49 B.C. when armed conflict was substituted for factional rivalries which were formerly by convention within prescribed limits. Resumption of the old Republican political practices after Actium would only have unleashed armed conflict again, yet a continuity and justification were demanded of constitutional government that appeal to Republican tradition alone could provide. The Triumviral period had shown that the old constitutional and administrative formalities of state-business could still be observed in a milieu in which free constitutional procedures were largely abrogated. Accordingly after 27 B.C. the Republican institutions were to continue, and moreover were to serve as set channels through which Augustus, the absolute military victor, could operate. The fact that the later emperors had little which he had not formerly possessed proves the comprehensive control he had over these channels of the constitution.¹ Through the conferment of Republican magisterial powers on him, his auctoritas was assimilated to the potestas exercised by various magistrates².

¹ H.F. Jolowicz, A Historical Introduction to the Study of Roman Law, p.336.

(continued on next page)

These effectively concealed the nature of his supremacy, founded as it was on military force. His auctoritas to dictate political business was thus disguised, constitutionally and in seemingly fragmented form, in his various legally granted magisterial powers. The Principate had its origin in being an extraordinary magistracy, through the concentration of multiple traditional powers in the hands of one man, and thus it never entirely lost its magisterial aspect because the princeps' powers were defined by reference to offices well known to the Republic.³

The authority of the comitia, of the senate, and of the magistrates, was thus not interfered with but sufficient powers were concentrated in Augustus' hands to make it possible for him to control the whole administration of the state. His averred constitutionalism was a diplomatic feat since in reality his primacy was unquestionable and unchallengeable. Augustus' famous statement on his constitutionalism, that he 'surpassed all men in prestige but of power I had no more than the men who were my colleagues',⁴ underlines the success of his achievement in unifying civil government with military tyranny. In the shadow of Augustus' and his successors' auctoritas, the old Republican institutions lost their validity and meaning : they continued to function, but in accordance with the ethos of the new autocratic regime.

Affirmation of his auctoritas by legality was Augustus' foremost aim; no less important was his publicity to advertise his Republicanism. Examination of the gradual process of his constitutionalisation testifies throughout to his awareness of and careful handling of public opin-

² For the events of Jan. 27 B.C., see further W.K. Lacey, 'Octavian in the senate, January 27 B.C.', JRS 64 (1974), pp. 176 seq.

³ H.F. Jolowicz, op.cit., pp.333, 352.

⁴ Res Gestae Divi Augusti : 34.

ion. The value of publicity was recognised and consciously manipulated for the projection of a particular political image. Augustus' Republican image was enhanced by his cultivation of traditional procedures for his actions. These were capitalised upon in Augustus' selective edition of political truth for the public's information. The most important historical document illustrating this opportunistic handling of public opinion is the Res Gestae Divi Augusti, originally drafted by Augustus himself. It is a record justifying his unique position on the basis of unparalleled honours awarded in appropriate recognition of his unparalleled services to the state. Listing his achievements, acts of benevolence, and expressions of the public's gratitude and recognition, the Res Gestae was to have functioned as an apologia of Augustus' position and indeed of the Principate itself. Republicanism personified was clearly his publicity theme. And it would appear from this document that it was the propaganda leitmotiv for most of his political career. In the Res Gestae, synonymity of pre-war Republicanism with Augustus' political activities is alleged in a variety of ways. To project a particular constitutional image of himself in accordance with mos maiorum was clearly his aim, and the unity of theme and direction of purpose underlying this document demonstrates how Augustan propaganda was dominated by an ideological Republican defence of his extraordinary auctoritas.

The publication of the Res Gestae on Augustus' death in A.D. 14 could have been strategically intended to smooth the way for Tiberius' dynastic succession, by reminding the populace that it was the new system of government that had established peace after decades of civil war. By recalling his largesse, benevolences, and service to the state, and its reciprocal honours to Augustus, the Res Gestae was a posthumous means of consolidating the Principate and the positive values and attributes it represented for the public. It is also possible that this document

was part of a program of instruction that Augustus addressed to his successor, indicating the rewards to be attained if he imitated Augustus' example.⁵ The Res Gestae was one of the four documents named by Suetonius⁶ which were entrusted to the Vestal Virgins. Augustus wished it to be engraved on two bronze tablets outside his Mausoleum,⁷ but the original is no longer extant. The text of this document was discovered on inscriptions in varying stages of disintegration, found at Ancyra in Galatia, Apollonia in Pisidia, and Antioch in Pisidia. The target audience of the text, as implied in Augustus' wish, was clearly to be the citizens of Rome. The success of his propaganda intentions was assured by the plebeian section of the urban population which had benefited not only economically but also culturally under the new regime. It has been noted how the Augustan building program of public baths, parks, galleries, libraries, and theatres, had made the culture of the rich directly accessible to the urban poor.⁸ Given the highlighting of the tribunicia potestas in this document and the fact that Augustus dated the years of his reign by his tenure of this power, a scheme imitated by subsequent emperors, the Res Gestae may well have been geared to popular appeal.

The location of the extant copies of this document indicate provincial circulation and publication as well. That copies were found only in the Near East is a mere accident of history and should not be taken to mean that circulation was restricted to this part of the empire. The bilingual inscription from Ancyra, the choice of a Greek and Latin text respectively at Apollonia, a Greek city, and Antioch, a Roman colony, indicate its intended

⁵ E.S. Ramage, The Nature and Purpose of Augustus' 'Res Gestae', p.115.

⁶ Suet. Div. Aug. 101.1.

⁷ Suet. Div. Aug. 101.4

⁸ A. Wallace-Hadrill, review of The Power of Images in the Age of Augustus by P. Zanker, (Ann Arbor : Michigan, 1988), in JRS 79 (1989), p.158.

empire-wide readership, while the identical Greek translations from Ancyra and Apollonia confirm its official source. The location of the Ancyran inscription on the door of the temple to Rome and Augustus proclaimed provincial loyalty to Rome and princeps, while also serving to focus provincial recognition of Rome as the great imperialist and her benefits of peace.

A different approach was needed for Augustus' peers in the upper classes. His artful surrender of his virtual dictatorial powers in 27 B.C. was a pretence that he was prepared to place himself under the laws and the Senatus Populusque Romanus. His choice of appellation in the word 'Princeps' with its old Republican associations sufficiently expressed his primacy, but without defining the extent thereof. Through his conscious cultivation of Republican precedents for his actions and his preferred disregard of the monarchical potential of his position, he was able to maintain a delicate balance between traditional practices and this primacy. His imperial successors had to work out their own diplomatic strategies; some, of course, did not concede its necessity.

With regard to his role in the senate, to be discussed further in the following section, motions were generally proposed by his adherents rather than himself,⁹ and mere expression of the princeps' negative opinion would usually suffice as an alternative to the use of his constitutional powers. But sparing use of these powers could not conceal the fact that Augustus' auctoritas was enormous. Although from 27 B.C. onwards there was much more freedom of expression in the senate, and much greater consultation between himself and the senate than there had been before, the fiction of the return to Republican practices in their old aristocratic interpretation could not be completely disguised in the senate. Augustus's resignation from the

⁹ R.J.A. Talbert, SIR, pp.167 - 168.

consulship in 23 B.C. and the so-called 'Second Settlement' suggest that he had decided to make his domination of political business less obvious.¹⁰ His assumption of the tribunicia potestas for life at this point could however be interpreted as a quiet warning to the upper class in general that any attack on him would involve them in a conflict with the urban plebs.¹¹

To his peers, his primacy in the government was more prominent than his supposed handing over of arbitrium to the Senate and People in the sense of a return to pre-Civil War political practices. The poets Vergil, Horace, and Propertius do not refer to this handing over of arbitrium, whereas as early as 23 B.C. Vitruvius' address to Augustus in a literary work¹² contains unmistakable recognition of the latter's supremacy: this must have been acceptable to have been voiced by a loyalist.¹³ In later writers too, Augustus' primacy is recognised as the dominant feature post-27 B.C.. For example, Tacitus refers to the events of 27 B.C. with the words 'sexto demum consulatu Caesar Augustus, potentiae securus, quae triumviratu iusserat abolevit deditque iura quis pace et principe uteremur.'¹⁴ Dio states explicitly that after the victory at Actium, Augustus' reign began,¹⁵ and that his renunciation of his powers in 27 B.C. was a charade calculated to ensure his continued domination.¹⁶ As F. Millar observes,¹⁷ the only statement in our sources which can

10 E. Badian has argued conclusively that the Second Settlement was not related to the senatorial conspiracy of Fannius Caepio and Terentius Varro Murena, as Badian dates the conspiracy after the constitutional developments of 23 B.C. See further E. Badian, "'Crisis theories" and the beginning of the Principate', Romanitas-Christianitas, pp. 19-21.

11 Z. Yavetz, Plebs and Princeps, p.92.

12 Vitruvius, De Architectura I. Preface.

13 F.G.Millar, 'Triumvirate and Principate', JRS 63 (1973), p.63.

14 Tac. Ann. III.28.

15 Dio LI.1.1-2.

16 Dio LIII.2.6-12.3.

17 F.G.Millar, art.cit. (1973), p.64.

possibly be interpreted as making a claim that pre-Civil War practices had been re-instated, comes from Augustus himself, with the words 'rem publicam in mea potestate in senatus populique Romani arbitrium transtuli,'¹⁸ although the translation only means that Augustus had 'transferred to the Senate and People the power to decide what to do about the state.'

Various apologiae abounded among members of the upper classes to justify to each other their interested approbation of the pseudo-Republican political structure.¹⁹ Velleius Paterculus represents those who affected to believe that the ancient Republic had in truth been restored by Augustus.²⁰ Another justification was the ideology of change in the history of Rome, that new forms of government would inevitably evolve in the eternal city.²¹ Florus the epitomator preserved another view, possibly using the elder Seneca as a source, that the corpus imperii needed the mind and direction of a single governor to be held together.²² Dio Cassius, plausibly drawing on sources from the early Principate, refers to another view dating from Augustus' time, that the Romans were now 'free alike from the license of a democracy and from the insolence of a tyranny, living at once in a liberty of moderation and in a monarchy without terrors'.²³ Not much Augustan prose literature is extant, but the above citations illustrate the widespread defensiveness among the upper classes. While profiting under the Principate, they nonetheless felt obliged to justify their acceptance of a princeps. Tacitus records

18 Res Gestae Divi Augusti : 34.

19 R. Syme, 'The Political Opinions of Tacitus', Ten Studies in Tacitus, pp.120, 121, to which material this paragraph is largely indebted.

20 Vell. Pat. II.89.4; Prisca illa et antiqua rei publicae forma revocata.

21 Livy IV.4.4; Quis dubitat quin in aeternum urbe condita, in immensum crescente nova imperia, sacerdotia, iura gentium hominumque instituantur?

22 Florus II.14.5f; ... unius praesidis nutu ...

23 Dio LVI.43.4.

plots and discontent under the Augustan regime²⁴ : that the political structure could withstand even this unwilling acceptance by upper-class public opinion, only proved its strength.

The gradual disclosure of the true autocratic nature of the Principate had not only a political impact but also an administrative impact. This is evident in the imperial encroachment on the senatorial prerogatives in foreign and military affairs, and the increasing supervision by the princeps of all aspects of the formerly senatorial administration of the empire. Although the princeps' auctoritas was unchallengeable, the imperial will tended to be accomplished by diplomatic initiatives rather than overt autocracy during the early Principate. The result was a progressive centralisation of authority in the emperor who came to symbolize the state, in administrative, legislative, and eventually legal matters, so that by the beginning of the second century A.D., all aspects of government were under imperial control.

The most prominent feature in this transforming administrative milieu was the de-politicisation of public life as imperial appointees, who were not the traditional magistrates, carried out important state-business. Often accompanied by the regalia and trappings of state-officers²⁵ as a means of communicating their authority, these personal appointees were answerable first to the emperor as the embodiment of the state's authority, rather than to the SPQR. The officialdom of imperial agents of senatorial and equestrian rank was gradually extended to those of freedman status, who usually belonged to the imperial household. The use of this latter class in the exercise of the imperial prerogative had its origins in Republican practice but was nevertheless decisive in

²⁴ Tac. Ann.I.10.

²⁵ Frontinus, De Aquis. II.99 : *Insignia eis quasi magistratibus concessa.*

defining the personal nature of the accountability that characterised the emergent imperial state-machinery. Much state-business was in fact handled by imperial freedmen. Claudius' organisation of their functions into officia institutionalised this imperial civil service, and only under Hadrian were these freedmen bureaucrats replaced by senatorial and equestrian officers when they became posts in the official cursus. By then the Principate was so secure that the personal bonds of clientela between the emperor and his freedmen were no longer as significant as they had been in earlier years.

The emperor's developing role in the administration of the empire, as reflected in his publicity interests governing the respective exposure and confidentiality of records of state-business in the financial, legislative, and judicial spheres, will be examined in the chapters to follow. The remaining parts of this chapter will deal with his role at Rome from whence, as capital of the empire, his auctoritas proceeded. Prior to this a short section must be devoted to the growing network of administrative control at Rome under imperial sway. This network concerns specifically the creation of the major independent curae of public services which auspiciously served to entrench the popular foundations of the Principate in Rome.

The administrative developments in the city of Rome owed their impetus to the difficult economic conditions of the urban plebs. This is not to over-estimate the importance of this section of the population to Augustus in determining historical development : the army and upper-class consent were always the guarantors of the princeps' position. But, as Z. Yavetz notes, while it was impossible to rule in Rome with the help of the plebs alone, it was troublesome to rule against their wishes.²⁶ This latter point the senate discovered to its cost. Popular disturbances arose from economic distress and Augustus' adroit

²⁶ Z. Yavetz, op. cit., p.135.

exploitation of the senate's proverbial disinterest therein to his own advantage had political implications. His activities on behalf of the plebs²⁷ followed conventional popularis precedent. But in the changed conditions of post-Triumviral Rome where the auctoritas of one man was effectively superior to the constitution, this popularis precedent and its outworkings were of extreme consequence since they could subsume the duties of traditional officers-of-state. Augustus' generosity to the state legitimised his personal and innovative involvement in its administration, while his political diplomacy veiled any autocratic pretensions. His popularis activities aligned popular favour with the new political realities in a way that precluded the imperative of Republican fictions as for the upper class. The degree of popular support for the Principate is apparent in the absence of plebeian rebellion against the concept of one-man rule : the most revolutionary plebeian wish in fact turned out to be that for a better princeps than the current one.²⁸

The Republic in its political interpretation had been the stronghold of aristocratic privilege. In Augustus' purported restoration thereof it was expedient that his supremacy be the focus of as many vested interests as possible, and this included the urban plebs. The princeps' fostering of popular opinion was based on sound political sense because the favour of the plebs actually reinforced his position in Rome against the senate. By allying himself with the plebs sordida, Augustus was subtly challenging the senate that opposition to him could involve it in a conflict with the Roman plebs.²⁹ Massed popular opposition to the senate in 22 B.C. revealed the extent to which such conflict could be realised and how indispensable the princeps' favour was towards the senate for its very survival as an organ of government.

²⁷ See further, CAH vol. X, pp.159-181, 425-464, 583-606.
²⁸ Z. Yavetz, *op. cit.*, p.105.
²⁹ Z. Yavetz, *op. cit.*, p.92.

In the mass disturbances due to floods, plague and famine³⁰ during 23/22 B.C. the traditional Republican magistrates, being representative of a proverbially uninterested class, were ignored as petitionary channels. It was to the auctoritas of Augustus, now constitutionalised in the tribunicia potestas, that appeal was made. The plebs stormed the senate and threatened to incarcerate its members unless Augustus was appointed dictator and given cura annonae.³¹ A new force was thus highlighted in the political arena at Rome, to reappear in 21 and 19 B.C. when riots occurred for Augustus to hold the consulship. The senate was again powerless and it is significant that despite the gravity of these situations, Augustus refrained from using his troops against the plebs. The senate would thus have realised what a powerful instrument of disorder the plebs could be and also that the senate owed its ascendancy in Rome to Augustus.

As opportunism was the mainspring of Roman politics, Augustus had grasped that plebeian necessities afforded him opportunity in entrenching popular interests to safeguard his constitutional position. The tribunicia potestas was henceforth to be cultivated as the procedural means whereby the urban plebs found in him the focus of their loyalty and even clientage. This attempt at the role of supreme patron is confirmed by the imperial discouragement of popularis methods by others to court popular favour.³² Indeed due to increasingly exclusive imperial concern with popular interests, the tribunate and aedilate decreased in political importance to such an extent that candidates for these offices were hard to

30 Dio LIV.1.1-2; LIII.33.4.

31 Dio LIV.1.3.

32 Suet. Div. Aug. 42.3 articulates this : 'I was strongly inclined to do away forever with distributions of grain, because through dependence on them agriculture was neglected; but I did not carry out my purpose, feeling sure that they would one day be renewed through desire for popular favour'.

find.³³ The success of Augustus' attempt, though slow, would mean the freeing of plebs from the aristocracy's clientelae and the binding of them to himself.³⁴ The vast scale of his benefactions, the frumentationes, congiaria, and financial relief, as well as his meticulous advertisement of these details posthumously through the Res Gestae, would confirm such a strategy. In more enduring form, monuments and public buildings were erected by Augustus as visible reminders to the Roman public. One such important 'document' was the ara pacis on the Campus Martius (13-9 B.C.) which proclaimed the benefits of the Augustan pax.

Since he was a kind of supreme tribune in the public's view, he could count on popular backing if necessary when proposing measures in the senate or public benefit. Although he apparently seldom did so by virtue of the tribunicia potestas,³⁵ yet the effect was the same. In this connection it is possible to interpret the creation of the major independent curae during the early Principate as imperial responses to plebeian economic conditions, and so perceive how popular necessities were exploited to increase Augustus' involvement in the civil administration at Rome. His exploitation of these opportunities were masterpieces of diplomacy, enacted through conventional procedural channels with no alienation from the traditional Republican practice he emulated and desired to project. Augustus knew that his acceptability to the upper-class, of which the senate was representative, was expedient and indeed imperative for its permanent adjustment to a regime founded on military force.

³³ Dio LIV.30.2 (12 B.C.); LV.24.9 (A.D.5).

³⁴ Z. Yavetz, *op. cit.*, pp.96, 97. To restrict further their clientelae it has also been suggested that laws limiting the emancipation of slaves were passed, for example, the Leges Junia Norbana, Fufia Caninia, Aelia Sentia. Similarly Claudius' measure forbidding the attendance of soldiers at senatorial salutationes (Suet. Claud. 25).

³⁵ R.J.A. Talbert, SIR, p.187.

The curae under discussion, namely for the corn supply, corn distribution, public safety, water-supply, and the roads, were established by SCC on the princeps' initiative and the functions involved were similarly ratified. By such acts of government, the responsibility for the curae was also devolved on the princeps, whose nominees were then accountable to him personally. This identical trend is apparent in other spheres of government where the princeps had interested participation : imperial appointees carried out official state duties and were registered at the Aerarium, but, liaising only with the princeps they were detached from existing state-machinery, such as it was. The frequent designation of the curators ex SC especially during the early Principate,³⁶ in no way detracts from the reality that they carried out their responsibilities under imperial injunctions. The administrative efficiency that accrued as a result of the curatorships could only have enhanced imperial popularity among the ordinary people, while it simultaneously effected closer imperial control of key public-works at Rome. As it will emerge, the traditional magisterial spheres of duties were encroached upon, but, as R.J.A. Talbert drily notes, the Republican senate had never shown more than the most desultory concern for matters such as affected the urban plebs exclusively.³⁷

The phenomenon of prefectures and curatorships executing functions which had been permanently detached from the traditional magisterial portfolios and made into independent curae, is an imperial development. The imperial initiative behind their creation was rooted in popularis

36 For example, curatores viarum : ILS 915; to be inferred from CIL IX 5986, 5989; cf. CIL X 6914, 6917 (milestones from Appia with S.C.), CIL X 6903 (milestone from Latina); CIL IX 5943, 5954 and ILS 5815 (from Salaria); curatores riparum et alvei Tiberis : CIL VI 31542 - 44; 31557 and XIV 4704; curatores locorum publicorum iudicandorum : CIL VI 37037; ILS 942 and 5939 - 41.

37 R.J.A. Talbert, 'Augustus and the senate,' Greece and Rome 31 (1984), p.61.

concerns which could be, and clearly were, opportunistically exploited to effect imperial infiltration into the civil administration of Rome. The consequences were politically advantageous in that they served as a means to constitutionalise Augustus' auctoritas in its popularis perception, and provide official procedural channels for its outworkings. As the following chapters will demonstrate, administrative concerns under imperial supervision entailed the necessity of bureaucratic staff and the prolific compilation of material for archival retention. Although these curae of public works could sometimes be of major proportions, as in the case of the annona,³⁸ knowledge of the administrative formalities involved and even the existence of data essential to the performance of their duties, is sparse. Despite the dearth of such primary evidence of record-keeping, the proportions alone of the imperial portfolio of public services would alone warrant that there would be certain such features in common with other administrative portfolios, as the following chapters will demonstrate. Given our knowledge of the extensive holdings of tablets from the provinces concerning land tenure for instance,³⁹ with its detailed minutae, which were housed in the imperial archives, it is unrealistic to suppose that similarly detailed records of the imperial involvement in urban administration⁴⁰ would not also have been made. Further the official correspondence and possibly even mandata, such as witnessed between the emperor and his legates and procurators, would have been no less necessary with the curators named above, because, whether they were appointed by lot or by the princeps, they liaised with him rather than directly with the senate. From this, it must surely be possible to infer

38 See further Chapter VI of this study. See also, T.F. Carney, 'The emperor Claudius and the grain trade,' Pro Munere Grates, pp.39-58.

39 See further, E. Posner, Archives in the Ancient World, p.196.

40 cf. Frontinus, De Aquis. II.99 ex commentariis Agrippae.

the existence of official archival documentation in the custody of the princeps in his administrative capacity. Dio's reference to the destruction in A.D. 192 of the buildings on the Palatine that housed the extensive imperial archives⁴¹ attests the vast dimensions of this organisation which was founded in administrative efficiency and as such must certainly have included the urban portfolio.

The location of the imperial archival administration on the Palatine where the emperor's residence was situated is significant as it demonstrates the household origin of these administrative headquarters. This began as a logical outgrowth of the exercise of the emperor's magisterial prerogatives, but the use of imperial freedmen in the absence of provision of state-officers, in the carrying out of governmental duties on the emperor's behalf, meant the development of an imperialised state administration. In the princeps' personal employ, although at state-cost, the freedmen heading these household officia became in effect superior to the traditional Republican magistracies. The institutionalisation of these imperial administrative arrangements on the Palatine evolved gradually during the first century A.D., and paralleled the disclosure of the Principate's innate autocracy in the political, financial, legislative, and judicial spheres of government. The records of state-business arising from the gradual imperial centralisation of authority will be the subject of the chapters to follow.

⁴¹ Dio LXXII.24. 2-3.

5.2 BUSINESS IN THE SENATE

Under the Principate the old Republican motive of seeking prestige through high office continued to flourish. Competitiveness for the distinctions of state-office still characterised senatorial politics but this was accomplished increasingly less through the old system of aristocratic combines. Competitiveness through these channels was circumscribed as imperial favour expanded and became institutionalised through the practice of commendatio. The princeps' favour was recognised as the surer means of advancement, and in time senatorial status and office became the currency of imperial patronage to the upper classes.⁴²

The princeps' relationship with the senate was marked by underlying tensions over the extent of their respective powers since the princeps held in effect the supreme executive authority. The equivocal nature of his position accounted for this : the early emperors' affected accountability and subordination to the Roman institution was contradicted by their unchallengeable auctoritas. Much of the senate's business was of a routine administrative nature, but because of the princeps' position the senate was dependent on him for broad policy outlines, and similarly on his administrative officials for management information. In addition, as the scope and content of senatorial business was encroached upon by the emperor's overriding interests, senatorial initiative was not unexpectedly undermined. According to Suetonius, Tiberius allowed SCC to be passed contrary to his expressed opinion⁴³ but none are known to have been of any consequence. It must be acknowledged that between A.D. 26 and 37 there must have been occasions when the senate took decisions with which the absent emperor may not have agreed. But it is clear from imperial complaints that

⁴² E.G. Millar, ERW, p.341.

⁴³ Suet. Tib. 31.

senate-meetings in the emperor's presence never attained the consistent level of critical activity and initiative it had shown in the Republic.

Evaluation of the princeps' role in the senate must be conducted within the propagandistic context of the senate's intended outward role and trappings in the quasi-Republican political system. Despite its unmistakable decrease in auctoritas by virtue of Augustus' extraordinary powers, the senate was intended to remain in appearance the great council of state. Legislation to exalt the senate's stature, corporately and individually, demonstrates a distinct policy to win upper-class favour, and featured separatist tendencies. For example, automatic hereditary admission to the latus clavus was granted to senators' sons;⁴⁴ as early as 18 B.C. marriage with the lowest classes was forbidden to the senatorial order; and three lectiones (in 29, 18 and 11 B.C.) with increasing wealth stipulations also endowed senators with greater prestige.

'Initiative in general, and ultimate control, lay with Augustus, but it was important to him to do all he could to make his policies acceptable to upper-class opinion, which was represented in the senate,' according to P.A. Brunt.⁴⁵ This quest for acceptability was transferred to the internal workings of the senate where above all his tremendously superior influence had to be masked or mitigated. During the early Principate, evidence from Augustus' and Tiberius' reigns shows the extent to which they scrupulously observed Republican practice by working through traditional procedures. P.A. Brunt has perceptively noted that historians have understated the extent to which these two emperors worked through the senate.⁴⁶ Dio claims that Tiberius referred the smallest matters to

⁴⁴ Suet. Div. Aug. 38.

⁴⁵ P.A. Brunt, 'The role of the senate in the Augustan regime', CQ 34 (1984), p.423.

⁴⁶ P.A. Brunt, art. cit., pp.423-4.

the senate, taking no decision alone.⁴⁷ Suetonius amplifies this by stating that in his early years, there was no matter public or private, great or small, which Tiberius did not lay before the senate.⁴⁸ He further specifies that the senate debated revenues, monopolies, construction and repair of public works, the levy and discharge of soldiers, disposition of military forces, prorogation of magistrates, appointments to army commands, and the form and content of replies to kings. Tacitus likewise confirms that by A.D. 23 all public business and most important private concerns were handled by the senate.⁴⁹ Given Tiberius' known loyalty to Augustan precedents and his imitation of Augustus as a matter of policy, it is likely that in continually consulting the senate as these sources attest, Tiberius was following Augustus as a model.⁵⁰

Despite the show of imperial Republicanism by reference to the senate for its approval, trends common under autocracy were exhibited from the start, such as servility and fear to jeopardise self-interest.⁵¹ The presence of these trends would seriously undermine the validity of the many documented instances of the early principes working through the senate if the success of imperial proposals was generally a foregone conclusion. Critical deliberations in the vein of the Republican senate could be a farce. The sources seem to recognise this because the formalities of senatorial procedure which this working relationship should have involved, and probably did, are not always detailed. As P.A. Brunt observes, the ancient authors recognised that decisions taken were in effect decisions by the emperor and so ignored the role

47 Dio LVII.7.2.

48 Suet. Tib. 30.

49 Tac. Ann. IV.6.2.

50 This is stated explicitly by Strabo (VI.4.2 ad finem); '... Tiberius, who is making Augustus the model of his administration and decrees ...'. See further P.A. Brunt, art. cit., pp.425, 426.

51 For example, Tac. Ann. I.74.

of the senate, since they were interested more in the reality than in the forms.⁵²

Reactions indicative of senators' response to Augustus' developing role in the senate may be gauged from certain legislation, on Augustus' initiative, regarding procedure at its sessions. Through the Lex Julia de senatu habendo of 9 B.C., fortnightly meetings on the Kalends and Ides were instituted, except during the annual recess when a quorum was chosen by lot; and quorums for every type of business were specified. To ensure attendance at meetings an album listing senators' names was to be displayed in the Curia, and fines for absenteeism, which had not been imposed since the second century B.C., were introduced.⁵³ That even this was not effective in combatting the problem of lax attendance is clear from another provision of 9 B.C., when one out of every five absentees was chosen by lot to be fined.⁵⁴ But there is no evidence that this was ever enforced. Gellius supplements our knowledge of this fragmentary law by mentioning that it laid down the order in which sententiae were to be requested.⁵⁵ The motive behind this could have been to force senior senators to offer considered opinions rather than to conduct themselves in the manner recorded in a famous document castigating senators, which has been attributed by epigraphers to Claudius.⁵⁶ Codification rather than exploitation of senatorial procedure marked the Lex Julia de senatu habendo, but its regulations would have been unpopular with senators. It is possible that to compensate the senate at this time, Augustus traded for it the right to keep its meetings confidential by revoking Julius Caesar's enactment of 59 B.C. through which senatorial business was published in detail. While inadvertently

52 See further P.A. Brunt, art. cit., p.426.

53 Dio LV.33.4.

54 Dio LV.3.3.

55 Gellius IV.10.1.

56 BGU 611 = E.M. Smallwood, Documents illustrating the Principates of Gaius, Claudius and Nero, no. 367.

affording the princeps a wider and welcome influence over public opinion by the suppression of such information, this measure would have greatly enhanced the senate's sense of the value of its deliberations.

The importance placed on senatorial attendance underlined the stature envisaged for the senate in the Principate. Attendance was important to an emperor's standing and most rulers were eager for the senate's approbation on their accession at least. The extreme case of Thrasea Paetus exemplifies how absenteeism could be construed as contempt for the emperor himself, in Tacitus' narrative.⁵⁷ And significantly, apologies for absence were made to the emperor, not the consuls as the presiding executive magistrates.⁵⁸ Republican practice, symbolised by the senate as the major state-council, was clearly important in the Principate.

The princeps' patronage served to introduce new values into the political arena and there were enough aspirants for his favour for this to remain a powerful tool. It enabled Augustus and his successors to maintain a strong support-base of men dependent on imperial patronage for career advancement, and with interests vested in the continuation of autocracy. The extent of imperial interference or control over elections in the early Principate has been debated inconclusively among scholars.⁵⁹ The transferral of elections from the Campus to the Curia on Tiberius' accession,⁶⁰ was a departure from Republican practice. This change was foreshadowed by the law of A.D. 5 which established an electoral college,

⁵⁷ Tac. Ann. XVI.22 and 28. See also R.J.A. Talbert, SIR, p.136.

⁵⁸ R.J.A. Talbert, SIR, p.136.

⁵⁹ A.H.M. Jones, Studies in Roman Government and Law, pp.29-50; R.Syme, Tacitus vol.II, pp.756 - 760; P.A. Brunt, JRS 51 (1961), pp.71 - 83 and CO 34 (1984), esp. pp.429 - 431; B.M. Levick, Historia 66 (1967), pp.207 - 230; A.J. Holladay, Latomus 37 (1978), pp.874 - 893.

⁶⁰ Tac. Ann. I.5.

destinating centuries of senatorial and equestrian composition, an innovation of which the Tabula Hebana⁶¹ informs us. In the process of destinatio the number of candidates was probably made to match the number of posts. This in reality meant a simple system of co-option to magisterial office among the senators themselves. On the one hand an honour to the senate, this new arrangement also served to deflect attention from the new princeps to the Populus as the traditional rival of the senate. The formal role of creating magistrates still rested with the comitia after the decisions of the destinating centuries had been ratified by the senate. This role was no doubt retained as it was a convenient channel of communication to advertise their new magistrates to the people.⁶² After the electoral innovation of A.D.14, fierce competition and canvassing within the senate⁶³ attest the old Republican feature of politics as a quest for social prestige despite the increasing de-politicisation of public life under the Principate. Nonetheless by the early second century A.D., as Pliny illustrates, imperial control of the highest magistracy, the consulship, was de facto openly recognised.⁶⁴

Under the Principate, business in the senate entailed adjustments in line with the new political realities, most notably the role of the princeps. Interpreted on its own terms without reference to the Republican senate, which functioned in a totally different political milieu, it will be recognised that senatorial business in the Imperial era was still valid. The catalogue of SCC compiled by R.J.A. Talbert⁶⁵ covers areas of continuing

61 EJ . no.94a.

62 S. Martin, review of The Senate of Imperial Rome by R.J.A. Talbert, in JRS 75 (1985), p.223.

63 For example, Pliny, Ep.VI.19 on bribery; Epp.II.9, VI.6, VIII.23 on canvassing; Ep. III.20. and Tac. Ann. XIV.28.1 on rivalries.

64 Pliny, Pan. 92.3. See also B. Levick, 'Imperial control of the elections under the early Principate : commendatio, suffragatio, and 'nominatio'', Historia 16 (1967), p.228.

65 R.J.A. Talbert, SIR, pp.438-458.

relevance, such as status, inheritance, religious matters, coinage, maintenance of public order, and other routine administrative work. The social status of the senatorial order was in itself much sought after, and the increasing number of provincial aspirants contributed significantly to the continuance of senatorial traditions. But from the beginning of the Principate, important senatorial spheres of government - military matters, foreign affairs, the administration of newly constituted and the militarized provinces - had been ceded to the princeps by virtue of his extraordinary multiple magisterial powers and inexorable auctoritas, and these formed the basis of his progressive involvement in the empire's administration.

The facade of Republican protocol could not disguise forever the auctoritas of the princeps. As mentioned above, deference to his pre-eminence in important decision-making, in addition to his control of formerly senatorial spheres of administration, had vitally undercut the scope and content of senatorial business. In view of these realities, which could only become more pronounced as the autocracy of the Principate became entrenched with time, the constitutional value of SCC might seem to be logically negated in Imperial times. On the contrary however, SCC, in keeping with the added dignity of the senate, increased in stature compared to their Republican counterpart. Theoretically advisory and depending on a magistrate's authority for its execution, they evolved under the Principate to become binding as legislative acts in their own right. Jurists of the second century A.D. recognised this development, as Gaius states: *senatus consultum est quod senatus iubet et constituit; idque legis vicem optinet, quamvis fuerit quaesitum.*⁶⁶ Ulpian, writing several decades later, claims: *non ambigitur senatum ius facere posse.*⁶⁷ The transition from ius honorarium to ius civile is lost to modern view because of

⁶⁶ Gaius, Inst. I.4.

⁶⁷ Ulpian, Dig. I.3.9.

the absence of legislation formally investing SCC with this legal authority.⁶⁸ Perhaps however no such measure occurred and it developed rather out of Republican precedent wherein the senate had become accustomed to make decisions on matters too complex and advanced for popular consideration. Foreign affairs and finance, particularly in the imperialistic expansion after the Second Punic War, had become exclusive senatorial preserves as much by necessity as by the political design of a ruling class jealous of its ascendancy. Senatorial decisions on these matters had been considered binding in their own right and were seldom referred to the comitia. In Imperial times this convention was extended into other spheres. Justified by long-standing custom, it was also an increase in the senate's prestige and as such was approved by the princeps who had his own reasons for supporting restrictions on popular knowledge of certain state-business. Certainly we hear of no popular objections at this usurpation of a previously exclusive comitial privilege, if the common people were even aware of it. As popular participation in politics decreased, especially in electoral and judicial matters, so the senate absorbed the comitial role as the repository of sovereignty, and as such became the symbol of the Republic in the new regime.⁶⁹

Leges on a wide variety of business continued to be formally passed through the comitia, thus perpetuating the Republican myth, although they tended to decrease in number during the course of the first century A.D.. The last ^{known} lex, of an unimportant agrarian variety, was passed in A.D.98. Given the accepted initiative of the princeps in all matters of import, we may guess at his instigation even when such legislation was accomplished by others. The Lex Papia Poppaea of A.D. 9 is an outstanding example : proposed by two bachelor consuls, the law imposed

68 R.J.A. Talbert, SIR, p.432.
69 ibid.

disabilities on unmarried persons of rank. By virtue of the princeps' tribunicia potestas the comitia were useful too in carrying out his wishes and publicising his popularis concerns, while affording the urban plebs a sense of political dignity. In the absence of evidence of the plebs sordida rejecting proposals backed by imperial auctoritas, we may assume that this ploy worked without impediment. This expedient awareness of favourable public opinion is reflected in two otherwise inexplicable instances of imperial initiative behind comitial legislation. Frontinus lists the six SCC of 11 B.C. concerning the functions of the newly-established curatores aquarum, which were followed by a lex in 9 B.C. on the same subject. Such a lex was not officially needful, but it served to bring to the urban plebs' attention the imperial popularis concern for their water-supply. Similarly under Tiberius' reign, a lex rogata was passed after Tiberius had consulted with the senate on the advisability of altering the regulations of the office of the Flamen Dialis. In Tacitus' account, the choice of a SC or a lex were offered on Tiberius' initiative to address the matter⁷⁰. The purpose behind the choice of the latter then could have been to affirm the identity of religious interests between princeps and plebs.

It is unclear whether leges were always approved first by the senate, as customary although not obligatory by law in the Late Republic. In view of Augustus' policy of honouring the senate and Tiberius' deference in referring almost everything to it,⁷¹ this was probably the case during the early Principate. This Republican gesture is reflected in Dio's description of Augustus' willingness as early as 27 B.C. to hear advice and improvements on his proposed measures before formally submitting them for approval.⁷² Whether for approval of senate or comitia is

70 Tac. Ann. IV.16.
 71 Suet. Tib. 30.
 72 Dio LIII.21.3.

not stated, but the context is clearly senatorial, even if that of the probouleutic consilium, because comitial procedure did not cater for discussion. A further description by Dio of the Lex Julia de senatu habendo would confirm that consideration of the senate was important to his quest of winning upper-class approval, namely that before bringing the measures up for consideration, Augustus sought the opinions of senators.⁷³ These examples of Augustus' practice corroborate the motive underlying the institution of a probouleutic council, the seme-strium consilium,⁷⁴ sometime between 27 B.C. and 18 B.C., namely to be assured of senatorial support in a way that would also inhibit opposition from the remainder of the senate. A fair proportion of the bi-annual senatorial representatives would be pedarii and others who might be expected to be more susceptible to the subtle pressures of serving on the princeps' consilium, especially if they entertained career prospects. The consilium's backing was assumed when measures emanated from that quarter, usually under a participant's name, and this had the effect of nullifying meaningful debate in the senate proper. For Tiberius' approach, an even more excessive deference to senatorial participation after the Republican tradition seems to be implied by Suetonius's claim that there was no matter whether public or private, great or small, on which the senate was not consulted.⁷⁵

The equivocal position of the princeps had its effect on the conduct of senators and thus indirectly on senatorial procedures. The existence of a senatorial consilium under Augustus, as mentioned above, had perhaps a more far-reaching influence on senatorial debate thereafter than is generally recognised, since it spanned over a generation until its abolition on Tiberius' accession. In A.D. 13 it

73

Dio LV.4.1.

74

J Crook, Consilium Principis, pp.9f.

75

Suet.Tib.30.

even enacted decisions on behalf of the whole senate without its ratification,⁷⁶ and the fact that such a privilege was accorded by a SC indicates the strength of imperial pressure on the senate. In the senate itself, the presidential prerogative of determining the agenda for meetings was curtailed because of the princeps' extraordinary right of putting forward his own relationes first at any meeting.⁷⁷ Most significant was the marked decrease in senatorial participation and attendance, efforts to encourage which have been mentioned earlier in this section. Procedural forms of Republican practice prior to the formulation of SCC were maintained outwardly but increasingly lacked the vital constituent of critical debate. Imperial recognition of this is attested in the various reigns. Augustus, for instance, complained that once Agrippa and Maecenas were dead, there was no-one to give him counsel,⁷⁸ while Tiberius deplored that senators were ad servitutem paratos.⁷⁹ In Tacitus' view there remained only 'traces of dying liberty' by this time.⁸⁰ Elsewhere Tacitus contrasts contemporary practice with certain bygone days '... when it was not enough to move a brief resolution in the senate, unless one made good one's opinion in an able speech.'⁸¹ Just how bygone these days were is unspecified, but a similar perspective is depicted in a tirade attributed to Claudius,⁸² on the satisfied sum total of senatorial participation embodied in the one word adsentior. Controversial issues were a temptation to greater involvement in debate, but not if these issues would have jeopardised senators' self-interest or even survival. The converse is true too, and concerns the one literary reference to the actual number of speeches made at a senate meeting. Tacitus stated that a total of 44

76 Dio LVI. 28.1-2.

77 R.J.A. Talbert, SIR, p.234.

78 Seneca, De Ben. VI.32.

79 Tac. Ann. III.65.

80 Tac. Ann. I.74.5.

81 Tac. Dial. 36.

82 BGU 611 = E.M. Smallwood, Documents illustrating the Principates of Gaius, Claudius and Nero, no.367.

orations were delivered during an interrogation in A.D.31 about the punishment of Livilla for her alleged complicity with Sejanus.⁸³ A show of involvement was expedient at such a trial, especially as it would have reached Tiberius' notice through the acta senatus. As Tacitus delineated, 'a few were dictated by alarm, the majority by the habit of adulation'.⁸⁴ In Domitian's time Pliny indicated a further trend, that it was commonly expedient to include praise of Domitian in a sententia of any nature.⁸⁵ Such a self-interested policy is explicable under a tyrant, but even under M. Aurelius, excessive approbation of an imperial oratio was thought needful before amendments of a minor nature were offered for imperial consideration.⁸⁶

By the mid-second century A.D. these altered political realities had wrought procedural changes which unmasked the inherent autocracy of the Principate. The scarcity of evidence makes it difficult to trace the stages of this advance, but it is clear that from the beginning of the Principate, so inexorable was the expansion of the emperor's auctoritas that rational and critical consideration of proposals was overshadowed by other concerns, while consideration of an imperial relatio came to involve ever ^{fewer} sententiae. The embodiment of an imperial oratio in a SC in toto was thus a logical development of this trend. Even series of imperial proposals came to be ratified by a single brief SC rather than a considered evaluation thereof point by point.⁸⁷ The culmination of this development was the recognition of the imperial oratio as a statement with full legal authority in its own right. The first extant juristic recognition of this dates from Hadrian's reign⁸⁸ and is

83 Tac. Ann. V.6.

84 ibid.

85 Pliny, Pan. 54.3. See also, R.J.A. Talbert, SIR, p.256.

86 In the Aes Italicense (Hesperia 24 (1955), pp.320-349).

87 R.J.A. Talbert, SIR, p.490.

88 Gaius, Inst. II.285; Dig. V.3.40 pr.; XLIX.2.1.2.

thereafter frequent. The absence of such references in juristic works of previous reigns is to be questioned, because in the jurists' view any imperial statement was considered to have the force of law even retrospectively, whatever the channel of expression. Hence as R.J.A. Talbert notes, a precedent was established according to Paulus merely because Augustus dixit,⁸⁹ and because Ulpian can refer to what Augustus wrote libro decimo de vita sua.⁹⁰ That it is likely to be pure chance that citations of imperial orations before Hadrian's time are missing from the jurists, is strengthened by the unaccountable absence of such references to Antoninus Pius' orations in the senate, when even Diocletian and Maximian can cite an oratio of his and when many citations of his rescripts and other decisions do occur.⁹¹

This acceptance in toto which endowed an imperial oratio with legislative force equivalent to that of a SC in terms of embodying a decision vested with full senatorial support, was symbolic of the changed political realities. The validity and necessity of free debate which had formerly characterised Republican senatorial proceedings, was nullified, and in effect emptied the senate's procedural forms of reality. However, R.J.A. Talbert would assert that the set forms of relatio, interrogatio, and formulation of consulta, did not give way to a summary adoption of the imperial oratio.⁹² Evidence from certain extant SCC supports this indeed,⁹³ but we may surely presume that on matters of great consequence, especially in the emperor's sphere of administration⁹⁴ or when his

89 Dig. XL.12.23.2.

90 Dig. XLVIII.24.1.

91 R.J.A. Talbert, SIR, p.297.

92 R.J.A. Talbert, SIR, p.294.

93 For example, in the Aes Italicense (Hesperia 24 (1955), pp.320-349).

94 For example, the reluctance of all senators except Helvidius Priscus to conduct financial business in Vespasian's absence in A.D. 69 because it was an acknowledged imperial preserve. (Tac. Hist. IV.9.1.)

interests were at stake,⁹⁵ freedom to debate would by choice become freedom to abstain from anything but assent to the imperial relatio or sententia. The fact that even into the third century A.D. juristic references to SCC do occur as well as imperial orationes as statements of law on the self-same subjects, does not necessarily imply that they were not based entirely on the original imperial relatio or were not in total accord with the imperial view. If not, we may assume that the matter was one of indifference to the emperor. The absence of parallel texts of SCC and orationes necessarily leaves this inconclusive, but in view of the increasingly open autocracy, and on occasion tyranny, of emperors, it was in senators' interests to opine what would ensure imperial favour. The juristic practice of referring both to the imperial oratio and to the subsequent SC could similarly be ascribed to their identical content.⁹⁶ This possibility is confirmed by some instances where juristic citations seem to alternate between oratio and SC quite indiscriminately,⁹⁷ which R.J.A. Talbert concedes.⁹⁸

Despite the legislative evolution of the imperial oratio in the senate by the mid-second century A.D., juristic and other references attest that SCC were not superceded and that they continued to cover a wide range of business.⁹⁹

But perhaps this is not significant since it was imperial policy anyway to cultivate senatorial participation in the government of the empire. This was particularly relevant during the early Principate when autocracy was being Republicanised. But even then, despite this deliberate policy the joint handling of public business could not

⁹⁵ As in treason trials.

⁹⁶ See R.J.A. Talbert, SIR, pp.438ff, nos. 81, 100, 108, 111-113, 128-130, 134-135 in list.

⁹⁷ For example, Paulus' and Tryphoninus' discussion (Dig. XXII.2.16 pr and LXVII.1-4) of no.130 in the list cited in the footnote above; Ulpian (Dig. XXIII.1.16; XXIV.1.3.1) on no. 129, cited by R.J.A. Talbert, SIR, p.295.

⁹⁸ R.J.A. Talbert, SIR, p.295.

⁹⁹ See further the list in R.J.A. Talbert, SIR, pp.438-458.

always conceal political realities. This is exemplified by the Fifth Cyrene Edict of 4 B.C. which, issued in Augustus' magisterial capacity, presented a SC that had been framed on the recommendation of the emperor and his senatorial consilium.¹⁰⁰ His primacy behind the issuing of the two documents is evident throughout.

Given this emperor's concern to preserve the appearance of continuity with Republican practice, it is likely that procedural forms of conducting senatorial business were maintained. Even in the preceding Triumviral era when dictatorial powers were exercised arbitrarily, it had been possible to observe these formalities. In addition, emulation of Republican traditions during the early Principate was Augustus' overriding propaganda policy therefore their continued observance must be unquestionable.

The drafting of SCC after the meeting by the relator and senatorial witnesses continued into Imperial times.¹⁰¹ They followed the same format as SCC of Republican times¹⁰² with one significant addition, namely that the number of senators present was to be recorded in the decree. The words in senatu fuerant... were duly appended at the end, abbreviated 'i.s.f.'.¹⁰³ It is unclear whether the princeps in his superior position found it beneath or within his dignity to attend such a gathering to frame a proposal; only one such instance is attested epigraphically.¹⁰⁴ Possibly during Augustus' reign, the existence of the senatorial seme strium consilium precluded this, as a measure of its approval of Augustus' intended and surely prepared relationes was implicit in its probouleutic role; likewise Augustus' practice of letting other senators present his proposals under their

100 R.K.Sherk, RDGE, no.31, p.175.

101 For example, FIRA² I nos. 47 (Saltus Beguensis in Africa, A.D. 138) and 48 (Cyzicus in Asia, under Ant. Pius).

102 See Chapter II of this study.

103 As in CIL VI 32272 (23 B.C.).

104 Augustus, in FIRA² I no.68 V, lines 75-76.

own names.¹⁰⁵ Further, Seneca claims that when Augustus did propose a motion in the senate, he would discourse extempore on his relatio before reading off a prepared statement.¹⁰⁶ These statements could then have been embodied in a consultum.

Despite the known presence of shorthand writers at senate-meetings to take down a record of the proceedings, the tradition of senators themselves drafting consulta was maintained. As R.J.A. Talbert discerns, such a practice was hallowed by tradition and not to be given up lightly; the use of shorthand writers to transcribe the consulta of this illustrious council after their own record would have been unacceptable, especially if Seneca's view of shorthand as the achievement of 'the lowest type of slaves' was prevalent.¹⁰⁷ In any case, the shorthand writers were in the imperial service.

After the formulation of the SC's text, it was the relator's responsibility to present it for registration at the Aerarium in accordance with Republican practice. The almost irrevocable legal standing that such registration afforded a senatorial decision still in Imperial times has been referred to.¹⁰⁸ According to Tacitus,¹⁰⁹ an obligatory 10-day interval between the formulation and registration of a SC was instituted in A.D. 21 in order to defer this finality. Tacitus implies that this interval applied to all decrees but other sources limit it to capital sentences.¹¹⁰ Administrative formalities in the archives seem to have continued likewise without imperial interference. The continuation of the Republican tradition of consignment to the public records (in tabulas referre), is

105 R.J.A. Talbert, 'Augustus and the senate', Greece and Rome 31 (1984), p.61.

106 Seneca, Apocol.11.

107 Seneca, Ep. Mor. 90.25. See also R.J.A. Talbert, SIR, p.315.

108 See above Chapter II of this study.

109 Tac. Ann. III.51.

110 Dio LVII 20.4; Suet. Tib. 75.

indicated in writers of the Imperial times.¹¹¹

The Aerarium's continued use as a repository for senatorial provincial governors' records of office is indicated in the Decretum Proconsulis Sardiniae de finibus Patulcensium et Galillensium¹¹² of A.D. 68. The reference to scriba quaestorius in the opening preamble confirms its location at the Aerarium archives and that applications by provincials for copies of such proconsular documents continued to be directed to that quarter. It also supplies details of the archival reference system¹¹³ and the fact that wooden tablets were still in archival usage despite the prevalence of papyrus.

The Aerarium's Republican functions continued into Imperial times, and that it was not superseded by imperial 'machinery' is confirmed by the known instances of imperial intervention for its greater efficiency. Augustus separated the urban quaestors' archival and financial duties in 23 B.C. in order to address financial administrative problems, and placed the latter sphere under praefecti. The archives remained the quaestors' responsibility; at some point during Augustus' reign, they ceased to share it with the aediles who had forfeited this duty out of negligence, although the previous division of duties is unknown. That the Aerarium's archival functions were still valid by A.D.56 is indicated by Nero's imitation of Augustus' measure, after Claudius had reverted to the Republican usage of quaestors for financial business during his reign.¹¹⁴ A board of three curatores tabularum publicarum was established in A.D. 16 to recover lost public records and to repair others which had become illegible from age.¹¹⁵ Apparently this

111 The phrase is rendered in Greek in Plut. Cato Min. 17; Josephus, A.J. XIV.219-22, esp.221.
 112 ILS 5947 = CIL X 7852.
 113 See Chapter II of this study.
 114 Tac. Ann. XIII.29.
 115 Dio. LVII.16.2.

commission was still uncompleted by A.D.46. It is unclear whether these records were the wooden tabulae lodged in the Aerarium, or the bronze or stone variety generally posted in a public place. For the latter, a similar committee carried out searches in the aftermath of the civil strife of A.D. 69 to replace tablets destroyed on the Capitol.¹¹⁶

The evidence of the Aerarium's continued archival relevance shows that the growth of an imperial archival administration on the Palatine cannot have superseded or duplicated its functions. Rather, the latter was a logical response to the mass of data generated from the emperor's duties in his multiple capacities, which will be the focus of the chapters to follow. It was only when imperial innovations occurred that new practices or 'machinery' were instituted, and then with the intention that they thereby remained under imperial control. This is apparent, for example, in the various senatorial commissions for public works mentioned above, and the acta senatus of the next section. With the gradual disclosure of imperial autocracy in practice, we may accept that by the end of the first century A.D. the archives in the Aerarium came under imperial direction like so many other aspects of the administration, but that like them it remained formally in the sphere of Republican magisterial responsibilities.

¹¹⁶ Tac. Hist. IV.40.

5.3 PUBLICATION OF SENATORIAL BUSINESS

The confidentiality imposed on senatorial proceedings by the Augustan ban on the publication of its minutes was intended to control at least indirectly, public opinion towards the Principate. This did not effect a transformation of senate meetings into secret gatherings : the senate remained an open council, a publicum consilium, after Republican fashion. Meetings were generally held in the Curia Julia during Imperial times although other venues were used on occasion.¹¹⁷ Although the threshold of the Curia, which led directly into the chamber was technically a barrier to non-members while the senate was in session, the doors were customarily open and the general public could and did gather to hear.¹¹⁸ However the documented instances of negative responses by the populace to business conducted in the senate concerned issues notably of social justice, never of foreign policy, finance, or military matters¹¹⁹; therefore popular access to such inside knowledge could have been gleaned from sources other than the Curia's external audience, such as interested senators through clientela channels, or the acta diurna.

A more deliberate means of publicising certain business, essentially decisions, to the general populace at least in the first century A.D., was the public presentation of senatorial consulta for comitial confirmation as leges. As an outlet for selective publicity, the comitia were necessary avenues of state-communication even though their legislative powers were by now only a formality. For the princeps, announcement of his rulings to promote popular welfare, was easier through edicta or the acta diurna

¹¹⁷ For example, the temple of Mars Ultor which Augustus decreed for matters of war (Suet. Div. Aug. 29); the library and portico of the Palatine temple of Apollo (Josephus, A.J. XVII.301; B.J. II.81); the temple of Concord (Dio LVIII.11.4).

¹¹⁸ R.J.A. Talbert, SIR, pp.154, 196.

¹¹⁹ See further R.J.A. Talbert, SIR, pp.196-197.

populi.

The few occasions of enforced secrecy on senate-meetings at imperial behest, by stationing soldiers around the building, were demanded by the inflammatory nature of the business on the agenda, and such secrecy was clearly not the norm.¹²⁰ Nevertheless the presence of the general public inside the senate is nowhere attested, in fact evidence of non-members at meetings seems to be restricted to diplomatic business¹²¹ or trials,¹²² apart from the emperor's attendants, and notarii who must have been present to record the senate's proceedings for the imperial acta senatus. The presence of imperial notarii was necessary, but they are only attested once, in Seneca's parody of a session.¹²³ Other staff related to this imperial business but who were not necessarily present at the meetings include the exceptor senatus and scriniarius senatus, whose existence is known from two undateable bronze collars for runaway slaves which named them as owners.¹²⁴ For members of the upper classes the unofficial means of acquiring knowledge of senatorial business were unchanged from Republican times, namely the acquisition of senators' memoranda of meetings. Pliny, like Cicero, willingly supplied such accounts to his associates.¹²⁵ In addition, the ancient Republican custom of introducing senators' sons to the complexities of state-business by allowing them to stand at the Curia's threshold during sessions, was revived by Augustus¹²⁶ in line with his cultivation of senatorial privilege and Republican mos maiorum. Pliny's later reference to this

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- 120 Dio LVIII.9.6 and 17.4 (Tib); Tac. Ann. XVI.27 (Nero); Tac. Agric. 45 (Dom.).
- 121 Josephus, A.J. XVII.301.
- 122 Tac. Ann. XVI.30.
- 123 Seneca, Apocol. IX.2.
- 124 Respectively ILS 8726 cf. 1958 and ILS 8728: early editors thought they were from the late Empire, - see CIL XV, p.897.
- 125 Pliny, Epp. II.11.1 and 12.
- 126 Val. Max. II.1.9; Suet. Div. Aug. 38.

practice indicates its continuance.¹²⁷

The publication of SCC on matters of local or regional concern appears to have followed Republican precedent. It was occasional, generally resulting from provincial applications, whether by interested individuals or communities, for copies of decrees from the Aerarium. Publication in permanent form was at their own expense. This is true also of the publication of treaties in Rome with their accompanying SCC, as Appian claims that the display of treaties in bronze on the Capitol was still contemporary practice.¹²⁸ An example of such publication actually being ordered by state-authority occurs in Tacitus' account of the senate's investigation of provincial charters conferring the right of asylum on certain temples.¹²⁹ After rejecting many claims as invalid, the senate issued decrees which entailed that bronze copies thereof were to be set up inside the remaining temples as a solemn record. These decrees may be classed in the same category as the so-called SC de Bacchanalibus¹³⁰ of Republican times, which had required promulgation for a like admonitory purpose. In this instance, as Tacitus recounts, publication would serve as 'a solemn warning not to lapse into secular intrigue under the cloak of religion.'

The Fifth Cyrene Edict¹³¹ of 4 B.C. is an example of a SC's publication being ordered by the princeps. The document was found on a marble stele originally put up in the market-place at Cyrene, in response to this imperial order. The edict announced the issue of a SC de repetundis instituting a quicker legal procedure against extortionate provincial governors, and ordered it to be publicised to the provincial public in order to protect

127 Pliny, Ep. VIII.14.5.
 128 Appian, Syrian Wars 39.
 129 Tac. Ann. III.60-63.
 130 CIL I 196.
 131 R.K. Sherk, RDGE, no. 31, p.175.

their interests. The existence of a SC indicates that the senate was used here as a technical committee concerned with broad policy issues and responsible for working out detailed rules (cf. its task of sorting out which temples had asylum rights); therefore Augustus' involvement of the senate in this issue is not surprising. The fact that Augustus' edict incorporated a SC indicates that the problem of extortion cut across the divide between imperial and senatorial provinces. Augustus' independent decision to demand publication, not the senate's, was a crafty means of attaching provincial gratitude to himself, especially in senatorial provinces. Secondly, this edict confirms Dio's assertion¹³² that Augustus was endowed with maius imperium because here he is clearly issuing an edict in his own right to a province in the senate's sphere of responsibility¹³³. The preceding four edicts to Cyrene of 8/7 B.C. are notable for the diplomatic manner in which he exercised this imperium, namely his use of the style customarily employed by the senate when advising its magistrate.¹³⁴

For publication in Rome a new practice developed in Imperial times, namely that of honorific decrees at the senate's behest as a channel of sycophancy. Tacitus records such an occasion in A.D.22¹³⁵ when commemorative decrees were voted for Tiberius' son, Drusus, when he was endowed with the tribunicia potestas. It was proposed by one Q.Haterius that the texts of all these decrees should be displayed in the Curia in gold lettering, an act of sycophancy that at this early stage of the Principate could provoke only laughter from his colleagues, who nevertheless vied in other ways to outdo each other in

132 Dio LIII.23.5. cf. D. McFaydon, CP 23 (1928), pp.388 sq, who disputes the notion that Augustus' imperium maius covered Cyrene.

133 Contra F. Millar, "Senatorial" provinces : an institutionalized ghost', Ancient World 20 (1989), pp. 93-97.

134 R.K. Sherk, RDGE, p.178.

135 Tac. Ann. III.57.

flattery, according to Tacitus. Later we hear of the senate decreeing that Nero's accession speech was to be celebrated by being displayed on silver in the Curia,¹³⁶ no doubt because of its Republican overtones. Likewise, Pliny implies that Trajan's address to the senate on 1st Jan. A.D.100 was engraved on bronze together with the senate's enthusiastic approval.¹³⁷ The senate's self-interest in the favourable content of these speeches no doubt also dictated their publication in permanent form. Motivated by the demands of a more self-preservatory expediency were the senatus consulta honouring Pallas, the freedman a rationibus of Nero, for his devoted care of the financial administration. Tacitus states that they were engraved on bronze,¹³⁸ and posted ad statuum loricatam divi Julii according to Pliny, in order that they might be universally known.¹³⁹ The publication of the so-called Lex de imperio Vespasiani, although its location is not known from the only extant bronze copy,¹⁴⁰ may have merely imitated the promulgation of similar leges de imperio of preceding emperors. Yet in the light of Vespasian's equestrian origin and lack of an illustrious political lineage, this publication was probably of decided propaganda intent since it was imperative to affirm Vespasian's constitutional heritage as emperor by publicising the precedents to which he was heir.

Vested interests and a desire to inform selectively is apparent in these examples of publication on official initiative, whether of senate or emperor. Coupled with the continuation of Augustus' ban on the publication of current senatorial business, it is clear that successive emperors were alive to the influential potential of the ancient media. To illustrate their appreciation of the value of propaganda and the control of information, the

136 Dio LXI.3.1.
 137 Pliny, Pan. 75.1-3.
 138 Tac. Ann. XII.53.
 139 Pliny, Ep. VIII.6.13.
 140 CIL VI 930 = ILS 244.

public journal, acta diurna populi, of Imperial times will be examined now insofar as it has political relevance, particularly in relation to the senate. Apart from the occasional publication of SCC and imperial pronouncements, this journal constituted the principal official means of informing the public of current news, and appears to have had uninterrupted publication until the end of the fourth century A.D. at least. It has been mentioned how Augustus' suppression of senatorial proceedings, as a source of news for this journal, was politically motivated. Divested of this source of information, the journal continued to be issued and Augustus and his successors could afford to be more confident of their control over its political content and hence over public opinion. The survey of the nature of its contents in Imperial times in Chapter IV has demonstrated that it was generally of a news-mongering nature. Divorces,¹⁴¹ funerals,¹⁴² births,¹⁴³ and other material of social interest are recorded. A certain fascination for political scandal was catered for in its readership. According to Tacitus' account of Cossutianus Capito's attack on Thrasea Paetus, 'diurna populi Romani per provincias, per exercitus curatius leguntur, ut noscatur, quid Thrasea non fecerit.'¹⁴⁴ Capito knew that Thrasea had not attended the senate for three years,¹⁴⁵ therefore the things 'quid Thrasea non fecerit' did not occur in a senatorial context, unless this referred to complaints made in the senate about Thrasea Paetus' unco-operative behaviour. Tacitus' account would then indicate the selective use of senatorial proceedings for imperial propaganda in the acta diurna populi; likewise the evident public interest shows how such propaganda intentions could misfire. Direct imperial intervention is also apparent, indicating a degree of authority over the journal's

141 Suet. Cal. 36.2; Seneca, De Ben. III.16.2.
 142 Tac. Ann. III.3.
 143 Suet. Tib. 5; Cal. 8.2.
 144 Tac. Ann. XVI.22.6.
 145 Tac. Ann. XVI.22.1.

content. Suetonius records how Caligula sometimes had fictitious bills of divorce to Roman matrons entered in the acta in the name of their absent husbands.¹⁴⁶ The acta as a potential channel for imperial vagaries is seen also in the assertion that the three additions to the alphabet invented by Claudius were employed in this journal.¹⁴⁷

With regard to specifically senatorial business appearing in the acta, two references by Pliny are notable. In Ep. VII.33.3. Pliny is sending Tacitus an account of an incident which 'could hardly have escaped your notice, since it appeared in the acta publica'. The incident referred to clearly took place at a senate-session, but a detailed transcription thereof was not provided in the journal otherwise Pliny would not have offered his version. The account of this senatorial matter in the journal was obviously abbreviated; perhaps even, it owed its inclusion to its sensationalism. The second occasion concerned the tribune Nigrinus' appeal to the emperor against corrupt counsels and lawsuits for money.¹⁴⁸ The emperor's decree embodying his decision was published in the acta publica and Pliny's correspondent, Julius Valerianus, is told that he may read it in the liber principis. Again Pliny seems to be providing background information because only an abbreviated account was given in the acta. In this instance it comprised merely an imperial decree (in full).

Other instances from the first century A.D. demonstrate direct imperial usage of the journal as a political mouthpiece. Tiberius is alleged¹⁴⁹ to have had published in the acta remarks defamatory to himself made by defendants in certain maiestas trials.¹⁵⁰ However

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Suet. Cal. 36.2.

147

Suet. Claud. 41.3.

148

Pliny, Ep. V.13.8.

149

Dio LVII.23.2.

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B. Baldwin, 'The acta diurna', Chiron 9 (1979), p.196.

misguided, it represented an attempt to influence public opinion to his advantage. By contrast, Domitian apparently tried to conceal the number of his victims by prohibiting publication of their names in the acta.¹⁵¹ But, as B. Baldwin notes,¹⁵² it cannot have been successful because Suetonius had no difficulty in compiling a select list of names.¹⁵³ These accounts symbolise imperial exploitation of the propaganda potential of this journal. Such direct political intervention by the two emperors were likely dictated by the extreme nature of the circumstances: charges of maiestas threatened the Principate's right to public favour. As such, the two instances of imperial interventions were intended to sway current opinion.

It must be conceded that the paucity of evidence may distort our interpretation of the journal's nature and function.¹⁵⁴ Nevertheless, with regard to senatorial business it would seem that the Augustan ban remained unchanged. Never in Imperial times do we hear of the journal containing full accounts of senatorial business, let alone accounts that could even substitute the detailed memoranda of a senator present at a session, as evidenced in the Republic. As a vehicle for the promulgation of imperial pronouncements in the senate however, the acta were available without question.¹⁵⁵ As such, the imperial bias is unmistakable. Pliny would confirm this interpretation in his eulogy on the changed political conditions under Trajan.¹⁵⁶ On the official transmission of senatorial affairs, he claims that prior to Trajan the emperors' orations were the only aspects of senatorial proceedings that were publicised. This was accomplished through the media of public inscriptions, and significant-

151 Dio LXVII.11.3.
 152 B. Baldwin, art.cit., p.196.
 153 Suet. Dom. 10.2-4.
 154 B. Baldwin, art.cit., p.194.
 155 As in Pliny, Ep. V.13.8.
 156 Pliny, Pan. 75.1-3.

ly, the acta. In Pliny's view, Trajan was notable, nay commendable, for lifting the Augustan ban to a certain degree. On closer examination, it amounted to the concession of the privilege of allowing senatorial acclamations and such honorific gestures public announcement through the acta. Even this privilege could be withdrawn, if Fronto is to be believed. He asserted that his laudatio to Antoninus Pius would be consigned to the oblivion of the acta senatus rather than be allowed public exposure through the acta.¹⁵⁷ He therefore wished to make his eulogy worthy of greater circulation as oratory, although whether this was to be achieved through publication or through the acta diurna, is not specified.

Fronto's claim however could present an alternative interpretation of the copious sententia prima recorded on the Aes Italicense.¹⁵⁸ This was clearly part of a series of tablets to which also belongs the Marmor Sardinum,¹⁵⁹ which contains the imperial oratio proposing a diminution of local expenses for civic entertainment empire-wide by its authorisation of an alternative cheaper supply of victims for shows, namely condemned criminals. The inclusion of a senator's sententia prima on this inscription may well have been due to the emperor's and senate's adoption of the points raised by this senator and hence their transmission together. As modification or alteration of the imperial oratio would surely not have been countenanced, the two speeches were left intact. Understood in this light, the interpretation of this sententia prima as a unique verbatim transcription of senatorial proceedings is necessarily undermined.¹⁶⁰ Whether in conjunction with or merely appended to the imperial oratio, this sententia prima was published as a

157 Fronto, Pan. 26 5N (=p.24 [van den Hout]).

158 J.H. Oliver and R.E.A. Palmer, 'Minutes of an act of the Roman senate', Hesperia 24 (1955), pp.330-334.

159 In J.H. Oliver and R.E.A. Palmer, art. cit., pp.328-330.

160 Contra. J.H. Oliver and R.E.A. Palmer, art. cit., pp. 320-321.

piece of legislation. The widespread dissemination of this legislation, as evidenced in its publication in such distant places as Italica in Baetica and Sardis in Asia, could have been effected equally through the acta publica or through direct imperial channels, since the sententia prima does propose that provincial governors be informed of a certain point. Seen as a piece of legislation, this sententia prima would contest the view that the acta publica contained detailed knowledge of senatorial sessions as a matter of course, even if not to the extent of a verbatim transcription. If the sententia was not part of the legislation it would never have been inscribed. Thus, if transmitted empire-wide through the acta publica, it owed its inclusion in this journal to its legislative role, in association with the imperial oratio. The inclusion of the sententia in the acta should not be understood therefore in the context of a regular transcription of senatorial business in this journal. This interpretation then is in accordance with Fronto's afore-mentioned claim that his laudatio would not receive publication in the acta but rather be consigned to the acta senatus, which journal would confirm the senatorial context in which Fronto would have delivered his speech. The acta publica thus preserved its function as a vehicle for imperial pronouncements. If these were issued from the tribunal or in the senate, news coverage would have been extended thereto. Apart from the emperor M.Aurelius' gracious inclusion of the afore-mentioned sententia prima in his own legislative proposal, this senator's speech would never have received publication in the acta publica. Like Fronto's laudatio to Antoninus Pius, it would have been consigned to the oblivion of the acta senatus.

Imperial control of the acta publica is indicated in a chance career inscription, namely 'C. Sextio C.f. Papirio Martiali trib. mil. legionis I[III] Scythicae, proc. Aug. ab actis urbis',¹⁶¹ etc. Thus in Imperial times the bureau

¹⁶¹ ILS 1410 = CIL VIII 11813, from Mactar in North Africa.

producing the acta was headed by an official in personal service to the emperor, as were all other officials of that appellation in the imperial administration. In addition, this procurator had a number of liberti ab actis under his supervision, presumably of the familia Caesaris, which further supplements the picture of the imperial interests vested in the media.

Throughout the Principate, the Augustan ban on the publication of senatorial business remained in force. Access to the political business of the highest council of state was thus precluded. The political relevance of the acta urbana was circumscribed to give coverage to the emperors' orationes, their magisterial edicta and other such statements. The contents of the acta publica therefore had little of relevance to senatorial business, and insofar as it referred to business conducted in the senate, the focus was on the emperor.

5.4 THE IMPERIAL ACTA SENATUS

The development of the princeps' relation to state-administration is reflected in his progressive control over records of public business and access thereto. This is exemplified in the imperial ban on the publication of senatorial business which since 59 B.C. had been compiled and channelled to the public through the acta publica. Augustus had this news-source suppressed so that general access to the proceedings of the highest consilium publicum was shut off. The completeness of the Augustan ban is clear from the previous section - insofar as senatorial business was publicised, it focussed on the emperor.

Augustus' prohibition may be interpreted as a gesture which served to re-entrench affairs of government as an upper-class preserve. In the Republic, details of state-business by tradition and design fell outside the public's realm of consideration.¹⁶² The monopoly of such knowledge was related to the supremacy of the governing class. By returning to this Republican practice, Augustus may have been attempting to revive the proverbial antagonism between the senate and the Populus as constitutional organs and as social classes. This would have deflected the focus of any opposition against himself. Such an interpretation rests on the assumption that the prohibition was a sought-after privilege by the senate. Indeed it may have functioned to justify Augustus' pretence that senatorial libertas was intact under the new political system, or it may even have been traded by Augustus in return for the passing of his proposals in the Lex Julia de senatu habendo. However that may be, re-institution of the hallowed Republican secrecy of the Curia did add to upper-class prestige and re-established a

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contra F.G.J. Millar, 'The political character of the classical Roman Republic, 200-151 B.C.', JRS 74 (1984), pp.1-19, that the Republic was rather more democratic than tradition has it.

certain Republican barrier between upper and lower classes, which other legislation would confirm was an imperial intention.¹⁶³

It is possible that this prohibition was vested with deeper implications for the image of the Principate itself, because it is unlikely that Augustus would have initiated or even permitted a measure of such consequence were it not also advantageous to his own interests. Control of the ancient media was important for imperial propaganda, by suppression as much as by publication of certain political information. As noted before, the changed nature of senatorial deliberations evoked a negative reaction, implicit in the problem of senatorial attendance, and this was not complimentary to the Principate. The termination of unrestricted access to senatorial business by the public served to diminish the number of observers of the farce of high politics.

Consideration of the popular perception of the Principate would suggest that the cutting off of this detailed news-source cannot have vitally affected the lower classes. Certainly no protests are attested in the sources. But then senatorial politics was no longer the issue to the plebeians that it had been in Republican times. The urban plebs sordida had had few interests vested in the aristocratic Republic and clientela relationships had been an effective buffer to the direct political expression of popular sovereignty. The princeps' patronage of popular economic and social welfare was in stark contrast to the Republican senate's proverbial disinterest. Indeed from the inception of the Principate, emperors were careful to foster the role of benefactor to the urban plebs. As such, the Augustan ban was of little loss to the non-political classes. The emperor's popularis concern and political measures could be communicated to the public through other channels of the media such as edicta or the

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See above section I of this chapter.

acta publica. Thus the Augustan prohibition was only a gesture, and devoid of real political value to the senate which was representative of the upper class. If the prohibition was of little consequence to the lower classes, one may question which section of the population was expected to be disadvantaged thereby. The focus should perhaps be the upper classes, both senatorial and equestrian, which had the education and leisure to be interested in the background information to senatorial deliberations. The upper classes always remained the greatest threat to the Principate.

The prohibition did not apply to memoranda taken down by senators at meetings and afterwards circulated to interested third parties. This practice continued, as attested by Pliny.¹⁶⁴ But the ban on senatorial acta being circulated through the journal acta publica meant that public access to the records of deliberations in the highest echelons of government was significantly restricted.¹⁶⁵ Knowledge of senate meetings could still be transmitted privately in ^{oral} or written form but it was less direct than the wholesale publication evidenced in Republican times. This suppression would have served to de-stabilise upper-class solidarity against the new political system by cutting off the wholesale news transmission of senatorial deliberations and the personalities involved. This was related to the emperor's developing role in the senate, which was already tending to undermine the value and validity of senatorial participation. While effecting this de-stabilisation of potential upper-class opposition, Augustus was duplicitly proclaiming his respect for the senate's libertas, its right to a meaningful role in the conduct of state-business and by implication its right to treat certain business confidentially. Shrouded thus from

164 Pliny, Epp. II.11.1 and 12.

165 Witness the prolific detail that relieved Cicero of the need to append his own memoranda to friends, versus the paucity of such material in the references listed in Chapter IV of this study.

public exposure, this conduct of state-business may be more realistically interpreted as the workings of a new relationship in fact between the senate and princeps behind the facade of Republican political imagery. The emperor's dominant role, however inadvertent, could not be concealed from participants who were unsure of their own role and who recognised his autocratic potential even if he chose not to.

Suetonius' account of the Augustan ban does not specify whether the acta of the senate continued to be compiled after its public circulation through the journal acta publica was suppressed. That compilation did not cease is suggested by a reference in Tacitus' Annales concerning one Junius Rusticus, a senator who was chosen by Tiberius to compile the acta patrum.¹⁶⁶ The synonymy of acta patrum with acta senatus is surely incontestable. This reference leaves a number of very relevant questions unanswered, namely whether Rusticus was the first incumbent after the Augustan ban to hold this responsibility, whether this was a one-time appointment never repeated, and what was tenure of his office; but there is some collateral evidence.

The tenures of all known ab actis¹⁶⁷ except for Rusticus, appear to date from the era post c.A.D.90. The questions arise then whether our lack of evidence is a mere accident of history, whether this office, apart from Rusticus' tenure, was occupied at all before c. A.D.90. The likelihood of this being so is offered by the Suetonian and Tacitean citations from acta of the senate,¹⁶⁸ which would indicate that a record of senatorial proceedings must have been kept in the first century of the Principate although the officials responsible for its compilation are lost to our view. The controversial nature and content of

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Tac. Ann. V.4.1

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See the list compiled by R.J.A. Talbert, SIR, pp.334-336.

168

Suet. Div. Aug. 5; Tac. Ann. XV.74.3 (commentarii senatus).

the mass of senatorial material in Tacitus' Annales which is often cited as evidence too of the continued compilation, will be discussed later.

After c. A.D.90 the office-holders ab actis were of senatorial rank and their office was a recognised step in the senatorial cursus honorum, held usually between the quaestorship and the tribunate, and later the curule aedilate from Hadrian's time. The varying titulature in the sources of the earliest known of these office-holders might support R.J.A. Talbert's notion of the novelty of this post at the end of the first century A.D.¹⁶⁹: successively curator actorum senatus, ab actis imperatoris, acta senatus curavit, ad acta senatus, ab actis senatus, a[b actis? imp. Caes. Hadr.]¹⁷⁰ But this, it could be posited, is true only insofar as it relates to the specifically senatorial cursus. The official titles ab actis imperatoris, ad acta senatus, and indeed the definitive ab actis, would appear to have their origin in the freedman status of officials in the imperial civil service. The early omission of servus preceding other originally freedman offices offers a parallel and explains the curious linguistic usage, as in Caesar's a manu servus,¹⁷¹ and the imperial a rationibus and ab epistulis. By the time of Hadrian, these latter formerly freedman offices were part of the equestrian cursus, yet their terminology remained unchanged. The same could then be true for the office ab actis. In addition, as a freedman office prior to A.D.90, the ab actis would not have had public exposure, as for instance the a libellis at imperial audiences. This could account for the lack of public and literary cognisance of the office. As the acta of the senate were no longer circulated through the journal acta publica, its compilation was irrelevant to the public and largely

169 R.J.A. Talbert, SIR, p.312.
 170 R.J.A. Talbert, SIR, p.334.
 171 Suet. Div. Iul. 74.

unknown, likewise the official responsible for its compilation. If of servile origin, the ab actis of the era pre-A.D.90 could illuminate the darkened pages of history regarding this office.

Tiberius' selection of Junius Rusticus, a senator, to compile the acta patrum may not therefore have made him the first incumbent of the office. It is possible that an imperial agent had held it in Augustus' time, especially in view of that emperor's administrative efficiency. Tiberius' known excessive deference to the senate and parody of Augustus' Republicanism may well account for the appointment of a senator, Rusticus. Tiberius wished to go one step further than Augustus in honouring the senate and so placed a senator in charge. This paralleled the appointment of senatorial officers to special commissions which did not form part of the cursus honorum. Tacitus' short account of Rusticus' appointment and his loss of imperial favour offers further clues regarding this office. That it was an invidious position for a senator must have been recognised, particularly during Tiberius' last years. It was probably revoked after his death in A.D.37 and then restored to the portfolio of imperial freedmen. In this way, it receded from public cognisance and continued behind the scenes as a vital news-source for the imperial eyes, especially during emperors' absences.¹⁷² The establishment of the office ab actis as a senatorial post in the cursus honorum was therefore an innovation dating probably only from the end of the first century A.D..

The editorial duties of the ab actis and his subordinates are unknown. That there were subordinates is evidenced in the existence of two undated bronze collars of slaves belonging to an exceptor senatus and a scriniarius senatus.¹⁷³ The role of shorthand writers in the senate

172 For example, Claudius, Nero, Trajan, and Hadrian.
173 Respectively ILS 8726 and ILS 8728.

has already been mentioned in Chapter Two of this study. The only reference from Imperial times is found in Seneca's account¹⁷⁴ of a notarius attempting to record the sententia prima of Father Janus. In this paucity of evidence it is not possible to determine whether the actual record was an edited or verbatim transcription of the proceedings, as Seneca's description of the notarius, who could not keep up with Father Janus' speech does not disclose whether the notarius' copy was the preliminary or final version of the proceedings as they would appear in the acta senatus.

The function and purpose of the acta senatus as a non-public journal are highlighted by the probable tenure of this office by imperial freedmen agents during the first century A.D.. Firstly it demonstrates the exclusive imperial interest in the compilation of this record. If the emperor was absent from a session, this record would provide an accurate account thereof. Tacitus' description of Rusticus, as possessing insight into Tiberius' mind, supports the likelihood that it was for imperial readership. Its continued compilation during times of imperial attendance may have been of practical value: imperial orationes would have been recorded and later submitted for circulation in the acta publica. Or it could have been of administrative value, particularly to emperors who felt the need to exercise oversight over the senate. Here the possible underlying intention of the imperial compilation of the acta senatus becomes particularly manifest, that it was a subtle way of directing senators' recognition of their ultimate accountability to the emperor. The titlature at one point indicates this imperial interest, ab actis imperatoris. Likewise the only two instances referring to the readership of the acta senatus, concern emperors, respectively Tiberius and Septimius Severus.¹⁷⁵ Finally

174 Seneca, Apocol. 9.2.

175 Suet. Tib. 73; Historia Augusta : Sept. Severus 11.3

there is Fronto's hope that his Panegyricus to Antoninus Pius should not lie hidden in the acta senatus but would be worthy of being publicised.¹⁷⁶ This indicates the archival nature of the record except when items focussing on the emperor, usually imperial orationes, were circulated publically through the journal acta publica. It is conceivable that Fronto hoped his Panegyricus to be considered worthy of being such an item for the acta publica.

If compilation and readership of the journal acta senatus were indeed an exclusively imperial concern, one might expect that storage of this record and public access thereto were under imperial supervision. To evaluate these expectations it is necessary at this point to examine ancient historiographical usage of the journal acta senatus as a source. Suetonius and Tacitus both claim to have consulted the acta senatus. Suetonius' account of the trial of one C. Laetorius on a charge of adultery and the subsequent creation of a shrine to Augustus in part of his house by senatorial decree,¹⁷⁷ indicates that the senate's proceedings in its judicial capacity were also recorded. Tacitus cited from the commentarii senatus (surely synonymous with the acta senatus) the rejection of a sententia proposing the dedication of a temple to Nero.¹⁷⁸ These extant citations are indicative of the nature and breadth of business covered in the acta senatus although it is not possible to gauge whether they appeared in edited or verbatim form.

Less direct testimony of the existence of the imperial archival journal acta senatus during the first century A.D. before the known senatorial incumbency of the post ab actis, is offered elsewhere in Tacitus' Annales. The unique nature and very fullness of Tacitus' account of

176 Fronto, Ad M. Caesar.II.1.1.
 177 Suet. Div. Aug.5.
 178 Tac. Ann. XV.74.3.

senatorial business during the Julio-Claudian era, has excited much scholarly controversy over whether this material was derived, at first hand,¹⁷⁹ or ultimately,¹⁸⁰ or not at all,¹⁸¹ from the acta senatus. On the basis of the contention stated above, concerning public access to this archive of senatorial acta only from the beginning of the second century, it is improbable that Tacitus' known predecessors¹⁸² in the first century A.D. could have provided him with the documentation which his work attests since they had no access to the imperial archives on the Palatine where this record was housed.

An abundance of Tacitus' material concerns the complexities of senatorial business accounted for with a degree of detail that argues their origin in a fully documented source which contained an unprecedented wealth of primary material. Ronald Syme, the primary exponent in favour of Tacitus' use of the acta senatus as his main source, has noted telling features in the very fabric and material of the Annales that proclaim their origin in the acta senatus. Striking is the way Tacitus preserved the actual order of senatorial business in his annalistic structure by reporting at intervals the different stages of a single transaction, and without drawing them into a single passage.¹⁸³ Likewise his access to plenteous personal names otherwise unknown and lost to posterity; the exceptionally detailed reporting on matters of lesser import-

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- 179 R.Syme, Tacitus vol.I, p.278; more generally R.Syme 'The senator as historian', in Ten Studies in Tacitus pp.1-10; 'How Tacitus wrote Annals I-III', in Historiographia Antiqua, Symb. Fac. Lit. Phil. Lovaniensis Ser.A vol.6, (1977), pp.231-263. The latter source is only known indirectly to the present writer. cf. F.R.D. Goodyear, The Annals of Tacitus vol.II, p.136.
- 180 See further R.J.A. Talbert, SIR, pp.331-333.
- 181 K.L. Nipperdey, Tacitus Annals I-IV (ed.11, rev. G. Andresen. Berlin, 1915), p.28; P.Fabia, Les sources de Tacite dans les Historire et les Annales (Paris, 1893), pp.313-314, 327, both indirectly known.
- 182 Aufidius Bassus, Fabius Rusticus, Pliny the Elder, and the senatorial historians Servilius Nonianus and Cluvius Rufus.
- 183 R.Syme, Tacitus vol.I, p.279; R.J.A.Talbert, SIR, p.330.

ance, and the number of abortive proposals which led to no action or legislation.¹⁸⁴ This wealth of detail, otherwise unattested, in the recording of senatorial affairs is surely indicative of a source not available to earlier writers. The only source capable of affording such minutiae, and so timeously available to Tacitus, was the acta senatus, which would support his usage of this archive despite his one single acknowledgement of it, and then in an unimportant context. Tacitus' curious preference for omitting to name his source, the factor that has caused such scholarly dispute, was, it will be posited, not unintentional.

The existence of the acta senatus as an archival journal appears conclusive. This is in contrast to Republican times when senatorial proceedings were merely a news-source publicised in the journal acta publica; in Imperial times these proceedings acquire a separate identity as a journal, although an archival one. Likewise conclusive is its existence during the first century A.D. before the office ab actis was introduced into the senatorial cursus honorum. Responsibility for compiling this record would point then to the imperial headquarters and to an agent responsible to the emperor. In view of the purpose of the record, viz. for imperial perusal and reference,¹⁸⁵ it is unlikely that the Aerarium was its repository.¹⁸⁶ The imperial headquarters on the Palatine, as the following chapters will illustrate, housed an extensive archival administration; the constant imperial recourse to records justified the location of these holdings. As a repository for the imperial journal acta senatus, this location is probable and indeed incontestable in view of the importance of the emperor's

184 R.Syme, Tacitus vol.I, p.279; R.J.A. Talbert, SIR, p.330.

185 The synonymity of the commentarii of the senate with the commentarii of Tiberius that is alleged to have been Domitian's only literature (Suet. Dom.20) indicates its retention.

186 contra R.J.A. Talbert, SIR, p.313.

relationship with the senate as representative of the upper class, his proverbial rivals. Public access to this record during the first century is unheard of, and given the procedural formalities encountered in the retrieval of other imperial records upon public application, it is clear that access was not unrestricted, as with the state Aerarium. As such, it would no doubt have remained inaccessible as a source for ancient historians. The sudden apparent access at the beginning of the second century A.D. when Suetonius and Tacitus were composing their works, therefore provokes comment. In view of the restricted access to imperial archives, it cannot be merely that the regular appointment of a senatorial ab actis as a contemporary development, drew fresh attention to the record and thus inspired Tacitus to research its contents.¹⁸⁷ But it does provide a clue as to the sudden access. Public access would have been possible only if the records were at a different location. With this assurance, it could be contended that with the institution of the ab actis as part of the senatorial cursus, these records were transferred to the Aerarium. As a state-magistracy, the ab actis is more likely to have been attached to the Aerarium, which held other state archival material, than to be found working in the imperial headquarters.

The institution of the senatorial office ab actis in itself indicates, in a sense, the invulnerability of the Principate, likewise the probable transferral of this archive from imperial supervision. The Principate was well-established and did not need anymore the security that the use of private agents and confidentiality of these records, offered. In fact, only transferral of this archive to the Aerarium can account for Tacitus' copious use of it.

¹⁸⁷ contra R.J.A. Talbert, SIR, p.334.

Finally, Tacitus' Annales is a negative comment on the Principate, in its assertion of senatorial libertas, and in its denigration of the heritage to which contemporary emperors were heir. The author openly declared his intention that 'where a senatorial decree achieved a novelty in adulation or a last word in self-abasement, I shall not pass it by in silence.'¹⁸⁸ The possibility of Tacitus obtaining imperial permission to consult these records while they were lodged on the Palatine in order to use them for this negative purpose, is remote. This would also explain Tacitus' extreme secretiveness over his use of this source: if R. Syme is correct over the extent of Tacitus' usage,¹⁸⁹ his reference to this source in one isolated and insignificant instance, and then in Book XV, is telling. To proclaim the imperial journal as his primary source would have drawn imperial attention to this 'misuse' of public access to these imperial records in the Aerarium. If Tacitus had hoped to write a history of Augustus, doubtlessly relying on this unparalleled abundance of primary documentation, his future unrestricted access to the same archives would have been imperative. Hence his unwillingness to divulge his source. To his contemporary readers, documentary proof through citation of sources was not paramount : the fascination of Tacitus' unprecedented perspective and wealth of detail would suffice.

¹⁸⁸ Tac. Ann. XIV.64.

¹⁸⁹ R. Syme, Tacitus vol.I, pp.185-189; 282-283.

CHAPTER VI

6. THE IMPERIAL RATIONES IMPERII

The focus of this chapter is the rationes imperii and their implications for Augustus' and his successor's relationship to public finance. The compilation and publication of this financial report was an Augustan innovation, and drew primarily on documentation required of returning provincial governors which under the Republican system had been consigned to the archives of the Aerarium.¹ In the Imperial era, the nature and purpose of this practice of accountability by provincial governors would seem to have been transformed by the princeps' position in public business and his self-appointed task of co-ordinating the empire's rationes, to the extent of precipitating a completely new system of state financial administration.

The rationes imperii were compiled in Augustus' capacity variously as princeps senatus, holder of imperium proconsulare maius, multiple provincial governor, and state-benefactor. The consequent administrative advantages may well have motivated their imperial compilation, but their *raison-d'être* was probably justified as the continuing Republican tradition of accountability and inter-face with the public. To perpetuate this tradition was to enhance the Republican features of the new political system, an autocracy based on an alliance of military power with civil government. The practice of financial accountability in Republican times will first be examined briefly for the precedent it provided for the imperial rationes imperii.

¹ Cic. Ad Fam. II.17.2; V.20.2; Cic. II In Verr. I. 14 and 21.

Financial arrangements for provincial administration in the Late Republic entailed the allocation of public monies to the provincial governor from the Aerarium by SC, prior to his departure to his province.² This was not always a block sum, but could be drawn in part from the respective provincial fiscus or the publicani in the provinces. This is apparent in the case of Cicero, governor of Cilicia in 51/50 B.C., who drew his grant from publicani in Laodicea by a publica permutatio³ (bill of exchange), and on his departure from his province deposited the remainder of his grant with the publicani in Ephesus.⁴ Likewise, C. Verres, governor of Sicily (73 - 71 B.C.), was given a draft by SC to draw money from certain publicani in Sicily in order to finance the purchase of Sicilian corn for Rome.⁵ It is clear from these instances that bullion was not ferried to and from the provinces unnecessarily : revenues raised in each province were retained in the respective governor's fiscus or by the publicani who acted as the Roman People's bankers; probably only excesses were transferred to Rome. These provincial holdings were in account with the Aerarium as the central treasury, and could only be drawn upon by SC.⁶

The grant allocated to a provincial governor was intended to cover expenditures during his term of office.

² Cic. Ad Att. III.24.1; ad Qu.fr. II.3.1; In Pis. 5; Suet. Div.Iul. 18.

³ Cic. Ad Fam. III.5.4.

⁴ Cic. Ad Fam. V. 20. 9; A.H.M. Jones, 'The Aerarium and Fiscus', JRS 40 (1950), p.23; contra D.R. Shackleton-Bailey, Cicero Epistulae ad Familiares, pp.467-8, who interprets this money to be private profit that Cicero had made in Cilicia and invested with publicani. In support of A.H.M. Jones, see Cic. Ad Att. VII.1.6.

⁵ Cic. II In Verr. III.163 seq.

⁶ Cic. Ad Fam. II. 17.2; V. 20.2; II In Verr. I. 14 and 21.

Accountability for these public monies entailed the submission of rationes to the Aerarium on his return to Rome.⁷ In addition, two copies of these rationes were also to be filed by the provincial governor in the tabularia of the two main provincial centres, in accordance with the Lex Julia de repetundis of 59 B.C..⁸ The minutiae required in these rationes do not seem to have been laid down, or at least were not enforced, since Verres' balance-sheets, whose summary content was queried by Cicero,⁹ had evidently been found acceptable by the quaestors at the Aerarium. The questionable but common practice of provincial governors to absorb the unexpended balance of their grants in allocations to their staff, instead of re-depositing it with the state,¹⁰ indicates further the summary nature of the obligatory rationes.

As reference to these provincial rationes at senate-level is never cited, it is likely that after they were balanced with the Aerarium's accounts they were consigned to the archives. Accountability to the Aerarium may thus have been intended as a retrospective check on provincial governors,¹¹ although the nature of this accountability was superficial. The prevalence of legislation de repetundis and the institution of quaestiones under juries of various composition, indicates Roman awareness of the need to enforce accountability from her officers abroad. However, the extortion laws were focussed more on governors who exacted monies which provincials did not need to pay, than on governors who embezzled monies that had been legitimately collected. Thus overscrupulous auditing of provincial governors' expenditures from their

7 Cic. Ad Fam. II.17.2; II In Verr. I. 14 and 21.

8 Cic. Ad Att. VI.7.2; Ad Fam. V.20.2; In Pis. 25.6.

9 Cic. II In Verr. I.36.

10 Cic. Ad Att. VII.1.6.

11 F.G.Millar, 'The Aerarium and its officials under the Empire,' JRS 54 (1964), p.38.

grant in order to detect if they had extorted the Aerarium, was less important to the senate. A measure of accountability was thus clearly in force, however ineffective the extortion law might have been in curbing corruption since the expense and duration of legal proceedings in Rome often worked against the provincials' calls for justice during the Republic.

Paulus' reference to this practice of financial accountability to the Aerarium indicates that this procedure continued under the Principate : cum eo autem, qui cum provinciae abiret, pecuniam, quae penes se esset, ad aerarium professus retinuerit.¹² Evidence is lacking for the granting of block sums to provincial governors in the Imperial era, and scholars diverge on whether this practice endured.¹³ Orosius' claim that the senate made recurrent grants to Nero from the Aerarium at Nero's demand,¹⁴ may be discarded as irrelevant since he does not state specifically that such grants were for provincial administration, and since it contradicts the frequent attestations of imperial subsidies (sc. from his patrimonium) to the state.¹⁵ Some procedural changes will have occurred when, in Augustus' time, according to Dio,¹⁶ governors of senatorial provinces received a fixed salary from the state, and a fixed allowance ad mulos et tabernacula.¹⁷ In addition, the process of deferre ad Aerarium indicates an alternative to staff expenditure from a block grant, since names of subordinate officials were registered by their superiors as being on the payroll of the Aerarium.¹⁸ This resulted in greater centralisation

¹² Dig. XLVIII.13.11.6.

¹³ A.H.M Jones, art.cit (1950), esp. p. 24; contra F. Millar, art. cit. (1964), p. 37; idem, ERW, p. 197.

¹⁴ Orosius, Hist. Adv. Paq. VII 7.8.

¹⁵ For example, Tac. Ann.XV.18.

¹⁶ Dio LIII.15.4-5.

¹⁷ Suet. Div.Aug.36.

¹⁸ Frontinus, De Aquis. 100.

too. These requirements would formerly have been significant expenditures from the block grant allocated to provincial governors in Republican times. In view of the improved methods of taxation in the Imperial era, it is possible that the concept of a block grant became redundant as the new status of provincial fisci precluded the necessity of financial aid from the central treasury at Rome. Continued accountability to the state in other areas of provincial government is evidenced in the Imperial era, for example, in military matters when Tiberius reprimanded provincial governors for not sending military reports to the senate.¹⁹ At the least Tiberius' action may be interpreted as a gesture of respect for traditional senatorial prerogatives; but it does suggest that official reports were expected to be submitted by the state's constitutional officers. The probability of financial accountability is perhaps proved incontestable by the content of the imperial rationes imperii themselves. Detailed information of revenue and expenditure at all levels of provincial and urban government, covering direct and indirect taxation, would have comprised the basic material upon which the rationes imperii drew, however undetailed their final published form might have been.

Provincial governors may therefore be assumed to have continued to render account to the state in accordance with Republican practice. So too Augustus. In his capacity as proconsul, he would have wished to minimise, not exaggerate, the differences between the Republican procedure and the new political reality²⁰ wherein his auctoritas had the potential to override the Republican constitution. Due to the extraordinary multiple tenures of his proconsular office, it is an open question whether

¹⁹ Dio LIV. 24.7; Suet. Tib.32.

²⁰ H. Last, 'The Fiscus : a note', JRS 34 (1944), p. 56.

he submitted the provincial rationes annually or upon renewal of his tenure only. It is possible that he may have done so annually, for two reasons. Provincial governorships in senatorial provinces were usually of one-year duration (with exceptions),²¹ so that every year the Aerarium would have received up-to-date accounts from outgoing governors. For Augustus to do likewise would have minimised the un-Republicanism of his extraordinary tenure and so have demonstrated his subservience to the state. The existence of a private financial secretariat in his household to manage his personal accounts, like any other wealthy Roman, would encourage the supposition that Augustus' own public accounts were similarly kept up-to-date. His procurators in the provinces, who managed financial business both private and public on his behalf, were responsible to him personally. That reports from them on an annual if not more frequent basis were expected by him, may surely be assumed. As proconsul of several provinces it would therefore have been possible for Augustus to render account to the state regularly if he so wished.

The princeps' initiative and authority behind the compilation of the empire's rationes are apparent in the literary sources' references to these documents. The first reference may be dated (possibly) to 23 B.C.²² when Suetonius relates that Augustus '... rursus taedio

²¹ For example, in Africa, Vibius Marsus procos. A.D. 26-29; M. Iunius Silanus procos. A.D. 29-35.

²² The synonymy of these rationes with the βιβλίον of Dio's account (LIII.30.2), which Augustus allegedly gave his fellow-consul Cn. Piso, while on his sick-bed in 23 B.C. containing τὰς τε δυνάμεις καὶ τὰς προσόδους τὰς κοινὰς is possible since they probably refer to the same occasion, although Dio's version seems to refer only to an inventory, with values, of collectable taxes of his proconsular provinces, whereas Suetonius specifies that the whole empire was accounted for, and then to the senate and all the magistrates.

diuturnae valitudinis, cum etiam magistratibus ac senatu domum accitis rationarium imperii tradidit.²³ The synonymity of these rationes with another Suetonian reference in Gaius' reign, although perhaps in abridged form, may be assumed: rationes imperii ab Augusto proponi solitas sed a Tiberio intermissas publicavit.²⁴ Dio too makes reference to the imperial compilation and publication of these accounts with the words²⁵ *τοὺς λογιόμους τῶν δημοσίων χρημάτων*. The documentation at the princeps' disposal which enabled him to co-ordinate the empire's various revenues and expenditures and compile such an inventory of the empire's assets, is specified more directly in the literary accounts of the rationes he left on his death. According to Dio, it comprised²⁶ *τὰ τῶν προσόδων τῶν τε κηλωμάτων τῶν δημοσίων, τό τε πλῆθος τῶν ἐν τοῖς θησαυροῖς χρημάτων*. Suetonius is more specific, describing it as a 'breviarium totius imperii, quantum militum sub signis ubique esset, quantum pecuniae in aerario et fiscis et vectigaliorum resid^{ui}s', to which Augustus added 'libertorum servorumque nomina, a quibus ratio exigi posset.'²⁷ This account is amplified by Tacitus, in that 'opes publicae continebantur, quantum civium sociorumque in armis, quot classes, regna, provinciae, tributa aut vectigalia, et necessitates ac largitiones. Quae cuncta sua manu perscripserat Augustus ...'²⁸

The degree of circulation of the rationes imperii during Augustus' lifetime cannot be gauged from these literary references. If, as is likely, it was for the public at large it advertised good administration, boosted Rome's imperialist image by increasing revenues, and proved his

23 Suet. Div. Aug 28.1.
 24 Suet. Cal.16.
 25 Dio LIX. 9.4
 26 Dio LVI.33.1.
 27 Suet. Div. Aug.101.4.
 28 Tac. Ann. I.11.6.

sense of accountability to the res publica, and therein lay its propagandistic value. If intended for senatorial perusal, it would have been part of his sedulous cultivation of an image of collegiality with, if not accountability to, the senate. Above all, such publication proclaimed his submission to the Senatus Populusque Romanus.

The publication of the rationes of the whole empire was an advancement on Republican practice. Its coverage of areas not included in Augustus' official portfolio invites the question of justification for this show of independence and superiority whereby he arrogated the right to perform this function. Legal justification for their inclusion would probably have rested on his pre-eminent position as princeps senatus, and more especially, his possession of imperium proconsulare maius which exceeded that of his provincial governor colleagues. This latter fact could gradually have brought about changed relations between himself and the Aerarium on the subject of provincial accountability. By compiling the rationes imperii he was not duplicating a function of the Aerarium nor usurping its prerogative, but performing a valid service to the state. Having command already of detailed reports of several major provinces, and the right inherent in his imperium proconsulare maius to interest himself in other provinces, in addition to his celebrated role as state-benefactor, it is possible to ask whether, in the course of time, provincial rationes did not come to be submitted to him directly by other governors, or at the least indirectly by the Aerarium along with other material required for the compilation of this financial report of the empire. A reversal of roles concerning accountability would have occurred, that, habituated by time, would become official practice and so entrench what was formerly a privilege into a right belonging indisputably to the

princeps. Augustus' moral justification for this publication and its coverage of areas not directly in his magisterial sphere would be closely related to his propaganda motives. Professing a dutiful sense of accountability, he utilised this opportunity to advertise, or at least to suggest, good administration.

The extent of detail in the publication of the rationes is unknown. It is not even clear if they were based on the same model as the breviarium which was produced together with Augustus' will on his death in A.D.14.²⁹ If they were, they would likewise have included statements of the contents of the state-treasury and its various 'branches': the Aerarium, fisci (the provincial treasuries), and the vectigaliorum residuis (the publicani's 'banks of Rome' in the provinces). If the rationes excluded the more detailed accounts of the nature of various revenues and expenditures which lay behind the final statements of the current account, as illustrated by this breviarium, they would have concealed much relevant information. As such, they would seem not to have realised the expectations suggested in their title. Nevertheless, publicity of such financial information was unexampled in Roman politics and in its contemporary historical context its intended effect would therefore have been achieved.

Although the extent of circulation, regularity, and detail, is lost to modern view, what these literary references to the rationes do demonstrate, is the existence of a vast co-ordinating process through which such a compilation of financial information could be produced. Appended to the Suetonian breviarium, as mentioned above, was a list of names of Augustus' private staff of freedmen and slaves, from whom further

²⁹ Suet. Div. Aug. 101.4

information could be obtained. These would seem to be the accountants and clerks who had compiled the financial statements listed in this account; thus, valuable conclusions regarding Augustus' relation to public finance may be reached.

To illuminate how the rationes imperii worked in the Augustan system, their significance, and what they came to symbolise in the rivalry between senate and princeps, it will be necessary to examine the context in which they were compiled and produced. This context was the imperial financial secretariat, which, far from duplicating, usurping, or even sharing functions with the traditional state-machine, was expressive of a whole new administrative vision. The management of Augustus' vast personal assets necessitated the maintenance of a considerable staff of slaves and freedmen, following Republican custom. This system was extended to the public sphere of Augustus' proconsular and other general public responsibilities. Thus there emerged in the early Principate an extensive provincial organisation of slaves, freedmen, and imperial appointees of equestrian and senatorial rank, who carried out official business on the princeps' behalf. Their unofficial status became institutionalised in time. Likewise in Augustus' headquarters at Rome, his private household staff which managed his assets entered into the public sphere by virtue of Augustus' proconsular responsibilities, the financial aspects of which were dealt with by the staff a rationibus. The various monies and expenditures, whether relating to him personally, or in his magisterial capacity, or to the Aerarium directly, required compilation for his own benefit as well as for the state's. Since the constitution did not provide for this function in the form of a magisterial office, its performance was likewise carried out unofficially by

Augustus' private financial secretariat. Co-ordination of provincial rationes submitted by his agents would have been handled by this staff, and as Augustus utilized regular access to the rationes from governors of the senatorial provinces - whether directly or indirectly through the Aerarium - this same staff would have co-ordinated and compiled the rationes imperii. Thus it is explicable how the rationes of the whole state-administration could come under the princeps' portfolio, and remain an exclusively imperial concern.

Until the time of Claudius the private and public aspects of the imperial financial secretariat do not seem to have been distinguished, but that their administration was henceforth to be separated is suggested by the creation of the office procurator patrimonii³⁰ and the institutionalisation of the bureau a rationibus. This is not to say that the office a rationibus did not exist prior to Claudius : as early as Tiberius' reign, if not before, a clerk a rationibus was receiving a salary from the state.³¹ By the procedure deferre ad Aerarium he had been registered for the performance of public duties, in spite of his affiliation as an imperial agent. The power of the imperial household freedmen in the first century A.D. centred around the administrative bureaux in Rome (ab epistulis, a libellis, a studiis, a rationibus) and culminated in the Claudian era.³² In Tacitus' account of this regime under the influence of these freedmen, he claimed that Pallas, the a rationibus, had virtually controlled the empire.³³ Upon his deposition, Pallas apparently substituted for the customary oath of high senatorial officials, a stipulation that there should be

30 ILS 1487.

31 CIL VI 8409.

32 H. Mattingly, The Imperial Civil Service of Rome, p.38.

33 Tac. Ann. XIII.14.1

no investigation of his past conduct in office and that his account with the state should be regarded as balanced. From this wish to avoid a charge of embezzlement, it is clear he must have handled public monies in his capacity as a rationibus. For the Flavian era at least, Statius specified certain of this officer's responsibilities, namely, military expenditures, fleets, temples, grain-distributions, roads, the estimation of revenues from imperial business interests in the provinces.³⁴ The twofold public and private nature of these responsibilities illustrates again the ambivalent role of the imperial agents. As the sphere of functions performed by this secretariat developed as a result of the expanding imperial provincial network, the emperor's position in the administration of the empire, particularly relevant in the early Principate, became more securely entrenched. Similarly the imperial staff penetrated the state-administration by gradually assuming functions that constitutional officers should have performed. As the rationibus was such an important and trustworthy position, imperial freedmen generally occupied this post, until Hadrian's reforms, through which freedmen incumbents were superseded by equestrian procuratores a rationibus.³⁵ Thereafter freedmen are only occasionally attested.³⁶

In the early Principate, compilation of the rationes imperii was vital in establishing the emperor's ultimate hold on state-finance, at least within his proconsular portfolio. As the imperial provincial administration largely constituted this portfolio, a survey of the emperor's procuratorial representatives will illustrate the extent of the rationibus' involvement in public

³⁴ Statius, Silvae III. 3.85 - 106.

³⁵ CIL VI 1599 (Antonine); 1620; 1626, a proc. Aug. a rationibus.

³⁶ CIL XIV 2104, lib. proc. aug. a rationibus (Antonine).

business. The system of accountability that marked the Republican procuratorial concept was perpetuated in Imperial times, and became a distinctive feature that with imperial administrative expansion tended to imperialise the state's provincial machinery.

The imperial management of the finances of certain major provinces resulted in the development of the Republican procuratorial concept on an unprecedented scale, to define a new class of imperial official who conducted the emperor's business, both private and public, in the provinces. The personal nature of the arrangement between the princeps and his procuratorial agents of freedmen and equestrian rank, may be seen from its origin in Augustus' early years in his use of imperial freedmen in important public positions. One Licinius, first a slave then freedman of Julius Caesar and Augustus, was made procurator of Gaul.³⁷ Suetonius states further that '... multos libertorum in honore et usu maxime habuit, ut Licinium et Celadum aliosque'.³⁸ Similarly, Tiberius' freedman Hiberus, was acting prefect of Egypt.³⁹ Later Claudius appointed Pallas' brother, Felix, as governor of Judaea, but Tacitus preserved his servile beginnings: *ius regium servile ingenio exercuit*.⁴⁰ Thus although many important posts were later given to equestrians, a personal relationship to the emperor, evidenced in his employment of his own freedmen for public duties, would still have determined appointment. The later fully developed imperial service therefore had its origin in Augustan practice. In addition, as conferment of office, both equestrian and senatorial, became the currency of imperial patronage, aspirants for the princeps' favour

37 Dio LIV. 21.
 38 Suet. Div. Aug. 67.
 39 Dio LVIII. 19.6.
 40 Tac. Hist. V.9.

aided in consolidating the new political realities.⁴¹

During the first century, four types of procurators may be defined. The presidial procurators, originally designated praefecti,⁴² were generally of equestrian rank and were titled proc. Aug. although not invariably, in order to distinguish them from lesser procuratorial agents of freedman status. Tacitus, in referring to Agricola's lineage, notes that his two grandfathers were equestrian proc. Caesarum,⁴³ presumably during the early decades of the Principate. Epigraphic references simply to procurator in a presidial capacity have also been dated c.A.D.14, namely the procurator of Aquitania and Narbonensis,⁴⁴ and the procurator of Cyprus.⁴⁵ The designation of the governor of Mauretania in A.D.44 as proc. Aug. pro leg. is a development indicating the public nature of his appointment,⁴⁶ but this addition is seldom found as a later Claudian governor of Noricum was labelled merely proc.⁴⁷

The second type of procurator was the financial chief in imperial provinces governed by legati. As equivalents to the Republican quaestorial magistracy, they nonetheless also administered the emperor's private business interests within their provinces, the res familiares (later patrimonium). The public duties they performed concerned direct taxation and disbursements to the troops,⁴⁸ and as

41 F.G.Millar, ERW, p.341.

42 For Egypt, Dio LIII.23.5 (Cornelius Gallus); for Syria, Josephus, A.J. XV.10.3; XVIII. 1.1.

43 Tac. Agric.4.

44 CIL X 3871, procu]ratori[imp. augu]sti Gallico[rum aquit]aniae et [narbonens] is.

45 CIL X 7351, pro[c aug] Caesari[s cypri].

46 AE (1924), 66. See P.A. Brunt, 'Procuratorial jurisdiction', Latomus 25 (1966), p.466.

47 ILS 1349, procurator Ti. Claudii Caesaris Aug. Germanici in Norico.

48 Dio LIV.21 (Gaul); Strabo III.4.20 (Tarraconensis).

the emperor's private appointees, their accountability was of a far more subordinate nature than that practiced under the Republic.⁴⁹ In fact, this accountability exemplifies how the emperor came to represent the state.

The third class of procurator was concerned solely with the management of the emperor's private assets in senatorial provinces. Usually one procurator was assigned per province : in imperial provinces, these patrimonial duties were performed by the existing procurator, whether of presidial or lesser ranking; in senatorial provinces, the private nature of these procurators' duties is more apparent. The procurator managed private property, although this belonged to a superior owner, and Tiberius asserted the limits of their conduct at the trial of Lucilius Capito, procurator in Asia, 'non se ius nisi in servitia et pecunias familiares dedisse : quod si vim praetoris usurpasset manibusque militum usus foret, spreta in eo mandata sua.'⁵⁰ Dio's account of the same trial makes it explicit that at this time (the Tiberian era) procurators of res familiares were expected only to collect patrimonial dues and to submit disputes to ordinary courts on an equal footing with other private persons.⁵¹ The Republican precedent of a procurator as bailiff and steward is quite clearly the model here.

With the growth in private imperial assets through inheritance, purchase, or confiscation, the number of imperial procuratorial agents increased and were delegated administrative areas formerly in the provincial sphere of

49 The personal loyalty of the imperial procurators has been demonstrated in a number of instances : Tac. Hist. I.12.58; Tac. Ann. XIV.39; Suet. Galba 9; Tac. Agric.9. Likewise their power against senators : Tac. Hist. I.7; IV. 50; Ann. XIII.1.
50 Tac. Ann.IV.15.
51 Dio LVII.23.

the superior procurators. Although these developments generally occurred beyond the period under discussion, their brief inclusion is necessary in order to demonstrate how the inherent potential of the first century procuratorial practice was realised. In this context, the fourth type of procurator, namely domain procurators, were instituted, particularly in Africa.⁵² Generally larger areas were under equestrians while freedmen might still manage the more insignificant districts. In addition to agricultural estates, mines⁵³ and quarries,⁵⁴ and eventually other industrial concerns such as dye-works and cloth-works,⁵⁵ also came under multiple procuratorial survey. Other diverse aspects of imperial interest under procuratorial supervision included libraries⁵⁶ and gladiatorial schools of various status.⁵⁷ The proliferation of procurators in these spheres of the imperial financial secretariat indicates the unprecedented scale to which the Republican procuratorial practice was extended. Although private agents by appointment and because of their accountability to the emperor, their functions were those of state-officers and were recognised as such in law.

52 CIL VIII 11163, proc. aug. n. Tract. Karthag (Antonine); CIL VIII 14763, proc. aug. prov. afric. tract. kart. (Flavian); CIL VIII 11174, procuratori centenario regionis Hadrimetinae (Flavian); CIL VIII 10570, procurator of the Saltus Burunitanus.

53 CIL III 7127, proc[uratori] argentariarum Pannoniarum et Dalmatiarum; CIL X 7584, proc[uratori] aug[ustorum] ad vectig[at] ferr[ariarum] Gallic[arum] (Antonine).

54 CIL II 5181 = ILS 6891, the Lex Metallii Vipascensis.

55 See further F. Millar, ERW, p.181.

56 CIL III 431, proc. Aug. a bybliotheceis.

57 CIL XIV 2922 (for ludus magnus); CIL XIV 160 and 2922 (for ludus matutinus); CIL X 1685 and III 249 (for various gladiatorial schools in the provinces).

During Claudius' reign the imperial procurators were accorded civil jurisdiction by SC⁵⁸, a development which tended to enhance imperial claims above those of private persons since the procurators and no longer ordinary courts now arbitrated in disputes. Scholars have differed as to which type of procurator was referred to in this decree⁵⁹. It is not unreasonable to assume that presidial procuratorships from their inception had the jurisdiction usual to other provincial governors, although exercised at imperial behest; likewise the provincial procurators under legates probably had an equivalent jurisdiction to their quaestorial counterparts. The development of A.D.53 therefore probably related to procurators who were formerly merely the emperor's private agents handling his private assets in senatorial provinces. Tacitus actually specified this in his account, claiming that jurisdiction from henceforth belonged to all procurators including those quos rei familiari praefecerat.⁶⁰ Analysis of post-Claudian evidence has shown that Claudius' successors did vary however in the extent to which they permitted procurators exclusive jurisdiction even in fiscal cases⁶¹. It is in this financial area that the process towards overt autocracy is particularly apparent, when the emperor's growing synonymity with the state came to afford him superior legal privileges as well. For instance, in the second century A.D. the Fiscus acquired the right to satisfy its own claims before the claims of other debtors were to be met⁶², a measure which functioned solely to

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Tac. Ann. XII.60.

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D. Stockton, 'Tacitus Annals XII.60 : a note', Historia 10 (1961), pp. 116f; F. Millar, 'Some evidence of the meaning of Tacitus Annals XII.60', Historia 13 (1964), pp.180f, and the 'The development of jurisdiction by imperial procurators : further evidence,' Historia 14 (1965), pp.362f; P.A. Brunt, 'Procuratorial jurisdiction, Latomus 25 (1966), pp. 461f.

60

Tac. Ann. XII. 60.

61

P.A. Brunt, art. cit.(1966), pp. 477 - 478.

62

Paulus, Sent. V.12.10.

protect the Fiscus' interests. According to the Historia Augusta⁶³, Hadrian fisci advocatum primus instituit in Rome, and probably in the provinces too. Another recognised privilege in the second century A.D. was that of πρωτοπραξία. In Egyptian documents this appears as the right to proceed against third parties who had acquired property from debtors to the Fiscus; in legal sources it appears as an extended ius pignoris⁶⁴.

During the course of the first and second centuries A.D., the extent of the imperial provincial administration may be conjectured from the many epigraphic references to procuratorial staffs of imperial freedmen and slaves, of which a few will be mentioned. The existence of the office of subprocurator⁶⁵ of equestrian rank is named, likewise the office of adiutor,⁶⁶ often a freedman and found even in senatorial provinces.⁶⁷ Among the subordinate officials were the freedmen tabularii,⁶⁸ who received payments and gave receipts; the dispensatores⁶⁹ who were paymasters; and the frequently attested vilici, commentarienses, arcarii, and tabellarii.

Another significant factor dating from the earliest years of the Principate, which served to entrench the princeps' supreme position in the financial administration of the state, was Augustus' institution of provincial censuses. In the context of the post-Triumviral era this innovation had been more necessary than expedient perhaps, since economic instability was widespread in the provinces which

63 Historia Augusta : Hadrian 20.6. G.B.
 64 P. Strasb. 56 Text A.2. line 10; BGU 1573; see also F.A. Millar, 'The Fiscus in the first two centuries', JRS 53 (1963), p. 33.
 65 CIL III 14195 (Mauretania Tingitana and Belgica).
 66 CIL VII 62.
 67 CIL III 431 (Asia).
 68 CIL X 7584 (Sardinia); CIL II 485 (Lusitania).
 69 CIL III 14207 39.

had largely borne the costs of the wars, and the censuses were intended to spread the burden of taxation more equitably. The detailed data on the empire's financial resources and manpower which arose from the censuses, were however channelled to the princeps, although two copies were kept in the respective provincial capitals.⁷⁰ The emperor's interest in provincial censuses was basic to his growing influence in financial matters and to his control over the relevant records of data. Such data constituted in fact the foundational material of the rationes imperii.

It has been pointed out that a systematic and simultaneous survey of the whole empire is unlikely, and that there is no evidence of a uniform and universally applicable type of census.⁷¹ The contemporary claim by St Luke⁷² may be correct to the extent that some kind of census may have been taken in every province. But in view of the likelihood that a census had to be backed up with a display of military power, it is probable that censuses were not instituted in all provinces simultaneously. Since the emperor effectively controlled the army, censuses depended on the emperor and this explains the ultimate imperial control. The preservation of relevant evidence is accidental, but its widespread and sporadic nature would suggest that the periodic institution of censuses in Imperial times was normal practice. Censuses were held in Gaul, and maybe Spain, under Augustus in 27 B.C.⁷³, Drusus in 12 B.C.,⁷⁴ and Germanicus in A.D.14-

70 Cic. Ad Att. VI.7.2.

71 See further P.A. Brunt, review of Untersuchungen zu den Direkten Staatsabgaben der Römischen Kaiserzeit, by L. Neesen, JRS 71 (1981), p. 163.

72 Luke II.1-3.

73 Dio LIII.22.5; ILS 212 = SC Claudianum (oratio Claudii) de iure honorum Gallis dando, a.48. (for Gaul).

74 Livy, Epit. 138, 139.

16;⁷⁵ in Lusitania;⁷⁶ and in Syria and Judaea.⁷⁷ Evidence from Tacitus for Cappadocia⁷⁸ and from Dio for Britain,⁷⁹ would suggest that the establishment of new provinces was always accompanied by a census.

Special imperial agents were appointed for the task, which indicates the imperial destination of their data. Provincial governors were also used, with titlature that shows it was a separate commission and did not fall into their normal portfolio. Evidence from Narbonensis,⁸⁰ Syria,⁸¹ Galatia,⁸² Tarraconensis,⁸³ and Lower Germany⁸⁴ attests this. Equestrian procurators were also used.⁸⁵ Other imperial agents, of senatorial or equestrian rank, were appointed even in senatorial provinces. Evidence for the existence of subordinate agents to compile census-lists in single districts⁸⁶ is illustrative of the extent of regional staff involved as well. The universality of the censuses is indicated from the extant documentation, in that it is not significantly greater for imperial than for senatorial provinces, apart from Gaul.⁸⁷ The performance of censorial duties was a public function and carried out in both imperial and

75 Tac. *Ann.* I.31.

76 CIL X 680, aug[usto misso pro] censore ad lus[itanos].

77 Josephus, *A.J.* XVII.355; XVIII.2 and 26.

78 Tac. *Ann.* VI.41.

79 Dio LXII.3.

80 ILS 950, [leg. a] d cens. accip. et dilect. et [proco]s provinciae Narbon.

81 Luke II.1-3 (Sulpicius Quirinius).

82 ILS 1039, leg. Aug. pro pr. prov. Galat., Phryg., Pisid., Lycaon., Paphlag., item ad census Paphlag (Trajanic).

83 ILS 1145, censitori prov. Lugd. (Antonine).

84 ILS 1020, Dacici ad census accipiendos (Nerva and Trajanic).

85 CIL VI 31863, proc. Aug. ad cens[us] Gallorum, proc. Aug. ad cens. Brit[t].

86 CIL XIV 3955, censor civium Romanorum coloniae Victricensis quae est in Britannia Camaloduni; also CIL XII 408; 1855; VI 1463; VIII 19428; ILS 1338, 1380, 1395.

87 P.A. Brunt, review art. cit., p.164.

senatorial provinces, yet it was by imperial commission. In this way the constitutional organs of state, the Senatus Populusque Romanus, were bypassed as the emperor took it upon himself, by privately commissioning such agents, to represent the Roman state. The accountability expected from imperial agents entailed the submission of all censorial data. Thus vital information of the empire's tax-paying ability and resources came under the imperial portfolio. Imperial control of these valuable records signified the synonymy of the emperor's political and administrative authority.

The financial material submitted from all parts of the empire by the imperial agents to the princeps may be seen from the coverage above to concern many diverse aspects of public assets as well as private imperial assets. The rationes imperii, publication^{of which} is attested under Augustus, Tiberius, and Gaius, was thus the product of a vast co-ordinating process of data concerning public resources and manpower. Even when it ceased to be published, its continued compilation was vital and indispensable as a summary of available assets. The compilation of a statement of the empire's resources, was clearly never a function of the state Aerarium. As an imperial innovation, the rationes imperii remained imperial since it was, in essence, the product of the emperor's provincial staff in correspondence with, and in accountability to, the emperor. In this way the financial administration of the empire increasingly came under the imperial portfolio. The household department a rationibus was responsible for this imperial financial administration, whether by virtue of the emperor's proconsular commission or his imperium proconsulare maius, and it developed into a vast secretariat.

The institutionalisation of this formerly private

unofficial secretariat paralleled the political realisation of the princeps' control over state finance. The a rationibus' functions thwarted any potential of the Aerarium to expand its administrative sphere, and gradually encroached on the ancestral senatorial prerogatives concerning public finance. Thus, as this imperial financial system penetrated state-business, it superceded the functions of constitutional officers and so aided in the depoliticisation of Roman public life.

The a rationibus secretariat, in the sense of being the imperial administration of certain aspects of state-finance (in addition to the emperor's private assets), may be interpreted as the germ of the later Fiscus. It will be posited that the chief officer a rationibus headed the earlier secretariat a rationibus (meaning the imperial financial administration), until the term Fiscus replaced it. This relationship between the secretariat a rationibus and the Fiscus, if sound, would resolve the oft-debated issue of whether the emperor or the res publica owned the contents of the Fiscus in law. That the Fiscus continued in the same functions of handling the emperor's private funds and state-funds, would support this supposition. The Fiscus then was the financial secretariat, vastly expanded, dealing with the property or income of the princeps in his private and official capacities, and regardless of whether it was privately owned or belonging to the state in strict law, it would have been denoted as fiscal, meaning that it was merely under the princeps' administration or control.⁸⁸ The division of functions between the officer a rationibus and the procurator patrimonii of Claudius' reign would seem to illuminate rather than obscure this dual nature of the Fiscus' administration.

⁸⁸ A.H.M. Jones, art. cit. (1950), p.22.

The historical point at issue would therefore be not the imperial ownership, but the increasing imperial control, of the administration of state-funds. By the end of the first century A.D. this imperial control was complete, as attested in Statius' Silvae III.3 (85-106), which enumerated the extensive coverage of state-duties by the officer a rationibus of Domitian. Pallas' demand, at the beginning of Nero's reign, that the accounts he drew up as a rationibus were not to be audited⁸⁹ likewise implies a sense of accountability to the state that cannot be explained except that the funds involved were recognised as state-property. The centralised administration of state-finance under imperial control would seem to be apparent here rather than the Fiscus as a public treasury. Two facts would tend further to negate the latter possibility : the lack of epigraphic evidence of dispensatores connected to the Fiscus in Rome, a class of official always connected to a public treasury of actual bullion;⁹⁰ and the absence of references to a safe deposit associated with this Fiscus as the aedes Saturni was with the Aerarium.⁹¹

The process 'that eventually came to place state-owned revenues and properties at the free disposal of the emperor began with Tiberius' and later Gaius' halt in public accountability of funds under their administration. This accountability suggested in the first place the princeps' role as administrator, not owner of state-property. This role was not necessarily lost when state-finance was at his disposal because it coincided with the evolution of his relation to the state : the princeps represented the state in the administration of its

89 Tac. Ann. XIII.14.1.

90 H. Mattingly, The Imperial Civil Service of Rome, p.15.

91 H. Last, art. cit. (1944), p. 51.

finances. Ownership could thus become synonymous with control of state-funds only in a limited sense, in that the princeps need render account for his usage of public funds, to no-one.

The official financial machinery of the state, namely the Aerarium, continued to exist alongside the imperial financial administration, and the princeps' increasing influence over the former would indicate again that control, not ownership, was the key. That it was not so much a quest by the princeps for further private wealth is clear from the frequent occasions when, out of his own largesse, he subsidised the state. Control of the reins of administration, however indirect, was the Roman interpretation of realisation of the monarchical potential of the Principate.

The development of imperial influence over the Aerarium may be traced at this point. Augustus replaced the traditional officers of the Aerarium, the quaestors, first with praetorian praefecti aerarii chosen by the senate, then praetores aerarii chosen by lot. Presumably his intention was to place experienced and responsible men in control. Claudius reversed this reform by returning control to quaestorial officers in A.D. 44. The fact that they were to be selected personally by the emperor, were to serve for three years, and were promised honours in advance, suggest that imperial favour and its rewards for quaestorial compliance were hallmarks and that imperial autocracy over the Aerarium was the aim of this reform.⁹²

92

T. Frank (An Economic Survey of Ancient Rome, vol. 5, p. 40) has posited that the Claudian substitution of quaestors for praefecti was due to the inclusion of the Aerarium in the province of the a rationibus. This has been rejected by H. Last's claim that the a rationibus' supervision of the Aerarium is not proved by Tac. Ann. XIII. 14.1, in his review of An Economic Survey of Ancient Rome vol. 5, in JRS 30 (1940), p. 201.

His successor Nero however reverted back to the Augustan practice of having praetorian praefecti.⁹³ Their personal appointment by the emperor illustrates that the senate's prerogative of control over the Aerarium remained lost, or at the most, was severely curtailed. By A.D.100 Pliny provides illustration that the princeps' control of the state treasury was open and complete.⁹⁴

Measures initiated by the emperor through the senate during the early Principate likewise suggest a sense of responsibility, if not authority, in the sphere of public finance.⁹⁵ While these measures indicate initiative and a sense of responsibility, unequivocal exercise of authority is perhaps first seen in Vespasian's remission of long-standing debts to the Aerarium in A.D.70. Likewise his institution of four new treasuries, of which the fisci Alexandrinus and Asiaticus have been interpreted plausibly as branch-offices in Rome of these provincial fisci. In effect it amounted to a bypassing of the Aerarium and the disappearance of the last vestiges of publicity since only the imperial secretariat would now know of their financial condition.⁹⁶ That public finance was generally recognised to belong to the emperor's domain is illustrated anyway in A.D.69 when senators, with the exception of Helvidius Priscus, declined the challenge to be responsible for any financial measures in Vespasian's absence.⁹⁷ The extent of the senate's subservience to the emperor in finance, as illustrated in this example, is indicative of the developments since Gaius' reign. Upon his assassination, the consuls had transferred the state-treasury under guard to the Capitol, doubtless as part of the senate's bid for independence. It is possible to

93 Tac. Hist. IV.9.

94 Pliny, Pan. 36.

95 See further F.G.Millar, art. cit. (1964), p.40.

96 A.H.M. Jones, art. cit.(1950), p. 27.

97 Tac. Hist.IV.9.1.

conjecture from this the growing subservience of an Aerarium dependent on the princeps.⁹⁸ Claudius' reign would indicate still further the waning independence of the Aerarium in the ascendancy of Pallas who, as the emperor's private financial secretary, not only controlled public funds, but was said by Tacitus virtually to control the whole empire.⁹⁹

The process of the decline of the Aerarium to the advantage of the imperially administered Fiscus in terms of loss of revenue cannot be traced, but by the mid-second century A.D. all direct and indirect revenues had come to be re-directed to the Fiscus while the Aerarium had become a regional treasury. The growing complexity of state business under imperial control contributed to this phenomenon. Likewise the need to co-ordinate different areas of policy-making and administration. This may be illustrated, for instance, by the corn scheme which required:¹⁰⁰ a) a register of those in Rome who qualified for the 'dole'; b) records in the provinces of farmers' liability to provide grain; c) the organisation of grain ships to ferry grain to Rome, that effected further developments such as Claudius' incentive schemes, which included state-insurance for ship-owners; d) organisation of the storage of grain in Ostia or Rome, and the distribution of grain; e) the provision of policing to cover every stage in the above process.

During the first century A.D. the Aerarium's traditional sources of revenue such as provincial tribute and established indirect taxes, continued to be channelled to the state-treasury. The sources of public income for the

⁹⁸ C.H.V. Sutherland, 'Aerarium and Fiscus during the early Empire', *AJP* 66 (1945), p. 162.

⁹⁹ Tac. *Ann.* XIII.14.1.

¹⁰⁰ See further T.F. Carney, 'The Emperor Claudius and the grain trade,' *Pro Munere Grates*, pp. 39-58.

treasury of the imperial fiscal department, on the other hand, seem to have emerged only gradually : inheritances, bona caduca/vacantia, bona damnatorum, special imperially instituted taxes, fines, and penalties which might otherwise have gone to the Aerarium.¹⁰¹ To have attempted to wrest major established sources of state-revenues from the Aerarium to the Fiscus, at least in the early Principate, would have negated the Republican facade. Innovation, in any case, threatened mos maiorum and most emperors found it preferable to exert their influence and ultimately control over the Aerarium. The reality of ultimate imperial control over these public monies in the Aerarium was more relevant at the time than the issue of whether in strict law they were owned by the emperor or the res publica. Understanding the imperial objective of such control in this light, the Fiscus may then be acceptably defined as the imperial administration controlling all public and private monies which were at the emperor's disposal.

From the early Principate, the emperor's interest in state-finance has been demonstrated, an involvement expediently justified by his generous subsidy of the Aerarium. The institution of curators, imperially appointed and sanctioned by SCC (as delated to the Aerarium's account), suggests a process by which, as the emperor undertook state-responsibilities, he received the necessary finance to meet them. The Fiscus' usurpation of the Aerarium's major revenues cannot be plotted chronologically, yet it may be that provincial revenues were deflected to the Fiscus when the distinction between senatorial and imperial provinces ceased to be operative, viz. as early as the second decade of the second century A.D.. This change was symbolised by the issue of standard

¹⁰¹ See further F&M.Millar, art. cit. (1963), p. 34.

imperial mandata to governors of senatorial provinces and the consequent adoption by these governors of the relationship of accountability towards the emperor, as practiced by the imperial legati.¹⁰²

Brief examination of the relation between the Aerarium and Fiscus during the first century A.D. is important for our understanding of the princeps' relation to public finance because the ultimate ascendancy of the Fiscus as a financial system meant the total supercession of the Aerarium by an imperial financial administration. There has been much diversity of opinion among scholars on this subject,¹⁰³ which centres on two issues : the origin and ownership of the Fiscus.¹⁰⁴ It would seem that Augustus' relation to the revenues of his provinces followed the precedent of a Republican proconsul, and that these revenues continued to fall under the single financial system of the state, the Aerarium, rather than be channelled into any imperial treasury.¹⁰⁵ Nevertheless the imperial financial secretariat, which clearly functioned from the earliest years of the Principate, was the origin of the later Fiscus. It was only under Claudius that the Fiscus as a separate financial system seems to have emerged when the revenues under direct

102 See Chapter VII of this study.

103 H. Mattingly, The Imperial Civil Service of Rome; C.H.V. Sutherland, 'Aerarium and Fiscus during the early Empire', AJP 66 (1945), pp.151ff; H. Last, 'The Fiscus : a note,' JRS 34 (1944), pp.51ff; A.H.M. Jones, 'The Aerarium and the Fiscus,' JRS 40 (1950), pp.22ff; P.A. Brunt, 'The Fiscus and its development', JRS 56 (1966), pp.75ff; F.G.B. Millar, 'The Fiscus in the first two centuries', JRS 53 (1963), pp.29ff.

104 This debate began between Th. Mommsen (Römische Staatsrecht. II.2, pp.998f) who contended that the Fiscus originated in Augustus' time and was his own possession, and O. Hirschfeld (Die Kaiserlichen Verwaltungsbeamten bis auf Diocletian, pp.4f), who asserted that the Fiscus belonged to the state and only began under Claudius.

105 H. Last, art. cit. (1944), pp. 58 - 59.

imperial control were treated as the concern of a distinct system vis-a-vis the single financial system of the state, the Aerarium. The supercession of the Aerarium followed as fresh obligations, and the revenues with which to meet them, were transferred to the Fiscus from the Aerarium, probably culminating with the control of all provincial revenues, as mentioned above. Imperial ownership of the Fiscus, in the light of the separation of the emperor's private patrimonium and later res privatae from other revenues merely under his control, may perhaps be defined best as belonging to the emperor in the same way as in modern monarchies state-property is said to belong to the Crown.¹⁰⁶

The nominal ownership of revenues by the state had thus become steadily overshadowed by the emperor's control of state-finance, being as he was, the supreme representative of the state. Another factor that aided this process was the imperial subsidising of the state. The Res Gestae provides ample testimony of both Augustus' vast wealth and the various financial needs of the state which he magnanimously supplied. As benefactor of the state on such a scale, his interest in the control of public finance would have seemed justified, and not unwelcome. His successors continued in this role with significant consequences. Subsidy of the state Aerarium became a permanent element in the structure of state-finance and served to consolidate the princeps' dominant influence and eventual control of its management.¹⁰⁷

Augustus' improvements and innovations in the financial administration did not usurp the traditional prerogatives of the senate. His resources in wealth and manpower

106 H.F. Jolowicz, An Historical Introduction to the Study of Roman Law, p.345 n.4.

107 E.G.Millar, art.cit. (1963), p. 29.

enabled him to institute better financial practices for the benefit of the state, where previously the Republican senate had lacked both the personnel and systems for financial planning and auditing. The records generated by Augustus' innovations were, since they were sent by officials accountable to him alone, kept under his control. The synonymy of power and the control of knowledge meant that these records were politically valuable in affording him a certain authority in state-finance that could not be contested. Augustus' role in state-budgetting was thus founded in his auditing arrangements. From the beginning of the Principate the arbitrary power of the publicani was gradually checked in the imperial provinces, and by the mid-second century A.D. in the senatorial provinces as well, ending with their complete supercession by state-officials. In this way, the emperor re-established state-control over the finances of the empire, although it must be recognised that by this time state-control was equivalent to imperial control. The relationship of accountability to the emperor by provincial governors of both senatorial and imperial designation, which emerged during the first decades of the second century A.D., aided in this process.¹⁰⁸ Another facet of monetary management that may be mentioned, was the minting of coins. As most metal coins were minted in the provinces, the emperor in his multiple proconsular capacity and with imperium proconsulare maius, effectively controlled the issue of coinage into circulation.

The functions of the imperial a rationibus were from the beginning expressive of Augustus' innovative

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The reporting procedures of governors under the Empire may be contrasted with Cicero's dealings with the publicani during his proconsulship of Cilicia (51/50 B.C.), for example, Ad Att. V. 21; VI.1.

administrative vision, with important consequences regarding the state's control over finance. With the officialisation of this unofficial financial system and its staff during the early Principate, the state was bypassed as master to an ever-increasing degree. Imperial control conversely tended to personalise this primary financial administrative machine of the state, known in time as the *Fiscus*. The potential of autocracy inherent in the Principate in the financial sphere was realised openly when the *Fiscus* emerged as the dominant financial system of the state. What it stood for in terms of imperial domination over vital areas of government, completed, in F. Millar's words, the 'victory of aristocratic power and riches over the institutions of the res publica'.¹⁰⁹

Against this background, the role of the imperial rationes imperii followed a convenient Republican precedent, and necessary too, at the beginning of the Principat , in order to perpetuate a myth of accountability. That the obligation to render account was a moral rather than legal one is suggested by Tiberius' discontinuance of its publication and Gaius' later brief resumption of it, which occurred in the context of the need to propagate a return to the Augustan model of government after the dark years of Tiberius' latter reign. The original compilation of Augustus' rationes imperii both necessitated, and were necessitated by, the state-duties which private staff performed on his magisterial authority, while the development of its government functions meant the emergence of a civil service that was answerable first to the princeps. Depoliticisation and supercession of state-prerogative were the implications in Roman public life as vital public functions became part of the imperial civil

109 F.G.Millar, art. cit. (1963), p.42.

service's portfolio. This process could have been halted, but only on the initiative of the Princeps and at the sole expense of his pre-eminence : it served to entrench the indispensability of his position in the administration of the empire and as such was not to be sacrificed. As the position of the princeps became sufficiently strong, the imperative of accountability disappeared, and with it the publication of the rationes imperii. The strength of the Principate may therefore be gauged by the suppression of the rationes during Tiberius' reign. As financial records of the state they would unquestionably have continued to be compiled however. Their transformed purpose and continued existence would seem to disclose the true nature of their original role, namely, to establish through whatever diplomatic means, imperial control over the whole financial administration of the state.

CHAPTER VII

7. COMMUNICATIONS WITH THE IMPERIAL PROVINCIAL ADMINISTRATIVE SERVICE

7.1 MANDATA AND EPISTULAE

The mandatorial practice in Imperial times had its roots in the Republican custom whereby provincial governors were accountable for their term of office. After 27 B.C. this custom of accountability was perpetuated by Augustus, with added propaganda value, as he sought to ingratiate his tremendous auctoritas with Republican constitutional formalities. Through constant recourse to Republican precedent, Augustus projected his constitutionalism, and in the sphere of his proconsular provincial administration, found expression in his electing to be as accountable to the senate as any other Republican provincial governor.

This accountability had consequences, ^{the} true import of which could not have been foreseen at the time. It was the personal appointment of representatives by the emperor, as holder of imperium proconsulare maius, to manage his military and financial interests in the provinces on his behalf which led to the introduction of the mandatory system. This system in turn had its justification in the princeps' chosen accountability to the state, and involved the mushrooming of an imperial civil and provincial administrative service. It began in 27 B.C. merely as a change in the method and tenure of provincial governorships with regard to certain provinces; no administrative changes were anticipated at Rome. But the correspondence generating between the princeps and his representatives in the form of epistulae effected close

administrative ties, which contributed to the increasing centralisation of authority in the princeps in his sphere of interests. By the time of Hadrian this centralisation had infringed on, and absorbed, what were previously prerogatives of the senate in the government of the senatorial provinces, namely appointments, holding officials to account, and general administrative procedures.

This section will deal firstly with the development of the mandatorial practice from its Republican background, and next, will show how the princeps' Republican accountability came to be politically advantageous to himself in terms of the centralisation of administrative authority. Examination of the records of mandata and epistulae, notably their issue, contents, and implications for imperial supremacy at the senate's expense, will again highlight the inter-relation between politics and administrative records.

Provincial administration in the Republic had been in the senate's sphere of responsibility, with magistrates being allotted or assigned provinces after their term of office in Rome. Prior to 146 B.C. it was Roman practice to appoint praetors to govern provinces; thereafter, generally ex-consuls were appointed. Contact between the senate and its provincial governors is evidenced in the literary sources, involving the issue of mandata on specific matters. This is shown by Livy's account of the propraetor Gnaeus Octavius being ordered to obtain from the praetor of Sardinia whatever could be assembled and sent from that province for the war-effort against Carthage, in 204 B.C.¹ Military mandata to praetorian governors are related by Livy too, such as their

¹ Livy XXIX.36.2.

instructions to discharge veterans on their arrival in the province in 193 B.C. in the context of the war against the Ligures;² likewise the praetor of Sicily was given orders concerning the transportation of troops to Macedonia in 169 B.C. and the praetor of Spain was ordered to hold a levy.³

Corresponding to the senate's issue of military mandata was the provincial governor's accountability. The case of Julius Caesar's commentarii to the senate on the Gallic wars he was waging, exemplify this sense (and in this context, necessity) of accountability through its strong, if diplomatically couched, thread of justification throughout. These commentarii were not sent at the end of his proconsulship, which suggests that correspondence between a governor and the senate could be more frequent than is generally supposed, unless their non-routine military nature made them exceptional. An additional clue may lie in Suetonius' reference to the fact that Caesar as proconsul was the first to send his letters (in the plural) to the senate on pages (paginae) of parchment instead of the papyrus rolls (transversa charta) usually sent by consuls and generals.⁴

Senatorial mandata of a more general nature concerning provincial administration are also evidenced in Republican times, as seen in Cicero's attestation of this with relation to provincial taxation.⁵ Cicero's exposure of C. Verres' corrupt governorship of Sicily (73-71 B.C.) was in fact a challenge to a strong senatorial cot rie on the validity of official accountability by provincial

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Livy XXXIV.56.3.

Livy XLIII.12.11.

Suet. Div. Iul. 56.6.

Cic. II In Verr. III.19, '... aut senatus tibi hoc mandaverit, ...' and in IV.39, 'tamquam hoc senatus mandasset populusque Romanus iussisset.'

governors. For its own reasons the senate also could not allow extortion to go unchecked. It represented a security risk because Rome appreciated the value of stability and economic growth in her dominions, and not least because it threatened sectional interests, since provincial exploitation could enrich some senators to the detriment of others. Accountability in financial matters was therefore important,⁶ and entailed reports on provincial revenues⁷ and on expenditures from the financial grant allocated before the governor's departure from Rome. Peculation of funds in certain instances was apparently so commonplace and accepted a practice that it could be recorded openly.⁸ Reports of a military and financial nature then are clearly attested as being sent to the senate during Republican times. Thereafter, Republican procedure seems to have entailed that a provincial governor handed in his commentarii to the archives at the Aerarium at the end of his term of office.⁹ This would indicate that after being audited at the Aerarium, archival consignment was its end, and that its purpose was the availability of a checkable record if a future need arose. But significantly, assessment or scrutiny of these commentarii at senatorial level was not part of the procedure.

Further, an inscription, albeit from Imperial times, provides additional details, and indicates that at least until A.D.68 this Republican procedure was still followed by the proconsular governors of senatorial provinces. The

⁶ Cic. II In Verr. I.14 and 21.

⁷ Increase in provincial revenues was clearly to a governor's credit, as Cicero implies (II In Verr. III.19) 'quod propter gloriae cupiditatem, ut aliquos summa frumenti decumani vinceret.'

⁸ Cic. Ad Att. VI.1; VII.1.

⁹ Cic. In Pis. 61, gives evidence for this archival reception, after his proconsulship of Cilicia in 51/50 B.C.

inscription containing the Decretum Proconsulis Sardiniae de Finibus Patulcensium et Galillensium, was headed by archival information for verification: Imp. Othone Caesare Aug. cos XV k. Apriles descriptum et recognitum ex codice ansato L. Helvi Agrippae proconsulis, quem protulit Cn. Egnatius Fuscus scriba quaestorius, in quo scriptum fuit... tabula V capitibus VIII et IX et X.¹⁰

That application had to be made to the Aerarium by the Patulcenses for a copy of the governor's decree was in accordance with the Republican practice examined in Chapter Two of this study. Reference here to the scriba quaestorius indicates that the Aerarium was still the archives for the senate's sphere of responsibility, and that archival consignment was the confirmation of a governor's accountability to the state. It is significant that the detail expected of a provincial governor warranted its storage in a codex. Archival consignment of a record after it had been checked was a means of enforcing the provincial governor's accountability. But more importantly an attempt is evidenced here to be consistent and to provide competent administration as, in the immediate dispute, an archival record of an agreement prevented either party from arguing later about what had been decided. This inscription thus shows a twofold concern: to provide a sound administration, and to maintain precedents in governors' decisions on issues that might resurface.

Details of the constitutional arrangements of 27 B.C. and later 23 B.C. which mark the inception of the Principate, are not entirely clear, although the intention is surely apparent from the effect. Augustus' tremendous auctoritas

¹⁰ ILS 5947 = CIL X 7852.

was fitted into the state-machinery through grants of imperium consulare and imperium proconsulare maius, amongst others, which preserved his erstwhile de facto position as commander-in-chief. The allocation of certain provinces to Augustus in 27 B.C. had administrative consequences which far exceeded the immediate outcome of a change in the method and tenure of provincial governorships. The earliest source, Strabo, relates that the Roman state ¹¹ δίχα διείλε πασάν τήν χώραν καί τήν μὲν ἀπέδειξεν ἑαυτῷ τήν δὲ τῷ δήμῳ ... ἑκατέραν δὲ τήν μερίδα εἰς ἐπαρχίας διένειμε πλείους, ὧν αἱ μὲν καλοῦνται Καίσαρος, αἱ δὲ τοῦ δήμου. καὶ εἰς μὲν τὰς Καίσαρος ἡγεμόνας καὶ διοικητὰς Καίσαρ πέμπει, διακρίων ἄλλοτε ἄλλως τὰς χώρας ... εἰς δὲ τὰς δημοσίας ὁ δῆμος στρατηγούς ἢ ὑπάτους... τὰς δὲ ἄλλας ἐπαρχίας ἔχει Καίσαρ, ὧν εἰς αἱ μὲν πέμπει τοὺς ἐπιμελησομένους ὑπατικούς ἄνδρας, εἰς αἱ δὲ στρατηγικούς, εἰς αἱ δὲ καὶ ἵππικούς..

Suetonius confirms this account, that 'provincias validiores et quas annuis magistratum imperiis regi nec facile nec tutum erat, ipse suscepit, ceteras proconsulibus sortito permisit'.¹² Although a multiple provincial governorship of ten years is clear, the authority (probably proconsular) with which he was vested for the task, is nowhere mentioned in the sources. In 23 B.C. however, he was granted imperium proconsulare maius over all the provinces in the empire.

According to these constitutional arrangements, proconsuls continued to be assigned by lot to the non-military provinces for a one-year tenure usually, while imperial appointees administered the military provinces on behalf

¹¹ Strabo XVII. 3.2.5.

¹² Suet. Div. Aug. 47.

of the emperor.¹³ These legati Augusti pro praetore served at the princeps' pleasure, and would appear to have exercised as full an imperium as their proconsular counterparts.¹⁴ Ulpian later affirmed that a praeses had 'maius imperium in ea provincia...omnibus post principem'.¹⁵ Since legates governed on the emperor's behalf they were accountable personally to him, rather than to the senate. A natural consequence of this was a degree of centralised authority in the princeps' sphere of administration, as well as the expedient dividends to Augustus personally of good provincial administration. In his turn, Augustus was eager to foster the forms of the old Republic, insofar as that was compatible with the retention of personal power.¹⁶ With the guarantee of his tremendous auctoritas, he could afford to choose to be accountable to the state in the tradition of the Republican pro-magistrates, and in so doing foster an image of accountability and submission to the constitution.

Accountability to the emperor by his appointees was based on their fulfilment of general mandata issued to them at the commencement of their imperial commission. In addition, questions concerning the interpretation of their mandata, or specific issues beyond the limits thereof, generated much correspondence between staff and princeps. That the imperial appointees in positions of responsibility were issued mandata is confirmed by a number of literary references. Tacitus records advice

¹³ contra F.G.B. Millar, "Senatorial" provinces : an institutionalised ghost', Ancient World 20 (1989), pp.93 - 97.

¹⁴ Tac. (Ann. II.77.I) recounts at the trial of Cn.Piso in A.D. 19 : huic fasces et ius praetoris, huic legiones datas.

¹⁵ Dig. I.16.8, 18.4.

¹⁶ P.A. Brunt, 'The role of the senate in the Augustan regime', CQ 34 (1984), p.423.

given to Cn. Calpurnius Piso, legate of Syria, by his friend Domitius Celer in A.D. 19 in deciding what to do after Germanicus' death 'Si quid hostile ingruat, quem iustius arma oppositurum quam qui legati auctoritatem et propria mandata acceperit?'.¹⁷ The Prefect of Egypt likewise received mandata,¹⁸ διὰ τῶν πρὸς Μάγιον Μάξιμον ἐντολῶν.

Procurators in both public and imperial provinces were given power over the emperor's personal slaves and revenues, as it was asserted at the trial of Lucilius Capito, procurator in Asia, who was accused by the provincials of employing military force. Tiberius himself declared: quod si vim praetoris usurpasset manibusque militum usus foret, spreta in eo mandata sua.¹⁹ The occasional literary references to such mandata in the Early Empire are not sufficient to determine their scope or contents, but do make it clear that they were a matter of routine.²⁰ The earliest non-literary evidence of their content dates from Domitian's reign in the late first century A.D., and is from a Greek inscription from Hama in the imperial province of Syria.²¹ This inscription included an extract of the mandata (ἐντολαί) to the procurator dealing with the burdening of the provincials by military exactions. From the heading of the extract it is clear that this was not an epistula: ἐξ ἐντολῶν Αὐτοκράτορος [Δομ]ιτιανοῦ Καίσαρος Σεβαστοῦ υἱοῦ Σεβαστοῦ πρὸς Κλαύδιον Ἀθηνόδωρον ἐπίτροπον.

Since there is no actual reference to Syria, where this procurator was stationed, it is possible that they were issued to Domitian's

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- 17 Tac. Ann. II.77.1. See also F.G.&M. Miller, 'The emperor, the senate and the provinces', JRS 56 (1966), p.157.
 18 Philo, In Flaccum 74. See also F.G.B. Millar, art. cit. (1966), p.157.
 19 Tac. Ann. IV.15.3.
 20 F.G.&M. Millar, ERW, p.314.
 21 IGLS V 1998. See also F.G.B. Millar, art. cit. (1966), p.157.

appointees in all the provinces.²² Although it was addressed to Athenodorus personally (*δύ, σοί*, etc), it probably did apply to officials in other provinces too as it referred to abuses of the cursus publicus.²³ The editors suggest that the provincial title was omitted because it was not intended for the governor but for Athenodorus in his capacity as procurator of the imperial estates in Syria (viz. not a provincial procurator). Furthermore as this reaffirmed an earlier ruling by Vespasian, one might posit earlier mandata on the subject by this emperor. That the mandata to legates were becoming consistent and general in content by the end of the first century A.D., is clear from Agennius Urbicus' statement that there was nothing that the legates of the provinces were more accustomed to receiving in their mandata than that those places which were sacred should be preserved as such.²⁴

The emperor's mandata in his capacity as de facto commander-in-chief encroached on the sphere of foreign affairs which during the Republic had been the senate's responsibility. Tacitus records three instances where instructions were awaited or sought by military commanders, not from the senate, but personally and solely from the princeps. In Annales XI.19, Cn. Domitius Corbulo (II) was forbidden by Claudius to take further steps of aggression against the Germans, and was ordered to withdraw the Roman garrisons to the west banks of the Rhine. In the same reign, Tacitus refers to the possibility of Claudius' generals receiving orders from him concerning Radamistus' capture of Armenia after

²² F.G.Millar, ERW, p.314.

²³ It is significant that the heading matches that of P. Vindob. 25, 824 (*ἔντολκή* of Mettius Rufus), which Kanzler apparently dated to the period A.D. 89-91.

²⁴ Agennius Urbicus, De Controversiis Agrorum, Corp. Agrim. Rom. (Leipzig, 1913), p.48.

Mithridates had fallen through treachery.²⁵ The third instance records Corbulo's response as legate of Syria, to Lucius Caesennius Paetus' idea after the latter's defeat by Vologeses in A.D.62, that they both invade Armenia. Corbulo refused on the grounds that the emperor had given him no such mandata, and that he had left Syria only through anxiety for Paetus' army.²⁶ These sporadic mandata in the form of epistulae reflect the recognised authority of the princeps. Nevertheless, the numerous references to the princeps seeking senatorial approbation and support, particularly in the early Principate, would indicate that, although able to act on his own initiative, the princeps often acted in conjunction with or through the senate.²⁷

Especially during the first century of the Principate, usage of the imperial channels of communication was still in the process of hardening into recognised custom. Thus it is not always possible to limit the definitions of the various types of imperial correspondence. For the present purpose, distinctions in imperial official correspondence may be drawn between mandata (non-solicited orders); rescripts (imperial responses to questions, for example, most of Trajan's replies to Pliny); letters on security matters;²⁸ and correspondence not laying down, nor requesting, rulings.²⁹ A few examples will illustrate the varied nature of this correspondence. Philo records the correspondence between Petronius, legate of Syria, and Gaius over the placing of Gaius' statue in the Temple of Jerusalem.³⁰ Similarly in Claudius' reign, Marsus, the legate of Syria, corresponded with the emperor concerning

25 Tac. Ann. XII.48.4.

26 Tac. Ann. XV.17.2.

27 See further P.A. Brunt, art. cit., esp. pp.432-5.

28 For example, Tac. Hist.I.12; Tac. Ann. XIV.38.5.

29 Pliny, N.H. IX.9.

30 Philo, Legatio 207, 248, 254-61, 333-4.

Agrippa I's rebuilding of the walls of Jerusalem.³¹ Correspondence with the princeps was not limited to senatorial officers, as equestrian officials in positions of responsibility were also expected to maintain contact. Tacitus relates Classicianus' letters to Claudius from Britain concerning Boudicca's revolt;³² Pliny mentions those of a former governor of Bithynia, Gavius Bassus.³³ Similarly, Philo records how the procurator of Jamnia, Herennius Capito, informed Gaius of the destruction of an altar to him placed in the Jewish synagogue by the Greeks.³⁴ Josephus summarises Herennius Capito, procurator of Jamnia's, communication to Tiberius concerning a debt owed by King Agrippa;³⁵ Tacitus mentions the letter to Galba from Pompeius Propinquus, procurator in Belgica, about Vitellius' rebellion;³⁶ Philo relates how the Prefect of Egypt, Avillius Flaccus, promised to no effect, that he would pass on to Gaius the congratulatory decree from the Jewish community at Alexandria on his accession in A.D.37.³⁷

Possibly the finest source of a continuous correspondence of this kind is Pliny, governor of Pontus-Bithynia from about A.D. 109 under Trajan. Firstly, more detailed knowledge of the content of the routine mandata to legates, is furnished. Secondly, the correspondence reveals the extent to which imperial appointees were expected to refer back to the emperor regarding all aspects of their administration. Although dating from the beginning of the second century A.D., the nature of their content cannot have differed much from that issued by the

31 Josephus, A.J. XIX.326-7.

32 Tac. Ann. XIV.38.4-5.

33 Pliny, Ep. X.22.

34 Philo, Legatio 202.

35 Josephus, A.J. XVIII.163-4.

36 Tac. Hist. I.12.1.

37 Philo, In Flaccum XII.97-101.

earlier emperors, because centralisation of authority in the imperial sphere of public responsibility is clearly apparent from Augustus' time. His control and initiative therein has been nowhere concealed or disguised behind constitutional niceties. Augustus' choice from the beginning to be accountable to the state in fact justified this. Fulfilment of his mandata and the availability of data concerning various aspects of provincial administration in his regions, were demanded in the interests of good government. As such it was not a development in autocracy, since Augustus would have used these records to account to the senate for his administration, in the manner of a Republican provincial governor.

Several headings of the mandata are designated in Pliny's correspondence with Trajan, namely:

<u>Epp.</u> X.22:	mandata re allocation of troops.	military
X.30:	<u>mandata</u> re army and protection of admission to the various status groups.	military
X.56:	<u>mandata</u> re restoration of exiles.	justice
X.96.7:	<u>mandata</u> prohibiting <u>hetaeriae</u> .	political
X.110 and 111:	<u>mandata</u> re financial donations from civic funds and Trajan's confirmation thereof.	obviation of financial corruption

The above references to mandata suggest a certain comprehensive coverage, in particular nos. 30 and 111. Categorisation of the content of Pliny's letters furnishes a detailed view of the broad spectrum of issues about which Pliny did not feel competent to decide, in his capacity as legate. This indicates that the imperial mandata effectively limited a legate's exercise of his imperium, and his discretion. That mandata were bound to encourage, and were possibly meant to encourage, a system of reference back to the emperor³⁸ is apparent from Pliny's assertion that he had Trajan's permission to address himself to Trajan in all his doubts concerning his administration.³⁹ The entirely vicarious nature of a legate's role is clear from Trajan's first letter to Pliny on his arrival in his province,⁴⁰ namely that 'you will take care to make it clear to them that you were appointed specially to represent myself'. Imperium was therefore exercised at the emperor's will and pleasure, and all doubtful matters were for his discretion. The majority of Pliny's correspondence with Trajan concerns these doubtful matters, and the steady flow of question and response is illustrated in Ep. X.27: 'But I beg you would inform me in your next despatches, what method you would wish ...'. This constant reference back to the emperor was a continuation of the personal accountability of imperial appointees during the first century A.D. on matters of imperial interest, and is illustrated below in Pliny's Epistulae.

38 L. Vidman, 'Die Mission Plinius ...', Klio 1959, pp.217f, cited by A.N. Sherwin-White, 'Trajan's replies to Pliny: authorship and necessity', JRS 52 (1962), p.120.

39 Pliny, Ep. X.31.

40 Pliny, Ep. X.18.

Epistulae Plinii

Subject	Letter Numbers	Number of Pliny's Consultations	Number of Trajan's Responses
Finance	17B, 18, 43, 44, 47, 48, 54, 55, 81, 82, 108, 109, 110, 111, 112, 113, 114, 115, 118, 119.	10	10
Military	21, 22, 27, 28, 29, 30, 74, 77, 78.	5	4
Justice	31, 32, 56, 57, 58, 59, 65, 66, 72, 73, 83, 84, 96, 97.	8	6
Public works	23, 24, 37, 38, 39, 40, 41, 42, 61, 62, 70, 71, 90, 91, 98, 99.	8	8
Public Service	19, 20, 22, 79, 80.	2	3
Political restrictions	33, 34, 92, 93, 116, 117.	3	3
Religious	49, 50, 68, 69.	2	2
<u>Diplomata</u>	45, 46, 120, 121.	2	2
Formal congratula- tions	35, 36, 52, 53, 88, 89, 100, 101, 102, 103.	5	5
Formal references and reports	15, 16, 17A, 25, 63, 64, 67, 75, 76, 85, 86A and B, 87, 106, 107.	12	3
Personal requests and thanks	26, 51, 94, 95, 104, 105.	4	2

In addition to the mandata to his own appointees, there are however numerous instances of specific mandata being issued by the emperor to senatorial governors in the provinces which fell outside those in his care. But these mandata do not serve as confirmation of Dio's statement⁴¹ that from the very inception of the Principate all governors, including those of the proconsular provinces, received general mandata from the emperor. As scholars rightly argue,⁴² this anachronistic view would negate the Republican image that Augustus was keen to foster. Such mandata would infringe on the senate's authority over its provinces. As P.A. Brunt states, Nero's promise at the beginning of his reign that the senate would retain its ancient functions, and that Italy and the senatorial provinces should apply to the consuls for access to the senate,⁴³ is probably good evidence for normal procedure in the time of Augustus and Tiberius that Nero was undertaking to perpetuate.⁴⁴ The instances of specific mandata to proconsuls differed from those issued routinely to legates at the commencement of their imperial duties: they were occasions of imperial intervention by virtue of the emperor's imperium proconsulare maius. And as it has been pointed out, these orders were not necessarily on the princeps' authority alone, as they were often recorded by the ancient historians in a senatorial context; it is the formalities that were often disregarded in the sources.⁴⁵

Some of the instructions cited below then may well have been issued by the senate auctore principe:

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Dio LIII.15.4.

42

For example, R.J.A. Talbert, 'Augustus and the senate', Greece and Rome 31 (1984), pp.55-62; P.A. Brunt, 'The role of the senate in Augustan regime,' CQ 34 (1984), esp.pp. 423-427.

43

Tac. Ann.XIII.4.

44

P.A. Brunt, art. cit., p.433.

45

P.A. Brunt, art. cit., p.426.

- Augustus to Norbanus Flaccus, proconsul of Asia, probably about 12 B.C., informing him that the Jews were to be permitted to send their temple-tax to Jerusalem.⁴⁶ This mandatum on a specific matter was possibly conveyed to Norbanus in the form of an epistula in response to a petition.
- Augustus to Asinius Gallus, proconsul of Asia, in 6 B.C., ordering him to investigate a case of murder, on being petitioned by two private citizens from Cnidus. Augustus subsequently heard the case himself, on referral by the proconsul.⁴⁷ This correspondence uses the verb προστάξας, which may refer to a mandatum.
- Tacitus records that according to quidam the soldiers who murdered Julia in A.D.14 were sent not from Rome but by L. Asprenas, the proconsul of Africa, auctore Tiberio.⁴⁸
- Tiberius to L. Aelius Lamia, proconsul of Africa, in A.D.16, ordering him to build a road, a communication which the latter proclaimed on a stone.⁴⁹
- Philo stating that after Sejanus' downfall Tiberius wrote to all provincial governors, instructing them to reassure the Jewish communities against rumours of Sejanus' hostility towards them.⁵⁰
- There is a further reference in Claudius' reign to ἐντολαίς being received by a proconsul.⁵¹
- Titus to the municipium Munigua in Baetica stating in an epistula that he has sent instructions to the proconsul concerning its appeal against a former proconsul's

46 Josephus, A.J. XVI.166.

47 Syll.³ 780 = EJ no. 312.

48 Tac. Ann. I.53.

49 EJ 291.

50 Philo, Legatio 160-161. See also F. Millar, art.cit. (1966), p.161; ERW, p.319.

51 Parola del Passato CLX (1975), p.102, cited by F. Millar, ERW, p.316.

judgement.⁵²

- Pliny referring to letters from Domitian to L. Appius Maximus, proconsul of Bithynia; to Avidius Nigrinus and Armenius Brocchus, both proconsuls of Achaëa (probably); to Minucius Rufus; and to a letter from Nerva to Tullius Iustus, probably proconsul of Bithynia, giving them instructions.⁵³ These mandata, being of sporadic issue on specific matters as they arose, were conveyed in the form of epistulae.
- A Delphic inscription containing references by the proconsul to Domitian's letter giving instructions to proconsuls.⁵⁴ Further, in referring to these, the proconsul uses expressions like *ἐπιταγή* or *καθὼς ὁ αὐτοκράτωρ διατέτακται*.
- Domitian to C. Pomponius Gallus Didius Rufus, proconsul of Cyrene in A.D.88/89, ordering him to delimit land in his province.
- A Delphic inscription containing a letter by Trajan in which he seems to refer to instructions he has given to both the proconsul and procurator of Achaëa.⁵⁵

From these references it is clear that these mandata differed from those sent to the emperors' appointees, in that they relate to specific issues. They were not issued as a matter of course at the beginning of term of office as a regular procedure, and were often sent in the form of epistulae.

For the senate, the orderly administration apparent under the imperially centralised authority had implications, in that by the end of the second century A.D. proconsuls

⁵² AE (1962), 288. See also F. Millar, art. cit. (1966), p.164.

⁵³ Pliny, Epp. X.58, 65, 72.

⁵⁴ M. McCrum and A.G. Woodhead, Documents of the Flavian Emperors, no.463.

⁵⁵ See F. Millar, art. cit. (1966), p.164.

governing the senatorial provinces also came to receive the routine imperial mandata at the start of their term of office, and also to consult the princeps on the same basis as his own appointees.⁵⁶ The steps by which this stage was reached are obscure, but it is clear that by the time of Hadrian, this centralisation of provincial administration under the emperor's direct authority was complete.

As mentioned above, the mandata appear to have reached a degree of generality during the first century A.D., witnessed to by Agennius Urbicus⁵⁷ and by the significant use of the first person, as personal instructions.⁵⁸ The extension of these mandata in the standard form, of general application, and marked by the personal tone of the emperor, to proconsular governors was therefore logical. The earliest evidence seems to date from Trajan's reign. In A.D.111/112 a letter from the proconsul of Asia, Q.Fabius Postumius, to the city of Aezani refers to mandata (ἐντολκίς): 'At the beginning of my proconsulate, considering it to be in accordance with the orders, and necessary for the city, to make a visit to you, I gladly came'.⁵⁹ Further evidence from Trajan's reign is given by Ulpian, concerning the validity of soldiers' wills even if not made according to the correct form: 'and from that time on the following caput began to

⁵⁶ Dio LIII.15.4; Dig. XLVII.II.6 pr; XLVIII.3.10, XLVIII.19.27.1-2.

⁵⁷ See Agennius Urbicus, De Controversiis Agrorum, Corp. Agrim. Rom. (Leipzig, 1913), p.48. Further, it is notable that IGLS V 1998, procuratorial mandata from Domitian, do not specifically name Syria as their area of concern; likewise, Pliny's mandata seem to have covered matters common to all provinces, not those unique to Pontus-Bithynia.

⁵⁸ As in Frontinus, De Aquis. 109-111; Callistratus, De Cognitionibus in Dig. XLVIII.19.27.1-2.

⁵⁹ IGR IV 572, cited by F.G.Millar, ERW, p.316.

be included in the mandata',⁶⁰ followed by the text in the first person. Much later, in A.D.135/6 Antoninus Pius as proconsul of Asia issued an edict based on his mandata, presumably those of the emperor, 'sed et caput mandatorum exstat, quod divus Pius, cum provinciae Asiae praeerat, sub edicto proposuit ...'.⁶¹

This reference to Antoninus Pius' proconsular edict being based on imperial mandata presents an appropriate opportunity to clarify the respective private and public nature of these two official communications. Mandata were sent personally to governors or procurators from the emperor (witness the usage of the second person), and these communications were not publicised except at the recipient's prerogative, as the above reference indicates. These imperial appointees were responsible to the emperor for their administration, the vicarious nature of which demanded their official accountability. Correspondence arising from the interpretation of imperial mandata and other aspects of administration beyond the official's competence to decide, was varied and of considerable quantity. In itself, this is expressive of the sense of accountability towards the emperor in carrying out his mandata in whatever form, whether as epistulae ~~#~~ rescripta or standard mandata. Imperial edicts were usually channelled to the provinces through their governors who had the responsibility of publicising them. Although addressing the provincial public rather than the governor, these edicts could concern administrative matters. This is exemplified in Augustus' Fifth Cyrene Edict⁶² which in effect subtly warns governors against extortion by proclaiming the legal procedures whereby the public can lay charges against such governors. Gubernatorial edicts

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Dig. XXIX.1.1.pr.

61

Dig. XLVIII.3.6.1.

62

R.K. Sherk, RDGE, no.31, p. 175.

followed the Republican practice of annual re-issue with modifications or additions by successive governors upon their arrival in the provinces, until Hadrian's introduction of the perpetual edict which was permanent in content and application. Edicts on specific matters continued to be issued as the occasion demanded, since these were the governor's official channel of communication with his provincial subjects.

The extension of imperial mandata to proconsuls was possibly made easy by the likelihood that it was not an encroachment on the senate's prerogatives, in the sense of superceding the senate as the issuing authority of its own mandata. Two references suggest that the senate did in fact still issue mandata to its governors. In the early second century A.D. Juvenal advised a prospective provincial governor, 'respice quid moneant leges, quid curia mandet'.⁶³ The second is a reference from Severan times to mandata, resolved upon by the senate, and relating specifically to the construction of public buildings.⁶⁴ Acceptance of this interpretation however, could be undermined by the necessities that led to Pliny's appointment as legate to Pontus-Bithynia in A.D.109. Bithynia was formerly a senatorial province, previous ^{of which} governors seem consistently not to have been directed by any authority, or at any rate had omitted to act upon their instructions.⁶⁵ More specifically, if these proconsuls had regularly been receiving mandata, senatorial or imperial, it seems strange that Trajan should have waited until Pliny's governorship to introduce the ban on hetaeriae, apparent in Ep.X.96.7. This incidentally again argues for a second century extension

63 Juvenal, Sat. 8.91.

64 Callistratus, De Cognitionibus in Dig. L.10.7.1.

65 R.J.A. Talbert, SIR, p.404.

of the imperial mandata to proconsular governors.⁶⁶

In the light of this evidence afforded us by Pliny, it is possible that the two references to possible senatorial mandata quoted above, by Juvenal and Callistratus, should be interpreted as an observance of the general accountability of its proconsular governors required by the senate in the Republican tradition.⁶⁷

The emperor's sense of accountability to the state in his turn, however expedient, is well illustrated by the many matters he brought to the senate for its consideration. Although such matters were on his initiative and although the senate might merely confirm his own opinion and grace it with the appellation senatus consultum, this co-operation was fostered and valued for its propagandistic image. In Chapter V, communications from emperor to senate have been noted: those relating to provincial affairs will now be dealt with.

It is significant that Republican precedent was followed to a large degree here. We have no evidence that the routine commentarii submitted by a returning provincial governor to the Aerarium, were ever scrutinised at senatorial level during Imperial times, whether the governor was a proconsul, legate, or Augustus himself in his proconsular capacity. There is no evidence either as to whether Augustus retained the reports sent by his representatives from the provinces, or whether he submitted a general report compiled from their data to the Aerarium. Constitutionally, the princeps had the office and powers of a provincial governor. But the obligations of accountability towards the res publica that were

⁶⁶ R.J.A. Talbert, SIR, p.403.

⁶⁷ For example; fulfilment of requirements of the Lex Iulia re financial accounts to be left in the two chief cities, as in Cic. Ad Att. VI.7.

incumbent on him in this capacity in no way diminished his comprehensive control over the administration of his regions, illustrated by the issue of mandata and epistulae, or his unwritten auctoritas. We may therefore assume that the Republican precedent was perpetuated.

This was certainly the case regarding the military aspects of his provincial governorship. There is evidence of imperial reports being sent to the senate while the emperor was on campaign,⁶⁸ and the many triumphal honours voted in the senate imply that reports of victories had been received.⁶⁹ In these letters, the standard Republican proconsular form of address was used: 'To the consuls, praetors, tribunes of the plebs and the senate', followed by a greeting containing a phrase of late-Republican innovation 'I and the army are well' (as opposed to 'I too am well').⁷⁰ As late as the third century A.D., this proconsular formula was still in usage in imperial correspondence with the senate.⁷¹ The emperor's proconsular obligation of military accountability to the senate thus carried with it, the wonderful provision of a ready means of publication in the highest council of state.

With regard to military matters, although legates exercised imperium on the emperor's behalf they were responsible for submitting their reports, not to the

68 For example: Augustus in the East in 20 B.C. (Dio LIV.9.1); ~~Tiberius on the Gallic revolt of A.D. 21 (Tac. Ann. III.47)~~; Gaius from Gaul (Suet. Cal. 44.2); Trajan from Parthia (Dio LXVIII.29.1).

69 For example, Augustus: Res Gestae:4.1, Dio LIII.26.5; Tiberius: Dio LIV.31.4 and LVI.17.1-2; Germanicus: Tac. Ann. II.64; Gaius: Dio LIX.16.11 and 23.2, Suet. Cal. 48; Claudius: Dio LX.22.1; Nero: Tac. Ann. XIII.8; Vespasian and Titus: Josephus, B.J. XVII.121; Trajan: Dio LXVIII.28.3 and 29.2.

70 Cic. Ad Fam. XV.1 and 2, as proconsul in 51/50 B.C.

71 This is clear from Dio LXIX.14.3.

senate, but to the emperor who represented the state for them. This was exemplified during Augustus' reign by Agrippa, who had shown moderation, according to Dio, in not making any report direct to the senate;⁷² this presumably means that despite his special position he considered it proper to conduct himself as if he were a mere legate of the emperor.⁷³ The imperial records of official correspondence with the imperial appointees were therefore a source of data, vicariously compiled on the princeps' behalf and originally for use by the supreme proconsul towards the senate. However, with the increasing centralisation of authority in the princeps, due to developments in the political scene and his administrative expansion, the records of correspondence generating from the mandatorial system instead came to form the basis of imperial precedent in matters relating to provincial administration. As such it was recognised as having the force of law, a factor which further exposed the essentially autocratic nature of the Principate, despite the earlier imperial protestations of accountability.

7.2 DEVELOPMENT OF THE SECRETARIAT AB EPISTULIS

The increasing centralisation of state administrative authority in the emperor meant also the centralisation upon him of the procedural channels in the administration. The preceding section of this chapter has afforded us a glimpse of the great quantity and diversity of official correspondence which required, and as the evidence illustrates, clearly received his personal attention. The correspondence with the imperial legates, prefects, procurators, and other senatorial, equestrian and freedman officials in the imperial provincial service, effected the

⁷² Dio LIV.11.6 and 24.7.

⁷³ P.A. Brunt, art. cit., p.434.

establishment of records of precedent. As these records were in the princeps' private interest although they were of state consequence, they fell into the category of those usually housed in the tabulina of a Roman nobleman. The imperial archives thus developed from the Republican household context. The use of the princeps' household staff of slaves and freedmen in the cura of the imperial tabulina likewise followed Republican precedent in the absence of such staff supplied by the state. With the increase of incoming petitions, reports, consultations, and outgoing pronouncements, the household staff of secretaries and clerks gradually separated into secretariats with distinctive spheres of responsibilities. In this case, the co-ordination of official correspondence fell under the secretariat ab epistulis in Rome: essentially private in terms of employ and accountability, although political in function, it was an important factor in the development of the imperial civil service. Its private household origin is illustrated too in its appellation. Ab epistulis was the elliptic form of servus ab epistulis, as shown in the development in usage of Caesar's a manu servus.⁷⁴

The records of data which were of imperial interest, were generated by the emperor's representatives in the exercise of their responsibilities. Augustus' institution of a post-courier system along the main routes of the Empire to maintain close contact with his legates, would explain the increasing magnitude of letters to be dealt with. Reflecting the same sense of accountability as the commentarii traditionally furnished by Republican provincial governors to the state, these official records were also called commentarii,⁷⁵ a usage which came to cover all branches of imperial administration of which

⁷⁴ Suet. Div. Iul. 74.

⁷⁵ See Pliny, Epp. X.95 and 105.

provincial administration was but one. Pliny's Ep. X.66 makes it clear that the imperial archives contained all decisions by Trajan's predecessors in response to private and official enquiries, in this case regarding the status of foundlings.

The literary sources' references to these imperial commentarii reveal the comprehensive record-keeping service in the princeps' administration and its different departments. Most of the references below do not concern records relating to matters of policy, but rather commentarii qua records of judicial or Special Branch enquiries into persons charged with maiestas. This fascination would have been due to trends current in senatorial-imperial politics.

- Tac. Ann. VI.47. On records forwarded to the senate, ostensibly from Tiberius in his absence on Capri, but more likely from Macro and without Tiberius' knowledge, because the former presided at the examination of witnesses, and Tiberius' usual letter did not accompany the documents.
 - Suet. Cal. 15.4. Recording Caligula's acts in his desire for popularity, that he had all commentarii relating to the cases of his mother and brothers carried to the Forum and burned, to give no informer or witness occasion for further fear.
 - Tac. Ann. XIII.43.4. On the prosecution of Suillius, Seneca's enemy, in Nero's reign, wherein he quoted imperial authority and responsibility for his actions. Nero claimed however to have definite knowledge from his father's (sc. Claudius) commentarii that he compelled no prosecution of any person.
 - Tac. Hist. IV.40. On Domitian's first senate-meeting during the absence of Vespasian and Titus, when Junius Mauricus asked him to empower the senate to examine the
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commentariorum principalium in order to find out who past informers were. Domitian demurred, saying it was so important that he must consult the emperor.

- Suet. Dom. 20. On that Domitian read nothing except the commentarii and acta of Tiberius Caesar.
- Pliny, Ep. X.95. Trajan replying that he had granted the ius trium liberorum to Suetonius Tranquillus and had ordered the necessary details to be entered into his commentarii.
- Pliny, Ep. X.105. Trajan replied that he had granted Roman citizenship at Pliny's request to three freedmen, and had registered it in his commentarii.

The headquarters of the imperial provincial administration service in Rome will now be examined insofar as it reflects administrative procedures relating to the records of imperial pronouncements. This concerns primarily the preparation of the princeps' pronouncements through epistulae, whether in following or in laying down precedents. The obscurity surrounding this preparation has caused much contention among scholars over the authorship of the imperial pronouncements.⁷⁶ This centres on three issues, namely whether imperial involvement was restricted to the personal reception of epistulae; to what extent, if any, did the imperial staff determine the content of the texts; were imperial responses personally written or dictated, or did the ab epistulis transcribe imperial decisions in the appropriate official language, or even make decisions autonomously.

76

See further A.N. Sherwin-White, The Letters of Pliny, Introduction to Book 10; F.G.B. Millar, The Emperor in the Roman World; A. Honoré, JRS 69 (1979), pp.51 seq.; Emperors and Lawyers (London, 1981); Ulpian (Oxford, 1982); M. Benner, The Emperor says: Studies in the Rhetorical Style in Edicts of the Early Empire (1975); R.J.A. Talbert, The Senate of Imperial Rome (Princeton, 1984).

The princeps' reception of letters sent by his appointees is attested in a number of instances to confirm that personal reception was the norm. A consular legate was relieved of his post when Augustus discerned from his correspondence that he was illiterate.⁷⁷ Philo related Tiberius' angry reaction upon reading a letter from the Jews complaining about Pontius Pilate;⁷⁸ and two further instances of Gaius reading letters from Petronius, legate of Syria, and King Agrippa, respectively.⁷⁹ Josephus also records Tiberius reading a letter from his procurator at Jamnia, Herennius Capito.⁸⁰ Apart from reading communications from his appointees, the princeps apparently personally read other correspondence addressed to him too. Suetonius details how Augustus took care not to follow Julius Caesar's example, that 'inter spectandum epistulis libellisque legendis aut rescribendis vacaret',⁸¹ and later describes Vespasian's morning routine 'perlectis epistulis officiorumque omnium breviariis amicos admittebat'.⁸² Personal reception of the princeps' correspondence may therefore be asserted with confidence.

Regarding the writing of his responses, there is evidence

77 Suet. Div. Aug. 88; 'cuius manu "ixi" pro "ipsi" scriptum animadverterit'.

78 Philo, Legatio 304, 'When Tiberius read them through (δικινκινουσις) what language he used about Pilate, what threats he made!'

79 Philo, Legatio 254, 'when the (messengers) arrived they delivered the letter. Gaius got red in the face before he had finished reading and was filled with anger as he noted each point'; and 331, 'Gaius received the letter and, as he read it, its every sentiment filled him with resentment at the ill-success of his project ...'.

80 Josephus, A.J. XVIII. 163-4, 'Upon reading this letter, the emperor was hurt to the quick and ordered that Agrippa's visits should be barred until he had repaid the debt.'

81 Suet. Div. Aug. 45.

82 Suet. Vesp. 21.

of emperors writing official documents⁸³ and personal letters⁸⁴ with their own hand, but the procedure for ordinary imperial letters to officials and cities seems to have been different.⁸⁵ Here, dictation appears to have been the norm. Philo relates that Gaius, after reading his legate Petronius' letter,⁸⁶ *τινι | τῶν | πρὸς ταῖς ἐπιστολαῖς ὑπέβαλε τὰς πρὸς Πετρώνιον ἀποκρίσεις*. More clear is Suetonius' statement that Titus dictated letters for Vespasian in his old age,⁸⁷ and his later description of Domitian, 'cum procuratorum suorum nomine formalem dictare epistulam, sic coepit, Dominus et deus noster hoc fieri iubet'.⁸⁸

The procedure of dictation seems to have been followed in certain instances by an additional comment. If this addition was in the emperor's own hand, it could be that dictated epistulae were also checked by the emperor. But subscriptions in the form of a greeting by the emperor seem to have been common after an official letter had been written, *ἔρρωσθε, οὐ εὐτυχεῖτε, οὐ ἔρρωσθαὶ ὑμῶς βούλομαι*. Dio also seems to refer to this practice of subscribing official letters, although by Plotina in this instance, in his account of Hadrian's adoption:⁸⁹ *ἐδηλώθη δὲ τοῦτο καὶ ἐκ τῶν πρὸς τὴν βουλήν γραμμῶν αὐτοῦ. ταῖς γὰρ ἐπιστολαῖς οὐκ αὐτὸς ἀλλ' ἢ Πλωτῖνα ὑπέγραψεν, ὅπερ ἐπ' οὐδενὸς ἄλλου ἐπεποιήκει*.

83 For example; Vell. Pat. II.124.4, Augustus' instructions for the ordinatio comitiorum; Tac. Ann. I.11.7, Augustus' financial account of the empire; Suet. Div. Aug. 101, Augustus' will; Suet. Tib. 76, Tiberius' will; Seneca, Ep. 83.15, Tiberius writing to Cossus, the praefectus Urbi; Dio LXVIII.3.4, Nerva's letter of adoption to Trajan; Dio LXVIII.5.2, Trajan's letter to the senate on his accession.

84 For example; Suet. Div. Aug. 71 and 87; Dio LXIX.36.2.

85 Subscriptions and codicilli, which seem to have been written by the imperial hand, fall into another category and will not be considered here.

86 Philo, Legatio 258-60. E.M. Smallwood translates 'dictated', while the Loeb translation is 'gave one of his secretaries instructions about answering Petronius'.

87 Suet. Div. Titus 6.1.

88 Suet. Dom. 13.

89 Dio LXIX.1.4.

The role of the princeps' secretarial staff here would seem to be confined to taking down dictation. This was quite possibly the practice at the start of the Principate, when most administrative duties of the princeps were dealt with in the old Republican household context.⁹⁰ For instance, Philo relates how Gaius *κελεύει γραφῆναι* a letter to Petronius, and then added (*προσγράφει*) a threatening sentence to it at the end.⁹¹ Thus Gaius left it to a secretary to draft a letter, but he added a sentence to it in checking the draft. Likewise, the instance of Beryllus, the *ab epistulis graecis*, who was bribed to gain a favourable decision from Nero, indicates that the princeps did not necessarily dictate the letter,⁹² *ἐπέτυχε γραφῆναι τὴν ἐπιστολήν*, probably after instructing the secretary on the contents. This kind of instruction is a step away from actual dictation, and Nero may be an exception to the rule given his known dependence on others in composing his official pronouncements.⁹³ The learned Claudius' establishment of a bureau to handle correspondence in Greek may confirm that the problem of letters written in Greek is a special case. Likewise, Domitian was regarded as an exception, when Suetonius described his poverty in culture, a high degree of which was expected from the upper class, in that *'epistulas orationesque et edicta alieno formabat ingenio'*.⁹⁴ As F. Millar realises, in this context it may mean no more than that others put his pronouncements into correct style (*formare*), but that even if it means more than that, these

90 Caesar dictating to a slave (Suet. *Div. Iul.* 74); Cicero dictating to his household staff (*Ad Qu. fr.* III.1.19; *Ad Att.* VII.13a.3; VIII.12.1; 13.1).

91 Philo, *Legatio* 333-4.

92 Josephus, *A.J.* XX.183-4.

93 Tac. *Ann.* XIII.3.3, on Nero being the first emperor on his accession to require another to write his speech; Tac. *Ann.* XIV.11.4, on Seneca writing the letter Nero sent to the senate after the murder of Agrippina.

94 Suet. *Dom.* 20.

two examples are specifically exceptions to a rule, and that it is the rule which is significant.⁹⁵

Examination of certain stylistic aspects of Pliny's letters from Trajan may serve to illuminate some of the obscurity surrounding the preparation of the imperial epistulae. The analytical studies of A.N. Sherwin-White⁹⁶ and A. Henneman⁹⁷ have furnished valuable evidence in this regard. Secretarial devices and an established bureaucratic language have been brought to light, suggesting a degree of secretarial participation in the preparation. For example, it has been observed that the epistulae often follow the wording of the letters they are answering,⁹⁸ such as in:

- Ep.X.23 : 'desiderio eorum indulgere posse'
- Ep.X.24 : 'possumus desiderio eorum indulgere'
- Ep.X.54 : 'dispice ergo domine'
- Ep.X.55 : 'non aliud dispicio'
- Ep.X.77.2: 'quanto est infirmior' (sc. civitas)
- Ep.X.78.2: 'quanto infirmiores erunt' (sc. cives)⁹⁹

These devices may have been part of the secretarial function of drafting the reply, by restating the issue prior to the formulation of the decision.¹⁰⁰ Despite this, the possibility of secretarial preparation cannot be proved conclusively because of the pervasive use of a common bureaucratic language with which Pliny is shown to have been equally familiar.¹⁰¹ Conversely, Trajan's part in the preparation cannot easily be detected by formal

95 F.G.Millar, 'Emperors at work', JRS 57 (1967), p.19.

96 A.N. Sherwin-White, art. cit. (1962), pp.114-125.

97 A. Henneman, Der Aussere und innere Stil in Trajans Briefen, (Diss. Giessen, 1935), cited by A.N. Sherwin-White, see footnote above.

98 F.G.Millar, art. cit. (1967), pp.33-37.

99 A.N. Sherwin-White, art. cit. (1962), p.114.

100 A.N. Sherwin-White, art. cit. (1962), pp.115, 118.

101 A.N. Sherwin-White, art. cit. (1962), p.116.

stylistic analysis. Nevertheless, a distinctive personality emerges clearly in isolated phrases which can only have emanated from the emperor. Certain examples have been observed where the tone and language are not those of an equestrian or freedman assistant addressing a consular legate.¹⁰² This is apparent in Ep.X.40.3, where Trajan refused a request rather sharply; in Ep.X.82, where he strongly reprimanded Pliny for countenancing a charge of maiestas, or in Ep.X.117, for not making his own decision; in Epp.X.38 and 57.2, where Trajan has an angry outburst at corruption and disobedience. Likewise, the various commendations of Pliny's actions are unlikely to have derived from a subordinate, as in Ep.X.115, merito haesisti; Ep.X.44, optime fecisti; and Ep.X.16, recte renuntiasti.

Personal comments have also been discerned in otherwise bureaucratic replies which suggest Trajan's personality.¹⁰³ For example, in Ep.X.111, 'non minus enim hominibus cuiusque loci quam pecuniae publicae consultum volo'; Ep.X.119, 'mutata enim condicione certaminum nihilo minus quae ante peregerant non revocantur'; Ep.X.97.2, 'pessimi exempli nec nostri saeculi est'; and Ep.X.48, 'remuneranda est igitur probitas eorum ut iam nunc sciant hoc quod inspecturus es ex mea voluntate salvis privilegiis esse facturum'.

Trajan's direct participation may also be presumed when an unusual decision is made, when a precedent is not followed, or a new one is set.¹⁰⁴ In Pliny's Ep.X.66, we gain a glimpse of secretarial functions in this connection. In Pliny's preceding consultation, he stated that he had not transmitted certain documents of Augustus,

102 A.N. Sherwin-White, art. cit. (1962), p.115.
 103 A.N. Sherwin-White, art. cit. (1962), p.117.
 104 A.N. Sherwin-White, art. cit. (1962), p.117.

Vespasian, Titus, Domitian, because they were ill-copied and some were of doubtful authenticity. Significantly, he imagined that the true copies, if such existed, would have been preserved in Trajan's scrinium. This attests Pliny's knowledge of an imperial archives well-stocked with imperial precedents. According to Trajan's epistula the search, presumably by an assistant, for a precedent in the commentarii eorum principum did not yield any general regulation concerning the issue in question, namely foundlings, which extended to all provinces. Trajan then formulated his own decision, which incidentally was not based on Western but on Greek practice. The knowledge behind his decision must have derived from a specialist in these practices. Similar dependence on the knowledge of others relating to oriental affairs, likely from within his own secretariat and archival staff, is apparent in Epp.X.34 and 93 concerning the prohibition of hetaeriae.¹⁰⁵

The evidence of the use of secretarial assistants emerges clearly in Ep.X.22, concerning Gabius Bassius, Prefect of the Pontic shore, and the disposition of troops: *quae rescripsissem ut notum haberes his litteris subici iussi*. Likewise, in Epp.X.95 and 105, concerning the privileges of the ius trium liberorum and Roman citizenship respectively, the words 'referri in commentarios meos iussi' reflect the use of assistants. The evidence given above would suggest then that the princeps, by the beginning of the second century A.D. at least, formulated his epistulae on the basis of material prepared by his secretariat.

Some idea of the emperor's, or at any rate, Trajan's administrative relationship with his associates may be

¹⁰⁵ A.N. Sherwin-White, art. cit. (1962), p.118.

gained from Pliny's accounts of proceedings before Trajan and his consilium, in Epp. IV.22, and VI.22 and 31. These suggest that Trajan regularly consulted and followed the advice of his consilium, unless he was strongly moved to make a personal intervention.¹⁰⁶ On the basis of this evidence, it is likely that in dealing with his epistulae, he similarly had the advice of the higher officials in the secretariat ab epistulis. In all three contexts, there is no hint that the final decision and official public pronouncement were not those of the emperor alone. Possibly it was a conscious convention that imperial pronouncements were to be understood as removed from mere administrative procedures, a subtle propaganda device to elevate the imperial image.

Examination of the office ab epistulis furnishes surprisingly little evidence regarding its functional role. Statius generously offers that he was responsible for sending off the mandata, for receiving great quantities of military news and staff reports, and making them known (pandere), presumably to the emperor.¹⁰⁷ The extent and nature of the correspondence he dealt with is given here, but not his role in the preparation of imperial epistulae. That the duties were copious is indicated by the division of the secretariat into ab epistulis latinis and ab epistulis graecis, by Claudius.¹⁰⁸ No direct evidence exists for the role of the former, except regarding the custody and despatch of official correspondence as stated by Statius above.¹⁰⁹ This is supported by the fact that Narcissus, in his capacity as ab epistulis, had custody of

106 A.N. Sherwin-White, art. cit. (1962), pp.116-117. See

also J. Crook, Consilium Principis.

107 Statius, Silvae V.1.86-107.

108 CIL VI 8606 seq. offers epigraphic evidence for the bureau ab epistulis graecis later, while the preceding inscriptions show that the bureau did not exist in the early part of the Julio-Claudian era.

109 See also F.G.Millar, ERW, p.225.

secret letters of Claudius against Agrippina and others, which he burnt after the emperor's death.¹¹⁰ Almost a century later, although beyond the bounds of this study, the ab epistulis latinis of the pretender Avidius Cassius apparently retained this function, having custody of the letters which Commodus later burnt.¹¹¹ References to other positions in the secretariat, such as proximus ab epistulis latinis¹¹² and statoris a epistulis,¹¹³ attest the fulfilment of various administrative procedures, which are unknown and unspecified, since the titlature affords us no clues. Other assistants from the secretariat are also named, without titlature.¹¹⁴

The function of the secretariat ab epistulis in the absence of direct evidence must then be confined to the duties stated above. Knowledge of bureaucratic language is assumed, and on occasion, as in Domitian's reign, full rein to this knowledge was permitted. But even in the Notitia Dignitatum of the fourth century A.D., the functions of the ab epistulis, then magister epistolarum, were defined as dealing with embassies from cities, consultationes and preces.¹¹⁵ There is no reference to the composition of letters.

By contrast, the magister epistolarum graecarum in the Notitia Dignitatum had the responsibility of himself composing letters in Greek to express an imperial decision, or if dictated in Latin, of translating it then into Greek.¹¹⁶ These compositional functions appear also in

110

Dio LX.34.5.

111

Dio LXXI.7.4.

112

CIL VI 8612-13, but the first inscription is of Antonine date.

113

CIL VI 4249.

114

For example; CIL VI 8596; 8597; 8598-8601; 8603-5; 8610; 8611; IV 2840; ILS 1667.

115

O. Seeck, Notitia Dignitatum (1876).

116

ibid.

literary references concerning the ab epistulis graecis from the earlier Principate. For instance, in Phrynichus' Ecloga the duties of Cornelianus, ab epistulis graecis under M.Aurelius and dedicatee of the work, are implied in that the emperors '... set you to manage all the affairs of the Greeks, placing you beside them as a guardian, in theory appointing you as ab epistulis, but in reality choosing you as a partner in their kingship'.¹¹⁷ Beyond the rhetoric, it is clear that Cornelianus' duties extended to the content as well as the form of letters.

Actual composition by the ab epistulis graecis is less clear in the first century A.D., but what is clear in the above instance related by Josephus, is that the princeps did not necessarily write or dictate the letters to be dealt with by his Greek secretary.¹¹⁸ The ab epistulis graecis of Nero, namely Beryllus, was apparently bribed by ambassadors from Caesarea in Judaea to arrange the writing of a letter invalidating the rights of the Jews in the city. But that Beryllus had to obtain permission from Nero for the letter to be written argues decisively that Beryllus had no authority to compose letters autonomously, *ἐπέτυχε γραφῆναι τὴν ἐπιστολήν*.

Correspondence was clearly monitored by the imperial will. Decisions concerning official correspondence were final and absolute, and could only be tampered with by subordinates at a later stage, by altering archival records. Suetonius' account of Claudius' powerful freedmen secretaries, 'suppositos aut etiam palam immutatos datorum officiorum codicillos',¹¹⁹ indicates that his liberti, powerful as they were, could not issue codicilli of appointment autonomously; they could only

¹¹⁷ Phrynichus, Ecloga, p.379 (Rutherford) cited in F.&M. Millar, ERW, p.227.

¹¹⁸ Josephus, A.J. XX.183-4.

¹¹⁹ Suet. Div. Claud. 29.

alter or substitute the documents afterwards. But in the late second century A.D., we understand from Philostratus' Lives of the Sophists, that in this period the ab epistulibus, a number of whom were sophists,¹²⁰ actually wrote the letters.¹²¹ The necessity of a Greek rhetor for this post, is related to the imperative of producing a fluent text, and in F. Millar's words, one befitting the emperor, which would live up to the exacting standards expected of public pronouncements in the Greek world.¹²² But beyond the cultural impression, the mechanics of the imperial bureaucracy demanded the existence of the office ab epistulis graecis for its practical advantages, viz. knowledge of different Greek dialects and precision of expression in Greek.

In this chapter, the emperor's correspondence of an official nature to his personal appointees and other provincial governors has been shown to have been dealt with by the secretariat ab epistulis. The epistulae addressed to communities in the empire which were represented by embassies at an imperial hearing, fall into the category of communications covered by the next chapter, although dealt with by the same secretariat.

In conclusion, there is no direct evidence that the ab epistulis latinis himself actually composed the letters to express imperial decisions, as in the case of his Greek counterpart.¹²³ The convention was for an emperor, as befitted his literary culture and not least his individual inclination to industry, to compose his own. Dictation

120 For example; Alexander of Seleucia (11.5); Hadrianos (11.10); Aelius Antipater (11.24); Aspasius (11.33). See also F.&M. Millar, ERW, p.227, 91-93.

121 See further G.B. Townend, 'The post ab epistulis in the second century,' Historia X (1961), p.375.

122 F.&M. Millar, ERW, p.226.

123 F.&M. Millar, ERW, p.225.

seems to have been the norm, and to a degree, the preparation by bureaucrats of relevant data for imperial perusal. In formulating his decision, the princeps was backed by a comprehensive archival administration. As the analysis of Pliny's Epistulae would exemplify, the official bureaucratic language cannot be detached from the personal expressions of an emperor in epistulae, so from this our most valuable source it is therefore impossible to determine the extent of secretarial participation in the actual composition of imperial epistulae.

CHAPTER EIGHT

8. COMMUNICATIONS WITH THE PUBLIC

8.1 EDICTA

As the princeps had voluntarily subordinated himself to the institutions of the Republic, he was bound out of similar propaganda interests to constitutionally conferred channels of magisterial expression. Vested with imperium proconsulare, he had the ius edicendi like all higher magistrates of the Republic, and at the beginning of the Principate when the autocratic basis of the transformed political system was consciously disguised, he was expected to remain within this constitutionally prescribed limit. By the end of the first century A.D. the respectful quest for senatorial approval of imperially initiated measures had increasingly become a formality. This development was paralleled by others relating to the outworking of the princeps' auctoritas in his communications with the provinces, which are to be dealt with in this chapter. These developments cover firstly the imperial edicta, and next the formalisation of the rescript system, whether as epistulae to provincial communities or as subscriptiones to private petitioners, a fact which tended to enhance its stature as an official channel for enactments of the imperial will. Exercising the force of law from the beginning of the Principate, by the late second or third century A.D. these pronouncements were recognised to be law. This is stated by both Gaius¹ and Ulpian,² and demonstrates the consummation

¹ Gaius, Inst. I.5 : an imperial constitutio is whatever the emperor lays down by decretum or edictum or epistula.
(continued on next page)

of the emperor's magisterial authority in his embodiment of the constitution.

From the beginning of the Principate, the issue of edicts by virtue of the princeps' imperium proconsulare, and after 23 B.C. imperium proconsulare maius, was the official channel for Augustus' legislative expression. In the tradition of the Republic's magistrates, but greatly expanded in degree because of his imperium proconsulare maius, the princeps was empowered to make pronouncements as representing the Senate and People. Significantly because of his extraordinary tenure of provincial governorship and the honorary nature of his powers, his edicts had a much longer life-span than the edicts of governors in the Republican system whose tenure was for a year at a time, when tradition was observed. With time and because of their indefinite application, the value of the imperial edicts was exploited, causing these enactments to be recognised as authoritative precedents. This is clear from Pliny's Ep.X.65, and his assumption therein that the original versions of imperial edicts were housed in the imperial archives. This reference underlines the fact that archival retention was imperative for the preservation of authority in legal precedent, especially as there is no evidence of the official posting up of imperial edicts in permanent form.

Publication of the imperial edicts seems to have followed

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² Ulpian, Dig. I.4.1.1 : 'Therefore whatever the emperor has laid down by epistula or subscriptio, or has determined in giving justice, or has given extrajudicially as a provisional judgement or has ordered by edictum, is agreed to be law.'

Republican practice until Tetrarchic times. They were posted up in Rome in the Forum with the edicts of the other annual magistrates, for example, Caracalla's edict in the early third century concerning the right to hold public office after temporary relegation, which was posted up in Rome. But as the emperor was mobile, they could also be posted up at the place of current imperial residence.³ This is shown in Claudius' edict concerning the status of lands in northern Italy and the rights of certain Alpine tribes, which, found at Cleo near Tridentum, 'was posted at Baiae in the imperial headquarters in A.D. 46'.⁴ Another edict, although beyond the time-span of this study, shows a similar passage in official publication, namely the Constitutio Antoniniana which was posted up in Rome on 11 July A.D. 212. We know from two fragmentary papyrus copies taken down privately⁵ that it was copied in the office of the prefect of Egypt in Alexandria on 29 Jan. A.D. 213, more than 6 months later, and that on 10 Feb. A.D. 213 it was posted up in Alexandria.

That the official publication of edicts took a temporary form is clear from the Claudian edict concerning the protection of the rights of Jewish communities throughout the empire. Instructions for its publication were included in the edict: 'This edict of mine I wish the magistrates of the cities and colonia and and municipia of Italy and outside, and also kings and dynasts through their own regions, to have written up and to keep it on display for not less than 30 days in a position where it can be easily read from the ground.'⁶ Here, the time limitation clearly suggests a non-permanent form of

³ F.G.Millar, ERW, p. 254.

⁴ ILS 206 = R.K.Sherk, REAH, no. 52, pp. 94 - 95.

⁵ P. Giss. 40, col.ii, II, 1-15, and P. Oxy. 2755.

⁶ Josephus, A.J. XIX. 291.

publication. The instructions regarding its public visibility clearly recall those given in the SC de Bacchanalibus of 187 B.C.,⁷ and suggest a direct continuation of the Republican magisterial precedent regarding the posting up of these proclamations. Imperial edicts of general application appear then to have followed the Republican precedent of a prescribed duration for public exposure in an impermanent form, as in Claudius' edict for the Jews of the Diaspora. The Republican use of an album seems to have continued as well, as one of Vespasian's edicts concerning the privilege of teachers and physicians illustrates. Rare because of its instructions regarding publication, it contains a reference to the use of the λεύκωμα of Republican practice:⁸ Αὐτοκρά [τωρ Καῖσαρ Οὐεσπικ] σιανὸς ὑπέγραψα καὶ ἐκέλευσα / [προτεθῆναι ἐν λε]υκωματι.

In Claudius' edict mentioned earlier, we have clear evidence on the extent of dispersion of the imperial edicts, that they could be empire-wide if the occasion demanded. This in turn implies the use of transcribed copies, exemplified in P.Giss.40, a papyrus transcription of the Constitutio Antoniniana which, as mentioned above, had been copied at the provincial governor's headquarters for public viewing. The practice of archival retention could seem to be undermined by Pliny's Ep.X.65, which refers to past imperial pronouncements whose authenticity was best confirmed by comparison with the originals in the archives at the imperial headquarters, rather than with possible copies in provincial archives. The absence of copies of edicts in the provincial archives in Bithynia may however be explained by the probability that when a new edict superceded an old one, the old version was not retained in order to avoid confusion. In this way too, relevant clauses might have been forgotten. In the case of

⁷ CIL I 581 = CIL I 196.

⁸ FIRA2 I 73 = R.K.Sherk, REA, no. 84, pp. 127 - 128.

edicts by provincial governors, the non-permanent form of publication coupled with the issue of a new edict by each successive governor did not justify the archival retention of every edict, while Hadrian's introduction of the 'perpetual edict' explains their later extinction.

The recently discovered Lex Irnitana⁹ offers evidence concerning publication of official documents. In this municipal charter a heavy emphasis on publication and accountability is apparent in the recurring command that documents be published 'ita u(t) d(e) p(lane) r(ecte) l(egi) p(ossint)'.¹⁰ Irni was a small insignificant Spanish town, therefore a priori the importance of publication and accountability may be assumed in towns larger than this municipal ordo. As such, it represents an extraordinary enrichment of our knowledge of the Roman city throughout the Roman Empire.¹¹ A provision for archival retention of the minutes of council meetings was made in the municipal charter.¹² In this, restriction of certain knowledge from the local provincial public paralleled the similar loss of political importance of the Roman plebs, as the local popular assembly was superceded by the decuriones and duumviri in the conduct of municipal business. Well-defined administrative procedures for archival deposit are attested. Provision for publication was also made, however, for all the rulings of whatever sort by the provincial governor on judicial matters. Clause 85 specifies that copies of the provincial governor's edicta, formulae iudiciorum, sponsiones, stipulations, satis acceptiones, prescriptions, exceptions and interdicts, would always be on display, probably in

⁹ J. González, 'The Lex Irnitana : a new copy of the Flavian municipal law', JRS 76 (1986), pp.147-243.
¹⁰ Clause 51.8; 63.11-12; 85.37; 86.23; 90.31; 95.1.
¹¹ H. Galsterer, 'Municipium Flavium Irnitanium : A latin town in Spain', JRS 78 (1988), p.78.
¹² 'tabulae communes municipii', in Clause 100.

the provincial capital. The municipal magistrate was responsible for publishing those pronouncements which were relevant to the administration of justice in his own municipium, 'ita u(t) d(e) p(lano) r(ecte) l(egi) p(ossint)' to ensure that justice was carried out in accordance with them. It is clear that Irni was not unique as a municipium in having to have this documentation from the provincial governor's office available for local public viewing. The Lex Irnitana therefore confirms that edicts were not published only in special circumstances. Since imperial edicts were routed through provincial governors it is unrealistic to assume that these would not have been part of the dossier available for municipal publication. Even apart from the specifications laid down in Clause 85, the emphasis on publication of local provincial rulings must surely demonstrate that edicts emanating from the emperor himself would have been published with similar attention. The impermanent form of publication of all these documents explains why they have not survived. The Lex Irnitana incidentally would also prove that the provincial edict, among the documents named in Clause 85, was published outside the provincial capital.¹³

Apart from these references to impermanent publication of imperial edicts, there are a few examples preserved on inscriptions. Their scarcity provokes questions which find identical answers to those relating to the extant Republican SCC on inscriptions, and later, the imperial epistulae and libelli. That private interest and private expense, whether by communities or individuals, determined permanent public inscription, is confirmed by the content of the inscriptions and their location. In addition, being of a more general content and application, edicts

¹³ J. González, JRS 76 (1986), esp. pp. 230-1; contra F. Schwind (1973).

were usually (but not always) issued on imperial initiative, and not in response to petitions as the epistulae were. This would further explain their scarcity. The quantity of extant inscribed epistulae far exceed that of extant inscribed edicts; and significantly these surviving edicts are seen to be fulfilling a function similar to the epistulae; that is, they are not general but relate to the affairs of the region of their extant location.¹⁴ Therefore, as with all official pronouncements, if an edict was inscribed on permanent material, this was because it was privately undertaken since the edict was of direct personal or communal interest or advantage.¹⁵

This is clear from an edict by Augustus inscribed at Venafrum, which prescribed regulations pertaining to the aqueduct at this place.¹⁶ Likewise, Claudius' edict concerning land ownership and the status of certain Alpine tribes. It was one of these tribes, the Anauni, which was responsible for inscribing in their territory the text of the edict as we now have it.¹⁷ The second century Pisidian edict, mentioned above¹⁸ was similarly of local interest, and F. Millar assumes the decision that it be posted up in its extant permanent form was taken by the duumviri of the town.¹⁹ This may be true also of the edict by Claudius concerning the provision of vehicula

14 There are inexplicable exceptions to this however, such as a second century edict from Pisidia which uses the 'second person' and is really a reply (SEG XIX 854). Likewise the Caracallan edict from Mauritania, which is also a reply cast in the 'second person' but follows the set form of an edict, beginning with dicit. See F.G.Millar, ERW, p. 256.

15 F.G.Millar, ERW, p. 256.

16 ILS 5743 and 5744.

17 ILS 206 = R.K. Sherk, REAH, no. 52, pp. 94 - 95.

18 See n. 14 above.

19 F.G.Millar, ERW, p.256.

inscribed at Tegea,²⁰ and the inscription of an edict of Vespasian found at Pergamum.²¹ In the case of the Claudian edict, the text itself does not attest that it was put up by the duumviri, but since the edict represented their success in securing a lightening of the burden of the postal service, they were in all likelihood responsible for its permanent publication.

Hadrian's edict on the remission of taxes in Egypt in A.D.136 due to climatic reasons, expresses too that it was in response to these conditions being brought to his knowledge.²² This remission was probably on petition by an embassy. A similar instance where an edict arose from an embassy's appeal to the emperor, is recorded by Josephus.²³ In 12 B.C. a Jewish embassy from communities in Asia and Cyrene petitioned for official protection of their traditional rights, and Augustus responded favourably through an edict as well as through epistulae to provincial governors ordering that the edict be posted up publicly. This publication could be expected to be in the temporary form of the practice attested above, but Josephus stated that it was inscribed on a pillar in the temple of Caesar. The Jews' responsibility for having it inscribed could be assumed since it protected their interests, but its location in a pagan temple would rather negate this assumption. As part of their official protection it is more likely that Augustus ordered, as he did, that it be officially posted up '... in the most prominent place dedicated to me by the council of Asia'. Because of the indefinite nature of its application, and to enforce its continued observance, it is possible that the responsibility of its permanent inscription was

20 ILS 214 = CIL III 7251.

21 FG&Millar, ERW, p. 256.

22 FIRA I, n.81 = R.K. Sherk, REAH, no.156, pp. 199 - 200.

23 Josephus, A.J. XVI. 160-165.

ordered to the council of Asia; otherwise its location cannot be explained.

The five extant edicts of Augustus from Cyrene also contain explicit reference to the province, except for the fifth, the edictum Augusti de Pecuniis Repetundis,²⁴ which although it contains no reference to Cyrene and is general in character, concerning legal procedures by provincials against extortionate provincial governors, may still have had direct relevance to Cyrene. Or, it may be that Augustus regarded it of universal significance hence its issue even to this remote province, which in turn regarded it as important enough to warrant its inscription at community expense, perhaps even as a deterrent to its governors.

The Digest also refers to some edicts (no longer extant) which were used subsequently as sources of law.²⁵ This provokes the question as to whether records of these imperial edicts were kept. Our limited knowledge of the edicts through the literary sources should not rule out this possibility. Access to the imperial archives where the emperor's other pronouncements are known to have been filed, was limited by the imperial prerogative. In view of the advanced administrative sense displayed by the emperors, it seems improbable that they should not have made provision for the archival retention of such pronouncements as edicts, even if copies were also to be held by the Aerarium along with other magistrates' commentarii, in accordance with Republican tradition. The fire of A.D.192 which destroyed most of the imperial

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R.K. Sherk, RDGE, no. 31, pp. 175 -177.
Such as : Dig. XVI.1.2p (Augustus and Claudius); Dig. XLVIII.10.14.2, and 15 pr; CJ IX.23.3 (Claudius on testamenta); Dig. L.7.5.6 (Vespasian on size of provincial embassies); Dig. XL.15.4 (Nerva limiting right of inquiry into a person's status after death).

administrative headquarters on the Palatine, may be linked to this curious gap in our knowledge. According to Dio, the flames 'were carried up into the Palatium and burned a large part of it so that almost all the documents relating to the government were destroyed'.²⁶ It was only in the third century A.D. that the great jurists were absorbed directly into the imperial service where they would have had access to archival material (such as it was after the fire), and where they began to systematize the corpus of Roman law, which in turn facilitated the later production of the Digest. By its very existence as a product of the imperial bureaucracy, the Digest proves the archival retention of edicts and other imperial pronouncements.

Regarding the role of the emperors in the formulation of edicts and the degree of participation by their advisors, our knowledge is severely limited by the scarcity of references to this activity. Pliny mentioned the use of the emperor's signum in sealing these documents.²⁷ Unlike the other two forms of public pronouncement considered in this chapter, epistulae and libelli rescripti, the edicts do not appear to have fallen under a secretariat in the imperial administration exclusively devoted to their issue. Possibly the ab epistulis handled edicts, as Pliny couples these pronouncements together in referring to epistulas et edicta.²⁸ The office ab epistulis is known to have handled the emperor's communications with his provincial officials, and like epistulae, imperial edicts would have been routed normally through provincial governors. Edicts could equally have fallen into the sphere of the a libellis competence, since they were generally of a juridicial nature. But there is no reference, literary or otherwise, to secretaries or

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Dio LXXII. 24.2-3.

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Pliny, N.H. XXXVII.4.10.

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Pliny, N.H. XXXVII. 4.10.

clerks concerned with edicts. As F. Millar observes, this can hardly be an accident in view of the number of known inscriptions.²⁹

The apparent absence of staff in the imperial service does not prove that emperors (always) composed their own edicts, but equally one should not preclude the possibility that emperors did compose their own edicts. Indeed their formulation and issue, being far less frequent than other types of pronouncements which had to be published or copied, could warrant this absence of assistance. If anything, one might expect the development of a secretariat to deal with edicts to have paralleled the expansion of the emperors' administrative authority. But this does not seem to have been the case. This is particularly clear in Tiberius' peculiar choice of word in an edict,³⁰ and Claudius' idiosyncratic style which emerges in his famous letter to the Alexandrians,³¹ likewise the Tabula Lugdunensis³² which records Claudius' speech on the admission of Gauls into the senate. As a very young emperor Nero used Seneca as a script-writer,³³ a fact which could be interpreted as the sort of exception that proves the rule. In the second century A.D. Fronto has afforded us two instances which would also support the likelihood that the emperor personally composed his own edicts. In Ad M. Antoninum de orationibus 17, Fronto upbraided the emperor for using abstruse vocabulary in an edict concerning Italian towns. In his treatise to the emperor on his functions, Fronto enumerates various imperial activities demanding personal training in eloquence, amongst which he

²⁹ F.G. Millar, ERW, p. 207.

³⁰ Dio LVII. 17.1 - 3; cf Suet. De Gramm. 22, who described the word as being ex oratione Tiberi.

³¹ E.M. Smallwood, Documents illustrating the Principates of Gaius, Claudius and Nero, no. 370.

³² CIL XIII 1668 = E.M. Smallwood, Documents illustrating the Principates of Gaius, Claudius and Nero, no. 369.

³³ Tac. Ann. XIII. 3.3; XIV. 11.4.

specifies the issue of edicts.³⁴ It must be conceded that Fronto limits the scope of imperial edicts in the phrase 'sociorum culpas edictis coercere', but it might be questioned whether he was striving for exactitude of terminology in this passage. Fronto's derogatory reference elsewhere to the emperors between Gaius and Vitellius as being incapable of composing an edict or a letter in their own words, would confirm again the expectation that other emperors did, or should, compose their own edicts.³⁵ Tacitus' evaluation of the various Roman emperors' reputations in the art of speaking, supports this expectation.³⁶ It was a skill which carried over into literary expression, and most emperors, being of the upper-class and educated according to its dicta, should have been capable of composing pronouncements in acceptable spoken or written form.

These expectations however, do not preclude the presence of advisors, but their participation in the actual formulation of an edict is nowhere attested. This is suggested by Tiberius' above-mentioned consultation of scholars concerning a non-Latin word in an edict he had just issued,³⁷ an anecdote which limits their participation to the offering of opinion at imperial request. A further possibility exists in the post a studiis from Claudius' time whose functions remain obscure. The learned men who held the post, such as Claudius' freedman Polybius; Julius Vestinus under Hadrian, head of the museum at Alexandria and later of all Greek and Latin libraries in Rome; Suetonius, probably under Trajan; and Volusius Maecianus under Antoninus Pius, would suggest that their duties as a studiis were commensurate with their reputations.³⁸

34 Fronto, Ad M. Antoninum de eloquentia 2.7.

35 Fronto, Ad Verum imp. 11.1.9; F. Millar, ERW, p. 226.

36 Tac. Ann. XIII.3.2.

37 Dio LVII. 17.1.3; cf. Suet. De Gramm. 22.

38 F. Millar, ERW, p.205.

Given the high standard of culture expected of an emperor, assistance from this quarter could have been valuable.

Through the following two sections of this chapter it will become apparent how the first princeps could voluntarily have accepted the apparently limiting effect of the Republican ius edicendi, as the only legislative channel to express his immense auctoritas. Alternative forms of expression through epistulae and libelli rescripti in their great abundance asserted the emperor's auctoritas in matters where edicts would have been inapplicable. Without superceding the edict or encroaching on its function, these latter forms of imperial pronouncement served to entrench the emperor's legislative authority through formalised administrative procedures.

8.2 EPISTULAE

From the beginning of the Principate recognition of Augustus' immense auctoritas by the public, in addition to the continuing Republican tradition of clientela, brought about personal petition to him by communities from both senatorial and imperial provinces. The imperial response to appeal was an expected out-working of the princeps' auctoritas. In time this became a recognised part of the Roman governmental system which further enhanced the stature of the princeps. Personal appeal to the princeps as an effective counterpart to senatorial authority grew out of the context of the Civil Wars, and as early as 48 B.C., foreign potentates are recorded addressing Julius Caesar as the supreme representative of the Roman constitution,³⁹ to the chagrin of the senate which

³⁹ Cicero, Ad Fam. IX.15.4. refers to this. There was a tradition that the princeps senatus spoke on behalf of the senate, but the senate's chagrin was in the fact that the foreign reges' direct address to Caesar, and his direct
(continued on next page)

customarily received foreign embassies.⁴⁰ It was not uncommon, of course, for senators as patrons with their strong interests in the provinces to receive clients, sometimes of considerable distinction,⁴¹ in Rome in order to represent their interests to the senate. But this more representative role was quite different to Caesar's autocratic mode of government, since he made his decisions without seeking senatorial participation or approbation.

During the Triumvirate this autocracy had developed, although the Triumvirs were careful always to draw upon the constitutional backing of their office when dealing with provincial appeals or embassies. This is illustrated in almost all extant epistulae by the Triumvirs. The propaganda motive behind these constitutional associations is clear in M. Antonius' first epistula to Tyre⁴² of 42-41 B.C., wherein he emphasised that his defeated opponents at Philippi had not been appointed to their provinces by the senate; he nevertheless offered the Tyrians the opportunity of presenting their case before himself when he should reach their region. In a further letter to them, he ordered an edict which referred to Cassius' illegal seizure of Syria to be inscribed in a prominent place, and here used his full titulature:⁴³ Μάρκος Ἀντώνιος αὐτοκράτωρ τριῶν ἀνδρῶν κατὰστάτων περὶ τῶν δημοσίων πραγμάτων ἔπειν.

This letter exemplifies the practice of the Triumvirs

(continued from previous page)

response to them, bypassed the senate and superceded its traditional prerogative.

40

This was traditionally a senatorial function, with provision even being made for the Aerarium to register and finance these state-visitors for the duration of their stay in Rome. For example, SC de Aphrodisiensibus, lines, 74-76, in J.Reynolds, Aphrodisias and Rome, Doc. 8, pp.62-63.

41

For example; Gn. Pompey's client-relationships with Eastern kings.

42

In Josephus, A.J. XIV.319-220.

43

F.G.B. Millar, 'Triumvirate and Principate', JRS 63 (1973), p. 54.

regarding provincial decisions that were referred to them, as opposed to those still directed to the senate. Reference is made to the legality and constitutionalism of M. Antonius' position but his decisions were taken independently of the senate's approval, knowledge or opinion. The fact that the provinces were directing embassies to the Triumvirs confirms too that the provincials recognised the authority, military or constitutional, that they were approaching.⁴⁴

An epistula from the post-Triumviral era, namely Octavian's letter to Rhosus recommending Seleucus,⁴⁵ reveals a disquieting development of this trend. He writes to the city '... on the assumption therefore that I will gladly do for you whatever is possible for the sake of Seleucus, have confidence, and send to me on whatever matter you wish.' The tone and powers implied here, indicate that even though the exigency of his Triumviral position had passed, he did not expect or intend any further diminution of his effective power to confer benefits.⁴⁶ His Triumviral powers were transmuted into an immense auctoritas, as the military base of his supreme position was systematically disguised from public recognition. This letter is not that of a patron assuring a client-community of his protection and representation of their interests before the senate. It is a letter expressive of full knowledge of his auctoritas and power to realise his will and decisions : it is the letter of the

⁴⁴ As in Josephus, A.J. XIV.306-313 (M. Antonius' letter to Hyrcanus and the ethnos of the Jews). Also, R.K.Sherk, RDGE, no. 57, p.291 (M. Antonius' letter to the koinon of Asia); no. 58i, ii, and iii, pp. 294 - 298 (Octavian's grant of citizenship to Seleucus of Rhosus, and the latter's civic loyalty); no. 28A, pp. 164 - 165 (Octavian's letter to Aphrodisias); no. 60, pp. 310 - 311 (Octavian's letter to Mylasa in Caria).

⁴⁵ R.K. Sherk, RDGE, no. 58iv, p.298.

⁴⁶ F.G.B. Millar, 'Triumvirate and Principate', JRS 63 (1973), p. 58.

supreme patron to whom appeal could be made as though to the embodiment of the state.

This is not to say that the senatorial function of receiving embassies was now ceded to Augustus. Evidence until the mid-second century A.D. attests that the senate and emperor both separately and corporately exercised this diplomatic function.⁴⁷ Significantly, embassies from senatorial and imperial provinces are seen to apply to the respectively opposite diarchic authority, that is, communities from senatorial provinces are seen applying to the emperor, and those from imperial provinces to the senate.

The princeps' power to confer benefits and judge disputes, the two characteristic purposes behind missions, may be interpreted as an extension of his proconsular and co-lar ius edicendi into the realm of his personal auctoritas. During the first decades of the Principate, the numerous instances of the princeps collaborating with, and working through, the senate in carrying out his proposals,⁴⁸ indicate that he was not anxious for the essentially autocratic nature of his auctoritas to be projected undisguised. But the whole phenomenon and development of the imperial epistulae of the early Principate certainly demonstrate a consciousness of his untrammelled power to realise his will.

As in the case of libelli dealt with in the next section of this chapter, appeal to the princeps was enacted by the personal presentation of a petition by an embassy. Out of his response to these petitions arose the practice of imperial epistulae. Occasionally however, letters from

⁴⁷ R.J.A. Talbert, SIR, pp.419, 424.

⁴⁸ See further P.A. Brunt, 'The role of the senate in the Augustan regime', CQ 34 (1984), pp. 423-444.

cities or other corporate bodies were also relayed by provincial governors,⁴⁹ but this was an exception to the normal practice of their formal and public presentation by embassies.⁵⁰ This presentation is illustrated by a number of literary and epigraphic references, showing the embassies' direct access to the princeps.⁵¹ For instance, Augustus wrote to Cnidos, 'your ambassadors ... presented themselves to me at Rome and, handing over their decree, made their accusation'.⁵² When an Alexandrian embassy was received in A.D.13, one of the ambassadors⁵³

ἀνέδωκεν τὴν [ψηφίαν] ματὰ Ἀλέξανδρον καὶ εἶπεν... .

Likewise, Gaius in his epistula to the Hellenes states, 'having read the decree given to me by your ambassadors',⁵⁴ That personal reception was still the practice by the second century A.D. is indicated by a papyrus reference to the emperor Trajan (or Hadrian) reading a letter presented by an embassy⁵⁵ ἀναγνο[ύς] τὴν γραφεῖσάν ἐπιστο[λήν].

The great number of embassies to be dealt with by the princeps is referred to in diverse sources. For example, when Philo's delegation to Gaius in A.D. 40 arrived, it was informed by the ad legationes on Gaius' instruction that he would hear their case when he was free. Philo had cause to doubt this however, since other embassies 'from almost every land' had also arrived.⁵⁶ In fact, one of his predecessors, Tiberius, had followed a strategy of delaying the hearings of embassies in order to discourage others from coming.⁵⁷ A contrast to this is shown in Pliny's account of Trajan's practice: 'we see how he

49 See Philo, In Flaccum XII. 97-103, where the Alexandrian Jews requested Avillius Flaccus, the Prefect of Egypt, to send to Nero their congratulatory decree on his accession, which Flaccus subsequently failed to do.

50 F.G.Millar, ERW, p.217.

51 Ibid.

52 Syll. 780 = EJ no.312.

53 P.Oxy. 2435, lines 40-41.

54 ILS 8792.

55 P. Oxy. 2177.

56 Philo, Legatio 181.

57 Josephus, A.J. XVIII. 170 - 171.

meets the desires of the provinces and even requests of individual cities. He makes no difficulty about giving them a hearing, or delay in replying. They come into his presence promptly, and are dismissed promptly, and at last the emperor's doors are no longer besieged by a mob of embassies which have been shut out.⁵⁸ Titus' practice was similarly favourable, as 'non oportere ait quemquam a sermone principis tristem discedere'.⁵⁹ The pressure of receiving embassies is also illustrated in Vespasian's limitation by edict on the number of delegates to comprise an embassy.⁶⁰ He limited it to three; some of the occasions attested before his time would seem to have warranted this restriction, for example, the hearing to decide the future of Judaea after Herod's death in 4 B.C.. Presenting their case before Augustus was a Jewish embassy of 50 men, plus a delegation or delegations from the Greek cities.⁶¹

The procedure of presenting a petition seems to have acquired a set form, to gauge from Menander's instructions⁶² on the *πρεσβυτικὸς λόγος*. After consideration of an embassy's speech and written documents, the imperial decision was usually rendered orally at the time, to be formally communicated to the city or community by an *epistula* which was taken back by the same delegation. It is necessary to examine these two stages now for the light they may cast on the procedures of composing and copying these imperial *epistulae*, and the procedures of their archival preservation.

Before an embassy's appearance, the *ad legationes* was sent

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Pliny, *Pan.* 79.6-7.

59

Suet. *Div. Titus* 8.1.

60

Dig. L.7.5.6.

61

Josephus, *B.J.* II. 24-36, and *A.J.* XVII. 300-323.

62

Menander Rhetor, ed. D.A. Russell and N.G. Wilson (Oxford, 1981), p. 181.

to inform it of its appointment that day.⁶³ Another attendant, the a cognitionibus, appears to have had the function of arranging the order of cases and of summoning the embassies into the imperial auditorium.⁶⁴ This office had influential potential but significantly the reference above shows that he normally acted on the emperor's direct instructions.⁶⁵ At the actual reception of embassies, the presence of the ab epistulis is attested on a number of occasions; for example, when the Bithynian embassy appeared before Claudius, Narcissus the ab epistulis was apparently standing next to the emperor when asked a question by him.⁶⁶

No reference to this official's role in the formulating of decisions occurs in any of our sources. However, the ab epistulis is often attested accompanying the emperor on his travels and campaigns. Suetonius, as Hadrian's ab epistulis, was probably with the emperor on his visit to Britain in A.D. 121/2 when he was dismissed, according to the Historia Augusta.⁶⁷ As the emperor functioned as a sort of moving capital of the empire in himself whenever he travelled, to use F. Millar's words,⁶⁸ it was a necessity for him to have an entourage of secretaries and humbler assistants with him to carry out the imperial functions of receiving and responding to the petitions of numerous embassies and individuals. The duties of the ab epistulis were clearly relevant to this necessity, even although they cannot be specified with certainty.

The case of Beryllus, ab epistulis graecis of Nero, confirms that the exercise of final authority belonged to the

63 As in Philo, Legatio 181.

64 As in Dio LXXVI. 15.5.

65 F.G.&Millar, 'Emperors at work', JRS 57 (1967), p.17.

66 Dio LXI. 33.6.

67 Historia Augusta: Hadrian 11.3.

68 F.G.&Millar, ERW, p. 39.

emperor alone. As mentioned before in Chapter VII of this study,⁶⁹ ἐπέτυχε γράφῃναι τὴν ἐπιστολήν. That this authority was never delegated to officials is clear in that as late as Severan times, Caracalla entrusted the handling of routine libelli and epistulae in both Latin and Greek, not to his chief secretaries but to his mother, Julia Domna.⁷⁰ This was the transferral of an imperial prerogative not to be entrusted to an official evidently.

Despite the obscurity surrounding the functions of the ab epistulis, the role of a consilium by contrast is well-attested.⁷¹ This body was called upon to submit opinions in judicial cases, which comprised the major part of embassy business. Sententiae would be given by the emperor's consilium of assessores, probably in the fashion of normal legal cases. But the emperor's final pronouncement was his own decision. This is illustrated by Nero's practice of having the sententiae written down for him to consider in private.⁷² M.Aurelius customarily dismissed his consilium after their opinions had been put forward, and then formulated his own decision.⁷³ As late as Septimius Severus' reign this practice seems to have been in force, as the renowned jurist Paulus described it. Paulus gave his opinion and the emperor considered it, but made up his own mind.⁷⁴ The personal role of the emperor in the decision-making process related above, demonstrates clearly the subordinate role of his consilium. This is apparent too in actual epistulae wherein emperors write as

69 Josephus, A.J. XX. 183-4.

70 Dio LXXVIII.2.Cf. Herodian's version (IX.12. 6-7) where Macrinus, the Praetorian Prefect, is requested to look through some official letters in his absence.

71 See further J. Crook, Consilium Principis.

72 Suet. Nero. 15.

73 Dig. XXVIII.4.3 praef.

74 Dig. IV.4.38.

if no consilium was involved at all.⁷⁵ If any vicarious exercise of this legal authority occurred, it should logically have been by his legally qualified assessores, but this never seemed to happen. It is much less likely then that the duties of the secretariat ab epistulis would have included exercise of an autonomous authority in this regard. The influential role of freedmen secretaries sometimes attested,⁷⁶ particularly in Claudius' reign,⁷⁷ was founded not in their official duties but in the emperor's favour. The formulation of judicial decisions in response to petitions presented by embassies, appears to have been the final and personal prerogative of the emperor himself. Literary sources attest the vast quantity of this particular type of imperial business.⁷⁸

After pronouncement a letter formally stating the emperor's decision would be written. As in the case of the epistulae to provincial officials, these could have been dictated. This must remain inconclusive however because the one literary reference which attests dictation does not specify whether epistulae to provincial officials or epistulae to communities are meant.⁷⁹ Further we do not know if it was the emperor who personally dictated this

75 F.G.B. Millar, ERW, p.235. For example in the famous letter from Claudius to the Alexandrians, 'As regards the request which you have sought to gain from me, I decide thus.' (E.M. Smallwood, Documents illustrating the Principates of Gaius, Claudius and Nero, no. 370).

76 As in the case of Beryllus in Nero's reign (Josephus, A.J. XX. 183-4).

77 For example, Narcissus' urging for condemnations by Claudius (references in PIR¹ n.18.)

78 Augustus (Suet. Div.Aug.33), Hadrian (Dio, Epitome of Bk. LXIX.18.2-4), and M.Aurelius (Dio LXXII.6.1.), apparently worked late through the night giving judgement. Fronto in De Feriis Alsiensibus 3, attests the continuation of this imperial activity even at the imperial villas away from Rome.

79 Suet. Div.Titus 6, states that Titus used to dictate epistulae for Vespasian in his old age.

particular type of epistula. It is possible that the minutes of the cognitio proceedings formed the basis of the letter to be compiled subsequently by the ab epistulis. The sheer volume of these epistulae should preclude the likelihood of the emperor's personal composition thereof. Indeed, that learned rhetors often occupied the post would seem to imply that their qualifications were relevant to, and necessary for, their official duties. As mentioned in Chapter VII, this connection between their literary abilities and their official duties was recognised by contemporaries. It is unclear however whether epistulae to provincial communities are included in the type of imperial pronouncement mentioned in these passages, or whether these functions covered only the more public variety of pronouncement, such as orationes or edicta.

Epistulae to provincial communities were often publicised at their destination by inscription on permanent material in public places. The extant Greek inscriptions in Greek cities were more likely composed in or translated into Greek in Rome in accordance with the Republican practice for copies of SCC, than translated from the Latin at their destination. This could further account for the necessity of an ab epistulis graecis in the imperial chancery who, being skilled in rhetoric, could produce public imperial pronouncements in accordance with the exacting standards expected by the rhetoric-conscious Greek public.⁸⁰

The vast majority of extant inscriptions are epistulae embodying the imperial response to local missions. As such, it confirms that the inscriptions in permanent form were put up at private expense because they were of local interest or advantage, whether to the community or an

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E.g. Millar, ERW, p. 226.

individual. As F.G.Millar observes, there is a striking contrast between the rare cases of inscribed general edicts and the scores of surviving inscriptions of imperial epistulae addressed to cities.⁸¹

That the public inscriptions posted in the cities concerned were only copies of originals which remained in Rome, is suggested by the attested fact that minutes were taken at the imperial hearings. Indeed the degree of detailed knowledge of an embassy's ^{oral} presentation which is apparent in a number of imperial replies, would alone seem to imply this. As early as 6 B.C. Augustus' administrative acumen is evident in the value he placed on the keeping of records relating to embassy business. This is shown in his epistula to Cnidus on its embassy's presentation of a judicial case for his verdict. His investigation included the interrogation of some slaves by his amicus Asinius Gallus, and in his final epistula, Augustus states that he has enclosed a copy of these interrogations.⁸² He then advises Cnidus to make its public records on this case agree with his verdict, namely, acquittal of the accused. It is significant that a copy and not the original was sent. This would point to a purpose behind its retention.

Another example of the extent of detail recorded at embassy hearings, is offered in a fragmentary papyrus text which purports to give the record of a meeting between Alexandrian envoys and Augustus' privy council in January A.D.13.⁸³ Although fragmentary, the text comes from a full report and even includes references to applause. It is not clear whether the Alexandrian envoys were

81 F.G.Millar, ERW, p. 256.

82 R.K.Sherk, RDGE, no. 67, lines 27-28: πέπονφα δὲ ὑμεῖν κἀ
κ[ῆ]κς τᾶς ἀντικρίσεις.

83 P.Oxy. 2435.

responsible for creating the record of the meeting or whether it was a copy of the official minutes from the imperial record of the meeting. The text probably derived from the latter source because for it to circulate in Egypt, where hostility to Rome was much in evidence, presupposes imperial approval. This would have been accomplished most effectively through an officially certified copy of the original in Rome. The circulation of this papyrus text in Egypt suggests that the Alexandrian envoys considered themselves accountable to their fellow Hellenistic Egyptians, a consideration in accordance with the current tensions between Alexandria and her Roman overlord. The commentators on P.Oxy 2435 raise the question whether this document is to be treated as an archival record, literary text, or a political tract. As this fragment belongs to a corpus of Alexandrian nationalist literature marked by anti-Roman propaganda, it no doubt was intended to convey a political message. But as most of these fragments were composed in the second and early third centuries A.D., it is reasonable to assume that the earlier accounts had greater veracity because they appear to have derived from official records. Therefore, the P.Oxy. 2435 has perhaps greater claim to being an archival record, a likelihood supported by the sometimes verbatim transcription of the proceedings recorded and the inclusion of a reference to applause. As such, and in the contemporary context, its derivation from the imperial record in Rome is surely unquestionable.

Likewise over a century later Hadrian stated in an epistula to the gerousia of Ephesus that he had sent their copy of the decree to the proconsul.⁸⁴ The Greek text lends itself to alternative translation however so that ὑμῶν τὸ ἀντίγραφον τοῦ ψηφίσματος may more plausibly mean

⁸⁴ Syll.³ 833.

'a copy of your decree' instead of 'your copy of the decree'. Greek formulations for official Latin terminology was never precise or consistent in the ancient world, particularly if they originated from Romans. If the alternative translation is accepted, the original document was again retained in this instance. These two examples would seem to indicate that copies of documents, both those received and those despatched, were made when necessary from originals which were then kept for reference in case of future disputes. The archival consignment of documents generated by embassies is certainly compatible with the keeping of commentarii related to other aspects of the imperial administration.

On the basis of these implications, it is possible to surmise then that the recording of imperial hearings was a function of the secretariat ab epistulis. That it was a function of subordinate staff could be indicated by the reference to Narcissus who as ab epistulis was reportedly only standing beside Claudius when he received the Bithynian embassy.⁸⁵ The Suetonian passage recounting Vespasian's ordo vitae⁸⁶ indicates regular daily contact over imperial correspondence, namely epistulae officiorum omnium. Presumably Suetonius would here include in the emperor's routine, authorisation of epistulae before the application of his signum.⁸⁷

That the contemporary public was aware that the imperial archives contained imperial pronouncements in the form of subscriptionses, epistulae, and edicta, is demonstrated by the known instances of appeals directed to the emperor to have recourse to copies of relevant documents.⁸⁸ Pliny

85 Dio LX.33.5.

86 Suet. Vesp. 21.

87 Pliny (N.H. XXXVII.10) and Suetonius (Div.Aug.50) both confirm the use of the imperial signum for epistulae.

88 For example, CIL III 411, with F&M.Millar, ERW, p.247.

too, as governor of Pontus-Bithynia from about A.D.109, in referring a case to the emperor explicitly gives as his reason for not enclosing certain epistulae and edicta to specific communities, which had been purportedly issued by Trajan's predecessors, the fact that he assumed the original and correct versions of these were to be found in the imperial archives.⁸⁹ That this is not confirmed by the emperor in his reply⁹⁰ in relation to all the documents Pliny mentioned, is not as important as Pliny's assumption about the archives' contents. Thus public and official recourse to the imperial archives confirms its value as a repository of documents containing imperial legal precedents.⁹¹ While not defined as law until the late second century or early third century A.D., from the beginning of the Principate the contents of these records would certainly seem to have been vested with the force of law.

8.3 THE DEVELOPMENT OF THE RESCRIPT SYSTEM AND THE SECRETARIAT 'A LIBELLIS'

The extension of the princeps' legislative authority through epistulae in response to provincial embassies was paralleled by that through rescripts to petitionary libelli by individuals. Thus for the ordinary man in the street, the imperial response to appeal was an expected out-working of the princeps' auctoritas. The procedures involved in the subscriptio practice also became formalised as a recognised part of the governmental system of the empire. The mass of archival documentation arising from this served too as legal precedent, which Ulpian in the early third century A.D. defined as follows: 'Therefore whatever the emperor has laid down by epistula

89 Pliny, Ep.X.65.

90 Pliny, Ep. X. 66.

91 See Chapter VIII section 3 for official procedures.

or subscription, or has determined in giving justice, or has given extra-judicially as a provisional judgement or has ordered by edictum, is agreed to be law.'⁹² The distinction between an epistula of the preceding section and a rescript to a libellus of the present context, cannot be too finely drawn during the early Principate. It may be said that generally epistulae were presented by communities, whereas libelli came from individuals or small villages. The nature of their content seems to have been the factor that determined which office handled them. The office a libellis appears to have dealt solely with correspondence of a judicial nature, regardless of whether the format of the reply was defined as an epistula or a rescript. Conversely, all non-judicial correspondence was channelled through the office ab epistulis. For this reason epistulae and rescripts, being generally synonymous in nature, are sometimes difficult to distinguish when emanating from the princeps in response to an enquiry.

Personal appeal to the princeps as an effective counterpart to senatorial authority developed out of the context of the Triumviral period, as shown in the preceding section, but its Republican precedent was even more entrenched, in the custom of salutatio. Evidence from the early Imperial times suggests that libelli were generally presented to the princeps at his morning salutationes, and always in person. Suetonius related an anecdote about a petitioner's timidity towards Augustus on such an occasion,⁹³ and elsewhere described how another petitioner was ^{slandered} just before presenting his libellus to Claudius, by an enemy who alleged he was an assassin.⁹⁴ In Domitian's reign Martial described how one man came

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Dig. I.4.1.1.

93

Suet.Div.Aug.53.2; Quintilian, Inst.VI.3.59, however, in recording the same incident does not place it in the context of a salutatio.

94

Suet. Claud. 37.1.

from his native city to Rome to request the ius trium liberorum from the emperor.⁹⁵ This is paralleled by an earlier example when Augustus responded to Tiberius' request for the Roman citizenship for a Greek client by stating that he would not grant it unless the man appeared in person and petitioned him.⁹⁶

Personal presentation and reception of libelli was thus the norm. It is not clear whether the verbal exchange between princeps and petitioner extended beyond a greeting to the contents of the petition and actual response thereto. Quite possibly reference was made to the contents, as illustrated by three anecdotes, although beyond the time-span of this study, from the Sententiae et Epistulae Divi Hadriani, or quite possibly he may have read it on reception: 'per libellum potente quodam ... Adrianus dixit ...'; 'codicellos aliquis (qui) Adriano tradidit ... Adrianus dixit ...'; 'per libellum dicente quodam patrem suum confiscatum esse ... Adrianus inquisivit ...'.⁹⁷ In another instance, Suetonius' details of the conspiracy for Domitian's murder entailed that Stephanus, his freedman, was to hand him a libellus and to strike him down⁹⁸ while he was reading it. This account shows that libelli were sometimes read silently at the time of presentation. A further instance though indicates that this was not necessarily followed by pronouncement of the actual decision, as in the case of Hadrian's instruction to a petitioner who was appealing for his father's recall from banishment, that he come back after Hadrian had consulted the commentarii in the

95 Mart. Epig. VIII.31.

96 Suet. Div. Aug. 40.3.

97 Corp.Gloss.Lat. III, p.31.11.45ff, cited by F. Millar,

ERW, pp.242 and 532.

98 Suet. Dom. 17.

archives.⁹⁹ Written proof of the imperial decision would in any case have been necessary for a petitioner, as opposed to the mere spoken word, especially since they were generally of a judicial nature. Late Republican precedent may support this: Plutarch records how on the Ides of March, Caesar was presented with libelli en route to a meeting of the senate which he handed to his attendants, and how on the urging of one Artemidorus, he retained the libellus containing information on the conspiracy in order to read it later.¹⁰⁰ Another reference to Caesar subscribing libelli at public shows, thereby incurring popular disfavour, indicates too that petitions were not necessarily read on reception but dealt with later.¹⁰¹ This is supported by the report that on the night before the Ides of March, Caesar was subscribing libelli while at dinner with M. Lepidus.¹⁰² This appears to have continued as the norm, for in Vespasian's time, Philostratus describes how Vespasian was presented with a libellus requesting gifts and put the petitioner to shame by actually reading it out aloud.¹⁰³ Obviously the normal practice had warranted the latter's expectation that Vespasian would have read it in private.

Decisions on libelli were thus not necessarily given orally. Literary and epigraphic evidence shows that they were subscribed under the original petitions, hence the later usage of the word subscriptiones.¹⁰⁴ An example from the early Principate, concerning an exchange about one Theodorus of Tarsus, demonstrates clearly that Augus-

99 Corp.Gloss.Lat.III, p.33.11.26f, cited by F. Millar, ERW, p.532.

100 Plut. Caesar 65.2.

101 Suet. Div.Aug. 45.1.

102 Plut. Caesar 63.4.

103 Philostratus, Vita Ap. Ty. V.38

104 cf. A.N. Sherwin-White, The Letters of Pliny, pp. 716 - 717 on the formulae libellus rescripti (in the Loeb edition) and libellus rescriptus.

tus wrote his response underneath the question despite the apparent triviality thereof.¹⁰⁵ In another instance, an Aphrodisian inscription quoted verbatim a response which Augustus 'wrote under' a certain petition from Samos concerning civic privileges.¹⁰⁶ The use of his signum by Augustus for libelli, attested by Suetonius¹⁰⁷ who was ab epistulis under Hadrian, also supports a written response to petitions.

The existence of the secretary a libellis even from early times, and other titles indicative of a growing secretariat devoted to this type of imperial correspondence, naturally raises questions similar to those concerning the secretariat ab epistulis in the preceding chapter, namely to what extent, if any, did these secretaries participate in the composition of the subscriptiones. As in the previous chapter, the functions of this staff are not clear from their appellations, for example, the proximus a libellis,¹⁰⁸ scriniarius,¹⁰⁹ custos,¹¹⁰ adiutor a libellis,¹¹¹ acceptor a subscr(ptionibus),¹¹² a commentariis,¹¹³ and the a cognitionibus.¹¹⁴

With regard to the a libellis himself, Seneca in writing to Polybius, who was at that time, A.D.43, apparently Claudius' a libellis, eulogises: 'So many thousands of people have to be given audience, so many libelli to be dealt with (disponendi); such a crush of matters coming

105

Plut. Mor. 207.B.

106

J.Reynolds, Aphrodisias and Rome, Doc.13, p.104.

107

Suet. Div. Aug. 50.1, and also for diplomata and epistulae; cf. Pliny N.H. XXXVII.4.10, that the signum was used for epistulae and edicta.

108

ILS 3703.

109

CIL VI 8617 and X 527.

110

CIL VI 8616.

111

CIL VI 8615 and VI 33741; VI 8613; 8612.

112

CIL VI 5181.

113

CIL VI 8623 (Flavian); 8627 (Trajanic)

114

CIL VI 8628 - 8630 (Flavian).

together from the whole world has to be sorted out, so that it can be submitted in due order to the mind of the most eminent princeps. To you, I say, it is not permitted to weep : in order that you may hear the many who weep ...¹¹⁵ The responsibility of sorting out the petitions to be submitted later to the emperor is specified here. Given the evidence of presentation of libelli by petitioners in person, this responsibility must have been carried out after the imperial reception. At this stage preparatory work especially in the case of legal rulings would surely have been necessary, entailing investigations through commentarii in the archives in the search for precedents - work which would probably have been delegated to further subordinates.

The above passage by Seneca also implies that the a libellis was present when the princeps received libelli.¹¹⁶ But that the a libellis himself could also vicariously receive petitions addressed to the emperor, is a possible interpretation of this passage too, supported by the tradition of the immense influence of the imperial freedmen secretaries or favourites who, for a private fee, could grant or refuse access to the emperor. The case of Parthenius, cubicularius of Domitian, that 'libros non legit sed libellos',¹¹⁷ also indicates this means of access and that petitions could be given indirectly to the emperor.

The role of the a libellis as specified by Seneca contains no hint of the predominantly judicial nature of the material he had to deal with. Given the evidence that most

¹¹⁵ Seneca, Ad Polybium 6.5, translated by F.Millar, ERW, p.250.

¹¹⁶ Confirmed by Narcissus' presence with Claudius on receiving the complaints of the Bithynian embassy (Dio LXI.33.6).

¹¹⁷ Mart. Epig.XI.1.5.

a libellis from at least the second century A.D. onwards were jurists, their official functions must surely have included a degree of participation in the formulating of the imperial decision, even if not in the composing of the final pronouncement. The assumption would be supported by the known consultation by the emperor of his consilarii, generally jurists too, although as Paulus stated, the emperor ultimately made up his own mind.¹¹⁸ A letter of Caracalla could possibly confirm this advisory role of the a libellis, in the description of Aelius Coeranus as 'entrusted with the interpretation (?) of the petitions'.¹¹⁹ Such 'interpretation' is a more detailed definition of the preparatory work hinted at in the earlier Seneca quotation and essentially compatible. A more direct contribution by the a libellis however is implied in a reference by the jurist Tryphonius to a rescript which Severus sent 'while Papinian was in charge of the libelli'.¹²⁰ As F. Millar concluded, there is no obvious reason why he should have mentioned this unless it were relevant to the nature of the rescript.¹²¹ Stylistic and verbal similarities between Papinian's writings and the subscriptiones of 194-202 A.D. have been pointed out,¹²² which would infer the a libellis' influence on their style and content.

At this point it is necessary to draw on evidence beyond the time-span of this study, namely from the Middle Empire, because its greater quantity makes it a possible source for certain aspects of the earlier form of the

118

Dig. IV.4.38.

119

The damaged state of the written copy makes this inconclusive: *Αἰὶ Κοιραν[ος, δ κρείτιστος] φίλος μ]ου καὶ τὴν ἐξή[γησιν] τ[ῶν] [κ]ξ[ιω]μάτ[ων] πεπισ[τευμένος], ...*
in Forschungen in Ephesos II, p.12 n.26, lines 19-20.

120

Dig. XX.5.12.

121

F. Millar, ERW, p.251.

122

See further A.M. Honoré, 'Private rescripts and their authors, 193 - 290 A.D.', JRS 69(1979), pp.51-63.

rescript. During Hadrian's reign the term subscriptio superseded the usage of rescript for this type of imperial reply. Pliny has shown how the latter terminology was still in use in Trajan's time when Trajan sent such a libellus to Pliny to pass on to a petitioner.¹²³

Official usage of the term subscriptio appears first in the legal sources for Hadrian's reign,¹²⁴ and in Antoninus Pius' reference to a 'subscriptio of my father' (sc. Hadrian).¹²⁵

Our knowledge regarding access to the rescripts by the petitioners is obscure during the first century A.D., but second century practice is well attested. From the mid-second century A.D. onwards, subscriptiones were posted up outside the emperor's current residence for petitioners to consult.¹²⁶ This is clear from the abbreviations 'pp' for proposita in the Codex Justinianus, for the years A.D. 150-155.¹²⁷ On the subscriptio itself, it appears first in A.D.162, as 'PP XIII K. Mart. Romae Rustico et Aquilino cons.'¹²⁸ Papyri from Egypt furnish further evidence for this practice of proposita, for example, P.Columbia 123 which contains successive lists of subscriptiones over a period of three days, during Septimius Severus' stay in Alexandria in A.D.200.¹²⁹

Copies of the subscriptiones were available on application by petitioners upon their fulfilment of various bureaucratic formalities, while the originals were

123 Pliny, Ep.X.107.

124 Gaius, Inst. I.94; Justinian, Inst. II.12 pr.

125 CJ VII.43.1.

126 F. Millar, ERW, p.244.

127 CJ II.12.1.: 'PP III Id. Oct. Gallicano et Vetere conss.'

from A.D.150.

128 CJ V.25.3.

129 in W.L. Westermann and A.A. Schiller, Apokrimata : Decisions of Septimius Severus on Legal Matters (1954), cited by F. Millar, ERW, p.245.

retained by the imperial archives. A papyrus from (probably) Antoninus Pius refers to this archival retention, namely that 'I have ordered to be appended a copy of the libellus given to me by Valerius Zoilus, and (a copy) of my subscriptio, ...'.¹³⁰ Further support is offered by another subscriptio of this emperor granting a petitioner permission to have an official copy made of his predecessor's sententia on a particular matter, if such a sententia in fact existed.¹³¹ The procedure followed by the petitioner on receipt of the knowledge of this permission affords us a glimpse into the complex bureaucratic system at the archives.

This subscriptio is part of an inscription from Smyrna and is followed by a date in Latin, 8 April 139, and then in Greek 'it was sealed in Rome on 5 May in the presence of (names of 7 witnesses).' The first date given here could well apply to the posting up of the subscriptio, or equally to the date when an official copy of the subscriptio had been made for the petitioner. Application for an official copy would have preceded the petitioner's next step. On submission of this official copy of the emperor's permission to another section of the imperial archives, the petitioner's original request for a copy of Hadrian's judgement would have been granted. This stage seems to be indicated by the strange inclusion in the text of the inscription, of the instruction in Latin : 'Stasimus, Daphnus, issue the sententia or constitutio in the regulation form'. The second date given in the text of the inscription therefore probably refers to the sealing and witnessing of the copy of this document in its regulation form.

¹³⁰ P. Rendel Harris 67, col.ii.11.12f, translated by F. Millar, ERW, p.243.

¹³¹ CIL III 411.

The bureaucratic procedures illustrated here testify to the regulation of public access to the imperial archives. Access to records was by permission of the emperor alone. Secondly, a high degree of centralised control by the emperor is apparent in the administrative formalities required. This is in stark contrast to the Republican procedure at the Aerarium, where not the quaestors but their subordinates, the scribes, gave this permission to consult and copy records. In Imperial times the retention of the original petitions and responses as archival data is indicative of the growth of a whole new corpus of legal judgements, wherein decisions of previous emperors were filed and consulted as records of precedent. Not only their use but their value and almost immutable standing is demonstrated by an instance in the reigns of M.Aurelius and Verus. An imperial epistula to a provincial governor, which referred to a libellus regarding inheritance, stated that the legal ruling given in a previous subscriptio was regarded as superior to contemporary juristic judgement.¹³² A precedent laid down in a subscriptio therefore had the force of law.

Most of the details regarding the petition-response process between the emperor and private persons date from the second century A.D.onwards, although the practice itself is clearly attested from the beginning of, and even prior to, the Principate. The emperor's personal consideration of libelli was assumed. Subscription was also a function of other public officials during this time, for example, Pliny in his capacity as Praefectus aerarii Saturni, whose personal attention was likewise given when he was arbitrating on points of law relating to taxation : *sedeo pro tribunali, subnoto libellos ...*¹³³

132 Dig. XXXVII.14.17pr.
 133 Pliny, Ep.I.10.9.

The emperor's role would seem to have been the consideration of the prepared data of precedents after the a libellis had 'interpreted' the legal implications of the petition. Possibly too, if his duties entailed advisory functions, this official would have presented his own opinion for imperial consideration. In the further stage of writing out the decision, the emperor's role is obscure. Often the decision would be expressed in a single sentence, preceded by the single '(The emperor) to (petitioner)'.¹³⁴ The occasional appearance of the two words rescripsi, recognovi beneath the subscriptio has presented further questions to scholars regarding the manner of its transcription. These questions centre on whether the emperor himself wrote the subscriptio when these words are absent, and whether it was the emperor or some secretary who wrote rescripsi, recognovi. The shortness of the imperial response might occasionally warrant the emperor's personal transcription of his decision, but evidence from Salvius Julianus indicates that rescripta were dictated by the emperor: *Semper audivi Caesarem nostrum (sc. Antoninum Pium) dicentem hac rescriptione, 'eum qui provinciae praeest adire potes.'*¹³⁵ This reference incidentally also confirms the presence of legal advisers when the official pronouncement was formulated, but it is clear that it was the emperor who dictated the decision. After dictation it is possible that the emperor added by way of signature, the words rescripsi, recognovi. It is conceivable however that these words were added when official copies of subscriptions were issued to petitioners on application, since one might question why these words should appear on the originals which would subsequently only have been filed in the archives. It is more probable

134 As in CIL III 411 (Antoninus Pius to Smyrna); ILS 6870
 135 (Commodus to the coloni of the saltus Burunitanus).
Dig. I.18.8.

therefore that those words were appended by the official who issued the copy as a means of authentication, and that this office information was inscribed along with the text itself by the petitioner. That the extant examples containing this feature were official copies set up in public places would support this interpretation. A rescript of Gordian III to Scaptopara in Thrace¹³⁶ contains the information that it was 'copied down and checked from the liber (?) of libelli answered by our lord Emperor Caesar M. Antonius Gordianus, and posted up in Rome in the portico of the baths of Trajan', and concludes with the words rescripsi, recognovi. This strongly suggests an authenticating purpose. Likewise the inscription from the saltus Burunitanus,¹³⁷ the Caracallan inscription set up by the college of Paeonistae in Rome,¹³⁸ and the inscription from Smyrna,¹³⁹ - were all apparently copied upon application from the official copies issued in Rome. The inscription ILS 6870 contains a further feature et alia manu before scripsi, recognovi. These words could prove conclusively that it was not the emperor's signature of verification because no such preceding formula would have been applied to his illustrious personage.

On the basis of this evidence it is highly possible then to understand the method of transcription as having entailed dictation by the emperor and the posting up of current subscriptions, as attested in the extant papyri from Egypt.¹⁴⁰ Subsequently filed in the archives, official copies thereof could be issued upon application,

136 CIL III 12336.

137 ILS 6870.

138 CIL VI 3770.

139 CIL III 411.

140 As in P.Columbia 123, from W.L. Westermann and A.A. Schiller, Apokrimata : Decisions of Septimius Severus on Legal Matters (1954), mentioned above (cited in F. Millar, ERW, p.245).

in which authenticating formalities were strictly observed as part of the bureaucratic procedure, and were inscribed on the official copy. This copy could then have been inscribed on more durable material for public interest by the petitioner himself, the text occasionally being copied in toto.

The literary and epigraphic information concerning libelli and their imperial rescripta thus furnish consistent evidence of an imperial archives well-stocked with a mass of legal decisions by previous emperors. Access to these public records by the man in the street was the emperor's prerogative and was carried out through systematic retrieval procedures by imperial officials. These records were politically valuable in officialising the judicial aspect of the Principate and in establishing it as a recognised part of the governmental system of the empire. For the emperors, these archives came to embody the supreme centralisation of imperial legal precedent, and by later absorbing the outstanding jurists of the day into the imperial bureaucracy, enhanced the stature of the emperor's judicial autocracy.

CONCLUSION

In the Late Republic and Early Empire the control of access to public records had a political value that was highly relevant to the constitutional and administrative upheavals of the time. The power to publicise or suppress state-business represented political superiority over those who were denied unrestricted access. Knowledge of state-business was power, and as such, the politics behind the keeping of public records remained constant throughout the period under discussion. What underwent a complete reversal during this time was the role and purpose of records, a reversal which contributed vitally to the transition from Republican, senatorial administration to Imperial, autocratic administration of the Roman empire.

In the Early Republic the Conflict between the Orders had centred on the issue of plebeian access to knowledge firstly of the law and legal procedures, and then of patrician consulta in the senate. Implicit in their access to these formerly patrician strongholds in the judicial sphere, was the plebeians' right to enforce compliance to the law from patricians on a new basis of equality. In the constitutional sphere, the concept of patrician magisterial accountability to the Populus was introduced through the institution of a plebeian archive in 449 B.C.. Thus a socially and politically repressed stratum of the population successfully forced the governing class to acknowledge the will of the majority. Although these developments threatened the very nature of the Republican constitution, being as it was the stronghold of aristocratic privilege and domination, their destructive potential was deflected as the patrician minority found ways to absorb plebeian opposition into the circle of its own vested interests in the constitution. Thus for over two centuries the logical development of the

concept of majority sovereignty was delayed. In 133 B.C. the Gracchi's shattering impact upon the synonymity of senatorial government with the Roman constitution symbolised the beginning of the final Revolution, which was marked by the rise of popularis politicians. The collapse of the Republic in civil war in 49 B.C. was essentially the disintegration of the aristocratic oligarchy in which opportunistic manipulation of popular sovereignty had played its part.

An important landmark in this Revolution concerned the exposure of formerly confidential records in 59 B.C. through Julius Caesar's measure that senatorial business was henceforth to be officially compiled and published. Although at the time it was probably only a gesture to ally himself with the call for right administration, implicit in this innovation was Caesar's recognition, or expedient usage, of popular sovereignty at the expense of senatorial libertas. Knowledge of key areas of government in finance, military matters, and foreign affairs, was no longer the preserve of the ruling nobility. The extreme nature of this exposure of confidential business struck at the heart of upper-class oligarchic interests that were rooted in a watchful safeguarding of secretive government. As in the Early Republic, popular access to certain records again meant an encroachment on upper-class vested interest and a diminution of senatorial power as the hallowed secrecy of the Curia was negated, a secrecy which had long been a bulwark of oligarchic government. In addition to this, Caesar's measure underlined the power of the sovereign Populus as a superior constitutional organ to the senate. The accountability of the senate to the Populus for its administration was thus heavily implied through the enforced publication of details of senatorial business.

The advance in public knowledge of state-business thus culminated in the development of 59 B.C.. The aristocratic interpretation of the res publica was undermined because the political domination of a minority group was dependent on its vested interest in a constitution, which, from the inception of the aristocratic Republic (pace Polybius), had been specifically geared to maintain popular ignorance. This exemplified the political value of public records. The senate's loss of control over access to this knowledge in 59 B.C. thus signified the realisation of another aspect of the constitutional sovereignty of the Populus : the Populus' right to enforce accountability from its erstwhile rival, the senate.

The development of the new political structure of the Principate was founded in the Republican context, and this included awareness of the political value of public records. The first century A.D. witnessed successive imperial encroachments over the control of access to records of state-business. This was especially needful at the beginning of the Principate as selective publicity and confidentiality of records could manipulate public opinion favourably towards what was in effect the institution of hereditary monarchy. Although fostering Republican protocol, Augustus could not easily disguise his autocratic potential within the senate, representing as it did the upper-class whose collective primary had been usurped by an individual aristocrat. Restricted public access to senatorial proceedings would therefore shield the workings of his relationship with the senate, and indeed his constitutionalised auctoritas which would have been inadmissible under the Republic. Augustus' reversal of Caesar's measure concerning the publication of senatorial business seems to have been accomplished successfully : since we hear of no senatorial opposition to this ban, we may assume that it was not unwelcome.

Indeed one may posit that it could have rested on a claim by Augustus to be promoting the senatorial libertas of Republican interpretation, which included the right to treat certain political business confidentially. By reviving the proverbial rivalry between senate and Populus, Augustus expediently deflected senatorial opposition from himself, and in fact fragmented potential upper-class solidarity against his primacy by narrowing down access to political news to indirect senatorial channels. This ban effected a reversal of the public nature of state-records recently achieved in the Late Republic, as access to the proceedings of the highest consilium publicum was now shut off to the Roman public. Imperial awareness of the political value of controlling access to such knowledge is particularly evident here. The identity of the acta senatus as an archival journal during the first century A.D. has been established, but only during Trajan's reign it was named as a source by ancient historians. Since its purpose was for the emperor's perusal and reference, it was probably located in the archival administration on the Palatine where procedural formalities, evidenced in the retrieval of other such records upon public application, would clearly have extended to those of senatorial business. The sudden unprecedented public availability in the early second century A.D. of the acta senatus as an imperial record, exemplified in Tacitus' probable and extensive usage, would point to a changed archival location and could well coincide with the institution of the office ab actis as part of the senatorial cursus honorum since this officer would more likely have been found in the state Aerarium or Tabularium than in the imperial headquarters. The stability of the Principate by this time had no doubt precluded the need for close imperial supervision over the compilation and storage of these senatorial records.

The continued compilation of the acta of the senate for the emperors' exclusive use after the Augustan ban on publication, points to the operation of a new imperial politics behind the keeping of records that was gradually extended to other spheres of government. This entailed a transformation of the concept of accountability. The purpose behind the continued imperial compilation of the acta of the senate was subtly to reinforce a sense of accountability in senators towards the emperor, and thus the direction of Republican accountability downwards from the senate was reversed.

This Republican practice was exploited further as Augustus recognised the expediency of himself publically affecting a sense of accountability toward the senate and Populus. Thus the imperial compilation of the rationes of the whole empire, in Augustus' capacity as multiple proconsular governor with imperium maius, was justified by the regular publication of this financial statement. That this affected obligation of accountability to a superior constitutional organ was hardly enforceable, is implied by Tiberius' decision to discontinue this publication. But again, these records of public rationes continued to be compiled for exclusive imperial use, and exemplifies the political value of control over access to records even of a purely administrative nature. The continued compilation of the rationes suggests that its underlying purpose had been to establish through whatever diplomatic means, the emperor's control over the state's financial administration. The Republican concept of accountability implicit in the original compilation of this statement was thus exploited to entrench the emperor's position in the government: as his indispensability became irrevocable, the imperative of the myth of accountability to the senate and Populus disappeared, and with it, publication of the rationes.

The emperor's exercise of Republican accountability also served to justify the growth of a civil service under direct imperial supervision, as the emperor delegated the performance of his state-duties to private agents. This civil service, comprising mainly non-senators, was answerable to the emperor alone, and through its vast and unprecedented proportions empire-wide served as an alternative channel of control both in Rome and the provinces.¹ By gradually subsuming functions of the traditional magistracies, this imperialised state-administration superceded the Republican administrative structure in importance since valuable data pertaining to all aspects of government came to be channelled to the imperial headquarters. The rise of the imperial freedmen officia is directly related to this, and had negative implications for the senate in that the Republican status-structure in the exercise of government was modified to incorporate power-holders from outside its circle, as senators, always the potential rivals of the emperor, were bypassed in important spheres of administration.² The bureaucratic accountability of the imperial agents, evidenced in their extensive correspondence with the emperor, had profound implications for the political structure of the Principate. As conferment of office became the currency of imperial patronage to the upper-classes,³ senatorial aspirants of imperial favour were harnessed to serve in the imperial service. By the beginning of the second century A.D. the inherent absolutism of the Principate had materialised sufficiently for imperial bureaucratic practices to be extended to the traditional Republican office-holders, exemplified in the issue of imperial mandata to governors of senatorial prov-

1 K. Hopkins, Death and Renewal, p.176.
 2 K. Hopkins, Death and Renewal, p. 176.
 3 F. Millar, ERW, p.341.

inces. Provincial administration was a major sphere of Roman government and with the disappearance of the distinction between imperial and senatorial provinces, all key areas of government came now under direct imperial supervision.

In these ways the emperor's power in government came to rest not only also on a political but on an administrative basis. Control of administrative records relating to senatorial business, finance, justice, and provincial affairs, through the infiltration of the imperial civil service into all aspects of government, promoted the materialisation of the monarchic potential of the princeps' position, and served eventually to re-direct the traditional magistracies' focus of responsibility from the senate to the emperor. In the transition from the Republic to the Principate, a distinct change in the nature and function of records of state-business is discernible and centred on the exercise of accountability. In the Late Republic the accountability of the senate to the Populus, however unwilling, implied its recognition of the Populus as the repository of the sovereignty of the state. During the Imperial era, the princeps' interest in and eventual control of political and financial data led to the operation of a new politics behind the keeping of public records. Restricted access to, and in some instances the total suppression of, public records indicates their political value to the emperor and his vested interest in their supervision. It signified, in effect, the state's accountability to the emperor as imperial supervision of administrative business hardened from a privilege into a convention. As such, the transition from Republican government to Imperial government was complete.

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