

THE AUGUSTAN PRINCIPATE

IN THEORY AND PRACTICE DURING
THE JULIO-CLAUDIAN PERIOD

BY

MASON HAMMOND, B.LITT.



*In consulatu sexto et septimo, postquam bella ciuilia
exstinxeram per consensum uniuersorum potitus rerum
omnium, rem publicam ex mea potestate in Senatus
Populique Romani arbitrium transtuli,*

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THE AUGUSTAN PRINCIPATE

I

INTRODUCTION

AUGUSTUS, for the part which he played in founding the Roman Empire, will always challenge the interest of historians. Like Janus at the parting of the ways, he is two-faced in more than one sense. His character affords the psychologist the problem of reconciling the selfish youngster who could sacrifice a Cicero to his own advancement with the ruler whose public services gained him not only the titles of Father of his Country, Savior, and almost God but, more significant, the esteem and affection of the civilized world. The moralist must adapt the errant lover whose peccadilloes, false or true, figure in the gossip of Suetonius to the devoted husband, stern parent, and censorial Prince who instigated perhaps the most stringent effort to regulate ethics by law that any civilized nation has witnessed. And the historian must determine how far Augustus sincerely sought to restore the Republic and how far he purposely became the Autocrat of the Empire; whether he inherited the monarchical mantle of his uncle, the Deified Julius, or wished merely to be the servant extraordinary of the Senate and the Roman People.

Despite, however, the paramount importance of this enigmatic actor in life's comedy,¹ an attempt to cast further light on him or his work demands considerable justification. This becomes particularly true when the

discussion deals with the constitutional aspects of the subject. There, at once, the towering figure of Mommsen straddles the path with so wide and thorough a knowledge of the materials and so able a presentation of his theories that it seems almost hopeless to add anything to his work or to alter it in any way. Nevertheless, Mommsen had strong prejudices and predilections, one of which was a too great affection for constitutional theory. In the desire to fit all the facts into a system he drew distinctions too finely and elaborated theories unnecessarily beyond the evidence. His basic concept of the Roman state under Augustus was a Dyarchy (or better, with Gardthausen,² a Diarchy) in which the government had two heads, the Emperor,³ who derived his authority from the army and represented the subjects as a whole, and the Senate, which stood for the Roman state, the *Senatus Populusque Romanus*, that had conquered the world.⁴ Such a delicate balance between two coördinate authorities would in practice result almost immediately in the preponderance of one or the other, as Mommsen himself recognized and as actually happened. But it hardly appears likely that the Romans, with their strong insistence upon the unity of authority and power however many its holders, or Augustus, who was above all a practical politician with a clear insight into the needs of the situation, would have consented to or contrived so abstract and unstable a government. The following chapters, therefore, will attempt to maintain, against Mommsen, that in the Augustan Principate there was a single final authority and that this was not the Emperor but the *Senatus*

Populusque Romanus; that, in short, Augustus was sincere in his claim that he had restored the Republic.⁵ In the course of the discussion, it will naturally be necessary to animadvert also on other more recent theories, as those of Rostovtzeff on the "Military Tyranny of the Julio-Claudians"⁶ and McFayden on the *imperium*.⁷

The primary difficulty in studying the Roman Constitution is that there was really no such thing, no written instrument of government such as forms the basis of many modern states. Like the kingdom of Great Britain, the Roman state was ruled in accordance with precedent and separate legislative enactments, no one of which had any necessary preëminence or permanence. It cannot, therefore, be said that the Constitution was thus and so, but only that at some given time the evidence of law and practice implies that such and such a theory guided those who were responsible for the government. Then too, so amorphous a government changes its character, like a living organism, far more readily than one whose growth has been delimited and directed by a prescribed formula. The constitutional arrangements made by Augustus, for all his claims, were not truly those of the Republic as Cicero had known it, any more than the Ciceronian Republic resembled that of the second century B.C. Nor, in turn, did the principate remain static under the successors of Augustus. On the one hand, altered opinions introduced innovations and on the other, existing institutions were regarded in a new light.

Thus it becomes essential to distinguish carefully between theory and practice and also between authority

and function. With regard to the first pair, it must be premised that the conclusions as to the theory are largely derived from a study of the practice. Nevertheless, it will appear from an analysis of the contradictions and changes in practice that the theoretical supremacy of the Senate, as Augustus envisaged it, succumbed to the practical effectiveness of the Emperor. In separating authority from function, it will be shown that, whereas the ultimate authority was solely vested in the Senate, yet the division of the functions of government between the Senate, acting directly for the Roman People, and the Emperor, acting as the agent of the Senate, soon led to the predominance of the latter.

The treatment must, therefore, begin with the origins, source, and composition of the imperial power. Then, the part played by the Emperor, the Senate, and the People in the various branches of the legislative, judicial, and administrative functions can be taken up in so far as they cast light on the theory behind them. The material for such a study cannot be fresh or original, since the Augustan period has been thoroughly worked over by generations of keen-eyed scholars. It derives chiefly from the literary sources because in these the facts are presented by writers who viewed them in the light of some idea of a theoretical and constitutional background. But this idea must be accepted only with such reservations as the age and prejudices of the author suggest. Secondarily, the inscriptions and other non-literary sources afford the dry facts with no subordination of unimportant to important, no coloring or comment. In respect to the individual authorities, nothing need be

added to what may be found in any modern discussion of them, except that Dio has received more credit than many critics would allow him.⁸ If as a historian he falls below Tacitus in vigor and accuracy, yet often for that very reason his views have less biased his presentation of the events and figures.

The extent of the indebtedness of this work to others previously published can be judged more readily from the notes than from any detailed acknowledgment, and even then there will certainly be much which has escaped notice. But as great, if not greater, thanks are due to the many teachers and friends who have contributed by lectures or by conversation to the formation of the views herein advocated — the credit is theirs and the faults lie with the author.

II

THE DEVELOPMENT OF EXTRAORDINARY COMMANDS

WHEREAS the Greeks never separated the office of a magistrate from the power which it conferred, the Romans early came to conceive of the occupant, the office, and the power implied therein as distinct entities capable of independent existence. Particularly, even from the earliest period, the word *imperium* stood for the sovereign power quite apart from the person, persons, or even people who exercised it. It was regarded as continuous and indivisible, no matter how many individuals held it coördinately (but each in its plenitude) or how often they succeeded one another. Hence, although either the increase of public business or the fear of a new kingship caused the liberators to divide the supreme magistracy at first between two and then between more annual tenants, until finally three, two consuls and a praetor, became the regular number, yet each of these wielded a full *imperium*. On the other hand, the lesser officials, censors, aediles, quaestors, and later tribunes, had no part in the *imperium* but a different and inferior *potestas*.¹ Moreover, when, in time of need, the supreme *imperium* was vested in a single dictator, the temporal limit of tenure, which was imposed on him also, did not in any way restrict the un-

fettered exercise of the power during his magistracy. Under normal circumstances, the safeguard against tyranny lay not, as in Greece, in a subdivision of power but in the mutual impotence which would result from a conflict of the equal *imperia*. Where such caution was unnecessary or a unified command seemed desirable, the single office survived.²

The full *imperium* included complete executive and judicial competence at home and abroad. At first the exercise of it was limited only in time, but practical considerations soon necessitated a division of function and of the three original generals, indiscriminately called at first praetors (that is, "leaders") or *iudices*,³ one became separated by the middle of the fourth century as the praetor par excellence. Despite his title, he actually acted, thanks to the political circumstances of his demarcation, as a judicial officer.⁴ Already in the fifth century the original magistrates had come to be entitled *consules*.⁵ After the split of function came a separation of territory into *domi* and *militiae*.⁶ But at least until the time of Sulla,⁷ while as a rule pro-magistrates had replaced magistrates for the sphere of *militia*, the holders of a magisterial *imperium* might, and frequently did, act in either sphere. Even after Sulla there occurred at least one probable instance when consuls took the field during their term of office. In 74 B.C., Lucullus went to Cilicia and Cotta to Bithynia.⁸ Cicero, moreover, asserts that the consuls might legally enter any province.⁹ When both were in the field with a single army, the command alternated daily.¹⁰ But as the widening circle of operations made separate commands the rule,

the concept of *prouvinciae* arose and created a *de facto* territorial limitation of competence to that province which had been allotted to the magistrate by the Senate.¹¹ Presently, however, there came to be more *prouvinciae militiae* than there were magistrates. Moreover, domestic duties tended to keep the magistrates in Rome or Italy, while distance or military needs made it sometimes difficult to change an overseas commander annually.¹² These conditions fostered the development of the "pro-magistracy."

Since the power had become separated from the office, it could be granted to an individual without the office. This was at first an emergency measure, as when, in 327 B.C., the consul Q. Publilius Philo was continued in the command against Naples beyond his term by vote of the people.¹³ An increase in the number of praetors provided for the new provinces when created. The two Spains, however, because of their remoteness, were usually held for two years by praetors with a proconsular *imperium*.¹⁴ And the use of the praetors by Sulla for his new *quaestiones* left none of them free for provincial commands and aided that separation of urban and provincial offices which became thereafter the usual if not the legal rule.¹⁵

Mommsen distinguishes a technical from a non-technical use of the term "pro-magistracy."¹⁶ In the first place, since *pro* had the meaning "in virtue of the office or *imperium*,"¹⁷ it was narrowly taken to signify "he who is in the place of the magistrate," not so much as a substitute as one who, though not a magistrate, acts with equal authority and validity.¹⁸ In this, the

most technical sense, pro-magistrates are those who, without holding the actual office, are legally authorized through a prorogation or delegation of function to perform the duties of a magistrate. When an elected magistrate continued in the exercise of his functions after the expiry of his term and outside the City, his command was said to have been prorogued, and he acted *pro magistratu*.¹⁹ When an elected magistrate appointed for his extra-urban duties a representative, the latter, because he did not function in virtue of a vote of the people, acted likewise *pro magistratu*.²⁰ Also, a citizen who occupied a command suddenly left vacant by accident acted *pro magistratu*.

Later than these precise uses, however, the term pro-magistracy came to be applied less exactly to a public office bestowed by the people but not including the City within the limits of its function. This was a natural application of the term since, by the time that it arose, the older provincial pro-magistracy had been confined to the sphere *militiae* and its exercise in the City forbidden, if for no other reason, to prevent conflicts with the regular consular and praetorian *imperia*. Nevertheless, that the pro-magisterial *imperium* remained fundamentally as unlimited as that of the magistrates is shown by the permission granted to victorious generals to retain their *imperia* on crossing the *pomoerium* for the day of their triumph.²¹ But the pro-magistracy was never used in the City to supplement the magistracy.²² Even when all the magistrates were absent for the *Feriae Latinae*, a *praefectus urbi*, not a *pro-consul*, was appointed.²³ This can perhaps be explained on the

ground that only on that one occasion, which arose long before the concept of pro-magistracy, were all the magistrates likely to be absent at once. It was, moreover, characteristic of the pro-magistracy, as distinct from auxiliary representation, that, since it bestowed upon its holder the full power of the corresponding office, it could only be employed if, in a legal sense, the post to which it was applied was vacant, that is, if the occupant had overpassed the temporal limits of his competence so that he had to have his command prorogued or if he had ceased to occupy it so that a substitute was necessary.²⁴ Thus there would be no occasion to create pro-magistrates for the increase of business at Rome, since there magistrates could always be elected. Rather, the domestic situation was cared for by the creation of new offices. Hence it was only by analogy that the special commands conferred by the direct grant of the People were called pro-magistracies.

The limitations of a pro-magistracy compared with a magistracy derive from the extra-urban sphere of its competence. A pro-magistrate retained his *imperium* within the *pomoerium* only if the Senate voted him a triumph. He had no *ius agendi cum populo* or *ius referendi senatui*, although he could address an assembly held without the walls if the regular magistrate who had summoned it allowed him to do so.²⁵ In the field he had the power of *coercitio* or punishment;²⁶ he could, as a general, remedy the lack of elected magistrates by nominating pro-magistrates,²⁷ and he could execute citizens without being liable to *prouocatio* or appeal to the people.²⁸ He had the right to levy troops and call out

the militia, to wage but not to declare war, to make treaties at his own risk,²⁹ to control the military chest, to be saluted as *imperator* for his victories, and to claim a triumph.³⁰ Unless, however, he had a special grant from the Senate, he was inferior to a magistrate,³¹ though the Romans sought to avoid situations wherein a conflict might occur. A pro-magistrate created by prorogation could delegate his *imperium*, as did Cicero in Cilicia, but his delegate could neither delegate his command to another nor triumph in virtue of it.³² Finally, since the pro-magistrate had no colleagues in his province, he was free from any interference save that of a superior *imperium*. Mommsen calls these the prerogatives of an *imperium militare* as against an *imperium militiae*, but the distinction seems rather too fine.³³

Of the three types of pro-magistracy, the first, wherein an *imperium* was continued after the expiry of the office, often occurred automatically through military needs or the absence of a successor. Both this and the second type, in which a magistrate exercised an *imperium* higher than that of his office, might arise either from a general rule, as that provincial governors should continue until their successors arrived or that the praetors in Spain should have the *imperium* of a consul, or from a decree of the Senate, or, exceptionally, from a law of the People, as in the case of special commands. Normally the provincial posts were limited in tenure to a year and the extraordinary commands were for short stated periods, but in times of emergency, as during the Second Punic War or the Numantine War or the troubles of the first century B.C., these rules were not observed.

The deciding factor in the change of the pro-magistracy from a means of supplying the lack of a regular magistrate into a separate office was taken when Pompey had both Senate and People in 52 B.C. establish a five-year interval between the tenure of a post in the City and one in the provinces.³⁴ While the urban magistracies remained a qualification for a provincial command, they were no longer essentially related. Augustus made this change a permanent feature of his government and thus for all practical purposes the pro-magistracy ceased to be a prorogued magistracy.³⁵ In the imperial provinces, also, the pro-magistracy created by a vacancy no longer occurred, since the Emperor was the legal holder of the *imperium* and the governors were only his delegates. In the senatorial provinces, the governors could not leave their provinces³⁶ and were required under the Empire to relieve their predecessors promptly so that vacancies or the lack of a successor were unlikely.³⁷ In imperial times, the terms *pro praetore* and *pro consule* no longer implied the exercise of an *imperium* without the magistracy, but indicated whether or not the governor was under a superior *imperium*. The senatorial governors, whether consular or praetorian in rank, were responsible directly to the Senate and were all denominated *pro consule*, whereas the imperial *legati*, who held a delegated *imperium* and for whom the Emperor was responsible to the Senate, were all *pro praetore*.³⁸

But the true source of the "proconsular" *imperium* of the Emperor was not so much the normal provincial commands as the extraordinary commands which were

called "proconsular" by analogy.³⁹ Scipio the Younger's position in Spain during the Numantine War had all the elements necessary for a tyranny; namely, the bestowal of the *imperium* by the People rather than by the Senate, the standing army, which was responsible to him alone, the *cohors praetoria* or private bodyguard, the use of members of his own family in subordinate commands, and the fact that he destroyed Numantia without consulting the Senate. In short, Schulten, in the *Cambridge Ancient History*, concludes: "If he had been bolder or less scrupulous the monarchy might have come from Spain in 133 B.C. instead of from Gaul in 49 B.C., for, when Scipio returned to Rome as her deliverer, no element was lacking but his own resolve to be monarch."⁴⁰ Marius too became virtually a tyrant by reason of the continuous consulships which the People conferred upon him in despite of the Senate. When the Sullan reforms had reestablished the Senate, that body also bestowed special commands on both magistrates and private citizens, for example, Pompey in Spain, Lucullus and Cotta in the East, Crassus against Spartacus. Most important for the later development was the *imperium aequum infinitum* granted to M. Antonius Creticus for his war against the pirates.⁴¹ This carried with it a command over the sea and coasts unlimited in time and equal to the *imperia* of the governors whose provinces it touched. After the democratic reaction in 70 B.C., similar commands were conferred through laws of the People. The *lex Gabinia* of 67 B.C. established a special command against the pirates, indicated Pompey as the holder, allowed him to

raise money himself in addition to that which he received from the quaestors, and permitted him to appoint twenty-five *legati*. Since heretofore the Senate had appointed the *legati* of generals, this last privilege adumbrated the imperial system. In 66 B.C. Pompey further received command of the whole Mithridatic War under the *lex Manilia*. The land commission proposed by Rullus in 63 B.C. and defeated by Cicero would have exercised powers which would have overshadowed those of the ordinary magistrates with whom it might come into conflict. Caesar's command in Gaul was conferred by two laws, the *Vatinia* in 59 B.C. and the *Licinia Pompeia* in 55 B.C., and was confirmed by the Senate. Like Pompey, he could appoint ten *legati pro praetore*, and in addition his term was set at the unusual length of five years. At the same time (55 B.C.) Pompey obtained the Spanish command and Crassus the Syrian. But Pompey again had a special privilege which again foreshadows the Empire: he could govern in absence through his *legati*. And in addition he had already in 57 B.C. been given an *imperium aequum infinitum* to enable him to provide a regular supply of grain for the City.⁴² The *imperium maius* which was then proposed for him, but which was first actually granted to Brutus and Crassus in 43 B.C., would have rendered him superior to the governors with whom he might come in contact.⁴³ His *imperium aequum*, while it did not include the right to consult the People or the Senate, could be retained within the *pomoerium*, though its authority was valid only outside the sacred limits. He even retained this "proconsular" *imperium* when he

became sole consul in 52 B.C.⁴⁴ The dictatorship of Caesar after 49 B.C. was so unconstitutional that it does not properly belong in a discussion of the extraordinary commands as bestowed by the Senate and People, even though various elements in his position were later adopted into the principate.⁴⁵ With Caesar's assassination and the restoration of the Senate, not only did Brutus and Cassius receive their superior commands in the East, but Octavian got from the Senate an *imperium*. Finally the People bestowed on him his consulship, against the wishes of the Senate, and, by the *lex Titia*, erected the *triumviratus rei publicae constituendae*. These developments, however, belong in the story of the rise of Octavian.

The special *imperia* had the following characteristics. They were not, save for that of Pompey in 57 B.C., retained within the *pomoerium*. They bestowed no right of summoning the *comitia* or consulting the Senate. They were neither annual nor necessarily confined to one province, and at the end could even be administered through *legati* appointed by the holder himself. They included the naval command, which had originally been part of the military sphere. Only at the close of the Republic were they made superior to the other pro-magisterial *impeira*. In general, the scope and nature of the commands and usually the holder were indicated in the acts which established them. This, as Mommsen points out,⁴⁶ distinguished them from the absolute dictatorship exercised by Caesar and made them the forerunners of the *imperium proconsulare* exercised by the Emperor. In short, the *imperium* held by Augustus

developed naturally out of the Republican pro-magistracy as extended to the special commands created in the emergencies of the last century of the Republic. It depended upon the concept of a power which could be separated from office and which remained theoretically one and the same whether possessed by the holder of the office or by some one who obtained it independently of the office. Thus there was no essential difference between "consular" and "proconsular" *imperia*, although in practice the former applied *domi* and the latter *militiae*. If, however, the limitations of the latter were dispensed with, as for a *triumphator*, it might easily be called "consular" because exercised not merely *domi* but in its original unbounded scope.

III

THE CAREER OF OCTAVIAN

A BRIEF survey of the rise of the great-nephew of Julius Caesar, named Octavian, to the control of the Roman state and to the awesome title *Augustus*, by which he is familiarly known, forms a necessary preliminary to an appreciation of his constitutional position. When, on the death of Caesar, he returned to Italy to claim his inheritance, he raised, as a mere private citizen, sufficient troops among the veterans of his great-uncle to force the Senate to recognize him.¹ It therefore coöpted him on January second, 43 B.C., *inter quaestorios* for the qualifications for further office and *inter consulares* for his seat and vote.² Furthermore, the *senatus consultum ultimum* passed against Antony joined Octavian to the consuls Hirtius and Pansa with an *imperium pro praetore* in the prosecution of the war.³ He afterwards adopted the date January seventh, on which he assumed the *fasces*, as his *dies accepti imperii*.⁴ The Calendar of Cumae⁵ gives April fifteenth for his first *salutatio* as *imperator* after the victory of Forum Gallorum and August nineteenth, the date which Tacitus called his *dies accepti imperii*, for his election by the People to the consulship, on the deaths of Hirtius and Pansa.⁶ On November twenty-seventh a *lex Titia* created Antony, Lepidus, and Octavian *tresviri rei publicae constituendae* for a period of five years from the following

first of January, namely until January first, 37 B.C.⁷ This unprecedented office — for the “first triumvirate” of Caesar, Pompey, and Crassus was only an informal coalition with no legal recognition — resembled a dictatorship like that of Sulla, *rei publicae constituendae*, put into commission.⁸ When in later life Augustus posed as the restorer of the Republic, he concealed the unconstitutional character of this position as much as possible.⁹

The history of the triumvirate does not bear upon the later development of the imperial power. Nor do the vexed questions of how the command was continued in 37 B.C. and when it was supposed to cease affect the present discussion.¹⁰ Whatever arrangements had been made were all wiped out by the final breach between Octavian and Antony in 32 B.C. Thereafter Octavian, realizing that his strongest stand was that of republicanism in opposition to the despotism of Antony, sought to cover up his illegal past and dropped the title *triumvir*. He was thus left with no legal basis for his *imperium* and had recourse to what he later represented as a universal popular appeal to himself on the part of Italy, or even of all the West, the *coniuratio Italiae*.¹¹ The oath, always repeated upon the accessions and anniversaries of Emperors, appears to have been derived from this *coniuratio*.¹²

After Actium a general reorganization became necessary and the major settlement took place in January, 27 B.C. Augustus, as he then became, himself describes it thus: “In my sixth and seventh consulships, after I had suppressed the civil wars, although I had

possession of everything by universal consent, I transferred the state from my power into the control of the Senate and Roman People.”¹³ Clearly he means that with the surrender of his *de facto* but untitled dictatorship, which he attributed to the *coniuratio*, the Republic as it had existed before Caesar, with the Senate in the primary position and ahead of the People, was reëstablished.¹⁴ Therein lies the central theme of the Augustan Principate — the *Res Publica Restituta*.¹⁵ Whether or not Augustus spoke sincerely, he certainly intended the new order to appear as a continuation of the old and not as an innovation. However admirable modern historians have considered Caesar’s attempt to recast entirely the government and to substitute for the preceding chaos of corruption and inefficiency an orderly monarchy in which provincials and Romans would become equal, the opposition which the Senate had displayed towards him and the hatred which the whole West felt for Antony’s orientalism taught Augustus that the times were not ripe for such a sweeping reform and that he must compromise. How successfully he put the new wine into the old bottles may be judged from the fact that his state, transmuted and undermined in fact, remained operative in theory for over two centuries, and that it took a third century of strife and suffering to prepare the way for universal monarchy. Of this record of what has been called a “makeshift” and “reactionary” compromise many a later government might be envious. And one recent writer bears witness to the sincerity of Augustus in the following words: “[At his death] he had kept the promise made on that opening

day of his principate, to restore the Republic; for the power which he had since exercised was a free gift from the Senate and the Roman People." ¹⁶

Though the various steps by which the settlement of 27 B.C. was reached and the various adjustments made in it thereafter will be discussed more in detail, they may be conveniently reviewed here. During 30 B.C. Octavian was granted an extension of the *tribunicia potestas*, which he apparently had received in some form as early as 36 B.C.¹⁷ Furthermore, on the analogy of the *lex Cassia* passed for Caesar, a *lex Saenia* empowered him to create new patrician families.¹⁸ After his triumph in 29 B.C. he had the official acts of the triumvirs abolished as from the following first of January and thereby removed much of the stain of despotism from his position.¹⁹ But perhaps the most convincing step in the "restoration of the Republic" was the reorganization of the Senate by *lectiones*, of which the most important fell during 28 B.C. By these the Senate was purged of the Caesarian interlopers.²⁰ Octavian himself took the honorary post of *princeps senatus*, although, as will appear later, this was not the source of the term *princeps* used by him of himself.²¹ In the same year he held a census.²² At the beginning of 27 B.C., the Senate honored him for his services by voting him an oak-wreath, the Victoria Cross of Rome, *ob ciues seruatos*.²³ It allowed him to keep laurels perpetually on his door-posts, it ordered a shield inscribed in his honor to be hung in the Julian *Curia*, and, most significant, it voted him a formal and semi-religious title, *Augustus*, by which he has ever since been known. Henceforth, in

theory, the sovereign rights of the popular assemblies in elections and legislations, rights overridden by Caesar and the triumvirs, were restored. The magistrates resumed their ordinary duties and their *imperia* in Rome and the senatorial provinces.²⁴ The Senate, superficially replaced on a republican footing, actually acquired many new functions. In short, however fancifully Dio composed the speeches which he attributes to Agrippa, Maecenas, and Octavian on the occasion when he pictures the new ruler as wishing to lay down his power in 29 B.C., appearances justified him in attributing to Octavian a sincere intention of reviving the senatorial Republic.²⁵

What then did Augustus retain? He held the consulship annually until 23 B.C.; he accepted from the Senate the control for ten years of those provinces which still required the presence of troops under an *imperium* similar to the extraordinary commands of Pompey in Spain, Caesar in Gaul, and Crassus in Syria;²⁶ he controlled foreign relations and the right to make peace or war;²⁷ and he retained the influential *tribunicia potestas*. In 23 B.C., during a serious illness, he rendered to the Senate and magistrates an accounting of his stewardship.²⁸ Upon his recovery, he arranged a final readjustment of his position. He resigned the consulship and held it for only two brief terms thereafter.²⁹ Although by an enactment of 24 B.C. he had been granted dispensation from some at least of the laws,³⁰ he steadily set his face against such unconstitutional offices as the dictatorship, a life censorship, a life or annual consulship, the supervision of the laws and morals, and a

consular *potestas* for life.³¹ He accepted, under the pressure of a famine, the *cura annonae*, which had been forbidden after Caesar's assassination.³² He received a further extension of the *tribunicia potestas*, which thenceforth served to date his regnal years.³³ He kept the prerogative of summoning the Senate and obtained the right to bring before it the first motion at any meeting.³⁴ And probably with the resignation of the consulship his *imperium* was granted in a proconsular form for the retention of his provincial command.³⁵ Kolbe has recently maintained that this grant really marks the transition from Republic to Empire, and that therefore the settlement of 23 B.C. was more fundamental than that of 27 B.C.³⁶ This view depends, however, on the nature of the *imperium*, and that must form the subject of a separate chapter.

IV

THE PROCONSULAR *IMPERIUM*

AFTER 23 B.C., the power of Augustus rested chiefly on a double basis, the *tribunicia potestas* and the *imperium proconsulare*.¹ The latter, while by far the more important, was naturally kept in the background because of its extraordinary character.² Thus there have arisen endless controversies with regard to it. In the first place, the very method of its bestowal remains obscure. When Dio relates the grant of a *maius imperium* in 23 B.C., he states: "Since then both he and the Emperors after him employ the other powers and the tribunician power in virtue of a certain law; for neither Augustus nor any other emperor used the name of tribune."³ This confirms the other evidence for an actual "law" with respect to the tribunician power, but leaves very vague the scope of "the other powers." The jurists of the second and third centuries clearly conceived that all the imperial power was bestowed by a single enactment: for example, "since he by law secures the *imperium*,"⁴ and, "by the royal law which is passed for his *imperium* the People confers to him and upon him all its own *imperium* and *potestas*."⁵ On the other hand, the *Acta* of the Arval Brethren, which note both the decree of the Senate granting the *imperium* and the *comitia tribuniciae potestatis*, neither connect them integrally nor, often, place them on the same day.⁶

This shows fairly definitely that the two grants were distinct and that the latter represented the popular element in the imperial position. But it does not necessarily disprove a formal *lex curiata* confirming the decree of the Senate, such as the jurists recognize.

The surviving enactment on the powers of Vespasian might be expected to settle the point, but unfortunately only the end of this remains, wherein various specific privileges are enumerated.⁷ Hence some have denied that the *imperium* was mentioned in it. Others have supposed that only upon the accession of the Flavians, in consequence of the troubles of 69 A.D. and the elimination of the Julio-Claudians, was a single inclusive act necessary to define more precisely what previously had either been tacitly assumed or only gradually bestowed by separate measures at various times. This document, however, suggests one point. Though in the twenty-ninth line it calls itself a *lex rogata* and ends with a *sanctio*, which was the normal close for a law, its phrases are couched in the hortatory form of *ut* with the subjunctive, appropriate to decrees of the Senate, and not in the imperative of a law. This implies that the decree of the Senate had simply been confirmed by the formal *comitia* without even being rewritten, just as later the *orationes* of the Emperors were cited for the decrees of the Senate which they initiated. It would, therefore, be not unnatural for the Arval Brethren to mention a decree rather than the *comitia*, since the former was the important element. But it still remains doubtful whether this particular measure did include the *imperium* at all.

Naturally any theory of the method by which the *imperium* was conferred depends on the view held as to its source. Mommsen maintained that only the tribunician power came from the *comitia* and that the *imperium* ultimately depended upon the acclamations of the army.⁸ But Schulz has shown conclusively that during the Julio-Claudian period — and long afterwards — the army had only a *de facto* influence.⁹ Actually, until the rising of the frontier legions in 69 A.D. only a small force exercised any control, namely the Praetorian Guard, whose presence under arms at the very gates of Rome made them from the reign of Tiberius onwards a most effective threat. Constitutionally, the *imperium* of Augustus began with the grant of 43 B.C. and was renewed at intervals either by laws of the People or at least by decrees of the Senate.¹⁰ As will be shown in discussing the secondary *imperium*,¹¹ Tiberius held his commands during the reign of his stepfather from the Senate, and it was only on the urgent request of the Senate that he assumed the position of Emperor in 14 A.D.¹² Gaius recognized the Senate's authority,¹³ and Claudius was urged by the Senate to receive the office constitutionally from it rather than despotically from the troops.¹⁴ Nero appealed to the soldiers to coerce the Senate,¹⁵ but even he, in his inaugural address, mentioned first, according to Tacitus, the *auctoritas* of the Senate and only secondly the *consensus* of the army.¹⁶ Schulz justly concludes: "Without the Senate, no *imperium*, no consecration, no condemnation. It remained even in the era of the adoptive [that is, second century] Emperors the determining

element.”¹⁷ Therefore, although in practice the Senate followed the dictates of the army, in theory it had, whenever an Emperor died, not only the choice of his successor but even the decision whether there should continue to be an Emperor at all. Though it may well be that the comprehensive grant, of which the *lex de imperio Vespasiani* preserves the conclusion, dates only from that ruler’s accession, yet in the face, first of the republican practice of confirming the *imperia* of magistrates by a *lex curiata*, secondly of the frequency with which Senate and People coöperated in conferring the extraordinary commands, and finally of the mention of a *lex* by the jurists, at a time when the tendency was entirely away from even the forms of popular participation in the government, the probabilities are entirely on the side of some kind of *lex*, however unreal. Though there cannot be any certainty, it is also likely that this *lex* was distinct from that conferring the tribunician power. The separate mention in the *Acta* and the republican distinction between the People who bestowed *imperia* and the *plebs* who elected tribunes favor such a hypothesis.¹⁸

A second controversy has raged over the nature of the *imperium*, whether it was “consular” or “proconsular.”¹⁹ The problem is complicated by the expressions used by the ancient authorities. Dio states that in 19 B.C. Augustus received a special grant of “consular” power.²⁰ The *Monumentum Ancyranum*, Augustus’ own record, speaks of the last two censuses being held *consulari cum imperio*.²¹ Dio, however, is probably inaccurate in his discussion of the powers granted in

19 B.C.²² He has undoubtedly erred later in assuming a special grant of "proconsular" power for the census of 4 A.D. in Italy.²³ And whereas he calls Augustus and Agrippa "censors" for the census of 29 B.C., the *Monumentum* reads: "In my sixth consulship I held a census of the People with my colleague M. Agrippa."²⁴ The *Fasti* of Venusia agree with Dio in stating that "Imperator Caesar in his sixth and M. Agrippa in his second consulship under their *ensoria potestas* closed the *lustrum*."²⁵ This diversity has induced some, like Mommsen, to assume special grants of either "consular" or "censorial" power for these occasions and to assume that the "proconsular" power held after 23 B.C. was more limited than that which Augustus had wielded as consul.²⁶ Actually, there are two questions involved: whether the *imperium* after 23 B.C. differed from that before so that certain functions required special grants, and whether the "proconsular" *imperium* could not be exercised in Italy so that the measures applied there demanded particular authorization. With regard to the former, it will appear later that Augustus performed many acts, largely such as the censuses previously undertook, for which our records mention no special authorization.²⁷ Furthermore, it has already been shown that down to a late republican date, the *imperia* of consuls and proconsuls were considered in essence the same and were only in practice delimited.²⁸ Moreover, under the Republic the consuls had frequently to perform the functions of the censors.²⁹ Hence it is best to accept the *Monumentum* against Dio and the *Fasti* and to assume that for the first census Augustus accepted the view

that in the absence of censors any magistrate with *imperium* could perform their duties.³⁰ In the later censuses he probably felt that though not consul any longer, he was usurping tasks technically theirs in virtue of a decree of the Senate.³¹ It is not necessary to imagine two sorts of *imperia*, one consular until 23 B.C. and one proconsular thereafter, but only the same *imperium* exercised as consul and then *pro consule*.

Nevertheless, the evidence strongly suggests that after 23 B.C. there was a considerable limitation of the power of Augustus in Rome, if not in Italy. In the first place, it is *a priori* unlikely that in restoring the Republic he would create a power which would nullify that of the republican magistrates and enable the Emperor to intrude at will in their sphere. He himself boasted: "I excelled all in 'authority,' but as to power I had no more than those who were my colleagues in each magistracy."³² When Augustus found it necessary to interfere in the affairs of the regular magistrates, he undoubtedly did so in virtue of a request from the Senate which may have empowered him to act *consulari cum imperio*, not in order to distinguish that *imperium* from his "proconsular" *imperium* but because customarily a "proconsular" *imperium* did not apply within the City.³³ Again, when Dio speaks of a grant of "consular" power for life, he probably refers to the special consular privileges, as the lictors and the seat between the consuls, which Augustus received, and not to an *imperium* distinct from the proconsular.³⁴ That, however, Augustus should need such privileges suggests that, since his *imperium* did not apply in Rome, he wished in outward

dignity to appear equal to the consuls. This is confirmed by Dio's statement that in 23 B.C. "the Senate permitted Augustus to hold once for all and for life the office of proconsul, so that he had neither to lay it down upon entering the *pomoerium* nor to have it renewed again, and they gave him in the subject territory authority superior to that of the governor in each province."³⁵ He obviously means that the exceptional element in the *imperium* was its retention after crossing the *pomoerium*, for which Pompey's privilege in 57-55 B.C. afforded a precedent,³⁶ and not its application within the walls. Two points, however, have been brought against this interpretation. First, Dio himself speaks elsewhere of the power of the Emperor to execute knights and senators within the *pomoerium*, an exercise of the *ius gladii* which would demand a military *imperium*.³⁷ This may, however, be explained either as a special dispensation, perhaps applicable to imperial agents, or more probably, with Gardthausen, as an anachronism which Augustus neither claimed in theory nor employed in practice.³⁸ The second objection derives from two statements, one in the life of Marcus Aurelius, that from Pius he received an *imperium extra urbem proconsulare*,³⁹ and another in the *Annals*, that Nero received in 51 A.D. a similar proconsular *imperium extra urbem* valid until he should hold the consulship at the age of twenty.⁴⁰ The former might be dismissed as applicable only to the second century, when undoubtedly the Emperor himself exercised his *imperium* wherever he pleased, and that of his heir was perhaps limited to the provinces. But the latter is not so easy to disre-

gard. If the *imperium* of the Emperor under the Julio-Claudians applied only without the City, then Nero was made equal to Claudius save that he did not receive the tribunician power. This view is possible, since Claudius was unduly generous to Nero and, after all, the tribunician power formed the external, if not the real, sign of power. Or perhaps *extra urbem* means that he held it only without the walls and not, like the Emperor, within. Or possibly by the reign of Claudius the *imperium* had come to be exercised within the *pomoerium*. At all events, without more conclusive evidence for the reign of Augustus it is safest to assume that the *imperium*, though retained in the City, applied only without it, and that the measures taken by Augustus in Rome and even in Italy are to be explained either by the exercise of some other power, as the tribunician, or by special requests of the Senate or by the use of the ordinary magistrates and republican machinery.⁴¹

But the passage which has been quoted from Dio about the grant of the office of proconsul raises further questions with regard to the length of tenure and its relation to other proconsular *imperia*. A doubtful inscription and the writer Florus support Dio by calling Augustus *imperator perpetuus*.⁴² Yet Dio himself says that in 27 B.C. the provinces were conferred for ten years only, under a limited command like those of the "first triumvirate."⁴³ He mentions, moreover, renewals for five years in 18 B.C. and 13 B.C. and three successive renewals, each for ten years, in 8 B.C. and 3 and 14 A.D.⁴⁴ Mommsen therefore attempted the following compromise:⁴⁵ the *imperium perpetuum* was distinct

from the supervision of the provinces for a definite period and is betokened by the *praenomen imperatoris* which Augustus inherited from Caesar. Dio confused them, as in practice they were confused.⁴⁶ But, he concludes, "the proconsular *imperium* in virtue of which the Emperor took the administration of isolated provinces, in the same way as ex-consuls or ex-praetors received their provincial commands, is different from his proconsular power based on his exclusive high command. This latter necessarily covered the whole Empire and was necessarily life-long; the other was really in fact bound to the imperial power, but on one side it was limited to a part of the Empire, and on the other it was at first assumed by Augustus, if not conformably to what had been the rule for the proconsulate, namely, the principle of annality, at least with a fixed term."⁴⁷ This explanation sounds over-ingenious. Although the Romans might bestow a power without an office, they did not separate it from a sphere of function,⁴⁸ and it is most unlikely that either the Senate would have offered or Augustus accepted a vague general *imperium* with no specific application. If it has been justly maintained that Augustus, regarding the Senate as the supreme authority and the consuls as the chief magistrates in Italy, avoided any conflict with them except upon special request and dispensation, it requires more explicit proof than Dio's casual statement, inconsistent with his own account, to support so unusual and unnecessary a separation of competency from function and so autocratic a control over the whole state as Mommsen's general *imperium*. The history of the title *im-*

perator demands separate treatment in accordance with McFayden's discussion,⁴⁹ but the conclusions may be anticipated here. The *praenomen imperatoris*, which originally did denote the supreme military command and later came, especially in the provinces, to designate the holder of the imperial power, never suggested the proconsular *imperium* and became, after 27 B.C., a honorific title like *Felix* or *Magnus*.⁵⁰ Until the time of Trajan, who first employed *proconsul* as an imperial title, and then only in the provinces, the *imperium* left no mark on the titulary.⁵¹ This accords with Augustus' concealment of the military and extraordinary aspects of his position. Furthermore, although Tiberius took the *imperium* for life upon his accession and thereby unwisely, although probably unintentionally, emphasized its autocratic character, nevertheless celebrations were still held every ten years to commemorate its bestowal and to leave the Senate at least a faint reminder that originally the Emperor was its creature.⁵² Augustus had kept this idea more vividly before the Senate by offering it from time to time the opportunity to discontinue his power. Part of his successor's unpopularity arose from the slights which his tactless brusqueness placed upon the Senate's pride and which made it feel ever more keenly its subordinate rôle; and the reduction of the senatorial renewal of the *imperium* to a mere shadow was certainly one such slight.

Finally, what was the relation of the Emperor to other holders of independent *imperia*? If it was justly contended that the proconsular *imperium*, though retained, did not apply within the *pomoerium*, the Em-

peror had no control over the existing magistrates save, as will be set forth later,⁵³ in virtue of the tribunician power. On the other hand, he alone had an independent *imperium* in those provinces which the state had entrusted to his care, and the *legati* who governed for him had only a delegated command. Under the Empire, the terms *pro praetore* and *pro consule* came, as has been said, to mean not governorships held by ex-praetors or ex-consuls but *imperia* held subordinately or independently. The proconsular commands were those bestowed by the Senate, whether upon consulars or praetorians, and included that of the Emperor; the propraeorian were those derived by delegation from an absent proconsular *imperium* and, since senatorial governors in fact had to be present in their provinces, they actually were the *imperia* of the imperial legates.⁵⁴ Nevertheless, the *legati* and quaestors attached by the Senate to the senatorial governors came by analogy with the imperial *legati* to be regarded as delegates of their superiors.⁵⁵

Italy and the senatorial provinces present a less simple problem. In Italy it has been suggested that, whatever was the legal character of the imperial power, Augustus refrained from exercising it in competition with the consuls and other republican officers save in virtue of special authorizations of the Senate. This held true, for instance, in the case of the corn supply⁵⁶ and the supervision of the roads⁵⁷ and the institution of special inquiries, as into the status of the Anauni.⁵⁸ The quartering of troops, especially the Praetorian Guard, was perhaps regarded as implied in the retention of the *imperium*, and it is noteworthy that Augustus

kept them scattered through Italy and that even Tiberius, when he gathered them together at Rome, built their camp outside the *pomoerium*.⁵⁹ The growth of the imperial administration of Italy through specially appointed *iuridici* and through the jurisdiction of the praetorian and urban praefects belongs to the developments of the second century.⁶⁰

The *imperium* of the Emperor is commonly held to have been *maius* in relation to that of other senatorial governors.⁶¹ An *imperium maius*, giving its holder the right to issue orders to other holders of *imperia* within the scope of its application, had been proposed by the tribune Messius for Pompey in connection with the grant of the *cura annonae* in 57 B.C. and had actually been granted, under senatorial auspices, to Brutus and Cassius for their eastern commands in 43 B.C.⁶² That the imperial power was likewise *maius* would appear from Dio, who states that the Senate permitted Augustus "to be stronger in the subject territory than the governors in each part."⁶³ Kolbe holds, in fact, that this statement of Dio's, dated among the reforms of 23 B.C., shows that that year, and not 27 B.C., was crucial in the change from Republic to Empire. His thesis, however, depends on the view that Augustus regarded himself as a simple "republican" consul from 27 to 23 B.C. The foregoing discussion has sought to maintain that he regarded the consular *imperium* as fundamentally unlimited and therefore that only with his surrender of the consulship did the problem of the relation of his proconsular *imperium* to other *imperia* arise. At the end of the second century Ulpian said

that "the proconsul has a *maius imperium* in the province over everyone save the prince." ⁶⁴

The *maius imperium*, with territorial limits, was apparently bestowed upon the important subordinates of the Emperor. Agrippa, in Pannonia, "had greater power than the governors in each province outside Italy possessed." ⁶⁵ To Germanicus, on his transfer to the East, "were entrusted by decree of the Senate the provinces beyond the sea and an *imperium*, wherever he went, superior to that of those who by lot or by imperial delegation held office." ⁶⁶ Upon this Furneaux comments: "This appears to have been an extension to the East of the proconsular *imperium* held by Germanicus in the West (*Ann.*, I, 14, 4). It would thus naturally be an *imperium maius* not only over that of *legati pro praetore* but also, as was that of Caesar (*Introd.* VI, p. 81), over that of ordinary proconsuls. Gaius Caesar, whose mission was the most natural precedent to have been followed, is stated (*Zon.*, 10,36, p. 1539c) to have held this rank, and such may also be supposed to have been the position of Agrippa in the 'ten years command' stated (*Joseph.*, *Ant.*, XVI, 3, 3) to have been held by him in the East: also Corbulo subsequently had a power which is compared to that formerly given to Gnaeus Pompey." On the statement of Tacitus that the *imperium* of Corbulo was *maius* like that of Pompey, ⁶⁷ Furneaux, however, notes: "But Mommsen (*Mom.*, II, 1, p. 655, n. 1 [IV, 370, n. 5]) points out that the parallel is inexact as under this law [the *lex Gabinia* of 67 B.C.] the power of Pompey was only *imperium aequum in omnibus prouinciis cum proconsulibus usque ad quinqua-*

gesimum miliarium a mari (Vell. Pat., II, 31, 1) and that the express *imperium maius* afterwards held by [read "suggested for"] Pompeius (Cic., *ad Att.*, IV, 1, 7) or that of Brutus and Cassius (App., *Bell. Civ.*, IV, 58, Vell. Pat., II, 62, 2) would be a more apt comparison. Corbulo . . . had probably an *imperium proconsulare* in the East like that of Germanicus and others, though his official title, as shown by an inscription later than this date (Dess., 232, cf. Dess., 9108) still continued to be that of *legatus Augusti pro praetore* (Mom., II, 2, p. 853, n. 2 [V, 126, n. 3])." If, therefore, subordinates obtained such *maiora imperia* over limited areas, their superior ought certainly to have had one over the whole Empire.

McFayden has, however, attacked the doctrine of the *imperium maius* and asserted that it was only *aequum*, upon the following grounds:⁶⁸

1. Dio is notoriously liable to error on such points, especially in antedating the views of his own time. McFayden gives six flagrant examples of Dio's inaccuracy on constitutional points.

2. The *imperium maius* was unnecessary. Augustus was more powerful through the undefined deference which all paid to him than by any specific superiority. It may be, as Gardthausen thinks, that a special *imperium maius* was temporarily granted in 22 B.C.⁶⁹

3. An *imperium maius* is not implied in Strabo⁷⁰ or in Suetonius,⁷¹ who, like Strabo, speaks of a division of power, and it is denied by the *Monumentum*,⁷² in which Augustus asserts that he stood ahead of all others in *auctoritas* but that he possessed no more actual power than his colleagues in each maisgtracy.

4. Dio's account of the trial of Primus shows that then Augustus publicly denied control of the senatorial governors.⁷³

5. The coinage in the senatorial provinces was not in the Emperor's name.

6. The African troops were independent of the Emperor, who did not take the salutations of the proconsuls. In *Ann.*, I, 53, 9, the soldiers who slew Gracchus took their orders from the proconsul.

7. Tiberius forced the Senate to appoint the proconsular commander for the African War, and this commander, not the Emperor, ordered the necessary levies.⁷⁴

8. In various specific instances, imperial interference in senatorial provinces was by means of pressure put upon the Senate or by the Emperor in a private capacity and through his procurators, not the delegates of his *imperium*.

9. Trials before the Emperor on appeal from the senatorial provinces were either informal, as in the instance of Tralles (Suet., *Tib.*, 8), or referred back to the proconsul, as in the inscriptions from Cos and Cnidos.

For these reasons, McFayden concludes that the Emperors only gradually assumed direct control over the senatorial provinces, either in consequence of cases wherein, as in Cyrene under Claudius,⁷⁵ their interference was invoked, or when, as even under Augustus, they had to regulate the affairs of free cities, or, finally, after the proconsuls, through the loss of their independent military power, had become dependent upon the Emperor for the support of force. Nevertheless, thinks

McFayden, although, when Dio wrote, the senatorial provinces were thoroughly subservient to the Emperor, yet the Emperor Tacitus, the one senatorial appointee of the third century, recognized that appeal from proconsuls was to the Senate,⁷⁶ and under Diocletian the proconsuls of Asia and Africa, the sole surviving senatorial governors, were still exempt from imperial control as represented by the jurisdiction of the praetorian praefects.⁷⁷

These last two points have, of course, little bearing upon the issue. Apart from the fact that they are conscious antiquarianisms nearly three centuries later than Augustus, the Emperor Tacitus was, after all, only recognizing what Augustus would have acknowledged, that an *imperium maius* did not imply the appellate jurisdiction, which went to the source of the *imperium*, the Senate, but only the right to issue commands. And the freedom of the senatorial proconsuls under Diocletian was probably the last survival of the oft-asserted right of senators to trial by their peers.

Of McFayden's other arguments, those dealing with particular instances of imperial interference must await treatment in a separate discussion of all such cases as can be traced. But those affecting the theory may be disposed of here. It may at once be admitted that the statement of Dio, unsupported by further evidence, would not be conclusive. Nor would Ulpian, in the second century, suffice to establish a point of Augustan theory. Nevertheless, the burden of proof lies with those who would deny these statements. Whether or not a *maius imperium* was unnecessary would be diffi-

cult to determine. But the Cyrene Edicts, which will be discussed later,⁷⁸ certainly suggest that Augustus found an emergency there which justified his interference in a senatorial province. And it may be supposed that military emergencies would necessitate requesting levies of troops from senatorial governors. The lack of definite evidence may probably be traced both to the inadequacy of the sources and to the Emperor's unwillingness to interfere save when the occasion demanded. Neither Strabo nor Suetonius speaks with sufficient exactitude to be adduced on either side. A more pertinent statement was made by Nero on his accession.⁷⁹ He then promised that the Senate would have its ancient functions, that Italy and the public provinces would make their appeals to the tribunals of the consuls, who would bring them before the Senate, and that he would confine his attentions to the armies entrusted to his care. While this speech is most important for its assertion of the Augustan principles against the monarchical tendencies which had developed during the rule of Claudius, it nevertheless does not disprove a *maius imperium*. It cannot be too frequently reiterated that the *maius imperium* did not reduce the other *imperia* to dependency upon it in the way that the imperial legates were subordinated to the Emperor; it merely meant that in case of conflict the holder of the superior power should have his way and not be blocked, as would happen if two equal *imperia* met and nullified each other, and that in an emergency he could issue commands binding upon the senatorial governors. Undoubtedly by custom, if not by enactment, such demands were

limited to matters bearing directly on the proper discharge of purely imperial functions or requiring attention, as in the Cyrene Edicts, before the Senate could deal with them.

Hardy rightly limits the remark in the *Monumentum* to colleagues of Augustus in the actual urban magistracies.⁸⁰ Fellow proconsuls were not colleagues because the proconsulate was not a magistracy or office but a power given to several persons, originally under delimitations aimed to prevent conflict.⁸¹ When, in the last years of the Republic, the creation of extraordinary commands overstepping the territorial limits of the old *prouinciae* led to quarrels and jealousies which frequently prevented the effective prosecution of wars, the concept of a *maius imperium*, giving the person who had the major task the right of way but not an absolute or dictatorial power, must have seemed a natural and safe escape from a dangerous impasse.⁸² McFayden's next argument, from the trial of Primus, applies equally well against him. Primus, in alleging that he acted "with the approval of" Augustus and Marcellus, must have expected his defense to sound plausible.⁸³ Augustus' denial of inspiration in this instance neither shows that he never made such suggestions, for he certainly did so with regard to the affair of Cos,⁸⁴ nor affects at all the right to issue orders to proconsuls. The relation of the Emperor and the Senate to the coinage must be dealt with later, but here again McFayden misjudges the nature of a *maius imperium* if he regards it as entirely superseding the exercise of the normal *imperia*.⁸⁵ The same remark applies to the troops in senatorial

provinces. These are commonly regarded as having been lent to the proconsul, but once he had them, since his *imperium* was not delegated, he was fully responsible for their activities under his command and could take unto himself the salutations for their victories.⁸⁶ Even so, if Tacitus is to be taken literally, Dolabella, proconsul of Africa, at first, "fearing the commands of the prince more than the uncertainties of war," sent back the Ninth Legion when so ordered by Tiberius and thus acknowledged the commands of a superior *imperium*.⁸⁷ On the other hand, even imperial commanders might defy the Emperor, as did Gaetulicus, imperial legate of Upper Germany, after the fall of Sejanus.⁸⁸ McFayden's further arguments may be deferred to the chapter on the practical relations between the Emperor and the senatorial provinces. Enough has been said to show that an *imperium maius* did not imply the surrender of independence on the part of other *imperia*, but only their subordination in those special emergencies which forced the Emperor to intrude into their spheres. Such an *imperium*, therefore, is not inconsistent with the general arguments which McFayden produces.

On the theoretical side, therefore, the proconsular *imperium* received by Augustus in 23 B.C. was bestowed by the Senate and People through a decree probably followed by a formal law. Since in essence all *imperia* were the same, this *imperium* could be denominated "consular" or "censorial" if exercised in fields properly appertaining to consuls or censors but entrusted to the Emperor by special enactments. But, since Augustus no longer occupied the consulship, his *imperium* was

normally subject to the extramural limitation of the republican proconsular commands with the exception that it could be retained within the *pomoerium*. In practice, Augustus undoubtedly refrained from exercising it even in Italy lest he conflict with the republican magistrates. Clearly the *imperium* was closely connected with the grant of the group of provinces to which it primarily applied and was therefore not perpetual but renewed from time to time along with the grant of the provinces themselves. And it was superior to that of other proconsuls in any cases of conflict, so that upon occasion the Emperor could issue decrees through all the provinces.⁸⁹

Despite Augustus' desires to link himself with the past, the settlement of 23 B.C. marks an important advance in Roman constitutional history. In practice, the high command was finally separated from the civil government. Although in theory the *imperium* of all holders was one and the same, both civil and military, in fact the Senate and the magistrates were confined to the peaceful areas and lost control of the army. In practice, to facilitate his military functions, the Emperor had to administer vast areas, but he was primarily the commander-in-chief of the state and responsible to the Senate and People for the defense and expansion of the Empire. The subordination of the military to the civil had been envisaged by Plato and has become a basic tenet of modern politics. Governments no longer exist to organize their members for defense or conquest; they are created to enable men to live peaceably together. Therefore the judicial and administrative func-

tions have superseded the military and police activities. Augustus aimed at the same end. The Republic had taught the dangers of allowing any holder of an *imperium* to wield the sword. In seeking to avoid this risk by concentrating the effective force of the state under one commander, Augustus left the Senate and People with no defense should their servant turn against them the arms which they had entrusted to him. His arrangement could succeed only if the Senate, representing the state, had sufficient character to assert its supremacy and if the Emperor had enough public spirit to serve the state rather than his own interests. It will be shown in a later chapter that with some exceptions this doctrine and this spirit guided the Julio-Claudians and that the failure of Augustus' program should be laid largely at the door of the Senate.⁹⁰

The functions which the *imperium* comprehended may now be summarized.⁹¹ Chiefly, of course, it bestowed the command of all troops, of the fleet, and of the special cohorts in Rome. With the frontier line of defense went those provinces in which the troops had their posts, except Africa. Only under Gaius did the proconsul of Africa lose the command of his forces. A new imperial legate, of Numidia, received this command but, like the early governors of the Germanies, he controlled at first no actual territory. Numidia only later became a true province.⁹² Small detachments of troops remained in other senatorial provinces, notably Baetica, to ward off Moorish pirates.⁹³ Strabo describes the Emperor's share as "the barbarian part, or that bordering on unsubdued tribes, or what, being rough and unculti-

vated, was liable to revolt because it lacked material wealth and was easy of defense.”⁹⁴ Mommsen maintained that the “property” of these provinces was vested in the Emperor, whereas that of the senatorial provinces remained with the Senate and People.⁹⁵ This, however, seems extremely unlikely under Augustus, save perhaps for Egypt. It is usually stated that Egypt became part of the imperial estates and that the Emperor succeeded to the absolute ownership and divine overlordship of the Pharaohs and Ptolemies.⁹⁶ But Augustus himself claimed to have added it “to the Empire of the Roman People,” and Mitteis and Wilcken point out that the existence of “public” land, as well as the wide extension of private holdings, indicates that under the early Empire Egypt may have been regarded simply as a province demanding special treatment and containing unusually extensive imperial holdings.⁹⁷ In the other provinces the Emperor does seem to have disposed of the public land as one means of satisfying veterans by founding colonies or by settling them on farms.⁹⁸ It is probable that he could also command levies or recruiting for the army throughout the Empire, but under Augustus the legions were recruited largely in Italy and such emergency levies as occurred were held in the senatorial provinces by the proconsuls.⁹⁹ But there survive allusions to provincial censuses for military purposes or taxation or jury service, which the Emperor seems to have organized.¹⁰⁰ The question of how far the *fiscus*, the military chest held by the Emperor in virtue of the *imperium*, could draw taxes from the senatorial provinces has been much debated. In

view of the heavy expenses borne by the *fiscus* and the constant impoverishment of the senatorial *aerarium*, despite the wealth of the senatorial provinces, it is extremely probable that the former collected various indirect taxes throughout the Empire. This conclusion receives support from the presence of imperial procurators in senatorial provinces and from some allusions to imperial remissions of taxes to senatorial provinces.¹⁰¹ The high command also carried with it the right to make war and peace and the oversight of free cities (probably), of client princes, and of foreign princes. In these matters, however, the Senate was frequently permitted to participate and the early Emperors reported to it upon them.¹⁰² Coinage had under the later Republic been a prerogative of generals in the field, and the compromise reached between Augustus and the Senate with regard to it will be treated later.¹⁰³ The relation of the imperial legislation and jurisdiction to the *imperium* must also be deferred until those topics are reached, but certainly the *imperium* did give the right of jurisdiction in the imperial provinces and of issuing edicts both for them and at times for those of the Senate as well.¹⁰⁴ In short, the *imperium* included complete civil and military supremacy throughout the territories subject to it and certain rights in the spheres of other non-magisterial *imperia*. But it is unlikely that it extended to Rome and Italy, the preserve of the regular magistrates, without special enactment.

THE USES OF THE TITLE *IMPERATOR*

IN THE course of the last chapter, exception was taken to Mommsen's assertion that the *praenomen imperatoris* designated the holder of an undefined *imperium perpetuum*. It was there shown that the evidences for such an *imperium* are entirely inadequate to contradict the general probability that the only *imperium* was that granted for a definite period and definite territory. This conclusion will receive added support if it can be proved that Augustus used the *praenomen* not to designate his military power but as a sort of hereditary distinction to set him above lesser *imperatores*. This interpretation of the title has been advocated by McFayden against Mommsen.¹ Mommsen originally accepted Dio's statement that the title was granted to Caesar as a hereditary *praenomen* in 45 B.C. and held that it was assumed by Augustus as such.² Suetonius, though he mentions the grant,³ does not make it hereditary, and the other authorities for the period, like Appian, Plutarch, and Cicero, do not mention even the grant. McFayden therefore set aside both Dio and Suetonius and, pointing out that the use of the *praenomen* in a hereditary and military sense would only emphasize the autocratic aspect of the government, which Augustus sought to hide, maintained that Caesar

employed *imperator* only in the republican fashion as a *cognomen* resulting from a *salutatio* after a victory, but that, as had become common, he did not always add a number to it nor did he drop it on entering Rome for his triumph in 44 B.C.⁴ If the two passages in Dio be examined, it will appear that he does not connect Caesar's use of the title with the control of the troops and cash, and that, though he makes the grant to Caesar one which will descend to his children, he does not say that Augustus took it in virtue of this grant. The second passage, from the end of the speech of Maecenas, merely suggests that, if the Emperor needs any special distinction, the Senate will bestow upon him as upon his predecessor the *praenomen imperatoris*.⁵

The history of the *praenomen* was, therefore, somewhat as follows. Under the later Republic, commanders who had been saluted after a victory by their soldiers or, occasionally, by the Senate, used *imperator* after their names until their triumphs, when they dropped it.⁶ Sometimes, however, if they received a second or third salutation they indicated this by a number, sometimes not.⁷ Pompey seems to have retained *imperator* after his name at least until 52 B.C.⁸ Moreover, the title was commonly kept on coinage. Although in Rome a magistrate could not put his own image or superscription on coins, he could thus honor some forbear and include the salutations or any other distinction which his ancestor had received. After Sulla had dropped the *s(enatus) c(onsulto)* from the coins which he minted in the field, military commanders coined in their own name with their titles.⁹ Caesar at first neglected the title, but

later he mentioned his salutations.¹⁰ Yet the title never appears as a *praenomen* on his coins; there he is simply *Gaius Caesar Imp.* without any numeral.¹¹ McFayden is probably right in denying that he used it in any way to denote the possession of the supreme power. Similarly, Octavian, though he seems to have preferred to drop it when other titles appeared, used it in the republican manner from 43 to 38 B.C. and retained it after his triumph.¹² In 38 B.C., Agrippa refused to triumph himself for victories won under the superior command of Octavian.¹³ Thereafter he designated Octavian on his coins *Imp. Caesar*.¹⁴ His self-denial became thenceforth the precedent for the assumption by the Emperors of the salutations and triumphs of their legates, and apparently his use of *imperator* as a *praenomen* of his master recommended it to Octavian. Thus the *praenomen* was in use long before the date, 29 B.C., of Dio's speech of Maecenas. It came to denote the possession of the supreme power only gradually and in popular parlance.¹⁵ It is noteworthy, however, that it never occurs in the *Monumentum*. The *praenomen imperatoris* was therefore regarded rather as an honorary distinction, like *Felix* for Sulla or *Magnus* for Pompey, borne by the outstanding general, perhaps to connect him with Julius Caesar rather than to betoken the possession of a general *imperium*.

Tiberius is said by Dio to have refused the *praenomen*.¹⁶ Not only was it peculiarly attached to his predecessor but probably it had already come to convey a connotation of absolutism which displeased him. He stated on one occasion that to his slaves he would be

dominus, to the soldiers *imperator*, but to the people *princeps*.¹⁷ Nor did Gaius and Claudius accept it officially.¹⁸ But the popular usage survives in inscriptions for all three Emperors. Nero first revived it, apparently after the coronation of Tiridates had lent him the air of a conqueror.¹⁹ And with Vespasian it replaced *princeps* as the designation of the supreme ruler, and indicated that the military element, which Augustus had sought to subordinate to the civil, was in fact supreme in the state.

The use of the *praenomen* did not displace the old usage of *imperator* after the general's name to denote a victory and a salutation. So long as independent holders of *imperia* continued to wage war, they might earn it. Blaesus, however, who was father-in-law of Sejanus and general in the African war against Tacfarinas, received in 22 A.D. the last salutation given to a non-imperial individual.²⁰ Soon thereafter, the African command passed under imperial control.²¹ Caesar and the triumvirs had, contrary to the republican custom, allowed holders of delegated *imperia* to accept both salutations and triumphs.²² But the example of Agrippa established the rule that under the Empire the holder of the *imperium* should receive the credit for the work of his delegates. This meant that in fact the salutations were confined to members of the imperial family and sharers in the *imperium proconsulare*.²³ Augustus took twenty-one salutations,²⁴ Tiberius at least eight, of which one, shared by Drusus, was proposed in the Senate by Augustus.²⁵ The Senate, on the motion of Tiberius, granted a salutation to Germanicus in 15 A.D.²⁶ Gaius flattered his mad vanity with seven salutations

in a row at Lyons.²⁷ Claudius, in Britain, "was saluted several times contrary to precedent, for no man could receive this title more than once for one war."²⁸ The twenty-seven salutations which he accumulated perhaps reflect the necessity of bolstering his reputation by military glory. This motive probably also lay behind his presence during the conquest of Britain.²⁹ Nero had eleven or more at his dethronement.³⁰ In the case of the last two Julio-Claudians, salutations by the Praetorian Guards, not for victories but on the deaths of their predecessors, indicated that they were the candidates of that body for the imperial dignity. These salutations, followed as they were by the inevitable but theoretically decisive acquiescence of the Senate, determined in fact the succession.³¹

Like the *cognomen imperatoris*, triumphs soon became an imperial prerogative. Lesser figures, who did the real work, had to content themselves with the mere *ornamenta triumphalia* or at most with an *ouatio*. The imperial triumphs, with their attendant honors, have no constitutional significance. And there are no recorded triumphs by others than those connected with the imperial family after 14 B.C., when Agrippa, though sharing in the full *imperium*, refused to celebrate a triumph which the Senate had voted him. He maintained that he had not officially reported his victory to the Senate, which could not, therefore, officially reward him.³² Again, it may be presumed that his abnegation set the precedent for future sharers in the *imperium*. *Ornamenta*, however, were freely bestowed upon successful generals during this period.³³

In conclusion, it may be said that the *praenomen imperatoris* remained a distinction peculiar to Augustus in the official titulary and probably not connected with the *imperium* but with his successful prosecution of Rome's wars. In ordinary parlance, however, it came increasingly to connote supreme power, and with the emergence of the military aspect of the imperial position under the Flavians it became the ordinary designation of the ruler. The *cognomen imperatoris*, arising from salutations by either troops or Senate, became, with the attendant triumphs, an imperial prerogative, because victories were won solely by commanders whose *imperia* were delegated by the ruler, and because Agrippa had set the precedent of refusing independent honors.

VI

THE EMPEROR AND THE SENATORIAL PROVINCES

THE second matter which the discussion of the *imperium* left for further treatment was the relation of the Emperor to the senatorial proconsuls. The general arguments which McFayden adduces against the thesis that the *imperium* of the Emperor was *maius* have been analyzed, but the denial of his contention will receive support from a closer consideration of various instances of imperial interference in the senatorial provinces.¹ Dio gives the following account of the status of the senatorial governors:² "All were senators and continued to be sent out yearly by lot with the title of proconsul. But they had neither the sword nor the military cloak. The provinces were divided into two groups, Asia and Africa held only by ex-consuls, and the others open to ex-praetors." The governors, though all called proconsuls, kept the number of lictors appropriate to their former urban magistracies. The five-year interval, which, as has been pointed out, transformed the pro-magistracy from a prorogation of *imperia* into a separate office, was reintroduced by Augustus.³ At first, according to Dio, the allotment was conducted freely by the Senate, but because of the inefficiency of that body, the Emperor assumed tacit control by limit-

ing the number of candidates and by nominating them. This serious interference with the independence of the Senate appears to have begun, in special cases, even under Augustus, although it received greater impetus from Tiberius.⁴ The proconsul's choice of quaestors and legates was likewise subject to imperial approval.⁵ McFayden finds, however, that this influence represents rather the *auctoritas* of the *Monumentum* than any definitely asserted control, and his point may well be admitted.⁶ In particular, the request of the Senate that Tiberius appoint the proconsul of Africa for the conduct of the war with Tacfarinas proves no more than that in a military crisis the Senate was unwilling to take the responsibility for appointing a governor whose functions would invade the imperial sphere.⁷

For certain things, the Emperor issued commands valid throughout the Empire. Dio says that the governors, whether imperial or senatorial, could not levy troops or exact money beyond the appointed numbers or amount unless the Senate so voted or the Emperor so ordered.⁸ The provinces, therefore, would appear to have supplied regular quotas of men and money which could not be altered except by special orders. Probably in this connection the Emperor was authorized to conduct the general provincial census.⁹ In emergencies, the Emperor could demand levies, but in the senatorial provinces he usually obtained the consent of the Senate and acted through agents of the Senate.¹⁰ The postal service, primarily intended for state business, and especially important for communications from Rome to the frontiers, would naturally come under imperial control.¹¹

A more important intrusion of the Emperor within the sphere of senatorial governors was his interference in the affairs of free cities, whose relations with Rome were normally in charge of the nearest governor.¹² The two famous instances of such interference are to be found in the inscriptions from Cos and Cnidus.¹³ The first, an edict of the governor of Asia insisting that judicial appeals to Augustus should go through him shows that there was a tendency to disregard the technical dependence of the free city upon the proconsul. More important is the letter from Augustus to the Senate and People of Cnidus in which he replies to an embassy sent to him about a murder committed during a street riot. Augustus had ordered Asinius Gallus, the proconsul of Asia, to conduct a judicial enquiry and he had informed the city of the results of the enquiry with instructions to conform their previous verdicts thereto. In this letter he commends them for so doing. McFadden holds that the mediation of the proconsul in the cases indicates that Augustus regarded them as not regularly within his competence, as they would have been had he had an *imperium maius*.¹⁴ But the practical right of appeal through the proconsul to the Emperor is recognized in the Cos document,¹⁵ and Augustus addresses Asinius Gallus with a word of command in the other.¹⁶ There must, therefore, have been some such imperial superiority to the proconsuls as would be implied in *maius imperium*. Pliny, in a letter to Trajan quotes an edict of Augustus on the ages to be required for municipal magistracies in the cities of Bithynia. Dio tells us that Augustus, during his Eastern tour

21-19 B.C., regulated the public provinces of Sicily, Achaea, Asia, Bithynia, and Syria, for all of which he had a care as if they were his own.¹⁸ Dio includes among the measures the following: a general settlement of Sicilian affairs with the grant of colonial status to Syracuse and other cities; the gift of the island of Cythera and the right to hold *sysstitia* to Sparta;¹⁹ removal from Athenian control of Eretria and Aegina and limitation on the sale of Athenian citizenship;²⁰ general organization of Asia, Bithynia, and Syria, in the course of which he gave money to some places, exacted more than the due tribute from others, and deprived Cyzicus, Tyre, and Sidon of their liberty. McFayden, faced with so extensive an interference in the public provinces, assumed a special grant of the *imperium maius* for the occasion.²¹ But the right of the Emperor to intrude thus drastically has been confirmed by the five edicts discovered at Cyrene. These, which have already given rise to a flood of literature, deal with various judicial matters, mixed courts of Greeks and Romans, informers sent to Rome by the governor and detained by Augustus, privileges of enfranchised Greeks, and a decree of the Senate on the establishment of a special court *de repetundis*.²² The Emperor, in these edicts, interfered directly with municipal arrangements in a senatorial province, he detained prisoners remanded by a senatorial governor on the ground that they had evidence concerning a plot against himself, and he published throughout the Empire a decree of the Senate.²³ A somewhat similar instance exists in the case of the temple of Hecate at Stratonicea. The right of asylum, dat-

ing from the republican period, was confirmed both by Caesar and by Augustus, and the Stratoniceans cited these decrees in the great debate under Tiberius on the rights of asylum.²⁴ Suetonius may imply an imperial jurisdiction over municipal disputes when he states that Tiberius defended the Trallians and Thessalians *Augusto cognoscente*.²⁵ The parallel session, at which Nero defended the Rhodians and others, was held, according to Suetonius, before Claudius as consul; but Tacitus dates it in a year, 53 A.D., when Claudius did not hold this office.²⁶ In either case it is probable that the procedure was before the Senate. Nevertheless, the evidence suffices to prove both that the senatorial governors recognized and that Augustus maintained a general oversight of the Empire and, though this oversight might be attributed to his *auctoritas*, it is certainly simpler to accept the *imperium maius* attested by Dio and Ulpian.²⁷

Tiberius, in this as in other matters, paid much more deference to the Senate than had Augustus. His attitude in the matter of the war against Tacfarinas has already been discussed.²⁸ He refused to receive some envoys from Africa and referred them to the consuls.²⁹ Although Agrippa had set a precedent for not reporting imperial victories to the Senate, Tiberius rebuked certain generals of consular rank for notifying him rather than that body of their achievements.³⁰ Though this statement, from Suetonius, is not very clear, it would seem that he meant imperial generals since of the senatorial governors only the proconsul of Africa still retained a military *imperium*. Here, then, was a defi-

nite reaction not only against the tradition of Agrippa but also against the theory that the Emperor alone was responsible for victories gained by his subordinates.³¹ In a famous session of 22 A.D. the representatives of several temples in Asia Minor asserted before the Senate the validity of their rights of asylum. Tacitus comments: "He [Tiberius] allowed the Senate a show of its ancient prerogative by submitting to the consideration of the senators the requests of the provinces."³² But Tacitus constantly impugns the sincerity of Tiberius's constitutionalism.

An inscription of P. Paquius Scaeva affords an instance of a special agent sent to a senatorial province by the Senate upon motion of Augustus.³³ The same procedure, though not directly proved, may well have been followed in the case of the envoy sent by the Senate to deal with the destruction caused by an earthquake in Asia in 17 A.D.³⁴ An even more interesting example is found in the decree of Claudius on the status of the Anauni.³⁵ When a dispute arose between the people of Comum and a tribe called the Bergalei, Tiberius sent one Pinarius Apollinaris to investigate. He was never called on for his report, but he must have discovered the flaw in the title of Comum to the territory of the neighboring *attributi* since a certain Camurius Statutus called this to the attention of Claudius. Claudius thereupon sent "Julius Planta, my friend and companion, who should, with the assistance of the nearby procurators, study the question."³⁶ On the basis of his report, Claudius decreed that, though the Anauni had no historical right to the citizenship, he would confirm what

long usage had established. Tiberius probably made the original move in consequence of some appeal, and the informer Camurius was perhaps an agent of the *fiscus* who desired to transfer the revenues of the lands from Comum to the *fiscus*. It seems at first sight as if this furnishes a clear case of imperial interference in the affairs of an Italian municipality which should have come before the Senate or consuls. Hardy, however, suggests that the boundary of the imperial province of Raetia may have been the uncertain factor, and that if the tribes were not attributed to Comum they would fall within it.³⁷ Hence Tiberius's action would be justifiable. Since the bestowal of Roman and Latin citizenship early became an imperial prerogative, Claudius was within his rights in issuing an edict upon this matter, but the application of this edict within senatorial territory may well have depended upon the general *imperium maius*, as in the case of the Cyrene Edicts, and not upon some special enactment.³⁸ In the reign of Nero, one Acilius Strabo, whom Claudius had sent to investigate the claims of squatters on the public domains of Cyrene, was brought to trial before the Senate by the people of Cyrene.³⁹ The Senate asserted that "the orders of Claudius were unknown to it and the prince must be consulted." Nero replied that, though Strabo's decisions were justifiable, he would nevertheless permit the squatters to retain their holdings. If the Senate's denial has been correctly reported, it shows either that Strabo was an imperial agent sent to a public province or that, when such an agent was appointed by the Senate on the motion of the Emperor, he received

his instructions from the latter. The question also arises whether he was sent because the *fiscus* had the control of public land even in senatorial provinces or simply in the interests of good order.⁴⁰ From the reign of Nero dates, in 64 A.D., the inscription of a procurator, L. Turpilius Dexter, who, by authority of Nero and in accordance with a decree of the Senate, restored various public estates of Gortyna, in Crete, which had been occupied by private individuals.⁴¹

Of these five cases, only two give any grounds for assuming that the Emperor interfered in a senatorial province without the coöperation of the Senate. Of these two, the matter of the Anauni may be regarded as falling really within an imperial province, and since the Cyreneans regarded the Senate as the body before which Strabo should be summoned, it may, despite its denial of responsibility, originally have had some part in sending him out. Or, on the other hand, the provincials may have felt that, though he was commissioned by Claudius, this commission had been irregular and that, in view of the promise made by Nero on his accession, they could refer the affair to the proper authority, the Senate.⁴² There is, therefore, no reason to assume excessive imperial interference in senatorial provinces by means of special agents during the Julio-Claudian period. Even in the second century, when the Emperor was compelled to take more rigorous measures to aid the provinces and municipalities, Pliny, the most famous of these imperial *curatores*, was probably sent by Trajan in consequence of a decree of the Senate, though his official correspondence lay entirely with the Emperor.⁴³

Under Claudius, imperial interference did, however, increase. The Edict on the Post, transferring its burdens from the municipalities to the *fiscus*, was probably justifiable both in theory and in practice.⁴⁴ The expulsion of a governor of Baetica, Silo, from the Senate because he failed to supply grain for the troops in Mauretania certainly suggests that the Emperor could make military requisitions throughout the Empire and that neglect of such requests was regarded as a serious offense.⁴⁵ Perhaps the most dangerous innovation of this reign, though it was probably inspired by a desire for greater efficiency, was the grant by Claudius of jurisdiction in fiscal cases to his procurators. As Furneaux points out, this grant must refer to the subordinate procurators whose presence is generally assumed not merely in the imperial but also in the senatorial provinces both to supervise imperial estates and to collect monies due to the *fiscus*.⁴⁶ Ulpian shows the result of this policy when he says, of his own day, that the proconsul had better leave all fiscal cases to the procurator.⁴⁷ And, as Stuart Jones states, "in the administration of the imperial civil service, the distinction between imperial and senatorial provinces was neglected. Thus the senatorial province of Gallia Narbonensis and the imperial province of Aquitania formed a single district for the collection of the succession duty."⁴⁸

The speech which Nero delivered on his accession has already been mentioned.⁴⁹ It contains a thorough indictment of the expansion of imperial interference during the reign of Claudius and therefore deserves rather full citation: after promising to return to the Augustan

model, Nero "outlined the scheme of his future principate, repudiating especially what was of fresh and flagrant unpopularity . . . he would keep his own fortune apart from the state finance. Let the Senate keep its ancient duties, let Italy and the public provinces stand at the consuls' tribunal, and let these admit them to the Senate; he would concern himself only with the military forces committed to him."⁵⁰ Despite this pronouncement, and even if one excepts the vagaries of his later reign, there are indications that no real reversion to the Augustan policies occurred. For instance, Tacitus tells us that Nero limited by edict the giving of games by either magistrates or procurators, presumably throughout the Empire.⁵¹ And he mentions the release by the Emperor of a prisoner held under the order of the proconsul of Asia in order that the prisoner might testify against one of his enemies.⁵²

The ancient authorities not only afford these instances of interference with the senatorial governors but suggest that the Emperors inspired various improvements in the general administration of the senatorial provinces. Though these do not necessarily imply a *maius imperium*, they may nevertheless be cited in connection with this discussion. In the reforms of Augustus the senatorial governors lost their military power. They were allowed fixed salaries to check extortion, but the frequent trials show that this evil persisted. They were required to leave their provinces and return to Rome within three months.⁵³ Tiberius ordered the outgoing governors to leave Rome by June first.⁵⁴ Terms, however, were often prolonged for several years.⁵⁵ Claudius

advanced the date before which governors should leave the city to April first. Later he allowed them until the middle of that month.⁵⁶ He attempted to give oppressed provincials an opportunity to prosecute by not permitting two successive tenures of office, provincial or otherwise, with the consequent immunity from judicial attack.⁵⁷ Tiberius, at their own request, had removed Achaëa and Macedonia from control of the Senate in 15 A.D., probably under a decree of the Senate, but Claudius restored them in 44 A.D.⁵⁸

In general, though much of what in the literary sources appears to be unqualified imperial interference in the senatorial provinces may in fact have been based on decrees of the Senate itself, there remains a residuum of cases, chiefly epigraphical, which certainly imply some such superiority of the Emperor to the proconsuls as an *imperium maius* would most easily explain.⁵⁹

VII

THE SECONDARY *IMPERIUM*

KORNEMANN has discussed the problem of coadjutors and successors in the development of the Empire from the reign of Augustus into the Byzantine period.¹ His title *Doppelprinzipat und Reichsteilung im Imperium Romanum* promises, perhaps, a more extreme view of the nature of what may be called the "secondary *imperium*" than his article actually develops. In the conclusion, he adopts the distinction drawn by Mommsen between the *Mitregentschaft* as established by Augustus and its development into a *Samtherrschaft* under Marcus Aurelius.² The tendency to divide the supreme power he traces back through the triumvirates to the two consuls and the dictator with his master of horse. He feels, furthermore, that the territorial division of the Empire by Diocletian was implied even under Augustus, when, for instance, Agrippa or Gaius was put in charge of the East. Yet he admits that during the period from Augustus to Marcus Aurelius there were only about fifty-eight years in which can be found a *Doppelprinzipat*, and that Tiberius failed to carry out what he conceives to have been the Augustan scheme of a permanent associate in the supreme power.³ In short, his investigation, invaluable though it is for its collection of the relevant data, hardly bears out his

thesis that "the principate was conceived by its founder as a dyarchy but not, as Mommsen believed, as a dyarchy of *Princeps* and Senate but as a *Zweihererschaft* by means of a double occupancy of the highest post, that is, as a *Doppelprinzipat*." ⁴ There is, therefore, no reason to assume that Augustus and his immediate successors had any intention of dividing or of making collegiate the supreme power when, from time to time, they bestowed, or rather had bestowed by the Senate, a secondary *imperium* upon some subordinate. What, then, was the significance of such an *imperium*?

In theory, the Emperor did not determine the conditions of the tenure of his extraordinary command; these were defined in the grant. Nor could he indicate a successor. The Senate exercised unfettered choice and might not bestow the power upon anyone at all. In practice, however, the second alternative was proved visionary when, on the death of Gaius, the Guards compelled the Senate to appoint a successor. The first alternative was partially prejudiced by the testamentary dispositions of a deceased Emperor, although it is unlikely that in the Julio-Claudian period the Emperor could dispose of either the throne or the *fiscus*.⁵ The Senate's choice was, moreover, liable to compulsion at the hands of the troops. But most of all was it determined by the advancement, during an Emperor's lifetime, of the most likely successor or successors into a position which made their succession almost inevitable. The steps were normally these: connection with the Emperor by marriage or adoption, the bestowal of a secondary proconsular *imperium*, and, very seldom,

association in the *tribunicia potestas*.⁶ Of the last two elements, the *imperium*, though more effective in practice, carried less external dignity than the final and rare sharing of the tribunician power. Thus Augustus maintained his policy of cloaking the military foundation of his rule under a constitutional and democratic disguise. And he was enabled to choose an assistant who, within the sphere of his competency, could act as effectively as the Emperor himself, but who could not be regarded as an equal.

The subordination of the secondary *imperium* was emphasized by temporal or spatial limitations more stringent than those applied to the Emperor. Such an *imperium* was, nevertheless, independent and superior to the *imperia* of senatorial proconsuls,⁷ and it allowed its holder to appoint *legati*,⁸ employ quaestors,⁹ and address reports to the Senate.¹⁰ The grant came from the Senate on the motion of the Emperor. The passages cited already on Tiberius suggest that the decree of the Senate was confirmed by the People.¹¹ The army, however, exercised no influence. Although, until the time of Titus, no holders of a secondary *imperium* received the *praenomen imperatoris*, they might accept salutations from their troops.¹² Usually the Emperor, under whose auspices all wars were waged, shared in or assumed the salutation or the triumph.¹³

Mommsen thought that the Emperor associated another with himself in the tenure of the *tribunicia potestas* by coöptation.¹⁴ Suetonius, indeed, says that "he coöpted a colleague," and Dio constantly employs the verb "gave" to describe the Emperor's part in the pro-

cedure.¹⁵ Augustus himself, however, says, "To assist me in this power, I five times asked for and received a colleague from the Senate."¹⁶ Tacitus also states that "Augustus again sought the tribunician power for Tiberius from the Senate," and "Tiberius sent letters to the Senate asking the tribunician power for Drusus."¹⁷ Tiberius lured Sejanus to the Senate for his downfall by spreading the rumor that the favorite would receive the *tribunicia potestas* from that body.¹⁸ Hence the Senate made the grant upon the suggestion of the Emperor, but no law or *comitia* confirmed it, as was customary on the accession of an Emperor who did not already hold it. Mommsen concludes furthermore that since there is no record of *intercessio*, no grant of related prerogatives, no instance of legislation introduced to the *plebs* or of messages to the Senate, no *commendatio* or *nominatio*, in connection with the secondary *potestas*, this *potestas* was more titular than real.¹⁹

Neither of these secondary powers was extinguished by the death of the Emperor, — a further indication that they were not delegated by him alone, — but they did not entitle their holder to succeed *ipso facto*.²⁰ The Senate alone could invest him with the full *imperium*, whether or not its decree was confirmed by a *lex*, and after Tiberius the People must formally at least have bestowed the *tribunicia potestas*, since in the Julio-Claudian period Drusus, son of Tiberius, was the last to receive it during the lifetime of an Emperor and he predeceased his father.

Although Kornemann analyzes the cases of such association, they may be briefly discussed here.²¹ It is

unnecessary to consider the frequent dispensations of members of the imperial family from legal restrictions relating to the age and order of tenure for the republican magistracies. Marcellus, nephew of Augustus, was the first for whom more especial favor indicated a higher destiny.²² He was married to the Emperor's daughter Julia in 25 B.C., but he died untimely two years later.²³ Augustus turned next to his *fidus Achates*, Agrippa.²⁴ Dio thinks that even before the death of Marcellus, when Augustus fell ill in 23 B.C., he left no instructions about his successor because he hoped that the People would either resume their liberty or confer the rule upon Agrippa, not upon Marcellus.²⁵ During his illness, he gave to the consul, Calpurnius Piso, a summary of the state of the Empire similar to the one which he left at his death in 14 A.D. It contained lists of the troops and the public funds. He thereby implied that, upon the abrogation of his *imperium* by death, whatever he held in trust for the state should return to its magistrates. He nevertheless entrusted to Agrippa his seal ring, which had had official significance since 31 B.C. and which all later Emperors except Galba employed.²⁶ Upon his recovery, he sent Agrippa to Syria for a period about whose length the ancient authorities are vague.²⁷ In any case, Agrippa was recalled to take charge of Rome in 22 B.C.,²⁸ married to Julia in the following year,²⁹ and sent to Gaul in 19 B.C.³⁰ Dio affirms that Augustus promoted him in a way to the supreme power under himself when, on the renewal of the *tribunicia potestas* for five years in 18 B.C., he joined Agrippa in the grant.³¹ Agrippa went again to Syria in 16 B.C.,³²

shared in the renewal of the *tribunicia potestas* for five years in 13 B.C., and received an *imperium maius* outside of Italy for the Pannonian War. But during the following year he died.³³

The next hope, Drusus, brother of Tiberius, had already been advanced rapidly through the *cursus*.³⁴ In 11 B.C. he obtained an *imperium proconsulare* for the Rhine frontier, where he died during his consulship in 9 B.C.³⁵

Augustus had adopted his two grandsons, the sons of Agrippa, Gaius and Lucius, on the birth of the latter in 17 B.C.³⁶ He himself tells how for his sake the Senate and the People designated them, each in his fifteenth year, consuls for the fifth year thereafter and how, when they were formally presented in the Forum, they received permission to attend the Senate and were saluted as *principes iuventutis* by all the knights.³⁷ In 1 B.C., Gaius received proconsular authority and, so that he might enjoy the privileges as well as the pleasures of a married man, a wife. He was sent to the Eastern command, where he held the consulship *in absentia* during 1 A.D.³⁸ In the next year, Lucius died at Marseilles. Two years later, Gaius himself passed away in Syria.³⁹ Agrippa Postumus, the third son of Agrippa, was underdeveloped mentally. Despite his adoption, along with Tiberius, by Augustus on the death of Gaius, he was exiled and his property confiscated for the *aerarium militare* in 7 A.D.⁴⁰ Tiberius's first imperial act was to order the execution of this youth, mercifully and wisely perhaps, despite the suspicion which it aroused against the new prince.⁴¹

Tiberius himself, after a youth spent on the frontiers, passed through the urban magistracies late and rapidly.⁴² On the death of Agrippa, Augustus betrothed him, much against his will, to Julia, but sent him off to Pannonia without further distinction.⁴³ Dio, in saying that in 11 B.C. he gained the same prizes as had recently fallen to his brother Drusus, may possibly include an *imperium proconsulare*.⁴⁴ In the same year he married Julia.⁴⁵ His real advance, however, began only after the death in 9 B.C. of Drusus, whom "he succeeded in the office of *imperator* and was called by that appellation."⁴⁶ This is a more likely date than 11 B.C. for his first proconsular *imperium*. In 6 B.C. he received the *tribunicia potestas* for five years and was thereby, according to Velleius, "made equal to Augustus." But instead of taking the Eastern command, for which he was commissioned, he retired to Rhodes, possibly so as not to stand in the way of Gaius and Lucius Caesar. Although he lived there simply as a private citizen, there are indications that his tribunician power at least was retained until its expiry.⁴⁷ Augustus, displeased at his retirement, neither renewed it nor allowed him to return to Rome, but did yield to Julia's request that he have the status of a *legatus*, probably not of the Emperor but under the formal "free legation" by which, during the Republic, senators could absent themselves from Italy.⁴⁸ Tiberius acted very politely towards Gaius on the latter's arrival in Asia. He was allowed to return to Rome after the death of Lucius.⁴⁹ Upon the loss of Gaius, Augustus finally adopted Tiberius and restored to him the tribunician power for a term of ten

years. Probably Tiberius's *imperium* was likewise revived. On the other hand, Tiberius had to adopt his nephew Germanicus to the prejudice of his own son, Drusus the Younger.⁵⁰ The inscriptions show that the years of his tribunician power include the five of the first grant and were numbered continuously from the second grant in 4 A.D. until the thirty-eighth year, that of his death, 37 A.D.⁵¹ He spent most of the years 4 to 14 A.D. in the field, where Germanicus, probably holding a proconsular *imperium*, was associated with him in the command.⁵² Finally, according to Dio, he shared in the ten-year renewal of Augustus' tribunician power in 13 A.D. Of this renewal Dio makes nothing exceptional, but the other authorities enlarge the grant considerably. Tacitus summarizes Tiberius's whole rise in the words: "He is made son, colleague in the *imperium*, consort in the tribunician power, and he is displayed to all the armies."⁵³ Suetonius says: "And not much later, after a law was passed by the consuls that he should administer the provinces in common with Augustus and at the same time hold the census, he closed the census and set out for Illyricum."⁵⁴ Velleius confirms Suetonius: "The Senate and Roman People, at the request of his father that he might have equal right in all the provinces and armies with himself, passed a decree to this effect."⁵⁵ Though some have assumed from those statements a complete equality in this year, Dieckman, after carefully considering the evidence, concludes that there was no real sharing of the highest power but only, as the coins imply, an especially solemn widening of Tiberius's position in view of the increasing likelihood of Augustus'

death.⁵⁶ In fact, Tiberius laid no claim to the throne on the basis of this extension but awaited formal election, by the Senate before he assumed the principate.⁵⁷ Biblical scholars have somewhat confused the problem in their attempt to reconcile the dates in St. Luke's Gospel, especially "the fifteenth year of Tiberius," by supposing that Luke counted the years of his rule from the establishment of a full co-regency in 12 A.D. Apart, however, from the general probabilities of the case, all our authorities, save Velleius, date the grant in the summer of 13 A.D.⁵⁸ Moreover, all ancient writers except Clement of Alexandria, whose text may be corrupt, begin Tiberius's reign with the death of Augustus.⁵⁹

The behavior of Tiberius after that unhappy event has caused a great deal of discussion about his motives and character. But his expressed opinion of the constitutional state of affairs could hardly be clearer. He employed the *imperium* merely to issue orders to the Praetorian Guard and to send letters to the legions, measures which, despite the innuendos of the ancient authorities, were undoubtedly inspired by his realization that the troops must be strictly controlled, and which may be justified by the almost immediate mutinies on the frontiers.⁶⁰ He exercised the tribunician power only to summon the Senate, since he had been the responsible officer present at the death-bed of Augustus. He insisted that thereafter the consuls take the initiative and that the Senate consider the question of the succession, the division of the power, and even the continuance of the Empire as open. Obviously, therefore, he outwardly at any rate regarded the *imperium* as purely military, the

tribunicia potestas as civil, and neither as necessarily promoting him to the principate. Though this was a more extreme view than Augustus himself apparently held, if his constant association of likely successors in these powers is any indication, yet it cannot be asserted that the principate was as yet more than an extraordinary, non-magisterial office, neither constitutionally monarchical nor hereditary.

The successors chosen by the following Emperors may be dismissed more briefly. Tiberius had been forced by Augustus to adopt Germanicus.⁶¹ Germanicus had perhaps already obtained a proconsular *imperium* in 11 A.D.⁶² Augustus sent an oration to the Senate, which Germanicus himself read, in which the Emperor commended him to the care of Tiberius and the Senate.⁶³ On Augustus' death, Tiberius requested the *imperium* for Germanicus in Germany, by which request he probably meant a renewal of the previous grant.⁶⁴ It was superior to other *imperia* in Gaul and Germany but did not equalize him with the Emperor.⁶⁵ In 17 A.D. the Senate bestowed on him the provinces across the sea with an *imperium maius*, wherever he went, over those who by lot or from the prince had obtained the provinces, that is, it extended his Western command over both senatorial and imperial provinces in the East.⁶⁶ There he died in 19 A.D.⁶⁷ Tiberius's son Drusus was consul with his father in 21 A.D.⁶⁸ and at his father's request obtained the *tribunicia potestas* from the Senate.⁶⁹ He was poisoned by Sejanus in 22 A.D.,⁷⁰ and the two oldest sons of Germanicus soon perished.⁷¹ Then Tiberius, perhaps with the precedent of Agrippa in

mind, procured a proconsular *imperium* for Sejanus, as well as a priesthood shared with the third son of Germanicus, Gaius.⁷² But he became suspicious of his minister and, to trap him, lured him to the Senate with the specious promise of the tribunician power. There Sejanus was arrested upon the reading of the Emperor's written denunciation.⁷³ Tiberius was compelled, in spite of grave doubts, to leave Gaius as co-heir with his infant grandson, Tiberius Gemellus.⁷⁴ Whether he meant thereby to indicate anything more than mere testamentary succession or whether he had become disillusioned and accepted a hereditary principle, made little difference. Gaius was elected Emperor, adopted his co-heir, caused him to be saluted as *princeps iuuentutis*, and soon dispatched him.⁷⁵ In Gaius the oriental despotism appeared. He attempted to make his favorite sister, Drusilla, heir of his property and his power.⁷⁶ On his assassination it was his despised uncle Claudius, last of the sons of Drusus the Elder and brother of the popular Germanicus, whom the Praetorians imposed upon the Senate.⁷⁷ Until then Claudius had held only the consulship, with Gaius in 38 A.D.⁷⁸ Thus two pragmatic truths, hitherto concealed and suppressed, overbore constitutional theory. It was demonstrated that force, represented by the troops, could outweigh the free choice of the Senate and that hereditary popularity could best ensure the support of this force.

Claudius was impelled by Agrippina to advance her son by a previous marriage, Nero, over his own son by a previous marriage, Britannicus. He adopted Nero in 50 A.D.⁷⁹ and in the following year allowed the Senate

to give the young boy permission to hold the consulship at twenty, a proconsular *imperium* outside the City until that age, and the privilege of being saluted as *princeps iuventutis* by the knights.⁸⁰ There is no implication that this grant of *imperium* was regarded as equalizing Nero with the Emperor. Although, therefore, the *tribunicia potestas* be regarded as rendering Claudius still superior, there nevertheless remains the problem treated already about the exercise of the *imperium* within the City.⁸¹ In 53 A.D. Nero married the Emperor's daughter, Octavia, to whom he had been betrothed in 49 A.D.⁸² Claudius indicated to the People by edict and to the Senate by letter that Nero would be a fit successor. This constituted a recognition of the hereditary aspect far in excess of anything which had hitherto occurred.⁸³ Since his will apparently associated Britannicus with Nero as his heir, though probably only of his personal effects and not of the throne, the latter suppressed the document without even consulting the Senate, as Gaius had done in the case of the will of Tiberius.⁸⁴ Nero succeeded to the throne, thanks to the favor of the troops.⁸⁵

The young Emperor, after he had removed Britannicus and Octavia, failed himself to have an heir, and he seems not to have worried much about the problem of the succession.⁸⁶ Corbulo's Eastern command, whether *maius* or not, can hardly be regarded as having made him in any way a possible successor since he continued to be called simply *legatus Augusti pro praetore*.⁸⁷

Despite, therefore, the theory that the throne should be filled only by the free choice of the Senate and the

Roman People, in practice the Emperors sought to associate with themselves those whom they thought suitable successors by obtaining for them from the Senate a secondary proconsular *imperium* and, as a more rare and certain designation, the tribunician power. Such associates, however, did not become co-regents or automatically step into the succession; they had to be at least formally elected by the Senate and the People. In the Emperor's choice of an assistant, two conflicting principles were at work, that of selecting the best man, no matter what his family or station, and that of founding a dynasty. Augustus deserves perhaps more blame for following the dynastic principle than for any other of those elements in his constitutional arrangements which led to future evils.⁸⁸ None of his successors, chosen on the hereditary basis, can be considered an adequate ruler; even Tiberius, the most able, was temperamentally unfit to maintain the delicate balance between theory and practice which Augustus had established. Yet some excuse should be found for Augustus' insistence on the dynastic principle even when, in choosing Agrippa because of his fitness, he drew him into the family by marrying him first to Marcella and then to Julia. The often cited precedents of the Hellenistic monarchies would probably not have influenced him against his better judgment, especially since he had seen the unpopularity at Rome of Antony's attempt to found such an autocracy. But Augustus knew how much of his early favor with the People and the provinces (as against the Senate) had been due to his adoption by the heroic and deified Julius. He felt

that his successors would, as they in fact did, benefit similarly from his own popularity.⁸⁹ He must have realized also how strong an influence such a tradition exercised on the troops. Though this insistence on the dynastic principle does not justify Rostovtzeff's extreme strictures on the Julio-Claudians as military and demagogic tyrants, who desired to supplant the Senate, it did result in the change from a concept of an elective principate to that of a hereditary monarchy.⁹⁰

VIII

THE *TRIBUNICIA POTESTAS*

IN THE preceding chapters the *tribunicia potestas* has often been mentioned as the second important element in the position of the Prince. Though the *imperium*, the real basis of the principate, was continually glossed over and kept in the background, the tribunician power was flaunted before the public as the more honorable of the two, as the one most grudgingly bestowed upon subordinates, and as that which served to date the regnal years. Yet, when this power is examined, it appears to have supplied to the imperial prerogatives little that could not have been gained from the *imperium*. The rights of consulting Senate and People and of interfering in the execution of judicial sentences rendered by the Senate, magistrates, or senatorial governors were its chief contributions. These were not available for the holder of an extra-urban *imperium*. It was in virtue of this power rather than of any general and vague oversight that Augustus inaugurated his moral and civic reforms in Rome. On the whole, however, the value of the tribunician power lies rather in its sentimental associations than in its practical usefulness.

The tribunate remained throughout an anomaly in the constitutional arrangements of republican Rome. It signified the recognition by the State of the rights of

a body not represented in the ordinary government, and to the last the tribunes preserved an extraordinary character. They were the champions of the *plebs* (not of the whole *Populus*) against the tyranny of the patricians, who were excluded from the office. Their sacrosanctity, originally a pledge by their supporters to avenge any injury to them, had become a religious taboo, violation of which rendered the guilty person accursed.¹ They must always stand ready to bring aid to any oppressed citizen. Their veto, unlike ordinary magisterial *intercessio*, was valid against any act of any magistrate, superior or inferior, and against laws or senatorial decrees, since the execution of these depended upon magisterial action. Through the veto the tribunes stated that the *plebs* would not acquiesce in the magistrate's act. The separate tribunes' bench in the Senate showed that they had originally been admitted into that body as observers rather than as members. The obstructionist character of the office and the necessary qualification, under the later Republic, of senatorial rank for its tenure² made it frequently an instrument in the hands of the conservatives because they could usually secure the support of at least one member. Nevertheless, it was also the weapon of democratic reformers, like the Gracchi, the *bête noire* of aristocratic reactionaries, like Sulla, and the tool of popular demagogues, like Caesar.

Caesar, in his rôle of popular leader, found the office most useful. But, as a patrician, he himself could not hold it. He had to act through his henchmen, Curio, Antony, and others. However, he felt the influence of

the tribunate to be so important that in 48 B.C., by recourse to the expedient of separating power from office, he received a seat on the tribunes' bench in the Senate. Dio calls this, probably with exaggeration, "tribunician power, so to speak, for life."³ In 44 B.C. Caesar was made sacrosanct for life.⁴ Since Augustus was also a patrician, he had to employ a similar device to get around the religious difficulty.⁵ In 36 B.C. he received protection from insult by word or deed under oath of the People to avenge it on the doer, as in the case of a tribune. At the same time he obtained a seat on the tribunes' bench.⁶ Appian thinks that thereby he became a tribune for life.⁷ Dio, however, defers the grant of *tribunicia potestas* until 30 B.C. He then includes the right of *auxilium* both within the *pomoerium* and without to the first milestone.⁸ Finally, there occurred some sort of enlargement or regularization of the tribunician power in 23 B.C. Dio merely repeats the grant by the Senate for life and ignores the essential fact that this power had always to be bestowed by a law of the People, even if this law was initiated through a decree of the Senate.⁹ Augustus himself says definitely, "It was enacted by law that I should be sacrosanct forever and that the tribunician power should be given to me for life."¹⁰ Dio connects with this grant that of the *ius primae relationis*. Since the surviving law on the *imperium* of Vespasian mentions this right, it has been held to be the law bestowing the tribunician power with its attendant prerogatives.¹¹ But it has been remarked already that the surviving fragment, with its varied provisions, might equally well have formed part simply of

an enabling act which regularized, after a year of revolt and a change of dynasty, the privileges which had gradually accrued to the principate.¹² Nevertheless, although the Senate alone apparently could confer the tribunician power upon subordinates, the Emperors always received it in virtue of *comitia tribuniciae potestatis*. These popular votes do not necessarily coincide with the *dies imperii*.¹³ Moreover, after the year 23 B.C., when Augustus ceased to hold the consulship regularly, the imperial years were designated not by the tenure of the *imperium* but by that of the *tribunicia potestas*.¹⁴

The prerogatives which the tribunician power conferred were these:

The *ius auxilii*, or right of aiding any citizen, within the first milestone from the City.¹⁵

The veto and right of intercession against any magistrate and, at the same time, freedom from intercession of the tribunes. Thus, as in the proconsular *imperium*, the impediment of collegiality was avoided by separating power from office.

The *ius coercionis*, or right of arrest possessed by any magistrate.

Sacrosanctitas, or the cloak of religious inviolability.

The *ius senatus consulendi*, the right of consulting the Senate, with which right was perhaps connected, after Augustus laid down the consulship, the right of bringing before it the first motion at any meeting, the *ius primae relationis*.¹⁶

The *ius agendi cum populo*, the right of bringing measures before the People. It was thus that the Emperors initiated legislation.¹⁷

A *iurisdictio*, or legal competence. The tribune, appealed to for his *auxilium*, naturally held a hearing to determine the justification for the appeal. Since his intercession would prevent any further action, his hearing was in fact, if not in theory, final. The imperial jurisdiction, however, was probably largely appellate, in connection with the *imperium*, rather than derived from the tribunician power.¹⁸

When the Emperor sat on a court, he had a casting vote if a tie arose. It is uncertain whether this prerogative was connected with the tribunician power.¹⁹

Thus the privileges and scope of the tribunician power were largely urban and, compared with those of the *imperium*, relatively insignificant.²⁰ Yet in the imperial titulary Augustus placed it immediately after his consulships and his salutations, and Tiberius advanced it ahead of all others save that of *pontifex maximus*.²¹ Thus, while the *imperium*, the true basis of the power, was concealed in every way even to the extent that the republican Tiberius dropped the *praenomen imperatoris*, the tribunician power, which symbolized the popular character of the principate, was flaunted as almost its chief element.²² On the military side, the Emperor was only the servant of the Senate and the Roman People, from whom he derived his *imperium*.²³ On the civil side, he was the successor of the Gracchi and Caesar in championing the rights of the People. But he did not seek, as Julius had sought, to eclipse the old Republic, the Senate and magistrates. To the tactfulness of this arrangement Tacitus bears witness: "Caesar [Augustus] . . ., having dropped the name of *triumvir*, represented

himself as consul, and was content with the tribunician power to protect the *plebs* . . . and found this term for the highest office so that he might not assume the title of king or dictator and yet might by some distinctive appellation stand out above other *imperia*.”²⁴ Thus, in words already quoted, Augustus himself claimed: “I excelled all in *auctoritas*, but I had no more *potestas* than those who were my colleagues in the various magistracies.”²⁵ Yet, in the end, this *auctoritas* reduced all *potestates* to mere shadows.

IX

IMPERIAL CONSULSHIPS

ABOUT the name and office of *consul* gathered the most venerable and most cherished traditions of Roman public life. The tenure of this magistracy marked the culmination of a political career. In it was vested the fullest might and majesty of the state. And he who occupied it wisely and well obtained a niche not merely in the *atrium* walls of his descendants but among the heroes of Roman history. Naturally, therefore, the restorer of the Republic sought to rescue the preëminence of the consulship from the shadow into which the dictatorship and extra-legal commands of the last century of the Republic had cast it. He at first combined in himself the supreme magistracy and the extraordinary command.¹ He held the consulship continually from 31 to 23 B.C.² But this position must have had drawbacks. On the one hand, a consul was liable to the intercession of a colleague, if one were bold enough to exercise his rights against the Emperor. And a continuous tenure of office suggested that *de facto* supremacy which Augustus sought in every way to avoid. On the other hand, not only did his monopoly of this office keep other members of the aristocracy from attaining what was still the highest honor the state could confer, but also his colleagues must either have

been unduly exalted by being on a par with himself or have found that his overshadowing *auctoritas* reduced the honor to empty show and galling impotence.³ Therefore, upon his illness in 23 B.C., Augustus resigned the consulship.⁴ In 22 B.C. and again in 21 and 19 B.C. he steadfastly refused both an annual and a lifelong grant of the magistracy, even though on the last of these occasions the People stubbornly refused to elect anyone else, with the result that he himself had to appoint one consul. Thereafter he held the office only twice, purely formally, to celebrate the *deductio in Forum* of his grandsons Gaius and Lucius in 5 and 2 B.C. respectively.⁵ However, special grants enabled him to retain such prerogatives as the *ius primae relationis*, the lictors, and a seat between the consuls in a curule chair.⁶ At his death he had been consul thirteen times and had entered office outside of Rome on four occasions.⁷

Tiberius, twice consul before his accession, accepted the office only three times during his reign and then for brief periods, and once in absence.⁸ Gaius, however, despite his short rule, assumed it four times.⁹ Claudius, though at the time a mere knight, was *consul suffectus* with Gaius in 37 A.D. He held the magistracy four times during his reign.¹⁰ To Nero, as to other imperial princes, the Senate granted dispensation from the restriction of age to the end that he might become consul at twenty. This was done in 51 A.D., when he was thirteen, but he acceded even before reaching twenty and assumed the office at once. He occupied it four times.¹¹

All of these imperial consulships were of short dura-

tion and of formal character. The decrease of the term from a year to six months or less and the extension of the honor by filling the remainder of the year with *consules suffecti* concern the discussion of the republican magistracies under the Empire. Although imperial princes occasionally held the consulship,¹² it remained a sop for the aristocracy to console them for their loss of military power and to symbolize the continuance of the Republic.

X

THE CENSORSHIP

THE censorship occupied an anomalous position in the hierarchy of republican magistracies.¹ It was not an annual office but quinquennial and the term was for eighteen months. Superior to the consulship in dignity and open only to those who had held the consulship, it nevertheless conferred simply a *potestas*, not an *imperium*. Free from tribunician intercession, its decisions were neither binding on the consuls nor valid if the two censors disagreed between themselves. The office developed to supplement the consulship for tasks which needed men of ripe experience. Primarily the censors had the duty of counting and purifying the people. This duty, however, gave them the oversight of the military registers of the state and, since military service was assigned according to wealth, they could inquire into the qualifications, moral or financial, of all citizens. They controlled the enrolment of new citizens and the registration of those qualified to enter the Senate. This last prerogative was weakened when, in Sulla's time, tenure of the quaestorship automatically admitted to the Senate unless the censors found good moral grounds to the contrary. The sale or lease of public property and the letting of state contracts for tax-collecting and public works came within their scope. Since they had to certify

the state as pure, they could expel undesirable elements from the City and regulate morality and luxury. But in the last century of the Republic the censors were so often forced to vacate office with their tasks unfinished because of mutual disagreements that the consuls had to resume most of their functions.²

Despite, therefore, the traditional dignity of the office, Augustus could feel that it served no essential purpose in a Restored Republic. It has already been shown that the *censoria potestas* attributed to Augustus by the *Fasti Venusini* and Dio for the year 29 B.C. and by Dio for 19 B.C. is probably erroneous, and that in both cases the Emperor acted as a consul performing the functions of the censors.³ He refused a censorship in 22 B.C. and thrice, in 19, 18, and 11 B.C., a *cura legum et morum* , which would have constituted him a virtual dictator.⁴ In 22 B.C. he sought to revive the defunct magistracy in the persons of Munatius Plancus and Paullus Aemilius Lepidus, but had himself to complete their duties.⁵ They were the last independent censors. Claudius, however, in his antiquarian zeal, revived the office with Aulus Vitellius, father of the future Emperor, as his colleague.⁶ During the Flavian period it enjoyed a second period of life as an honor assumed temporarily by Vespasian and Titus and permanently by Domitian.⁷ The Flavians showed a marked desire to enhance their position and conceal their lack of aristocratic background by surrounding themselves with the glamor of the republican magistracies. After them, however, all trace of the censorship as a separate magistracy vanished. Its functions had, in practice, long since been

absorbed by the Emperor or distributed among new boards and departments.⁸

Although Augustus refrained from holding the office, he regarded himself as responsible for the duties of the censors and mentions three methods of accomplishing them. For the legal and moral reforms, he initiated legislation through his *tribunicia potestas*.⁹ To increase the number of patricians he received, like Caesar, a special mandate, the *lex Saenia*.¹⁰ He undertook censuses and *lectiones senatus* either as consul or with consular power.¹¹ The first of these methods belongs properly to the discussions of the tribunician power and of imperial legislation; and the specific problems involved in the laws on marriage and freedmen do not affect the constitutional position of the Emperor.¹² The increase in the number of patricians was part of a general attempt to revive republican institutions, especially those hallowed by religious associations, since certain posts, as that of *flamen dialis*, could be held only by patricians.

The census and the reorganization of the Senate both present problems. That of the powers under which the censuses were conducted has been treated.¹³ Augustus himself mentions three censuses of Roman citizens, that of 28 B.C., while consul with Agrippa as colleague, that of 8 B.C., which he performed alone, possibly under some special decree empowering him to act with consular power, and that of 14 A.D., with Tiberius as colleague, under a similar consular power.¹⁴ He gives the numbers of citizens as respectively 4,063,000, 4,233,000, and 4,937,000.¹⁵ Dio omits the censuses of 8 B.C. and 14 A.D., but mentions one in 29/28 B.C., a property census in

11 B.C. and, in 3 A.D., a census of Italians who possessed over two hundred thousand sesterces, the minimum qualification for the new fourth panel of jurymen.¹⁶ Dio makes the curious statement about the last of these: "And in order that he might not seem to do this as censor, for the reason I mentioned above, he assumed the proconsular power for the completion of the enrolment and for the performance of the purification." Although the final phrase suggests that this was a regular census, Augustus' omission both of it and of the other census must be taken as proof that these were not the old censuses of citizens but rather were like the new provincial censuses for purposes of taxation. The introduction by Dio of the proconsular power can only be a mistake which probably arose from its renewal at this time. A general census of the whole Empire for purposes of taxation was begun in 27 B.C., and local censuses are mentioned from time to time.¹⁷ Since these were conducted by the various governors, they do not affect the constitutional position of the Emperor in relation to the old Republic, however much in fact they introduce the new order of a universal Empire.

By what authority Augustus initiated his revisions of the Senate, the ancient authorities do not specify. The inclusion of new members had been one of the chief duties of the censors before the custom arose under Sulla that all quaestors should *ipso facto* become members. Even thereafter the censors could exclude a member for sufficient moral or political cause.¹⁸ Hence revisions of the Senate might be expected at the same time and under the same authority as the censuses. In fact,

Augustus himself opens that section of the *Monumentum Ancyranum* which concerns his censuses with the terse phrase: "I selected the Senate three times."¹⁹ Since other sources show that these revisions were among his most difficult and unwelcome tasks, his brevity, so contrasted with the fullness of the remarks on the increase of the citizen body during his principate, may fairly be explained in the light of the desire, which pervades the whole document, to pass quickly over the more autocratic and unpopular aspects of his rule. Unfortunately, his statement, despite its position, cannot be taken as proof that the revisions were connected with the censuses. Dio, on the other hand, affords an excess of information, five revisions, as follows:

I. 29/28 B.C. "And next, being censor with Agrippa, he corrected various other matters and revised the Senate, for many knights and plebeians had crept in during the civil wars so that it now numbered more than a thousand."²⁰ He told them to be their own judges. Fifty volunteered to withdraw without suffering *infamia*, but he had to force one hundred and forty to follow suit. These latter received censorial *notae* for their contumacy.

II. 18 B.C. "He revised the Senate" because there were still too many members.²¹ Since none would retire willingly and he did not wish to incur the odium of singling out individuals for removal, he chose the thirty chief senators, swore them in, and told them each to swear in five more, who could not be relatives of themselves. From each set of five, one was chosen by lot to be a senator and to coöpt five more. This process be-

came so complicated that in the end Augustus finished the task himself. The Senate thereafter remained more or less permanently constituted.

III. 13 B.C. Another revision was necessary in this year, partly because of the impoverishment of rich families and partly because candidates were lacking for the lower posts that were a necessary preliminary to the quaestorship. Augustus himself "revised them all" and forced everyone under thirty-five years of age who possessed the requisite property to serve unless some physical disability prevented.²²

IV. 11 B.C. After the census "he also went over [the roster of] the Senate" and reduced the number necessary for a quorum to four hundred.²³ This perhaps is merely the conclusion of the *lectio* begun, like the census, in 13 B.C.

V. 4 A.D. "He again wished to select the Senate."²⁴ Therefore he chose by lot from the ten leading members three revisers. This revision, contemporary with the financial census of the Italians, did not affect many senators and may simply have been an inquiry into their financial qualifications.

Dio does not mention either a *lectio* or the census begun in 13 A.D., but three of his other *lectiones* are connected with the censuses which he does mention.²⁵ Some students therefore have accepted the connection of *lectiones* with censuses in 28 B.C., 8 B.C., and 14 A.D., and have called those of 18 B.C. and 4 A.D. extraordinary revisions performed by committees to which Augustus did not apply either the term *lectio* or the first person, *legi*.²⁶ The *lectio* of 13-11 B.C. has been rejected by some

both on the ground of its asymmetrical position and as a false inference from the false premise of a renewal of the supervision of laws and morals in 11 B.C.²⁷ This argument might apply equally well, however, to the *lectio* of 18 B.C. The test of language, namely, the use of the verb "to revise," has been cited to support 28 B.C., 18 B.C., and 13-11 B.C., but this test is not conclusive.²⁸ Though no sure result can be reached, if the connection between *lectio* and census be given up the hypothetical *lectiones* of 8 B.C. and 14 A.D. vanish. That of 4 A.D. may be regarded as incidental and that of 11 B.C. as the conclusion of the one begun in 13 B.C. Thus there would be left, on the authority of Dio and Suetonius, 29 B.C., 18 B.C., and 13 B.C.; but these authorities can no more be regarded as settling this problem than as proving its connection with the censuses. If these are the correct dates, the problem of the power under which Augustus acted becomes less simple than if the *lectiones* coincided with the censuses.

Whatever his authorization may have been, whether special enactments, not mentioned by Dio, or some general supervisory power, against the existence of which, as affecting the republican institutions, the whole policy of Augustus seems to cry out and the silence or confusion of our ancient authorities militates, there remains a strong contrast between the emphatic *legi* of the *Monumentum* and the attempts mentioned by Dio to force the Senate to set its own house in order. The desire to make the Senate undertake its own purification accords far better with the general attitude of Augustus than an autocratic exercise of his own strength, and the curt

legi may echo his disappointment at the senatorial apathy which so often necessitated imperial interference.

A further censorial duty had been the revision of the lists of knights. Here also Augustus introduced reforms, but the authority by which he did so is uncertain.²⁹ Since the details of his arrangements do not affect the constitutional aspects of the Empire, they may be briefly summarized. Some modern writers have plausibly maintained that he abolished the distinction between *equites equo publico*, knights who held a horse from the state, and the mere *equites*, citizens whose wealth, four hundred thousand sesterces, qualified them for membership in the equestrian order and service in the jury-courts.³⁰ Since, however, others still feel that some distinction must have remained, the question must be regarded as unsettled.³¹ Augustus urged the leading men of the Italian municipalities to join the equestrian ranks.³² He revived the annual review of the knights on July fifteenth,³³ and gave them the privilege of acclaiming the heir apparent as *princeps iuventutis*, leader of the squadrons of young nobles. These bodies were apparently organized to train the young nobles at public expense, at least in cavalry exercises, and they were copied in the Italian municipalities.³⁴ The equestrian military service of three years, either in command of a troop of horsemen or as a military tribune in a legion, became the necessary preliminary for the public career of either knight or senator.³⁵ Augustus took the duty of maintaining the equestrian order and revising its ranks very seriously.³⁶ It became the class from which the imperial civil service drew its personnel for pro-

vincial and administrative posts, just as the clerical staffs were largely drawn from the freedmen.

In this connection Augustus also revised the jury system. It is uncertain to what extent senators continued to serve.³⁷ However, a fourth *decuria*, with a minimum qualification of two hundred thousand sesterces, was added by Augustus and a fifth by Gaius with the same qualification, since apparently the standard of the fourth had risen.³⁸ Augustus lowered the qualifying age from thirty to twenty-five and in other ways sought to improve the efficiency of the courts.³⁹

Under Tiberius there died one Volusius, of whom Tacitus relates that he "exercised a censorial power for selecting the panels of knights."⁴⁰ Suetonius mentions "*tresuiri* for revising the squadrons of knights," and the inscription of one Favonius says that he was "*a tresuir* for revising the centuries of knights with censorial power."⁴¹ There were probably two boards, one for the jury-panels and one for the squadrons,⁴² but they must have been temporary and were perhaps interchangeable.⁴³ Yet this affords an idea of how Augustus proceeded in such reforms, not by his own direct action but by instigating the creation of senatorial boards. Moreover, the use of *censoria potestas* in both these cases, and the title *censor* given to Volusius by one of his freedmen, suggest how Dio's confusion about Augustus himself might have arisen.⁴⁴ Neither Volusius nor Favonius was censor or even consul, yet they could speak of acting with censorial powers under special enactments of the Senate. Thus, Augustus might himself say that he acted with consular power and others might call his

power censorial under like circumstances without implying any revival of the defunct office but merely suggesting that he was performing consular or censorial tasks.

Augustus took great pride in the increasing number of Roman citizens under his protection.⁴⁵ He also insisted on the value and importance of the citizenship and attempted to maintain the purity of the old stock. Mention has already been made of the legislation, inspired by him, which rendered it increasingly difficult for freedmen to obtain the citizenship. Equally important was the problem of the extension of citizenship to the non-Roman inhabitants of the Empire. Under the Republic grants of citizenship technically originated with the People, who conferred it by law.⁴⁶ But the People might empower a general or magistrate to bestow it as a military award or in connection with the founding of a colony.⁴⁷ The censors must have had some control over its extension through their opportunities to add names to or remove them from the rolls.⁴⁸ The same general procedure, save perhaps for the control of the censors, was used for grants of *latinitas*, which formed a half-way step to full citizenship.⁴⁹ Under the Empire, however, both the bestowal and the withdrawal of civic rights lay with the Emperor.⁵⁰ In many cases he may have exercised such powers under laws authorizing him to found colonies.⁵¹ But the inscriptions and the ancient authorities suggest that, apart from general grants, individuals received or lost the citizenship at the hands of the Emperor.⁵² In some cases the deprivation was the result of a judicial con-

demnation.⁵³ The prerogative of making grants without specific authorization need not be taken to indicate any censorial power.⁵⁴ Originally, perhaps, it was a military privilege connected with the recruiting for the legions, or with the reward of *auxilia* and the founding of colonies of veterans. Thence it became generalized, perhaps by definite enactment, perhaps simply by custom.

Among the successors of Augustus, Claudius took the most interest in the questions both of citizenship and of membership in the Senate. He is often said to have reverted to the liberal policies of Julius Caesar, but the evidence does not support that conclusion. During his censorship (47-48 A.D.), he undertook revisions of the knights and of the jury-lists.⁵⁵ He likewise revised the Senate by both removing and adding members.⁵⁶ In this connection he delivered a speech on behalf of the chiefs of the Aedui about which much discussion has revolved.⁵⁷ It must be assumed that Claudius was asking not that the Senate should authorize him to proceed in the matter, for as censor he had the right to enroll new members if they were citizens, but that it should approve so extreme a step as that of drawing senators from a non-Roman people. These Gallic chiefs, descendants, presumably, of citizens created by Caesar, requested the privilege "of acquiring office in the City."⁵⁸ This petition suggests that, though citizens, they could not hold magistracies, and such a disability has never been satisfactorily explained. Some scholars distinguish a *ciuitas optimo iure* from a *ciuitas sine iure honorum*.⁵⁹ Hardy thought that these chiefs did not

have *municipalis origo*, birth in a civic community; but the phrase on which he based his theory, *coloniae et municipia*, seem to have been a stock designation for the Italian communities and to have had no general application to the whole Empire. Nor did it draw a distinction between members of such communities and other citizens.⁶⁰ Perhaps the magistrates who drew up lists of candidates for office customarily refused to enter the names of non-Italian citizens, and the Gauls desired a definite order which would admit them. In any case the Gauls seem not to have obtained what they desired, the right of holding magistracies, but only the more honorary privilege of being adlected to the Senate by the Emperor.⁶¹ Thus they would be prevented from rivaling or displacing the less wealthy but still proud and narrow-minded Romans, and would preserve the Republic from barbarian contamination. Here, therefore, Claudius steered a safe course between the danger of offending the powerful Gallic nobility and of vulgarizing the prerogatives of the ruling race. He cannot be said, however, to have displayed the international vision of a Caesar.

Claudius likewise enrolled new patrician families and held a census in which 5,984,072 citizens were counted, an increase since 14 A.D. of 1,700,000.⁶² This rise, greater in less time than that under Augustus, cannot be attributed solely to Claudius. In part normal reproduction contributed to it, in part, also, extensions of citizen rights by Tiberius and Gaius.⁶³ Under Claudius, a venal court rendered possible the purchase of civic rights.⁶⁴ But although in the surviving inscription on the Anauni

Claudius with just wisdom confirmed them in a privilege to which it had been proved that they had no title but of which they had had a long and undisturbed enjoyment, he cannot in this case be charged with an indiscriminate extension of the citizenship.⁶⁵ Another inscription, from Mauretania, has been cited to show a policy of extending the citizenship to natives around Romanized communities, but that interpretation rests on a false reading.⁶⁶ Actually Claudius decided all these cases with a careful moderation which sheds much credit on his ability and interest in the subjects of the Empire. Nor do his rulings indicate any departure either from the narrowly Roman policy of Augustus or from the constitutional doctrine of the Restored Republic.⁶⁷

The ancient authorities attribute many minor regulations of a quasi-censorial character to the direct action of the Emperors. Edicts limited the various guilds or *collegia* and compelled them to have permission to meet from the Emperor or Senate.⁶⁸ Regulations controlled the license of actors and the unruliness of audiences.⁶⁹ The general care of public property was vested in a special senatorial board and therefore belongs to a discussion of the civil services.⁷⁰ Tiberius reproved loose manners and morals by both edict and example.⁷¹ In this connection allusion should be made to the frequent attempts to exclude foreign superstitions, since the protection of the domestic cults had, under the Republic, been in the hands of the consuls or censors with the help of the Senate.⁷² On the whole, such attempts must be laid to the vague police power held by any magistrate

and exercised by the Emperor within the City. He might exercise this power not necessarily because the *imperium* applied within the *pomoerium* but either through his tribunician power or simply from tacit consent under the influence of his *auctoritas*.

XI

THE RELIGIOUS POSITION OF THE EMPEROR

CHARACTERISTIC of Augustus' whole policy was his regard for the old Roman civic religion and his attempt to revive its traditional usages. He was so careful of offending against any prejudices that he suffered his rival Lepidus to retain the title of *pontifex maximus* until his death in 13 B.C. In the following year, as he himself says with pride, he received the office by a popular vote for which all Italy thronged to Rome to show its devotion to him.¹ Under the *lex Domitia*, actually only seventeen tribes, drawn by lot out of the thirty-five, could vote.² Although in the case of later Emperors the Senate apparently conferred the dignity of the pontificate, the inscriptions record *comitia pontificatus maximi*.³ Thus, the fiction of popular sovereignty, as in the case possibly of the *imperium* and certainly of the *tribunicia potestas*, was preserved. The position of supreme pontiff, in essence civil, gave the Emperor little actual power but it enhanced his prestige. Augustus lists the other posts which he held as: *pontifex, augur, quindecemuir sacris faciundis, septemuir epulonum, frater arualis, sodalis Titius, fetialis*.⁴ It is hardly necessary to enter into a discussion of his revival of the old cult and its obsolete priesthoods and colleges or to ana-

lyze the social psychology which rendered the attempt futile.⁵ Part, however, of this attempt took the direction of excluding of foreign cults, which had grown steadily since the introduction of Cybele at the end of the Second Punic War and which had been the object of attack by both Senate and magistrates.⁶ Although the censors had occasionally taken cognizance of such matters under the Republic, it has been shown that there need not be assumed a general censorial power for the Emperor to account for his measures against these cults. There is always the possibility of some general enactment, like the clause in the *lex de imperio* which cites Augustus as precedent for the right to take any action that the Emperor thought fit for the needs of the state and the majesty of divine and human, public and private affairs.⁷ If, however, Augustus received such a right, he must have been chary of its use, and it is better to seek the justification for the expulsions of foreigners from the City by the Emperors either in their position as heads of the state religion and their general right of *coercitio* or in the failure of the authorities to report decrees of the Senate requesting imperial action.⁸ Historically, of course, this matter has great interest for its bearing on the Jews and Christians in Rome.⁹

There remain two elements in the religious position of the Prince which, though not strictly constitutional, were of considerable practical importance: the oath and Emperor-worship. Augustus, perhaps with a Sullan precedent, had rallied the West, or at least Italy, behind him for the final struggle against Antony by a great oath which all the populace took in his name in 32 B.C.¹⁰

This was essentially an extension to the whole population of the oath normally sworn by soldiers to their commander. After the death of Augustus it became customary for the magistrates, Senate, soldiers, People, and subject communities to take such an oath on the accession of an Emperor, or anniversaries thereof, and on New Year's Day.¹¹ Different seems to have been the oath to observe the *acta* of an Emperor or of his predecessors. The republican magistrates had sworn on entering office to obey the laws and on leaving it that they had done so.¹² Moreover, the *acta* of a magistrate theoretically ceased to be valid after his *imperium* had expired. In practice they were either tacitly or by enactment of the successor kept in force if desirable. During Caesar's life, in 45 B.C., and after his death, on January 7, 42 B.C., an oath was taken by all the officials to support his *acta*.¹³ Similar oaths were sworn to the *acta* of Augustus in 29 B.C. and, by the Senate, in 24 B.C.¹⁴ Dio has an interesting comment when Augustus refused an oath offered by the People in 19 B.C.:¹⁵ "For he well knew that if they voted any measure from their hearts, they would observe it without an oath, but if not, they would not respect it even if they gave a thousand pledges." If this quotation reproduces any authentic utterance, Augustus was trying to avoid setting his *acta* above those of other magistrates and on a par with the laws. And there is no mention of such an oath thereafter in connection with Augustus. But Dio's statement that Tiberius sought to abolish the New Year's oath to his own *acta*, while both taking himself and requiring others to take the oath to the *acta* of the deceased Em-

peror, suggests its formal continuance.¹⁶ The custom soon arose of having it taken, save on solemn occasions, by one senator for all.¹⁷ When Claudius was consul in 42 A.D., he made the senators swear to the *acta* of Augustus and he himself took the oath, but with respect to his own *acta* he permitted nothing of the sort on the part of any of them. And on leaving office, he took the oath, as had Gaius when consul, after the manner of other magistrates.¹⁸ From Dio's account it would appear that the magisterial oath already included the *acta* of dead Emperors in addition to the laws, and that it was increasingly difficult to keep out the *acta* of the living prince. The *damnatio* with which the Senate condemned the memory of an unpopular ruler carried with it the omission of his name from the oaths and official documents. His *acta* also were usually repealed formally, but they probably remained valid in practice if they had any value.¹⁹

It would be hard to estimate the constitutional importance of the various oaths. Those to the *acta* not only served to perpetuate the enactments of deceased Emperors, without the formal renewal which the ending of their *imperia* by death should technically have occasioned, but also gave them a sanction equal to that of the laws. This must have contributed to the general tendency for the imperial edicts to develop from mere magisterial pronouncements into fully legislative instruments.²⁰ In the popular mind, the oaths undoubtedly lent the deceased Emperors, especially those who were deified, a religious character and afforded the living prince a certain authority beyond that of his merely

mundane and constitutional powers. The whole Empire was bound to him by the religious ties that united troops to their commander.²¹ In short, the broadening scope of the oaths during the Julio-Claudian period, despite the moderation of the saner rulers, admirably illustrates the rapid degeneration from the Restored Republic to monarchy.

To a certain extent, the oath serves as an introduction to a discussion of emperor-worship, since scholars have held on the one hand that emperor-worship represented an appeal to the populace over and apart from the legal bases of power, just as had the *coniuratio*, and on the other that it was a means of lending to imperial utterances a supralegal and universal validity.²² The most recent students of the history of the apotheosis of dead and living rulers have given up the view that the Hellenistic world derived this method of honoring its overlords primarily from Syria and Egypt.²³ Nevertheless, whether their opinion that it arose naturally in Greece at the end of the fifth and during the fourth centuries be correct or not, ruler-worship was most probably imported into Rome and not indigenous to Italy.²⁴ The Ptolemies developed forms of such worship adapted to the various peoples over whom they ruled. For the natives they stood in the direct line of the Pharaohs, but they seem to have universalized the sporadic Egyptian habit of placing statues of dead rulers in the temples of the gods and to have lent such association more significance than it had previously had. In Alexandria they were joined in the "hero"-worship of Alexander, though this form apparently had little importance

either outside of Alexandria or for their Roman successors. In their Aegean dominions, a cult of the living rulers sprang up in various cities by the time of Ptolemy Philadelphus, perhaps as an acknowledgement of Ptolemaic rule.²⁵ The Seleucids contributed to the development of emperor-worship a cult in which the independent rulers received separate worship and which was organized by satrapies rather than by civic communities.²⁶ Thus, the Romans found Hellenistic precedents for the worship of a succession of deified rulers by one priestly college, for the independent cult of living rulers, for the use, possibly, of emperor-worship as an instrument of political unity and a test of loyalty, and for the organization of cult both in towns and in provinces.

Attempts were made during the lifetime of Julius Caesar to endue him with superhuman dignity in the Hellenistic manner. It is disputed whether these were inspired by Caesar's own desires or by the aspirations of his more extreme followers, like Antony, or even by his enemies.²⁷ Although any such tendency was most unwelcome to the conservatives, popular enthusiasm on the assassination of Caesar forced the Senate to recognize his divinity.²⁸ Antony's effort to reestablish the empire of the Ptolemies for Cleopatra involved his deification as a living god.²⁹ But Actium put an end to all that. Augustus had learned his lesson from both Caesar and Antony, and there is no evidence that he deliberately or artificially sought to set himself up as a god for any political reasons. But there is plenty of proof that the world to which he had brought peace and

prosperity, from the most polished court poets to the humble artisans, felt that his achievements were more than human.³⁰ And Augustus himself preserved the title "son of the Deified Julius" on account of the popularity of his adoptive father.³¹ In Egypt he naturally inherited the religious position of the Pharaohs and was united in worship with the native divinities.³² Elsewhere in the East he sought to restrict to Rome and Julius public worship paid by Roman citizens and to permit only from the natives worship of himself as successor to their local king-gods.³³ In the West Augustus sought to limit even more rigorously any worship of himself. If the already much orientalized populace of Rome, encouraged by the monarchical tendencies of Caesar, desired to flatter its new ruler by extravagant and Hellenistic adulation, it must have received only partial satisfaction from the restrained and Italian form which he let his cult assume within the City. He permitted only that his genius be joined with the *Lares Compitales* whose shrines he established in the fourteen reorganized wards of Rome.³⁴ Throughout Italy inscriptions show that private persons worshipped him, but the only official cult was again that of the genius of Augustus, which was permitted to organizations of freedmen. Out of this aspect of emperor-worship developed both in Italy and in the provinces the *seuiri* and the *augustales*, municipal honors for freedmen and distinguished provincials.³⁵ The organization of cults of the ruling monarch for provinces as a whole began in the East and spread to the imperial provinces of the West during the lifetime of Augustus, but only in the form *Roma et Augustus*.³⁶

It remains uncertain whether it extended to the senatorial provinces of the West before Vespasian.³⁷ Although this cult, and the provincial councils connected with it, gave slight indications of developing provincial self-government, in the end little came from it.³⁸ The policy, therefore, which Augustus adopted in this as in other matters was conservative. He set his face to the best of his ability against anything which would exalt himself or his position at the expense of the Restored Republic. Wherever the political traditions of natives demanded it, he allowed himself to be regarded under the same guise as had been their former rulers. But for the provinces in general he emphasized the primacy of Rome personified and he himself remained in a secondary position. For Roman citizens and municipalities he permitted the worship of his genius, which was an only slightly more personal abstraction than those "Fortunes" and "Virtues" of distinguished persons or states to which temples were often erected. Far from stimulating the worship, he checked and controlled it. Nor does he appear to have used his religious *auctoritas* to lend validity to his political acts or to create a common bond among the diverse subjects of the Empire.

XII

THE AUGUSTAN TITULARY

THE less important offices and titles acquired by Augustus may be briefly dismissed. For an example of the full list in 14 A.D. the following inscription from the bridge at Ariminum may serve:¹

imp. Caesar diui f. Augustus pontifex maxim. cos. XIII imp. XX tribunic. potest. XXXVII p. p. Ti. Caesar diui Augusti f. diui Iuli n. August. pontif. maxim. cos. III imp. VIII trib. potest. XXII dedere.

The *praenomen imperatoris* has already been treated.² *Caesar* was assumed upon his adoption in the will of Julius, which a *lex curiata* of 43 B.C. confirmed.³ Octavian did not retain the *Gaius* to which he was likewise entitled.⁴ *Diui filius* has been mentioned in connection with emperor-worship. It gave Octavian a certain divine sanction in the eyes of the public without involving self-deification.⁵ The most prominent of his titles, *Augustus*, was bestowed by the Senate on the motion of the consul Munatius Plancus on January 16, 27 B.C.⁶ Some senators had suggested the name Romulus to recall the original founder of Rome in the person of its restorer, but Augustus wisely did not seek to set himself on a par with the traditional hero. The adjective *augustus*, applied to the gods, meant not only "he who is increased above others" but, actively, "he who brings

increase." It undoubtedly emanated from the court circle which regarded the Emperor as the great restorer.⁷ The pontificate, consulship, title *imperator*, and tribunician power have each been discussed.⁸ *Pater patriae* was a token of popular esteem. With it the People had saluted Cicero upon the suppression of the Catilinarian conspiracy.⁹ With it they acclaimed an even greater restorer on February 5, 2 B.C.¹⁰

Apart from *Augustus*, however, the word most widely employed in the early period to designate the Emperor was not *imperator*, though this did come into use by the time of Tacitus for the ruler in his civil as well as in his military capacity, but *princeps*.¹¹ This term did not derive from the Emperor's honorary post of *princeps senatus*, the senator who was called upon for the first vote by the presiding magistrate.¹² It had only a popular and unofficial use.¹³ Under the Republic the *principes* were the most prominent figures in the state, men who, without holding any extraordinary office, were nevertheless admitted by the public to be outstanding.¹⁴ Whether or not Cicero actually employed *princeps ciuitatis* to designate his *moderator rei publicae* in the *de Republica*, he certainly envisaged his head of the state, whether Pompey or himself, in exactly this guise of a constitutional ruler, one who, though perhaps not always in office, would direct the state by the weight rather of his prestige than of his power.¹⁵ Despite attacks, Meyer's view that Augustus harked back to Cicero and Pompey rather than to Caesar for his inspiration in shaping his own position still has great verisimilitude.¹⁶ Certainly the *Monumentum Ancy-*

ranum sounds a Ciceronian strain. Augustus there speaks of himself as *princeps*.¹⁷ And the present discussion has throughout sought to show that Augustus sincerely and consistently pursued his policy of constitutionalism and the Restored Republic. His successor, the even more republican Tiberius, is credited by Dio with the characteristic remark: "I am master of my slaves, general of the soldiers, and prince of the rest."¹⁸

Other titles, indicative of autocracy, Augustus shunned. The word *dictator* never recovered from the stigma left on it by Sulla and Caesar.¹⁹ *Dominus*, with its implication of slavery, became current only under the absolutism of later centuries.²⁰ *Rex* had been anathema at Rome since the expulsion of Tarquin the Proud. The Greeks, however, used "basileus" frequently, if unofficially, of the Emperor.²¹

Tiberius, even more than his predecessor, avoided empty titles. He even sought, unsuccessfully as the inscriptions prove, to reserve *Augustus* for the peculiar designation of its first holder.²² He refused *pater patriae* for himself and *mater patriae* for his mother, Livia.²³ After him, however, the Emperors accepted all the titles at once save *pater patriae*. This title Gaius wholly refused, whereas Claudius and Nero received it later in their reigns.²⁴ Claudius, by assuming the family name of Caesar, to which he had no claim by blood or adoption, and by retaining his own gentile name of Claudius, made the former into a title which, from the time of the Flavians, came more and more to designate the heir to the throne.²⁵

The titles employed by the Emperors illustrate the

general tendency of the principate. At first they indicated the republican positions held by Augustus, his hereditary names, or special epithets, such as had not been unknown under the Republic. But they became formalized and regularized. Those which had been at first peculiar to Augustus himself were conferred on all who held his position, and hence came to denominate the legal monarchy into which the unofficial principate changed.

XIII

EXEMPTION FROM THE LAWS

THE Emperor is often said to have been set above all other magistrates of the state in that he was freed from the operation of the laws. Under the Republic, from the time of the Gracchi, the Senate had usurped from the People the right to dispense individuals from the operation of certain laws.¹ Pompey, for instance, was allowed to hold the consulship before he had fulfilled the conditions either of age or of previous magistracies.² In 67 B.C. the tribune Cornelius sought to abolish such dispensations, but succeeded only in securing that at least two hundred senators should be present when a dispensation was voted, and in prohibiting the beneficiary from interceding against a reference of the dispensation to the People.

Ulpian affords the general statement on the position of the Emperor in this respect. "The *princeps* is released from the laws. Although, moreover, the Empress is not released from the laws, the princes grant them the same dispensations as they themselves have."³ Dio confirms him: "For the Emperors have been declared released from the laws, as the words in Latin signify; that is, they are free from all compulsion of the law and are subject to no written ordinance."⁴ Since, however, Ulpian's remark comes from his commentary

on the *lex Iulia et Papia Poppaea*, modern students have maintained that originally the Emperor was dispensed from the operation not of all laws but only of special ones, particularly from the limitations of their right to receive bequests if they were childless.⁵ Dio mentions in the case of Gaius Caligula both this exemption and one from the restrictions on giving gladiatorial contests.⁶ Hence, when Dio says that in 24 B.C., "when Augustus forbade the posting of the edict concerning the donatives until the Senate should give its approval, they freed him from all the compulsion of the laws so that, as I said, he might in reality be independent and master both of himself and of the laws and might do all that he wished and not do anything which he did not wish," he is held to have interpreted a release simply from restrictions on gifts to the People in the general sense which had become the rule in his own day and to which he had already alluded.⁷ The *lex de imperio Vespasiani* contains a clause: ". . . and that the Emperor Caesar Vespasian should be free from those laws or plebiscites by which laws and plebiscites it has been written that the Deified Augustus and Tiberius Julius Caesar Augustus and Tiberius Claudius Caesar Augustus Germanicus should not be held; and that whatever acts by any law or rogation the Deified Augustus . . . ought to perform, all these the Emperor Caesar Vespasian Augustus may perform."⁸ Since this clause not only grants exemption but imposes obligations, Mommsen justly concluded that full independence was late and never went beyond the superiority of an imperial decision to a law.⁹ Barker sums up the situation thus:

“Roman law . . . if it can pronounce the Emperor a ‘living law on earth,’ can also proclaim that ‘it is a saying worthy of the ruler’s majesty that a prince should profess himself bound by the laws.’ If Ulpian enunciates the absolutist dictum that ‘the will of the prince has the force of law,’ he adds the democratic explanation ‘because the People confers on him and into his hands all its own power and sovereignty.’ Roman law . . . implies absolutism . . . and . . . constitutionalism.”¹⁰ Nevertheless, it appears that what began as merely specific dispensation from particular legal restrictions, quite in the republican manner, was by the end of the first century, through the change from principate to monarchy, evolved into a general doctrine that “the prince can do no wrong.”

XIV

THE SENATE

IF THE Emperor was the servant, not the master, of a Restored Republic, the position of the constituents of that Republic, the Senate and People, with their magistrates, should next be considered. Actually the rôle assigned to the Senate must determine the judgment passed on the genuineness of the restoration.¹ Despite the efforts of demagogues, disinterested and selfish, since the time of the Gracchi to establish popular control, the Senate had, in fact, for two hundred years constituted the real governing body in the Roman state, and it was the aristocratic senatorial government which Augustus reëstablished.

The first move towards this end was the purification of the Senate from Caesarian interlopers and the re-establishment of the old families. Augustus took a far narrower view of the Roman state than Caesar had held, and there is no reason to assume that any of the Julio-Claudians measurably sought to extend membership in the Senate to non-Romans save in special cases.² Augustus restricted its numbers to the traditional six hundred.³ Admission, in the republican manner, came from tenure of the quaestorship. Direct adlection, save during the general revisions, cannot be proved for Augustus and always remained exceptional. To become quaestor,

one must have served as an officer in minor military posts to which the Emperor appointed, and also one must have filled one of twenty minor magistracies.⁴ Elections to these, though not under direct imperial control, were undoubtedly subject to his influence and approval. Moreover, the candidates for the quaestorship had to bear on their togas the broad purple stripe, the *latus clauus*, which indicated prospective nobility.⁵ Although it remains uncertain whether or not sons of senators had a hereditary claim to this distinction, they probably assumed it only with the Emperor's approval. All others obtained it solely by his grant. For the higher magistracies, the Emperor could "nominate," or issue, like any magistrate, a list of candidates whom he approved, and, for a limited number of places, "commend," or order the election of his candidate.⁶ Senatorial rank, to which the Emperor thus controlled admission, was a qualification both for the higher magistracies and for senatorial and imperial governorships and for commands.⁷ Hence it might well seem that, since the senatorial class under the principate was a semi-hereditary nobility subject to the Emperor's supervision and increased only by his favor, the Restored Republic was fundamentally a fiction.⁸

On the other side, however, something can be said. Augustus apparently used his control of admission impartially for what he considered to be the best interests of the Senate and not to create a subservient body which would merely approve his acts automatically. He did not exclude such personal enemies as Antistius Labeo.⁹ The Senate during the early Empire was the chief cen-

tre of disaffection and plots against the Emperor.¹⁰ Augustus in the *lectiones* sought and failed to make the Senate responsible for its own composition.¹¹ The charge has been made that the youthful age at which one could become a member of the Senate¹² and the decreasing administrative importance of the magistracies¹³ rendered the body only an unsubstantial show of past grandeur behind which the new imperialism masked its really autocratic character. Yet the Senate at the end of the Republic was recruited from equally youthful candidates and submitted, at the hands of the extraordinary commands, to even more drastic inroads upon its functions. It nevertheless contained no lack of distinguished and able members.¹⁴ The dearth of outstanding talent among the nobility of the Empire is probably to be explained by more fundamental social changes, such as the lack of reproductivity and the heavy toll of the civil wars, and not by any deliberate attempt upon the Emperor's part to reduce it to a subordinate position.¹⁵ If Augustus retained in his own hands the keys to its ranks, this was because he felt that a prince, who had the interests of the State at heart, would be a more competent and efficient judge of candidates for the highest organ therein than any other element in the state had so far shown itself to be. Mommsen explained the relations between the Emperor and the Senate by a thesis that they were separate and co-ordinate elements.¹⁶ In the sphere of function such a division does actually appear, and it will be treated later. But the basis of his theory was that the Senate perpetuated the old Roman state, the *Senatus Popu-*

lusque Romanus, whereas the Emperor stood for the subjects of the Empire as a whole, particularly in so far as the army could be called the representative of the new Roman state. Schulz, however, has shown conclusively that the military *imperium* was definitely granted by the Senate and was not an independent mandate to the Emperor from the army.¹⁷ The Senate remained the only continuous authority. The Emperor received from it an extraordinary appointment for a term of years or for life. However inevitable in fact was the subservience of a body of six hundred to a single executive who controlled the real force of the state, however much military, social, economic, and political conditions encouraged the growth of the imperial machinery at the expense of the republican, however misguided Augustus' respect for the old nobility soon proved to have been, the blame for the failure of the Restored Republic rests not with the Emperor but with the Senate.

XV

THE EMPEROR AND THE SENATE

IF IN theory the Senate was supreme, it soon became apparent that in practice its position depended largely upon the character of the Emperor. This was the more true because the Emperor's control of the effective force of the state and the gradual restriction of the republican magistrates compelled the Senate frequently to appeal to the Emperor to intervene even in its own spheres. It called upon Augustus to quell the election riots in 22 and 19 B.C.¹ It required military protection from the Emperor for the commissioners sent to quiet the factions at Puteoli in 58 A.D., and for itself when the population of Rome agitated against its sanction of the execution of slaves in cases of murder.² Military matters, as the appointment of the proconsul of Africa for the war with Tacfarinas in 21 A.D., and foreign affairs, as the Armenian succession in 23 B.C., it generally referred to the Emperor.³ Towards the end of the Julio-Claudian period, the consuls sometimes refused to put an important motion without first consulting the Emperor's pleasure.⁴ If he were present at a meeting, his decision was usually decisive whenever he chose to make one.⁵

Thus arises the question of the attendance of the Emperors in the Senate and their conduct therein. The

Emperor had the right to summon the Senate.⁶ He had the titular position of *princeps senatus* with its privilege of casting the first vote.⁷ Finally, he had the privilege of introducing business to the Senate ahead of any other matters.⁸ These prerogatives might seem to have made the Emperor practically master of its sessions. All of them date from the time of Augustus and were, perhaps, bestowed on him because he used such privileges so moderately. Of the three, the last two were undoubtedly the most important factors in the dealings between the Emperor and the Senate and should, therefore, be treated more in detail.⁹

Augustus attended the Senate in person as long as his health permitted.¹⁰ Various references to his conduct of business when he presided have survived. It is said, for instance, that he took the votes of the consulars¹¹ and even on important matters those of all the senators in any order instead of in accordance with the usual rules of seniority, so that he might get a less biased expression of opinion.¹² Likewise, when he himself was not presiding and was called upon for his opinion, he declared it not among the first but among the last because he desired all to form independent judgments and not to abandon their own views under any feeling that they must agree with the Emperor.¹³ He was always considerate towards the Senate and especially towards those who heckled him in debate.¹⁴ From the statement that he used a quaestor to read his messages when he had a cold, it may be assumed that he ordinarily delivered them himself. Later in life, because his voice became inaudible, Germanicus read for him.¹⁵ Only

twice, according to Dio, did Augustus leave in displeasure, once when he was voted excessive honors and once when Sisenna claimed that he had sanctioned an unsuccessful marriage.¹⁶ Thus, under Augustus there seems to have been great freedom in the Senate despite the presence of the Emperor. Nor was there any fixed rule about the position in which he voted.¹⁷ Towards the end of his life, Augustus was no longer able to attend in person. He therefore altered the nature of the senatorial committee, which had for some years met with him to prepare bills for the Senate, in such a way that it became practically the governing body of the state. This *consilium* had been an important factor in harmonizing the relations between the Emperor and the Senate, since it developed in the latter a group closely in touch with the intentions of the former. Its history, however, deserves a separate chapter. It vanished under Tiberius so that it cannot be regarded as a permanent element in the Julio-Claudian principate.¹⁸

In the first year of Tiberius, at the trial of Granius Marcellus before the Senate on a charge of *maiestas*, Gnaeus Piso exclaimed to the Emperor, who does not seem to have been presiding: "In what place will you vote, Caesar? If first, I shall have some guidance; if after everybody else, I fear lest unintentionally I disagree."¹⁹ These words have been taken to show that it was unusual for the Emperor to vote at all and that, when he did so, it was regular for him to vote first or last.²⁰ But Piso's irritation had been stirred by Tiberius's assertion that "he too in this trial would cast a vote openly and under oath in order that the same necessity

might bear upon the others.”²¹ Tiberius was annoyed by the triviality of the charges against Marcellus and did not want the senators to work off their petty spites under the protection of a secret ballot. The attitude of Piso towards Tiberius is hard to understand, since he is later presented as the agent of the Emperor against Germanicus in the East.²² He had received early mention as a possible candidate for the principate and belonged to a family of old senatorial traditions.²³ Hence his remark may be taken in a sarcastic or bitter vein of protest against an attempt to coerce the Senate. Tiberius, with the best of intentions, constantly offended senatorial pride. Dio devotes some space, however, to the considerate manner in which Tiberius comported himself in the Senate: “After setting forth his own opinion, he not only granted everyone full liberty to speak against it, but even when, as sometimes happened, others voted in opposition to him, he submitted; for he often would cast a vote himself. Drusus used to act just like the rest, now speaking first and again after some of the others. As for Tiberius, he would sometimes remain silent and sometimes give his opinion first, or after a few others, or even last; in some cases he would speak his mind directly, but generally, in order to avoid appearing to take away their freedom of speech, he would say: ‘If I had been giving my views, I should have proposed this or that.’ This method was just as effective as the other, and yet the rest were not thereby prevented from stating their views. On the contrary, he would frequently express one opinion and those who followed would prefer something different and fre-

quently they prevailed, yet for all that he harbored anger against no one.”²⁴

While Tiberius remained in Rome, his presence in the Senate is often recorded. He summoned it on the death of Augustus in virtue of his *tribunicia potestas*.²⁵ He sought to maintain its standards and to prevent it from unwise measures.²⁶ After he had retired from Rome, first in 21 A.D. and permanently after 26 A.D., he corresponded directly with the Senate by letter.²⁷ For this procedure he had the precedent of Augustus.²⁸ He also sent injunctions to the consuls which they were instructed to read to the Senate.²⁹ He wished perhaps to avoid the appearance of dictating to the Senate.

Gaius attended the Senate infrequently and normally communicated with it by letters, which he often addressed to the consuls rather than to the whole body.³⁰ Claudius, on the contrary, attended constantly and would introduce his business from a curule chair placed between the consuls or from the tribunes' bench.³¹ His weak voice and frame forced him to deliver his messages sitting down or to have them read by a quaestor.³² He introduced his freedmen and praefects into the Senate both unofficially, as his companions, and officially, by securing seats and even the privileges of magistrates for them.³³ Nero was less regular in attendance than had been his stepfather. His speeches, for example, that which he delivered upon his accession, were composed for him by others.³⁴ On the whole, he remained out of sympathy with the body and preferred to communicate with it by letter.³⁵

The presence of the Emperors in the Senate and their

share in its proceedings, whether by the introduction of business or by their votes, affords a clear case of the conflict between theory and practice under the Julio-Claudians.³⁶ Augustus held powers by the exercise of which he could easily have reduced the Senate to complete inactivity. But his every effort was directed towards stimulating it to undertake its public duty. He himself manipulated the reins of control so tactfully that his promptings seemed to the Senate to be their own wishes. Tiberius sought to follow the same course. But the Senate was not so efficient as Augustus had hoped, and Tiberius had not the patience of his predecessor. The tension between the pride of the Senate and the irritation of Tiberius was only accentuated when the latter retired to Capreae. His communications must have sounded to the Senate more and more like commands rather than proposals; its inefficiency must have seemed to him more and more like opposition concealed under superficial obsequiousness. The reign of Gaius and the elevation of Claudius brought into sharp relief how powerless the Senate really was in the face of the military *imperium*.³⁷ Nor did Claudius help matters by his pettifogging attention to every detail. His reign witnessed the rise to prominence and power of the freedmen, whose efficiency relegated the Senate's administration into the background, and whose influence and venality brought the business of the state into their hands. Nero made an almost complete break with the Senate, a break which was sharpened into open hostility by the Pisonian conspiracy.

These conclusions are confirmed by other indications

of the attitude of the various Emperors towards the Senate. The Augustan reaction against Julius's scheme of making the Senate a universal but more or less honorary body has already been discussed.³⁸ That the pro-Italian policy found favor with the aristocrats and, therefore, furthered Augustus' idea of the Restored Republic, is made evident by the opposition which Claudius apparently met to his modest and justifiable move to include in the Senate the thoroughly Romanized Aeduan chiefs.³⁹ Augustus throughout kept the Senate aware that it was the source of power, and sought its coöperation in all save purely military matters. He behaved towards it with the greatest politeness and never allowed it either to wait upon him or rise to meet him. He asked for its advice on his own conduct.⁴⁰ When it protested against the inheritance tax, he urged it to suggest a better, and, when it failed to do so, he showed how unpopular the inquisition necessary for a property tax would be.⁴¹ Thus by cajolery, patience, and example he led rather than coerced the Senate. And to it as his superior, on his death-bed, he rendered his accounts.⁴²

Tiberius tried to show the same consideration towards the Senate and brought even the slightest matters before it.⁴³ The ancient writers constantly accused him in this respect of deliberate duplicity, of saying one thing and meaning another, of preserving a show of liberty before a reality of autocracy.⁴⁴ Yet he was probably sincere in his desire to refrain from interference, but he could not help, in the interests of efficiency, making it perfectly clear what his opinions were.⁴⁵ Thus, he

placed the Senate in the embarrassing and irritating position of having to discuss questions without feeling able to settle them independently. Tacitus celebrates the debate about the rights of asylum in Asia because for once the Senate was allowed to exercise a complete freedom of enquiry and discussion. Had Tiberius shown in important matters the same abstention which he displayed about this minor issue, he might well have retained the good opinion of his contemporaries and held a place in Roman history second only to that of his predecessor for his wise administration of the Empire.⁴⁶ He objected to any form of flattery and throughout rendered to the Senate accounts of his actions or utterances.⁴⁷ He behaved in it like a mere senator and insisted that a good prince should strive to serve the state under its friendly direction and advice.⁴⁸ Only occasionally did he show irritation at its pettiness and indecision.⁴⁹ The distrust which came after he withdrew to Capreae did, however, make him less liberal. He asked for military precautions when he thought of returning to Rome.⁵⁰ In fact, the definite breakdown of the Augustan Principate may in some part at least be traced to the retirement to Capreae and the consequent physical, as well as temperamental, divorce between the two parts of the government. The truth became increasingly evident that the Senate was no longer a necessary element in the administration and that the imperial power was the real mainspring of government.

The successors of Tiberius emphasized the tendencies begun under him. Gaius in his saner or soberer moments showed some regard for the Senate. He promised on his

accession to share his power with it and on various occasions he consulted it.⁵⁷ But he usually displayed an attitude either of cavalier disregard or of hostile suspicion.⁵² Though he refused the honors which the Senate offered him because he did not wish it to feel itself able to confer favors upon him, its superior, yet he also protested when it failed to vote such honors.⁵³ Claudius displayed a marked deference towards the Senate and consulted it frequently.⁵⁴ He sought to make it attend more strictly to business.⁵⁵ On the other hand, the opposition to his accession made him fearful of entering the Senate for a month thereafter.⁵⁶ And he refused to let it abolish the *acta* of Gaius by an official decree, although he himself tacitly nullified them by neglect.⁵⁷ This refusal suggests that perhaps there existed already a feeling that the Senate should not criticize the deeds of an Emperor, that the prince was no longer an agent of the Senate and People but supreme in the state. The separation between the Emperor and Senate was emphasized during this reign by the rise of the imperial civil service. Nero began his career with a reaction against the monarchical tendencies of his predecessor and with a return to the Augustan Constitution.⁵⁸ He consulted the Senate but did not always feel bound to follow its advice.⁵⁹ Soon, however, his conduct, which shocked the old Roman sensibilities, and his complete callousness, which rendered the lives and liberties of all unsafe, caused an open breach between him and the Senate.⁶⁰ The members of the Senate, forced into external submission, either resigned themselves supinely or engaged in futile plots.⁶¹ Towards

the end of his life, Nero "threatened to remove the senatorial class entirely from the state and to entrust the provinces and armies to knights and freedmen."⁶² This threat foreshadowed that final degradation of the Senate under Aurelian, two centuries later, of which Barker writes: "The Senate now lost even the formal privileges which it had hitherto retained. Its members were excluded from military commands, it lost the old right of issuing bronze coinage, the formula *senatus consulto* disappeared. . . . [Under Diocletian] the last trace of dyarchy disappeared when the Senate became the municipal council of the city of Rome and its suburbs, and a new division and regrouping obliterated any distinction between imperial and senatorial provinces."⁶³

XVI

THE REPUBLICAN MAGISTRATES

THE program of the Restored Republic included the reestablishment of the republican magistrates in that position of independence from which the arbitrary dispositions of Caesar and the triumvirs had displaced them. Augustus sincerely attempted to revive comitial elections ¹ and he was most unwilling to undertake appointments himself on the two occasions, in 22 and 19 B.C., when popular agitation forced him so to do.² He even tried a scheme of absentee voting for the benefit of *decuriones* in his colonies who could not exercise their rights in person at Rome.³ Before elections, Augustus, like any other prominent figure, canvassed his tribe on behalf of his candidates, and he commended his adopted sons to the People only on their merits.⁴ But the city mob, however much Augustus tried to stimulate and improve it by social legislation, was no longer the Roman People. Although Tenney Frank's estimate that the influx of Orientals comprised eighty to ninety per cent of Rome's population may be exaggerated, the best material of the old Roman stock had been drained off to the provinces by centuries of war, and the replacement had been largely from the Eastern slave marts.⁵ Nor could the heterogeneous, unwieldy assemblies any longer pass considered judgments on

men who must have been mere names to most of them or on measures whose scope exceeded their limited comprehension of the problems of empire. They could only follow the persuasions, passions, and selfish interests of the moment. When, therefore, Augustus died, Tiberius, whose more strictly Roman character made him more sceptical of the abilities of the Roman People, had the elections transferred from the *Campus Martius* to the *Curia*.⁶ Velleius Paterculus has been interpreted as saying that Tiberius claimed to have done this on instructions left by Augustus. But Velleius more probably refers only to the nominating of candidates for office in accordance with the lists made up by Augustus.⁷ Thereafter, save for an abortive revival of comitial elections under Gaius, the Senate chose the magistrates, and became, with a certain amount of imperial control, self-perpetuating.⁸ The People at most confirmed by a formal law the bestowal of the imperial powers. Although the results of at least the consular elections were formally announced in public, there does not seem to have been any popular confirmation of the *imperia* of the republican magistrates. This might be taken to suggest that the *lex* on the Emperor applied only to the *tribunicia potestas*.⁹ Even the Senate proved at times unable to elect magistrates without intrigue, profit, and obstinacy. Nero had on one occasion to settle the election of the praetors himself.¹⁰

In practice, the senatorial elections must have become increasingly subject to imperial guidance. Not only did the Emperor alone grant the right to wear the broad stripe and appoint to the qualifying military posts,¹¹

but, more important, he could "nominate" and "commend" candidates for office.¹² Any magistrate could "nominate" a list of candidates, but the suggestions of the Emperor were naturally most influential. In this connection, Tiberius and the Senate had some dispute.¹³ Tiberius, following the precedent set by Augustus, suggested twelve names for the praetorship. At the time, twelve was the normal number of praetors.¹⁴ The Senate requested the Emperor to nominate more men. This request has been taken to mean that if only twelve were nominated for twelve posts, no choice was possible, and, in consequence, that the Senate would prefer to select from a longer list of names, all of which would be satisfactory to the Emperor.¹⁵ But the general tendency was to nominate only as many as were necessary or, for the higher offices, fewer. And had the Emperor nominated more men than there were offices, he would have changed the character of the *nominatio*, which implied that the magistrate thought that the men he named were the most worthy competitors for the office. Hence the Senate may rather have desired an increase in the number of praetors. In fact, by 33 A.D. the number had risen to fifteen.¹⁶

The imperial *commendatio* was a binding request for the election of a given person.¹⁷ It is doubtful how far commendation was employed for the higher offices in the early period. Augustus perhaps, and Tiberius certainly, commended a few candidates for the praetorship.¹⁸ Although an inscription and a passage from Dio suggest that Tiberius may have done so for the consulship as well,¹⁹ the first certain instance is Neronian.²⁰

In any case, the Emperor could influence the elections to the higher offices by nomination.²¹

The regularization of the *cursus honorum* has been mentioned in connection with admission to the Senate.²² After a term of military service and the tenure of any of the vigintivirate offices,²³ the aspirant for a public career progressed through the quaestorship, the tribunate or aedileship (save that patricians could proceed directly from the quaestorship to the praetorship), the praetorship, and, as the pinnacle of political ambition, the consulship.²⁴ The *leges annales*, which determined the ages at which these offices might be held and the intervals between them, and the law of Pompey, by which a space of five years was required to elapse between the tenures of a magistracy and of a provincial command, were revived by Augustus.²⁵

But despite the reforms and encouragement of the Emperor, the upper classes were unwilling to undertake public service. Candidates frequently failed to present themselves for the magistracies and the Senate.²⁶ In 24 B.C. the lack of provincial quaestors necessitated choosing some by lot from senators who had during the previous decade held the office but had not been in the provinces.²⁷ Dio attributes the *lectio senatus* of 13 B.C. in part to the unwillingness or inability through poverty of the scions of noble families to enter upon a public career.²⁸ In the following year, since very few candidates sought the tribunate, Augustus enacted that the magistrates in office should each nominate one of the knights who possessed not less than the senatorial census, a million sesterces, and that the *plebs* should then fill the

vacancies in the tribuneship from this list, on the understanding that those chosen might either continue in a senatorial career or, if they preferred, return to the equestrian order.²⁹ In 12 A.D. the Emperor again allowed knights to become candidates for the tribunate.³⁰ Claudius, in 42 A.D., admitted knights to the same office.³¹ For the aedileship, similarly, when no candidates came forward in 5 A.D., Augustus revived a measure of 36 B.C. and forced ex-tribunes and ex-quaestors chosen by lot to assume the posts. Dio comments that this frequently happened.³² The failure of Gaius' attempted restoration of comitial elections was attributed not only to popular lack of interest but also to the indolence of the candidates, who either presented themselves only in the numbers necessary to fill the offices or arranged the results among themselves.³³ In fact, the Emperors had often to force those qualified by census or previous magistracies to undertake the obligations of their rank or, failing this, to entrust the duties of vacant posts to other magistrates. In 18 B.C., the praetors performed the functions of the aediles, who were insufficient in number.³⁴ Dio remarks under the year 23 B.C. that on the death of a plebeian aedile, Calpurnius, who had been a curule aedile, succeeded him, a combination of offices which was not recorded as having occurred in the case of any other man, since the one was normally a plebeian and the other a patrician office.³⁵ It sounds as if Calpurnius, as the only qualified man available for the post, was hurried into it despite the tradition. An inscription of Gaius Propertius states that while praetor designate he undertook by decree of the Senate the care of the

roads, and as praetor administered justice, also by senatorial decree, in place of the curule aedile.³⁶

The functions of the particular magistrates under the Empire are adequately discussed in other works.³⁷ Certain changes do, however, bear on the conflict of theory and practice in the principate. The consulship, presumably still the supreme power in the state,³⁸ became increasingly an empty honor, largely because the term of the office was cut down to a half year or less and the eponymous consuls were succeeded by *consules suffecti*.³⁹ A full year of office was rare even under Tiberius, and the last instance appears to have been that of Faustus Sulla in 52 A.D.⁴⁰ The powers of the office suffered constant limitation through the creation of senatorial boards and through the encroachment of the imperial administration. It became in effect, like the post of Lord Mayor of London, a purely urban and a very empty honor. Even the dignity of the office was impaired since consular *ornamenta*, its adornments and privileges, might be bestowed upon those who had not held the office, particularly on imperial favorites.⁴¹ Yet the Emperors always kept their tenure of this office distinct from that of their other powers and, save in the Flavian period, did not assume it either continuously or permanently.⁴² It retained its glamor until its abolition by Justinian in 541 A.D.⁴³ Its traditional majesty consoled the nobility for the existence of the principate, yet in practice it was neither independent of imperial control nor really effective.⁴⁴

During the Julio-Claudian period the praetors, whose numbers varied from ten to eighteen, remained the im-

portant judicial officers of the regular state machinery.⁴⁵ While on the one hand the republican courts lost ground before the increasing use of the Senate for important trials and before the extraordinary jurisdiction of the Emperor, on the other new functions, such as the oversight of trust funds, were created for the praetors.⁴⁶ But by the time of Nero the imperial praefect of the City had begun to encroach upon their rights. One Ponticus was exiled "because he prosecuted certain persons before the praetor, in order to remove their cases from the jurisdiction of the City praefect. His action had a semblance of legality about it at the time; but his intention had been to procure an acquittal by collusion."⁴⁷ Furneaux points out in his note on this passage that while the praefect originally had only a police-court sort of jurisdiction and the praetor was still legally the person to try cases, the latter's procedure was so bound up by antique technicalities that in practice it was easy to pervert justice in his court and the extraordinary jurisdiction of the praefect was proving swifter and surer. The great development of the jurisdiction of the praefects took place, however, in the second century.⁴⁸

Of the lesser magistrates, the aediles apparently retained much of their police supervision of the City even after the reform of the municipal administration in 7 B.C.⁴⁹ Their perpetual edict was codified along with that of the praetors under Hadrian, so that they still retained considerable importance.⁵⁰

The tribunes also, despite the overshadowing tribunician power of the Emperor, continued to exercise their ancient prerogatives, of which some interesting in-

stances survive. Under Claudius, a freedman was punished for invoking tribunician aid against his former master.⁵¹ This incident suggests that the *auxilium* was still of some effect. In 56 A.D., two events involving tribunes are recorded.

The tribune Antistius forced the praetor Vibullius to release from prison some riotous admirers of the theatre.⁵² The tribunes, apparently, favored the stage, for when it was proposed in the Senate in 15 A.D. to restore to the praetors the right of flogging actors, which Augustus had abolished, the tribune Haterius Agrippa interceded against the motion and prevailed because Tiberius was unwilling to infringe the decision of his predecessor.⁵³ In the case under Nero, however, the Senate, supporting the praetor, rebuked Antistius. At the same time it passed a sweeping restriction upon the judicial activities of the tribunes. It forbade them from usurping the judicial prerogatives of praetors and consuls and from summoning from outside the City persons liable to lawsuits. It prohibited them from hearing cases within their houses and allowed a delay of four months for appeal between the imposition of a fine by them and its entry in the records by the quaestors of the treasury. The tribunician jurisdiction was an outgrowth of the rights of aid and intercession. The tribunes naturally held hearings to decide whether or not they should interfere and, since their intervention stopped further proceedings, their decisions became the important ones. Apparently they had gradually extended their prerogatives and had claimed the right to summon involved parties to their hearings from considerable distances.

This right of summons was disputed by the learned authorities Varro and Antistius Labeo, who admitted only a right of personal arrest.⁵⁴ The imposition of restrictions by the Senate, however, shows that there remained some vigor in the office.

The second instance was a quarrel between a tribune, Helvidius Priscus, and a quaestor of the treasury, Obultronius Sabinus, over the latter's harshness in selling up the property of poor persons unable to pay their debts.⁵⁵ This dispute led Nero to transfer the charge of the *aerarium* to special commissioners.

The survival of tribunician legislation is attested under Augustus by the plebiscite of Pacuvius on changing the name of the month *Sextilis* to *Augustus*.⁵⁶ Augustus respected the sacrosanctity of a tribune who was among Julia's lovers.⁵⁷

The chief change in the position of the quaestors was that they lost control of the *aerarium*. Augustus, or even Caesar, first took it out of their hands, but Claudius, who deprived them of their administrative duties in Italy, restored it. Nero finally transferred it from them to special praefects.⁵⁸

Other changes in the republican organization had no great constitutional significance. The reorganized *uigintiuiratus* became a condition of candidacy for the quaestorship and was therefore open only to such as had the senatorial census and the *latus clauus*.⁵⁹ The censors vanished after 22 B.C. because their functions had been absorbed by the Emperor or by new boards.⁶⁰ The *praefecti urbi Feriarum Latinarum causa*, the old republican praefects, who were appointed for the only

occasion when all the magistrates were absent from Rome, continued to hold office annually despite the existence of the imperial *praefectus urbi*.⁶¹ The dictatorship had been abolished by a law of Antony after Caesar's assassination, and Augustus refused to revive it.⁶²

As an example of the career of an ordinary senator in the early Empire, that of Velleius Paterculus may be cited: ⁶³ "After finishing my equestrian military service, I was designated quaestor and, though not yet a senator, I was treated as equal to them, even to the tribunes designate, and I took to Tiberius part of the army sent by Augustus from the City. Then in my quaestorship I gave up my right to a province, and I was sent as a legate of the Emperor to his son. . . . At that time, it was the good fortune of my brother and myself, as candidates of Caesar, to be designated praetors next after the highest and most reverend men. It followed that neither the Deified Augustus commended any one after us nor the Caesar Tiberius any one before us." Pride like this in the service of the Emperor enabled the principate to outface the aristocratic hostility which Tacitus represents.

The republican magistrates never recovered from the effects of the reign of Claudius, of whom Tacitus says that he "attracted all the functions of the laws and magistrates to himself."⁶⁴ But Claudius merely precipitated the general tendency. The responsibilities of the magistrates had been impaired by the creation of new boards and imperial officials; their dignity was diminished by the gift of magisterial *ornamenta* to those

who had not held office. A grant of *ornamenta*, without bettering the status of the recipient with regard to holding office and usually without conferring a seat in the Senate on one not already entitled thereto, did bestow the courtesies of the equivalent senatorial rank and, in the case of members, the appropriate position in the senatorial voting list. The procedure seems normally to have been that the Senate passed a decree upon motion of the Emperor.⁶⁵ Claudius degraded even the *ornamenta* when he allowed freedmen to wear them.⁶⁶

The good Emperors treated the republican magistrates with respect. Gaius, to be sure, showed a perverse sense of humor and pride in removing a pair of consuls for not issuing an edict on his birthday and for celebrating the victory of Augustus over his ancestor Antony. He also pelted Vespasian, then an aedile, with mud because he had not kept the streets clean.⁶⁷ And Nero violated the immunity of the magistrates by executing a consul during his term of office.⁶⁸ In the year of the revolt he removed the consuls, before their terms were finished, to take office himself, because an oracle stated that Gaul could be reduced only by a consul.⁶⁹ But Augustus said that he wished his friends "to be great and powerful in the state, only provided that they be treated like anybody else in justice and judicial procedure."⁷⁰ He himself carefully refrained from using his position to excuse himself from public duties or to secure favors from the state.⁷¹ Tiberius tried to assist the magistrates in court, but spoiled the effect by expressing his own views too freely.⁷² Claudius delighted in trials and sat as assessor to consuls, praetors, and

treasury officials.⁷³ He so overdid his judicial duties that Nero gave up the practice.⁷⁴

With regard to the republican magistrates under the Empire, there were two tendencies: to provide that all who entered the *uigintiuiratus* should reach at least the praetorship, and to supply only enough candidates for the places. In this way those eager for a public career would not be disappointed, but the Emperor could direct the choice of the Senate by his *nominatio* or *commendatio*. Two main factors, however, contributed to render the restoration of the republican machinery unfruitful: the unwillingness of the senatorial order to undertake its public duties, as was shown in the difficulty of providing candidates, and the greater efficiency of the newer agencies of government, especially the imperial officials, both in administration and in judicial functions. When a new senatorial class arose, under the Flavians, the encroachment of the Emperor had gone too far to permit a restoration of the Augustan Principate, and the new generation had grown up under an imperial tradition. Pliny the Younger is the successor of Velleius Paterculus, not of Piso.

XVII

THE PEOPLE

AUGUSTUS, of Italian birth, felt for Rome the respect which her traditions inspired in those who looked at her institutions from outside. Not only did he think that the Senate could be restored to the position which it had occupied in the "ideal" pre-civil war Republic, but he even believed that the People could still fulfill their part in the government if they were purified and properly guided. His attitude towards the Senate may have been sincere, as the preceding discussion has sought to maintain; or it may, as others hold, have been a blind to counter opposition such as had nullified Caesar's work. But there was no reason for attempting to recreate popular government at Rome other than a faith in the virility of the old Roman stock and a partial blindness to contemporary conditions. The populace of Rome had long been corrupted by demagoguery and bribery, and adulterated by foreign immigration.¹ They already thought only of "bread and circuses."² Yet Augustus chose to rule as the Elect of the Roman People, and he so imposed this ideal on his Constitution that a hundred and more years later, despite the hollow sham to which most of his aspirations had been reduced, the legally valid Emperor was still he who had come to an understanding with an assembly in the Roman market-place.³

Tacitus states, with his usual bias, that under Augustus, though the most important elections were subject to the pleasure of the prince, some were still left to the wishes of the tribes.⁴ Augustus also encouraged comitial legislation for his important reforms.⁵ With a narrower policy than Caesar's he attempted to purify the citizen body by niggardly grants of citizenship and by severe restrictions on manumission.⁶ On the other hand, he sought to make the right of citizenship more valid by allowing the *decuriones* of the twenty-eight colonies which he founded in Italy to cast absentee votes in the elections at Rome.⁷ According to Dio he was honored not through flattery but because he treated the Romans as free citizens.⁸ Certainly the popularity of the first Emperor depended not merely upon his pacification of the Empire and his munificence but upon his program of the Restored Republic and his constant regard for the people.⁹

But his efforts to revive the old Roman spirit were doomed to failure. Absentee voting, if it was seriously contemplated, could not work under the handicaps of distance and slow communications. Comitial legislation and elections became merely the confirmation of measures proposed by the magistrates. The Roman mob had neither the understanding of nor interest in the problems of empire. Pylades, the actor, remarked to the Emperor: "It is to your advantage, Caesar, that the populace should waste its energies on us."¹⁰ Tiberius, Roman of the Romans, saw clearly how futile popular elections were and transferred them to the Senate. He left at most a formal *renuntiatio* of the

results.¹¹ Gaius, though he made a pretense of restoring elections to the assemblies, wished that "the People had but one neck so that he might be rid of them at a single blow."¹² Claudius tried to maintain the restrictions upon grants of citizenship and manumissions, but his own weakness and the venality of his court rendered his attempt futile.¹³ Nero valued the populace only as an artist who sought the applause of his audience.¹⁴

Comitial legislation occurred throughout the first century but in decreasing importance. Apart from the much discussed laws connected with the Emperor's powers,¹⁵ Cuq finds evidences of activity on the part of both the *comitia tributa* and the *concilium plebis*.¹⁶ To the former Augustus submitted laws affecting the upper classes and manumissions, which were introduced through consuls, and to the latter laws concerning public morality, judicial organization, and procedure, which he himself initiated in virtue of the tribunician power.¹⁷ But under his successors the number of recorded laws is few.¹⁸ From Nero's reign only one important law, the *lex Petronia* on the judicial rights of masters over slaves, has been preserved.¹⁹ In Nerva's time there is recorded an agrarian law.²⁰ Thereafter the constitutional voice of the People is silent. Their theoretical sovereignty in legislation was transferred shortly to the Senate and the Emperor.²¹

But the Roman mob still exercised a practical pressure upon the government. Angry crowds frequently gathered with threats of violence unless their wishes were consulted. Riots which forced the establishment of the *cura annonae* and the appointment of consuls by

Augustus have been mentioned.²² So also have the disturbances created by governmental attempts to restrict the license of actors.²³ The populace could readily be aroused in favor of persecuted members of the imperial family, for example, Julia, Germanicus and his family, Agrippina the Younger, and Octavia, or against such figures as Sejanus, Tiberius, and even Nero.²⁴ It seldom and only irrationally took an interest in serious matters. Its demands for a reduction of taxes almost induced Nero to abolish all *vectigalia*, but he was fortunately deterred.²⁵ When the Senate proposed to execute all the slaves of a murdered urban praefect, the mob rose in protest. However, both the Senate and the Emperor enforced the law in all its ancient severity, though they had to call out an armed guard against the torches and stones of the irate mob.²⁶ More justifiable were the fears lest the corn supply or the public amusements be curtailed, for both of which the populace held the Emperor responsible. Agitation of this type prevented Nero from leaving Rome in 64 A.D.²⁷

The Emperors sought to keep this many-headed monster quiet by gifts,²⁸ by a dole of free corn to about two hundred thousand poor, who thus became a loyal clique,²⁹ by guaranteeing a corn supply for all at a reasonable price,³⁰ by lavish public entertainments,³¹ by magnificent public buildings,³² and by the threat of armed forces.³³ Certainly Rome was a pampered parasite on the Empire and its inhabitants lived in idleness at the expense of the rest of the world. The problem of urban over-population was one with which Rome had been faced since the time of the Gracchi. The City af-

forded no industrial employment. Colonization and military service could not lure the populace from its fleshpots. Whether or not the support of these drones was a serious financial drag upon the government, certainly it was most unhealthy to allow a useless minority to enforce by threats of violence its selfish wishes at the expense of the inarticulate provinces. Only after the general social and administrative changes which began under the Flavians did the Roman mob lose its importance in the eyes of the government and sink into a deserved impotence.

XVIII

THE ARMY

SCHULZ'S denial of Mommsen's theory of a military basis for the principate was accepted in an earlier chapter.¹ Augustus did not found a military tyranny or make the army the chief element in his Empire.² He did, to be sure, concentrate in his own hands the entire military strength of the state, but he did so as the servant of the state and with a view to preventing the inroads upon the authority of the state which occurred under the later Republic.³ The army had theoretically no voice in the choice of the Emperor.⁴

A detailed consideration of the military reforms and measures of Augustus would not advance the consideration of Augustus' constitutional position.⁵ On the one hand he had to reduce the forces to a scale commensurate with the imperial finances and on the other to maintain an army adequate in numbers and quality for the defense of the Empire.⁶ The troubles which Tiberius had with the Pannonian and German legions on his accession were largely caused by the measures of economy, namely, the long terms of service, the low pay, and the frontier camps, which Augustus introduced to meet the inability of the government to carry a larger military establishment.⁷ The definite abandonment of the policy of expansion after the defeat of Varus in 9 A.D. may be traced to the same cause.⁸ But to examine into the

causes of this stringency, to seek reasons for the difficulty in obtaining not only money but men, would lead far afield from the constitutional aspect of the principate. Suffice it to say that Augustus, in accordance with the rest of his policy, sought to make the army primarily Italian in character. But Roman citizens in the provinces must have been recruited or levied from the beginning of the Empire, and the enlistment of provincials, with a tacit grant of citizenship, started during the Julio-Claudian period.⁹

Whatever its theoretical status, the army did in fact exercise an increasing pressure on the government and particularly on the choice of the ruler. Tiberius was shown to it as the successor of Augustus. He addressed his orders to it *ut imperator* even before his recognition by the Senate.¹⁰ In spite of his hesitancy before the Senate, he occupied the principate, according to Suetonius, "by posting soldiers, that is by force and by an outward assumption of dominion."¹¹ Although these necessary police measures do not, despite the ancient authorities, mean that Tiberius regarded himself already as Emperor, they do show that he felt the army to be a real and threatening power in the state.¹² Moreover, despite the sarcasm of Tacitus, the mutinies in Pannonia and Germany indicate that his precautions were justified. The Pannonian legions protested against the interference of the Senate in military matters. The German legions, which may still have contained a large element of the urban proletariat who had been hurriedly levied in 9 A.D., gave warning that unless they were heard they would appeal to force.¹³ They objected

to Tiberius, unless Suetonius read into their protest the ideas of a later age, because they had not themselves created him Emperor, and they sought to elevate Germanicus in his stead.¹⁴ Germanicus, taking his cue from Caesar, asked whether he should call those men citizens who had rejected the authority of the Senate.¹⁵ Tiberius hesitated to approach either of the mutinous armies lest there should be nothing left if they spurned the Emperor.¹⁶

Pretenders to the principate always sought to gain the support of the army. Under Tiberius, Piso, after the death of Germanicus, was suspected of tampering with the Eastern legions,¹⁷ and Silius was accused of boasting unduly of the loyalty of his troops during the revolt of Sacrovir and of asserting that, had they deserted, the *imperium* of Tiberius would have lasted no longer.¹⁸ Gaetulicus, legate of Upper Germany, dared to justify his friendship with Sejanus because he had himself an army and his son-in-law was legate of a neighboring force. Tacitus puts it strongly: "He made a sort of treaty by which the prince might rule the rest of the Empire, and he himself should retain his province."¹⁹ The plot of Vinicianus against Claudius failed because the troops of his supporter, Scribonianus in Dalmatia, refused to hear talk of a Restored Republic.²⁰ Dio comments with scorn on the folly of one Asinius Gallus, who conspired against Claudius without an army or funds but only on the credit of his family, and that, too, when he was a ridiculous-looking fellow.²¹ Valerius Asiaticus was charged with corrupting the troops.²² Plautus and Sulla were forced to die by their

own hands because their places of exile seemed to Nero dangerously near to the frontier legions.²³ Military officers were involved both in the assassination of Gaius and in the Pisonian conspiracy.²⁴

During the Julio-Claudian period, however, only a small portion of the army really exercised a decisive pressure on the government. Sejanus, as praetorian praefect, gathered the nine cohorts of the Praetorian Guard, each of which contained a thousand men, in a camp just outside the walls of the City, on the pretext that they were not well disciplined in their camps through Italy, but actually so that he might use them to overawe the civil government.²⁵ The Senate did not trust the Praetorians after the fall of Sejanus and employed the Watch to police the City. The Praetorians did in fact become angry and riot.²⁶ It was on the assassination of Gaius, however, that the real test came. The Senate placed its reliance on the Watch and the Urban Cohorts, even though the Praetorians had been privy to the plot.²⁷ But the Praetorians forced upon the Senate their own candidate, Claudius. Two aspects of the Empire were then brought into sharp relief. It became perfectly clear that Augustus' separation of the Senate from the control of the effective force of the state, however well meant, had had a result entirely unforeseen by him. He had wished to save the state from internal dissensions and to subject the troops to the discipline of one strong commander who, in turn, would be loyal to the Senate. Actually the danger which he sought to avoid, that of a military dictatorship which would overturn the government, was never openly realized. Even in the darkest

days of the third century the Senate maintained itself against the commanders of the armies, and these sought to legitimize their claims by obtaining its support rather than by abolishing it. But although Augustus had hoped to leave the determination of the succession in the hands of the Senate under the guidance of the choice of the Emperor, almost always, when an Emperor died without indicating his successor, the troops were in a position to enforce their wishes because the Senate had nothing wherewith to resist them. Moreover, an Emperor in indicating his successor had to select one of whom the army approved. In this respect, Galba's choice of Piso, which assured Otho of the support of the army when he assassinated both of them, may be contrasted with Nerva's choice of Trajan, the best and most popular commander of the period.²⁸

The other aspect of the army's political position follows naturally. The troops, and particularly the Praetorian Guard, had an extraordinary loyalty to families. This was perhaps Augustus' justification for introducing the hereditary principle into a system which was outwardly dependent upon the free action of the Senate.²⁹ At all events, the reigns of both Claudius and Nero were possible chiefly because of the affection of the Praetorians for the memory of Drusus the Elder and Germanicus.³⁰ To this loyalty Agrippina the Younger appealed in her quarrels with Nero.³¹ Although the fall of Nero was settled when the Senate won the Praetorians from him to Galba, the last salute paid to Nero, during his flight in terror from Rome, came from a veteran member of the corps.³²

The Praetorians, however, were loyal to the family rather than to individuals, and the special bodyguard of the Emperors, a corps of German mercenaries, showed a greater personal devotion.³³

The imperial policy towards the troops, especially the Praetorians, changed slowly from one of command and discipline to one of cajolery and bribery.³⁴ Augustus had put his troops in their place by calling them not *commilitones* but simply *militēs*.³⁵ He held their respect, however, if not their affection, and he treated them with scrupulous fairness.³⁶ Tiberius had gained the favor of the troops when he was in command on the frontiers, but after his accession the dashing young Germanicus outshone his strict and gloomy uncle.³⁷ Although Gaius, the son of Germanicus, acceded as the darling of the provincials and troops, his intemperate conduct soon cost him his popularity with all save his German bodyguard.³⁸ Claudius, chosen because he was the last survivor of the house of Drusus, did not long retain the regard of the army. Efforts were apparently made to present him in a military guise. He wore a general's cloak at games and went in person to Britain.³⁹ Nevertheless, Agrippina, daughter of Germanicus, found it easy to win the troops over to Nero at the expense of Britannicus.⁴⁰ Nero in his turn was always uncertain of the loyalty of the army.⁴¹ His extravagant and effeminate conduct alienated the better elements, in Italy and the provinces, from which the legionaries were still drawn.⁴² The revolt of the year 69 A.D. was partly a protest from the provinces against the domination of the Empire by the corrupt society typified in Nero, and

partly a revolt of the legions against the preëminence of the Praetorians.

The army according to the intention of Augustus was to have had no constitutional significance. By the year 69 A.D. its practical power in the determination of the succession had become irresistible. Otherwise, the army exercised no influence on the general conduct of affairs. It remained loyal to the family of the founder of the Empire as long as this was possible. Apart from the mutinies of 14 A.D. and a few minor disturbances, the legions accepted their position in the state and faithfully maintained the defense of the frontiers. Sejanus rather than Augustus must be blamed for the militarization of the principate. By concentrating the Praetorians at Rome he made them conscious of their power, and they in turn set an example for the frontier legions. It is quite conceivable that had the succession been determined on the death of Gaius by the Senate and had it chosen wisely, the frontier legions could have been kept in check and would have acquiesced in a change of dynasty. But such speculations do not lead far.

More important would be a consideration of the wider effects of the military policy of Augustus. Both Schulz and Nilsson conclude that the Augustan reforms and the removal of the army to the frontier resulted in the loss of military spirit on the part of the general population, and that this lack of *Militarismus* eventually led to the fall of the Empire.⁴³ It is probably true that, had the civilian population preserved more spirit, not only would the barbarian invasions of the third and fifth centuries have been impossible but there might

have been greater local resistance to the movements of troops during the tumultuous years 68–9 A.D. and 193–7 A.D. Augustus had appealed to all of Italy in his campaigns against Antony. Conflicts of later periods left the civilians unmoved; for them the Empire was an established fact and its head a matter of no great importance. The causes of this apathy are not to be sought in the military reforms of Augustus, nor even in the interference of the army in politics. They belong not to the constitutional but to the social historian.⁴⁴

XIX

LEGISLATION

THUS far the discussion has dealt with the powers and status of the various elements in the Augustan Principate. The part played by the Emperor and the Senate, representing the old Republic, in the three spheres of government, legislative, judicial, and executive, may now be briefly considered.

Under the Republic, the only sources of law were the popular assemblies or magistrates acting under a mandate therefrom for the issuance of *leges datae*.¹ It became increasingly difficult for the assemblies to legislate intelligently, and the Senate came to advise the magistrates not only about their executive actions but also about measures which were to be presented to the People.² It is possible that Sulla, by limiting the initiative of the magistrates, hoped to make this probouleutic function regular.³ In any case, even after the democratic reaction in 70 B.C. had restored magisterial independence, the Senate in fact continued normally to direct legislation.⁴ Lenel even maintains that certain senatorial decrees of the Ciceronian period are proof at that early date of its legal right to make law, and not merely to give advice.⁵ The more usual view, however, is that these decrees do not differ from the ordinary, and that the hortatory tone of decrees in the early Empire

shows that the *senatus consultum* remained technically an injunction to the magistrates until the reign of Hadrian, a reign significant in the domain of jurisprudence.⁶ The jurist Gaius, under Antoninus Pius, regarded the Senate as fully competent to make law.⁷ But by that time the independent right of the magistrates to consult the Senate and of the Senate to pass motions of instructions had been overshadowed by the Emperor's *ius relationis*, which enabled him to introduce by himself any important business.⁸ From the second century the *oratio* of the Emperor is cited by the jurists as the decree of the Senate and is couched not in the hortatory but in the imperative form.⁹

During the Julio-Claudian period the Senate, in theory still advisory, was in fact quite active in the field of legislation. Some of its decrees became part of the permanent law.¹⁰ Such are mostly dated in the reigns of Claudius and Nero; for example, the *Velleianum* on women's becoming sureties for others,¹¹ the *Ostorianum* on the assignation of freemen and children under wills,¹² the *Claudianum* on alliances between freedwomen and slaves,¹³ the *Hosidianum* and *Volusianum* on sales of houses to removal contractors,¹⁴ the *Neronianum* on legacies which became void through errors in the formula employed,¹⁵ and the *Trebellianum* on heritages put in trust.¹⁶ These decrees took the form of exhortations to the praetors to make changes in their edicts.¹⁷

Apart from regulations of lasting importance, the Senate acted on all sorts of immediate business. Surviving decrees deal with the secular games of 17 B.C., aqueducts, the *collegia*, the admission of Gauls to the

Senate.¹⁸ Votes in honor of the Emperor or his family and friends constantly recur in the literary sources and, perhaps, indicate a vestige of the republican tradition that a general's success must be recognized by the Senate to be authentic.¹⁹ Such part as the Senate took in the administration was through recommendations to its officials or the creation of special agents. Hence, the bronze coinage was issued by the masters of the mint *ex senatus consulto*,²⁰ and innumerable inscriptions perpetuate the record of offices held under the same authorization.²¹ The Emperor frequently appointed commissioners on the recommendation of the Senate.²² And much of the work of the new boards for public works in Rome was undertaken by its order.²³ The authorities mention decrees affecting public morals, conduct in the theatres, religious matters, judicial procedure, and many other fields.²⁴

In short, though the Senate in theory had no more than an advisory function, it was in fact an active legislative assembly during the early Empire and its decrees covered a wide scope.

The republican magistrates had never had the right to make law save when they issued special enactments in pursuance of a general empowering law of the People. Such magisterial *leges datae* were usually charters for colonies or grants of citizenship, and under the Empire the prince largely absorbed these functions.²⁵ Any magistrate, however, had the right to issue edicts in connection with his duties. The more permanent of these edicts obtained the force of law even without the assent of the assemblies. Where the edict concerned a

particular and temporary case, it settled the matter unless appeal was made against it. Where it concerned a wider principle, it maintained its force, unless disputed, during the term of its propounder and might be carried on by his successors. This was particularly true of the "tralatian" or "perpetual" edict of the praetors which was handed on from year to year and which embodied the formulary procedure. A body of precedent and rules grew up which became, without the sanction of the People, in fact a code of civil law and which was recognized as such in the codification under Hadrian. Similar codes developed for the *aediles* and provincial governors, but the non-judicial magistrates never acquired even a *de facto* right of legislation, since on the one hand their edicts were primarily executive orders and on the other, just when edicts began to acquire legal validity, the Emperor displaced these magistrates in the executive sphere.²⁶

"The legislative power of the Emperors was to a large extent a continuation of the republican *ius edicendi*," is the statement of Reid.²⁷ The Emperor could not in theory create, modify, or abrogate law, and was himself subject to it save under special dispensation.²⁸ It is doubtful whether the full legal validity of imperial *constitutiones*, which are loosely called edicts from one particular class, was recognized until the middle of the second century or later.²⁹ The imperial edicts differed from those of the republican magistrates in two particulars. They were sworn to among his *acta* and were therefore, unless abrogated by the Senate on his death or tacitly omitted by his successor, given both a reli-

gious sanction equal to that of the laws and the permanence of "tralatician" edicts.³⁰ Also, it appears that the right to issue edicts was specifically conferred on Augustus about 19 B.C.³¹

The various forms of *constitutiones* belong to the sphere of jurisprudence and require only brief mention here. The most important were those properly called *edicta*, which were pronouncements applicable to whole groups of persons or general problems, and published officially. Then the *mandata*, instructions to specific functionaries, although primarily administrative, served also to introduce rules of law. The *decreta*, loosely any imperial pronouncement but specifically judicial decisions, had more influence in the legal sphere. The widest term for the Emperor's replies to petitions was *rescripta*. These became increasingly common after the codification of the Praetorian Edict had made the Emperor and his council the primary source of legal interpretation. The jurists distinguished two main forms, *epistulae*, or letters in reply to requests from a distance, and *subscriptiones*, or notes on the foot of petitions handed in at Rome.³² If, therefore, Wilcken correctly sees in this division the distinction between the secretaries *ab epistulis* and *a libellis*, the crystallizing of these various types of *constitutiones* may be traced back at least to Claudius, when the secretariat took on a definite character.³³ At a later date, the rescripts, like the *responsia* of the jurisconsults, were binding upon the person requesting them but did not have the force of legal precedents in similar cases.³⁴

In actual fact, the imperial edicts from the beginning

covered a wide field and in the literary and epigraphical sources they are not usually defined with sufficient precision for the development of any sharp differentiations. Cuq sought to parallel with the republican *leges datae* imperial *constitutiones* conferring citizenship, founding cities, and granting municipal status, and similar acts.³⁵ But there is no evidence that the Emperor founded colonies or bestowed the citizenship in virtue of any special authorization.³⁶ On the other side, the charters of Salpensa and Malaca, dated under Domitian, speak of themselves as *leges* as distinct from the *edictum* of the Emperor, which leads Abbot and Johnson to assert: "One may say therefore that all the *leges* of the imperial period with which we are concerned [that is, in municipal administration] are *leges datae*."³⁷ If this conclusion be sound, and it has been disputed by McFayden, such edicts were probably *leges datae* without special authorization, emanating from the general imperial powers as either established in some covering enactment, like the *lex de imperio*, or simply assumed by tacit consent. Similarly, scholars cannot agree whether the right to deprive a person of citizenship was part of the absorbed censorial powers or merely a corollary of the right to grant it.³⁸

The *constitutiones* of even the earliest Emperors created rules of law. Augustus, for instance, prohibited the exhereditation of sons of military families, annulled the intercession of a wife for a husband, and limited the torturing of slaves.³⁹ Tiberius left little trace on the permanent law.⁴⁰ But Claudius was extremely active; he pronounced on the freedom of sick slaves abandoned

by their masters, on tampering with wills, and on the intercession of a wife for her husband.⁴¹ Other regulations of perhaps equal scope but less permanence are preserved in the non-legal writers and inscriptions. Subsidies to corn-carriers, advocates' fees, the use of wheeled vehicles in Rome, cases in which either party failed to appear are some of the subjects mentioned.⁴² Nero's edicts have not been recorded by the jurists, perhaps because of his fall and condemnation. Some of those mentioned by Tacitus seem to have been important, such as those on regularizing the companies of tax collectors, on immunity of townships from taxation, and on the torture of slaves of a murdered man.⁴³

It is frequently impossible to judge from the loose phraseology of the literary sources whether the enactments ascribed to the Emperors were really edicts or decrees of the Senate. The inscriptions are more precise. Markers placed at Venafrum read simply "by order of the Emperor Caesar Augustus," whereas some at Rome were erected by the Emperor "in accordance with a decree of the Senate."⁴⁴ Many of the provincial edicts of Augustus seem to have remained long in force. The engraving on stone of the Cyrene Edicts indicates their permanent character. Pliny in Bithynia cites as still valid in the early second century an Augustan edict on qualifications for the tenure of municipal magistracies and one "pertaining to Annia" in the matter of orphans. Claudius's edict on the postal system was perpetuated on stone at Tegea.⁴⁵ But the majority of the imperial edicts concerned matters of transient importance. Public morality played a large part in the pronouncements

of the Julio-Claudians, if the sources are to be trusted.⁴⁶ Claudius was certainly the most lavish of the early Emperors in this respect. He is said to have issued twenty edicts in a single day.⁴⁷ His utterances ranged from the establishment of fundamental legal principles to the explanation of an eclipse which occurred on his birthday.⁴⁸

What might properly be called rescripts are rare in the early period. Suetonius twice applied this term to Augustus' replies to Tiberius, once when the latter requested the citizenship for a Greek and once for a simple letter.⁴⁹ The letter of Augustus to the Cnidians might also be considered a rescript, and Abbot and Johnson include it among the *epistulae*, along with one from him to the people of Mylasa and two of Nero, to the Rhodians and to Sagalessus.⁵⁰ Cuq cites a rescript of Tiberius and one of Claudius.⁵¹ A number of letters which might be classed as *mandata* are mentioned by Josephus. Few *decreta*, according to Cuq, are cited by the jurists from the first century.⁵²

In short, the making of valid law remained in theory under the Augustan Principate the prerogative of the sovereign People. But in practice the Senate came to speak for the People, and the Emperor, through his pre-eminence in the Senate, guided its legislation. Moreover, the Emperor himself actually created much of the law in virtue of his uncontested executive pronouncements, which touched every aspect of government.

THE *CONSILIUM*

IN 27 B.C. Augustus had the Senate appoint a committee which should discuss with him the matters about to come before it.¹ Thus he initiated a definite and constructive innovation in legislative procedure. Reference has already been made to the problem of the intelligent consideration of complicated measures by large bodies of voters.² Even though the Senate rarely met in full, it must have proved difficult to conduct general discussion, especially since a minimum of four hundred members was required for important legislation.³ Under the Republic, the Senate had sent out commissions to consult with generals in making peace.⁴ But the concept of committee procedure apparently originated with Augustus. Since the Senate performed the probouleutic function for the popular assemblies, it was perhaps natural that it never created any standing committees of itself, unless the establishment of the permanent court on extortion in 149 B.C. be regarded as such. A parallel to this court may be found in the committee set up by the decree in the Cyrene Edicts for the expedition of similar trials which, in important cases under the Empire, had reverted to the Senate.⁵ In 8 A.D. three ex-consuls were appointed to examine foreign affairs which came before the Senate,⁶ and Tiberius created a sena-

torial committee to handle urgent cases arising in connection with the *lex Papia Poppaea*.⁷ These examples, though of slight importance and permanence so far as can be judged, do suggest that whether or not the Republic had seen the establishment of special committees to any large extent, Augustus did have some idea of creating standing committees.

To return, therefore, to the important committee: this comprised the consuls, one member from each of the other colleges of magistrates, and fifteen senators drawn by lot. Every six months the committee changed its composition. It met probably in the temple of Apollo on the Palatine. The decree in the Cyrene Edicts contains a mention of this committee in its preamble:⁸ "A decree of the Senate on those matters about which Gaius Calvisius Sabinus and Lucius Passienus Rufus, consuls, made a report, which matters the Emperor Caesar Augustus, our Prince, by the advice of the council which he has, chosen by lot from the Senate, wished to be presented by us to the Senate as pertaining to the safety of the Roman People: the Senate resolved . . ." Josephus cites an edict of Augustus in which the Emperor similarly stated: "It seems good to me and my counsellors."⁹ Thus, the *consilium* apparently assisted the Emperor not only in the preparation of business for the Senate but in the administration as well. Dio adds that occasionally he employed it also for trials.¹⁰ Hence arises the question of the judicial *consilium*. It had always been a Roman characteristic to get the advice of others before making an important decision. The head of a family might summon his friends to assist him in his

personal or family affairs.¹¹ The magistrates and generals frequently gathered their associates or subordinates for advice in their duties.¹² The Senate itself was primarily a *consilium* for the consuls and other magistrates.¹³ The Emperors followed suit. Augustus summoned a council of friends to hear an argument between Archelaus and Herodes Antipas.¹⁴ Suetonius speaks of "those who sat with him" in the case of a forged will.¹⁵ The *Institutes* quote an opinion of the jurist Trebatius which he delivered in a gathering of jurisconsults summoned by Augustus.¹⁶ Of Tiberius, Dio says:¹⁷ "He had a tribunal in the Forum on which he sat for business, and he always took advisors as had Augustus." He considered with a few of his intimates certain charges which had been laid against Piso before he allowed the Senate to proceed upon them.¹⁸ Claudius "almost every day, either in company with the whole Senate or alone, would sit on a tribunal trying cases, usually in the Forum but sometimes elsewhere; for he renewed the practice of having advisors sit with him, a practice which had been abandoned from the time when Tiberius withdrew to Capreae. He also frequently joined the consuls and the praetors and those in charge of the *aerarium* in their investigations, and very few were the cases which he turned over to the other courts."¹⁹ Suillius was heard in the imperial bed-chamber with Messalina present,²⁰ and the *acta* of Isidor and Lampon refer to an informal court of sixteen *consilarii* and to the presence of ladies.²¹ Messalina's case was discussed by Claudius with his cronies, including, probably, two senators, the two equestrian praefects of the grain sup-

ply and of the Guard, and the freedman Narcissus.²² All the ancient authorities emphasize Claudius's fondness for trials and the abuses to which these informal hearings gave rise.²³ Nero, on his accession, promised that "he would not be judge of every kind of case to the end that, with accusers and defendants shut within one palace, the power of a few should have free sway."²⁴ Yet at the hearing on Sulla, Burrus, "although a defendant, gave his vote among the judges," apparently in a council of the Emperor's intimates.²⁵ The case of Octavia was debated "among the friends whom the Prince summoned as for a *consilium*."²⁶ Nero took the votes of his advisors in writing in order not to be bound by the voice of a majority if he did not so choose.²⁷

Because the Emperors made such frequent use of these informal boards of advisors, Cuq identified the committee of the Senate as merely another such, and held that the successors of Augustus preferred to return to the older tradition because of their hostility to the Senate.²⁸ But since even under Augustus both types of *consilium* seem to have existed, the view of Mommsen and de Ruggiero, who differentiate the two, is preferable.²⁹

The later history of the senatorial committee was brief. Dessau thinks that it had little value as an advisory board and that its purpose was to prevent the Senate from being taken unawares by the proposals of the Emperor and to prepare a nucleus of informed opinion to guide the others.³⁰ Certainly the selection by lot shows that Augustus had no intention of creating a body of his own partisans or even of the ablest members. He

probably wanted a representative cross-section of senatorial feeling upon which he might test his measures before they were presented to the whole body.³¹ Thus he could expedite business in the Senate, since objections could be anticipated and the authority of both Emperor and committee would impress the Senate.

In his old age, Augustus was unable to attend the Senate as frequently as he had been accustomed to do. In 13 A.D. he therefore revised his committee by asking for twenty members to be chosen by lot for a year. To these he added Tiberius and the royal princes, the consuls and consuls designate, and, on special occasions, other senators whom he wished. The decisions of this body, which met with him in the palace, were to have the validity of decrees of the Senate.³² So advanced a form of cabinet government and so complete an abdication of authority by the Senate might, had it lasted, have proved fatal to the Senate itself. But Augustus presumably envisaged no such result. The lot and the presence of the consuls ensured the presentation of the senatorial point of view.

On the death of Augustus, Tiberius carried on the *consilium*. Suetonius states that "besides his other friends and intimates he had asked for twenty from the chief men [that is, perhaps, those of consular rank] in the state as counsellors for the public business."³³ The number, and the presence of Sejanus among them, suggest that Tiberius was following the later form of senatorial *consilium*, although the specific mention of *principes ciuitatis* may imply that the lot was no longer used. Since Suetonius says also that scarcely two or three of

the members survived the reign unharmed, membership may have been permanent. The method of selection is unknown, but may be presumed to have been the lot. In any case, upon Tiberius's retirement to Capreae, this senatorial *consilium* lapsed.³⁴ The intimates whom Tacitus mentions as accompanying him formed rather an informal group of the republican type.³⁵ There are a few indications that Nero may have revived the senatorial *consilium*. The evidence, however, does not afford certainty, and probably only points to an increased use of senators as informal advisors.³⁶

The Augustan committees represented an important innovation in Roman political procedure. Whether or not they were occasionally used for judicial purposes, they were primarily legislative, probouleutic, and advisory. They served to bridge the gap between the deliberative Senate and the executive Emperor. Unfortunately, the scheme failed to become permanent and the gap became greater rather than less. The informal and judicial *consilium* grew and became regularized as the imperial cabinet until under Hadrian it received a definite function and composition. But it was essentially part of the executive administration, like the American Cabinet. An effective committee of the legislature, like the British Cabinet, did not develop to check the separation of Emperor and Senate. Again, forces beyond his control defeated the constitutional aims of Augustus.

XXI

JURISDICTION

IN THE realm of jurisdiction, as in that of legislation, the Empire saw a complete change in practice despite the theory of the Restored Republic.¹ The old republican magistrates and courts for the administration of private law continued to function, but they suffered constant restriction and regulation. In particular, new officers and new methods were created. An important innovation came when Claudius delegated to his procurators, probably those of the lower ranks, the right to decide cases in which the *fiscus* was concerned.² Special competencies were created for the republican magistrates; for example, from the time of Claudius the consuls had control of important cases of trust in Rome, whereas a praetor designated as *fideicommissarius* took charge of the less important ones.³ The great decline in the importance of magistrates in the field of private law did not, however, occur until the second century, in connection with the widespread use of "extraordinary" procedure, the codification of the Praetors' Edict, the growth of the judicial competency of the praefects of the City and of the Guard, and the creation of the *iuridici* throughout Italy.⁴

It was in the field of public or criminal law that the important changes occurred under the early Empire.

The sovereign right of the People to try such cases on appeal naturally vanished when the *comitia* ceased to function. The special courts, or *quaestiones*, which the People had set up to represent itself, and from which there was therefore no appeal, continued to function with diminishing importance.⁵ Augustus, in fact, added a fourth to the three republican *decuriae*, or financial classes, from which jurors could be drawn, and Gaius created still another.⁶ But at least for important trials the two chief judicial organs were the Senate and the Emperor.

The Senate became almost at once the highest court of justice for cases in which the Emperor had no primary interest.⁷ In particular, the Senate asserted its right to try its own members, and though the constant reiteration of this privilege indicates the frequent neglect of it by the Emperors, on the whole the Senate made good its claim to hear prominent trials under the laws on treason which did not affect the Emperor personally, charges against provincial governors, and, with the consent of the Emperor, cases involving client princes.⁸

Under what title did the Senate act as a court? Mommsen called it a "consular court," and regarded it both as a superior court of appeal from the public provinces in civil cases, upon which jurisdiction the Emperor constantly encroached, and as a participant with him in the criminal jurisdiction.⁹ The appellate civil jurisdiction would follow naturally from the principle that appeal lay from the delegatee to the delegator. Gardthausen thinks that the change of the formula

Populus Senatusque Romanus to *Senatus Populusque Romanus* indicated that the Senate succeeded to the supremacy of the *comitia*.¹⁰ Whether or not this was ever an official view, the Senate, which elected the magistrates and senatorial governors, would be the logical body to which appeal from these officials would be made.

The criminal jurisdiction of the Senate was primary, and its development was perhaps more unconscious than intentional. From the beginning of the principate there occurred cases in which the prominence of the parties concerned, the nature of the charges, or the interests of the state justified a hearing before the Senate, just as Cicero had regarded the conspiracy of Catiline as a matter not for the judicial action of the courts but for the executive action of the magistrates supported by the advice of the Senate. The most important of the crimes which gravitated towards the Senate was the vague *crimen maiestatis imminutae* or, more simply, *maiestas*, because under this charge could most readily be classified the various movements of discontent, criticism, and even insurrection, whether real or supposed, which originated, usually, among those members of the senatorial class who either desired a return to the old senatorial Republic or thought themselves as worthy as the Emperor to occupy his position.¹¹ The concept of the majesty of the state or of its officers had been formulated at a very early period in the history of Rome, but until the second century B.C. treason against the state normally took the form of open hostility and therefore passed under the name *perduellio*.¹² During the Grac-

chan troubles, however, it rapidly became obvious that treason might take many more insidious forms than armed revolt; governors might pursue their own profit at the expense of the public interests, demagogues might inflame the populace to sedition by their speeches and measures, the Senate might subordinate the administration of justice to the supremacy of its class. A broader concept than simple *perduellio* was therefore realized in the *crimen maiestatis imminutae*, and Sulla, among his judicial reforms, established a distinct and permanent court to deal with it.¹³ This *quaestio* apparently took cognizance of the levying of troops or the waging of war without the state's sanction, or of seditious activities and speeches calculated to impair the unity of the commonwealth.¹⁴

Further laws under Caesar and Augustus defined the crime more exactly, and the court continued to function vigorously probably into the reign of Tiberius, nor did it vanish entirely until Marcus Aurelius withdrew all capital jurisdiction from the *quaestiones*.¹⁵ Under Tiberius, however, and perhaps even under Augustus, *maiestas* became the readiest excuse for bringing cases before the Senate instead of the courts. The ancient authorities unanimously blame Tiberius for the growth of this pernicious tool of autocracy and its attendant evil of delation.¹⁶ Modern critics have nevertheless shown that the charge of *maiestas* was usually coupled with some more concrete accusation, presumably in order to prejudice the Emperor and the Senate; that despite the dark color of the Tacitean narrative surprisingly few convictions were secured and those which were

secured appear to have been justified; and lastly that, although the majesty of the prince early came to be regarded as equivalent to that of the state, Tiberius did not countenance charges based on trivial acts derogatory of himself or even of Augustus.¹⁷ During the reigns of Claudius and Nero, the characters of these princes made the *maiestas* charge a ready tool by which the Emperor or those near to him could dispose, through the medium of a subservient Senate, of persons too conspicuous to be dealt with by the imperial powers. But the Emperor himself came increasingly to bring such cases directly under his own growing jurisdiction.¹⁸

Since analyses of the recorded trials in the Senate both on the charge of *maiestas* and on other charges are readily available, it will suffice here to illustrate the growth of the senatorial jurisdiction by certain crucial cases.¹⁹ Cornelius Gallus, in 26 B.C., so conducted himself as equestrian praefect of Egypt that Augustus had to remove him from the post.²⁰ The Senate took cognizance of the case by issuing instructions to the courts to condemn him to exile and to confiscation of his property. Presumably the decree was addressed to the praetor who had charge of the *quaestio de maiestate*, but since he does not appear to have himself first consulted the Senate, that body on its own initiative dictated a verdict and penalty. Primus, governor of Macedonia, was accused in 22 B.C. of making war on the Odrysae contrary to the provisions of the law on treason.²¹ Since Dio states that "Augustus came to court of his own accord and was questioned by the praetor," the trial must have occurred in an ordinary *quaestio*, even though Primus had been

governor of a senatorial province. There remain, in fact, no certain instances of trials for *maiestas* before the Senate until the reign of Tiberius. Upon his accession, the praetor Macro asked him whether the court would continue to be appointed, and he replied that the laws should be administered.²² Yet in 15 A.D. two knights, Falanius and Rufus, were charged in the Senate with disrespect for the memory of Augustus.²³ In the same year the propraetor of Bithynia, Granius Marcellus, was charged both with disrespect towards Tiberius and with extortion.²⁴ When Tiberius refused to countenance the former charge, the latter was referred to a board of referees.²⁵ Piso's trial on the charge of having poisoned Germanicus in 19 A.D. affords the most conspicuous example of a case of *maiestas*.²⁶ When he was first summoned to come to Rome and defend himself, he replied that he would appear "when the praetor who inquires into poisoning had appointed a day for the defendant and accusers."²⁷ But upon his arrival in Rome, the accuser Trio summoned him before the consuls. Since the staff of Germanicus refused to testify, Trio attacked Piso's former career, presumably his propraetorship in Spain,²⁸ and asked Tiberius to receive the case under his own advisement. Piso did not dare object in the face of the popular agitation. He must in any case have expected a fairer hearing from the Emperor. Tiberius, after conducting an informal inquiry with a *consilium* of friends, returned the case "unprejudiced" to the Senate.²⁹ He concluded an impartial review of the question with this important statement: "This alone we afford to Germanicus beyond what the law provides,

that his death be examined in the Senate-House rather than in the Forum, before the Senate rather than before a court." ³⁰ The Emperor himself presided at the trial, for Tacitus says: "The judges were implacable for diverse reasons, Caesar, because war had been brought upon the province, the Senate, because it would never believe that the death of Germanicus had been without crime." ³¹ The true implications of the trial are lost in the strong bias of Tacitus against the Emperor, but probably Piso's opponents brought it before the Senate to discredit him and Tiberius, feeling the charge of poison to be false, let it rest there as a trial for treason. The populace, with which Germanicus had been a favorite, overawed the Senate.³² Piso was imprisoned and, after a second hearing, committed suicide, not so much an admission of guilt as of despair.³³

In 24 A.D. the praetor Silvanus, who had murdered his wife, was brought before the Emperor by his father-in-law.³⁴ Tiberius, though not consul, conducted an investigation and reported to the Senate. Tacitus continues: *Datis iudicibus, Urgulania Siluani auia pugionem nepoti misit.* Nipperdey took these words to mean that the Senate appointed a commission to try the case, whereas Furneaux refers them possibly to the ordinary courts. The case was exceptional because a magistrate enjoyed immunity from prosecution during his term.³⁵ Nevertheless, a similar instance occurred when the tribune Sagitta in 58 A.D. slew a married woman with whom he was madly in love.³⁶ Her father summoned him before the consuls. Sagitta resigned his office, as presumably Silvanus also had had to do, and was condemned

“by a vote of the Senate and by the law *de sicariis*.” This statement is susceptible of three interpretations: that the Senate’s decree applied the law directly; that the Senate instructed a commission to apply the law; or, as in the affair of Gallus, that the Senate’s decree requested a condemnation by the *quaestio de sicariis*.

To return, however, to the reign of Augustus: the first recorded prosecution in the Senate for extortion is that of Messalla, proconsul of Asia, in 12 A.D.³⁷ Tacitus says of the trial of Silvanus, likewise proconsul of Asia, in 22 A.D., that “Tiberius ordered to be read the *libelli* of the Deified Augustus concerning Messalla and the decree of the Senate passed against him.” Dessau thinks that Augustus had Messalla tried in a *quaestio* and the verdict confirmed by the Senate.³⁸ The fifth edict from Cyrene, however, published a decree of the Senate by which a more expeditious procedure was provided in cases of extortion.³⁹ The magistrate to whom the plaintiffs applied for redress had to introduce them into the Senate and to provide them with a pleader. If just cause for complaint was shown, the same magistrate had to choose by *sortitio*, *reiectio*, and *subsortitio* a special board corresponding to the pre-Gracchan *recipitatores*.⁴⁰ The president was either the magistrate who initiated the affair or “the consul who speaks first.”⁴¹ The board had to render a majority verdict within a month and, if the charges were proven, order the repayment of the sums unlawfully exacted. Anderson points out that this board stands midway between the former *quaestio repetundarum* and the later use of the Senate to adjudicate similar cases. It is not un-

reasonable to assume that in the instances already mentioned of Messalla, Silvanus, Sagitta, and Marcellus, the references to decrees, *iudices*, and *reciperatores* imply a similar proceeding by the Senate. Unlike the ordinary laws, this edict distinguished trials which involved the *caput* of the accused from those which did not; formerly conviction for extortion had not legally meant any diminution of one's citizenship, but hereafter the Senate frequently decreed exile as part of the penalty.⁴² The edict also extended by implication liability to the charge to persons other than Senators or their sons, who alone had been open to it under the Republic.⁴³ Thus in 23 A.D. Capito, procurator of Asia, was accused by the province before the Senate with the permission of Tiberius.⁴⁴

These instances of the important charges of treason, violence, and extortion illustrate the development of senatorial jurisdiction. The Senate was, in Mommsen's words, a "consular court," that is, it acted theoretically to advise a magistrate who consulted it on some complaint brought to him.⁴⁵ In this sense Nero promised on his accession that "Italy and the public provinces should appear before the tribunal of the consuls."⁴⁶ Nevertheless, the decree of the Senate was binding upon the magistrate and therefore had in fact the character of a judicial decision. The Senate might order a preliminary enquiry, like that undertaken by the consuls after the riots at Nuceria and Pompeii in 59 A.D., and act on their report. Or it might refer the question to committees of itself, as the committees in the Cyrene Edict, on foreign relations, and on the *lex Papia Poppaea*.⁴⁷ The scope

of its hearings steadily spread. Client princes appeared before it as early as 29 B.C., but after the reign of Tiberius the Emperor more and more kept the control of foreign affairs to himself.⁴⁸ Senatorial proconsuls could be tried by the Senate even under Augustus for extortion,⁴⁹ and this jurisdiction extended soon to the imperial civil servants, whether of senatorial or equestrian rank.⁵⁰ From the reign of Tiberius, it took cognizance of a variety of criminal offenses and matters of public welfare. In short, it came to function like a true high court of justice. Whether Augustus had intended it to assume such a character may be doubted, but two factors contributed to the change: the Senate's diminishing participation in the administration, and the increasing frequency of charges of treason against its members, whose fate it claimed the right to determine.

In theory the judicial, like the legislative, action of the Senate was independent. From a decision of the Senate, or of a magistrate acting under the instructions of the Senate, there was no direct appeal to the Emperor. Nevertheless, the Emperor had several practical methods of control. The magistrate who fulfilled the wishes of the Senate was liable to tribunician veto. There are several early examples of intercession and veto by ordinary tribunes, but when Rusticus Arulenus offered to intercede against the decree condemning Thræsea to death in 66 A.D., the sage replied that such an act would be useless and dangerous.⁵¹ Imperial intercession occurred frequently, however. Augustus prevented the passing of decrees directed against disrespect for the prince in wills.⁵² When the Senate executed

Priscus on a charge of treason without the knowledge of Tiberius, that Emperor requested that thereafter a ten-day interval should elapse between the sentence and the execution, probably so that he might intercede if he wished.⁵³ He prevented the trial of Ennius by his intercession.⁵⁴ Nero was prepared to intercede for the praetor Antistius had he been condemned to death, but he allowed a decree of exile to stand.⁵⁵ Further instances of imperial interference in cases before the Senate may, in the absence of other justification, be attributed to the same power.⁵⁶

The Emperor might bring the accused before the Senate and preside personally. Or, as in the case of Piso, he might preside at a trial instigated by a *delator*.⁵⁷ Tiberius seems to have presided himself on a number of occasions.⁵⁸ Dio states that both Gaius and Claudius used the Senate as a judicial *consilium*. Nero, however, attended more rarely.⁵⁹ Even though the Emperor did not preside, he might vote. The questions raised in this connection by Tiberius's words at the trial of Marcellus have already been discussed.⁶⁰ Moreover, the Emperor might submit a written accusation to be read by the consuls or his quaestor.⁶¹ Finally, if the Emperor felt that he was personally concerned, he might remove a case from the Senate. Augustus may have taken over the trials of the Julias and Tiberius those of the family of Germanicus in virtue of the *patria potestas*.⁶² But Claudius, not letting the Senate hear Valerius Asiaticus, held a sort of military court-martial before Messalina.⁶³ When Veiento was charged with libel against the Senate and priests, the affair seemed

destined for the Senate, but the accuser added that Veiento had sold his influence with the Emperor in respect to jobs and magistracies, "which was a reason for Nero's undertaking the trial."⁶⁴ Occasionally the prosecutor or the Senate itself asked the Emperor to interfere.⁶⁵ On the other hand, the Emperor might refer to the Senate a matter brought before him.⁶⁶ On the whole, despite the innuendos of Tacitus, the Emperors, at least until the reign of Nero, respected the rights of the Senate and interfered only to rectify miscarriages of justice. The Senate, however, showed itself ever more unwilling to take action without the consent of the Emperor.⁶⁷ Hence, its theoretical independence became in fact subservience to the imperial will.

The jurisdiction of the Emperor and his agents came in the end to overshadow all the other judicial organs. But during the Julio-Claudian period it does not seem to have exceeded the scope to which the *imperium* and the *tribunicia potestas* might legitimately be extended, save under the more autocratic rulers.⁶⁸ For the imperial jurisdiction was extraordinary in the sense that it represented really an executive, not a judicial, act, and stood therefore outside the normal rules of civil and criminal procedure. Extraordinary jurisdiction on the part of magistrates had not been unknown under the Republic.⁶⁹ The hearing, or *cognitio*, took the form of an enquiry whether or not the magistrate should exercise his *imperium*. It was much more flexible and informal than the cumbersome proceedings by formula or *actio*. It was therefore increasingly used both by the provincial governors and, to a lesser degree, by the ordinary magis-

trates in cases where no regular proceedings existed. The occasion under Nero when the extraordinary jurisdiction of the urban praefect came into conflict with the regular jurisdiction of the praetor has been discussed.⁷⁰

The superior *imperium* and the tribunician power of the Emperor might have justified him in removing any case from senatorial governors and magistrates. The problem of the relation between Emperor and governors has been treated. It has shown how unwilling the early Emperors were to interfere in the sphere of the Senate and particularly within the City.⁷¹ When the ancient authorities say that the Emperors assigned new fields of jurisdiction to certain magistrates, it may be assumed that this was in virtue of decrees of the Senate and that, from such jurisdictions, appeal lay in the regular way to the consuls and Senate, never directly to the Emperor.⁷²

Since the imperial jurisdiction was essentially executive, it made no true separation of criminal from civil. Two forms of its exercise may, however, be distinguished.⁷³

The Emperor's direct jurisdiction was applicable to any penal offense. Augustus tried a case of parricide; Tiberius investigated the death of Drusus and the murder committed by Silvanus.⁷⁴ Augustus, on the other hand, refused to hear another murder case in which Germanicus appeared for the defendant, and he left Gallus to the Senate and courts. Tiberius refused to try Piso, probably because of lack of evidence that he was personally involved as the father of Germanicus.⁷⁵ It may be remarked that the Senate exercised a similar

right to refuse cases.⁷⁶ The Emperor had the advantage in that he could intercede against action by the Senate or magistrates, whereas they could do nothing to alter his decisions. This primary jurisdiction affected senators, knights, military offenders, the imperial household, and the imperial civil service.⁷⁷ On the whole the Emperor exercised it rarely and let the *quaestiones* and praetors act whenever possible. It might be argued that he had a check on the administration of justice through his control of the jury-lists and the nominations for magistracies, but these privileges were not abused to pack juries or offices.⁷⁸

In the second place, imperial jurisdiction could be exercised by delegation or by appeal.⁷⁹ The holders of a delegated *imperium* naturally administered justice subject to appeal to the Emperor. The Emperor might delegate the hearing of cases to special judges or officials.⁸⁰ Thus, in the second century the praefects heard the appeals directed to the Emperor.⁸¹ The right of appeal to the Emperor was variously limited: it was never allowed from the *quaestiones*, even to his tribunician power;⁸² it was confined to citizens;⁸³ only important cases stood much chance of being accepted; and, in Nero's time at least, a deposit was required which was forfeited by an adverse verdict.⁸⁴ The sentence of the Emperor was final unless the case could be reopened, a privilege seldom secured.⁸⁵

The types of cases which the Emperor heard have already been indicated. Treason figures most prominently in the literary sources. But the Emperors were unwilling to entertain any save the most thoroughly

supported charges on this head. In particular, both Augustus and Tiberius refused to penalize verbal criticism or insults.⁸⁶ Even conspiracies were referred at first to the ordinary courts.⁸⁷ Claudius and Nero, however, began to hear them behind closed doors and not to permit even the Senate to participate.⁸⁸ Josephus records a number of occasions on which Augustus gave hearings to the Jewish princes.⁸⁹

Besides exercising this extraordinary jurisdiction, the Emperors frequently presided or assisted at ordinary trials. Augustus, despite the rebuke which Dio says that Maecenas administered to him for his severity, was just, conscientious, and usually merciful.⁹⁰ Tiberius sat both in judgment himself in the Forum and as assessor to the Republican magistrates. He would advise the court either from the ground or from the tribunal on what he thought it should do, a practice which accords well with his conduct in the Senate. Dio adds that he was harsh in his punishments and indiscriminate in the sort of accusations which he accepted, allowing even slaves to denounce their masters or sons their fathers.⁹¹ Gaius held trials alone and with the Senate as a *consilium*.⁹² Claudius tried cases himself or with the Senate or sat with the ordinary magistrates. His love of litigation was enormous.⁹³ Suetonius has two interesting sections on his handling of cases in which this author draws a clear distinction between the Emperor's acting as an ordinary judicial officer and as an executive magistrate.⁹⁴ He says of Claudius: "He administered justice most assiduously both when consul and when out of office" and "in his hearings and decisions he showed a

wonderful inconsistency of temper." When a certain defendant claimed that his was a case not for a *cognitio* but for *ordinarium ius*, Claudius forced him to plead the point then and there to show "in a matter affecting himself how just a judge he would be in other persons' affairs." In his section on Nero's judicial acts, Suetonius appears to differentiate between his *iuris dictio* and his *cognoscendi mos*. He refers also to the use of a *consilium*.⁹⁵ Although too much weight should not be attached to the precise use of words by the literary authorities, these references support a distinction between the judicial functions of the Emperor as a regular magistrate according to the forms of law and as an executive officer. At least, Claudius and perhaps Tiberius administered the regular legal procedure even when they did not hold office. But they also gave extraordinary hearings. It is safer to attribute these to the tribunician power than to assume the exercise of the *imperium* within the walls. And it would be difficult in default of more precise evidence to determine how far the cases recorded were heard by the Emperor as a magistrate, or extraordinarily, or on appeal. Of course, the *imperium* might legitimately be called into play when the case originated before a delegated *imperium* outside the walls.

It is possible that in some cases the Emperor applied the right of *coercitio*, or restraint, which any magistrate possessed. This, however, could not have been more than a temporary means of checking some offense until it could be dealt with properly. In the uncertain state of the whole question, it is therefore wiser not to at-

tempt to extend the imperial jurisdiction beyond the legitimate scope of the *imperium* and the *tribunicia potestas*, and to regard apparent exceptions as inadequately documented.

To conclude, the profound changes which the Julio-Claudian reigns witnessed in judicial procedure had their inevitable and just origin in the need of revamping the still hidebound methods of a small city-state to meet imperial problems. The elimination of the People left the Senate to represent the sovereignty of the Republic and therefore to replace the *comitia* as the court of last appeal in cases which did not come within the Emperor's competency. The use of the Senate as a "consular court" began under Augustus but received great impetus under Tiberius. It remained, however, merely advisory to the magistrates rather than fully decisive. On the other hand, the development of the extraordinary *cognitio*, an application of executive power to questions properly judicial which had begun under the Republic, afforded an even more adaptable and rapid legal remedy than did the praetorian formula. The Emperor and his agents benefited at the expense of the praetors and the *quaestiones* through the popularity of this procedure. The interest taken by the Emperors, notably Claudius, in judicial matters tended to accelerate the subordination of the judiciary of the Republic to the Emperor, a subordination which Augustus had sought to avoid by referring wherever possible to the ordinary courts. The culmination of these changes and of their effect on Roman law through the decisions rendered by the Emperor with the help of his *consilium* of

legal experts came during the second century. Whatever faults may be blamed on the Roman Empire, it must at least be credited with one great contribution to civilization, a systematic code of civil law. Yet the factors which encouraged the formation of this code may well be regarded as contrary to the intentions of Augustus and more in accord with the visions of Caesar.

XXII

ADMINISTRATION

IT WOULD be a labor of great length and little bearing upon the theory of the principate to discuss in detail the administrative reforms which Augustus and his successors introduced.¹ In the division of the provinces, the Emperor took those which required military protection and left the civilized and pacified areas to the Senate. Augustus and Tiberius maintained the attitude that they were servants of the state. The Senate occasionally shared in matters affecting foreign relations and client princes.² But on the whole the Emperors kept these fields more and more to themselves. They frequently reported to the Senate their military successes and accepted the triumphs which it voted.³

In respect to the coinage Augustus established a compromise.⁴ He himself, like the republican generals in the field, issued silver and gold coins and maintained mints in the imperial provinces, notably that at Lyons.⁵ The Senate continued to mint at Rome, but after 12 B.C. it issued only bronze, and after 4 B.C. the names of the *tresviri monetales*, the masters of the mint, ceased to appear.⁶ Gaius was the first Emperor to issue coins at Rome. After his reign the imperial provincial mints declined in importance. Nero's short revival of the Senate is reflected in the brief reappearance of *S. C.* on all coins.

In fact, Mattingly well remarks that the coinage of the Roman Empire served, and serves, as a commentary on, and a record of, contemporary events.⁷ Its history shows the gradual weakening of the Senate. Under Augustus and Tiberius, the Emperor's head appeared only on one coin minted at Rome, the *as*, and great prominence was given to the senatorial stamp, *S. C.*, which ranked as a main "type" rather than as a subsidiary part of one. The title of the Emperor took a secondary place; references to him stressed his constitutional policy. From the time of Gaius, however, the tendency was to exalt the Emperor. He replaced the goddess *Roma* as the visible head of the Roman state. Though at first the members of the imperial family appeared but rarely, they figured more frequently as the elective principate changed to a hereditary monarchy. The coinage records the titles, prospective heirs, and deification of the Emperors. It commemorates their travels and liberality. It preserves vows, honors, and triumphs. The constitutional Emperors took pains to emphasize their regard for the Senate and for the People on the coins. The coinage testifies to Augustus' retreat from Caesar's internationalism towards a narrower nationalism, and his opposition to the equalization of the provinces with Italy. The military element figures prominently on the coinage. In the East, religious types represent the Emperor more and more commonly in the guise of divinities. The local countermarks on senatorial bronze show that at first such coins circulated freely only in Rome and Italy, but since these marks disappear after the reign of Tiberius, the coins must have become gen-

erally current. This change coincides with the decay of local currencies in the West and illustrates the spread there of Romanization. In the East, local currencies lasted until the third century.

In the control of funds, the Senate's importance rapidly waned. Although the history of the imperial *fiscus* is much disputed, clearly the Emperor controlled a major portion of the income from the whole Empire, even from the senatorial provinces.⁸ The old *aerarium*, which continued to exist, constantly required guidance and subventions from the Emperor.⁹ Nero eventually put it in the hands of ex-praetors whom he himself appointed.¹⁰ He also set up a committee of three ex-consuls to audit the public accounts, that is, those of the *aerarium* rather than those of the *fiscus*. For this alteration he had a precedent in Augustus.¹¹ In addition to the *fiscus*, the Emperor had two further sources of funds, the special military treasury which Augustus had established for the payment of bonuses, and his own extensive private properties. Augustus met from the latter a large proportion of the public expenses incumbent upon his share in the administration. How far he regarded this *res priuata* as merely held in trusteeship is disputed.¹² He did, however, account for the public funds to the Senate and also published an annual balance-sheet, which Tiberius discontinued upon his retirement to Capreae.¹³ If, therefore, Augustus used his own slaves and freedmen to administer the *fiscus* it was not because he felt that this belonged to him but only because it had been customary for Roman magistrates to employ their own servants for their official tasks.¹⁴ Even

during the reign of Nero, Pallas, by claiming exemption from an accounting, acknowledged the right of the state to demand one of the Emperor or his agents.¹⁵ Thus, under the early Empire, the Senate remained in theory master not only directly of the unimportant *aerarium* but indirectly of all the property of the state, though in fact the effective control passed rapidly to the Emperor.¹⁶

In the discussion of the legislative power of the Senate, its concern with many aspects of the administration in Rome, Italy, and the senatorial provinces was illustrated.¹⁷ Not only were the republican magistrates responsible to it, but many of the new boards which undertook important public duties were authorized by its decrees.¹⁸ The appointment of these boards, however, commonly lay with the Emperor, so that in fact they represented an imperial rather than a senatorial civil service. In a few instances, the lot may have been used.¹⁹ Moreover, the development of the more specifically imperial administration encroached constantly upon that of the Senate. At Rome the Emperor had his four great praefects, of the City, of the Guard, of the night Watch, and of the grain supply, the last three of whom were equestrians. Through them he directed the police and the food and the general supervision of the City. In the senatorial provinces were the equestrian or freedman procurators who had charge of the imperial estates and, probably from the time of Augustus, the collection of taxes due to the *fiscus*. Their influence steadily grew, especially after Claudius had given them judicial competency. While the imperial governors and

commanders were senators, they received their commissions from the Emperor. Smaller imperial districts were entrusted to praefects or procurators of equestrian rank. In fact, the knights formed the backbone of the imperial administration. The Emperor's household, his freedman secretaries, occupied what became after the reign of Claudius quasi-official posts, which, however, were not formally recognized until the second century.²⁰

In the actual administration, the reforms which Augustus introduced for purely practical reasons resulted in a profound change in the concept of public service. Under the Republic, as in the Greek city-states, public service had been regarded as an obligation rather than as a profession. Its burdens fell mainly upon those rich enough to afford the expense and time without remuneration. Even the staffs required for the conduct of public business had frequently to be provided by the magistrates themselves.²¹ Inevitably, elective and frequently changing officials, with what haphazard help they could themselves obtain, proved inadequate to handle an Empire whose complicated affairs demanded a trained bureaucracy under the guidance of experienced administrators. Nevertheless, the aristocratic character of the Republic mitigated to some extent this fault, because on the whole the governmental posts were confined to a class whose members either had already held office themselves or had grown up in a society whose chief occupation was administration. A greater danger, and one to which the Republic proved more liable, lay in the opportunities which so unorganized a system afforded for self-aggrandizement at the expense of the

state. This evil did not entirely vanish under the Empire. Although no senatorial proconsul rivaled Verres, trials for extortion continued to occur.²²

Licinus and Pallas, to cite two conspicuous examples, show that the imperial agents were not impeccable.²³ But the creation of a trained imperial civil service both extended imperial control over spheres in which it had no technical rights, as in the senatorial provinces, the City of Rome, or the *aerarium*, and encouraged greater efficiency in the senatorial administration.²⁴ Moreover, the provision of pay for both imperial and senatorial officials, combined with the stricter oversight which the Emperor maintained, rendered profiteering at the expense of the government at once less necessary and less safe.²⁵ That the civilized world was better ruled during the first two centuries of the Empire than it had been before or was to be for many centuries to come should redound to the credit of the Augustan reforms.²⁶ That in general the upper classes under the "enlightened monarchy of the Antonines" displayed more real interest in the public welfare than at any other period in the history of Rome may be attributed to the replacement of the old republican nobility by an aristocracy drawn from the civil servants.²⁷ Yet the ultimate stagnation of the Roman state must be traced in part to the growth of a governmental caste which was more concerned with the preservation of the administrative machine on which its own existence depended than with the real needs of the people.²⁸ The divorce of the government from the governed, the topsy-turvy world in which the whole political and social structure became,

like Frankenstein, the master rather than the servant of its creators and members, derived ultimately both from Tiberius's final elimination, however necessary and inevitable at the time, of popular participation in the government, and from the new concept, inspired by the Augustan reforms, of public service not as an obligation or a privilege but as a profession.²⁹

With regard to the present subject, however, although the efficiency of the imperial machinery led more rapidly, perhaps, in the administrative than in any other sphere to the *de facto* decline of the Senate's independent participation in the government, it may still be said that the theoretical supremacy of the Senate was not entirely forgotten throughout the first century, and that senatorial rank remained a qualification for high office during two centuries thereafter.³⁰

XXIII

CONCLUSION

TACITUS remarks that at the death of Augustus there remained few who had beheld the Republic and that, in the quiet of a long reign, beneath the disguise of the old forms, the transition to monarchy had been accomplished. Augustus himself left to the public no unvarnished statement of his real attitude towards his achievements. The *Monumentum Ancyranum* was definitely apologetic. Yet the present discussion has maintained that for him the Restored Republic was more than a fiction; that he sincerely desired to reëstablish, so far as was consistent with the peaceful administration of a vast empire, the Senate and the Roman People in that primacy over the civilized world to which their ancestors' energy and ability had advanced them; and, furthermore, that Tacitus was biased in his portrayal of Augustus as a diplomatic hypocrite. Far from regarding his own authority as independent of that of the Senate, through either a grant by the army, as Mommsen maintained, or an appeal directly to the populace, as Rostovtzeff held, he conceived himself to be the agent of the Senate, the permanent representative of the state. Though his *imperium* may have been superior in theory and in fact to any other in the state, he refrained to the best of his ability from exercising it except in the spheres

over which the Senate had given him authority. Caesar's monarchical program failed because he underestimated the strength not merely of the senatorial conservatism but of the Roman tradition. The West definitely rejected absolutism at Actium. In consequence, Augustus returned to the ideals of Cicero and Pompey, to a Republic in which the sovereignty of wisdom and birth should be recognized. As Rome stood at the head of the civilized world, so the Senate should stand at the helm of Rome. As the great men of the second century B.C. had put their talents at the disposition of the state, the prince, *princeps inter pares*, of the new Republic should serve and guide, not rule and coerce. Augustus failed because Rome was no longer the Rome that had marched and fought throughout the Mediterranean basin, the Senate no longer that collection of rulers who impressed even the self-satisfied Greeks. Augustus, like Cromwell, was driven towards autocracy by the abdication of the republican institutions, not by his own ambition.

If Tacitus had applied his statement to the death of Nero, it might with more truth have been said that under the disguise of a theoretical constitutionalism there had arisen a practical autocracy. The separation between the civil and military functions broke down because on the one hand the Senate lacked the initiative and strength to govern without the support of the Emperor, and on the other the populations of the Empire looked to the Emperor as the visible symbol of the Roman state and trusted to the efficiency of his administration rather than to that of the antiquated, narrow, republican organization. The breach was only widened

by the incompatibility which arose between the successors of Augustus and the Senate. In legislation, jurisdiction, and administration the Senate and magistrates yielded to the Emperor with his new civil service. Apart, however, from the eccentricities of certain rulers, it was not because the *imperium* and tribunician power were abused, it was because the Senate and People proved unable or unwilling to cope with the problems of empire, that the Restored Republic with its extraordinary prince became the military autocracy portrayed by Dio in the speech of Maecenas.

NOTES

NOTES

IN THE following notes, apart from the usual abbreviations for the ancient authors and sources and for the standard modern works of reference, the following have been employed to designate works or authors to which frequent reference has been made: *CAH.* for *The Cambridge Ancient History*; *Dess.* for Dessau's *Inscriptiones Latinae Selectae* (note that Dessau's *Geschichte der Römischen Kaiserzeit* is abbreviated as *Dess., Gesch.*); *Mom.* for Mommsen's *Staatsrecht*; *Rush.* for Rushforth's *Latin Historical Inscriptions*. Where frequent reference has been made to only one work of an author, it appears simply under the author's name, as: Gardthausen for Gardthausen's *Augustus und seine Zeit*; Holmes for Holmes' *Architect of the Roman Empire*; Willems for Willems' *Le Droit public romain*; etc. Not only books but also articles in periodicals have, except in a few cases, been cited by title only, and readers are advised to consult the Bibliography for the sources of such articles.

CHAPTER I

1. Augustus on his death-bed asked his friends whether they thought that he had acted his part well and requested their applause with the formula customary at the conclusion of a Greek comedy; *Suet., Aug., 99, 1.*
2. "Diarchy" for "dyarchy," Gardthausen, II, p. 306, n. 4. The *New English Dictionary s.v.* cites Thirlwall, *History of Greece*, I, viii, p. 318, for the spelling "diarchy" in 1835. He applied it to Sparta.
3. The terms "Emperor" and "imperial" are used for convenience and with no implications of superiority to the Senate. A better term perhaps is "prince"; cf. *Ch. XII, nn. 13-18.*
4. The theory of the dyarchy, *Mom., II, 2, p. 748 (V, p. 5), III, 2, p. 1255 (VII, p. 488).* Lévy, *Tiberius erga Senatum*, especially pp. 116-121, concludes that under Augustus there was a dyarchy neither in fact nor in theory but a monarchy under the guise of the "Restored Republic," but that for the first twelve years of his reign, Tiberius definitely attempted to share the government with the Senate. Because, however, of his own

character and his later retirement and the Senate's unwillingness to coöperate, he failed and, in fact, merely rendered the government more monarchical. Kolbe, *Von der Republik*, pp. 43-45, 54, adopts the view of Shönbauer, *Zeit. der Sav. Stift.*, Rom. Abt., XLVII (1927), pp. 264-318, that Augustus was not founding either a republic or a dyarchy or a monarchy but a sort of mixture which cannot be classified according to constitutional theories. Kolbe asserts, p. 55, that in 27 B.C. Augustus did "restore the Republic" but that the changes of 23 B.C. made his position semi-monarchical; cf. pp. 60-61. Shönbauer's criticisms, pp. 264-280, of the three constitutional views are interesting but his own interpretation of Augustus' work as monarchical from the standpoint of jurisdiction and economics is unconvincing.

5. The "Restored Republic," *Mon. Anc.*, VI, 13-16; cf. below, Ch. III, n. 15. For references to modern writers pro and con cf. Kolbe, *Von der Republik*, p. 43, and below, Ch. III, n. 15.
6. 'The Military Tyranny of the Julio-Claudians,' Rostovtzeff, *SEH.*, Ch. III, pp. 75-100, criticized by H. M. Last in *JRS.*, XVI, 1 (1926), p. 123; cf. also Rostovtzeff, *Mystic Italy*, p. 11.
7. McFayden on the *imperium*; *The Princeps and the Senatorial Provinces*, pp. 34 ff.
8. For the view that Dio was really writing the history of the Augustan period in the light of his own times and as a criticism of Alexander Severus cf. P. Meyer, *De Maecenatis oratione a Dione ficta*, and McFayden, *Rise of the Princeps' Jurisdiction*, pp. 185-188, criticized by Hammond, *Trans. Am. Philol. Assn.*, LXIII (1932), pp. 88-102. On the general credibility of Tacitus, Suetonius, and Dio cf. the appendices in Marsh, *Tiberius*, esp. pp. 272-283. The translations from Dio in this work are based on Cary's version in the Loeb edition.

CHAPTER II

1. *Potestas* of lesser magistrates, *Mom.*, I, pp. 22-24 (I, pp. 25-26).
2. Non-collegiate magistracies, *Mom.*, I, pp. 44-45 (I, p. 51).
3. Early terms applied to consuls, Willems, p. 229.
4. Creation of the judicial praetor, Willems, p. 243.
5. Meaning of *consul*, Willems, p. 229, n. 4.
6. *Domi* and *militiae*, *Mom.*, I, p. 62 (I, p. 70).

7. Whether or not Sulla actually prohibited magistrates from going out to their provinces during their term of office has been much disputed. Willems, p. 231, n. 5, Greenidge, *RPL.*, p. 201, n. 3, and Pelham, *Essays*, p. 67, n. 4, think that he did not, and that the restriction was purely one of custom; cf. also *CAH.*, IX, pp. 294-296, 453-454.
8. Appian, *Mith.*, 71, speaks of Cotta as already in Bithynia though in *Mith.*, 72, Lucullus, ὑπατεύειν καὶ στρατηγέειν αἰρεθείς τοῦδε τοῦ πολέμου, brings troops from Rome. Cicero, *pro Mur.*, 15, 33, speaks of the two consuls as sent together to the war; cf. Memnon, *Hist. Frag.*, 37. But Vell. Pat., II, 33, 1, and Cicero, *Acad. Prior*, II, 1, 1, say that Lucullus went East after his consulship, which is perhaps what Appian should have said. In 71 B.C. Crassus, as praetor, commanded in Italy against Spartacus by decree of the Senate; Plut., *Crass.*, 10. Cf. in general *CAH.*, IX, pp. 295-296.
9. *Ad. Att.*, VIII, 15, 3, for consuls' right *more maiorum* to visit all the provinces.
10. For the following discussion see Willems, pp. 233 ff., on the consul.
11. The original meaning of the term *provincia* has been much disputed; Willems, p. 187, n. 8; *CAH.*, IX, p. 437. It was applied in the third century B.C. to the functions of the praetors in Rome; Willems, p. 244. It may originally have meant a sphere of conquest (either possible or actual, before its incorporation into the City) and, in the third century, the actual conquered territory.
12. Whether or not a praetor could have an independent army is doubtful, even though he might rule a province independently; Mom., II, 1, p. 95, esp. n. 4 (III, p. 109, n. 4); Willems, p. 249.
13. Livy, VIII, 23, 26; Willems, p. 197, n. 5, says that the first case for praetors was in 241 B.C. Greenidge, *RPL.*, p. 239, points out that the Senate soon usurped the right to extend commands, as in the case of Q. Fabius Maximus in 308 B.C. (Livy, IX, 42, 2) and in 296 B.C. (Livy, X, 22, 9). The command of Volumnius was prorogued by a decree of the Senate and by a plebiscite (cf. Willems, p. 197). The Second Punic War gave a great impetus to the prolonging of commands, as that of the Scipio brothers in Spain from 218 to 212 B.C. Similarly, Africanus was elected consul year after year for the African campaign.

14. For Spain, Willems, p. 244. The *Cambridge Ancient History* (VIII, p. 306, citing Livy, XXXI, 20, and Mom., II, pp. 647, 652 [IV, pp. 361, 367]) remarks that from 205 to 197 B.C. Spain was commanded by *priuati cum imperio*.
15. For Sulla and the provincial commands cf. n. 7. Marsh, *Founding of the Roman Empire*, pp. 13-17 and 25-27, discusses the rise of the pro-magistracy and holds that it became customary for the provinces after 146 B.C. and was made a rule by Sulla (but cf. above, n. 7). He traces it to the unwillingness of the nobles to increase the offices and hence their numbers.
16. Pro-magistracy, Mom., I, p. 11, n. 3 (I, p. 11, n. 2).
17. *Pro*, "in virtue of." Livy, VI, 38, 9 (*pro dictatore*); *lex Rubria*, I, XX, l. 50, Bruns, p. 99 (*pro magistratu, pro quo imperio potestate*). In the *lex Agraria* of 111 B.C. occur both *pro magistratu* and *pro moicipieis colonieisue*; cf. secs. 30 and 31, Bruns, p. 79. The former Hardy translates "pro-magistrate" and the latter "in the position of municipia or colonies"; *RLC.*, I, pp. 65, 66. In the *lex Acilia* occurs *magistratus proue magistratu*, sec. 70, Bruns, p. 70, and, in Mommsen's emendation, *pro imperio proue potestate*, sec. 3, Bruns, p. 59. Hardy, *RLC.*, I, p. 30, renders *pro* in this phrase "in virtue of."
18. *Pro milite*, Sallust in Servius, *ad Aen.*, II, 157.
Pro censore, Cato the Elder in Aul. Gell., X, 23, 4.
Pro legato, *Ann.*, XV, 28, 4; Dess., 2678 (from Dyrrachium), *L. Titinio L.f. Aem. Sulpiciano pontif. praef. proIIuir et IIuir quinq. tr. mil. et tr. mil. pro legato et praef. quinq.*
Pro aedile (and *proIIIuir*), Dess., 914.
Pro quaestore, Dess., 928.
 The praetor *pro consule* was equal in rank and power to a consul though not one. The pro-magistrate might be a *priuatus* (cf. n. 14) and not a magistrate or ex-magistrate at all. The translation of *pro* into Greek by *ἀντι-* confirms the view that it stood for likeness or equality rather than substitution. With *ἀνθύπατος* compare *ἀντιβασιλεύς*, "like a king," or *ἀντιθέος*, "like a god."
19. Proroguing of magistrates' *imperia*, Mom., I, pp. 636-637 (II, p. 311).
20. The first case of a legate delegated as a general *pro praetore* was when Spurius Postumius Albinus, consul in 110 B.C., delegated the command of the African army to his brother Aulus so that

- he himself could hold elections at Rome; Piganiol, *La Conquête romaine*, pp. 268–269, from Sallust, *Jug.*, 36, 4.
21. Retaining of *imperia* for triumphs, Greenidge, *RPL*, p. 158; Mom., I, p. 128 (I, p. 149).
 22. Never any pro-magistrates in the City, Mom., I, p. 13 (I, p. 13).
 23. *Praefectus urbi* for *Feriae Latinae*, Willems, p. 240.
 24. The French translation of Mom. (I, p. 251) has this paragraph from the second edition, but the third German edition, I, p. 221, omits it.
 25. Pro-magistrates addressing assemblies, Mom., I, pp. 193, 210 (I, pp. 222, 238).
 26. General's right of *coercitio*, Mom., I, p. 144 (I, p. 164).
 27. General's right of filling vacancies in elective offices, Mom., I, p. 227 (I, p. 267).
 28. Immunity of general from *prouocatio*, Mom., I, p. 379 (II, p. 10).
 29. Claudius had it enacted that treaties made by himself or his lieutenants should have the validity of decrees of the Senate; Dio, LX, 23, 6, 44 A.D.
 30. The right of coinage in the field, save for sporadic issues on local standards, did not arise until after Sulla, and the early coins bear the mark *ex s.c.*; *Cat. Coins of Rom. Rep. in Brit. Mus.*, II, pp. 340–341. The last non-imperial commander saluted as *imperator* was Blaesus in 22 A.D.; *Ann.*, IV, 74, 6; cf. below, Ch. V, nn. 15, 20.
 31. Inferiority of pro-magistrate to magistrate, Livy, XXVI, 9, 10.
 32. For Cicero's difficulties about a successor in Cilicia cf. How, *Notes to Select Letters*, p. 170, and refs. Caesar violated this rule by allowing his lieutenants to triumph, but the Empire returned to the earlier practice and non-imperial triumphs ceased. Cf. n. 30.
 33. *Imperium militare* and *militiae*, Mom., I, p. 119 (I, p. 138).
 34. Date of *lex Pompeia de prouinciis*, Dio, XL, 56, 1; Willems, p. 199, especially n. 5; *CAH.*, IX, pp. 455, 627–628. Cf. also Cic., *ad Fam.*, VIII, 88, with How's notes, pp. 266 and 315. This law was possible because of the separation which had begun under Sulla or earlier; cf. above, nn. 7–15.
 35. Five-year interval under Empire, Mom., II, 1, p. 15 (III, p. 277). Cf. Dio, LIII, 14, 2; Suet., *Aug.*, 36.
 36. Under the *lex de maiestate* of Sulla, Cic., *in Pis.*, 21, 50.

37. Tiberius ordered senatorial governors to leave Rome by the first of June, Dio, LVII, 14, 5.
38. *Proconsul* and *propraetor* under the Empire, Willems, pp. 548, 551, with references. Cf. esp. Dio, LIII, 13, 5.
39. For these extraordinary commands cf. Boak, *The Extraordinary Commands from 80-40 B.C.*, and Elsa Wiehn, *Die illegalen Herreskommanden in Rom bis auf Caesar*. The latter writer divides the commands into two types, legal commanders prolonging their commands illegally and *priuati* who raised troops on their own account. The history of the second type (which Octavian represented) was his *de facto* levying of troops, his attempt to force recognition by marching on Rome, and the opposition, effective or not, of the Senate. Willems, pp. 407 ff., connects the imperial *imperium* rather with the dictatorships of Sulla and Caesar; so also Last, *CAH.*, IX, p. 312. This is opposed to the view which this work advocates, as will appear later.
40. Scipio the Younger, *CAH.*, VIII, pp. 111-112, 323.
41. The Delphian law on piracy, best discussed by G. Colin in *Bull. des. Corr. Hell.*, XLVIII (1924), pp. 58-96, supplemented by H. Stuart Jones in *JRS.*, XVI, 2 (1926), pp. 153-173, does not bear on the *maius imperium* as the surviving clauses apparently concern the governors of Macedonia and Asia acting with only normal powers. The law is to be dated in 101-100 B.C. and not in 74 B.C. (for Creticus) or in 67 B.C. (*lex Gabinia*).
42. The *cura annonae* was abolished by a decree of 43 B.C., Dio, XLVI, 39, 3, but restored by Augustus at the demand of the populace after the famine of 22 B.C., *Mon. Anc.*, I, 32-35; Dio, LIV, 1, 3-4; below, Ch. IV, n. 56.
43. *Maius imperium*, cf. below, Ch. IV, n. 62.
44. Pompey as sole consul in 52 B.C., Mom., II, 1, pp. 656 ff. (IV, pp. 371 ff.). *CAH.*, IX, p. 626, compares his position to that of Augustus from 29-23 B.C.
45. For Caesar's position and powers cf. the convenient summary in How's *Notes to Select Letters*, Appendix VII, p. 449, and the discussion in *CAH.*, IX, pp. 718-735.
46. On the relation of the Augustan *imperium* to those of the Republic, Mom., II, 1, p. 662 (IV, pp. 378 ff.); Kolbe, *Von der Republik*, p. 53. Consult also E. Meyer, *Caesars Monarchie und das Principat des Pompejus*, of which Rostovtzeff, *SEH.*, p. 28,

says: "His 'monarchy,' as opposed to Pompey's 'principate,' seems to me a dream of modern scholars, who are influenced by the propaganda carried on by the enemies of Caesar during his lifetime and after his death." The present writer prefers to accept Meyer's thesis; cf. Schulz, *Die Rechtstitel und Regierungsprogramme*, p. 94, n. 284 for a defense of Meyer against the criticisms of R. Heinze. Kolbe, *Von der Republik*, pp. 61-65, thinks that Augustus was influenced not definitely by Cicero and Pompey but generally by the Platonic doctrine of the rule of the wisest, whether a group or, in this case, an individual. Shönbauer, *Zeit. der Sav. Stift.*, Rom. Abt., XLVIII (1927), pp. 310-318, thinks that Cicero prepared the way for a monarchy without himself envisaging one. The *CAH.*, IX, pp. 623-624, denies that Cicero had Pompey in mind as his *moderator* and suggests Cicero himself as the model. Von Domaszewski, *Gothein-festgabe*, edited by E. Salin, pp. 63-71, seeks the origin of the Ciceronian view of the principate in Roman rather than Greek ideas.

CHAPTER III

1. On Octavian's raising of an army, *Mon. Anc.*, I, 1-3. On the position of Octavian as Caesar's heir and his relations to Decimus Brutus and Antony (the second heirs) in the Will cf. Deutsch, *Caesar's Son and Heir*, and *CAH.*, IX, pp. 724-726, where anything more than a bequest of a private nature is denied, as is also the suggestion that Caesar made or intended to make Octavian *magister equitum* in 44 B.C.
2. The Senate's recognition of Octavian, *Mon. Anc.*, I, 3-5 (with Hardy's comment); Dio, XLVI, 29, 2; 41, 3.
3. The grant of an imperium, *Mon. Anc.*, I, 6-7; Livy, *Ep.*, CXVIII; Dio, XLVI, 29, 5.
4. The *dies accepti imperii* is attested by the Calendar of Cumae, Dess., 108 (Rush., 38), and by the Altar of Narbonne, Dess., 112 (inscribed, according to Dess., under the Antonines. The inscription of the Altar of the Colony of Narbonne should be distinguished from the disputed bronze tablet dealing with the provincial worship of the Province of Narbonne, Dess., 6964). Pliny, *N.H.*, XI, 190, also attests the date.

5. *Salutatio*, Calendar of Cumae, ll. 22-23; Dio, XLVI, 38, 1.
6. Consulship, *Mon. Anc.*, I, 7-9; Dio, XLVI, 44, 2; *Ann.*, I, 9, 1.
7. *Lex Titia*, *Fasti Colotiani* for 711 A. U. C., 43 B. C., *CIL.*, I, p. 466.
8. The Sullan dictatorship, refs. in Greenidge and Clay, *Sources*, pp. 163-164. Cf. Appian, *Bell. Civ.*, I, 98-99, esp. ἐπὶ . . . καταστάσει τῆς πολιτείας. Although the *CAH.*, IX, pp. 283-284, suggests that Sulla modeled his dictatorship on the *decemviri legibus constituendis* of 450 B. C., these were so remote in time and so little can actually be known about their powers that they hardly form a valid precedent; nor would the triumvirs have cared to connect themselves with so abhorred a tradition.
9. Yet if the Roman Constitution was a living organism dependent on specific enactment, it might be held that any office created by law, as was the triumvirate, was constitutional. Augustus felt that it was not in accordance with "republican" precedent and resembled too much the Sullan and Caesarian dictatorships, which had been so hated. Certainly Greenidge, *RPL.*, p. 338, is harsh, though clever: "His sole claim to power was an *imperium* which had never been conferred, irregularly continued from a usurped triumvirate."
10. For the history of the second triumvirate cf. Gelzer's article in *P.W.*, Reihe I, XIX, col. 381. Greenidge, *RPL.*, p. 338, denies the renewal of the law on the testimony of Appian, *Bell. Civ.*, V, 95. The ancient authorities are vague and the modern ones differ on the date of the ending as between December 31, 33 B. C., and December 31, 32 B. C. Cf. the bibliography in Kornemann, *Mausoleum des Augustus*, pp. 96 ff. (1921).
11. *Coniuratio Italiae*, *Mon. Anc.*, V, 3-6; Suet., *Aug.*, 17; Dio, L, 6; Holmes, I, pp. 247-251, 262-263. Van Groningen, *De Octavianis Caesaris Imperio*, pp. 1-9, asserts that Augustus had a continuous *imperium* to January 1, 31 B. C., as triumvir and to 23 B. C. as consul, but that the *coniuratio* rendered his *imperium* as consul *infinitem* and superior to other *imperia* and that this was what he surrendered when he "restored the Republic." This makes the *coniuratio* too constitutional. Piganiol, *La Conquête romaine*, pp. 319, 438, traces it back to the oath taken to Drusus by the Italian bourgeoisie in 91 B. C. after the Senate had rejected his proposals.
12. The oaths to the Emperors, cf. below, Ch. XI, pp. 103-106.

13. For Augustus' own statement of the settlement of 27 B.C. see *Mon. Anc.*, VI, 13-16, emended from the Antioch fragments. For the title *Augustus* cf. *Mon. Anc.*, VI, 16-21, and below, Ch. XII, p. 110. McFayden, *Rise of the Princes' Jurisdiction*, p. 181, points out that the date of the salutation as *Augustus*, January 13, 27 B.C., is thus recorded on the Altar of Narbonne (Dess., 112): *VII idus Ianuar(ias), qua die primum imperium orbis terrarum auspicatus est*. He does not, however, maintain that Augustus himself promulgated this view but only that the autocratic nature of the new government was generally recognized.
14. For the change in order from *Populus Senatusque* to *Senatus Populusque* cf. Gardthausen, I, 2, p. 563, II, p. 306, n. 3
15. For the *Res Publica Restituta* cf. Shuckburgh on Suet., *Aug.*, 28 (p. 61); Kolbe, *Von der Republik*, pp. 41 ff., esp. refs. on p. 43; Ovid, *Fasti*, I, 589. Vell. Pat., II, 89, says that the only change was the addition of two new praetors. Mattingly and Sydenham, I, p. 60, no. 10, reads: *Imp. Caesar Diui f. cos. VI. libertatis P. R. uindex*; cf. in general on the coins Schulz, *Die Rechtstitel und Regierungsprogramme*, pp. 4-14, 51-55. The statements on inscriptions are interesting: the *Fasti Praenestini*, *CIL.*, I, p. 384, read *corona quern[a uti super ianuam domus imp. Caesaris] Augusti poner[etur senatus decreuit, quod rem publicam] P(opulo) R(omano) restituit*; the *Fasti* of Cumae, Dess., 108 (Rush., 38), reads *custodis ciuium Romanorum orbisque terrarum* (much restored); the Altar of Narbonne, Dess., 112, ll. 13-14, signalizes his birthday thus: *qua die eum saeculi felicitas orbi terrarum rectorem edidit*. The cenotaph of Gaius Caesar at Pisa, Dess., 140, calls him *custodis imperi Romani totiusque orbis terrarum praesidis*. An arch was decreed to him by the Senate in 29 B.C.; Dess., 81, *re publica conseruata*. The Funeral Oration of Turia, Dess., 8393 (Bruns, p. 325, no. 126), col. II, l. 35, refers to *restituta re publica*. On the other side, later writers regarded it as a monarchy. Even Strabo, writing under Augustus, says, VI, 4, 2 (p. 288), that it would be difficult to rule so large an empire except by entrusting it to one man as a father; again, XVII, 3, 25 (p. 840), he speaks of the time when the country entrusted to Augustus the headship of the government. Seneca, *ad Polyb.*, VII, 2-3 (26), states: *Caesari . . . cui omnia licent . . . Caesare orbem terrarum possidente*. An inscription of the third

- century, *CIL.*, VI, 266, ll. 14-15, reads *ex eo tempore ex quo Augustus rem publicam obtinere coepit*. And the use of βασιλεύς for *imperator* in Greek writers, Josephus, St. Luke (21, 12); Dio Chrysostom, the *Anthology*, X, 25, l. 5, shows how prevalent was the concept of monarchy in an area which for long had known no other form of government.
16. For the sincerity of Augustus see Holmes, II, p. 125; Kolbe, *Von der Republik*, p. 40. Lévy, *Tiberius erga Senatam*, p. 11, asserts that the government was a monarchy. Arnold, *Roman Imperialism*, Ch. I, thinks the "restoration" fundamentally a fiction. Marsh, *Founding of the Roman Empire*, pp. 219-220, gives Gardthausen's opinion, I, 3, pp. 1334-1349, that he was a hypocrite and E. Meyer's, *Kleine Schriften*, I, pp. 425-474, that he was sincere. It is not fair, adds Marsh, to hold Augustus responsible for the later monarchical tendency.
 17. For the *tribunicia potestas* see Dio, LI, 19, 6, on the grant in 30 B.C. Greenidge, *RPL.*, p. 338, apparently thinks that this was a mere renewal of the grant of 36 B.C.
 18. *Lex Saenia*, *Ann.*, XI, 25, 3.
 19. Abolition of the *acta* of the triumvirs, Dio, LIII, 2, 5; *Ann.*, III, 28, 3; Greenidge, *RPL.*, p. 338.
 20. *Lectiones Senatus*, cf. below, Ch. X, pp. 91-95. For that of 28 B.C. see Dio, LII, 42, 1.
 21. *Princeps Senatus*, Dio, LIII, 1, 3; *Mon. Anc.*, I, 44-45; cf. below, Ch. XII, p. 111.
 22. Census, *Mon. Anc.*, II, 1-11; cf. below, Ch. X, p. 90-91.
 23. Oak wreath (*corona ciuica*), etc., *Mon. Anc.*, VI, 16-21. From Claudius to Severus it was confined to the *princeps* and hung on the palace; Schwendemann, *Der historische Wert der Vita Marci*, p. 163.
 24. Restoration of republican functions, App., *Bell. Civ.*, V, 132.
 25. Dio's speeches, P. Meyer, *De Maecenatis oratione a Dione ficta*; E. Schwartz, *P.W.*, Reihe I, III, col. 1719; Hammond, 'The Significance of the Speech of Maecenas,' *Trans. Am. Philol. Assn.*, LXIII (1932), pp. 88-102. Hardy, *Mon. Anc.*, p. 155, accepts the sentiments as genuine.
 26. The settlement of 28 B.C., provinces and powers, Dio, LIII, 12-19; Strabo, XVII, 3, 25 (p. 840). Cf. below, Ch. IV, pp. 43-44, for the nature of the *imperium*.

27. Foreign relations, etc., Dio, LIII, 17, 5-6; cf. below, Ch. IV, p. 47 and refs.
28. The accounting rendered in 23 B.C., Suet., *Aug.*, 28, 1; Dio, LIII, 30, 2.
29. Resignation of consulship, Dio, LIII, 32, 3.
30. Dispensation from the laws, Dio, LIII, 18, 1; 28, 2; cf. below, Ch. XIII, pp. 114-116.
31. In 22 B.C. he refused the dictatorship, censorship, and consulship, but accepted the *cura annonae* and *ius consulendi*; *Mon. Anc.*, I, 31-36. Holmes, II, p. 32, n. 5, discusses the date.
32. Abolition of *cura annonae* in 43 B.C., cf. above, Ch. II, n. 41.
33. Mom., II, 2, p. 795, n. 2 (V, p. 59, n. 1), discusses the relation of the *tribunicia potestas* to the dating in the *Fasti*; cf. below, Ch. VIII, p. 82.
34. *Ius primae relationis*, Dio, LIII, 32, 5; cf. below, Ch. VIII, p. 82. Holmes, II, p. 30, n. 1, discusses the views of Mommsen and Pelham on Dio's statement and accepts the meaning of "the right to introduce one measure only." He thinks that, though the *ius relationis* and the *ius consulendi* were implied in the *tribunicia potestas*, a special grant was needed to give him precedence over the consuls. Cf. Greenidge, *RPL.*, p. 348. Aulus Gellius, XIV, 7, 5, attributes the *ius consulendi senatum* to the triumvirate, as would be expected.
35. For a grant of *imperium* in 23 B.C., Dio, LIII, 32, 5; Pelham, *Essays*, pp. 71-80. In general, for the special powers and the insignia of the Emperor, Greenidge, *RPL.*, pp. 341-358.
36. Kolbe on the importance of 23 B.C., *Von der Republik*, pp. 47, 59-60.

CHAPTER IV

- I. Greenidge, *RPL.*, p. 335: "The only open question was whether it should be a Periclean *tyrannis* of the type enjoyed by G. Gracchus or a Napoleonic rule such as that of Caesar. As a matter of fact the principate learnt a lesson from both solutions — that of the Gracchan and that of the Marian epoch — and established itself on a joint basis of the *tribunicia potestas* and the proconsular *imperium*." Cf. p. 338: "It was [Caesar] who pointed out that the necessary basis for the future Principate

was the *tribunicia potestas* combined with some kind of military *imperium*." The Caesarian antecedent is dubious. Last, *CAH.*, IX, p. 312, states: "Of the two legs which carried the Augustan Principate the Gracchi had rested on the *tribunicia potestas*. It was Sulla who showed the political value of the *imperium* and of these two, the *imperium* was incomparably the more valuable."

2. Homo, *L'empire romain*, p. 31: "Le système d'Auguste représentait à la fois une réalité, le pouvoir militaire, et une fiction, l'apparence de gouvernement civil." The present work disagrees with such a view.
3. The grant of the *tribunicia potestas*, Dio, LIII, 32, 6.
4. *Lex de imperio*, Gaius, *Institutes*, I, 5.
5. *Lex regia*, Ulpian in *Digest*, I, 4, 1.
6. *Acta Fratrum Arualium*, Dess., 229, mention for Nero the *dies imperii* on October 29 and the *comitia tribuniciae potestatis* on December 4. For Otho, Dess., 241, the *dies imperii* is January 15 and the *comitia tribuniciae potestatis* are on February 15.
7. *Lex de imperio Vespasiani*, Dess., 244 (Bruns, p. 202, no. 56). Arnold, *Rom. Imp.*, p. 43, thought that the single inclusive enactment dated only from Vitellius or Vespasian, citing Tacitus, *Hist.*, II, 55 (of Vitellius), *in senatu cuncta longis aliorum principatibus composita statim decernuntur*, and IV, 3, *senatus cuncta principibus solita Vespasiano decernit*. Dio, LIX, 3, 2, however, relates that Gaius first took all the honors at once save the title *pater patriae*. Suet., *Nero*, 8, says the same of Nero. Claudius also (Dio, LX, 3, 2) accepted all the honors voted save *pater patriae* and this he afterwards took. These passages apparently contradict Tacitus. But the writers probably speak carelessly and, since in each reign new honors were devised, the tendency was surely for the number decreed at the beginning to include all that the predecessor had had. Tiberius set his face against this tendency; Suet., *Tib.*, 26, 2; Dio, LVII, 2, 1.
8. Greenidge, *RPL.*, p. 358: "The electing body was the Roman people, chiefly represented by the Senate, but still retaining in its own hands the formal ratification of most of the power conferred. But the powerlessness of this sovereign is of the very essence of the history of the Principate. As a rule all that it can do is to recognize an *imperium* already established by the

- army, whether this establishment be due to the tacit consent of praetorians or legionaries or to the active use of their swords." He admits, however, that full legality depended upon ratification by the Senate. Cf. Mom., II, 2, p. 841 (V, p. 113). Dio, LX, 1, 3, and 4, says of Claudius that the soldiers *πάν τὸ κράτος αὐτῷ ἔδωκαν* and the Senate *τὰ λοιπὰ ὅσα ἐς τὴν αὐταρχίαν αὐτοῦ ἤκοντα ἦν αὐτῷ ἐψηφίσαντο*. Cf. Rostovtzeff, *SEH.*, *passim*.
9. Schulz, *Das Wesen des Römischen Kaisertums*, pp. 28 ff., esp. pp. 34 ff. Cf. E. Meyer, *Kleine Schriften*, I, pp. 458-459, and Furneaux on *Ann.*, XII, 69, 3, for legal necessity of the Senate's authorization, although they regard the *salutatio* as the conclusive element. Cf. Arnold, *Rom. Imp.*, p. 25.
 10. Above, Ch. III, pp. 19, 24, and below, pp. 43-44, for *imperium* of Augustus. That Augustus regarded the Senate as its source appears from the fact that he rendered to the consuls his accounts when he expected to die in 23 B.C. and left them to the Senate on his death in 14 A.D. Cf. Dio, LIII, 31, LVI, 33, 2; Suet., *Aug.*, 28, 1, 101, 4; below, Ch. VII, n. 26; Kolbe, *Von der Republik*, p. 49.
 11. Cf. below, Ch. VII, pp. 65-67, for secondary *imperium*.
 12. *Ann.*, I, 7 ff., for accession of Tiberius. That he, like Augustus, regarded the Senate and consuls as the ultimate authority appears in his offer in 23 A.D. to resign in their favor; cf. *Ann.*, IV, 9, 1; below, Ch. VII, n. 26.
 13. *Acta Fratrum Arualium* for March 18, 38 A.D., *CIL.*, VI, p. 467, Frag. C, l. 10, Gaius *a senatu imperator appellatus*. Cf. Mom., II, 2, p. 842, n. 2 (V, p. 114, n. 1), and Suet., *Gaius*, 14, 1, *consensu senatus et irrumpentis in curiam turbae . . . ius arbitriumque omnium rerum illi permissum est*. Gelzer, *P.W.*, Reihe I, XIX, col. 385, assumes that there was actually an *acclamatio* by the Senate and compares that of Hirtius, Pansa, and Octavian as *imperatores* in 43 B.C. on the motion of Cicero.
 14. For Claudius, Josephus, *Ant.*, XIX, 3, 4 (234-235), and Dio, LX, 1, 4.
 15. Nero, *Ann.*, XII, 69, 3, *sententiam militum secuta patrum consulta, nec dubitatum est apud prouincias*.
 16. Nero's speech, *Ann.*, XIII, 4, 1.
 17. Schulz's conclusion is in *Das Wesen*, p. 51.
 18. Willems, *Introd.*, p. 1, accepts series of regular grants by the people of the different magisterial attributes, etc. He holds,

- p. 414, that there was a *lex de imperio* at least after Tiberius as well as a *lex tribunicia*, the first submitted to the *comitia centuriata* and the second to the *comitia tributa* and both in reality decrees of the Senate. The popular vote rapidly gave way to mere acclamation and in the third century this occurred immediately after the session of the Senate. Cf. his discussion of the *lex curiata* of the Republic, p. 223, n. 4, where he holds that it was necessary for the exercise of the *imperium*, whereas Greenidge, *RPL.*, p. 49, following Mom., II, 1, pp. 7-9 (III, pp. 5-8), thinks that in origin in the regal period it was a formal acknowledgment by the people and only later regarded as necessary. The existence of a law for the *imperium* is denied, on the basis of the silence of the *Monumentum Ancyranum* and the *Acta*, by E. Meyer, *Kleine Schriften*, I, p. 458, n. 1; Rostovtzeff, *SEH.*, p. 77; Greenidge, *RPL.*, p. 343; and Abbott and Johnson, p. 233. Cf. Schulz, *Das Wesen*, p. 17, for Kromayer's arguments in its favor against Mommsen.
19. Hardy, *Studies*, I, pp. 284-294, and Pelham, *Essays*, pp. 65-71, debate the nature of the *imperium*. Pelham's view that the *imperium consulare* was not distinct is here adopted. It is perhaps worth remarking that Caesar and Pompey, as holders of proconsular *imperia*, did not use the consular numbers (I-IV) for their legions but regarded their troops as independent of the regular forces; cf. Parker, *Roman Legions*, p. 51. Pompey as consul in 55 B.C. did use these numbers. Probably, therefore, they distinguished between the consular and proconsular *imperia*.
 20. Grant of "consular" power, Dio, LIV, 10, 5.
 21. Censuses, etc., *Mon. Anc.*, II, 1-11.
 22. For the inaccuracies of Dio cf. Holmes, II, pp. 149-151; McFayden, *Hist. Title Imp.*, p. 35, n. 4.
 23. "Proconsular" *imperium* in 4 A.D., Dio, LV, 13, 5.
 24. Holmes, I, p. 262, renders *τιμητέουσας* in Dio, LII, 42, 1, not "as censors" but "exercising censorial power."
 25. *Fasti* of Venusia, Dess., 6123, for 726 A.U.C.; cf. *CIL.*, I, p. 471, and Mom., II, 1, p. 337, n. 1 (IV, p. 8, n. 2), for the censorial power as included in the chief magistracy.
 26. Mommsen denied any permanent exercise of "consular" power as applied in the "proconsular"; Mom., II, 2, p. 872, n. 2 (V, p. 148, n. 1). Dessau, *Gesch.*, I, p. 29, and Abele, *Sen. unter Aug.*, pp. 4, 39 (bottom), think that there may have been

- a special grant of *ensoria potestas*. E. Meyer, *Kleine Schriften*, I, p. 466, accepts a grant of consular power for 8 B.C. and 14 A.D. Suetonius, *Aug.*, 27, 5, attributes the censuses to the *regimen morum legumque* which Augustus himself specifically denied having accepted, *Mon. Anc.*, III, 11-21. Dio, LV, 10, 6, makes the curious statement that Augustus dedicated the temple of Mars *καίτοι τῷ τε Γαίῳ καὶ τῷ Δουκίῳ πάντα καθάπαξ τὰ τοιαῦτα ἱεροῦν ἐπιτρέψας ὑπατικῇ τινὶ ἀρχῇ κατὰ τὸ παλαιὸν χρωμένοις*. So of the triumphal games held by Claudius in 44 A.D., LX, 23, 4, he says *ὑπάτου τινὰ ἐξουσίαν ἐς αὐτὴν λαβών*. When Domitian became praetor, he received a *potestas* (Suet., *Dom.*, I, 3) or *imperium* (*Hist.*, IV, 3) *consulare*, which must mean that he was equal to the consuls in authority; cf. Mom., II, 1, p. 650 (IV, p. 365). Pliny is mentioned in an inscription as *legatus pro praetore provinciae Ponti et Bithyniae consulari potestate in eam provinciam ex senatus consulto missus ab Traiano*, Dess., 2927, which must refer to his special standing as an imperial legate in a senatorial (proconsular) province.
27. Censorial acts of Augustus, cf. below, Ch. X, pp. 90-98.
 28. *Imperia* of consuls and proconsuls, cf. above, Ch. II, p. 18.
 29. Completion of functions of censors by consuls, cf. below, Ch. X, p. 89.
 30. Leifer, *Die Einheit des Gewaltgedankens*, pp. 229-230.
 31. The decree ordering a census may have been regarded as evoking a "censorial" power; Hardy, *Mon. Anc.*, p. 56; Holmes, II, p. 150, citing Fr. Blumenthal in *Klio*, IX (1909), pp. 488-489.
 32. For Augustus' statement about his relation to other magistrates, *Mon. Anc.*, VI, 21-23.
 33. Cf. above, Ch. II, p. 9, for *imperia domi* and *militiae*.
 34. For "consular" power for life, Dio, LIV, 10, 5; Mom., II, 2, p. 872, n. 2 (V, p. 148, n. 1); Abele, *Sen. unter Aug.*, pp. 38-40, accepting such a grant but attributing the censuses to a *ensoria potestas*.
 35. The *ius proconsulare*, Dio, LIII, 32, 5; Willems, pp. 411, 422.
 36. Pompey's retention of *imperium* within the City, cf. above, Ch. II, p. 16; *CAH.*, IX, p. 282, suggests that Sulla too may have retained his *imperium* within the City by the Senate's permission.
 37. Power of the Emperor to execute within the City, Dio, LIII, 17, 6. Willems, p. 418, accepts "le haut commandement mili-

taire, exercé même *intra pomoerium*." So also Arnold, *Rom. Imp.*, p. 30. McFayden, *Rise of the Princes' Jurisdiction*, p. 254, rejects Dio's remark as contradictory to the statement in the speech of Maecenas (LII, 31, 3) that the Emperor should allow senators trial by their peers and as covertly admitted by Dio himself to be illegal. He shows in this article that the early Emperors did not have a jurisdiction within the City in virtue of their *imperium*. In his article on the Cyrenaean Inscriptions, pp. 389 and 393, he raises the question whether the issuing of edicts implied the exercise of an *imperium* in the place where they were posted, and concludes that the *ius edicendi* was not confined to possessors of the *imperium* within their spheres of competency but that any official, e. g. a censor, might issue an edict even if he had no *imperium* or was outside his sphere of competency. Though it is probably true that the posting of edicts in Rome by the Emperor need not imply the exercise there of an *imperium*, but only of a tacitly acknowledged oversight or of the tribunician power, it seems hardly possible that Augustus would have issued an edict to the province of Cyrene on his own authority, even to defend the governor's actions, unless he had a right to do so. If he had no such right, one would have expected him to correspond with the governor, who might then have published his letter.

38. The power to execute within the City was an anachronism; Gardthausen, II, p. 311, n. 22.
39. The *imperium extra urbem* of Marcus was bestowed along with the *tribunicia potestas*; *Vita Marci*, 6, 6. That by his time the full *imperium* included the City is implied in the later remark that, when Verus went East, Marcus stayed in Rome because *res urbanae imperatoris praesentiam postularent*; *Vita Marci*, 8, 9. But the *Scriptores Historiae Augustae* are the most untrustworthy of authorities for accuracy of constitutional detail.
40. For the *imperium extra urbem* of Nero, *Ann.*, XII, 41, 2, and Furneaux, *ad loc.*
41. The most vigorous supporter of the exercise of the *imperium* within the City is Pelham, *Essays*, pp. 87-88, contradicting Mom., II, 2, pp. 846, 855 (V, pp. 119, 129). He gives the following reasons:
 1. The existence of troops (*cohortes praetoriae, uigilum, and urbanae*) in Rome.

2. The existence of troops in Italy.
3. The *quaestor principis*, in Rome, resembles the quaestor normally attached to the holder of an *imperium*; cf. Mom., II, 1, p. 569 (IV, p. 247).
4. The presence of *praefecti* dependent on the Emperor.
5. Direct and probably appellate criminal jurisdiction in Rome and Italy; cf. Mom., II, 2, p. 959 (V, p. 247).
6. Since there was no general power (consular or censorial) apart from the proconsular *imperium*, this must have been the source of the military functions in Rome and Italy.
7. There is no special grant to explain these functions.

Of these arguments, the presence of the Praetorian troops and their praefect could be explained as implied in the retention of the *imperium* rather than its exercise — they were the body-guard of a general. The criminal jurisdiction is perhaps an anachronism (cf. above, n. 37). The quaestor again might attach to the Emperor in virtue of the retention rather than the exercise of the *imperium*. Or he may have been assigned by some special arrangement. The *praefectus annonae* derives from the assumption of this *cura* by Augustus. The most difficult to explain away is the *praefectus urbi* and the troops dependent on him actually within the City. But the existence of this post is very uncertain for the time of Augustus, save during his absences, and the cohorts, whose presence was demanded by lack of police, may originally have been under the republican magistrates to whom Augustus attempted to turn over the control of the City. It is always, of course, easy in the absence of conclusive evidence to argue on either side of such a question. And Augustus undoubtedly did much in Rome and Italy for which the authority has escaped us — for which, perhaps, he had no more authority than the need of the moment and his *auctoritas*. But the tendency of the authors who wrote at a later period was to attribute such actions directly to the person whom they felt to be responsible, without bothering about the details of procedure; and one must balance their carelessness against the probability that Augustus' caution would avoid any direct exercise of power in the sphere of the republican magistrates and would, if necessary, obtain the authority of the Senate for any intrusions.

42. *Imperator perpetuus*. The inscription, Dess., 121, is so uncertain as to merit quotation: *Cereri Iuliae Augustae | Diui Augusti, matri | Ti. Caesaris Augusti, | Lutatia C. F. sacerdos Augustae | <imp. perpet.> uxor | M. Liui M. | f. Qui. Optati, flaminis G[a]ul. | Iuliae Augusti <imp. perpet.> cum V | liberis s. p. consecrauit*. Dessau points out that *imp. perpet.* has been inserted later in the place of erased words, and that it seems as though *perpet.* should be joined not with *imp.* but with *sacerdos* and *flaminis*. For Florus, II, 34, 65, *dictus imperator perpetuus et pater patriae*.
43. For the limited grant, Dio, LIII, 13, 1; Pelham, *Essays*, pp. 60-65. For the first triumvirate cf. above, Ch. II, p. 16.
44. For the renewals after the first ten years for periods of five, five, ten, ten, and ten years cf. Dio, LIII, 16, 2, and the schedule in Pelham, *Essays*, pp. 64-65.
45. For Mommsen's compromise theory cf. Mom., II, 2, pp. 793 ff. (V, pp. 57 ff.), representing the passage from the second edition (II, 2, pp. 769 ff.) which Dessau, *Gesch.*, I, p. 31, compares with the third edition, II, 2, p. 1087 (V, p. 395), quoted below. Cf. Kolbe, *Von der Republik*, pp. 45-47, for a discussion of Mommsen's views.
46. Dio's confusions, according to Mommsen, are in LVI, 28, 1; LV, 6, 1; 12, 3.
47. The passage is quoted from Mom., II, 2, p. 1087 (V, p. 395).
48. Powers always applied to a sphere, Cic., *de Prov. Cons.*, 17, 37.
49. McFayden, *Hist. Title Imp.*, 44-52. Cf. below, Ch. V, pp. 48-53. In support of Mommsen's contention, however, might be adduced Sallust's use of *imperator* to designate the original consuls as holders of *annua imperia*, *Cat.*, 6, 7. But Sallust is a literary writer untrustworthy for accuracy on such points.
50. *Felix* of Sulla and *Magnus* of Pompey. That the *praenomen* was not the token of the command appears best from the fact that although Tiberius refused it, yet he issued orders as commander; cf. *Ann.*, I, 7, 7-8; Dio, LVII, 2, 1. He permitted only his troops, not his subjects, to call him *imperator*, presumably as a *salutatio*; Dio, LVII, 8, 1.
51. For the use of *proconsul*, Mom., II, 1, p. 244 (III, p. 280), II, 2, p. 778 (V, p. 38); Dio, LIII, 17, 4 (of his own times).
52. For the decennial festivals, Dio, LVII, 24, 1, LVIII, 24, 1-2.

- In the first passage he says that there was no vote of renewal, such as had been customary under Augustus, and in the second, that the Senate pretended that the renewal was real.
53. For the tribunician power cf. below, Ch. VIII, pp. 79-84.
 54. *Proconsul* and *propraetor* under the Empire, Mom., II, 1, pp. 243-246 (III, pp. 279-282); Willems, pp. 548-550.
 55. Subordinates of proconsular governors, Mom., II, 1, p. 244 (III, p. 280).
 56. *Cura annonae* assumed by Augustus at request of people, *Mon. Anc.*, I, 32-35; Dio, LIV, 1, 3. Cf. above, Ch. II, n. 42.
 57. Dess., 84, arch of Rimini dedicated to Augustus by the Senate and People for his repairs on the Flaminian way, and Dess., 5815, a milestone set up by Augustus *ex s. c.* on the *Via Salaria*; cf. note *ad loc.* for other examples from Italy.
 58. For imperial inquiries in senatorial province cf. below, pp. 38-42, Ch. VI, pp. 54-63.
 59. For Tiberius's camp for the Praetorian cohorts, Suet., *Tib.*, 37, and any map of ancient Rome.
 60. Imperial *iuridici* in Italy and the jurisdiction of the praefects, Willems, p. 545. Throughout this work the spelling "praefect" has been preferred to "prefect."
 61. For the *imperium maius*, Mom., II, 2, pp. 859 ff. (V, p. 133); Holmes, II, p. 29. Holmes, I, pp. 265-267, rejects the arguments of McFayden on the *imperium aequum*, as do Stroux-Wenger, *Aug. Inschr.*, pp. 61 ff., and von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., LI, p. 438. Stroux-Wenger, p. 62, point out, however, how cautious Augustus is: he does not give orders to the governor of Cyrene but requests. Kolbe, *Von der Republik*, p. 47, holds that the *imperium* did not become *maius* until the changes which occurred in 23 B.C. and that until then his *imperium* as consul had been adequate.
 62. Republican *maiora imperia*, above, Ch. II, p. 16; for Pompey, Cic., *ad Att.*, IV, 1, 7, and How, *Notes to Select Letters*, p. 178; for Brutus and Cassius, App., *Bell. Civ.*, IV, 58; Vell. Pat., II, 62, 2; Willems, p. 422.
 63. Dio, LIII, 32, 5, on the *imperium* of Augustus reads: ἐν τῷ ὑπηκόῳ τὸ πλεῖον τῶν ἐκαστοῦτι ἀρχόντων ἰσχύειν. For Kolbe's view cf. *Von der Republik*, pp. 47, 55-56.
 64. Ulpian in *Dig.*, I, 16, 8, reads: *proconsul maius imperium in ea prouincia habet omnibus post principem.*

65. Agrippa in Pannonia, Dio, LIV, 28, 1.
66. Germanicus in the East, *Ann.*, II, 43, 2: *tunc decreto patrum permissae Germanico prouinciae quae mari diuiduntur, maiusque imperium, quoquo adisset, quam iis qui sorte aut missu principis obtinerent.* Marsh, *Tiberius*, p. 91, n. 3, holds that he probably did not have the power to dismiss Piso from Syria. The phrase used by Josephus about Agrippa in the passage cited by Fourniaux from *Ant.*, XVI, 3, 3 (86) is δεκαετῆς διοικήσεις.
67. The *imperium* of Corbulo, *Ann.*, XV, 25, 6. Quirinus may not have been governor of Syria for his war against the Homonadeis but a special general; Holmes, II, p. 89, n. 1; L. R. Taylor, *Am. Journ. Philol.*, LIV, 2 (1933), pp. 120-133.
68. McFayden, *The Princeps and the Senatorial Provinces*, pp. 33-50.
69. Special *imperium maius* in 22 B.C., McFayden, *The Princeps and the Senatorial Provinces*, p. 37.
70. Strabo, XVII, 3, 25 (p. 840), reads: προστασίαν τῆς ἡγεμονίας.
71. The division of power, Suet., *Aug.*, 47.
72. Augustus' relation to his "colleagues," *Mon. Anc.*, VI, 21-23.
73. Primus (Dio, LIV, 3, 2) was charged ὅτι τῆς Μακεδονίας ἄρχων Ὀδρύσαις ἐπολέμησε contrary to the law on *maiestas*; cf. below, Ch. XXI, p. 174 and n. 21; cf. also Kolbe, *Von der Republik*, pp. 50-51.
74. The story of the African War is as follows: in 21 A.D. Tiberius wrote to the Senate asking it to choose a commander suitable for the war which had broken out with Tacfarinas. The Senate asked the Emperor to select. He picked two men between whom the lot should be cast. One withdrew and Blaesus was sent. He won the last non-imperial *salutatio*, but the war had to be completed in 24 A.D. by Dolabella. Cf. *Ann.*, III, 32, 35, 74, IV, 23-26.
75. Claudius's interference in Cyrene, cf. *Ann.*, XIV, 18, 2-4, and below, Ch. VI, p. 60 and n. 39.
76. The Emperor Tacitus and appeals to the Senate, *Vita Tac.*, 18, 3; 19, 2.
77. The status of the proconsuls of Asia and Africa under Diocletian, J. B. Bury, *History of the Later Roman Empire from Theodosius to Justinian* (1923), I, p. 27.
78. The Cyrene Edicts, cf. below, Chs. VI, p. 70, XXI, pp. 177-178.

79. Nero's speech on his accession, *Ann.*, XIII, 4, 3.
80. Hardy on Augustus' statement, *Mon. Anc.*, p. 160. *Auctoritate* should be read in his text for *dignitate*, as the Antioch fragments prove; Ramsay and von Premerstein, *Mon. Anc.*, pp. 96-97.
81. The proconsulate not a magistracy, cf. above, Ch. II, p. 11.
82. For the difficulties created by rival *imperia aequa* cf. the opposition of Q. Metellus to Pompey's intrusion in his province in virtue of the *lex Gabinia*, 67 B.C.; Plut., *Pom.*, 29; App., *Mith.*, 97.
83. Dio, LIV, 3, 2, reads for the remark of Primus τῇ γνώμῃ, which is probably not so definite as "by order of."
84. For the affairs of Cos and Cnidos cf. below, Ch. VI, p. 56.
85. Coinage, cf. below, Ch. XXII, pp. 188-190.
86. Troops under proconsuls, Mom., II, 1, p. 263 (III, p. 303), who points out that the African legions always had an imperial legate under the proconsul. Caligula merely made him independent.
87. Dolabella returned the ninth legion, *Ann.*, IV, 23, 2, *iussa principis magis quam incerta belli metuens*.
88. Gaetulicus, *Ann.*, VI, 30 (36), 6, in justifying his friendship for the fallen Sejanus, threatened revolt should anything be done against himself.
89. The *imperium* has been called not only *maius* but *infinitem*. Since, however, it was granted for a definite term of years, this is not accurate. Cf. Dess., *Gesch.*, I, p. 53, dating it from 23 B.C. He refers not only to Mom., II, 2, p. 845, n. 2 (V, p. 117, n. 1), but to Schulz, *Das Wesen*, pp. 26, 67, and to Gelzer in the *Historische Zeitschrift*, CXVIII (1917), p. 279. That Tiberius regarded the command as a trust from the State appears from his statement in Dio, LVII, 2, 3, οἱ στρατιῶται οὐκ ἐμοὶ ἀλλὰ δημόσιοι εἰσι, and LVII, 8, 1, where he confines the use of αὐτοκράτωρ, *imperator*, to the troops. He, however, brooked no interference with the troops, as by Dolabella (cf. above, n. 87) or a procurator, Capito, who sought to enforce his requisitions by employing troops; *Ann.*, IV, 15, 3. And Lévy, *Tiberius erga Senatum*, p. 108 (cf. p. 27), contrasts with the quotation given above from Dio his remark (LVIII, 18, 4) about Gallio, who was exiled in 32 A.D. ὅτι σφᾶς (the praetorians) ἀναπέθειν ἐδόκει τῷ κοινῷ (the Republic) μᾶλλον ἢ ἑαυτῷ εὐνοεῖν; cf. *Ann.*, VI, 3, 1-3.

90. For the decay of the Senate cf. below, Ch. XIV, p. 119. Bury, in his edition of Gibbon, I, p. 455, n. 11, remarks unfairly: "The *maius imperium*, used with reserve by the earlier emperors, was one of the chief constitutional instruments by which the Princes ousted the Senate from the government and converted 'dyarchy' into a monarchy."
91. The functions implied in the *imperium*, Willems, pp. 418 ff.; Greenidge, *RPL.*, pp. 344 ff.
92. For the troops in Africa, Willems, p. 550; for the creation of the independent "command" of Numidia by Caligula in 39 A.D., *Hist.*, IV, 48; Dio, LIX, 20, 7; Mom., II, 1, p. 263, n. 2 (III, p. 302, n. 2); for the "command" of the Germanies cf. the discussion in Mom., *Rom. Provs.*, E. T. (1887), I, pp. 127 ff., esp., for the parallel with Numidia, p. 128, n. 1; cf. also Chapot, *Le Monde romain*, p. 340.
93. Troops in Baetica, Mom., *Rom. Provs.*, E. T. (1887), p. 73; also in Sardinia, Willems, p. 550. Cf. E. Ritterling, *Troops in the Senatorial Provinces at the end of the First Century*.
94. Strabo's description of the imperial share of the Empire, XVII, 3, 25 (p. 840); cf. Dio, LIII, 12.
95. Mommsen on the Emperor's "possession" of the provinces, Mom., II, 2, p. 1088 (V, pp. 396 ff.). The imperial provinces technically paid a *tributum* and the senatorial a *stipendium* (Gaius, *Inst.*, II, 21), but the terms were used indiscriminately, e. g. *tributum* from senatorial provinces; *Ann.*, IV, 13, 1, XII, 58, 2; 63, 3.
96. Status of Egypt: Chapot, *Le Monde romain*, pp. 292-293, regards it as a "domaine privé" and the praefect as an exalted procurator; cf. Dio, LI, 17, LIII, 13, 2; Hardy, *Mon. Anc.*, pp. 125-126.
97. Augustus, *Mon. Anc.*, V, 24, said *Aegyptum imperio Populi Romani adieci*. For the view that it was regarded as the property of the Roman People and was really only a province with a special organization cf. Mitteis-Wilcken, *Chrestomathie*, I, 1, pp. 28-31. They maintain that the revenues went to the *fiscus* (not the *patrimonium Caesaris*, as Hardy, *Mon. Anc.*, p. 126, states), which was the property of the People (p. 28, n. 2). They cite the growth of both public property (*δημοσική γῆ*, as against *βασιλική γῆ*, royal property) and of private holdings (cf. pp. 287-309) to show that the Ptolemaic theory that the

king owned most of the land was no longer held by Augustus. They admit, however, that the Egyptian idea of the Emperor as absolute βασιλεύς soon reasserted itself in accordance with the general monarchical tendencies of the Empire. For the status of the natives as *dediticii* cf. pp. 56-61.

98. Imperial control of the *ager publicus*, etc., Willems, p. 419 and refs.
99. For recruitment cf. Furneaux on *Ann.*, III, 40, 5; Parker, *Roman Legions*, pp. 169 ff. For the dearth of men after the defeat of Varus in 9 A.D., when the very gutters of Rome were combed, cf. Dio, LVI, 23; Suet., *Aug.*, 25, 2; *Ann.*, I, 31, 4 (with Furneaux's note). For proconsuls holding levies, Mom., II, 2, p. 850 (V, p. 122), and Parker, p. 186.
100. For censuses in the provinces cf. below, Ch. VI, p. 55, and the Cyrene Edict I, ll. 15 ff. (for jury-service).
101. For the *fiscus* in senatorial provinces cf. Ch. VI, n. 40, Ch. XXII, n. 9. In 17 A.D., Tiberius remitted to Sardis *quantum aerario aut fisco pendebant*, cf. *Ann.*, II, 47, 3 (with Furneaux), and Nero once suggested stopping all indirect taxes throughout the Empire, *Ann.*, XIII, 50, 1, which he would hardly have dared do if those of the senatorial provinces had supported the already impoverished *aerarium*. Dess., *Gesch.*, I, p. 86, attributes the right to collect these taxes to the *maius imperium*. Cf. Mattingly, *Imperial Civil Service*, pp. 17-18.
102. For the relation of the Senate to foreign affairs cf. Kolbe, *Von der Republik*, p. 50, and below, Ch. XXII, n. 2, Ch. XXI, n. 48. Cf. also Strabo, XVII, 3, 25 (p. 840), and the *lex de imperio Vesp.*, Dess., 244 (Bruns, p. 202, no. 69), ll. 1 ff. In 44 A.D. Claudius had the Senate decree that treaties made by him or his legates should be as valid as if made by the Senate and People; Dio, LX, 23, 6. This was for him only a confirmation of a previous right, since the *lex* attributes the treaty-making power to both Augustus and Tiberius. Probably, like the jurisdiction which he obtained for his procurators, it was part of his development of an imperial civil service.
103. Coinage; cf. above, Ch. II, n. 30, and below, Ch. XXII, pp. 188-190.
104. The Cyrene Edicts were issued by Augustus for a senatorial province, but cf. McFayden, *The Cyrenaean Inscriptions and the Imperium Maius Proconsulare*.

CHAPTER V

1. McFayden, *History of the Title Imperator under the Empire*. Mommsen was not consistent in his view. That presented here is found in Mom., II, 2, p. 767 (V, p. 28), and in the 1872 edition of his *History*, p. 559 n. (E. T., IV, p. 561), but he omits the hereditary character in his *History*, edition of 1889, p. 481. Rosenberg, *P.W.*, Reihe I, IX, cols. 1140 ff. *s.v. Imperium*, accepts Dio. Levi, *Imperator*, attacks the view of Mommsen, Rosenberg, and Momigliano (*Bull. della Comm. Arch. Com.*, LVIII (1930), pp. 42 ff.) that *imperator* originally designated any holder of the *imperium*, and seeks its origin in the salutation of P. Cornelius Scipio in 210 B.C. by this term as under the protection of *Jupiter Imperator*. He suggests that only as late as Pompey did it become a title rather than a personal honor and that Caesar sought to revive the old significance in the *praenomen*. Cf. above, Ch. IV, p. 34 and nn. 49, 50.
2. The passages in Dio for the *praenomen* are for Caesar, XLIII, 44, and for Augustus, LII, 40, 2; 41, 3. *CAH.*, IX, p. 728, denies that Caesar bore or Octavian inherited the *praenomen*.
3. Suetonius mentions the grant to Caesar, Suet., *Iul.*, 76, 1.
4. Greenidge, *RPL.*, p. 337, n. 5 (cf. p. 353, n. 1), denies that Caesar used it as a *praenomen*. But he retained it independently of his triumph; Dio, XLIII, 44.
5. How, *Notes to Select Letters*, p. 452, follows Mommsen. Dessau, *Gesch.*, I, p. 36, n. 1, says that Octavian adopted the *praenomen* in 40 B.C. as a sign that he would never give up his command, but not as a sign of his supremacy. With respect to the date cf. below, n. 13.
6. For republican examples cf. Dess., 47, *C. Octavius* (the father of the Emperor) . . . *imperator appellatus ex provincia Macedonia*, and also Cicero's account of his salutation, *ad Att.*, V, 20, 3.
7. For repeated salutations cf. Dess., 876, Pompey *imper. iter.*, and frequently in the following inscriptions. The last example is perhaps 895, *Nonius Gallus imp.*, which Dess., *ad loc.*, connects with his triumph over the Treviri in 29 B.C.; Dio, LI, 20, 5.

8. In Dess., 877, Pompey appears as *imp., cos. ter.*, and as his third consulship was in 52 B.C., he seems to have retained the title till then. But this is a municipal dedication to him as patron and the towns may have followed the practice of the coinage in giving him a title which he technically no longer held.
9. For the dropping of *ex s.c.* from the provincial issues, Mattingly, *Roman Coins*, pp. 34-36; above, Ch. II, n. 30.
10. Caesar never mentions his salutations in the *Bell. Gall.*, and remarks slightly on salutations in *Bell. Civ.*, III, 31. But they are mentioned in *Bell. Civ.*, II, and on his coins; McFayden, *Hist. Title Imp.*, pp. 21-22 and refs.
11. McFayden, *Hist. Title Imp.*, pp. 15 ff., maintains that Caesar used *imp.* on coins only during the period when he was entitled to it. The permanent title may have been offered in 45 B.C. but refused; cf. Dio, XLIII, 46, 2, for refusal of honors.
12. For Octavian, McFayden, *Hist. Title Imp.*, pp. 28-43. Cf. Dio, XLVI, 38, 1; Cic., *Phil.*, XIV; Shuckburgh, Suet., *Aug.*, Introd., p. xxiii; Furneaux, I, p. 76. Furneaux, following Mom., II, 2, pp. 766-768 (V, pp. 26-28), accepts the date of 40 B.C. on the basis of various citations from the *Acta*, but these were made up under Augustan inspiration and are not conclusive; cf. *CIL.*, I, p. 440 (37 B.C.), pp. 461, 466 (43 B.C.).
13. Agrippa's refusal of the triumph, Dio, XLVIII, 49, 4. Dessau, *Gesch.*, I, p. 36, n. 1, accepting the date 40 B.C., denies that Agrippa was responsible for the *praenomen*. The importance of the date 38 B.C. was first recognized by Ganter, *Die Provinzialverwaltung der Triumvirn* (Strassburg, 1892), p. 61. Cf. McFayden, *Hist. Title Imp.*, pp. 31-37.
14. Coins of Agrippa with *imp. Caesar Divi Iuli F.*, 38 B.C.; McFayden, *Hist. Title Imp.*, p. 33 and refs.; Mattingly and Sydenham, I, p. 42, § 2. Contrast the immediately preceding coin in Mattingly and Sydenham, dated 39 B.C. and reading *Caesar imp., Antonius imp.*
15. Tacitus's remark on Blaesus, *Ann.*, III, 74, 6, *erantque plures simul imperatores* (i. e. under the Republic) *nec super ceterorum aequalitatem*, implies that he regarded the use of *imperator*, probably the *praenomen*, as setting one *imperator* above the rest. But he was writing at the end of the century, after Vespasian had made the *praenomen* common. The use of *imperium* for the dominion and even the territory of the Empire con-

tributed to the use of *imperator* in our sense of "emperor"; cf. *Mon. Anc.*, praef., *orbem terrarum imperio Populi Romani subiecit*; V, 9-10, *gentes quae non parerent imperio nostro*; V, 24, *Aegyptum imperio Populi Romani adieci*. Cf. also the indices to Tacitus and Suetonius. Tacitus uses *imperatoria maiestas* of military command, *Ann.*, I, 46, 2, and of the imperial position, *Ann.*, V, 5, 1. He calls the Emperor *imperator* when he issues orders to the troops, *Ann.*, VI, 3, 1, XI, 37, 3, and makes Nero receive an embassy on a *suggestum imperatoris*, *Ann.*, XIII, 5, 3. He also uses it when the Emperor is sharing jurisdiction with the Senate; *Ann.*, XIV, 28, 2. The Greek translation, *αὐτοκράτωρ*, is common in papyri and authors.

16. Tiberius's refusal of the *praenomen*, Dio, LVII, 2, 1; Suet., *Tib.*, 26, 2.
17. Tiberius's limitation of *imperator* to troops, Dio, LVII, 8, 1.
18. Gaius' refusal is adduced from the absence of the *praenomen* (and the *cognomen*) from inscriptions except in the provinces; McFayden, *Hist. Title Imp.*, pp. 57-58. For Claudius's refusal cf. Suet., *Cl.*, 12, 1.
19. For Nero's use of the *praenomen* cf. Dess., 233, *imp. Neroni Claudio . . . imp. XI*, and the reference in n. 1 *ad loc.* to Mom., II, 2, p. 769 (V, p. 29). For his several salutations on the submission of Tiridates cf. below, n. 28. In general cf. Furneaux, I, pp. 76, 171, n. 23, 172, n. 28, 173, n. 33; Holtzhausser, p. 26; Rosborough, p. 19; McFayden, *Hist. Title Imp.*, pp. 53-63.
20. Blaesus, *Ann.*, III, 74, 6; cf. above, n. 15.
21. Creation of imperial African command, cf. above, Ch. IV, n. 92.
22. Triumphs of Caesar's lieutenants, Q. Fabius Maximus and Q. Pedius, in 45 B.C., Dio, XLIII, 42, 1. Fourteen persons are said to call themselves *imperator* under the triumvirate; cf. esp. Dess., 886, and Mom., I, p. 125 (I, p. 145).
23. Salutations confined to members of imperial house, Furneaux on *Ann.*, III, 74, 6; Mom., II, 1, p. 267 (III, p. 307). The subordination of imperial legates to the Emperor was insisted upon by Augustus in the case of M. Licinius Crassus, whom he did not allow to bear the title *imperator* or dedicate the *spolia opimia* won from a chief of the Bastarnae in 27 B.C., because he did not regard Crassus as an independent commander: Dio, LI, 24, 4; 25, 2. Livy's discussion, IV, 20, on whether Cossus,

- an early dedicator of such *spolia*, was military tribune or consul and his tale of the finding of Cossus' corselet by Augustus may bear on the same instance; Hirst, *Am. Journ. Philol.*, XLVII, 4 (Oct.-Dec., 1926), pp. 353-356, with references to Dessau, *Hermes*, XLI (1906), pp. 142 ff., and Rosenberg, *Einleitung und Quellenkunde zur Römischen Geschichte*, pp. 145-147.
24. Augustus *imp. XXI: Mon. Anc.*, I, 21-22; Hardy, *Mon. Anc.*, pp. 37-38; Dio, LII, 41, 4; *Ann.*, I, 9, 2.
 25. Tiberius *imp. VIII*, his tombstone, Dess., 164. For that proposed by Augustus, *Ann.*, I, 3, 1, and Furneaux's note. Lévy, *Tiberius erga Senatam*, p. 94, states that Tiberius normally reversed the Augustan order and placed his consulships before his salutations but that his tombstone shows the Augustan order, *imp. VIII cos V*.
 26. Germanicus saluted in Senate, *Ann.*, I, 58, 9, and Furneaux's note. In all he had only two salutations; Dess., 177, 178, cf. 222, 1; Rosborough, p. 7. The last grant to a prince was to Titus under Vespasian; McFayden, *Hist. Title Imp.*, p. 65.
 27. Gaius, Dio, LIX, 22, 2; Dess., 193 (without a numeral). Cf. Gelzer, *P.W.*, Reihe I, XIX, col. 385 *s.v. Gaius*, and Rosenberg, *P.W.*, Reihe I, IX, cols. 1140 ff.
 28. Claudius, Dio, LX, 21, 5. Nero was saluted several times on the submission of Tiridates and held a triumph, contrary to precedent, says Dio, LXII, 23, 4; cf. Suet., *Nero*, 13, 1.
 29. Claudius *imp. XXVII*, Dess., 218, l. 2. For this view of the campaign in Britain cf. Dess., *Gesch.*, II, p. 141. Similarly, Momigliano, *Claudius*, p. 79, sees in the extravagant number of his salutations a desire to compensate for the lack of the *praenomen imperatoris* and to bolster up his military reputation. He accepts Dessau's view of the conquest of Britain, pp. 109-113.
 30. Nero, Dess., 233, l. 3 and n. 3; *P.W.*, Suppl. III, col. 391; Schur, *Klio*, XIX, 1 (1923), pp. 84-96.
 31. Salutations by the Praetorians: Gelzer, *P.W.*, Reihe I, XIX, cols. 385 ff., points out that Tiberius was *imperator* when he acceded and Gaius was saluted by the Senate, as were Pansa, Hirtius, and Octavian in 43 B.C. For Claudius, Dio, LX, 1, 3. For Nero, Dio, LXI, 3, 1; Suet., *Nero*, 8, *Ann.*, XII, 69, 3. For salutations really earned by subordinates cf. Furneaux on *Ann.*, II, 18, 2, and Dio, LVI, 17, 1, LX, 8, 7, etc.

32. Agrippa's refusal of a triumph, Dio, LIV, 24, 8. For his earlier refusal cf. above, n. 13.
33. The last triumph in the *Acta Triumphalia* (CIL., I, p. 461) is *L. Cornelius Balbus pro cos. ex Africa*. The first inscriptional record of *ornamenta triumphalia* is the inscription attributed by Mommsen to Quirinus, who conquered the Homonadeis in 3-2 B.C. or earlier; Dess., 918; cf. *Ann.*, III, 48; Mom., *Mon. Anc.*, pp. 161-178; Taylor and Broughton in *Am. Journ. Philol.*, LIV, 2 (1933), pp. 120-144. Cf. in general Furneaux on *Ann.*, I, 72, 1, and Suet., *Tib.*, 9, 2, who suggests that Tiberius was the first man to receive the *ornamenta triumphalia*. The last non-imperial ovation was that of Aulus Plautius for the conquest of Britain in 47 A.D.; *Ann.*, XII, 32, 3, and Mom., I, p. 136, n. 1 (I, p. 157, n. 2). It is the only case of a non-imperial ovation after 26 B.C.

CHAPTER VI

1. Refutation of McFayden, cf. above, Ch. IV, pp. 38-43.
2. Senatorial governors, Dio, LIII, 13 ff.; Strabo, XVII, 3, 25 (p. 840).
3. The five-year law, Dio, LIII, 14, 2; cf. Ch. II, p. 14 and nn. 34 and 35. Tiberius enacted that senatorial governors must leave Rome by June first; Dio, LVII, 14, 5. The Emperors attempted without much success to keep the system in operation. Furneaux (I, pp. 112-116) discusses the proconsuls of Asia and Africa and concludes that their interval was frequently more than five years and that their terms were often prolonged beyond a year (as Dio, LIII, 14, 4, says, adding that at times even knights were sent out). Terms exceeding a year had, however, been frequent under the Republic; *CAH.*, IX, p. 453. For Tiberius's interest and interference in the senatorial provinces cf. Lévy, *Tiberius erga Senatum*, pp. 95-97, 114-115.
4. Augustus' interference with senatorial allotment of provinces: Dio, LIV, 30, 3, relates that after the earthquake of 12 B.C. he had the Senate send out a proconsul for two years, though he was selected by lot. In Dess., 915, P. Paquius Scaeva was *procos. iterum extra sortem auctoritate Aug. Caesaris et s.c. misso ad componendum statum in reliquum prouinciae Cypri*.

In both cases, Augustus preserved the constitutional procedure by the Senate as far as possible. For the Emperor's control of the Senate's choice cf. Chapot, *Asie*, p. 286, and Rostovtzeff, *SEH.*, p. 81. McFayden traces this control to the *auctoritas* (*Princ. and Sen. Provs.*, pp. 34-41) against Mom. (II, 1, p. 262 [III, p. 301]), who holds that the Senate often invoked his interference in virtue of the *imperium maius*.

5. Imperial control of proconsuls' choice of subordinates, Dio, LIII, 14, 7; Mom., II, 1, pp. 254, 257 (III, pp. 292, 296). Ulpian, *Dig.*, I, 16, 6, 1, states that the proconsul cannot relieve his legate of jurisdiction *inconsulto principe*, though Dio, LXXIII, 11, 4, gives a possible case under Commodus.
6. McFayden on the Emperor's control over governors, cf. above, n. 4.
7. The debate on the proconsul of Africa is in *Ann.*, III, 32-35; cf. Gelzer, *P.W.*, Reihe I, XIX, col. 523, ll. 37 ff.
8. Levying of troops, Dio, LIII, 15, 16.
9. Provincial censuses, Willems, p. 479; Mattingly, *Imp. Civ. Serv.*, pp. 5-6. Dio, LIII, 22, 5, and Livy, *Ep.*, CXXXIV, mention the start in Gaul in 27 B.C. Censuses in Gaul are mentioned in Livy, *Ep.*, CXXXVIII-CXXXIX; *Ann.*, I, 31, 2; 33, 1, II, 6, 1, XIV, 46, 2. The much disputed census of Quirinus in Syria is mentioned in Dess., 2683 (Rush., 23), and St. Luke, II, 2; cf. Mom., *Mon. Anc.*, pp. 161-178; Holmes, II, pp. 89-90, 123, L. R. Taylor, *Am. Journ. Philol.*, LIV, 2 (1933), pp. 120-133. For other provinces cf. Dess., 950, [*leg.a*] *d cens. accip. et dilect. et [proco]s. prouinciaie Narbon.*, under Tiberius (?); Dess., 1409, *proc. Aug. ad census accipiendos Macedoniae*, undated; Dess., 9011, *proc. Aug. ad cens[us] Gallorum*, undated.
10. Levies by Emperor or by proconsuls, Willems, pp. 381, 419; Mom., II, 2, p. 850 (V, p. 122). Cases of imperial levies: in Rome to supply the Varian losses, *Ann.*, I, 31, 4; Dio, LVI, 23, 3; Suet., *Aug.*, 25, 2; by Tiberius in 23 A.D., *Ann.*, IV, 4, 4; in the East for Corbulo, *Ann.*, XIII, 7, 1; in Galatia and Cappadocia for Corbulo, *Ann.*, XIII, 35, 4; in Narbonne, Africa, and Asia, *Ann.*, XVI, 13, 4; in Narbonne, Dess., 950 (n. 9). Proconsular levies: Blaesus was charged by the Cyrenaeans in 59 A.D. because of *dilectum militarem pretio et ambitione corruptum* (*Ann.*, XIV, 18, 1); a man was *dilecto lectus ab M.*

Silano, the last proconsul to have military power in Africa (33–38 A.D.); Dess., 2305, esp. the note. Cf. Parker, *Roman Legions*, p. 186.

11. The Post: Suet., *Aug.*, 49, 3, for its establishment; Dess., 214 (Abbott and Johnson, p. 354, no. 51), for Claudius's famous edict from Tegea in 49/50 A.D. which transferred the burden from the municipalities to the *fiscus*; Mom., II, 2, pp. 1029–1031 (V, pp. 326–329); cf. Willems, p. 485. Chapot, *Asie*, p. 360, remarks that the name of the Senate never figures on monuments commemorating the construction of roads, and that if the Emperor is specially invoked in them, the works may have been undertaken at his order. He cites an inscription from Elaea in Asia, *BCH.*, XII (1888), p. 374, which says of Vespasian: τὰς ὁδοὺς ἐποίησεν.
12. Dependence of free cities on proconsul, cf. Gardthausen, I, p. 568; Chapot, *Asie*, p. 83; Abbott and Johnson, p. 340, no. 40, an epistle of the proconsul of Asia to Chios dated 5–14 A.D. The Emperor may have had the right to deprive free cities of their *libertas*, but probably our authorities speak carelessly, and this was done through the Senate, as was the restoration of liberty to Rhodes; cf. below, note 26. Dio gives the following instances: Tiberius took its liberty from Cyzicus for imprisoning Roman citizens (25 A.D.), LVII, 24, 6; Claudius took it from Lycia for revolting and killing Romans (43 A.D.), LX, 17, 3; Rhodes lost it for crucifying Romans (44 A.D.), Dio, LX, 24, 2.
13. The Cos inscription is best given in Paton and Hicks, *Inscriptions from Cos*, pp. 41 ff., no. 26, where a summary of Mommsen's study of the document is given; cf. also Abbott and Johnson, p. 445, no. 121, who date it I–II century and remark that nothing in it shows that Cos was a free city at the time. Gardthausen, I, pp. 568–569, and II, p. 309, nn. 16 and 17, gives and discusses both inscriptions (that from Cnidos originally appeared in *BCH.*, VII [1883], p. 62). For Cnidos as a free city cf. Pliny, *N.H.*, V, 104. Cf. also Cuq, *Consilium*, p. 381; Chapot, *Asie*, p. 127, who traces a coördinate jurisdiction of Emperor and proconsul through the *ius gladii*; Mom., *Rom. Prouv.*, E. T. (1887), I, p. 352, who cites an analogous double right of appeal to Emperor and proconsul at Athens under Hadrian. Von Premerstein sees in the Altar of Narbo (Dess., 112; Bruns, p. 285, no. 106), ll. 30 ff., *iudicia plebis decurionibus coniunxit*,

- a case of Augustan interference; *Zeit. der Sav. Stift., Rom. Abt.*, LI (1931) p. 438, n. 1.
14. McFayden on the Cos and Cnidos inscriptions, *Princ. and Sen. Provs.*, p. 44.
 15. The recognition of a right of appeal to the Emperor does not imply an appeal from delegatee to delegator (cf. above, Ch. IV, p. 39) but only, as Chapot remarks (cf. above, n. 13), a coordinate jurisdiction; the proconsul wanted the appeals to go through him though they were not necessarily from his verdicts. Stroux-Wenger, *Aug. Inschr.*, p. 96, point out, however, that the senatorial governors became increasingly the representatives of imperial jurisdiction.
 16. Augustus says in verse 11 of the Cnidos inscription: ἐγὼ δὲ ἐξετάσαι προστάξας Γάλλωι Ἀσινίωι τῶι ἐμῶι φίλωι. The use of *amicus* for high officials and special agents is common; cf. Claudius's reference to his commissioner Planta in the Anauni inscription as *amicum et comitem meum*, Dess., 206 (Bruns, p. 253, no. 79), l. 16. Cf. Dess., *ILS.*, vol. III, s.v. *amicus* and *comes*.
 17. For the Augustan edict on Bithynia cf. Pliny, *Ep.*, X, 79-80.
 18. For the Augustan tour in 21 B.C., Dio, LIV, 7; Gardthausen, I, pp. 806-833.
 19. The grant of the right to have *σοσίστια* was perhaps an exemption from the law prohibiting *collegia*. Though the Senate usually granted these exemptions, Pliny, *Ep.*, X, 92 and 96, shows that he forbade them in Bithynia on Trajan's authority.
 20. For the removal of districts from the control of cities cf. the inscription from Gythium set up in honor of Augustus and Tiberius because they liberated it from Sparta; Rostovtzeff, *Revue Historique*, CLXIII, 1 (1930), pp. 1-26; further refs. in Taylor, *Divinity of the Roman Emperor*, p. 231, n. 15, and below, Ch. XI, n. 37.
 21. For McFayden on the special grant of 22 B.C., a suggestion taken from Gardthausen, cf. *Princ. and Sen. Provs.*, p. 37.
 22. The *editio princeps* of the Cyrene Edicts was prepared by G. Oliverio, 'La Stele di Augusto,' etc., *Ministerio delle Colonie, Notiziario Archeologico*, fasc. IV, pp. 13-67, Roma, 1927. A summary of works and results may be found in the *Philologische Wochenschrift*, L, 9 (March 1, 1930), cols. 264-275, by Fr. Ebrard, and by von Premerstein in the *Zeit. der Sav. Stift.*, Rom. Abt., LI (1931), pp. 431-459.

23. A parallel to the publication of a decree of the Senate by Augustus may be found in an inscription from Stratoniceia, Ditt., *OGI.*, II, 441, which includes an epistle from Sulla sending to the city a decree of the Senate. Cf. Abbott and Johnson, pp. 389-390, no. 73, for a case under Trajan. McFayden, *The Cyrenaean Inscriptions and the Imperium Maius Proconsulare*, seeks to show that the publication of the Cyrene Edicts by Augustus in a senatorial province does not imply an *imperium maius*, but this conclusion has not been generally accepted.
24. For the right of asylum at Stratoniceia cf. Chapot, *Asie*, p. 414 with refs., and *Ann.*, III, 62, 2, with Furneaux's notes.
25. For Tiberius's defense of the Trallians, etc., Suet., *Tib.*, 8.
26. For Nero's defense of the Rhodians, etc., Suet., *Tib.*, 8.
27. For the authorities on the *imperium maius* cf. above, Ch. IV, pp. 36-38.
28. The war with Tacfarinas, cf. above, Ch. IV, n. 74.
29. Envoys from Africa referred to the Senate, Suet., *Tib.*, 31, 2.
30. Reporting of victories to the Senate. Agrippa did not do it in 19 B.C. or 14 B.C., Dio, LIV, II, 6; 24, 8. Tiberius *corripuit consulares exercitibus praepositos, quod non de rebus gestis senatui scriberent quodque de tribuendis quibusdam militaribus donis ad se referrent, quasi non omnium tribuendorum ipsi ius haberent*, Suet., *Tib.*, 32, 1.
31. If the foregoing quotation includes only the senatorial commanders, it seems too general. If it applies to all consular commanders, it implies that Tiberius regarded his own consular legates as in a sense holding the equivalent of his proconsular *imperium* and not only responsible to the Senate but able independently to award military honors. But it was shown above, Ch. IV, p. 35, that Augustus regarded himself as the only final source of power in the imperial provinces. Suetonius is, however, too vague to afford a sure basis for speculation. Likewise, when Dio (LX, II, 6-7) says that Claudius would not permit the senatorial governors to thank him in the Senate but felt rather that he should thank them for their aid, it is not necessary to assume that the governors were acknowledging any subordination to the Emperor but only that a polite gesture had grown into an established custom in the face of the *de facto* power of the Emperor.
32. The asylum debate, *Ann.*, III, 60, 1 ff. The Latin reads: *imagi-*

nem antiquitatis senatui praebebat, postulata prouinciarum ad disquisitionem patrum mittendo.

33. For the inscription of Scaeva cf. above, n. 4.
34. For the special praetorian legate to Asia in 17 A.D., *Ann.*, II, 47, 4; Dio, LVII, 17, 7.
35. The inscription on the Anauni, Dess., 206 (Bruns, p. 253, no. 79; Hardy, *RLC.*, II, p. 119 ff.; Rush., 79; Abbott and Johnson, pp. 347-351, no. 49).
36. *In rem praesentem misi Plantam Iulium amicum et comitem meum, qui cum adhibitis procuratoribus meis qui(s)que in alia regione quique in uicinia erant, summa cura inquisierit et cognouit*, ll. 15-19. For the use of *amicum et comitem* cf. Augustus on the inscription from Cos, above, n. 13.
37. Hardy's theory that the question fell within Raetia, *RLC.*, II, p. 123.
38. Imperial control of grants of citizenship, cf. below, Ch. X, pp. 97-100.
39. Acilius Strabo in Cyrene, *Ann.*, XIV, 18, 2, *Acilium Strabonem, praetoria potestate usum et missum disceptatorem a Claudio agrorum, . . . et senatus ignota sibi esse mandata Claudii et consulendum principem respondit.*
40. Willems, p. 477, states categorically, "Le domaine public en province est affermé au profit du fisc (*agri fiscales*).” See his references.
41. The inscription of Dexter, Abbott and Johnson, p. 359, no. 55.
42. Nero, on his accession, said, *teneret antiqua munia senatus, consulum tribunalibus Italia et publicae prouinciae adsisterent*, *Ann.*, XIII, 4, 3.
43. Pliny's inscription, Dess., 2927, restored, *C. Plinius . . . legat. pro pr. prouinciae Pon[ti et Bithyniae] consulari potesta[t]. in eam prouinciam e[x s.c. missus ab] imp. Caesar. Nerua, etc.*
44. Claudius's Edict on the Post, from Tegea, Dess., 214 (Abbott and Johnson, pp. 354-355, no. 51), *trib. pot. VIII*, 49-50 A.D.; cf. above, n. 11. There were complaints and changes in the postal system under Nerva, Hadrian, and Septimius.
45. Expulsion of Silo, Dio, LX, 24, 5, who attributes it actually to the influence of the freedmen. Dio states that Claudius *Οὐμβώνιον Σιλίωνα ἄρχοντα Βαιτικῆς μεταπέμψας ἐξέωσεν ἐκ τοῦ συνεδρίου*, but this is not definite enough to establish an imperial right of exclusion, since he was no longer censor. Willems,

- p. 392, states that a senator might lose his rank "pour un cause pénale, soit en vertu de la loi pénale d'après laquelle le membre est condamné, soit en vertu d'une punition prononcée par l'empereur ou le sénat," and some such judicial procedure was perhaps employed here.
46. On the jurisdiction of procurators the interpretation of Furneaux on *Ann.*, XII, 60, 1, is accepted. He cites the following passages: *Ann.*, XIV, 32, 7 (Catus in Britain); *Agricola*, 9, 5 (Agricola kept himself *procul a contentione aduersus procuratores* in Aquitania), and 15, 2 (the exactions of the imperial procurator in Britain); Plutarch, *Galba*, 4, 1 (the severity of Nero's procurators), for the increase of procurators' power, and he contrasts their earlier restriction to imperial estates; *Ann.*, IV, 6, 5 (of Tiberius's moderation); *Ann.*, IV, 15, 3 (Tiberius on Capito); *Ann.*, IV, 6, 7, and Dio, LVII, 23, 5 (procurators' liability to trial in ordinary courts under Tiberius). Cf. Momigliano, *Claudius*, p. 91, n. 1. The presence of imperial procurators in senatorial provinces both for the care of imperial estates and for the collection of taxes is accepted by most writers; cf. Mattingly, *Imp. Civ. Serv.*, pp. 105 ff.; Rostovtzeff, *SEH.*, p. 81.
 47. Ulpian, *Dig.*, I, 16, 9; cf. Mattingly, *Imp. Civ. Serv.*, pp. 119 ff.
 48. Stuart Jones, in the *Legacy of Rome*, "Administration," p. 122.
 49. Speech of Nero, *Ann.*, XIII, 4, 2; cf. above, n. 42.
 50. For the hopes inspired by this program cf. the pictures of the returning golden age in Seneca, *Ludus*, 4, and Calpurnius, *Eclogues*, I.
 51. Edict restricting games, *Ann.*, XIII, 31, 4.
 52. Release of a prisoner of the proconsul of Asia, *Ann.*, XVI, 10, 2. Possibly an exercise of his *tribunicia potestas*. But the second Cyrene Edict might be compared, in which the proconsul has sent certain men in bonds to the Emperor because (l. 45) they claimed to have information concerning *τὴν ἐμὴν σωτηρίαν τὰ τε δημόσια πράγματα* (*res publicas*, i. e. the state). Augustus released all but one, who was charged with disrespect to imperial statues (cf. the cases under Tiberius, below, Ch. XXI, n. 17).
 53. The regulations of Augustus are given by Dio, LII, 23, LIII, 13-15; cf. Suet., *Aug.*, 36. The imperial legate of the legion in Africa was made independent of the proconsul by Gaius; cf.

- Ch. IV, n. 92. Tacitus, *Hist.*, IV, 48, has some interesting comments on how the legate eclipsed the proconsul thereafter.
54. Tiberius's regulations, Dio, LVII, 14, 5; Mom., II, 1, p. 255 (III, p. 294). The accusation that he kept governors in Rome when he wished the office to be an empty honor (Dio, LVIII, 19, 6; Suet., *Tib.*, 63, 2; *Ann.*, I, 80, 2) probably applies rather to his own legates.
55. For long terms of senatorial proconsuls under Tiberius cf. Furneaux, I, pp. 113-114. Dio, LVIII, 23, 5, attributes the long terms of ex-praetors and ex-quaestors to the executions under Tiberius, which is hardly probable.
56. Claudius, Dio, LX, 11, 6; 17, 3.
57. Claudius and successive terms, Dio, LX, 25, 4-6.
58. Achaëa and Macedonia, Tacitus, *Ann.*, I, 76, 4, mentions their transfer among decrees of the Senate and uses *placuit*. Cf. Dio, LVIII, 25, 5. For Claudius, Dio, LX, 24, 1; Suet., *Cl.*, 25, 3.
59. *Imperium maius*, cf. Mom., II, 1, p. 262 (III, p. 301).

CHAPTER VII

1. Kornemann, *Doppelprinzipat und Reichstellung im Imperium Romanum*; Mom., II, 2, pp. 1145 ff. (V, pp. 459 ff.); Dieckman, *Die Effective Mitregentschaft des Tiberius*; Schulz, *Das Wesen*, pp. 60 ff.; Willems, pp. 412, 428 ff.; Greenidge, *RPL.*, p. 260.
2. Kornemann, *Doppelprinzipat*, pp. 187 ff.
3. *Ibid.*, p. 189.
4. *Ibid.*, p. 6.
5. For problem of relation of Emperor to the *fiscus* cf. Ch. XXII, nn. 8, 16, and Hirschfeld, pp. 8-10.
6. Kornemann, *Doppelprinzipat*, p. 15, n. 4, lists the steps as *filius* (adoption), *collega imperii*, *consors tribuniciae potestatis*, cf. *Ann.*, I, 3, 3. He holds that Augustus sought to leave not merely a successor but a successor's coadjutor, like Gaius and Lucius or Tiberius and Germanicus or, under Tiberius, Germanicus and Drusus together. He also suggests, p. 189, that there were attempts to make women into sharers of the highest power as *Augustae*, e. g. Livia, Drusilla, and Agrippina, but it

seems simpler to take these as simply extreme honors paid by devoted and subservient males.

7. The superiority to local proconsuls is attested for Germanicus in 17 A.D., *Ann.*, II, 43, 2.
8. Appointment of *legati*: Agrippa governed from Lesbos through *legati* in 23 B.C., Dio, LIII, 32, 1. The *legati* of Germanicus settled the governorship of Syria after his death, *Ann.*, II, 74, 1; cf. II, 56, 4.
9. Mom., II, 1, p. 570, n. 3 (IV, p. 273, n. 3), cites two inscriptions (Dess., 999, 1003) for quaestors of Titus during the lifetime of Vespasian. Had they been quaestors of Titus as consul they would have called him such. He also cites *Ann.*, IV, 31, 5, for Suillius, quaestor of Germanicus, who may have been consular or proconsular.
10. For reports to the Senate cf. Dio's mention of the two occasions on which Agrippa failed to report, LIV, 11, 6; 24, 8. Lucius read the dispatches of Gaius from the East to the Senate, Dio, LV, 10a, 9. Germanicus reported a victory in Pannonia in 9 A.D., Dio, LVI, 17, 1, and the enthronement of Artaxias in Armenia in 19 A.D., *Ann.*, II, 64, 1.
11. Cf. the cases cited in detail below, esp. nn. 54-55.
12. Salutations for holders of secondary *imperia*: Tiberius and Drusus, *Ann.*, I, 3, 1, and Furneaux, date uncertain; Gaius Caesar, Furneaux, I, p. 167, n. 6, cites Henzen, p. 60, cf. Dio, LV, 10a, 7, 3 A.D.; Germanicus, *Ann.*, I, 58, 9, from the Senate *auctore Augusto*.
13. Emperor takes salutation: Augustus took those of Tiberius and Drusus for the German campaigns of 11 B.C., Dio, LIV, 33, 5. Augustus shared those of Tiberius in 8 B.C. and 6 A.D., Dio, LV, 6, 4; 28, 6. Augustus and Tiberius took the salutation and triumph for a victory by Germanicus in 9 A.D., Dio, LVI, 17, 1. In 17 A.D. an arch was erected for the recovery of the standards lost with Varus *ductu Germanici, auspiciis Tiberii*; *Ann.*, II, 41, 1.
14. Coöptation to *tribunicia potestas*, Mom., II, 2, p. 1161 (V, p. 476).
15. Suet., *Aug.*, 27, 5, *collegam sibi cooptavit*. Dio uses *ἔδωκε* in LIV, 12, 4, LV, 9, 4, LVI, 28, 1, *δοῦς* in LV, 13, 2, and *ἐπιτρέψας* in LIV, 28, 1. Vell. Pat. twice speaks of a *consortio tribuniciae potestatis*, II, 99, 1; 103, 3.

16. Augustus asks Senate for a colleague, *Mon. Anc.*, 3, 21-23.
17. Requests from Emperor to Senate, *Ann.*, I, 10, 7, III, 56.
18. Sejanus, Dio, LVIII, 9, 2.
19. Mom., II, 2, p. 1164 (V, p. 479), titular character of *trib. pot.*
20. Cf. the account of the actions of Tiberius on the death of Augustus, *Ann.*, I, 7, 5 ff. Tiberius used the *trib. pot.* to summon the Senate and issued commands to the troops as emperor but regarded the succession as an open question. Marsh, *Tiberius*, pp. 45 ff., accepts his sincerity.
21. Kornemann, *Doppelprinzipat*, pp. 8-59, collects the evidence of the period from Augustus through Nero; cf. *Ann.*, I, 3, for an account of Augustus and the succession. For succession in general, Greenidge, *RPL.*, p. 358. Hall, *Nicolaus of Damascus*, p. 95, n. 17, holds that Nicolaus derived his remark, § 28, that Julius τὸ σύμπαν κράτος κατελέλειπτο νομίμως to Octavian from the latter's memoirs, and that Augustus therefore regarded his power as hereditary. This is dubious. Kornemann, *Mausoleum des Augustus*, pp. 4, 18, maintains that the erection of a mausoleum by Augustus showed a desire for a hereditary monarchy. Cf. below, n. 88.
22. Marcellus, Vell. Pat., II, 93.
23. Marcellus' marriage, Dio, LIII, 27, 5; Plut., *Ant.*, 87, 2, states that Augustus adopted him as well; cf. Furneaux, I, p. 170, n. 17; death, Dio, LIII, 30, 4; cf. Virgil, *Aen.*, VI, 861 ff.
24. Agrippa, Furneaux, I, p. 167, n. 4.
25. The illness of Augustus in 23 B.C., Dio, LIII, 31.
26. For the *rationarium imperii* cf. Suet., *Aug.*, 28, 1, the second occasion on which he thought of resigning. For the seal, Dio, LI, 3, 6, where he gave a duplicate to Maecenas and Agrippa on leaving them in charge of Italy in 31 B.C.; Suet., *Aug.*, 50; Pliny, *N.H.*, XXXVII, 10; cf. *Vita Hadr.*, 3, 7, for a seal ring as a token of succession. For the *breuiarium* on his death, Suet., *Aug.*, 101, 4; Dio, LVI, 33, 2. Similarly, Tacitus says that on the death of Drusus in 23 A.D. Tiberius *ad uana et totiens inrisa reuolutus de reddenda republica utque consules seu quis alius regimen susciperent*, *Ann.*, IV, 9, 1. Although Tacitus accuses him of insincerity he probably sincerely considered retiring at this time and, since his heir had failed, restoring the state to the consuls.

27. Agrippa in Syria, Dio, LIII, 32, 1; Vell. Pat., II, 93, 2; Jos., *Ant.*, XVI, 2, 1 (12), 3, 3 (86); *Bell. Jud.*, I, 20, 4 (400); Furneaux on *Ann.*, II, 43, 2. Chapot, *Asie*, p. 283, discusses the term and position of Agrippa and compares Germanicus, *Ann.*, II, 43; Corbulo, *Ann.*, XV, 25; Avidius Cassius, Dio, LXXI, 3. Holmes, II, pp. 26-27, discusses the divergent accounts in Suet., *Aug.*, 66, 3, and *Tib.*, 10, 1, on his stay in Lesbos. On p. 52, n. 5, he accepts the conclusion of Mommsen, *Mon. Anc.*, pp. 163-164, that Josephus has extended his ten years from his first arrival to his second departure. Magie, *The Mission of Agrippa to the Orient in 23 B.C.*, denies that Agrippa retired to Lesbos because Augustus planned the succession of Marcellus.
28. Recall of Agrippa, Dio, LIV, 6, 5; the charge of the City was shared with Maecenas in 31 B.C., Dio, LI, 3, 10; but Maecenas was becoming less important.
29. Marriage to Julia, Dio, LIV, 6, 5; Vell. Pat., II, 93, 2. He must have divorced his second wife, Marcella, sister of Marcellus, whom he had married in 28 B.C.; Dio, LIII, 1, 2.
30. Agrippa to Gaul, Dio, LIV, 11, 1.
31. *Trib. pot.* to Agrippa, Dio, LIV, 12, 2 ff. Cf. *P.W.*, Reihe I, XIX, col. 353, ll. 51 ff., for references. Agrippa was the object of plots as well as Augustus; Dio, LIV, 15, 1.
32. Agrippa to Syria, Dio, LIV, 19, 6.
33. *Trib. pot.* and *imperium*, Dio, LIV, 28, 1. Death and appreciation, Dio, LIV, 28-29.
34. Drusus' rapid rise, Smilda on Suet., *Cl.*, 1, 1; Furneaux, I, p. 172, n. 29. He was not, however, adopted and hence may not have been regarded as a successor.
35. *Imperium* of Drusus, Dio, LIV, 33, 5. He was *praetor urbanus* during 11 B.C. despite his absence for the greater part of the year; Dio, LIV, 32, 3. Consulship and death, Dio, LV, 1-2.
36. Gaius and Lucius, Furneaux, I, p. 167, n. 6; Holmes, II, p. 94. For their adoption, Dio, LIV, 18, 1. Ferrero, *Greatness and Decline of Rome*, E. T., V, 99, has the ingenious theory that their adoption was not so much to secure them the succession as to entitle Augustus to claim "the right of three children."
37. *Principes iuventutis*, *Mon. Anc.*, II, 46-III, 6; Hardy, *Mon. Anc.*, pp. 73-76.
38. Gaius in the East, Dio, LV, 10, 18.

39. Deaths of Gaius and Lucius, Dio, LV, 10a, 9; Suet., *Aug.*, 65, 1; Holmes, II, p. 104.
40. Agrippa Postumus, adopted, Suet., *Aug.*, 65, 1; Vell. Pat., II, 104, 1. Exiled, Dio, LV, 32, 2; Vell. Pat., II, 112, 7; *Ann.*, I, 3, 4; Pliny, *N.H.*, VII, 45, 15.
41. Execution of Agrippa Postumus, *Ann.*, I, 6; Suet., *Tib.*, 22; Dio, LVII, 3, 5; Holmes, II, p. 139.
42. Tiberius's early career, Suet., *Tib.*, 9, 3; Holmes, II, pp. 75-77, 104. In general, see O. Kuntz, *Tiberius Caesar and the Roman Constitution*, who sees in the whole problem of succession a conflict of the idea of restoring the Republic and of continuing the Principate, which became crucial after Augustus' illness in 23 B.C. The writer presents Tiberius as really empowered by Augustus to restore the Republic but not allowed by the Senate to do so (cf. p. 43). Germanicus represented the imperialist side, which desired to continue and increase the Emperor's power (p. 46). After the trial of Piso in 20 A.D. Tiberius was forced, according to this view, to recognize the principle of succession against his will (p. 58).
43. Tiberius and Julia, Dio, LIV, 31, 1-2. His affection for Viprania Agrippina, whom he had to divorce, is well known; Suet., *Tib.*, 7, 2-3.
44. Privileges to Tiberius in 11 B.C., Dio, LIV, 34, 3; cf. 33, 5 for Drusus.
45. Marriage to Julia, Dio, LIV, 35, 4; Vell. Pat., II, 96, 1.
46. Tiberius's *imperium*, Dio, LV, 6, 5.
47. Tiberius at Rhodes, Suet., *Tib.*, 9, 3; Vell. Pat., II, 99; Dio, LV, 9, 4-8. Holmes, II, pp. 160-161, accepts Velleius' *adaequatus Augusto* of his position at this time. For the retention of the tribunician power cf. the incidents related in Dio, LV, 9, 6, and Suet., *Tib.*, 11, 3.
48. Tiberius as legate, Suet., *Tib.*, 12, 1, where Ihm reads: *quasi legatus Augusto abesset* and the late Mss. vary between *ab Augusto* and *Augusti*. If he had been an imperial *legatus*, his *imperium* would have required a province, and there might have been a question of his residence in the free city of Rhodes, though Suetonius cites Agrippa in Lesbos as a parallel. Mom., II, 2, p. 853, n. 5 (V, p. 127, n. 1), thinks that he was an imperial legate without a competency. Suet., *Tib.*, 11, 1, states that he *genus uitae ciuile admodum instituit, sine lictore aut uiatore gym-*

nasio interdum obambulans. It is probable that Suetonius regarded him as entitled to *lictiores* and *uiatores* in virtue of his *imperium* or *tribunicia potestas* or even of his recent consulship (9, 3) rather than because he was legate, as Mommsen suggests, since this office is mentioned later (12, 1). The attendants whom he had in virtue of his tribunician power are called *apparitores* in 11, 3, but this was a general term including *lictiores* and *uiatores*; cf. *P.W.*, Reihe I, III, cols. 191-194.

49. Tiberius and Gaius, Dio, LV, 10, 19; Suet., *Tib.*, 12, 2; Vell. Pat., II, 101, 1. His return to Rome, Vell. Pat., II, 103, 3; Suet., *Tib.*, 15, 1; Dio, LV, 11.
50. Adoption of Tiberius by Augustus with Agrippa Postumus, by a *lex curiata*, Suet., *Aug.*, 65, 1, *Tib.*, 15, 2; Dio, LV, 13, 1a-2. Tiberius scrupulously refrained thereafter from exercising a *patria potestas*. Dess., 107 (Rush., 34, the arch of Ticinum), calls him *Ti. Caesaris Augusti f. Diui nepot. pont., etc.* For the tribunician power, Vell. Pat., II, 103; Dio, LV, 13, 1a.
51. For his tribunician years, Holtzhauser, p. 24; Dess., 164 (the gravestone); Furneaux, I, p. 172, n. 28. Suetonius, *Tib.*, 16, 1, after mentioning the exile of Agrippa Postumus, reads *data rursus potestas tribunicia in quinquennium* and goes on with his campaigns. This must refer to the grant of 4 A.D. and not that of 13 A.D. or any between (of such there is no other record). Hence his five is a mistake for ten, due to false analogy with the first grant. The grants were made by the Senate at Augustus' request; *Mon. Anc.*, 3, 21-23.
52. Germanicus with Tiberius, Dio, LVI, 25, 2.
53. Grant of 13 A.D., Dio, LVI, 28, 1; Vell. Pat., II, 121, 1; Suet., *Tib.*, 21, 1; *Ann.*, I, 3, 3, reading: *filius, collega imperii, consors tribuniciae potestatis adsumitur omnisque per exercitus ostenditur*.
54. Suetonius, *Tib.*, 21, 1, reads: *ac non multo post, lege per consules lata, ut prouincias cum Augusto communiter administraret simulque censum a(u)geret, condito lustro in Illyricum profectus est*.
55. Velleius, II, 121, 1, reads: *Senatus Populusque Romanus, postulante patre eius, ut aequum ei ius in omnibus prouinciis exercitibusque esset quam erat ipsi, decreto complexus est*.
56. Holmes, II, p. 122, accepts a complete co-regency in 13 A.D. Dieckman, *Die Effective Mitregentschaft des Tiberius*, pp. 339 ff., esp. p. 378, denies it.

57. Tiberius's accession is described in *Ann.*, I, 7 ff.; Suet., *Tib.*, 24, 1; Vell. Pat., II, 124; Dio, LVII, 1-3.
58. St. Luke, 3, 1, mentions the "fifteenth year" as that when John began preaching. The chronological problem is too complicated to deserve more than mere mention here. The date in other authorities is: Dio, September 1-23, 13 A.D.; Suetonius, after the Pannonian triumph which, despite Gelzer's attempt, *P.W.*, Reihe I, X, col. 493, to date it in 10 A.D., probably came in January, 13 A.D.; cf. *CIL.*, ed. 2, I, p. 308. The census, if Suetonius refers to the general provincial census, began in 13 A.D., but this leaves rather obscure the phrase *condito lustro*, unless it refers to the quinquennial or decennial tenure of the powers. Velleius refers to the same event as Suetonius but inaccurately puts it in 12 A.D.
59. Beginning of Tiberius's reign: coins with his image on the reverse before his accession, 13/14 A.D., Mom., II, 2, p. 830, n. 4 (V, p. 100, n. 4); Mattingly and Sydenham, I, p. 90, nos. 355, 356. The Canon does not make him co-regent and dates the reign from the Egyptian New Year, August 20, 14 A.D., *Chronica Minora* 111, *Mon. Germ. Ant.*, XIII, pp. 438 ff.; Velleius speaks of 16 years in 30 A.D., i. e. from 14 A.D., II, 126, 1; Bassus (Peters, *HRF.*, p. 300) gives him 23 years of reign; Josephus (*Ant.*, XVIII, 6, 10 [224]) gives 22 years, 5 months, and 3 days; Tacitus, *Ann.*, VI, 51, 4, about 23 years; Suetonius, *Tib.*, 73, 1, 23 years; Dio, LVIII, 28, 5, 22 years, 7 months, 7 days; Eusebius, year 2029, 23 years. The coins and papyri confirm this dating. Hohl, *Wann hat Tiberius das Principat übernommen?*, concludes that Tacitus (*Ann.*, I, 14-15) dated the beginning of the reign from the meeting of the Senate on Sept. 17, 14 A.D.
60. Mutinies on the accession of Tiberius: *Ann.*, I, 8, 7; Dio, LVII, 2, 2 (for the troubles feared at Rome); *Ann.*, I, 16 ff., 31 ff.; Dio, LVII, 4-6 (for the revolts in Pannonia and Germany).
61. Adoption of Germanicus, Holtzhauser, p. 21; Rosborough, p. 6.
62. *Imperium* of Germanicus, Dio, LVI, 25, 2, dates it in 11 A.D., but Gelzer, *P.W.*, Reihe I, XIX, col. 438, ll. 33 ff., accepts *Ann.*, I, 14, 4, *at Germanico proconsulare imperium petiuit*, for a grant first in 14 A.D., since he holds, against Mom., II, 2, p. 1158, n. 3 (V, p. 474, n. 2), that a grant did not expire on the death of an Emperor (cf. Tiberius himself). There is, however, no real evidence that Tiberius did not regard his *imperium* as

technically expired despite the innuendo of Tacitus, *Ann.*, I, 7, 8, *litteras ad exercitum tamquam adepti principatu misit*. Cf. also Suet., *Tib.*, 24, 1; Dio, LVII, 2, 1; and contrast Vell. Pat., II, 124, 2. Some one had to bridge the gap, and Tiberius had republican precedent for regarding his *imperium* as lasting until the appointment of a successor but not as permanent. Or the former *imperium* of Germanicus may have been for a limited period.

63. Letter of Augustus on Germanicus, Dio, LVI, 26, 2.
64. Cf. n. 62.
65. *Ann.*, I, 31, 2, *regimen summae rei penes Germanicum agendo Galliarum censui tum intentum* shows his superiority in Gaul, but in *Ann.*, I, 31, 1, the soldiers think that Germanicus *imperium alterius pati nequiret*, which shows that he was regarded as subordinate to Tiberius.
66. Germanicus in the East, Furneaux on *Ann.*, II, 43, 2.
67. Death of Germanicus, *Ann.*, II, 71; Marsh, *Tiberius*, pp. 160-199, sees thereafter a contest between Agrippina, supported by Livia until her death in 29 A.D., and Sejanus. Cf. Rogers, *The Conspiracy of Agrippina*, for an argument that Agrippina led an opposition party to Tiberius as the true heir of Augustus.
68. For Drusus cf. Holtzhauser, p. 14. His consulship in 21 A.D. was his second; *Ann.*, III, 31, 1. Kuntz, *Tiberius Caesar*, p. 58, points out that the coins of Germanicus bear only *Germanicus Caesar* but those of Drusus have *Drusus Caes. Tib. Aug. f. D. Aug. nep.* and traces this expansion to the change in Tiberius's attitude towards the succession noted in n. 42.
69. *Tribunicia potestas* for Drusus, *Ann.*, III, 56, 1.
70. Death of Drusus, *Ann.*, IV, 7; Dio, LVII, 22; Suet., *Tib.*, 39, 62, 1. Tiberius talked, whether sincerely or not, of restoring the Republic at this time; *Ann.*, IV, 9, 1; cf. above, n. 26.
71. Death of sons of Germanicus, *Ann.*, V, 3; Suet., *Tib.*, 54, 1; 55.
72. Sejanus, Dio, LVIII, 7, 4 ff.; Marsh, *Tiberius*, pp. 190-191, shows how he consolidated his position by getting his supporters in control of the military provinces. Kuntz, *Tiberius Caesar*, p. 60, sees in the elevation of Sejanus Tiberius's last effort to avoid the hereditary principle and to restore the Republic, an attempt which was defeated by the Senate (p. 65) and not by the evidence that Sejanus had poisoned Drusus, which the

- writer asserts was not revealed until later. Willenbücher, *Tiberius und Sejan*, gives a general study of Sejanus' career.
73. Fall of Sejanus, Dio, LVIII, 9, 2. For the letter of Antonia revealing his true aims, Josephus, *Ant.*, XVIII, 6, 6.
74. Doubts about Gaius, *Ann.*, VI, 46; Dio, LIX, 1. Gaius left as heir with Tiberius Gemellus, Suet., *Tib.*, 76, *Gaius*, 14, 1; Dio, LIX, 1. Gaius had the Senate invalidate the will. In this discussion it is assumed that the Emperor could not bequeath the throne but only his own property, although the influence of designation in the will was very strong; cf. Greenidge, *RPL.*, p. 361. Gelzer, *P.W.*, Reihe I, XIX, col. 505, l. 6, points out that a senatorial decree of September 13, 16 A.D. (*CIL.*, ed. 2, I, p. 244 [*Fasti Amiterni*]), on the execution of Scribonia and Libo makes Tiberius, his children, and other chiefs of the state the objects of the plot. He judges that the children were thus recognized in the decree as possible successors and compares the sacrifices to Tiberius, Augustus, and Julius in Dio, LVII, 15, 5, for a similar recognition of heredity. But the popular view does not determine the constitutional view.
75. Fate of Tiberius Gemellus, Furneaux, I, p. 174, n. 35; Suet., *Gaius*, 15, 2; 23, 3; Dio, LIX, 8, 1. He had the precedent of Agrippa Postumus. The accession of Gaius dates from March 18, 37 A.D.; Gelzer, *P.W.*, Reihe I, XIX, col. 385, l. 28.
76. Gaius and Drusilla, Suet., *Gaius*, 24, 1, but she died before him. Kornemann, *Doppelprinzipat*, pp. 51-53, takes Drusilla's as a case in which a woman was to be included in the "shared principate," but it is more probable that Gaius was here influenced by Eastern (Ptolemaic) examples.
77. Accession of Claudius, Suet., *Cl.*, 10, 2; Dio, LX, 1.
78. Consulship of Claudius in 38 A.D., Suet., *Gaius*, 15, 2, *Cl.*, 7; Dio, LIX, 6, 6.
79. Adoption of Nero, by a *lex curiata* after the example of Tiberius and Germanicus, *Ann.*, XII, 25; Suet., *Cl.*, 27, 2; 39, 2, *Nero*, 7. We are told by Dio, LX, 21, 2, that when Claudius went to Britain in 43 A.D. he entrusted to his former colleague in the consulship, Vitellius, τὰ τε ἄλλα καὶ τοὺς στρατιώτας; cf. Suet., *Vitel.*, 2, 4. Vitellius's position was probably analogous to that of Maecenas under Augustus and not, perhaps, the beginning of his rise to be a successor; cf. Mom., II, 2, p. 1114 (V, p. 425).
80. Privileges to Nero in 51 A.D., *Ann.*, XII, 41, 2.

81. *Imperium extra urbem*, cf. above, Ch. IV, pp. 31-32.
82. Marriage to Octavia, *Ann.*, XII, 58, 1; Dio, LX, 33, 2 (2); Suet., *Nero*, 7, 2. Betrothal, *Ann.*, XII, 9, 2.
83. Letter and edict of Claudius on Nero, Dio, LX, 33, 10. The closest parallel is the letter of Augustus on Germanicus; cf. above, n. 63.
84. Will of Claudius, *Ann.*, XII, 69, 5; Dio, LXI, 1, 2; Suet., *Cl.*, 44, 1. The authorities do not state that Britannicus was preferred to Nero in the will but only that a revival of natural affection led to his inclusion. Nero suppressed the will to avoid calling attention to the disparity in their fates. But probably the precise contents of the will were unknown to our authorities.
85. Accession of Nero, *Ann.*, XIII, 1 ff.; Suet., *Nero*, 8; Dio, LXI, 3.
86. Only a daughter who died in four months, from Poppaea, *Ann.*, XV, 23; Suet., *Nero*, 35, 3.
87. Corbulo's command, Furneaux on *Ann.*, XV, 25, 6, 63 A.D. He was sent to the East in 54 A.D.; *Ann.*, XIII, 8, 1. Tacitus's comparison of his command to the *imperium aequum* of Pompey is probably inaccurate; cf. above, Ch. IV, pp. 37-38.
88. That Augustus recognized the principle of heredity is implied in a letter to Gaius quoted by Aulus Gellius, XV, 7, 3, ἀνδραγαθούωντων ὑμῶν καὶ διαδεχομένων *stationem meam*, and one to Tiberius, Suet., *Tib.*, 21, 7, *ne si te languere audierimus, et ego et mater tua expiremus et summa imperi sui populus Romanus periclitetur*. Velleius Paterculus likewise recognized it when he concluded his history with a prayer that the gods would grant Tiberius worthy successors: *custodite, seruate, protegite hunc statum, hanc pacem, hunc principem, eique functo longissima statione mortali destinate successores quam serissimos sed eos quorum ceruices tam fortiter sustinendo terrarum orbis imperio sufficiant quam huius suffecisse sensimus consiliaque omnium ciuium aut pia fouete aut impia opprimite*, Vell. Pat., II, 131, 1-2, where *hunc principem* has been supplied by Lipsius as an antecedent for *ei*. For further discussion of the hereditary principle, cf. above, nn. 21, 42; below, Ch. XI, n. 22; Rogers, *The Conspiracy of Agrippina*; Gagé, *Diuus Augustus*; against whom, Bickermann, *Kaiserapotheose*, pp. 28-31.
89. Influence of the name "Caesar," Greenidge, *RPL.*, p. 362.
90. Rostovtzeff, *SEH.*, Ch. III, pp. 75-100. The coinage shows a gradual extension of the right of portraiture from the Emperor

to his family and the Emperor replaces the goddess Roma as the symbol of the state; Mattingly, *Roman Coins*, p. 144; Mom., II, 2, p. 1151 (V, p. 465). Tacitus, *Ann.*, XIII, 1, 1, says of Silanus, as of 54 A.D., *quod tunc spectaretur, e Caesarum posteris*, and makes Mucianus, *Hist.*, II, 76 (69 A.D.), speak of the Julio-Claudians as a *fundatam longo imperio domum*. Bickermann, *Kaiserapothese*, pp. 28-31, concludes that apotheosis was not an attempt to guarantee the succession and had no influence.

CHAPTER VIII

1. *Sacrosanctitas*, Greenidge, *RPL.*, pp. 99-100.
2. Senatorial rank necessary for tribunate, Appian, *Bell. Civ.*, I, 100; cf. Greenidge and Clay, *Sources*, p. 171, for the attribution of this rule to Sulla.
3. Grant to Caesar in 48 B.C., Dio, XLII, 20, 3; How, *Notes to Select Letters*, p. 451; Greenidge, *RPL.*, p. 337; Mom., II, 2, p. 872 (V, p. 148).
4. Grant to Caesar in 44 B.C., Dio, XLIV, 4, 2. Adcock, *CAH.*, IX, pp. 728-729, 900, n. 6, concludes that the grant to Caesar involved only *sacrosanctitas* and that "not he but Augustus . . . devised the active *tribunicia potestas* which reached its full development in 23 B.C." He confines it to 44 B.C. Levi, *La 'Tribunicia Potestas' di C. Giulio Cesare* sees a succession of grants of tribunician prerogatives (veto, seat, *sacrosanctitas*) which Augustus used as a model when he devised the *trib. pot.*
5. Dio, LIII, 17, 10, comments on the patriciate as a bar to the tribunate in the case of Emperors.
6. Grant to Augustus in 36 B.C., Dio, XLIX, 15, 5-6.
7. Tribune for life, Appian, *Bell. Civ.*, V, 132 (548); Orosius, VI, 18, 34; Furneaux, I, p. 76.
8. Grant to Augustus in 30 B.C., Dio, LI, 19, 6 (for life).
9. Grant to Augustus in 23 B.C., Dio, LIII, 32, 5 (for life); Suet., *Aug.*, 27, *tribuniciam potestatem perpetuam recepit.*; Gelzer, *P.W.*, Reihe I, XIX, col. 348, l. 12, thinks that the power had been laid down in 28 B.C. and was now renewed for life and in a wider extent. The date falls between June 15 and July 15.
10. *Mon. Anc.*, II, 21-23, emended from the new fragments: *et sacrosanctus in perpetuum ut essem et quoad uiuerem tribunicia*

potestas mihi tribueretur statutum est, where *statutum est* is rendered in the Greek νόμῳ ἐκυρώθη. Cf. in general Holmes, I, pp. 221-222.

11. Mom., II, 2, p. 876, n. 2 (V, p. 152, n. 2), took the view that the *lex de imperio Vespasiani* was part of the decree of the Senate which the magistrates brought before the People at the *comitia tribuniciae potestatis*.
12. For the view that the *lex de imperio* was a special bill originating with Vespasian cf. Greenidge, *RPL.*, pp. 342-343. For references cf. Willems, p. 414, n. 4. For the *lex* and the *imperium* cf. above, Ch. IV, pp. 25-28.
13. For the Senate conferring the tribunician power on subordinates cf. above, Ch. VII, pp. 67-68. For *comitia tribuniciae potestatis* cf. Mom., II, 2, pp. 874 ff. (V, pp. 150 ff.); Willems, p. 414; Furneaux, I, p. 84; *Acta Fratrum Arualium, passim*, esp. the selection in Dess., 229, in which the *imperium* of Nero is mentioned in line 10, and his *tribunicia potestas* in line 21.
14. Dating by *tribunicia potestas*: *Fasti Capitolini, CIL.*, ed. 2, I, p. 28, for A. U. C. 731 (23 B.C.), restored, *tr[ib] pot. annua facta est*; cf. Mom., II, 2, p. 795, n. 1 (V, p. 59, n. 1). Dio, LIII, 17, 1, dates his rule from 23 B.C., but in LI, 1, 2, from Actium. *Mon. Anc.*, I, 28-30 (emended from *Mon. Ant.*), gives his last year as *septimum et tricensimum tribuniciae potestatis*; cf. *Ann.*, I, 9, 2, *continuata per septem et triginta annos tribunicia potestas*. When Tacitus in *Ann.*, I, 2, 1, says that after he had defeated Antony he laid aside the triumvirate and was content with the consulship and the *tribunicia potestas*, Furneaux thinks that this must refer to the grant of 30 B.C. (Dio, LI, 19, 6); cf. also Mom., II, 2, p. 873, n. 1 (V, p. 148, n. 6), and, in general, Mom., II, 2, p. 746 (V, pp. 3-4). Tacitus, however, is speaking generally of his whole rule. Other sources date the reign from other dates: the Altar of Narbo (Dess., 112, ll. 23-24) from the first grant of his *imperium*, January 2, 43 B.C.; Censorinus (about 238 A.D.), 21, 8, and 22, 16, from 27 B.C., on which cf. Dess., *Gesch.*, I, p. 38, n. 2; Eusebius from the year 1973 (43 B.C.); Josephus, *Bell. Iud.*, II, 9, 5 (168), from 44 B.C. One may perhaps allot the dates as 43 B.C. for the commencement of his *imperium*, 30 B.C. for the beginning of the Empire, 23 B.C. for the official dating of the reign by the *tribunicia potestas*. Of course, the reason for some new system of dating was that when

he ceased to hold the consulship in 23 B.C. with any regularity it became necessary to have some new continuous system. It is interesting to note that when Silanus proposed under Tiberius to substitute the dating by the *tribunicia potestas* universally for the consular, the republican Tiberius would not allow it; *Ann.*, III, 57, 2. The beginning of the imperial tribunician year was advanced from the date of accession to December 10 sometime in the reign of Nero, probably, on the basis of the *Acta Fratrum Arualium*, between Jan. 3, 59 A.D. (*trib. pot.* V) and Jan. 1, 60 (*trib. pot.* VII); Hohl, *P.W.*, Suppl. III, cols. 391-392; Henderson, *Nero*, p. 450.

15. Dio, LI, 19, 6, asserts that the *ius auxilii* of ordinary tribunes did not extend to this milestone, but Cary *ad loc.* refers to Livy, III, 20, 7, for this extension under the Republic.
16. Dio, LIII, 32, 5, does not necessarily connect the *ius primae relationis* with the *tribunicia potestas*.
17. *Mon. Anc.*, 3, 11-21, shows that Augustus introduced legislation in virtue of the *tribunicia potestas*.
18. The *iurisdictio* of the tribunes was limited by the Senate in 56 A.D., *Ann.*, XIII, 28, 2; cf. Greenidge, *RPL.*, p. 447, Appendix II, for imperial jurisdiction, below, Ch. XXI, pp. 181-186.
19. The "Athena's vote," Dio, LI, 19, 6, was either the right to cast the vote making the tie, since a tie vote was regarded as an acquittal, or the right to break the tie by the deciding vote, it is uncertain which.
20. The restriction of the *tribunicia potestas* to the City has been disputed by Furneaux, I, p. 84, on the ground that Suet., *Tib.*, 11, 3, tells how on one occasion at Rhodes he appeared with the *apparitores* of his *tribunicia potestas* to order the arrest of some one who used him disrespectfully. He may, however, have retained the appurtenances without technically having the right to exercise the power, and may have produced them here to create an impression. Dio's story, LV, 9, 6, of how he forced the Parians to sell a statue of Vesta to him is not sufficiently definite to show in virtue of what powers he did so.
21. Order of titles of Augustus, Dess., 104, *imp. Caes. Diui f. Augustus pontifex maximus cos. XIII tribunicia potest. XXXII imp. XXVI pater patriae*. Order of Tiberius, Dess., 164, *ossa Ti. Caesaris Diui Aug. f. Augusti pontificis maximi trib. pot.*

- XXXIIX imp. VIII cos. V. But in other cases, Dess., 152, 159, the tribunician power comes after the consulship, or even after the salutations, Dess., 113 (both Augustus and Tiberius), and 160 (Tiberius alone). Dess., 94, gives a case where Augustus has it immediately after the pontificate. In fact, the inscriptions show no regular order under the first two Emperors but a tendency towards placing it immediately following the pontificate, which became customary after Tiberius. Cf. Mom., II, 2, p. 783 (V, pp. 44-45), and Stroux-Wenger, *Aug. Inschr.*, pp. 62 ff.
22. On the importance of the *tribunicia potestas* cf. *Mon. Anc.*, *passim*; Arnold, *Roman Imperialism*, pp. 32 ff.; Greenidge, *RPL.*, p. 346; Holmes, II, p. 29, n. 4, where he attacks Ferrero, *Greatness and Decline*, E. T., IV, 242 n., for belittling it; Kolbe, *Von der Republik*, pp. 56-58; Levi, *La 'Tribunicia Potestas'*, p. 355; Ciaceri, *Responsabilità di Tiberio*, II, pp. 383-385, thinks that the *sacrosanctitas* was the excuse for charges of *maiestas* against the Emperor.
23. On the grant of the *imperium* cf. above, Ch. IV, p. 27, and Greenidge, *RPL.*, p. 342, "the gift of the *proconsulare imperium* (by the Senate) and the *tribunicia potestas* (by the Senate and People)." Probably a formal law was also passed.
24. *Ann.*, I, 2, 1, and III, 56, 2, *Caesar . . . posito triumviri nomine consulem se ferens et ad tuendam plebem tribunicio iure contentum . . . id summi fastigii uocabulum Augustus repperit ne regis aut dictatoris nomen adsumeret ac tamen appellatione aliqua cetera imperia praemineret.*
25. *Mon. Anc.*, VI, 21-23, *praestiti omnibus auctoritate, potestate autem nihilo amplius habui quam qui fuerunt mihi quoquo in magistratu conlegae.* For *auctoritate* instead of Mommsen's *dignitate*, Ramsay and von Premerstein, *Mon. Ant.*, pp. 96-97. Cf. below, Ch. XII, n. 7.

CHAPTER IX

1. The question whether the *imperium* was *consulare* has been discussed; cf. above, Ch. IV, pp. 28-30. For the imperial consulships cf. Mom., II, 2, p. 1095 (V, p. 404). Lévy, *Tiberius erga Senatum*, p. 94, points out that Tiberius normally reversed the Augustan order and placed his consulships before his saluta-

- tions but that his tombstone (Dess., 164) returns to the Augustan practice.
2. For Augustus' consulships cf. Hardy, *Mon. Anc.*, pp. 41-42.
 3. That Augustus realized the danger of his monopoly appears in two statements of Suetonius. In *Aug.*, 37, he says that Augustus suggested that he have two colleagues in the office instead of one but that this suggestion was refused, and in *Aug.*, 53, 2, he tells how as consul Augustus always walked in the City instead of using a sedan chair, a parade of republican simplicity.
 4. For the illness of 23 B.C. cf. Dio, LIII, 30.
 5. For Augustus' refusal of extraordinary consulships cf. *Mon. Anc.*, I, 35-36; Dio, LIV, 1, 3 (dictatorship, *curator annonae*, and life censorship), LIV, 6, 1 (riots of 21 B.C.), LIV, 10, 2 (appointment of Lucretius in 19 B.C.); Shuckburgh on Suet., *Aug.*, 26. Gaius similarly refused an annual consulship, Dio, LIX, 6, 5. For Augustus' two later consulships, Dio, LV, 9, 9-10.
 6. Special prerogatives kept by Augustus: Hardy, *Mon. Anc.*, p. 42; Greenidge, *RPL.*, pp. 348-351. For the seat between the consuls in particular, Dio, LIV, 10, 5. Cf. above, Ch. IV, p. 30.
 7. Total consulships of Augustus: *Mon. Anc.*, I, 28-30; Shuckburgh on Suet., *Aug.*, 26, 3.
 8. Consulships of Tiberius: Suet., *Tib.*, 9, 3, 26, 2. I, Dio, LIV, 25, 1, 13 B.C., with Varus. — II, Dio, LV, 8, 1, Holtzhauser, p. 17, 7 B.C., with Piso. — III, *Ann.*, II, 53, 1, Holtzhauser, p. 27, 18 A.D., with Germanicus II. — IV, *Ann.*, III, 31, 1; Dio, LVII, 20, 1 (who comments on the ominous effect that holding it always had on Tiberius), 21 A.D., with Drusus II. — V, Dess., 6124, l. 8 (*Fasti* of Nola), 31 A.D., with Sejanus (whose name has been erased, as is that of Scribonianus in the next year because of his revolt in 42 A.D.).
 9. Consulships of Gaius: Suet., *Gaius*, 17, 1, Rosborough, p. 30. I, Dio, LIX, 6, 5, 37 A.D., with Claudius, as *suffectus* for two months and twelve days, after he had refused at the beginning of the year a sole and annually renewable tenure. — II, Dio, LIX, 13, 1, 39 A.D., for a month with Apronius Celianus. — III, Dio, LIX, 24, 2, sole consul for twelve days because in his absence at Lyons the Senate did not dare choose any one to replace the colleague-elect who had died suddenly. — IV, Dio, LIX, praef., 41 A.D., with Sentius Saturninus.

10. Consulships of Claudius: Suet., *Cl.*, 14, 1, Suet., *Gaius*, 15, 2, *Cl.*, 7; Dio, LIX, 6, 5, Rosborough, p. 27, 37 A.D.; others in 42, 43, 47, and 51 A.D.; Dio, LX, 10, 1 (six months); 17, 1; 29, 1; *Ann.*, XII, 41, 1.
11. Consulships of Nero: for the permission to hold office at twenty, Furneaux on *Ann.*, XII, 41, 2; consulships in 55, 57, 58, and 60 A.D., Suet., *Nero*, 14; *Ann.*, XIII, 11, 1; 31, 1; 34, 1, XIV, 20, 1. In 68 A.D. he removed the consuls and entered office alone to reconquer Gaul, Suet., *Nero*, 43, 2. Cf. Hohl, *P.W.*, Suppl. III, col. 391; Henderson, *Nero*, p. 449.
12. Consulships of imperial princes, apart from those already mentioned: Gaius Caesar, Dio, LV, praef., 1 A.D., with L. Aemilius Paulus. Drusus the Elder, Dio, LV, 1, 1, 9 B.C., with Crispinus. Drusus the Younger: I, Dio, LVII, 14, 9; *Ann.*, I, 55, 1, 15 A.D., with Norbanus. — II, Dio, LVII, 20, 1; *Ann.*, III, 31, 1, 21 A.D., with Tiberius IV. Germanicus: I, Dio, LVI, 26, 1, 12 A.D. (though he had not yet been praetor; cf. Suet., *Gaius*, 1, 2), with Capito. — II, *Ann.*, II, 53, 1, Rosborough, pp. 7-8, 18 A.D., with Tiberius III.

CHAPTER X

1. For the censorship under the Empire cf. Mom., II, 2, p. 1098 (V, p. 408); Greenidge, *RPL.*, pp. 347-348; Willems, p. 424; E. Meyer, *Kleine Schriften*, I, p. 466. McFayden, *Rise of the Princes' Jurisdiction*, p. 189, n. 20, citing Girard, *L'organisation judiciaire des Romains*, I, p. 138, n. 5, suggests that the censorship may have originally been framed on a Greek model.
2. For an example of the vanishing of the censorship cf. the examples of *cippi* of the Tiber Conservancy in Dessau. Dess., 5922 a-c bear the names of censors, 5923 a-d of consuls, 5924 a-d of Augustus, and 5925 of the curators established under Augustus. Between Sulla and Augustus, only on five occasions, 70, 65-64, 55, 50, and 42 B.C., were censors appointed and only in the first instance was a census completed; Herzog, *Röm. Staatsverfassung*, I, p. 797.
3. On Augustus and the *ensoria potestas* cf. above, Ch. IV, p. 29 and notes. The important passages are: Dio, LII, 42, 1, and Dess., 6123 (a. 726), for 29 B.C.; Dio, LIV, 10, 5, for 19 B.C.; and *Mon. Anc.*, II, 1-11.

4. The censorship refused in 22 B.C., Dio, LIV, 2, 1. The *cura legum et morum* refused, *Mon. Anc.*, I, 37-39, against Dio, LIV, 10, 5, and 30, 1 (in both cases Dio states that it was granted for five years), and Suet., *Aug.*, 27, 5 (who makes it perpetual). Cf. Hardy, *Mon. Anc.*, p. 48; Schulz, *Das Wesen*, pp. 73-75; Holmes, II, p. 39; and Ferrero, *Greatness and Decline*, E. T., V, p. 52 (who accepts Dio and Suetonius against the *Monumentum*). Caesar had held a *praefectura morum*, *CAH.*, IX, p. 731.
5. For the censors of 22 B.C. cf. Dio, LIV, 2, 1; Suet., *Aug.*, 37; Dess., *Gesch.*, I, p. 182.
6. For Claudius, *Ann.*, XI, 13, 1; Suet., *Cl.*, 16.
7. For the Flavians, Suet., *Vesp.*, 8, 1; 9, 2, *Titus*, 6, 1; Dio, LXVII, 4, 3.
8. Dio, LIII, 17, 7, and 18, 5, discusses the censorship under the Empire. He says that in his day the office was no longer assumed but that the title was used in connection with the census, which may account for his confusion about Augustus.
9. Moral reform by tribunician legislation, *Mon. Anc.*, I, 37-39; cf. Dio, LIV, 10, 6, and 16, 1 ff.
10. *Lex Saenia*, *Mon. Anc.*, II, 1; Dio, LII, 42, 5, who attributes the enrolment of patricians to the supposed censorship and says τῆς βουλῆς οἱ δῆθεν ἐπιτρεψάσης τοῦτο ποιῆσαι; *Ann.*, XI, 25, 3 (on Claudius). For the *lex Cassia*, of Caesar, cf. Dio, XLIII, 47, 3; *CAH.*, IX, p. 733. The father of Augustus was one of those raised by Caesar to the patriciate; Suet., *Iul.*, 2, 1. The date of the *lex Saenia* must have been 29 B.C., not 28 B.C., as Dio says; Hardy, *Mon. Anc.*, p. 52; Dess., *Gesch.*, I, pp. 127-129; Willems, p. 386. On the decay of the patriciate cf. Tenney Frank, *Race Mixture in the Roman Empire*, p. 705.
11. *Lectiones*, etc., *Mon. Anc.*, II, 1-11. Suet., *Aug.*, 27, 5, connects the censuses with the *morum legumque regimen perpetuum sine censurae honore*, which fits neither Dio nor the *Monumentum*. The latter should be preferred; cf. above, Ch. IV, n. 26.
12. Much has been written on the moral legislation under Augustus, especially the marriage laws; cf. Jörs, *Die Ehegesetze des Augustus*; Ferrero, *Greatness and Decline*, E. T., IV, p. 156, V, pp. 58 ff. and 295, n.; Holmes, II, p. 151; Willems, p. 378. The laws on freedmen have also caused much dispute: A. M. Duff, *Freedmen in the Early Roman Empire*, App. I, pp. 210-214, and Holmes, II, p. 161, date the so-called *lex Iunia Norbana* in 17 B.C. on

the ground that *Norbana* is an error in the citation in the *Institutes* (I, 5, 3). Steinwerter, *P.W.*, Reihe I, XII, cols. 910-914, would retain the traditional date of 19 A.D., after the *lex Fufia Caninia* of 2 B.C. and the *lex Aelia Sentia* of 4 A.D. For the *leges Iuliae* in general cf. *P.W.*, Reihe I, XIX, 354. Suet., *Aug.*, 34, mentions *leges sumptuariae, de adulteriis, de pudicitia, de ambitu* (Dio, LIV, 16, 1), *de maritandis ordinibus* (Dio, *loc. cit.*). The great law on marriage of 9 A.D., named in part by an oft-noted irony of history after two unmarried consuls, the *lex Iulia et Papia Poppaea*, became fundamental in Roman law; cf. Furneaux, App. III to *Ann.*, III. It created the famous privilege known as the *ius trium liberorum*, which survived until Constantine; cf. Poste, *Gaius*, p. 226.

13. Powers for census, etc., cf. above, Ch. IV, pp. 29-30.
14. For the censuses cf. *Mon. Anc.*, II, 1-11, and Hardy's commentary.
15. These numbers involve the problem of whether they include children or only men of military age, on which matter the first Cyrene Edict, ll. 4-6, perhaps bears, for that mentions τὸὺς πάντας Ῥωμαίους ἐν τῇ περὶ Κυρήνην ἐπαρχίῃαι πέντε καὶ δέκα καὶ διακοσίους ἐκ πάσης ἡλικίας, δισχειλίων καὶ πεντακοσίων διναρίων ἢ μείζω τίμησιν ἔχοντας. Livy, I, 44, 2, quotes Fabius Pictor on the inclusion only of those who could bear arms in the first census of Servius, with the implication that otherwise one would expect all to be included.
16. For the census in Dio cf. Hardy, *Mon. Anc.*, pp. 54-60. That of 29 B.C. is alluded to in LIII, 1, 3. That of 19 B.C. Hardy thinks is implied in the assumption of censorial power in LIV, 10, 5, but it is not mentioned. That of 11 B.C. is in LIV, 35, 1, and that of 3 A.D. in LV, 13, 4.
17. Provincial censuses, Gaul, Dio, LIII, 22, 5; Livy, *Ep.*, CXXXIV, CXXXVIII, CXXXIX; *Ann.*, I, 31, 2; 33, 1, II, 6, 1, XIV, 46, 2; Syria, Dess., 2683 (Rush., 23, the inscription of a subordinate of Quirinus; cf. Holmes, II, pp. 89-90; L. R. Taylor, *Am. Journ. of Philol.*, LIV, 2 [1933], p. 129); other provinces, Dess., 950, 1409, 9011. Cf. Willems, p. 479; Mattingly, *Imp. Civ. Serv.*, pp. 5-6.
18. Whether Sulla actually ruled that the quaestorship should qualify for the Senate or whether this merely became an established custom at that time is uncertain; cf. the sources quoted

- in Greenidge and Clay, *Sources*, pp. 172-173. The case of Salust illustrates removal from the Senate by the censors of 50 B.C., Appius Claudius and Lucius Piso; Dio, XL, 63, 5.
19. Augustus on *lectiones*, *Mon. Anc.*, II, 1, *senatum ter legi*. Vell. Pat., II, 89, 4, *senatus sine asperitate nec sine seueritate lectus*. Cf. Mom., II, 2, pp. 945 ff. (V, pp. 232 ff.); Willems, p. 391; E. Meyer, *Kleine Schriften*, I, p. 457, who separates *lectiones* from censuses.
 20. *Lectio* of 29 B.C., Dio, LII, 42, 1; Dess., *Gesch.*, I, p. 29; Suet., *Aug.*, 35, 1 (who confirms the number, *super mille*). Dio uses ἐξήτασε of this *lectio*.
 21. *Lectio* of 18 B.C., Dio, LIV, 13, 1; Suet., *Aug.*, 35 and 54, where he has a story which Dio tells of this *lectio*; cf. Shuckburgh *ad loc.*; Abele, *Sen. unter Aug.*, pp. 42-43; Holmes, II, pp. 39-40. Dio uses the phrase: τὸ βουλευτικὸν ἐξήτασε. Fischer, *Sen. Rom.*, p. 2, states that Suetonius's three are those of 29/8, 18, and 4 B.C.
 22. *Lectio* of 13 B.C., Dio, LIV, 26, 3, using the phrases: ἐξέτασις and (8) πάντα αὐτοὺς ἐξήτασε.
 23. *Lectio* of 11 B.C., Dio, LIV, 35, 1 ff., with the phrase: καὶ τὴν βουλήν κατελέξατο.
 24. *Lectio* of 4 A.D., Dio, LV, 13, 3, saying: διαλέξαι τὴν γερουσίαν αὐθις ἠθέλησε, and calling the committee ἐξεταστάς.
 25. For Dio's account of the *lectiones* cf. Hardy, *Mon. Anc.*, pp. 55-57.
 26. Dates 29 B.C., 8 B.C., and 14 A.D. accepted by Mom., *Mon. Anc.*, p. 35; Fischer, *Sen. Rom.*, p. 4; Willems, p. 441; Blumenthal, *Klio*, IX (1909), pp. 498-499 (cited by Holmes, II, p. 150). Abele, *Sen. unter Aug.*, p. 12, accepts those of 29, 18, and 11 B.C.
 27. *Lectio* of 13-11 B.C. rejected by Hardy and Mommsen (cf. above, n. 19).
 28. Dio, to be sure, uses ἐξήτασε or ἐξέτασις of the *lectiones* of 29 B.C., 18 B.C., and 13 B.C., and κατελέξατο or διαλέξαι of those of 11 B.C. and 4 A.D., but he calls the committee of 4 A.D. ἐξεταστάς.
 29. For the equestrians under the Empire cf. A. Stein, *Der Römische Ritterstand*; Mom., II, 2, p. 1100 (V, p. 409), III, pp. 480, 489 ff. (VI, 2, pp. 76, 84); Mattingly, *Imp. Civ. Serv.*, pp. 44 ff.; Holmes, II, p. 179.
 30. Mommsen and Stein hold that there were only *equites equo publico*.

31. Mattingly and Holmes hold that a distinction remained between the active and the qualified knights; so also Willems, pp. 387 ff.
32. Municipal leaders encouraged to become knights, Suet., *Aug.*, 46. Under Tiberius, a *lex Visellia* in 24 A.D. instituted an action against freedmen who sought to enter the office of *decurio*, which might lead to full citizenship and equestrian status; *Cod.*, IX, 21, 1; *P.W.*, Reihe I, XXIV, col. 2418.
33. For the Review, Dionysius of Halicarnassus, *Ant. Rom.*, VI, 13 (1069); Greenidge, *RPL.*, pp. 224-225.
34. *Princeps iuventutis*, *Mon. Anc.*, II, 46-III, 6; *Ann.*, I, 3, 2, XII, 41, 2; *Mom.*, II, 2, p. 826 (V, p. 96); Stein, *Röm. Ritterstand*, p. 82; Rostovtzeff, *Römische Bleitesserae*, pp. 55-93.
35. *Equestris militia*, Suet., *Aug.*, 38, 2, *Cl.*, 25, 1; Dess., *ILS.*, vol. III, 1, p. 492, Index *s.v. militiis equestribus*, mostly late inscriptions.
36. *Augustus equitum turmas frequenter recognouit*, Suet., *Aug.*, 38, 3. Cf. Dio, LV, 31, 2, for the postponement of a review in 7 A.D. when the Pannonian revolt broke out. Tiberius was careful to confine the equestrian rank to free-born persons; Pliny, *N.H.*, XXXIII, 2, 8 (32); cf. the *lex Visellia*, above, n. 32.
37. For the reform of the jury cf. Pliny, *N.H.*, XXXIII, 1, 7, 30; *Mom.*, III, p. 897, n. 3 (VI, 2, p. 489, n. 1), correcting his opinion that senators were excluded; III, p. 535 (VI, 2, p. 139), cites Frontinus, *de Aquis*, 101, and Dio, LII, 20, 5, for the inclusion of the senators. He says that the knights mention membership in the juries on their inscriptions as they were specially selected, but that the senators do not since all were liable. Furneaux, I, p. 98, thinks that the senators dropped out. Cf. Willems, p. 466, esp. n. 6, for references. Under the Republic, the making up of the jury-lists had been in the hands of the praetors, not of the censors. Cf. Cic., *pro Cluentio*, 43, 121; Greenidge, *Problems*, II, pp. 75, 156; Schisas, *Offenses against the State*, pp. 152, 186 ff., esp. 188-189, where he discusses Mommsen's opinions and concludes that the senators were excluded.
38. New *decuriae*, Suet., *Aug.*, 32, 3, *Gaius*, 16, 2; Pliny, *N.H.*, XXXIII, 8 (33). Suetonius, *Iul.*, 41, 2, says that Julius abolished the *decuria* of the *tribuni aerarii* (in any case an obscure category of persons) and left only the knights and senators.

- One must therefore assume that the *tribuni* were restored after his assassination. A short-lived law of Antony's attempted to institute a third *decuria*, probably of citizens without property qualification; Cic., *Phil.*, I, 8, 19; Schisas, *Offenses against the State*, pp. 142-143.
39. Attempts to vivify the juries, Suet., *Aug.*, 32, 3. For the emendation of the minimum age from "thirty" to "twenty-five," Stroux-Wenger, *Aug. Inschr.*, pp. 98-101.
 40. Volusius, *Ann.*, III, 30, 1, *ensoria etiam potestate legendis equitum decuriis functus*.
 41. Favonius, Dess., 9483, *IIIuir. centur. equit. recognosc. censoria potest.* He died under Tiberius (?).
 42. Suet., *Aug.*, 37, speaks of a *triumviratum recognoscendi turmas equitum*, and probably differentiated the *turmae* from the *decuriae* mentioned in 32, 3.
 43. In Suet., *Aug.*, 39, a board of ten senators assists Augustus to revise the roll of knights.
 44. Dess., 1954, *L. Volusio Elaino app. censori*.
 45. For the number of citizens, cf. above, n. 15; Dess., *Gesch.*, I, p. 181, n. 3; Nilsson, *Imperial Rome*, p. 272; for Augustus' chariness in bestowing the citizenship, Suet., *Aug.*, 40, 3; for the laws on freedmen cf. above, n. 12. Augustus ceased settling veterans on land in 13 A.D. and substituted a money bonus; Dio, LIV, 25, 5, and Hardy, *Mon. Anc.*, p. 85. This change probably, however, did not affect the bestowal of citizenship on men enrolling in the legions or being discharged from auxiliary troops.
 46. Grants of citizenship under the Republic, Willems, p. 44; Greenidge, *RPL.*, p. 300.
 47. Grants of citizenship by Republican generals: Marius, Cic., *pro Balbo*, 21, 48; Pompeius Strabo, Dess., 8888 (Abbott and Johnson, pp. 268-270, no. 13), the much discussed grant to his Spanish cavalry *e lege Iulia*; Pompeius Magnus, Cic., *pro Balbo*, 8, 19; Caesar and the Transpadanes, Cic., *ad Fam.*, VIII, 1, 2, *ad Att.*, V, 11, 2; How, *Notes to Select Letters*, pp. 241, 244; Dio, XLI, 36, 3; cf. Mom., III, p. 135 (VI, 1, p. 374).
 48. A slave could be freed *censu* by getting the censors to inscribe his name on the rolls; Greenidge, *RPL.*, p. 135.

49. *Latinitas* under the Republic, Willems, pp. 107 ff.; Greenidge, *RPL.*, p. 308.
50. Citizenship granted by Emperor, Mom., II, 2, p. 1099 (V, p. 409); Willems, pp. 377 ff.; Greenidge, *RPL.*, pp. 436 ff. Cf. Dio, LVII, 17, 2, for a remark by Marcellus to Tiberius: *σύ, Καίσαρ, ἀνθρώποις μὲν πολιτείαν Ῥωμαίων δύνασαι δοῦναι, ῥήμασι δὲ οὐ*. Stroux-Wenger, *Aug. Inschr.*, pp. 55-57, 65, argue that the Cyrene Edicts, ll. 58-59, *οἷς κατὰ νόμον ἢ δόγμα συνκλήτου ἢ τῷ τοῦ πατρός μου ἐπικρίματι ἢ τῷ ἐμῷ ἀνεισφορία ὁμοῦ σὺν τῇ πολιτείᾳ δέδοται*, showed that grants of citizenship were authorized by the Senate, and von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., XLVIII, p. 472, thinks that the Senate alone could grant *ciuitas*. But Anderson, *JRS.*, XIX, 2, p. 219, denies this opinion and confines the right to the Emperor.
51. For the colonies of Augustus cf. *Mon. Anc.*, I, 16-19, III, 22-28, V, 35-38, and Hardy's comments.
52. Inscriptions on imperial grants of citizenship, Dess., 1977-1980 (cf. Abbott and Johnson, p. 342, no. 42). *Diplomata*: Bruns, pp. 274-276 (Flavian); Dess., 1986 ff.; Dio, LIV, 25, 1 (when Augustus was in the West in 14 B.C.), *τὴν τε ἐλευθερίαν καὶ τὴν πολιτείαν τοῖς μὲν δούς τοὺς δ'ἀφελόμενος*, probably refers to communities rather than to individuals. For the loss of citizenship cf. Mom., II, 2, p. 1099 (V, p. 409). There is a case of a Lycian envoy from whom Claudius took it because he could not speak Latin. This case probably belongs not in his censorship, as Suet., *Cl.*, 16, 2, states, but in his third consulship, Dio, LX, 17, 4, if both refer to the same event; cf. Smilda on Suet., *Cl.*, *loc. cit.* For *relegatio* cf. Ovid, *Tristia*, II, 131 ff.; *Ann.*, XIV, 22, 5 (Rubellius Plautus); *Ann.*, XIV, 50, 2, with Furneaux's note (*Veiento*); Suet., *Nero*, 35, 2, uses it, probably wrongly, of Octavia; cf. Furneaux on *Ann.*, XIV, 60, 5; Suet., *Aug.*, 45, 4 (*Stephanionem histrionem relegauerit, Hylan uerberarit, Pyladen urbe atque Italia summouerit*—cf. Dio, LIV, 17, 4, for the restoration of Pylades in 18 B.C.); Dio, LVII, 21, 6 (an architect expelled by Tiberius). For grants of personal *immunitas* from taxation cf. von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., XLVIII, p. 472.
53. Judicial sentences, cf. preceding note, but contrast the case of Gallus (Dio, LIII, 23, 6), 26 B.C. Dio says of him *ἠτιμώθη ὑπὸ τοῦ Αὐγούστου*, which Cary translates "disenfranchised," but it

- perhaps means only "punished" here. The Senate then instructed the courts to condemn him to exile.
54. Mommsen thought that grants were not in virtue of the censorial power but that deprivation might be. This view seems unnecessary. Cf. Mom., II, 2, p. 1099 (V, p. 409).
55. Censorship of Claudius, Suet., *Cl.*, 16 ff.; *Ann.*, XI, 13, 25, XII, 5; Pliny, *N.H.*, VII, 48 (159), X, 2 (5), XXXIII, 8 (33). For the revision of the jury-lists cf. Suet., *Cl.*, 15, 1; Momigliano, *Claudius*, p. 132, with refs.; it was perhaps annual as it occurs in the discussion of his judicial actions.
56. Claudius's revision of the Senate, Dio, LX, 29, 1; *Ann.*, XI, 25, 5, XII, 52, 4; Momigliano, *Claudius*, p. 87. Tacitus speaks of it as unusual that Vitellius suddenly removed Silanus from the Senate by an edict although the *lectio* was complete and the *lustrum* closed. This suggests a connection between *lectio* and census; *Ann.*, XII, 4, 4. For *adlectio* by Claudius as censor cf. Dess., 968, and Dess., 1024 (Vespasian and Titus). For admission of children of freedmen, Suet., *Cl.*, 24, 1; Dess., 1378. For the admission of his praefects, with Augustus cited as precedent, Dio, LX, 23, 3, 44 A.D.
57. The speech on the Aeduan chiefs, *Ann.*, XI, 23, 1 ff.; Hardy, *RLC.*, II, pp. 133-154 (Dess., 212; Bruns, p. 195, no. 52); Greenidge, *RPL.*, p. 374; Pelham, *Essays*, pp. 152-157; Momigliano, *Claudius*, p. 89.
58. *Ann.*, XI, 23, 1: *ius adipiscendorum in urbe honorum*.
59. *Ciuitas optimo iure and sine ius honorum*, Homo, *L'empire romain*, p. 307.
60. For the doctrine of *municipalis origo*, Reid, *Roman Municipalities*, p. 437; Hardy, *RLC.*, II, pp. 140-141. Instances of *coloniae ac municipia* as applied to the Italian communities might be multiplied; cf. Furneaux on *Ann.*, I, 79, 1, and esp. III, 55, 4, where they are contrasted with the provinces, *homines e municipiis et coloniis atque etiam prouinciis in senatum crebro adsumpti*.
61. The phrase *senatorum in urbe ius* in *Ann.*, XI, 25, 1, may be merely a variant of that (above) in 23, 1, but it looks like an intentional distinction.
62. Patricians enrolled by Claudius, *Ann.*, XI, 25, 3 ff.
63. The census, *Ann.*, XI, 25, 8; Momigliano, *Claudius*, p. 88, n. 1.

64. Venality under Claudius, Dio, LX, 17, 5. Cf. the centurion in *Acts*, 22, 28: "With a great sum obtained I this freedom."
65. The Edict on the Anauni, Hardy, *RLC.*, II, pp. 119-132 (Dess., 206; Bruns, p. 253, no. 79; Rush., 79).
66. The inscription from Volubilis, Abbott and Johnson, p. 356, no. 53; cf. Momigliano, *Claudius*, pp. 123, n. 1 (refs.), 124. Rostovtzeff, *SEH.*, p. 509, n. 5, accepts Cuq's emendation *incolis* for *incolas*. Another inscription, *Comptes Rendues de l'Acad. des Inscr. et Belles-Lettres*, 1924, pp. 77-78, shows that the citizens, not the *incolae*, received the citizenship. Momigliano, however, *ibid.*, pp. 118-128, thinks that there was a considerable extension of citizen rights to provincials under Claudius.
67. That Claudius was not "Julian" but "Augustan" in his general policies is the conclusion reached by modern scholars; cf. Bell, *Jews and Christians*, p. 22 (against Kornemann), and Stroux, *Eine Gerichtsreform*, p. 84.
68. The *Collegia* form a topic in themselves beyond the scope of this work. There was a *lex Iulia* on them; Dio, LIV, 2, 3 (Cary translates *συσσυρίων* as "public banquets," but it must mean the *collegia*); *CIL.*, VI, 2193. For the formula *ex s. c. coire licet* cf. Shuckburgh on Suet., *Aug.*, 32, 1. Claudius disbanded many which had been revived under Gaius; Dio, LX, 6, 6.
69. Regulations about the theatres are common; Dio, LIII, 25, 1, LIV, 2, 4, LIV, 17, 4, LV, 22, 4, LVI, 25, 7, LVI, 47, 2, LVII, 11, 6, LVII, 14, 10, LVII, 21, 3, LVIII, 1, 1a, LIX, 2, 5, LIX, 7, LX, 5, 6, LX, 7, LXI, 8, 2; Suet., *Aug.*, 42, 3-45, *Tib.*, 37, 2, *Cl.*, 21, *Nero*, 11-13; 16, 2, *Ann.*, I, 54, 3, I, 77, IV, 14, 4, XI, 13, 1, XIII, 25, 4; cf. Ch. XVII, n. 23.
70. *Iudicatio et terminatio locorum publicorum* is mentioned as a censorial function by Shuckburgh on Suet., *Aug.*, 37. In Dess., 211, Claudius and Vitellius perform it as censors.
71. Tiberius on morals, Suet., *Tib.*, 33, *Ann.*, II, 33, 6 (where he opposes a bill on luxury with the words *non id tempus censurae nec, si quid in moribus labaret, defuturum corrigendi auctorem*; cf. Dio, LVII, 13, 3, for his aversion to public punishment of loose conduct), *Ann.*, III, 52, 4; Dio, LVII, 15, 1-2; Suet., *Tib.*, 34; 35, 2, etc.
72. For the control of cults cf. below on the religious position of the prince, Ch. XI, p. 103. The censors of 92 B.C. expelled the rhetoricians; cf. Greenidge and Clay, *Sources*, pp. 95 ff.

CHAPTER XI

1. *Pontifex Maximus*, *Mon. Anc.*, II, 23-28. For the religious position of the prince cf. Mom., II, 2, p. 1102 (V, p. 411); Greenidge, *RPL.*, pp. 350-351; Dio, LIII, 17, 8; Gag e, *Les Sacerdotes d'Auguste*, emphasizes the importance of the augurate and its connection with *Augustus* (below, Ch. XII, n. 6). So also Scott, *Identification of Augustus and Romulus*.
2. The *lex Domitia* was passed in 104 B.C., repealed by Sulla, and re enacted in 63 B.C.; *CAH.*, IX, pp. 163-164, 288. For the date of Augustus' election cf. Hardy, *Mon. Anc.*, pp. 65-66. The *Monumentum* and the *Fasti Praenestini* (*CIL.*, I, pp. 314, 387) date it in 12 B.C., correctly. Dio, LIV, 27, 2, puts it immediately on the death of Lepidus, 13 B.C. Suet., *Aug.*, 31, 1, dates it vaguely after Lepidus's death. Augustus refused to deprive Lepidus of the honor on his removal from the triumvirate in 36 B.C.; App., *Bell. Civ.*, V, 131 (543).
3. *Comitia pontificatus maximi* of Otho, Dess., 241, l. 74.
4. Religious bodies revived by Augustus, *Mon. Anc.*, I, 45-46.
5. For the religious revival cf. Gardthausen, I, pp. 865-886, Holmes, II, pp. 46-52, and other authors.
6. Cybele was introduced in 205 B.C. For the decree on the Bacchanals, 186 B.C., cf. Dess., 18 (Bruns, p. 164, no. 36). It enjoined the enforcement on the *praetor urbanus*.
7. For the general clause in the *lex de imperio* cf. Dess., 244 (Bruns, p. 202, no. 56), ll. 17-21. This is perhaps just the general magisterial right of *coercitio*. Holtzhauser, p. 31, traces the control to the pontificate. For censors cf. Greenidge and Clay, *Sources*, p. 95, for those of 92 B.C. expelling rhetoricians. *Ann.*, II, 32, 5, and Dio, LVII, 15, 8, mention a decree of the Senate expelling *mathematici* (astrologers) in 16 A.D., and *Ann.*, XII, 52, 3, and Dio, LX, 33, 3b, give one in 42 A.D.
8. Expulsion of undesirable persons. Agrippa, as *praefectus urbi* in 22 B.C., expelled the Egyptians, Dio, LIV, 6, 6; Augustus, as *pontifex maximus*, burnt books of spurious prophecies, Suet., *Aug.*, 31, 1; cf. *Ann.*, VI, 12, 3. Tiberius also limited the use of the Sibylline books and destroyed spurious oracles, *Ann.*, I, 76, 2; Dio, LVII, 18, 45. Tiberius acted against the Jews and others, Suet., *Tib.*, 36, *Ann.*, II, 85, 5; Josephus, *Ant.*, XVIII,

- 3, 5 (84). Claudius forbade their meeting, perhaps under the *lex Iulia de collegiis*, Dio, LX, 6, 6, or expelled them from Rome, Suet., *Cl.*, 25, 4; *Acts*, 18, 2; cf. Furneaux, II, p. 29. Druidism in Gaul was restricted by Augustus, Tiberius, and Claudius; Pliny, *N.H.*, XXX, 1, 4 (13) (*per s. c.*); Suet., *Cl.*, 25, 5. This restriction was probably for political reasons; cf. Furneaux on *Ann.*, XIV, 30, 1.
9. For the persecution of the Christians, Hardy, *Studies*, Series I, pp. 1-162.
 10. *Coniuratio Italiae*, cf. Ch. III, p. 20 and n. 11; *Mon. Anc.*, V, 3-6 (Hardy, pp. 111-113); *Mom.*, I, p. 696 (II, p. 381). Augustus seems not to have renewed any general oath, but only that of his troops; *Mon. Anc.*, I, 16-19; Dio, LVII, 3, 2; *Mom.*, II, p. 792 (V, p. 55).
 11. For the oath on the accession of Tiberius, *Ann.*, I, 7, 3. For the provinces, *Ann.*, I, 34, 1; Willems, p. 415; and three examples in Abbott and Johnson, p. 334, no. 37 (Dess., 8781), and p. 346, nos. 47, 48 (Dess., 190; Bruns, pp. 277-279, nos. 101-102), one of 3 B.C. from Paphlagonia and two of 37 A.D. from Lusitania and Assos.
 12. The magisterial oath, *Mom.*, I, p. 621 (II, p. 293); Willems, pp. 225, 227, as the source of an oath to the Emperor; Furneaux on *Ann.*, I, 72, 2; *Mom.*, II, 2, p. 792 (V, 55).
 13. Oath to the *acta* of Caesar, Appian, *Bell. Civ.*, II, 106 (442), in 45 B.C.; Dio, XLVII, 18, 3, in 42 B.C., after his death.
 14. Oath to the *acta* of Augustus in 29 B.C., Dio, LI, 20, 1 (Dess., *Gesch.*, I, p. 341), on January 1, 24 B.C.; Dio, LIII, 28, 1 (Holmes, II, p. 25). Oaths to observe the *acta* of the triumvirs were abolished by an edict of Augustus in 28 B.C., Dio, LIII, 2, 5 (this abolition possibly included the oath of 29 B.C.).
 15. A special oath refused in 19 B.C., Dio, LIV, 10, 6.
 16. Tiberius and the oath, *Ann.*, I, 72, 2; Dio, LVII, 8, 4.
 17. Oath as taken by one senator for all, Dio, LVIII, 17, 2.
 18. Claudius and the magisterial oath, Dio, LX, 10, 1 (for Gaius cf. Dio, LIX, 13, 1); cf. LX, 25, 1, and, for Nero, *Ann.*, XIII, 11, 1.
 19. For the omission of Tiberius from the oath, Dio, LIX, 9, 1; for Gaius, Dio, LX, 4, 6, who says that his *acta* were not formally rescinded but merely neglected by Claudius, and Suet., *Cl.*, 11, 3, who says that Claudius rescinded the *acta* of Gaius but did

- not allow the day of his assassination to be made a festival. Cf. Greenidge, *RPL.*, p. 363; Willems, p. 416; and below, Ch. XV, p. 129, Ch. XIX, n. 30.
20. On the legislative force of imperial edicts cf. Ch. XIX, p. 159.
21. The extra-constitutional sanction of the oath, Dess., *Gesch.*, I, p. 341; cf. Warde Fowler, *Roman Ideas of Deity*, pp. 39-43.
22. Emperor-worship as a direct appeal to the populace, Rostovtzeff, *SEH.*, pp. 44, 77; as giving validity to his edicts, Ferguson, *Am. Hist. Rev.*, XVIII, 1 (October, 1912), pp. 29-47, 'Legalized Absolutism en route from Greece to Rome.' Cf. his book, *Greek Imperialism*, and his chapter in the *CAH.*, VII, pp. 13-22. Bickermann, *Kaiserapotheose*, pp. 28-31, holds that the deification of deceased Emperors had no bearing on the succession. It may, however, have exalted an Emperor in popular fancy to have been regarded as the son of a deified predecessor; cf. on Augustus, *Diuus filius*, below, n. 31; Gag e, *Diuus Augustus*.
23. For the eastern origin of emperor-worship cf. Herzog-Hauser, *P.W.*, Suppl. IV, cols. 806 ff., s.v. *Kaisererkultus*, and Kornemann, 'Zur Geschichte der Antiken Herrscherkulte,' *Klio*, I (1901), pp. 51-146. For the view that it arose independently in Greece cf. Nock, *Σύμβαος Θεός*, *Harvard Studies in Classical Philology*, XLI (1930), pp. 1-62, esp. pp. 61-62, and Immisch, *Zum Antiken Herrscherkult*, pp. 1-36, esp. pp. 11-12. On the Roman worship cf. Beurlier, *Le Culte Imp rial*, and Taylor, *Divinity of the Roman Emperor*.
24. Divine honors were paid in Greece before the time of Alexander to Lysander after Aegospotami, 405 B.C., Plut., *Lys.*, 18; to Dion in Syracuse in 356 B.C., Diodorus, XVI, 20, 6, and to Philip's family at Olympia, Pausanias, V, 20, 9-10; Diodorus, XVI, 92, 5. Cf. Nock, *ibid.*, p. 60, and Immisch, *ibid.*, p. 4. It might be maintained that even in these cases ideas derived from Asia Minor or Egypt began to exercise their influence as the traditional views of religion weakened. For an attempt to show that Alexander really meant to establish a worship of himself with libations, altar, proskynesis, and kissing cf. Schnabel, 'Die Begr ndung des hellenistischen K nigskultus durch Alexander,' *Klio*, XIX, 2 (1924), pp. 113-127, criticized by Berve in *Klio*, XX, 2 (1925), pp. 179-186, and defended by Schnabel in *Klio*, XX, 4 (1926), pp. 398-414. Bickermann, *Kaiserapotheose*,

esp. pp. 24-28, contends that the deification of the dead Emperor took place only after death and was attested during the first century by the "oath" of some one who would maintain that he had seen the deceased being translated aloft, and during the second century by the burning of a representation of the deceased, whose complete consumption showed that the Emperor, conceived of as inherent in the image, had gone to the gods. He maintains that the separation of the funeral monuments of the Emperors from the cult temples shows that Roman emperor-worship was not derived from the Hellenistic practice, in which cult was offered both to the living ruler, a concept which appears in the Roman imperial writers but not in the actual worship, and at the actual tomb of the dead ruler, as at that of Alexander. Taylor, on the other hand, *Divinity of the Roman Emperor*, pp. 256-266, traces the worship of the *genius* of Augustus to the personification of the ἀγαθὸς δαίμων of Alexander, to which proskynesis was offered, and this, in turn, to the Persian honoring of the spirit of the king, whether living or dead. She maintains, pp. 247-255, against Tarn, that the Persians had a kind of cult of the spirit of the living ruler. While she thinks, pp. 42-44, against most other scholars, that the worship of Romulus may have been of real antiquity at Rome and not a Hellenizing innovation of the third or second century B.C., she traces the later worship to Hellenistic influence (p. 244), and especially to Scipio Africanus; cf. to the same effect. Levi, *Imperator*, pp. 212-213, who sees in the salutation of Scipio as *imperator* a recognition of his close connection with Jupiter Imperator. Similarly, M. M. Ward, abstracted in *Proc. Am. Philol. Assn.*, LXIII (1932), p. lxxii, suggests an association of Augustus with Jupiter in literature and in the East, but rarely in the West. Immisch, *Zum Antiken Herrscherkult*, thinks that both Antony and Octavian had Hellenistic ideas of emperor-worship, and that the former, in particular, identified himself with Dionysus. Octavian, though never actually identifying himself with Apollo, strongly favored the cult of that god and lived on the Palatine between the shrines of Vesta and Apollo. Bickermann recognizes this aspect of Augustus' position but feels that it never developed into a real cult. Despite Bickermann's arguments, the present writer tends to accept the verdict of Warde Fowler, *Religious Experience of the Roman*

- People*, p. 437: "the worship of the Caesars in its developed form is not of either Roman or Italian origin."
25. For the Ptolemies, Ferguson, *CAH.*, VII, pp. 17 ff.
 26. For the Seleucids, Ferguson, *CAH.*, VII, pp. 19 ff.
 27. Warde Fowler, *Roman Ideas of Deity*, p. 112, propounds the view that not Caesar but his followers, esp. Antony, sought the introduction of oriental worship for him. Contrast E. Meyer, *Caesars Monarchie*, pp. 440, 510 ff., and Taylor, *Divinity of the Roman Emperor*, pp. 82 ff., who shows how Antony opposed the deification of the dead Caesar by Octavian. The *Cambridge Ancient History*, IX, pp. 719-723, doubts whether Caesar really intended any deification of himself in the various semi-religious honors which he accepted, but admits that they could readily have led to a real cult.
 28. For the deification of Caesar as *Diuus Iulius* after his death cf. Herzog-Hauser in *P.W.*, above, n. 23. Also cf. the article by H. Heinen, 'Zu Begründung der Römischen Kaiserkulten, 41 B.C.-14 A.D.,' *Klio*, XI (1911), pp. 129-177; Taylor, *Divinity of the Roman Emperor*, pp. 96 ff. Taylor, *Proc. Am. Philol. Assn.*, LVIII (1927), pp. xv-xvi, seeks to show that the title *Diuus* was bestowed on Caesar before his death.
 29. For Antony cf. Immisch, *ibid.*, pp. 13-21, who sees an attempt to identify himself with Dionysus.
 30. On the worship of Augustus in Italy during his life cf. Taylor, *Trans. Am. Philol. Assn.*, LI (1920), pp. 116-133. Cf. Mom., II, 2, p. 756 (V, p. 14); Dess., *Gesch.*, I, p. 340; Holmes, II, pp. 69-70; Willems, p. 417; Pelham, *Essays*, p. 108; Sellar, *Virgil*, pp. 14 ff.; Nock in *CAH.*, X (in preparation); M. St. Poplawski, *L'apothéose de Sylla et d'Auguste*; cf. also the works cited below, n. 37, and in Ch. XII, n. 6.
 31. *Diuus filius* is an integral part of the Augustan titulary; cf. Herzog-Hauser, *P.W.*, Suppl. IV, col. 826; Dess., *Gesch.*, I, 36, n. 1. Yet it was omitted in the Cyrene Edicts; von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., XLVIII, p. 434.
 32. Augustus' position in Egypt: Herzog-Hauser, *ibid.*, col. 821, and Nock, *Σύμβαρος Θεός*, pp. 17-21, indicate that there is some question how far he accepted the divine succession. Bell, *Jews and Christians*, pp. 7-8, points out that despite Claudius's adherence to the Augustan refusal of personal worship as far as possible, the praefect of Egypt calls on the Alexandrians to admire

- in Claudius's letter *τὴν μεγαλειότητα τοῦ θεοῦ ἡμῶν Καίσαρος*, which shows how great was the pressure even in official circles towards the elevation of the living Emperor into a god.
33. Augustus' position in the rest of the East, Herzog-Hauser, *ibid.*, cols. 823-826; Fowler, *Roman Ideas of Deity*, p. 131; Dio, LI, 20, 6-8, discusses the question; cf. also Nock, *ibid.*, pp. 17 ff.
 34. Immisch, *ibid.*, pp. 22-36, sees in Augustus' devotion to the cult of Apollo a modification of Antony's attempt to identify himself with Dionysus. Augustus was under Apollo's special care without actually being identified with him. For Augustus' position in the west add to the sources given above Toutain, *Les Cultes Païens dans l'Empire Romain*, vol. I.
 35. On the *Augustales* and *Sevirate* cf. the note by Nock in *CAH.*, X (in preparation).
 36. The most famous altar in the West was that dedicated by Drusus at Lyons in 12 B.C. This date has been doubted by Toutain (cited by Holmes, II, p. 157) on the basis of Suet., *Cl.*, 2, 1, but is generally accepted from Dio, LIV, 32, 1. The dedication was perhaps connected with the assumption by Augustus of the post of *pontifex maximus* in the same year. Taylor, *Divinity of the Roman Emperor*, p. 209, thinks that Drusus dedicated the site in 12 B.C. and that the altar was completed in 10 B.C.
 37. The problem of the worship of living Emperors in the senatorial provinces of the West depends in part upon the date of the *lex Narbonensis*, an inscription regulating the worship of the Province of Narbonne, which should be distinguished from the *ara Narbonensis*, an inscription dealing with the municipal worship under Augustus at Narbonne; the first is Dess., 6964 (Bruhs, p. 141, no. 29; Rush., 35), the second is Dess., 112 (Bruhs, p. 284, no. 206). Some critics make the *lex* Augustan and others Flavian; cf. Holmes, II, p. 156. Taylor, *Divinity of the Roman Emperor*, pp. 210, 281, dates it early in the reign of Tiberius and, p. 212, thinks that the provincial cult may well have been established in all provinces under Augustus; cf. also pp. 280-282. So also A. L. Abaecherli, *Trans. Am. Philol. Assn.*, LXIII (1932), pp. 256-268. Important inscriptions from Laconia show that Tiberius allowed divine honors to Augustus but only human to himself; Kornemann, *Neue Dokumente zum Lakonischen Kaiserkult*, reviewed by Stade, *Gnomon*, VIII, 4 (April, 1932),

pp. 195-201; cf. also refs. above, Ch. VI, n. 20. Tiberius allowed a temple to himself and Livia and the Senate in Asia in 23 A.D. on the analogy of the temple erected to Augustus and Rome at Pergamum in the lifetime of Augustus, *Ann.*, I, 15, 4, IV, 37-38; 55, 6. But in Tarraconensis he allowed only a temple to Augustus, *Ann.*, I, 78, 1, and he even refused to allow Further Spain to erect a temple to himself, *Ann.*, IV, 38. Taylor, *Trans. Am. Philol. Assn.*, LX (1929), pp. 87-101, thinks that this moderation had Augustan precedents and that Tiberius eventually received the same honors as had Augustus. Furneaux suggests that the temple to Claudius at Camulodunum, *Ann.*, XIV, 31, 6, was erected in his lifetime since Seneca mentions it in the *Ludus de morte Claudii Caesaris*, 8, 3. The temple may, however, have been begun after his death but before Seneca wrote his satire. Nero in 64 A.D. refused a temple to himself as deified while still alive lest it be an ill omen *nam deum honor principi non ante habetur quam agere inter homines desierit*; *Ann.*, XV, 74, 4. Gagé, *Diuus Augustus*, emphasizes the connection between emperor-worship and the dynastic tradition. Scott, *Trans. Am. Philol. Assn.*, LXII (1931), pp. 101-123, seeks to show how statues in precious metals were regarded as attributes of divinity and refused by the constitutional Emperors. In *Class. Philol.*, XXVII, 4 (Oct. 1932), pp. 317-328, he collects examples of humor at the expense of the ruler cult.

38. For the provincial *concilia* cf. Hardy, *Studies*, I, pp. 236-283.

CHAPTER XII

1. Dess., 113, from Ariminum; cf. Dess., 76-113, *passim*. For the Greek terms for the Roman imperial titles cf. Magie, *De Romanorum iuris publici sacrique uocabulis sollempnibus in Graecum sermonem conuersis*, pp. 31-32, 62-69.
2. *Praenomen imperatoris*, cf. above, Ch. V, pp. 49-51.
3. Adoption by Julius: Dio, XLVI, 47, 4; cf. Dio, XLV, 5, 3-4. At this time his gentile name, *Octavius*, took, as usual in adoptions, the form *Octavianus*.
4. Gaius dropped: Suet., *Aug.*, 7, 2; Dess., *Gesch.*, I, p. 62. Gaius was probably his own *praenomen* as well as inherited from Julius. Mommsen (II, 2, p. 766, n. 3 [V, p. 25, n. 3]) dates the

change from *G. Iulius C. f. Caesar* to *Imp. Caesar* in 40 B.C., but cf. above, Ch. V, n. 13, for date 38 B.C. Hall, *Nicolaus of Damascus*, p. 83, n. 5, discusses the various forms of Octavian's name after Caesar's death.

5. *Diui filius*, cf. above, Ch. XI, n. 31.
6. *Augustus: Mon. Anc.*, VI, 16-21; Suet., *Aug.*, 7, 2; Dio, LIII, 16, 7 (of the proposal to call him Romulus); Censorinus, 21, 8; Ovid, *Fasti*, I, 589; Dess., 108 (Rush., 38, *Fasti of Cumae*). The *Fasti* of Cumae give the date as January 15, those of Praeneste (*CIL.*, ed. 2, I, p. 231) give January 16; cf. Mom., II, 2, p. 746, n. 3 (V, p. 3, n. 1), also Mom., II, p. 771 (V, p. 30).
7. Implications of *Augustus*: Dess., *Gesch.*, I, pp. 35-38; Warde Fowler, *Aeneas at the Site of Rome*, pp. 110 ff.; L. R. Taylor, *Livy and the name Augustus*, p. 158; Ehrenberg (*Monumentum Antiochenum*, pp. 207-213) discusses the religious significance of the name. R. Heinze (*Hermes*, LX, 3 [July, 1925], pp. 348-366) discusses the significance of *auctoritas*. F. Muller jzn. has likewise a discussion of *Augustus* and its cognates, *augeo*, *augur*, *auctoritas*. He sees an attempt to connect it with *augur Apollo* (cf. Immisch's view, above, Ch. XI, n. 24) and with the *augurium* of the kings, esp. Romulus. Cf. also Shönbauer, *Zeit. der Sav. Stift.*, Rom. Abt., XLVII (1927), pp. 293-294, 310, 318; G. Hirst., *Am. Journ. Philol.*, XLVII, 4 (Oct.-Dec., 1926), pp. 347-357, on Livy's use of *Augustior* with Romulus and Hercules as prototypes of Augustus; Scott, *Identification of Augustus and Romulus*, and *Tiberius' Refusal of the Title Augustus*. In the latter article Scott suggests that Σεβαστός may have some connection with ἀσέβεια, and hence the title with *maiestas* trials.
8. Pontificate, etc., cf. above, Chs. XI, p. 102; IX, pp. 85-87; V, pp. 51-52; VIII, pp. 79-84.
9. *Pater patriae*: Cicero, *Cic.*, in *Pis.*, 3, 6; Plut., *Cic.*, 23, 3; Caesar, Suet., *Iul.*, 76, 1, and perhaps Dio, XLIII, 44, 1, ἐλευθερωτήν, after Munda, 45 B.C.; on the coins, he appears as *parens patriae*, Grueber, *Cat. Coins of Rom. Rep. in Brit. Mus.*, I, p. 548, Type II (no number); p. 552, no. 4187, both of 44 B.C. Cf. *CAH.*, IX, p. 720.
10. *Pater patriae*: Augustus, *Mon. Anc.*, VI, 24-27; Suet., *Aug.*, 58, 1; Dio, LV, 10, 10; Ovid, *Fasti*, II, 127; *Fasti Praenestini* for February 5; Dess., 8744a (wrongly marked 8844a). Des-

sau (96, n. 2) points out, however, that he appears on inscriptions (as that one) with the title before the grant of 2 B.C., and Dio confirms him, *πρότερον γὰρ ἄλλως ἀνευ ψηφίσματος ἐπεφημίջετο*.

11. *Imperator* in Tacitus, cf. above, Ch. V, n. 4.
12. *Princeps senatus*: Augustus enrolled himself in this position in 28 B.C.; Dio, LIII, 1, 3, *καὶ ἐν αὐταῖς πρόκριτος τῆς γερουσίας ἐπεκλήθη*; *Mon. Anc.*, I, 44-45, *princeps senatus fui, etc.* Dio confuses the two uses of *princeps* in quoting the remark of Tiberius (cf. below, n. 18), where he uses the same word, *πρόκριτος*, and connects it with the assumption by Augustus of the post of *princeps senatus*. Von Premerstein (*Zeit. der Sav. Stift.*, Rom. Abt., XLVIII, p. 480) thinks that the use of *ἡγεμῶν ἡμέτερος* in Cyrene Edict V (the *s. c.*), l. 86, is a reference to Augustus as *princeps senatus*, with *ἡγεμῶν* used for the more correct *πρόκριτος*, because *princeps* in its more general sense was translated *ἡγεμῶν*. There seems to be no reason, however, why it should not be general here as in the *Mon. Anc.* Cf. Mom., II, 2, p. 894 (V, p. 173), III, p. 277 (VII, p. 157); Willems, p. 410; Holmes, I, p. 264; Furneaux, I, p. 78; Greenidge, *RPL.*, p. 352.
13. The view that *princeps* and *princeps senatus* were quite different titles was maintained by Pelham, *Essays*, pp. 49-60. The Greek word for *princeps* in the general sense is not *πρόκριτος* but *ἡγεμῶν*; Magie, *De Rom. uocab.*, pp. 32, 63 for refs., to which add Buckler and Robinson, 'Greek Inscriptions from Sardis, V,' *Am. Journ. Arch.*, XVIII, 3 (1914), p. 353, l. 58. Note that *princeps iuventutis* is *ἡγεμῶν τῆς νεότητος*; Magie, *De Rom. uocab.*, pp. 32, 69.
14. Use of *principes* of chief men of the state: Pliny, *N.H.*, XXVIII, 2, 5 (29) (of Servilius Nonianus); Vell. Pat., II, 6, 2 (Gaius Gracchus); II, 128, 1, 3 (Coruncianus was raised *ad principale fastigium*, Marius was *Romani nominis principem*); Suet., *Aug.*, 31, 5 (an edict of Augustus reading *et ipse . . . et insequentium aetatum principes*), 66, 3 (friends of Augustus); *Mon. Anc.*, II, 34 (*cum principibus uiris*). *Fasti Amiterni (CIL.*, ed. 2, I, p. 244), on September 13, 16 A.D., speak of the execution of Scribonius for plots against Tiberius, his children, and other *principes ciuitatis*; cf. Gelzer, *P.W.*, Reihe I, XIX, col. 504, ll. 60 ff., and Piganiol, *La Conquête romaine*, p. 284, for families under the Republic.

15. Dessau (*Gesch.*, I, p. 61, n. 2) maintains that the passages in the *de Republica* where it occurs, II, 31, 55; 32, 56, are twelfth-century misquotations. But it is used of Pompey in Cic., *ad Fam.*, I, 9, 11, and Sallust, *Hist.* (ed. Maurenbrecher), III, Frag., 48, 23 (*Oratio Macri*). Cf. Cic., *Phil.*, XIV, 7, 17, *utinam quidem illi principes uiuerent qui me, post meum consulatum, cum iis ipse cederem, principem non inuito uidebant*. Also cf. Cic., *ad Att.*, VIII, 9, 4, *ad Fam.*, VI, 6, 5.
16. E. Meyer, *Caesars Monarchie*, pp. 174-191. Nock, *CAH.*, X (in preparation), suggests that the detailed regulations of Cicero's *de Legibus* accord quite closely with the reforms of Augustus. For attacks cf. Dess., *Gesch.*, I, p. 61, n. 2, and above, Ch. II, n. 46.
17. *Mon. Anc.*, VI, 6-8, *me principe*. Cf. Horace, *Carm.*, I, 2, 50; *Ann.*, I, 9, 6; Ovid, *Fasti*, II, 142, *Tu (Romule) domini nomen, principis ille (Augustus) tenet*. For the use of *princeps* in inscriptions cf. Dess., 180 (Rush., 54); Rush., 49 (*CIL.*, II, 2038); Dess., 159; Dess., 206 (Bruns, p. 253, no. 79), l. 12.
18. Tiberius's remark is in Dio, LVII, 8, 2: δεσπότης μὲν τῶν δούλων, αὐτοκράτωρ δὲ τῶν στρατιωτῶν, τῶν δὲ δὴ λοιπῶν πρόκριτός εἰμι. Cf. what Vell. Pat., II, 124, 2, says of Tiberius, that he wanted to be *potius aequalem ciuem quam eminentem principem*.
19. *Dictator*: *Ann.*, III, 56, 2; Suet., *Aug.*, 52; Dio, LIV, 1, 3-4; *Mon. Anc.*, I, 31-32; Vell. Pat., II, 89, 5; E. Meyer, *Kleine Schriften*, I, p. 465; Holmes, I, p. 187. For Caesar's dictatorship cf. *CAH.*, IX, pp. 734-735. The office was abolished on the death of Caesar; App., *Bell. Civ.*, III, 25 (94); Cic., *Phil.*, I, 1, 3, II, 36, 91, V, 4, 10; Dio, XLIV, 51, 2.
20. *Dominus*: Schulz, *Das Wesen*, p. 76. For Augustus, Suet., *Aug.*, 53, 1; Dio, LV, 12, 2. For Tiberius, Dio, LVII, 8, 1; *Ann.*, II, 87, 2; Suet., *Tib.*, 27. Cf. Mom., II, 2, pp. 760-763 (V, pp. 19-22).
21. Of Gaius, Suet., *Gaius*, 22, 1, remarks *nec multum afuit quin statim diadema sumeret speciemque principatus in regni formam conuerteret*.
22. For Tiberius cf. Dess., 155-161. Suetonius (*Tib.*, 26, 2) and Dio (LVII, 2, 1) say he refused the title *Augustus*, but it occurs in the inscriptions and coins. Dio does admit that he used it in foreign correspondence; LVII, 8, 1. Kuntz, *Tiberius Caesar and the Roman Constitution*, p. 43, seeks to show, nevertheless,

- that he assumed it in the last year of his predecessor's life. Cf. Scott, *Tiberius' Refusal of the Title Augustus*.
23. *Pater patriae* for himself and *mater (parens) patriae* for Livia refused by Tiberius, Suet., *Tib.*, 26, 2; 50, 3; *Ann.*, I, 72, 2; Dio, LVII, 8, 1, LVIII, 12, 8. Holtzhausser, pp. 27, 39, cites examples of both titles, and cf. Dess., 159, *conseruatori patriae*. The Gytheum inscr. (Kornemann, *Neue Dokumente*, p. 21) give his titles as *αὐτοκράτωρ Τιβέριος Καίσαρ Σεβαστὸς καὶ πατὴρ πατρίδος*, showing the *praenomen imperatoris*, *Augustus*, and *pater patriae*. Kornemann thinks that perhaps the refusal applied only to Rome. It is more likely that the titles were used in the provinces despite the refusal.
24. Gaius, Claudius, and Nero: Dio, LIX, 3, 2, LX, 3, 2; Suet., *Nero*, 8. In Dio's own time, all titles were bestowed at once; LIII, 18, 4.
25. For Claudius cf. Furneaux, I, p. 173, no. 33. For *Caesar* as a title cf. Willems, p. 413, and notes. Originally, the heir had been *princeps iuuentutis*, *Mon. Anc.*, III, 1-6, and Hardy's commentary.

CHAPTER XIII

1. Dispensation under the Republic, Willems, p. 185; Greenidge, *RPL.*, p. 276. Such a dispensation was called in the post-Augustan period a *priuilegium*, but Cicero applied this term to a penalty voted against a particular person rather than against a crime or class of persons. Such a vote, but not the grant of favorable dispensations, had been forbidden by the laws of the twelve tables; Willems, p. 156, esp. nn. 7, 8.
2. The Cornelian reform, Asconius, Oxford text, p. 51; Dio, XXXVI, 38, 4-40, 3; *CAH.*, IX, p. 343.
3. Ulpian, quoted in *Dig.*, I, 3, 31.
4. Dio's statements are: LIII, 18, 1; 28, 2 (giving the date 24 B.C.).
5. Comments on Ulpian, Girard, *Manuel du Droit Romain*, p. 63 (E. T., p. 126); Cuq, *Manuel des Institutions*, p. 27, esp. n. 4; Buckland, *Manual of Roman Law*, p. 12; Dess., *Gesch.*, I, p. 83.
6. For Gaius, Dio, LIX, 10, 2; 15, 1; cf. the hesitancy on Claudius's part about marrying his niece before the Senate decreed the legality of such a marriage, *Ann.*, XII, 7, 3 (despite the absence of any specific prohibition, *Ann.*, XII, 6, 5). Tiberius insisted

that Livia ask permission to give a feast for all of Roman Society, presumably because of restrictions on entertainments; Dio, LVII, 12, 5; cf. Suet., *Tib.*, 34, for his general attitude on luxury.

7. Dio on Augustus and the donative, LIII, 28, 2. Cf. Gardthausen, I, p. 723, II, p. 401, n. 14; Mom., II, 2, p. 750 (V, p. 7); Holmes, II, p. 26. Kolbe, *Von der Republik*, p. 52, accepts Dio at full value.
8. *Lex de imperio*, Dess., 244 (Bruns, p. 202, no. 56), l. 22.
9. Mommsen cited above in n. 7.
10. E. Barker in the *Legacy of Rome*, chapter entitled 'The Conception of Empire,' p. 71.

CHAPTER XIV

1. The position of the Senate under Augustus is treated by Abele, *Sen. unter Aug.*, from the point of view adopted in this work, that the powers and chief acts of Augustus, which are there enumerated chronologically, were undertaken with the coöperation of the Senate, and that his purpose was not to subject the Senate to the Emperor but to elevate it through purifying it and consulting with it. He denies, however, p. 78, that Augustus had any intention of really restoring the Republic and admits that the Emperor soon overshadowed the Senate. F. Fischer, *Senatus Romanus*, lists all the known members of the Senate under Augustus in an attempt to show that the *lectiones* were intended to increase its prestige and ability as coadjutor of the Emperor. Ehrenberg, *Mon. Ant.*, pp. 200-207, parallels the *auctoritas* of the Senate with the *potestas (imperium)* of the Emperor but admits that the *auctoritas* of Augustus overshadowed that of the Senate.
2. Opening of Senate to non-Romans, cf. above, Ch. X, p. 98. For Caesar's attitude cf. *CAH.*, IX, pp. 729-732.
3. Number of Senate, Dio, LIV, 14, 1, states that Augustus wished to reduce it to 300 but had to stop at 600.
4. For the twenty minor magistracies cf. Dio, LIV, 26, 5-7 (13 B.C.), and Festus, *s.v. praefectura* (Bruns, II, p. 25). They were reduced from the twenty-six of the Republic (cf. Dess., 908, 909) by the loss of the *duumviri uis extra urbem purgandis*, whom the new *cura uiarum* displaced, and the four *prae-*

fecti Capuae Cumisque. This left the *decemviri stlitibus iudicandis* (judicial magistrates), the *tresviri monetales* (over the mint), *tresviri capitales* (police magistrates), and the *quattuorviri viis in urbe purgandis* (street commissioners). Cf. Willems, pp. 463-464.

5. The *latus clauus*, Willems, p. 392, esp. n. 7. Dio, LV, 2, 3, mentions τῶν ἱππέων, τῶν τε ἐς τὴν ἱππάδα ἀκριβῶς τελούντων καὶ τῶν ἐκ τοῦ βουλευτικοῦ γένους ὄντων. The sons of senators are not officially called knights, despite Isidore, *Etymologiae*, IX, 4, 12. Suetonius (*Aug.*, 38, 2) states that Augustus allowed the sons of senators to assume the broad stripe with the *toga uirilis*, so that previously they may have assumed it only on attaining a magistracy. He also admitted them as auditors at meetings of the Senate. Dio, LIX, 9, 5, states: καὶ τισιν αὐτῶν (the most worthy equestrians) καὶ τῇ ἐσθῆτι τῇ βουλευτικῇ, καὶ πρὶν ἄρξαι τινὰ ἀρχὴν δι' ἧς ἐς τὴν γερουσίαν ἐσερχόμεθα, χρῆσθαι ἐπὶ τῇ τῆς βουλείας ἐλπίδι ἔδωκε· πρότερον γὰρ μόνοις, ὡς ἔοικε, τοῖς ἐκ τοῦ βουλευτικοῦ φύλου γεγεννημένοις τοῦτο ποιεῖν ἐξῆν. Suetonius (*Tib.*, 35, 2) states that Tiberius deprived a senator of his broad stripe for unbecoming conduct, an exercise of quasi-censorial powers, since presumably the man had to leave the Senate.
6. *Commendatio* and *nominatio* will be discussed fully below, Ch. XVI, p. 133. In general, on admission to the Senate, cf. Mom., III, p. 466 (VI, 2, p. 56); Dess., *Gesch.*, I, pp. 100-103; Willems, p. 441; Greenidge, *RPL.*, p. 373.
7. For senatorial rank as a qualification for high command cf. Mom., III, 2, pp. 896, 1268 (VII, pp. 72, 502). Only Egypt had an equestrian praefect. Gallienus first separated senatorial rank from military command in the third century; Victorinus, *Caes.*, 33, 34.
8. That the control of admission to the Senate made it subservient to the Emperor is the view of Dess., *Gesch.*, I, pp. 103 ff. Contrast Fischer, *Sen. Rom.*, p. 116, who concludes that Augustus tried to raise its quality to make it a worthy coadjutor to himself.
9. Suetonius (*Aug.*, 54) relates how Augustus did no more than reprove Labeo for introducing the name of Lepidus as candidate in one of the *lectiones senatus*.
10. Cf. G. Boissier, *L'opposition sous les Caesars*; Rostovtzeff, *SEH.*, p. 45.

11. Cf. above, Ch. X, pp. 92-93, for senatorial committees on *lectiones*.
12. One entered the Senate at twenty-five; Willems, p. 442, esp. n. 2, and the discussions in Stroux-Wenger, *Aug. Inschr.*, pp. 98-101, Stroux, *Eine Gerichtsreform*, pp. 19-39, and Momigliano, *Claudius*, p. 132, on the age of admission to the juries, twenty-four, and to the post of *reciperator*, twenty-five. Dessau (*Gesch.*, I, pp. 130 ff.) uses this early age of admission to explain the inefficiency of the Senate.
13. The functions of the magistrates were increasingly performed by special boards or by the imperial civil service; cf. below, Ch. XVI, pp. 136-139, 142.
14. For the republican age of holding the quaestorship, Willems, p. 219, gives twenty-eight, cf. esp. n. 4.
15. Decline in stamina of nobility, cf. M. Nilsson, *Imperial Rome*, pp. 316 ff., 'The Population Problem'; Tenney Frank, *Race Mixture*, pp. 693, 699; Rostovtzeff, *SEH.*, p. 107.
16. For Mommsen's theory of the "dyarchy," cf. *Mom.*, II, 2, p. 748 (V, p. 5), and III, p. 1255 (VII, p. 488); cf. above, Ch. I, nn. 2, 4.
17. The source of the *imperium*, Schulz, *Das Wesen*, pp. 28 ff., esp. p. 51; above, Ch. IV, pp. 27-28. Pollack, *Majestätsgedanke*, pp. 123-125, holds that the Senate succeeded the People as representative of the state. He accepts, however, the theory of "dyarchy."

CHAPTER XV

1. Election riots of 22 B.C. and 19 B.C., Dio, LIV, 6, 10; *Mon. Anc.*, II, 34-57.
2. Aid of Nero necessary to enforce the decrees of the Senate, *Ann.*, XIII, 48, XIV, 45, 2.
3. Military and foreign affairs referred to the Emperor, *Ann.*, III, 35 ff. (war with Tacfarinas); Dio, LIII, 33, 1-2 (Armenian succession).
4. The consuls refer decisions to the Emperor, *Ann.*, XIII, 26 (frauds of freedmen); cf. *Hist.*, IV, 9 (a tribune refused to allow an important motion to be put without consulting the Emperor).
5. Decisive effect of the Emperor's word, *Ann.*, XI, 5-7, where Claudius himself settled the dispute about the fees of delators.

6. Right to summon the Senate, cf. above, Chs. III, p. 24; VIII, p. 82.
7. *Princeps senatus*, cf. above, Chs. III, p. 22; XII, p. 111.
8. *Ius primae relationis*, cf. refs. above, n. 6. Willems (p. 447) states that the magistrates could not intercede against a decree made on the motion of the Emperor, but that he, in virtue of the tribunician power, could stop other people's measures.
9. It is unnecessary to list the cases in which decrees *auctore Caesare* are mentioned in our sources. They range all the way from important matters, like the bestowal of the secondary *imperia* (*Ann.*, I, 14, 4) or of the tribunician power (*Mon. Anc.*, 3, 21-23) to mere regulations like the granting of religious offices (*Ann.*, III, 19, 1). The development of the *oratio principis* at the expense of the *senatus consultum* belongs to the second century; for a list cf. Cuq, *Consilium*, pp. 424-426.
10. The attendance of the Emperor in the Senate, *Mom.*, II, 2, p. 897 (V, p. 176); cf. I, p. 403 (II, p. 37), and III, 2, p. 950 (VII, p. 115), for his seat. For Augustus cf. Dio, LIV, 12, 3 (where he wore a breastplate in the Senate during the *lectio* of 18 B.C. lest he suffer the fate of Julius); cf. Cyrene Edict, V, ll. 74-75, *δῶγμα συγκλήτου, κυρωθὲν ἐμοῦ παρόντος καὶ συνεπιγραφομένου*; von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., LI, p. 458; Greenidge, *RPL.*, 375, does not think that the Emperor ever attended as a simple senator. The sources, however, indicate that he did.
11. Taking of votes, Dio, LIV, 15, 6. Gaius (Dio, LIX, 8, 6) restored the order of voting by seniority among the consulars.
12. Neglect of seniority in voting, Suet., *Aug.*, 35, 4. Suetonius may refer to the same occasion as does Dio, above.
13. Augustus votes last, Dio, LV, 34, 1.
14. Augustus' mildness in the Senate, Suet., *Aug.*, 53, 3-54.
15. Use of a quaestor by Augustus, Dio, LIV, 25, 5. There were two quaestors regularly attached to the Emperor, as to the consuls, and like the single one attached to senatorial proconsuls; Furneaux on *Ann.*, XVI, 27, 2; *Mom.*, II, 1, p. 569 (IV, p. 272); Greenidge, *RPL.*, p. 369; Suet., *Aug.*, 65, 2; Dess., *ILS.*, vol. III, p. 408, *s.v. quaestor*; Dio, LX, 2, 2. Germanicus reads Augustus' messages, Dio, LVI, 26, 2, 12 A.D., a speech commending Germanicus himself to the Senate and Tiberius.

16. Augustus leaves the Senate in displeasure, Dio, LIV, 27, 2, 13 B.C.
17. The Emperor does not seem to have taken advantage of his privilege as *princeps senatus* (cf. above, Ch. XII, p. 111) of voting first, and when he presided he did not vote at all; cf. Mom., II, 2, p. 894 (V, p. 173), III, 2, pp. 950, 971, 976 (VII, pp. 115, 157, 165); Furneaux, I, p. 84, and on *Ann.*, III, 17, 8.
18. The *consilium*, cf. below, Ch. XX, pp. 164-169.
19. The trial of Marcellus, *Ann.*, I, 74, 6.
20. Emperor voting first or last, Mom., III, 2, p. 950 (VII, p. 115).
21. Cf. Furneaux on *Ann.*, I, 74, 5, on voting *palam et iuratum*.
22. Cn. Piso put in charge of Syria, *Ann.*, II, 43, 3.
23. Cn. Piso mentioned by some historians in place of Arruntius as one whom Augustus thought a possibility for the succession, *Ann.*, I, 13, 3.
24. Tiberius in the Senate, Dio, LVII, 7, 2-5. It is not quite clear whether this passage refers to his conduct in the Senate or in his *consilium*, which has just been mentioned. In *Ann.*, III, 22, 6, Tiberius did not allow Drusus, who was *consul designatus*, to speak first on a motion lest his views influence the others; cf. Dio, LVII, 7, 4. Similarly, in Dio, LVI, 28, 5, Augustus had not allowed either Germanicus or Drusus to speak on a tax measure lest their views be interpreted as his.
25. Tiberius in the Senate on the death of Augustus, *Ann.*, I, 7; Dio, LVII, 2; Suet., *Tib.*, 23. He broke down and Drusus had to finish his speech. Suetonius (*Tib.*, 31, 1) mentions cases in which the Senate went against the vote of Tiberius. In one he sided with the minority on a division and no one else followed him; cf. Dio, LVII, 7, 3. In general, cf. Gelzer, *P.W.*, Reihe I, XIX, cols. 497, 520. Dio (LVII, 15, 9) gives a similar case in 16 A.D. of a decree of the Senate against citizen-astrologers passed over the negative votes of Tiberius and Drusus and vetoed by a tribune, though Marsh, *Tiberius*, p. 281, doubts the incident because of the silence of Tacitus.
26. Tiberius insisted on the use of Latin in the Senate; Dio, LVII, 15, 3. For debates in which he cut short the discussion cf. *Ann.*, I, 77, 4 (the restraint of actors, cf. IV, 14, 4); *Ann.*, II, 38 (on Hortalus); on temples to himself, *Ann.*, IV, 37, 2, 55, 1.
27. Letters to the Senate: on Tacfarinas, *Ann.*, III, 32, 1; on the revolt in Gaul, *Ann.*, III, 47, 1; on luxury, *Ann.*, III, 52, 4; on

- the tribunician power for Drusus, *Ann.*, III, 56, 1; on vows to himself, *Ann.*, IV, 70, 1; on his opponents, *Ann.*, IV, 70, V, 5.
28. Letters of Augustus to the Senate, Suet., *Aug.*, 65, 2 (on Julia), and Dio, LVI, 28, 4 (on a tax measure).
29. Letters to the consuls, Dio, LVIII, 21, 3. The most famous case is that of the letter condemning Sejanus, which the praetorian praefect, Macro, delivered to the consuls (who had been prepared in advance) before the assembled Senate; Dio, LVIII, 9. Mommsen (III, 2, p. 953 [VII, p. 137]) suggests that when the Emperor's speech was read by a quaestor it did not put a motion but only stated the facts or his opinion, but that when it was read by the consuls it made a formal *relatio*, which took precedence over other motions.
30. Gaius in the Senate: Dio, LIX, 6, 1 and 7 (on his assumption of the consulship), LIX, 16, 1 (eulogy on Tiberius), LIX, 19, 3 and 7 (trials), LIX, 25, 9 (an amnesty). Letters: Dio, LIX, 22, 8 (an accusation against his sisters), LIX, 23, 1 (executions); Suet., *Gaius*, 44, 2 (on his British conquests, a letter delivered to the consuls before the full Senate assembled in the temple of Mars). Dio, LIX, 24, 8, states that he communicated normally through the consuls.
31. Claudius's seat in the Senate, Dio, LX, 16, 3; Suet., *Cl.*, 23, 2. His position on the tribune's bench would be in virtue of the *tribunicia potestas*, Mom., I, pp. 406, n. 4, 403, n. 2 (II, pp. 41, n. 4, 37, n. 5), and *Ann.*, I, 7, 5 (Tiberius). The seat between the consuls was granted permanently to Augustus; cf. above, n. 10. Dio (LX, 6, 1) speaks of the consuls as coming down from their seats to speak to Claudius and of him as rising from his to meet them, which may mean that he was sitting as an ordinary senator, not even on the tribunes' bench. Ruth, *Problem of Claudius*, p. 27, thinks that he had weak legs and had to sit; cf. Dio, LX, 2, 2.
32. Claudius's weak voice, Dio, LX, 2, 2.
33. Freedmen and praefects in the Senate: Dio, LX, 16, 5 (Narcissus prosecuted Galaesus); Suet., *Cl.*, 12, 1 (praefects and military tribunes escort him into the Senate); Dio, LX, 23, 3 (seats to Pollio, the praetorian praefect, and to Laco, procurator of the Three Gauls and ex-praefect of the Watch. Laco received the rank of ex-consul. Claudius cited as a precedent the introduction of Valerius, a Ligurian, by Augustus). For the presence of

- Claudius in the Senate cf. *Ann.*, XI, 6, 5 (debate on the *lex Cincia*); *Ann.*, XI, 15, 1 (debate on the haruspices); *Ann.*, XI, 23 (speech on the Gauls); *Ann.*, XII, 11, 1 (the Parthian Embassy); *Ann.*, XII, 41, 2 (honors to Nero); *Ann.*, XII, 58 (speeches of Nero, cf. Suet., *Nero*, 7. If Claudius was, as Suetonius says, consul, the date of Tacitus, 53 A.D., is too late); *Ann.*, XII, 61, 1 (the Coan Embassy). For a letter to the Senate, Dio, LX, 33, 10 (recommendation of Nero).
34. Speeches of Nero: *Ann.*, XIII, 4; Dio, LXI, 3, 1; Suet., *Nero*, 10, 1 (on his accession; cf. Dio and *Ann.*, XIII, 3, for the aid of his advisers in his speeches); *Ann.*, XV, 73, 1 (on the Pisonian conspiracy); *Ann.*, XVI, 4, 1 (where he refused further honors; the verb *dicittans* may not imply his presence); Suet., *Nero*, 10, 2 (a refusal of a vote of thanks).
35. Letters of Nero: *Ann.*, XIV, 10, 5, and Dio, LXI, 14, 3 (death of Agrippina); Suet., *Nero*, 41, 1, and Dio, LXIII, 26, 1 (revolt of Vindex). *Orationes* of the Emperor are mentioned but these were probably read by his quaestor; *Ann.*, XV, 35, 5 (on Silanus); *Ann.*, XVI, 27, 2 (on Thrasea and Soranus); Suet., *Nero*, 46, 3 (on Vindex). In these cases, the Emperor was appealed to as if present (e. g., Capito said *te, Nero*; the daughter of Soranus, *tu, Caesar*; the whole Senate, *tu facies, Auguste*), but Furneaux, on *Ann.*, XVI, 22, 3; 31, 1, thinks that the Emperor was invoked in his absence, as Tiberius was appealed to by Terentius in 32 A.D. when he was absent in Capreae; *Ann.*, VI, 8, 6; Dio, LVIII, 19, 3-5. Some of Nero's orations were read by the consuls; Suet., *Nero*, 15, 2.
36. For the use of the tribunician power to veto decrees of the Senate see above, Ch. VIII, p. 82, and below, Ch. XXI, pp. 179-180.
37. In the reign of Gaius, the Senate acquiesced in minting by the Emperor in Rome, and the right of coinage is a prerogative of sovereignty. Claudius restored the Senate's control of the copper coinage (Momigliano, *Claudius*, pp. 81-82) and Nero retained *ex s. c.* on the bronze coins until 64 A.D.; cf. Mattingly, *Roman Coins*, pp. 113-114.
38. Augustus' Italian Senate, cf. above, Ch. XIV, p. 117. Cf. also Jerome, *Aspects of the Study of Roman History*, p. 300.
39. Claudius apparently appealed to precedents of Augustus and Tiberius to justify his admission of the Aeduan chiefs; cf. the

- speech on the Gauls, Bruns, p. 196, no. 52, col. II, verses 2 ff., and the discussion by Hardy, *RLC.*, II, p. 142, of Hirschfeld's emendation. Cf. also Abbott and Johnson, pp. 351-354, no. 50, and the citation of Valerius the Ligurian, admitted by Augustus, Dio, LX, 23, 3.
40. Augustus' consideration towards the Senate, Suet., *Aug.*, 53, 3; Dio, LVI, 41, 3. For Julius, Suet., *Iul.*, 78, 1. Augustus consulted it on whether he should appear in court to testify for a friend, Suet., *Aug.*, 56, 3; Dio, LV, 4, 3. Cf. Stroux, *Eine Gerichtsreform*, pp. 74-78, for further examples.
41. The proposed inheritance tax, Dio, LVI, 28, 4.
42. The accounts left to the Senate at Augustus' death, Suet., *Aug.*, 101, 4; Dio, LVI, 33, 2.
43. Tiberius consulted the Senate on little matters, Dio, LVII, 7, 2; Suet., *Tib.*, 30. Sallustius Crispus warned Livia after the execution of Agrippa Postumus: *neue Tiberius uim principatus resolveret, cuncta ad senatum uocando*, *Ann.*, I, 6, 6. For Tiberius's attitude cf. Gelzer, *P.W.*, Reihe I, XIX, col. 522; Lévy, *Tiberius erga Senatum*, pp. 85-93, 113-114. For *maiestas* trials, Ciaceri, *Responsabilità di Tiberio*, III, pp. 3-13.
44. Tiberius accused of duplicity, Suet., *Tib.*, 30; *Ann.*, I, 74, 6; 77, 4; 81, 3, III, 60, 1; Dio, LVII, 1-3, 1. Cf. Furneaux, I, pp. 138 ff.
45. Tiberius urges the Senate to handle important matters, Suet., *Tib.*, 28. For cases in which he made his own opinion clear cf. the trial of Marcellus, *Ann.*, I, 74, 5 (cf. above, n. 19), or Dio, LVII, 7, 4: *εἰ γνώμην ἐποιούμην, τὰ καὶ τὰ ἄν ἀπεδειξάμην*, or Dio, LVII, 21, 1: *εἰ ὑπάτερον, οὐκ ἂν ἐποίησα τοῦτο* (i. e. appear as an advocate for a friend in court).
46. The Asylum Debate, 22 A.D., *Ann.*, III, 60 ff. Rogers, *Class. Philol.*, XXVII, 1 (Jan. 1932), pp. 76-78, connects with this the trial of Annia Rufilla which involved an abuse of the right of asylum at a statue of the Emperor.
47. Tiberius preferred *suasore te* to *auctore te*, Suet., *Tib.*, 27, and addressed the senators as *domini*, Suet., *Tib.*, 29, but refused the title himself, Suet., *Tib.*, 27; Dio, LVII, 8, 1.
48. He felt accountable to the Senate, Suet., *Tib.*, 28, and sought its guidance, Suet., *Tib.*, 29. The temple in Asia was dedicated to it as well as to Tiberius and Livia, *Ann.*, IV, 15, 4, and it appears on his coins, Gelzer, *P.W.*, Reihe I, XIX, col. 522.

49. His forbearance, Dio, LVII, 7, 5. Occasional irritation, as over the African proconsul, *Ann.*, III, 35, 1, and over the charges against Agrippina the Elder and Nero Caesar, *Ann.*, V, 3-5. Tacitus acknowledges the prevalent adulation which led him to exclaim: *o homines ad seruitutem paratos*, *Ann.*, III, 65, 3. Suetonius (*Tib.*, 33) states that he rescinded certain decrees on his own authority. Tiberius is reported to have said (Suet., *Tib.*, 59, 2) *oderint dum probent*, Gaius (Suet., *Gaius*, 30, 1), *oderint dum metuant*; a significant contrast. The phrase, with *metuant*, is attributed by Ribbeck to the *Atreus* of Accius; cf. Cic., *de Off.*, I, 28, 97, with Holden's note (p. 208). Seneca (*de Ira*, I, 20) dates the phrase in the Sullan period.
50. The request for a guard, Dio, LVIII, 17, 3; 18, 5. Claudius asked that his praetorian praefect and military tribunes might enter the Senate with him; Suet., *Cl.*, 12, 1.
51. Gaius promises to share his power with the Senate, Dio, LIX, 6, 1. The Senate reviewed the Praetorians in his company, Dio, LIX, 2, 1; he demanded from it honors for Tiberius, Dio, LIX, 2, 7; he asked it for a dispensation from a law, Dio, LIX, 10, 1; he reported to it from Gaul, Dio, LIX, 23, 1; Suet., *Gaius*, 44, 2; and he sought to encourage worthy knights throughout the Empire to aspire to magistracies by allowing them to wear senatorial garb, Dio, LIX, 9, 5.
52. Gaius' suspicion, Suet., *Gaius*, 26, 2; 48, 2. Cf. Dio, LIX, 16, 2-11, for his revival of cases dating from Tiberius's reign.
53. Votes of honors refused but desired by Gaius, Dio, LIX, 23, 3-4; 25, 5; 26, 3-4.
54. Claudius consulted the Senate, *Ann.*, XII, 38; 41, 2; 53; 60; Suet., *Cl.*, 12, 1; Dio, LX, 7, 4; 8, 3 (he allowed Agrippa and Herod to thank him in Greek before it; Tiberius had insisted on Latin); 12, 3; Stroux, *Eine Gerichtsreform* (papyrus in Bruns, p. 198, no. 53), pp. 70-80. Ruth, *Problem of Claudius*, pp. 100-105, gives references for his consideration towards the Senate. Momigliano (*Claudius*, p. 52) shows how Claudius's efforts to preserve the old tradition of the Senate were set at naught by the strangling of the Senate through his other reforms; cf. also pp. 80-103.
55. Claudius tried to make the Senate attend to business; Dio, LX, 10, 2; 11, 8. Cf. Momigliano, *Claudius*, p. 80, for a discus-

- sion of the end of Claudius's speech on jury-reform (Stroux, *Eine Gerichtsreform*, Bruns, p. 198, no. 53), in which he urges the senators, when they express their opinions, to do more than simply agree to the motion.
56. Claudius was suspicious of the Senate; Dio, LX, 3, 2. He had all who approached him searched, a practice to which Vespasian put a stop, and had a guard present at banquets, a custom which lasted until Dio's time. He was escorted into the Senate by the praetorian praefect and military tribunes; Suet., *Cl.*, 12; Dio, LX, 23, 3.
57. The *acta* of Gaius, Dio, LX, 4, 1 and 5.
58. The inaugural of Nero, *Ann.*, XIII, 4 ff.; Suet., *Nero*, 10, 1, *ex Augusti praescripto imperaturum*; Calpurnius, *Eclogues*, I, 62 ff., and IV.
59. He took its advice, *Ann.*, XIII, 50 (on the *uctigalia*, reading *senatores*, not *seniores*); refused it, *Ann.*, XIII, 27, 6 (frauds committed by freedmen).
60. In his proclamation on his Greek triumphs, Nero said: Νέρων Καῖσαρ νικῆ τόνδε τὸν ἀγῶνα, καὶ στεφανοῖ τὸν τε τῶν Ῥωμαίων δῆμον καὶ τὴν ἰδίαν οἰκουμένην, Dio, LXIII, 14, 4. He honors his "city" like a Greek victor, but does not mention the Senate. It may be noted that he is honored as the *εὐεργέτης* or *ἀγαθὸς δαίμων τῆς οἰκουμένης* in two inscriptions from Egypt; Cagnat, *Inscr. Graec. ad res Rom. pertinentes*, I, nos. 1110, 1124.
61. Senate's passivity in the case of Agrippina, *Ann.*, XIV, 13, 2. Conspiracies: Suet., *Nero*, 36, 1; Dio, LXII, 24; *Ann.*, XV, 48 ff.; and cf. pseudo-Seneca, *Octavia*, vv. 491 ff.
62. Stuart Jones, *Legacy of Rome*, p. 124, from Dio, LXIII, 27, 2; Suet., *Nero*, 43, 1.
63. Barker, *Legacy of Rome*, p. 75. For the exclusion from military commands under Gallienus, Victorinus, *Caes.*, 33, 34. In general cf. Boissier, *L'opposition sous les Caesars*, and Jerome, *Aspects of the Study of Roman History*, Ch. XIV, 'The Senate and the Caesars,' pp. 286-318.

CHAPTER XVI

1. Augustus and the *comitia*, Suet., *Aug.*, 40, 2; cf. his laws on bribery and corruption, the *lex Iulia de ambitu*, *Cod.*, IX, 26; *Dig.*, XLVIII, 14.
2. Election riots of 22 and 19 B.C., cf. *Mon. Anc.*, I, 31-32, II, 34-37; Dio, LIV, 10; Holmes, II, pp. 147-149. In 7 A.D. Augustus had to appoint all the magistrates; Dio, LV, 34, 2.
3. Absentee voting, Suet., *Aug.*, 46.
4. Augustus as an electioneer, Suet., *Aug.*, 56, 1.
5. Tenney Frank on Rome's population, *Race Mixture*, pp. 693, 699, 702.
6. Elections transferred to the Senate, *Ann.*, I, 15, 1. Greenidge (*RPL.*, p. 372) suggests that the consular elections may have remained popular and that this passage refers only to praetors; cf. *Ann.*, I, 81, and Marsh, *Tiberius*, pp. 296-303.
7. Vell. Pat., II, 124, 3.
8. Revival under Gaius, Dio, LIX, 20, 2-3; Suet., *Gaius*, 16, 2.
9. People and the imperial power, above, Ch. IV, p. 28; *renuntiatio*, Dio, LVIII, 20, 4, quoted below, n. 19; Suet., *Dom.*, 10, 4; Furneaux, I, p. 89.
10. Nero had to settle the election of praetors in 60 A.D.; *Ann.*, XIV, 28, 1.
11. *Latus clavus* and *equestris militia*, cf. above, Chs. X, p. 95; XIV, p. 118.
12. *Nominatio* and *commendatio*, Greenidge, *RPL.*, p. 349; Furneaux, I, p. 95; and above, Ch. XIV, p. 118; Marsh (*Tiberius*, p. 298) traces the origin of *commendatio* to Augustus' inability in later life to canvass in person for his candidates, on the basis, presumably, of Dio, LV, 34, 2 (8 A.D.), who says that τούτω (year) δὲ καὶ τοῖς ἔπειτα γράμματα τινα ἐκτιθεὶς συνίστη τῷ τε πλήθει καὶ τῷ δήμῳ ὅσους ἐσπούδαζε. But the custom seems to date back to Caesar, cf. n. 17, below.
13. Tiberius on nominating praetors, *Ann.*, I, 14, 6; *Mom.*, II, 2, p. 919 (V, p. 201). Marsh (*Tiberius*, pp. 298-299) thinks that the four commended candidates of the Emperor were distinct from the twelve nominated by him and that out of the twelve the Senate chose eight. Thus, what the Senate wanted was an increase in the number of praetors, not of the candidates. The explanation in the text seems simpler.

14. Twelve the normal number elected after 11 A.D., Dio, LVI, 25, 4; of these Tiberius normally commended four; Mom., II, 2, p. 926 (V, p. 210); *Ann.*, I, 15, 2.
15. For example, by G. G. Ramsay, on *Ann.*, I, 14, 2.
16. Fifteen praetors in 33 A.D., Dio, LVIII, 20, 5. In 16 A.D. Tiberius refused a proposal that he nominate twelve *legati legionum* yearly, which would in effect have designated them as praetors five years in advance; Furneaux on *Ann.*, II, 36, 1. He did, however, reward the senators who accused Libo with praetorships *extra ordinem*; *Ann.*, II, 32, 1. In the first instance, Tiberius refused also a proposal to hold the elections five years before the magistrates entered office.
17. *Commendatio*, perhaps, began under Caesar; Suet., *Iul.*, 76, 3; App., *Bell. Civ.*, II, 128 (535); Mom., II, 2, p. 926 (V, p. 209); *CAH.*, IX, p. 732, where it is stated that Caesar refused an offer of *commendatio* and used only *nominatio*. The *lex de imperio Vespasiani*, Dess., 244 (Bruns, p. 202, no. 56), ll. 10 ff., reads: *utique quos magistratum potestatem imperium curationemue cuius rei petentes senatui populoque Romano commendauerit quibusque suffragationem suam dederit promiserit, eorum comitis quibusque extra ordinem ratio habeatur.*
18. *Commendatio* in the early period, Dio (LIII, 2, 3, 28 B.C.) says that Augustus frequently appointed the *praetor urbanus*, which Furneaux, I, p. 87, takes as a reference to *commendatio*. For Tiberius cf. above, n. 14.
19. The inscription, restored from an old record, reads: *per commendationem Ti. Caesaris Augusti ab senatu cos. dest.*; Dess., 944 (Holtzhausser, p. 29; Furneaux on *Ann.*, I, 81, 1); Mommsen (II, 2, p. 923, n. 1 [V, p. 206, n. 2]) thinks this merely a *nominatio*. The reading is in any case doubtful; cf. Dess., notes. The passage in Dio is LVIII, 20, in which there is a full discussion of the irregular treatment of the consular terms by Tiberius which suggests that he disposed of them pretty freely without regard to the laws or elections. He remarks at the end: *τῶν δὲ δὴ τὰς ἄλλας ἀρχὰς αἰτούντων ἐξελέγετο ὅσους ἤθελε, καὶ σφας ἐς τὸ συνέδριον ἐσέπεμπε, τοὺς μὲν συνιστὰς αὐτῷ, οἵπερ ὑπὸ πάντων ἤροοντο, τοὺς δὲ ἐπὶ τε τοῖς δικαιώμασι καὶ ἐπὶ τῇ ὁμολογίᾳ τῷ τε κλήρῳ ποιούμενος, καὶ μετὰ τοῦτο ἐς τε τὸν δῆμον καὶ ἐς τὸ πλῆθος οἱ προσήκοντες ἑκατέρῳ, τῆς ἀρχαίας ὀσίας ξενεκα, καθάπερ καὶ νῦν, ὥστε ἐν εἰκόνι δοκεῖν γίγνεσθαι, εἰσὶόντες ἀπεδείκνυντο. εἰ*

δ' οὖν ποτε ἐνέλιπόν τινες ἢ καὶ φιλονεικία ἀκράτῳ ἐχρήσαντο, καὶ ἐλάττους προχειρίζοντο.

20. *Commendatio* under Nero, *Hist.*, I, 77; *Mom.*, II, 2, p. 924 (V, p. 208). But cf. Smilda on *Suet.*, *Cl.*, 46, who takes *consules designaret* as there meaning commendation, and cites *Suet.*, *Gaius*, 18, 2, for *praetorem extra ordinem designabat*, which he also takes as commendation.
21. Control of consulship by nomination, *Furneaux*, I, p. 95. Cf. in general *Ann.*, I, 81, for Tiberius's methods of indicating his preferences without appearing to dictate to the Senate.
22. Regularization of the *cursus*, cf. above, Ch. XIV, p. 118. Cf. Cichorius, *Studien*, pp. 285-291, for a criticism of *Mom.*, I, pp. 554 ff. (II, pp. 213 ff.), on the order.
23. The vigintivirate, cf. above, Ch. XIV, n. 4, and *Willems*, p. 463.
24. Patricians excused from tribunate or aedileship, *Willems*, p. 454, from *Mom.*, I, p. 555, n. 3 (II, p. 214, n. 4).
25. *Leges annales*, *Mom.*, II, 1, p. 251 (III, p. 288); *Gardthausen*, I, p. 603; *Dio*, LIII, 14, 2; *Suet.*, *Aug.*, 36; *Dess.*, *Gesch.*, I, p. 106; *Greenidge*, *RPL.*, p. 432.
26. Lack of candidates, *Mom.*, I, p. 474 (II, p. 119); *Cichorius*, *Studien*, pp. 288 ff.; *Gardthausen*, I, pp. 602-603, II, pp. 327-328, nn. 6-8; *Furneaux*, I, p. 91, n. 9.
27. Lack of provincial quaestors, *Dio*, LIII, 28, 4.
28. *Lectio* of 13 B.C., cf. above, Ch. X, p. 93, and *Dio*, LIV, 26, 3.
29. Knights elected to tribunate, *Dio*, LIV, 30, 2; *Suet.*, *Aug.*, 40, 1.
30. Knights in tribunate in 12 A.D., *Dio*, LVI, 27, 1.
31. *Claudius* did the same; *Dio*, LX, 11, 8. He was especially favorable towards knights; *Momigliano*, *Claudius*, pp. 101-103.
32. Lack in aedileship, *Dio*, LV, 24, 9; cf. *Dio*, XLIX, 16, for measure of 36 B.C.
33. *Gaius*' elections, *Dio*, LIX, 20, 4.
34. Praetors' function for aediles, *Dio*, LIII, 2, 2.
35. *Calpurnius* twice aedile, *Dio*, LIII, 33, 3.
36. Inscription of *Propertius*, *Dess.*, 914 (*Gardthausen*, II, p. 328, n. 8): *IIIuir cap. et insequenti anno proIIIuir., q., pr. desig. ex s.c. uiar. cur., pr. ex s.c. pro aed. cur. ius dixit, procos.* The occurrence of a man who was *quaestor* and then *proquaestor provinciae Cypri* under *Augustus*, *Dessau*, 928 (*Gardthausen*, II, p. 329, n. 16), does not prove a lack of provincial quaestors since the office of *proquaestor* is mentioned under the Republic, for

- example, Dess., 865. It may be that quaestors were occasionally sent out to minor provinces after their term of office; cf. Dess., 1002, of the time of Nero or Vespasian, *q. urbano, pro q. prouinc. Cretae et Cyrenarum*. On the other hand, these inscriptions could well be used in support of the passage from Dio cited above, n. 27.
37. Functions of the republican magistrates under the Empire, cf. esp. Willems, pp. 453-464; Greenidge, *RPL.*, pp. 367-370.
38. For the consulship cf. *Dig.*, I, 10.
39. *Consules suffecti*, Holmes (II, p. 29, n. 3, citing Mom., II, 1, p. 84, n. 4 [III, p. 96, n. 2], and II, 2, p. 797, n. 3 [V, p. 61, n. 3]) maintains that there were semi-annual terms under Augustus, changing on July 1. Cf. Dio, LVIII, 20, 1, and Suet., *Nero*, 15, 2.
40. Last full consulship, Dio, LVIII, 20, 1, Domitius in 32 A.D.
41. Grants of *ornamenta*: Tiberius bestowed *praetoria* on his praetorian praefects, Sejanus and Macro, Dio, LVII, 19, 7; LVIII, 12, 7. In the case of Macro the decree of the Senate is mentioned. Tiberius bestowed *quaestoria* on the praefect of the watch, Laco, Dio, LVIII, 12, 7. Claudius gave *quaestoria* to Narcissus, the freedman secretary *ab epistulis*, by a decree of the Senate, *Ann.*, XI, 38, 5; Suet., *Cl.*, 28; *praetoria* to Crispinus, the praetorian praefect, by decree of the Senate, *Ann.*, XI, 4, 5, and to Aquila, an equestrian praefect of a cohort, *Ann.*, XII, 21, 2, and to Pallas, the freedman secretary *a rationibus*, *Ann.*, XII, 53, 2; Suet., *Cl.*, 28, and to Herod, brother of Agrippa, Dio, LX, 8, 3. He gave *consularia* to Laco, who had become procurator of the three Gauls, Dio, LX, 23, 3; Dess., 1336, and to Cilo, procurator of Bithynia, *Ann.*, XII, 21, 2; Dio, LX, 33, 6 (who makes him governor), and to Agrippa, Dio, LX, 8, 3, and even to the humblest procurators, the *ducenarii*, Suet., *Cl.*, 24, 1. He bestowed *triumphalia* on Silanus while he was still a youth and on his legates along with their commands so that they should not seek war to gain them, Suet., *Cl.*, 24, 3. Nero asked the Senate to bestow *consularia* on Labeo, who had been his guardian, *Ann.*, XIII, 10, 1, and on his favorite, Nymphidius, *Ann.*, XV, 72, 3.
42. Vitellius nominated himself *perpetuum consulem*, Suet., *Vitel.*, 11, against the precedent of Augustus; cf. above, Ch. IV, pp. 32-34. The Flavians saw to it that the Emperor or some member of the

- family held the first consulships of the year annually; Stuart Jones, *Roman Empire*, p. 117.
43. The last consul who was not an Emperor was Basilius in the Orient in 541 A.D.; Willems, p. 596, n. 8.
 44. The consuls, under Nero, normally shrank from initiating measures without the Emperor's consent; *Ann.*, XIII, 26, 2, XIV, 49, 2.
 45. Number of praetors, Suet., *Aug.*, 37 (cf. Shuckburgh, *ad loc.*); Vell. Pat., II, 89, 3; Dio, XLII, 51, 3, ten in 46 B.C.; XLIII, 47, 2, fourteen in 45 B.C.; XLIII, 49, 1; 51, 4, sixteen after 44 B.C.; LIII, 32, 2, ten in 23 B.C. Marsh, *Founding of the Roman Empire* (p. 232, n. 1), follows Mom., II, 1, p. 202 (III, p. 232), in thinking that in 27 B.C. Augustus reduced the number to eight and in 23 raised it to ten, the two new praetors being put in charge of the treasury. Dio reports as follows: LVI, 25, 4, sixteen in 11 A.D. and then twelve for some time; LVIII, 20, 5, fifteen in 33 A.D. and sometimes sixteen, sometimes fewer; LIX, 20, 5, sixteen in 39 A.D. and it remained near that number; LX, 10, 4, fourteen to eighteen. Pomponius, *Dig.*, I, 2, 2, 32, gives eighteen in the second century.
 46. Cf. below, Ch. XXI, p. 170, for the *praetor fideicommissarius*; Willems, p. 460. Important cases apparently went to the consuls or provincial governors, Willems, p. 458, on the basis of Suet., *Cl.*, 23, 1, *potestatibus*, and other passages.
 47. The case of Ponticus, *Ann.*, XIV, 41, 2.
 48. Jurisdiction of the praefects, Willems, pp. 432, 470, 476, 502.
 49. Reform of the City of Rome, Gardthausen, I, pp. 925-935, 943-954; Willems, p. 507; cf. Dio, LV, 8, 7.
 50. Edict of the Aediles, Bruns, p. 237, no. 66; Cuq, *Manuel*, pp. 467-471.
 51. The freedman who invoked tribunician *auxilium*, Dio, LX, 28, 1.
 52. Antistius and Vibullius, *Ann.*, XIII, 28, 56 A.D.
 53. Intercession of Haterius, *Ann.*, I, 77, 3; other cases of intercession, Otho on behalf of Acutia, *Ann.*, VI, 47, 1; a tribune interceded against a senatorial decree condemning citizen-astrologers, Dio, LVII, 15, 9 (rejected by Marsh, *Tiberius*, p. 281), who cites this as an instance of the "apparent democracy"; when, however, Arulenus offered to intercede on behalf of

- Thrasea under Nero, he was dissuaded from undertaking a useless risk, *Ann.*, XVI, 26, 6. Cf. below, Ch. XXI, n. 51.
54. On the jurisdiction of the tribunes cf. Greenidge, *RPL.*, App. II, pp. 447-451, and Furneaux on *Ann.*, XIII, 28.
55. Helvidius and Obultronius, *Ann.*, XIII, 28, 5.
56. Tribunician plebiscite, Macrobius, *Sat.*, I, 12, 35 (plebiscite of Pacuvius on the month of August, Bruns, p. 193, no. 48). Mommsen (II, 1, p. 312) denies the survival of such legislation, but in the French edition, III, p. 360, n. 1, Macrobius is cited as evidence. Cf. Cuq, *Manuel*, p. 16.
57. Sacrosanctity of a tribune, Dio, LV, 10, 15, identified by Furneaux possibly with the Gracchus of *Ann.*, I, 53, 4 ff.
58. Quaestors and the *aerarium*, *Ann.*, XIII, 29, 56 A.D. For the abolition of the Italian *provinciae*, Dio, LX, 24, 3; Suet., *Cl.*, 24, 2; Momigliano, *Claudius*, pp. 99-100.
59. The vigintivirate, cf. above, Ch. XIV, n. 4, and Willems, p. 463.
60. Censors vanish, cf. above, Ch. X, p. 89; Dio; LIV, 2; Suet., *Aug.*, 37; Vell. Pat., II, 95, 3.
61. *Praefecti urbi Feriarum Latinarum causa*, Dio, LIII, 33, 3, who says that in 23 B.C. there were two each day. Pomponius (*Dig.*, I, 2, 2, 33) distinguishes them from the imperial *praefecti annonae et uigilum*, who, he says, were not magistrates *sed extra ordinem utilitatis causa constituti*. Octavian held the position in his youth; Nic., *Dom.*, 5. He normally appointed young men; Dio, XLIX, 42, 1.
62. Dictatorship, cf. above, Ch. XII, n. 19.
63. Career of Vell. Pat., II, 111, 3; 124, 4. For Tiberius's respect for the magistrates cf. Lévy, *Tiberius erga Senatum*, pp. 93-95, 114.
64. Claudius *cuncta legum et magistratum munia in se trahens*, *Ann.*, XI, 5, 1. Nero stated that *teneret antique munia senatus*, etc., *Ann.*, XIII, 4, 3, but it was an empty promise.
65. *Ornamenta*, Mom., I, p. 456 (II, p. 100); Willems, p. 396; Stuart Jones, *Legacy of Rome*, p. 121; and above, n. 41, for examples.
66. Claudius degraded them by his grants; Suet., *Cl.*, 28; Mom., I, p. 463 (II, p. 108).
67. Gaius and magistrates: he allowed them free jurisdiction without appeal to himself, Suet., *Gaius*, 16, 2; he removed the consuls and left the City three days without magistrates, Suet.,

- Gaius*, 26, 3; Dio, LIX, 20, 1, 39 A.D. (Dio has the successor appointed at once); he insulted Vespasian, Dio, LIX, 12, 3.
68. Nero and the consulate, Suet., *Nero*, 35, 1. The immunity of magistrates was normally respected by the Emperors; besides the case of the tribune under Augustus (cf. above, n. 57) there might be cited: Sagitta, who could not be tried for murder until he *tribunatu abierat*, *Ann.*, XIII, 44, 9; Antistius as praetor was arraigned for *maiestas* in 62 A.D. and it was proposed *adimendam reo praeturam* but Thrasea prevented this, *Ann.*, XIV, 48, 4; a praetor, accused of insult to Tiberius, left the Senate, removed his robe of office, and returned as a private citizen in order that complaint might be lodged at once, Dio, LVII, 21, 2; Tiberius did not allow the trial of a propraetor designate of Spain though he had been designated ten years before, and he granted immunity to all designated magistrates and governors, Dio, LVIII, 8, 3; Claudius did not permit two offices to be held in immediate succession, so as to allow time for prosecutions, Dio, LX, 25, 4; Gaius forced some aediles and praetors to resign office before standing trial, Dio, LIX, 23, 8.
69. Nero removed the consuls of 68 A.D.; Suet., *Nero*, 43, 2.
70. Augustus said: *amicos ita magnos et potentes in ciuitate esse uoluit ut tamen pari iure essent quo ceteri legibusque iudicariis aequae tenerentur*, Suet., *Aug.*, 56, 2. Cf. this whole section for his amenability to the laws. Cf. also his statement on his equality with his colleagues in the magistracies, *Mon. Anc.*, VI, 21-23.
71. Augustus only once interfered in behalf of an accused man and then by entreaty, not by the tribunician power; Suet., *Aug.*, 56, 4. He voluntarily offered his testimony in the case of Primus, Dio, LIV, 3, 2. On one occasion he assumed the praetor's seat to check abuse of his friends but then left; Dio, LIV, 30, 4. He sat as assessor to magistrates, with a vote equal to theirs, except that he had the deciding vote when the verdict would otherwise be a tie; Dio, LV, 34, 1, LI, 19, 7. He reformed the judiciary and was much interested in it; Suet., *Aug.*, 32, 3-33; Dio, LV, 33, 5.
72. Tiberius as assessor, Suet., *Tib.*, 33, *Ann.*, I, 75, 1; Dio, LVII, 7, 6.
73. Claudius as assessor, Dio, LX, 4, 4. Cf. below, Ch. XXI, n. 93.
74. Nero promised to leave the republican magistrates alone; *Ann.*, XIII, 4, 3.

CHAPTER XVII

1. Decay of the Roman *Populus*, Tenney Frank, *Race Mixture in the Roman Empire*; Nilsson, *Imperial Rome*, p. 262; Greenidge, *RPL.*, p. 371. For a criticism of Frank, cf. A. Calderini, *Contributi dell' Epigraphia allo Studio Etnografico di Roma*. For Augustus' narrow Italian point of view, cf. R. Heinze, *Kaiser Augustus*. Schönbauer, *Zeit. der Sav. Stift.*, Rom. Abt., XLVII (1927), pp. 295-310, holds that a monarchy was necessary because the Republic could not cope with the economic situation.
2. *Panem et circenses* comes from Juvenal, *Sat.*, X, 81. Cf. Ros-tovtzeff, *SEH.*, p. 80, and Gardthausen, I, pp. 587-598.
3. Augustus as the Elect of the Roman People, Dess., *Gesch.*, I, p. 340; cf. above, Ch. III, p. 21.
4. Tacitus on elections, *Ann.*, I, 15, 1. For the important elections, contrast Augustus' efforts to get a popular election of consuls in 22 and 19 A.D., above, Ch. XVI, p. 131.
5. Social reforms of Augustus, cf. above, Ch. X, n. 12; Vell. Pat., II, 89, 4; Dio, LIII, 21, 3; *Mon. Anc.*, 3, 11-21; Gardthausen, I, pp. 887-912.
6. Citizenship and manumission, cf. above, Ch. X, n. 12; Suet., *Aug.*, 40, 3.
7. Absentee voting, Suet., *Aug.*, 46.
8. Dio on Augustus, LIII, 33, 1.
9. His accessibility and democratic conduct, Suet., *Aug.*, 53, 56.
10. Pylades, Dio, LIV, 17, 5.
11. Cessation of popular elections, cf. above, Ch. XVI, p. 132, and nn. 6-9, 19, where the extent of the change is discussed.
12. Gaius' restoration of popular elections, Dio, LIX, 20, 4. His scorn of the people, Dio, LIX, 13, 3-7.
13. Claudius and the citizenship, cf. above, Ch. X, pp. 99-100. Cf. Dio, LX, 17, 4; Suet., *Cl.*, 25, 3 (execution of those who assumed the citizenship without right); Dio, LX, 2, 6-7; Suet., *Cl.*, 29 (weakness of Claudius); Dio, LX, 17, 5-6 (venality of the court).
14. Nero and the people, *Ann.*, XIV, 13, 1, XV, 33, 3, XVI, 4, 2-4.
15. *Lex de imperio*, etc., cf. above, Ch. IV, pp. 25-28.
16. Cuq, *Manuel*, p. 16, for the popular assemblies. For the plebiscite of Pacuvius cf. above, Ch. XVI, n. 56.

17. For laws introduced by the consuls cf. the *leges Iunia, Fufia Caninia, Aelia Sentia* (all on manumission), *Papia Poppaea* (marriage, etc.), *Quinctia* (aqueducts), etc. The *leges Iuliae* dealt with such matters as *collegia*, adultery, luxury, corruption, violence, etc. Other laws mentioned in the authorities dealt with *repetundae* (cf. the Cyrene Edicts), torturing slaves, legal *actiones*, etc. There were special laws like the *lex curiata* sanctioning the adoption of Tiberius and Agrippa Postumus (Suet., *Aug.*, 65, 1) or the *plebiscitum de mense Augusto* (Macrob., I, 12, 35 [Bruns, p. 193, no. 48]; cf. above, Ch. XVI, n. 56).
18. Under Tiberius only about three important laws were enacted, that is, the *lex Iunia Vellaea* on posthumous heirs, unless this is earlier, Gaius, *Inst.*, II, 134; and the *lex Visellia* on granting citizenship to freedmen in the *Vigiles*, 24 A.D., *Cod.*, IX, 21, 1; and a law on the *flamen dialis*, *Ann.*, IV, 16, 1. Under Claudius there was a *lex Claudia* on the *tutela* of women, Gaius, *Inst.*, I, 157; a law on games, Dio, LX, 6, 5; a law on debt, *Ann.*, XI, 13, 2; and what is called a *lex rogata* (though it must have been a *curiata*) on the adoption of Nero, Furneaux on *Ann.*, XII, 26, 1.
19. *Lex Petronia* under Nero prevented masters from condemning slaves to the lions without a judicial hearing; *Dig.*, XLVIII, 8, 11, 2.
20. *Lex agraria* under Nerva, *Dig.*, XLVII, 21, 3, 1. A few laws occur under the Flavians; cf. Mom., I, p. 630, n. 4 (II, p. 304, n. 1).
21. On the legal validity of decrees of the Senate and constitutions of the Emperor cf. Girard, *Manuel*, pp. 59, 63 ff. (E. T., pp. 118, 126 ff.); below, Ch. XIX, pp. 158, 161.
22. On the troubles of 22 B.C. cf. Dio, LIV, 1; *Mon. Anc.*, I, 31-36; for 19 B.C., Dio, LIV, 10; *Mon. Anc.*, II, 34-37; cf. above, Ch. XVI, n. 2.
23. Troubles over the theatre, cf. above, Ch. X, n. 69. When Tiberius removed a popular statue by Lysippus from in front of the baths of Agrippa, the people shouted out against him in the theatre until he restored it; Pliny, *N.H.*, XXXIV, 8, 19 (62).
24. The popular clamors in favor of Julia induced Augustus to recall her from her island to the mainland, Dio, LV, 13, 1; the riots over Germanicus and Piso are described in *Ann.*, II, 82, 4; III, 14, 5; the wife and the son of Germanicus receive popular

- support in *Ann.*, V, 4, 3; the popular agitation in favor of Claudius's marriage with Agrippina was probably engineered, *Ann.*, XII, 7, 1; Agrippina instigated a bread riot to make Claudius favor Nero, Dio, LX, 33, 10; Nero feared the people after the murder of Agrippina, *Ann.*, XIV, 13; Dio, LXI, 16; on Octavia cf. *Ann.*, XIV, 61; for joy at the deaths of Sejanus, Dio, LVIII, 11, 3-5, and of Tiberius, Suet., *Tib.*, 75, 1; and of Nero, Dio, LXIII, 29, 1; Suet., *Nero*, 57, 1.
25. Popular clamor for tax reduction, *Ann.*, XIII, 50, 1; against a tax on market produce, Pliny, *N.H.*, XIX, 56 (emended).
 26. On the torture of slaves, *Ann.*, XIV, 42, 2; 45, 2.
 27. On Nero's postponed departure for the East, *Ann.*, XV, 36.
 28. *Mon. Anc.*, III, 7-21, lists the gifts of Augustus to the populace of Rome.
 29. On free corn, *Mon. Anc.*, III, 21 (Hardy, p. 81); Holmes, II, pp. 25, 97; Gardthausen, I, p. 588; Hirschfeld, pp. 236-240.
 30. On the grain supply cf. Greenidge, *RPL.*, 411 and refs.; Gardthausen, I, pp. 588-590; Hirschfeld, pp. 232-251.
 31. Entertainments given by Augustus, *Mon. Anc.*, IV, 31-48; Gardthausen, I, pp. 593-598.
 32. Public buildings, de Ruggiero, *Lo Stato e le Opere pubbliche in Roma antica*.
 33. The Praetorian Guard was placed outside Rome as a threat to both Senate and People, *Ann.*, IV, 2; Suet., *Tib.*, 37, 1; Sejanus threatened to use troops against the Senate and People in the matter of the elder Agrippina and Nero, *Ann.*, V, 4, 5; cf. Dio, LVIII, 18, 3.

CHAPTER XVIII

1. Schulz, *Das Wesen*, pp. 1-51, and above, Ch. IV, pp. 27-28.
2. Caesar said that two things were the source of political power, soldiers and gold; Dio, XLII, 49, 4. Dio (LIII, 16, 1) also states that Augustus' strength lay in the control of troops and money. These sentiments might be expected from a writer who lived under the Severi, for Septimius is said to have advised his sons: ὁμοιοῦτε, τοὺς στρατιώτας πλουτίζετε, τῶν ἄλλων πάντων καταφρονεῖτε; Dio, LXXVI (Loeb, LXXVII), 15, 2, quoted by Ros-tovtzeff, *SEH.*, p. 354. Gardthausen (I, p. 523) accepts Dio's view on Augustus. Mattingly (*Roman Coins*, pp. 155-159) ac-

cepts the view given here and traces the rise of the army in the coinage.

3. Army under the later Republic, cf. above, Ch. II, p. 15. Tiberius said on his accession: *οἱ στρατιῶται οὐκ ἔμοι ἀλλὰ δημόσιοι εἰσι*, Dio, LVII, 2, 3, and Nero promised *se mandatis exercitiis consulturum*, *Ann.*, XIII, 4, 3.
4. Army and the *imperium*, cf. above, Ch. IV, pp. 27-28.
5. Army organization; *The Roman Legions*, by H. D. M. Parker, is one of the more recent and convenient works.
6. Financial burden of the army, Gardthausen, I, p. 626.
7. The complaints of the Pannonian legions, *Ann.*, I, 17 ff.
8. Augustus was forced, on the Varian disaster, to levy from the Roman proletariat; Dio, LVI, 23, 2-3; Suet., *Aug.*, 25, 2.
9. As a possible indication of the change in the composition of the legions, contrast the complaints of the Pannonian legions that they were never returned to Italy (*Ann.*, I, 17, 5 and 10) with the failure of Nero's military colonies in Italy because the men straggled back to the provinces where they had served (*Ann.*, XIV, 27, 3), and with the comments on the barbarian aspect of Vitellius's German legions, *Hist.*, II, 88. The "chief captain" (a military tribune) who arrested Paul had purchased his citizenship for a great sum; *Acts*, 22, 28.
10. For Tiberius's commands to the troops before his recognition, *Ann.*, I, 3, 3; 7, 7; Dio, LVII, 2, 1; 8, 2.
11. *Statione militum, hoc est ui et specie dominationis assumpta*, Suet., *Tib.*, 24, 1.
12. Tacitus, *Ann.*, I, 8, 6-7, and Dio, LVII, 2, 2-3, scoff at Tiberius's fears.
13. The German legions *ui cuncta tracturi*, *Ann.*, I, 38, 1. For the urban proletariat cf. above, n. 8.
14. Tiberius was in the eyes of the German legions *non a se datum*; Suet., *Tib.*, 25, 2. For Germanicus cf. *Ann.*, I, 31 ff., esp. 35, 2.
15. *Militesne appelem . . . aut ciues?*, *Ann.*, I, 42, 4; cf. Caesar, who quelled the revolting soldiers of the Tenth Legion by calling them *Quirites* instead of *milites*, Suet., *Iul.*, 70.
16. Tiberius was afraid to put the loyalty of the troops to the last test by appearing in person; *Ann.*, I, 47, 4.
17. Piso and the eastern troops, *Ann.*, II, 77 ff., 19 A.D.
18. Silius, *Ann.*, IV, 18, 2, 24 A.D., after the revolt of Sacrovir.
19. Gaetulicus, *Ann.*, VI, 30, 3 ff., 35 A.D.

20. Scribonianus, Dio, LX, 15, 2; Suet., *Cl.*, 13, 2; 35, 2.
21. Asinius Gallus, Dio, LX, 27, 5.
22. Valerius Asiaticus, *Ann.*, XI, 2, 1.
23. Plautus and Sulla, *Ann.*, XIV, 57, 1, 62 A.D.
24. The praetorian tribune Cassius Chaerea led in the assassination of Gaius, Suet., *Gaius*, 56, 2; the praetorian praefect and others were in the Pisonian conspiracy, *Ann.*, XV, 49 ff.
25. Sejanus and the praetorian camp, *Ann.*, IV, 2; Suet., *Tib.*, 37, 1, 23 A.D. In the matter of the elder Agrippina and Nero, he threatened to use them against the Senate, *Ann.*, V, 4, 5, 29 A.D. Cf. also Dio, LVIII, 18, 3.
26. The fall of Sejanus, Dio, LVIII, 9, 5; 11, 4; 12, 2.
27. Senate on the fall of Gaius, Suet., *Cl.*, 10, 3; Dio, LIX, 30-3, LX, 1, 2. The Urban Cohorts, composed of freedmen, were less aggressive than the Praetorians, and they hardly figure in the history of the period.
28. Galba and Piso, *Hist.*, I, 14; cf. the unfavorable reception of Piso by the troops in *Hist.*, I, 18. Nerva and Trajan, Dio, LXVIII, 3 ff.
29. The hereditary principle, cf. above, Ch. VII, pp. 77-78.
30. Elevation of Claudius, Dio, LX, 1; elevation of Nero, *Ann.*, XII, 69; cf. Mattingly, *Roman Coins*, p. 157 and pl. XXXIX, 1, 3. Yet Claudius feared the Praetorians or their officers when he was about to kill Messalina and made Narcissus praefect for a day; *Ann.*, XI, 31, 2.
31. Agrippina threatened to bring Britannicus before the troops against Nero, *Ann.*, XIII, 14, 5, 55 A.D. Cf. *Ann.*, XIII, 18, 3; 21, 7; XIV, 7, 2.
32. Nero's last salute, Suet., *Nero*, 48, 2. For the winning away of the Praetorians, Dio, LXIII, 27, 2b; *Hist.*, I, 5.
33. The German bodyguard: Augustus kept some Batavians until the defeat of Varus, when he discharged them; Dio, LV, 24, 7, LVI, 23, 4; Suet., *Aug.*, 49. They appear again in *Ann.*, I, 24, 3, 14 A.D., and were probably, therefore, restored by Augustus. They alone remained faithful to Gaius at the end; Dio, LIX, 30, 1b; Suet., *Gaius*, 58, 3 (cf. 43, where they are Batavians). Nero removed Agrippina's German bodyguard before launching his attack on her, which suggests that they were not confined to the Emperor; *Ann.*, XIII, 18, 4; he himself, during the Pisonian conspiracy, had the most confidence in the German mercenaries;

- Ann.*, XV, 58, 2. They were dismissed by Galba; Suet., *Galba*, 12, 2. Cf. Furneaux on *Ann.*, I, 24, 3.
34. For imperial gratuities to the troops cf. Abbott and Johnson, p. 339. Augustus founded colonies of veterans at first, *Mon. Anc.*, III, 22-28 (Hardy, pp. 82-83), but in 14 B.C. substituted a money bounty based on the *aerarium militare*; Dio, LIV, 25, 5, LV, 23, 1; 24, 9 (the *aerarium militare*); *Mon. Anc.*, III, 28-33 (Hardy, pp. 84-86). He left a large bequest to them, *Ann.*, I, 8, 3. Tiberius claimed that he alone was to reward the troops, *Ann.*, VI, 3, 1 (cf. Caracalla, Dio, LXXVII, 10, 4), but he was mean, Suet., *Tib.*, 48, 2. He left bequests, Dio, LIX, 2, 1. Claudius gave donatives, Dio, LX, 12, 4. Donative given by Agrippina when Nero assumed the *toga uirilis*, *Ann.*, XII, 41, 3, and Suet., *Nero*, 7, 2. Nero granted free corn to the Praetorians, Suet., *Nero*, 10, 1; rewarded troops on the murder of Agrippina, Dio, LXI, 14, 3, and on the suppression of the Pisonian conspiracy, Dio, LXII, 27, 4; *Ann.*, XV, 72, 1. Inasmuch as the pay of the army had not been raised since the time of Caesar, it was probably imperative to supplement it by extraordinary gifts; cf. Furneaux on *Ann.*, I, 17, 8.
35. *Milites* for *commilitones*, Suet., *Aug.*, 25, 1; Julius called them *commilitones*, Suet., *Iul.*, 67, 2. Galba, about to be slain, cried out: *quid agitis commilitones? ego uester sum et uos mei*, Suet., *Galba*, 20, 1.
36. Augustus and the troops, Suet., *Aug.*, 24-25.
37. Tiberius and the troops, before his accession, *Ann.*, I, 3, 3; 34, 5, etc.; Vell. Pat., II, 104, 3-4, 5 A.D.; Germanicus, *Ann.*, I, 31 ff.; Suet., *Tib.*, 25, 2; Dio, LVII, 3, 1; 4, 1; Sejanus, Suet., *Tib.*, 48, 2; Dio, LVIII, 18, 3.
38. Gaius was *exoptatissimus princeps maximae parti prouincialium ac militum* at his accession, Suet., *Gaius*, 13; Rosborough, p. 22; his loss of popularity came after his vain campaign in Gaul, Suet., *Gaius*, 45-49, esp. after his idea of decimating the legions which had once besieged him and his mother in 14 A.D., Suet., *Gaius*, 48, 1. Cf. Dio, LIX, 21-23, for the Germans, above, n. 33.
39. Claudius feared the Praetorians on the fall of Messalina but calmed them by his presence, *Ann.*, XI, 31, 3; 35, 3. For the military cloak, Dio, LX, 17, 9; for the expedition to Britain, Dio, LX, 21, 2-22, 2; Dess., *Gesch.*, II, p. 141; the legions in

Dalmatia would not join Scribonianus against him, Dio, LX, 15, 3. Momigliano, *Claudius*, pp. 94-96, thinks that Claudius sought to revive the importance of the equestrian military tribunate at the expense of the senatorial legate by making the tribunate more important than the post of praefect of an *ala*. The change was short-lived. Cf. also pp. 103-115 for his military policies.

40. Agrippina gave a donative on Nero's behalf to the troops, *Ann.*, XII, 41, 3; Suet., *Nero*, 7, 2. She tried to act as coëqual with her son when he was Emperor; cf. *Ann.*, XIII, 5, 3, where she sought to join him on the *suggestum imperatoris* when the Armenian ambassadors appeared before him in 54 A.D. Cf. above, n. 31, for her threats to appeal to the troops on behalf of Britannicus.
41. Nero's distrust of the troops; cf. above, nn. 23, 33.
42. Feeling of visitors to Rome at Nero's actions, *Ann.*, XVI, 5.
43. Lack of militarism, Nilsson, *Imperial Rome*, pp. 263, 283; Schulz, *Das Wesen*, p. 87.
44. Rostovtzeff (*SEH.*, pp. 478-487) deals with the decay of morale on the part of the whole population.

CHAPTER XIX

1. People the only source of law, Greenidge, *RPL.*, pp. 238-245. For survivals of popular legislation cf. above, Ch. XVII, p. 145 and nn. 15-20.
2. Difficulty of popular legislation, cf. above, Ch. XVII, pp. 144-145.
3. Sulla's reforms, App., *Bell. Civ.*, I, 59 (266-268); Livy, *Ep.*, LXXXIX. The *lex Antonia de Termessibus* is often cited as proof that all laws had to be introduced *ex s.c.* (Dess., 38; Bruns, p. 92, no. 14; Abbott and Johnson, p. 279, no. 19), since it reads *tr. pl. de s.s. (tribunei plebei de senatus sententia)*, but it only shows that this tribunician law was so introduced, and there was no reason why the Senate should not suggest a law even if its approval was not necessary; cf. the emended text of the *lex Gabinia Calpurnia de Deliis*, Abbott and Johnson, p. 284, no. 21 (58 B.C.): *A. Gabinius A. F. Capito cos., L. Calpurnius L. F. Piso cos. de s(enatus) s(ententia) populum iuure*

- rogauere*. Also, the date of the law was certainly not 71 B.C., since an inscription, Dess., 5800, bears the names of ten tribunes including the three whose names are still preserved at the head of the *lex Antonia* but not including M. Lollius Palicanus, said by the scholiast on Cic., *Verr.*, II, 47, 122, to have been tribune in 71 B.C.; cf. *P.W.*, Reihe I, XXVI, col. 1391 s.v. Lollius, no. 21. Cf. the discussion by Last in *CAH.*, IX, p. 896, n. 3.
4. Probouleutic function of the Senate, Greenidge, *RPL.*, p. 273.
 5. Lenel, *Ursprung und Wirkung der Exceptionen*, pp. 49 ff.
 6. Girard, *Manuel*, p. 59 (E. T., pp. 118-119), combats the view of Lenel. The decrees in question are in Girard, *Textes*, pp. 122-124. Pollack, *Maiestätsgedanke*, p. 123, likewise denies that the Senate could enact legally binding law (*iubere*) under the Republic.
 7. For the development of the Senate as a legislative body cf. Greenidge, *RPL.*, pp. 377-378; Girard, *Manuel*, pp. 58-60 (E. T., pp. 117-122). Gaius, *Inst.*, I, 4 (Poste, *Gaius*, pp. 5-6), says: *senatus consultum est quod senatus iubet atque constituit idque legis uicem obtinet quamuis fuerit quaesitum*; cf. Ulpian, *Dig.*, I, 3, 9; Papinian, *Dig.*, I, 1, 7; Pomponius, *Dig.*, I, 2, 2, 12.
 8. *Ius relationis*, cf. above, Chs. III, p. 24; VIII, p. 82.
 9. That the *oratio principis* was early recognized as the essence of the decree of the Senate which it initiated is suggested by the preservation of Claudius's speech on the Gauls at Lyons, Dess., 212 (Bruns, p. 195, no. 52; cf. *Ann.*, XI, 23-25), and of his speeches on the decuries of jurors and on accusers, Bruns, p. 198, no. 53 (Stroux, *Eine Gerichtsreform*, pp. 79-80), and not of the decrees resulting therefrom. The binding effect of a decision of the Senate is implied in the account in *Ann.*, XIV, 42 ff., of the disturbances when the slaves of a murdered master were about to be tortured. The populace besieged the Senate, not the magistrates, as the deciding element. But the Senate had to get military support from the Emperor to enforce its will.
 10. For senatorial decrees cf. Karlowa, *Rechtsgeschichte*, I, 644-646; Rudorf, *Römische Rechtsgeschichte*, I, 106-129; Riccobono, *Fontes Iuris Romani Anteiustiniani*; Bruns, pp. 164-211; Girard, *Manuel*, p. 61 (E. T., pp. 122 ff.), *Textes*, p. 124.
 11. Decrees: *Velleianum*, 46 A.D., Girard, *Manuel*, p. 831, n. 4; Bruns, p. 194, no. 50; *Dig.*, XVI, 1, 2, 1.

12. *Ostorianum*, before 47 A.D., Bruns, p. 194, no. 51.
13. *Claudianum*, 52 A.D., Gaius, *Inst.*, I, 160, partially repealed by Hadrian, Gaius, *Inst.*, I, 84.
14. *Hosidianum* and *Volusianum*, 44-56 A.D., Bruns, pp. 200-201, no. 54.
15. *Neronianum*, 54-68 A.D., Girard, *Manuel*, p. 968; Gaius, *Inst.*, II, 197.
16. *Trebellianum*, 56 A.D., Girard, *Manuel*, p. 984; Bruns, p. 202, no. 55; Gaius, *Inst.*, II, 253-255.
17. It should be observed that decrees do not necessarily bear the name of the proposer, like laws, but sometimes that of the consul of the year, as the *Trebellianum*, or of the person affected, as the *Macedonianum* (Poste, *Gaius*, p. 324), or of the Emperor, as the *Claudianum*.
18. Decrees, cf. Bruns, pp. 191-201, nos. 46-54.
19. Votes in honor of the Emperor, etc.: triumphs and supplications to Augustus, *Mon. Anc.*, II, 46-III, 6; supplications of the Arval Brethren *ex permissu consulum et ex consensu senatus*, *CIL.*, VI, 1, p. 464, no. 2027, l. 9 (37 A.D. [?]); cf. Dess., 230, l. 11, *ex s.c. ob supplicationes indictus*, 59 A.D., for the murder of Agrippina (*Ann.*, XIV, 12, 1); thanksgiving for recovery from illness, *Mon. Anc.*, II, 15-18; altars, *Mon. Anc.*, II, 29-33, 37-41; sacrifices, Dio, LIV, 8, 3; *ius liberorum*, Dio, LV, 2, 5, LIX, 15, 1; dispensations from the *leges annales*, *Mon. Anc.*, II, 46-III, 6, but in *Ann.*, XII, 41, 2, Claudius has to assent to a dispensation voted to Nero; deification, Dio, LVI, 47, 1; *Ann.*, I, 10, 8, XIII, 2, 6; *ornamenta* to successful generals, *Ann.*, I, 72, 1, XII, 38, 2.
20. Mattingly, *Roman Coins*, p. 112. The dropping of the names of the officers of the mint after 4 B.C. (the next issue seems to have been in 11 A.D., with *ex s.c.* alone) indicates perhaps that the decree rather than the magistrates had come to be regarded as the final authority.
21. For a career of P. Paquius Scaeva, with several offices held out of order *ex s.c.*, cf. Dess., 915, studied by Cichorius, *Studien*, p. 289.
22. Scaeva was sent to Cyprus *ex auctoritate Aug. Caesaris et s.c.* Similarly Pliny to Bithynia, *ex s.c. missus ab imp. Caesar. Nerva Traiano*; Dess., 2927.

23. The *cippi* of the Tiber Conservancy afford an interesting history of the development of a special board; Dess., 5922-5927. First, the *censores* erect them *ex s.c.*, then *consules*, then Augustus (5924d is a restoration of one of his markers by the first *curatores*), then *curatores*, all *ex s.c.* Then the *curatores* do it *ex auctoritate Tiberii*. Finally, 5927, the Emperor comes first, *ex auctoritate Vespasiani curatores*.
24. Decrees: theatres and games, *Ann.*, I, 77, XIII, 5; 25, 4; Suet., *Aug.*, 44, 1 (cf. *Ann.*, XVI, 12, 2); public morals, *Ann.*, II, 33; 85, III, 52, 4; Suet., *Tib.*, 35; Dio, LVII, 13, 3; religious rites, *Ann.*, I, 54, 1, II, 85, 5; Dio, LVI, 42, 3 (*Ann.*, I, 10, 8), LVII, 15, 8 (*Ann.*, II, 32, 4), LX, 33, 3b (*Ann.*, XII, 52, 3); reform of the calendar, Dio, LV, 6, 6 (Bruns, p. 193, no. 48; cf. Suet., *Aug.*, 31, 2); Suet., *Gaius*, 15, 2; 17, 2, *Nero*, 55; marriage of uncle and niece, *Ann.*, XII, 7, 3 (Dio, LX, 31, 8; *Gaius, Inst.*, I, 62, repealed by Constantine, *Cod. Theod.*, III, 12, 1); torture of slaves, *Ann.*, XIII, 32; dilatory procedure, *Ann.*, XIV, 41, 3; fictitious adoptions, *Ann.*, XV, 9; games, *Ann.*, XI, 22, 3, XIII, 5, 1.
25. Emperor absorbs right of issuing *leges datae*, Cuq, *Manuel*, p. 27.
26. These paragraphs on the *ius edicendi* are paraphrased from Reid, *Companion to Latin Studies*, par. 357 (p. 274). Cf. Greenidge, *RPL.*, pp. 153, 205, 210, 326. On the question of how far the *ius edicendi* extended beyond holders of the *imperium* and whether the issuance of edicts was confined to the magistrate's sphere of competency cf. McFayden, *Cyrenaean Inscriptions*, pp. 389, 393, discussed in Ch. IV, n. 37.
27. Reid, *ibid.*
28. Cuq, *Manuel*, pp. 27 ff. Cf. above, Ch. XIII, pp. 113-116, for the dispensation of the Emperor from laws.
29. Imperial *constitutiones* as law, Greenidge, *RPL.*, p. 378; *Gaius, Inst.*, I, 5 (cf. Poste, *Gaius*, pp. 6-7); Ulpian, *Dig.*, I, 4, 1; Pomponius, *Dig.*, I, 2, 2, 11-12; *Cod. Just.*, I, 14, 12, 1, I, 17, 1, 7, etc. These authorities base it on the *lex de imperio*, thus in a sense interpreting all *constitutiones* as *leges datae*; cf. below, n. 37. But the *lex de imperio* could not have given the right to make law. Otherwise the *cura legum et morum* would not have been suggested to, and refused by, Augustus; *Mon. Anc.*, I, 37-39 (3, 11-21). The *lex* on Vespasian's *imperium* merely authorized the Emperor to act as he saw fit for the public wel-

fare and the majesty of the divine and human affairs; Dess., 244 (Bruns, p. 202, no. 56), ll. 17 ff. Cf. Abbott and Johnson, pp. 233-234.

30. It is doubtful how far the *acta* of an Emperor were involved in a *damnatio memoriae* after his death; Mom., II, 2, pp. 912, 1129 (V, pp. 192, 441). In Gaius, *Inst.*, I, 33, an edict of Nero is cited, and in *Dig.*, XLVIII, 3, 2, 1, and 16, 16, one of Domitian, despite the *damnatio* passed upon them. For the continuance of edicts cf. Mom., II, 2, p. 911 (V, p. 191); Cuq, *Manuel*, p. 28; and above, Ch. XI, n. 19. Stroux-Wenger (*Aug. Inschr.*, p. 70) suggest that the phrase in Cyrene Edict I, ll. 12-13: ἄχρι ἂν ἡ σύγκλητος βουλευσῆται περὶ τούτου ἢ ἐγὼ αὐτὸς ἄμεινον εὔρω τι, implies that imperial edicts had no set terminus, not even the death of the author. The words, however, cannot be stretched to give any such implication. The benefits conferred by an Emperor seem to have been renewed or confirmed by his successor in his own name, as Suetonius (*Titus*, 8, 1) notes that Titus did so by a single general act. Claudius tells the Alexandrians in ll. 57-59 of his letter, Bell, *Jews and Christians*, p. 24, καὶ τὰ ἄλλα δὲ οὐχ ἦσσαν εἶναι βούλομαι βέβαια πάνθ' ὅσα ὑμεῖν ἐχαρίσθη ὑπὸ τε τῶν πρὸ ἐμοῦ ἡγεμόνων καὶ τῶν βασιλέων καὶ τῶν ἐπάρχων ὡς καὶ ὁ θεὸς Σεβαστὸς ἐβεβαίωσε. Cf. Dio, LXVI, 19, 3, and, for Nerva, Pliny, *Ep.*, X, 58, 7. Trajan confirmed to Astypalaea rights granted by his predecessors; Abbott and Johnson, p. 397, no. 75 (cf. nos. 40, 130). Similarly, on the annexation of Pergamum in 133 B.C., the Senate confirmed the *acta* of the Attalids up to the day of the death of Attalus III; *CAH.*, IX, p. 104, citing *OGIS.*, 435 (*IGRR.*, IV, 301). For the oath cf. above, Ch. XI, pp. 104-106.
31. Right to issue edicts conferred on Augustus, Abbott and Johnson, p. 236, from Herzog, *Geschichte und System*, II, p. 151, n. 1.
32. An *adnotatio* was a note on a margin of a petition, and merely a form of *subscriptio*.
33. Wilcken, *Kaiserreskripten*, p. 10. The less likely theory has also been proposed that one dealt with incoming and the other with outgoing documents.
34. On imperial constitutions cf. Girard, *Manuel*, pp. 61-65 (E. T., pp. 123-129); Cuq, *Manuel*, pp. 27-31; Buckland, *Manual*, pp. 12 ff.; Declareuil, *Rome et l'organisation du Droit*, p. 28; Abbott and Johnson, pp. 236-240, and refs. on p. 236, n. 1.

35. Cuq on imperial *leges datae*, *Manuel*, p. 27.
36. Absence of special authorization for imperial *leges datae*, Mom., III, p. 328 (VI, 1, p. 374). Such an edict as that confirming citizenship to the Anauni, Dess., 206 (Bruns, p. 253, no. 79) was not issued in virtue of some special law, as was that of Pompeius Strabo granting it to the Spanish cavalry, Dess., 8888; cf. also Dess., 1978-1981, for imperial grants of *ciuitas*.
37. Abbott and Johnson, p. 233, on all *constitutiones* being *leges datae*. This view is denied by D. McFayden in an article in *Papers on Classical Subjects in Memory of John Max Wolfing*, pp. 64-72.
38. Mom., II, 2, p. 1099 (V, p. 409), for withdrawal of citizenship as censorial; Smilda on Suet., *Cl.*, 16, 2, for it as a corollary of the right to grant.
39. Constitutions of Augustus, *Dig.*, XXVIII, 2, 26, XVI, 1, 2 pr. (which may have been a decree of the Senate, for the text reads: *et primo temporibus Diui Augusti mox deinde Claudii edictis*), XLVIII, 18, 1 pr. (cf. *Ann.*, XIV, 42 ff., for the trouble under Nero over torturing slaves).
40. An edict on times of accusations (Bruns, p. 251, no. 78) may be of Tiberius's date. The edicts of both Tiberius and Gaius may have been dropped because of the condemnation of their memories; cf. above, n. 30.
41. Constitutions of Claudius, *Dig.*, XL, 8, 2 (cf. Suet., *Cl.*, 25, 2; Dio, LX, 29, 7, 2), XLVIII, 10, 15 pr., XVI, 1, 2 pr. Momigliano, *Claudius*, pp. 128 ff., emphasizes the ideal of *humanitas* in Claudius's legislation.
42. Subsidies to corn ships, Gaius, *Inst.*, I, 32c (Suet., *Cl.*, 18); advocates' fees, *Ann.*, XI, 7, 8; use of vehicles, Dio, LX, 29, 7b (Suet., *Cl.*, 25, 2); cases of non-appearance in court, Dio, LX, 28, 6.
43. Constitutions of Nero: *publicani* and corn ships, *Ann.*, XIII, 51; torture of slaves, *Ann.*, XIV, 45, 3.
44. Inscribed *cippi*: Dess., 5744, *iussu imp. Caesaris Augusti*, from Venafrum; Dess., 5746, *imp. Caesar Diui f. Augustus ex s.c.*, from Rome. For Venafrum cf. the edict of Augustus, Dess., 5743 (Bruns, p. 249, no. 77).
45. Provincial Edicts: Pliny, *Ep.*, X, 79-80 (cf. Dio, LIV, 7, 5), X, 65, 3; Cyrene Edicts, cf. above, Ch. VI, p. 57; Josephus, *Ant.*, XVI, 6, 1-3 (161-166), *Bell. Iud.*, I, 20-22 (392), *Ant.*, XIX, 5,

- 2-3 (278-291); Tegea, Dess., 214 (Abbott and Johnson, p. 354, no. 51).
46. Public morality: Augustus, Suet., *Aug.*, 42; 56, 1; 89, 2; Tiberius, *Ann.*, III, 6, 1; Suet., *Tib.*, 34-36; Dio, LVII, 15, 1; Claudius, *Ann.*, XI, 13, 1.
47. Claudius, Suet., *Cl.*, 16, 4.
48. Claudius on the eclipse, Dio, LX, 26, 1. Augustus had published his own horoscope; Dio, LVI, 25, 5. These edicts indicate the superstition of the period and the danger lest people be excited to disturbances by eclipses or by the publishing of fraudulent horoscopes for political purposes.
49. Letters of Augustus, Suet., *Aug.*, 40, 3; 51, 3; Malcovati, *Fragmenta Augusti*, pp. 16-22.
50. Letters, Abbott and Johnson, nos. 30 (and 32, to Mylasa), 36 (Cnidos), 54 (Rhodes), 57 (Sagalessus, which uses the term *epistula* of itself); Kornemann, *Neue Dokumente*, for one of Tiberius to Gytheum.
51. Cuq, *Consilium*, p. 427, n. 4, citing *Dig.*, XLVIII, 5, 39, 10, and XL, 15, 4, 1.
52. Cuq, *Consilium*, p. 443, n. 2.

CHAPTER XX

1. The *consilium* of 27 B.C., Dio, LIII, 21, 4; Suet., *Aug.*, 35; Mom., II, 2, pp. 902 ff. (V, pp. 182 ff.). For the whole question cf. Cuq, *Consilium*, and de Ruggiero, *Dizionario Epigrafico*, II, p. 609, *s.v.* *Consilium*; *P.W.*, Reihe I, VII, col. 915, *s.v.* *Consilium*, and col. 926, *s.v.* *Consistorium*. Further references, Abbott and Johnson, p. 241, no. 2.
2. Problem of numbers in voting, cf. above, Ch. XIX, p. 156.
3. Numbers required at meetings of the Senate, Dio, LIV, 18, 3; 35, 1, LV, 3; 26, 2. The Emperors had trouble in getting senators to attend; cf. Mom., III, 2, pp. 905 ff. (VII, pp. 81 ff.); Gardthausen, I, p. 572; Holmes, II, p. 83.
4. Senatorial commissions under the Republic, de Ruggiero, *L'Arbitrato Pubblico*, pp. 300 ff.; Bruns, p. 180, no. 42 (Abbott and Johnson, p. 276, no. 18); *P.W.*, Reihe I, VII, col. 919.
5. Cyrene Edict V, von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., XLVIII, p. 481, with refs., and LI, pp. 448-450, 527-531.

- Note that the local jury of Cyrene Edict IV, l. 66, is called a *συμβούλιον κριτῶν* for the governor; Stroux-Wenger, *Aug. Inschr.*, p. 87.
6. Committee on foreign affairs, Dio, LV, 33, 5, LVI, 25, 7.
 7. Committee on *lex Papia Poppaea*, *Ann.*, III, 28, 6, von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., XLVIII, p. 489, and Stroux-Wenger, *Aug. Inschr.*, p. 121, for a possible similarity to the *de repetundis* court of Cyrene Edict V.
 8. Cyrene Edict V, ll. 84-88. Cf. Anderson, *Cyrene Edicts*, pp. 43-48.
 9. Josephus, *Ant.*, XVI, 6, 2 (163).
 10. Dio, LIII, 21, 5.
 11. The husband of Pomponia Graecina tried her before a family council, *Ann.*, XIII, 32, 4, *prisco instituto propinquis coram*, 58 A.D. Augustus sat on such a family council held by one Tavius about his son; Seneca, *de Clementia*, I, 15, 3.
 12. *Consilium* of consuls, refs. above, n. 4; of praetors, de Ruggiero, *Dizionario*, II, p. 612; *P.W.*, Reihe I, VII, col. 920; of generals, the most notable case is the grant of citizenship to his Spanish cavalry by Pompeius Strabo; Dess., 8888 (Abbott and Johnson, p. 268, no. 13), 90 or 88 B.C.; cf. also Cicero, *pro Balbo*, 8, 19, *Verr.*, II, 2, 13, 32; of a proconsul, under Otho, Bruns, p. 240, no. 71a, ll. 23-26.
 13. Senate a *consilium*, Mom., I, p. 310 (I, p. 350), III, 2, p. 1028, n. 1 (VII, p. 226, n. 1); Cicero, *passim*; Vell. Pat., I, 8, 6; *Ann.*, VI, 15, 6; *Mon. Anc.*, III, 3 (with Mommsen's comment); *P.W.*, Reihe I, VII, col. 917.
 14. Council on Archelaus, Josephus, *Ant.*, XVII, 11, 1 (301), *Bell. Iud.*, II, 6, 1 (81). The young Gaius Caesar attended another meeting on Judaea; *Bell. Iud.*, II, 2, 4 (25).
 15. Suetonius on the *consilium*, *Aug.*, 33, 2. On the judicial *consilium* cf. Mom., *Strafrecht*, p. 266 (I, p. 311), *Staatsrecht*, II, 2, p. 992, n. 2 (V, p. 284, n. 1).
 16. Trebatius, *Institutes*, II, 25. For Augustus cf. also Dio, LII, 33, 3 (speech of Maecenas), and Seneca, *de Clementia*, I, 9, 3 and 7. He first "licensed" jurists to give *responsa*; *Dig.*, I, 2, 2, 49.
 17. Tiberius, Dio, LVII, 7, 2, and below, n. 33.
 18. Case of Piso, *paucis familiarium adhibitis*, *Ann.*, III, 10, 6.
 19. Claudius, Dio, LX, 4, 3.

20. Case of Suillius, *intra cubiculum Messalina coram*, *Ann.*, XI, 2, 1.
21. *Acta* of Isidor and Lampon, Mitteis-Wilcken, *Grundzüge und Chrestomathie*, I, 2, pp. 25-26, no. 14, col. II, l. 6. Twenty-three or twenty-four senators are present, sixteen of whom are consulars. The Empress and her ladies attend. Critics generally assume that the Empress is Agrippina, not Messalina, and that the date is not close to the Alexandria letter but about 53 A.D.; cf. Bell, *Jews and Christians*, pp. 19-21. It is worth noting that the *consilium* in col. II is concerned not with trying Isidor but with hearing his complaints against Agrippa (II, if the later date is right), king of Judaea. This is a close parallel to the hearings on Archelaus; cf. above, n. 14. At the trial of Isidor and Lampon in col. III there is no evidence for the *consilium*.
22. Case of Messalina, *Ann.*, XI, 31, 1, and Furneaux *ad loc.*
23. Claudius and trials, Seneca, *Ludus*, 11 ff.; Suet., *Cl.*, 15.
24. Nero, *Ann.*, XIII, 4, 2; cf. Furneaux on *Ann.*, XV, 61, 4.
25. Case of Sulla, *Burrus quamuis reus inter iudices sententiam dixit*, *Ann.*, XIII, 23, 4, and Furneaux *ad loc.*
26. Case of Octavia, *apud amicos quos uelut consilio adhibuerat princeps*, *Ann.*, XIV, 62, 6.
27. Nero's procedure, Suet., *Nero*, 15, 1.
28. Cuj on the committees of the Senate, *Consilium*, pp. 317-328.
29. de Ruggiero on the committees of the Senate, *Dizionario*, II, p. 614.
30. Dessau on the purpose of the *consilium*, *Gesch.*, I, p. 134.
31. When Augustus wished to enforce his views on the Senate on the occasion of his pretended resignation in 27 B.C., he primed his friends among the senators; Dio, LIII, 2, 7.
32. *Consilium* of 13 A.D., Dio, LVI, 28, 2; cf. Dess., *Gesch.*, I, p. 134.
33. Tiberius, Suet., *Tib.*, 55; Dio, LVII, 7, 2. Gelzer (*P.W.*, Reihe I, XIX, col. 522, ll. 35 ff.) regards Suetonius's *principes ciuitatis* as *consulares*. Cf. Lévy, *Tiberius erga Senatam*, pp. 98-99.
34. Retirement to Capreae, Dio, LX, 4, 3; this statement probably refers to the use of senators and others as judicial assessors.
35. Tiberius's intimates at Capreae were the senator and jurist Nerva, the praefect Sejanus, the knight Atticus, and various learned Greeks; *Ann.*, IV, 58, 1.
36. Nero consulted, on the question of frauds committed by freedmen, *inter paucos et sententiae diuersos*, *Ann.*, XIII, 26, 2; the

reading *seniores* (rejected above, Ch. XV, n. 59) for *senatores*, in the passage on the *uectigalia* might be referred to a *consilium*, *Ann.*, XIII, 50, 2; Nero *consuluit inter primores ciuitatis* on Vologaesias, *Ann.*, XV, 25, 2; he summoned a hurried council of *primores uiri* on the revolt of Vindex but only showed them a new organ, *Suet.*, *Nero*, 41, 2; *Dio*, LXIII, 26, 4. Stella-Maranca, *L. Annaeo Seneca nel 'Consilium Principis,'* compares the writings of Seneca with the legislation mentioned by Tacitus and the jurists and seeks to show that the *consilium* was active in the administration of justice and the formation of jurisprudence under Nero, that it followed naturally from the Augustan *consilium* of the Senate, that it contained jurists as under Hadrian, and that Seneca through it exercised a control over Nero's extravagance. The article is interesting but far-fetched.

CHAPTER XXI

1. On jurisdiction under the Empire cf. Willems, pp. 465-476 and refs. McFayden, *The Rise of the Princes' Jurisdiction within the City of Rome*, seeks to show that the Emperor had no jurisdiction applicable within the City of Rome during the early principate. He dates the rise of the jurisdiction of the Senate from the time of Tiberius and of the praefect of the City from the reign of Nero. Though he supports his conclusions with regard to a jurisdiction in virtue of the *imperium*, he sets aside those cases in which the authorities mention decisions by the Emperor as instances of their carelessness in constitutional detail, and does not consider the possibility of a jurisdiction arising from the tribunician power or from tacit consent. Schönbauer, *Zeit. der Sav. Stift.*, Rom. Abt., XLVII (1927), pp. 280-295, seeks to base Augustus' position in part on the substitution of his *auctoritas* for the *Populus* as the ultimate defender, *uindex*, of both private justice and the commonwealth.
2. Jurisdiction of procurators, Furneaux on *Ann.*, XII, 60, 1 ff.; cf. above, Ch. VI, p. 62.
3. *Fideicommissa*, *Suet.*, *Cl.*, 23, 1; *Quint.*, *Inst.*, III, 6, 70; *Dig.*, I, 2, 2, 32; *Mom.*, II, 1, p. 104 (III, p. 119), II, 2, p. 913 (V, p. 195). Similarly, Claudius instructed the consuls to assign

guardians *extra ordinem*, whether this means ahead of the rest or in a special *cognitio*, Suet., *Cl.*, 23, 2; the *praetor tutelaris* dated from Marcus, *Vita Marci*, 10, 11. Nero instructed the praetor at Rome and the governors in the provinces (Tacitus may mean by *per prouincias qui pro praetore aut consule essent* just the senatorial governors but not necessarily so) to render justice against the tax-gatherers *extra ordinem*, which Furneaux interprets simply "ahead of other cases"; *Ann.*, XIII, 51, 1.

4. Judicial changes under Hadrian; Reid, *Companion to Latin Studies*, sec. 479, gives a short summary.
5. *Quaestiones* under the Empire, Willems, p. 467. For the minimum age limit of twenty-five cf. Stroux-Wenger, *Aug. Inschr.*, pp. 98-101, and Stroux, *Eine Gerichtsreform*, pp. 19-38.
6. Increase of *decuriae*, Willems, p. 466; Suet., *Aug.*, 32, 3; Pliny, *N.H.*, XXXIII, 30 (the *ducenarii*); Suet., *Gaius*, 16, 2. Cf. above, Ch. X, n. 38.
7. Senate a "high court," Gardthausen, I, p. 571.
8. Senate tries its own members, Mom., II, p. 2, 961, n. 2 (V, p. 249, n. 3); Gardthausen II, p. 311, n. 22. Schisas, *Offenses against the State*, p. 192, n. 3, and p. 198. Hardy (*Problems in Roman History*, p. 38) points out that Cicero treated the Senate practically as a criminal court for the trial of its members by consulting it on Catiline's punishment and by binding himself to abide by the decision. Dessau (*Gesch.*, I, p. 140) thinks that it did not exercise a criminal jurisdiction under Augustus.
9. Mommsen's "consular court," Mom., III, p. 2, 1267 (VII, p. 500), *Strafrecht*, p. 255 (I, p. 298). Cf. Schisas, *Offenses against the State*, pp. 192-199.
10. Gardthausen on *Senatus Populusque Romanus*, I, p. 563, II, p. 306, n. 3, citing Mom., III, 2, p. 1252 (VII, p. 484).
11. *Maiestas*, Mom., *Strafrecht*, pp. 537-594 (II, pp. 233-302); Pollack, *Maiestätsgedanke*, esp. pp. 150-178; *P.W.*, Reihe I, XXVII, cols. 542-559, with full bibliography.
12. *Perduellio*, *P.W.*, Reihe I, XXVII, cols. 544-546; Schisas, *Offenses against the State*, pp. 1-15; Pollack, *Maiestätsgedanke*, pp. 146-150.
13. Laws defining *maiestas*, *P.W.*, Reihe I, XXVII, col. 546. The first important one was the law of Saturninus which arose out of the sequestration of the "gold of Tolosa" by Servilius Caepio in 105 B.C.; Pollack, *Maiestätsgedanke*, pp. 157, n. 2, 187-191;

Schisas, *Offenses against the State*, p. 12 and refs.; *CAH.*, IX, 160, doubting the specific connection with Caepio.

14. *Lex Cornelia de maiestate*, Cicero, in *Pis.*, 21, 50, *pro Cluen.*, 35, 97, *ad Fam.*, III, 11, 2, in *Verr.*, II, 1, 12; *Ann.*, I, 72, 3; Pollack, *Maiestätsgedanke*, pp. 157, n. 2, 191-198; Schisas, *Offenses against the State*, pp. 121, 129; *CAH.*, IX, pp. 297, 307.
15. *Lex Iulia de maiestate*, *Dig.*, XLVIII, 4; Pollack, *Maiestätsgedanke*, pp. 199-205. There is some doubt whether there were laws under both Caesar and Augustus or only under the latter; *P.W.*, Reihe I, XXVII, col. 548. For *maiestas* under Augustus cf. Anderson, *Cyrene Edicts*, p. 47. He cites the case of Cassius Severus, of whom Tacitus says: *primus Augustus cognitionem de famosis libellis specie legis eius (de maiestate) tractavit, commotus Cassii Seueri libidine . . .*, *Ann.*, I, 72, 4, and: *relatum et de Cassio Seuero exule . . . qui . . . ut iudicio senatus iurati Cretam amoueretur effecerat*, *Ann.*, IV, 21, 5. He compares with this Suetonius, *Aug.*, 55, who states that when libels on Augustus were scattered in the Senate, *id modo censuit, cognoscendum posthac de iis qui libellos . . . edant*. He concludes that the Senate did hear cases of *maiestas* even under Augustus, but in these instances, as in that of Gallus (below, n. 20), it may merely have issued a decree instructing the courts to deal with the matter. Ovid's case, despite Anderson, *Cyrene Edicts*, p. 48, was probably not tried; he merely received a warning that it would be wiser to leave Rome; *Tristia*, II, 131-132. Dessau (*Gesch.*, I, p. 140, II, p. 49) holds that there were no *maiestas* trials in the Senate under Augustus. For the survival of the *quaestio de maiestate* cf. Schott, *Kriminaljustiz unter Tiberius*, pp. 58-59; Schisas, *Offenses against the State*, pp. 190-191. Ciaceri, *Responsabilità di Tiberio*, II, pp. 402-415, thinks that the *quaestio* had ceased to function under Tiberius, despite his remark in the case of Piso, *Ann.*, III, 12, 10: *quod in curia potius quam in foro, apud senatum quam apud iudices de morte eius (Germanicus) anquiritur*. The most important passage for Tiberius is that in *Ann.*, I, 72, 4-5: *mox Tiberius, consultante Pompeio Macro praetore an iudicia maiestatis redderentur, exercendas leges esse respondit*, where *iudicia reddere* refers to assigning jurors to try a case. Suetonius (*Tib.*, 58) also attests this reply. The passage in *Ann.*, III, 38, 2, 21 A.D.: *Antistium Veterem e primoribus Macedoniae, absolutum adulterii, increpitis iu-*

dicibus ad dicendam maiestatis (Tiberius) retraxit, occurs in a discussion of other cases heard before the Senate and hence may refer to a trial in the Senate rather than in a *quaestio*, as has been claimed. For Marcus cf. *Vita Marci*, 24; Mom., *Strasfrecht*, p. 220, n. 5 (I, p. 256, n. 3).

16. For criticisms of the ancient view of Tiberius with respect to *maiestas* cf. Marsh, *Tiberius*, pp. 284-295; Tarver, *Tiberius the Tyrant*, pp. 293-319; Jerome, *Aspects of the Study of Roman History*, pp. 319-380; Ciaceri, *Responsabilità di Tiberio*, III, pp. 21-30.
17. For a summary of the cases of *maiestas* under Tiberius cf. Furneaux, I, introd., pp. 141-147, 151-153; Tarver, *Tiberius the Tyrant*, pp. 320-352 (the cases of Scribonius Libo and Piso); Marsh, *Tiberius*, pp. 289-295 (the law of treason under Tiberius); Lévy, *Tiberius erga Senatam*; Schott, *Kriminaljustiz unter Tiberius*; Dürr, *Die Majestätsprocesse*; Ciaceri, *Responsabilità di Tiberio*, III, pp. 6, 16-20. Tacitus (*Ann.*, III, 38, 1) calls *maiestas* the *omnium accusationum complementum*. Despite Tacitus's remark that under the Republic, *facta arguebantur, dicta impune erant* (*Ann.*, I, 72, 3), Schott, *ibid.*, pp. 8-10, gives republican precedents for the persecutions of treasonable or libellous utterances under the concept of *maiestas*; cf. Ciaceri, *ibid.*, II, pp. 389-392, III, p. 2. Tiberius was scornful of matters derogatory merely of himself or Augustus; cf. his reply to the charges against Falanius and Rubrius, which ended: *deorum iniuriis discursae*; *Ann.*, I, 73, 5; also *Ann.*, II, 50, 2, on Appuleia Varilla (17 A.D.), *maiestatis crimen distingui Caesar postulavit damnarique, si qua de Augusto inreligiose dixisset: in se iacta nolle ad cognitionem uocari*; and Suet., *Tib.*, 28, where he is said to have been patient of libels on himself and his family. For the shift of the concept of *maiestas* from the state (or its magistrates) to the prince cf. Pollack, *Majestätsgedanke*, pp. 125-141, 206-207. Ciaceri, *ibid.*, II, pp. 380-390, discusses the relation between *perduellio* and *maiestas* and suggests that the Emperor's *sacrosanctitas* included him under the *maiestas* of the state. Scott, *Tiberius' Refusal of the Title Augustus*, suggests that this was connected with his avoidance of charges of *maiestas* against himself, on the tenuous ground of the connection between the Greek words Σεβαστός and ἀσέβεια. Dürr (*Majestätsprocesse*, pp. 9-11) lists the types of charges included under

maiestas against the Emperor as: murder or attempted murder, oral or written insult, such symbolic offenses as the defacement of imperial statues, false oaths by his name. Interesting as a reflection on the prevalent superstition of the period is the number of cases in which magic is part of the charge:

Ann., II, 27, 2, Scribonius Libo for having magic tablets;

Ann., II, 69, 5; Dio, LVII, 18, 9, Piso for making charms against Germanicus;

Ann., IV, 22, 4, Numantina for influencing her divorced husband Silvanus by charms and potions to kill his second wife;

Ann., XI, 4, two brothers for ill omened dreams about Claudius;

Dio, LX, 14, 4; Suet., *Cl.*, 37, 2, Silanus was executed because Narcissus invented a dream that he was dangerous to the Emperor Claudius;

Ann., XII, 22, 1, Lollia for consulting Chaldeans and oracles;

Ann., XII, 52, 1, Scribonianus the Younger for consulting the Chaldeans;

Ann., XII, 59, 2, Statilius Taurus for *repetundae* and *magicae superstitiones*;

Ann., XII, 65, 1, Lepida for seeking to win the affections of Claudius by magic, as well as for the unruly slave establishments which she kept;

Ann., XIII, 32, 3, Pomponia Graecina was charged with foreign superstitions and her case referred to a family council;

Ann., XIV, 9, 5; Dio, LXI, 2, Agrippina dealt with Chaldeans;

Ann., XIV, 22, Plautus exiled because Nero saw a comet; cf. Suet., *Nero*, 36, 1;

Dio, LXII, 13, 11; among the charges against Octavia was included magic;

Ann., XVI, 8, 3, Lepida charged with *diros sacrorum ritus*;

Ann., XVI, 14, 4, Antei and Ostorius forced to commit suicide for inquiring into Nero's horoscope;

Ann., XVI, 30, 3, Soranus and his daughter charged among other things with consulting the Chaldeans.

It is noteworthy that Augustus forbade seers to prophesy to any person alone or to foretell death at all, and that he published his own horoscope, forbidding the practice of publishing horoscopes; Dio, LVI, 25, 2. Claudius issued an edict to explain

- the physical causes of an eclipse on his birthday (Dio, LX, 26, 1), and on another occasion revived the formal obsecration against the owl as a bird of ill omen; Suet., *Cl.*, 22. Thus, the Emperors felt that the magicians might, by stirring up vain hopes and ambitions, be a real danger; cf. Ciaceri, *ibid.*, III, p. 1.
18. For the decline of the Senate as a *maiestas* court, Schisas, *Offenses against the State*, pp. 198-199. He cites the trial of Arvandus as late as the reign of Diocletian; Sidonius, *Ep.*, I, 7.
 19. For analyses of cases before the Senate cf. the references in n. 17.
 20. Cornelius Gallus, Dio, LIII, 23, 7; Holmes, II, p. 22; *P.W.*, Reihe I, VII, cols. 1342-1350, *s.v. Cornelius*, 164.
 21. Primus, Dio, LIV, 3, cf. above, Ch. IV, n. 73. Macedonia was senatorial under Augustus but became imperial under Tiberius in 15 A.D.; *Ann.*, I, 76, 4. Claudius restored it to the Senate in 44 A.D.; Dio, LX, 24, 1; Suet., *Cl.*, 25, 3. On the application of a *lex* by a court instituted or instructed by the Senate cf. Stroux-Wenger, *Aug. Inschr.*, pp. 131-135 with refs.
 22. *Quaestio de maiestate* under Tiberius, cf. above, n. 15.
 23. Falanius and Rubrius, *modici equites*, *Ann.*, I, 73. An Augustan precedent for regarding the defacing of imperial statues as *maiestas* may be the case of Stlaccius Maximus in Cyrene Edict II (7/6 B.C.), whom Augustus kept at Rome until he might learn further about charges that Stlaccius had removed statues of the Emperor from public places in Cyrene.
 24. Granius Marcellus, *Ann.*, I, 74. He is probably the man whom Suetonius (*Tib.*, 58) says was condemned on the same charges by the Senate.
 25. Tacitus states that Tiberius did not dare go through with the charge of *maiestas* in the case of Marcellus, and that then *de pecuniis repetundis ad reciperatores itum est*. This would seem to be a board to assess damages, distinct from the *quaestio*; cf. Furneaux *ad loc.*, and, on the Cyrene Edict, Anderson, *JRS.*, XVII, 1 (*Cyrene Edicts*), p. 4, and XIX, 2, p. 224; Stroux-Wenger, *Aug. Inschr.*, p. 135.
 26. The case of Piso, *Ann.*, III, 1-18. Dio, LVII, 18, 10, is less accurate; he makes Tiberius bring the charges. Cf. Greenidge, *RPL.*, p. 388; Gelzer, *P.W.*, Reihe I, XIX, col. 520, ll. 59 ff.; Ciaceri, *Responsabilità di Tiberio*, III, p. 24; and other works on Tiberius.

27. Piso said he would appear *ubi praetor qui de ueneficiis quaereret reo atque accusatoribus diem prodixisset*; *Ann.*, II, 79, 2.
28. Piso summoned before the consuls, *Ann.*, III, 10, 1; cf. Mom., *Strafrecht*, p. 253, n. 1 (I, p. 295, n. 2). For the charges on his government of Spain cf. *Ann.*, III, 13, 2.
29. Tiberius *paucis familiarium adhibitis minas accusantium et hinc preces audit integram causam ad senatum remittit*; *Ann.*, III, 10, 6. A case was said to be *integra* when it was opened (or reopened) without reference to any previous findings or decisions. McFayden, *Rise of the Princes' Jurisdiction*, p. 249, thinks that the Senate asked Tiberius to try Piso not as a competent judge but as a *iudex* to find on facts and refer the case back to it for sentence. It is more likely that the Senate sought to put the whole responsibility on him without regard to technicalities. His decision would probably have been confirmed by a decree.
30. Tiberius's speech, *Ann.*, III, 12, 10.
31. Tiberius presided; *Ann.*, III, 14, 4.
32. Popular fury against Piso, *Ann.*, III, 14, 5; Suet., *Gaius*, 2.
33. Suicide of Piso, *Ann.*, III, 15, 6.
34. Silvanus, *Ann.*, IV, 22, 3. This type of plenary court differs from the recuperatorial boards (cf. above, n. 25) which merely assessed damages; Stroux-Wenger, *Aug. Inschr.*, p. 130; Anderson, *JRS.*, XIX, 2, p. 224.
35. Immunity of a magistrate, cf. above, Ch. XVI, n. 68.
36. Sagitta, *Ann.*, XIII, 44, 9, 58 A.D. He was condemned *sententia patrum et lege de sicariis*. So also in a case of forging a will, *quod apud patres conuictum et Fabianus Antoniusque cum Rufino et Terentio lege Cornelia damnatur*; *Ann.*, XIV, 40, 5, 61 A.D. Probably in both cases the law was applied by the Senate, not the *quaestio*.
37. Messalla, Furneaux on *Ann.*, III, 68, 1; Seneca, *de Ira*, 2, 5 (cf. Seneca the Elder, *Controversiae*, VII, 6, 22); Gardthausen, I, p. 568, II, p. 309, n. 15.
38. Dessau on the trial of Messalla, *Gesch.*, I, p. 140, n. 3.
39. On the court in the fifth edict from Cyrene cf. Anderson, *Cyrene Edicts*, pp. 43-48; Stroux-Wenger, *Aug. Inschr.*, pp. 112 ff., who doubt the parallel to the special *quaestio de repetundis* of 171 B.C.; Livy, XLIII, 2; von Premerstein, *Zeit. der Sav. Stift.*, Rom. Abt., XLIII, pp. 487 ff.
40. The magistrate is to draw by lot four consulars, three praet-

torians, and two ordinary senators. The parties to the suit can each reject in turn two from among these until five are left. In case any vacancies occur, the magistrate can fill them by lot from among men of the same rank. The board acts as a true court, hearing the facts and "ordering" (*κελευέτωσαν*, l. 133) the restitution of such sums as they adjudicate. For *recuperatores* (*recipratores*) cf. above, n. 25.

41. The text reads τῶν ὑπάτων τὸν τε προηγοροῦντα, l. 139. As Anderson says, *Cyrene Edicts*, p. 44, n. 7, it would be simpler to read "consulars," but a magistrate is preferable as president.
42. Exile imposed as a penalty, *Ann.*, III, 68, 2; 69, 8 (C. Silanus, *maiestas* being part of the charge), III, 38, 3 (Caesius Cordus, *maiestas* being part of the charge); Dio, LVII, 23, 4 (Capito, cf. below, n. 44).
43. Anderson (*Cyrene Edicts*, p. 46) concludes that the court could deal with other than senators from the vagueness of ll. 97 ff., where those liable are not specified.
44. Capito, *Ann.*, IV, 15, 3; Dio, LVII, 23, 4-5.
45. To the examples cited in the text might be added that of Falanius and Rubrius, about whom Tiberius wrote to the consuls, not the Senate, *Ann.*, I, 73, 3; cf. above, n. 23.
46. Nero, *Ann.*, XIII, 4, 3; so of Tiberius *postulata prouinciae ad disquisitionem patrum mittendo*; *Ann.*, III, 60, 1. Suetonius (*Nero*, 17) states that Nero ruled that all appeals from the courts (*iudices*) should go to the Senate; cf. Furneaux on *Ann.*, XIV, 28, 2, which probably gives the better version of this rule, namely, that he decreed only that, when an appeal was made from private arbitrators (*a priuatis iudicibus*) to the Senate, a deposit should be made, as was required for appeals to the Emperor.
47. Nuceria and Pompeii, *Ann.*, XIV, 17, 4, the Emperor had referred this trouble to the Senate. Committee on the *lex Papia Poppaea*, *Ann.*, III, 28, 6. Committee on foreign relations, Dio, LV, 33, 5.
48. Client princes before the Senate: Antiochus, 29 B.C., Dio, LII, 43, 1; Archelaus, 17 A.D., *Ann.*, II, 42, 5; Dio, LVII, 17, 4; Suet., *Tib.*, 37, 4; Rhescuporis, 19 A.D., *Ann.*, II, 67, 3; Suet., *Tib.*, 37, 4. Schisas, *Offenses against the State*, p. 193, n. 3, calls these cases of *maiestas*, but Tacitus does not call them such, and it is better to regard them as matters of international import

which did not fall under specific charges but which obviously the Senate alone, as representative of the Roman state, could hear.

49. Senatorial proconsuls for extortion: Messalla, 12 A.D., *Ann.*, III, 68, 1 (cf. above, n. 37); Silanus, 22 A.D., also for *maiestas*, *Ann.*, III, 66-69; Caesius Cordus, 22 A.D., also for *maiestas*, *Ann.*, III, 38, 1, and 70; Proculus, 56 A.D., acquitted probably by the Senate, *Ann.*, XIII, 30, 1; Suillius, 58 A.D., also as a *delator* under Claudius, *Ann.*, XIII, 43; Camerinus and Silvanus, 58 A.D., *Ann.*, XIII, 52, acquitted by Nero, perhaps, as Furneaux suggests, by the influence of casting the first vote, otherwise it would be hard to explain his right to interfere unless through his intercession, which would probably have been differently expressed. The text does not even specify trial before the Senate, but this must almost certainly have been the case with proconsuls of Africa. Tarquinius Priscus, 62 A.D., *Ann.*, XIV, 46. Other similar charges were: Silio, 44 A.D., for failing to supply grain from Baetica to the governor of Mauretania, Dio, LX, 24, 5; above, Ch. VI, p. 62; Blaesus, 59 A.D., for robbing a temple and accepting bribes in levying troops, *Ann.*, XIV, 18, 1.
50. Imperial civil servants: Capito, procurator of Tiberius, for extortion, *Ann.*, IV, 15, 3; Dio, LVII, 23, 4; Strabo, ex-praetor and agent sent by Claudius (perhaps *ex s.c.* cf.; above, Ch. VI, p. 60) to evict squatters from public land in Cyrene and brought by the Cyrenians before the Senate under Nero, *Ann.*, XIV, 18, 2-4; a praefect of a cavalry squadron charged with violence was forced by Tiberius to plead before the Senate, possibly because he was a young noble performing his equestrian service, Suet., *Tib.*, 30; an equestrian praefect of the Ravenna fleet for extravagance and cruelty, *Ann.*, XIII, 30, 2; Dess., 2702; Vispanius Laenas, procurator of Sardinia, for extortion (probably by the Senate), 56 A.D., *Ann.*, XIII, 30, 1. Furneaux suggests that Nero may have tried these last two himself, since Tacitus does not specify and since they were imperial servants; cf. note *ad loc.* with ref. to XIII, 33, 1, but the context certainly implies trial before the Senate.
51. Intercession by tribunes: against the restraint of actors, *Ann.*, I, 77, 3, calling it *simulacra libertatis*, 15 A.D.; against the condemnation of certain astrologers, whom the Senate had con-

- victed over the votes of Tiberius and Drusus, 16 A.D., Dio, LVII, 15, 9, calling it τὸ τῆς δημοκρατίας σχῆμα, cf. above, Ch. XV, n. 25; by Otho against rewarding a *delator*, 37 A.D., *Ann.*, VI, 47, 1, *unde mox Othoni exitium*; Arulenus's offer refused by Thræsea *ne uana et reo non profutura intercessori exitiosa inciperet*, 66 A.D., *Ann.*, XVI, 26, 6. Cf. above, Ch. XVI, n. 53.
52. Augustus intercedes, Suet., *Aug.*, 56, 1; Holmes, II, p. 33. Cf. in general Ciaceri, *Responsabilità di Tiberio*, II, p. 415.
53. The ten-day interval, *Ann.*, III, 51, 3, 22 A.D. Cf. Suet., *Tib.*, 75, 2; Dio, LVII, 20, 4; Mom., *Strafrecht*, p. 253, n. 2 (I, p. 295, n. 3); Rogers, *Class. Philol.*, XXVII, 1 (Jan. 1932), pp. 78-79. The rule seems to have applied to the decisions of the Emperor as well, Seneca, *de Tran. Animi*, XIV, 6 (Gaius), unless this was a case heard by the Emperor presiding in the Senate. Sidonius Apollinaris, *Ep.*, I, 7, 12, speaks of a delay of thirty days *ex uetere senatus consulto Tiberiano*.
54. Tiberius interceded against the trial of Ennius, *Ann.*, III, 70, 4, 22 A.D. In *Ann.*, I, 13, 4, Scaurus drew hope that Tiberius would accept the Empire from his failure to intercede when the consuls made the relation to the Senate.
55. Nero, Antistius, *Ann.*, XIV, 48, 3, 61 A.D. Nero saved one of his accomplices, Marcellus, by "prayers" from a charge of forgery, which implies that the case was too obvious to justify the use of the tribunician power; *Ann.*, XIV, 40, 5, 61 A.D. The case of the elder Torquatus may have been tried by Nero, who calls himself *iudex*, but Torquatus's nephew was tried in the Senate on the same charge of aping the imperial household, so that Nero, in saying that he would have allowed the elder to live, may have meant that he would have interceded against a decree of death; *Ann.*, XV, 35, 2, 64 A.D. (cf., for the younger, *Ann.*, XVI, 9, 1, 65 A.D.). In the case of L. Vetus, Nero freed a prisoner sent to Rome by the proconsul of Asia in order to have him testify against Plautus, perhaps applying his *auxilium*, and then, after Plautus had committed suicide, Nero ironically interceded against a decree condemning him to death *more maiorum* to allow him to choose his own form of death; *Ann.*, XVI, 10-11, 65 A.D.
56. Suetonius (*Nero*, 39, 2) says: *quosdam (auctores) per indicem delatos ad senatum adfici grauiore poena prohibuit*, which may indicate a use of the tribunician power. But Tacitus (*Ann.*, III,

- 18, 1) says of Tiberius in the trial of Piso: *multa ex ea sententia mitigata sunt a principe*, where Tiberius was presiding. Nero, however, seldom presided in person.
57. When the Emperor presided, the consuls voted first; *Ann.*, III, 17, 8.
58. Tiberius presiding, Piso, *Ann.*, III, 17; Dio, LVII, 18, 10; Silanus, *Ann.*, III, 68, 2; Silius, *Ann.*, IV, 19, 2; Cordus, *Ann.*, IV, 34, 2; a knight, Suet., *Tib.*, 57, 2. In the last three cases it is not definitely stated that he was presiding. Dio states on several occasions that Tiberius brought people to trial before the Senate, but where there is a check, as in the cases of Piso and Capito, other authorities show that the charge was made by an informer; cf. above, nn. 26, 44; cf. also Dio, LVII, 22, 5 (Saturninus), LVII, 15, 4 (Suet., *Tib.*, 25, 3, Libo). Claudius, however, read charges himself even when the consuls presided; Dio, LX, 16, 3 (Suet., *Cl.*, 23, 2).
59. Gaius used the Senate as a judicial *consilium* but allowed appeals from it to himself, irregularly; Dio, LIX, 18, 2 (cf. LIII, 21, 6, for free jurisdiction under Augustus). He presided at the trial of Afer; Dio, LIX, 19. Claudius used it for trials; Dio, LX, 4, 3; Nero seems to have presided at the trial of Suillius; *Ann.*, XIII, 43, 4.
60. Trial of Marcellus, cf. above, Ch. XV, pp. 123-124; *Ann.*, I, 74 ff.
61. Written charges: Augustus' *libelli* on Messalla, *Ann.*, III, 68, 1; Tiberius, *Ann.*, V, 3, 3 (Suet., *Tib.*, 54, 2, Gaius, 7, Agrippina, Nero, and Drusus); *Ann.*, VI, 9, 1 (Vistilius); Dio, LVIII, 3, 2 (Gaius), 9 ff. (Sejanus). Tiberius also requested leniency for a friend by letter, *Ann.*, VI, 5, 2. Naturally, after his retirement to Capreae, all his dealings with the Senate were by letter, usually to the consuls. His letters were often written without mentioning the names of those concerned; *Ann.*, I, 81, 2; Suet., *Tib.*, 73, 1. Nero's letters, *Ann.*, XIV, 49, 3 (Antistius), 59, 5 (Sulla and Plautus), XVI, 7, 3 (Cassius and Silanus), 27, 2 (Thrasea).
62. Julia the Elder, Dio, LV, 10, 14, cf. 13, 1a; *Ann.*, I, 53; Suet., *Aug.*, 65, 1, *Tib.*, 50, 1; the Younger, *Ann.*, IV, 71, 6; Suet., *Aug.*, 65, 1. Agrippina and Nero, *Ann.*, V, 5, 1.
63. Valerius Asiaticus, *Ann.*, XI, 2, 1; Dio, LX, 27, 3; 29, 4.
64. Veinto, *Ann.*, XIV, 50.
65. Interference of the Emperor requested by the prosecutor: Au-

- gustus, Dio, LVI, 24, 7; Tiberius, *Ann.*, III, 10, 4, IV, 22, 1. Requested by the Senate: Nero, *Ann.*, XIV, 18, 3, XVI, 9, 1. In the case of Timarchus of Crete, the consuls refused to make a motion supported by Thrasea until Nero approved; *Ann.*, XV, 20, 1. The Senate was much more subservient in the reign of Nero than under Augustus and Tiberius.
66. Emperor referring to the Senate: Tiberius, *Ann.*, III, 10, 4 (Piso), IV, 22, 1 (Silvanus).
67. Unwillingness of the Senate to act: under Tiberius the Senate did occasionally vote against the Emperor, as in the affair of the astrologers, Dio, LVII, 15, 9 (where a tribune interceded against the vote, cf. above, n. 51), or in the acquittal of Terentius, *Ann.*, VI, 9, 1; Dio, LVIII, 19, 3. But under Nero it awaited his will; cf. above, n. 65.
68. Imperial jurisdiction, Mom., II, 2, pp. 958 ff. (V, pp. 246 ff.); Willems, p. 468; Greenidge, *RPL.*, pp. 382 ff.
69. Extraordinary jurisdiction under the Republic, Reid, *Companion to Latin Studies*, sec. 477; Girard, *Manuel*, pp. 1132 ff. The tribunician jurisdiction was of this sort; cf. Juvenal, VII, l. 228, *cognitione tribuni*, quoted by Greenidge, *RPL.*, p. 448, in his appendix on its limitation under Nero.
70. Praetor *vs.* praefect, the case of Ponticus, *Ann.*, XIV, 41, 2. McFayden, *Rise of the Princes' Jurisdiction*, p. 259, holds that the Senate decided unconstitutionally and unwisely in condemning Ponticus, for it thereby validated the claims of the praefect of the City to jurisdiction.
71. Emperor unwilling or not entitled to exercise the *imperium* in the City, cf. above, Ch. IV, pp. 30-32.
72. Emperor allotting jurisdiction to magistrates, cf. above, n. 3.
73. Imperial jurisdiction, de Ruggiero, *Dizionario*, II, p. 319, *s.v. Cognitio*.
74. Direct criminal cases before the Emperor: Augustus, Suet., *Aug.*, 33, 1; Tiberius, Suet., *Tib.*, 62, 1 (investigation of the death of Drusus), *Ann.*, IV, 22, 2 (Silvanus), VI, 10, 2 (Flaccus and Movinus). Possibly Seneca, *Nat. quaest.*, I, 16, 1 (Hostius Quadro).
75. Refusal to take criminal cases: Augustus, Dio, LIII, 23, 6 (Gallus), LVI, 24, 7 (the quaestor); Tiberius, *Ann.*, III, 10, 6 (Piso).
76. Refusal by Senate, *Ann.*, IV, 21, 4 (it refused to accept certain

- charges against one Calpurnius Piso but did try him for libel); *Ann.*, XIII, 10, 3 (Celer and Densus not tried by the Senate).
77. Criminal jurisdiction of the Emperor affecting: senators, cf. above, n. 65; knights, Dio, LIII, 17, 6, a questionable passage, cf. above, Ch. IV, n. 37; military offenders, Dio, LII, 33, 2 (speech of Maecenas); LVI, 23, 3 (slackers after the defeat of Varus); imperial civil servants, *Ann.*, XIII, 33, 1 (Celer, procurator of Asia, other than the Celer of n. 67), cf. Tac., *Dial.*, 7, 1, *apud principem procuratores defendere*; provincials, Cyrene Edicts I and II with Stroux-Wenger, *Aug. Inschr.*, pp. 71-73 (a case of *maiestas* referred to the Emperor by the governor). For criminal trials under Claudius cf. Ziegler, *Die Regierung des Kaisers Claudius*, I, pt. 2, pp. 13 ff.
78. Imperial control of magistracies, cf. above, Ch. XVI, pp. 132-134. Reform of juries, cf. above, Ch. X, p. 96.
79. Imperial jurisdiction by delegation or on appeal, Mom., II, pp. 966, 970 ff., 978 ff. (V, pp. 255, 259 ff., 269 ff.); Willems (p. 554) asserts that appeal could be made from the senatorial proconsuls to the Emperor as well as from the *legati*. Cf. above, Ch. VI, p. 56, on Cos and Cnidos. This was perhaps in virtue of the tribunician power.
80. Delegated jurisdiction, Willems, p. 470.
81. Praefect hearing appeals, Willems, pp. 432, 474. Suetonius (*Aug.*, 33, 3) has the curious statement: *appellationes quotannis urbanorum quidem litigatorum praetori delegabat urbano, at prouincialium consularibus uiris, quos singulos cuiusque prouinciae negotiis praeposuisset*. The precise bearing of this passage is hard to determine. Presumably, the appeals to the praetor were from lower magistrates, since there was no appeal from a *quaestio*. Are the *consulares uiri* the governors or special *legati iuridici* (Willems, p. 476) for whom there is some later evidence in provinces such as Spain (Willems, p. 551)? And if they are the governors, does it refer to the senatorial provinces? This would seem likely since the senatorial governors were on a par in their own provinces with the Emperor. So, in the Cnidos affair, Augustus delegated the hearing to the proconsul, and the proconsul of Asia ruled in the Cos affair that all appeals should go through him; cf. above, Ch. VI, p. 56.
82. No appeal from the *quaestiones*, Mom., II, 2, p. 977 (V, p. 268); Girard, *Manuel*, pp. 1114 ff.

83. Appeal confined to citizens, cf. the case of St. Paul, *Acts*, 24, 11.
84. Deposit required, *Ann.*, XIV, 28, 2, and above, n. 37. Cf. Willems, p. 471, *ius gladii* of governors. Strachan-Davidson, *Problems of the Roman Criminal Law*, II, pp. 166-169.
85. Imperial decision final, *Mom.*, II, 2, p. 988 (V, p. 279).
86. Augustus and Tiberius scorned libels, *Suet.*, *Aug.*, 51, 2, *Tib.*, 28. Even Claudius prosecuted only if there was some other charge as well; *Dio*, LX, 3, 6. The Senate usually heard such cases; *Suet.*, *Gaius*, 16, 1 (Gaius allowed the revival of republican books suppressed by the Senate). Nero prevented severe penalties in such cases, *Suet.*, *Nero*, 39, 2. But he had the works of Veinto burnt, *Ann.*, XIV, 50, 2.
87. Revolutionary acts: Gallus, *Dio*, LIII, 23, 6; Primus, *Dio*, LIV, 3, 2; Caepio, *Suet.*, *Tib.*, 8; *Dio*, LIV, 3, 4. Such trials probably came under the *lex de maiestate*, and after the accession of Tiberius would come before the Senate; cf. above, n. 15.
88. Asiaticus heard *intra cubiculum*, *Ann.*, XI, 2; *Dio*, LX, 29, 5; Messalina was executed by order of the *imperator*, and hence her case was not referred to the Senate, *Ann.*, XI, 37, 3; Burrus perhaps heard by the Emperor, *Ann.*, XIII, 23; the investigation into the Pisonian affair was conducted by Nero in person, *Ann.*, XV, 55-57, and he executed the first conspirators without trial, probably in virtue of the *imperium*.
89. Josephus, *Bell. Iud.*, I, 23, 3 (452), 27, 1 (537), 29, 3 (575), 32, 5 (640), II, 2, 4 (25), 7, 3 (111). Some of these references are to hearings ordered by Augustus before Herod or the governor of Syria. Tiberius defended Archelaus before Augustus, *Suet.*, *Tib.*, 8. This king was eventually tried in the Senate, *Ann.*, II, 42, 5.
90. The rebuke of Maecenas, *Dio*, LV, 7, 2. Augustus in the courts, *Dio*, LIV, 30, 4, LV, 33, 5-34, 1; *Phaedrus*, III, 10, 39 ff. For his leniency, *Suet.*, *Aug.*, 33; *Dio*, LV, 12, 3; 16-22, 2 (the speech of Livia). In general cf. Ch. XVI, nn. 71-74.
91. Tiberius, *Suet.*, *Tib.*, 33; *Dio*, LVII, 7, 2; 19, 1b.
92. Gaius, *Dio*, LIX, 18, 2.
93. Claudius, *Dio*, LX, 4, 3; 33, 8; *Suet.*, *Cl.*, 12, 2; 14; *Seneca, Ludus*, 7, 4; 12, 2; *Ann.*, XIII, 4, 2 (criticism by Nero).
94. Suetonius on Claudius's decisions, *Cl.*, 14-15.
95. Suetonius on Nero's jurisdiction, *Nero*, 15.

CHAPTER XXII

1. The authoritative work on the administration remains Hirschfeld, *Die Kaiserlichen Verwaltungsbeamten*. A brief summary in English is *The Imperial Civil Service of Rome*, by H. Mattingly. There is also Marquardt, *Staatsverwaltung* (French translation, *L'organisation de l'Empire Romain*).
2. Senate and foreign affairs; the Senate conferred the title of *amicus* on Polemo of Pontus, 26 B.C., Dio, LIII, 25, 1; committee on foreign relations, 8 A.D., Dio, LV, 33, 5, cf. LVI, 25, 7; trials of foreign princes, cf. above, Ch. XXI, n. 39. It sent an embassy to confer honors on Ptolemy of Mauretania after the defeat of Tacfarinas, 24 A.D., *Ann.*, IV, 26, 4.
3. Emperor and foreign affairs, Dio, LIII, 17, 5; Strabo, XVII, 3, 25 (840); Dess., 244 (Bruns, p. 202, no. 56, *lex de imperio*), ll. 1-2; Mom., III, 2, p. 1156 (VII, p. 376). Reporting on military successes, cf. above, Ch. VI, n. 30. Triumphs, cf. above, Ch. V, p. 52. Cf. Kolbe, *Von der Republik*, p. 50.
4. Coinage: this paragraph is summarized from H. Mattingly, *Roman Coins*, pp. 109-114. Cf. Hirschfeld, pp. 181-189; further references in Reid, *Companion to Roman Studies*, sec. 705.
5. The last coins of those minted in the provinces to bear any name but Augustus' is one of Canisius, at Emerita in Lusitania; Mattingly, *Roman Coins*, pl. XXX, 2. Mint at Lyons, Mattingly, *Roman Coins*, p. 111.
6. Senatorial coinage, Mattingly, *Roman Coins*, pp. 111-112. There are no coins between 4 B.C. and 11 A.D., when *s.c.* alone appears. Gaius, on his accession, coined copper *denarii* without the *s.c.* For his donative to the troops cf. the coins in Mattingly and Sydenham, I, p. 117, nos. 23-25, which are cited by Gelzer, *P.W.*, Reihe I, XIX, col. 386, l. 52. Mattingly and Sydenham (*Roman Imperial Coinage*, I, pp. 5, 137, II, pp. 3-5) say that the division of gold and silver to the Emperor and bronze to the Senate was one of custom and not legal rule and was occasionally violated. Thus, under Nero, until 64 A.D., the Senate coined gold and silver but no bronze.
7. Summarized from Mattingly, *Roman Coins*, pp. 143-146. Cf. also Schulz, *Die Rechtstitel und Regierungsprogramme*.

8. On the much discussed subject of the *fiscus*, the present writer feels that although there is no evidence for a central bureau at Rome before the reign of Claudius, the Emperors must have maintained some such central accounting system from the beginning, even though the actual funds were kept in provincial offices. The accounts left by Augustus and the general probabilities seem to demand some such bureau. It would, of course, be managed by the personal servants of the Emperor and hence not figure largely until those servants, under Claudius, attained great prominence. With regard to the resources of the *fiscus*, there has been much dispute about the extent to which the Emperor regarded the state funds as his own property. Without entering into the detailed evidence, the present writer feels that it is most unlikely that Augustus allowed any confusion between his own wealth and the funds which he held in virtue of the *imperium*, although he probably administered the two equally through his personal freedmen and although he undoubtedly spent his own resources freely in the service of the state, as the *Monumentum* testifies. Egypt affords a good example of the method which he followed. In the *Monumentum*, V, 24, he states: *Aegyptum imperio Populi Romani adieci*. Yet he administered vast extents of property there through procurators just as he did his own estates (cf. above, Ch. IV, nn. 96-97). Abele (*Sen. unter Aug.*, pp. 16-21) concludes that the Senate had a right of control over the state finances, even in questions of military pay, but that the Emperor's oversight rapidly became definitive for the whole Empire. For a summary of the discussion cf. E. Meyer, *Kleine Schriften*, I, p. 461, n. 1, and Holmes, II, pp. 177-178. Cf. in general Hirschfeld, pp. 1-52.
9. The history of the *aerarium* is summarized in *Ann.*, XIII, 29; cf. Hirschfeld, pp. 13-17. For imperial subventions, *Mon. Anc.*, III, 34; Dio, LIII, 2, 1; Mattingly and Sydenham, I, p. 74, no. 147; *Ann.*, XIII, 31, 2, XV, 18, 4. The Emperor often made up deficiencies in the tribute to the *aerarium*, *Mon. Anc.*, III, 40-43; Dio, LIV, 30, 3; or he moved bills for the remission of tribute, Strabo, XIV, 2, 19 (657), (attributing the remission to Augustus); *Ann.*, II, 47, 3, IV, 13, 1, XII, 58, 2 (Suet., *Cl.*, 25, 3), XII, 63, 3. He also assisted stricken communities, *Ann.*, II, 47, 3; Suet., *Gaius*, 16, 3; *Ann.*, XII, 58, 2, XVI, 13, 5. It is this weakness of the *aerarium*, despite the wealth of the sen-

atorial provinces, which suggests that the *fiscus* drew largely from these provinces. Possibly it absorbed all the indirect *uectigalia* and left only the direct *tributa* to the *aerarium* ; cf. above, Ch. IV, n. 101, and Ch. VI, n. 40.

10. Nero's ex-praetors, *Ann.* , XIII, 29, 3.
11. Nero's committee of audit, *Ann.* , XV, 18, 4, perhaps referred to as *curator uectigalium publicorum* in Dess., 9484. For Augustus cf. Dio, LV, 25, 6.
12. *Aerarium militare* , 6 A.D., *Mon. Anc.* , III, 35-39 (cf. Hardy, p. 89); Dio, LV, 25; Suet., *Aug.* , 49, 2; Hirschfeld, pp. 1-2; Willems, p. 492. The private funds spent by Augustus on public service are summarized in *Mon. Anc.* , VI, 29-30 (Hardy, pp. 163-164). Cf. above, n. 8.
13. Annual balance-sheet, Suet., *Gaius* , 16, 1; Dio, LIX, 9, 4. They were stopped when Tiberius retired to Capreae but resumed by Gaius. Cf. Mom., II, 2, p. 1025, n. 3 (V, p. 321, n. 6); Willems, p. 494. Dessau (*Gesch.* , I, pp. 186-187) fancifully sees in it an appeal to the People over the head of the Senate. For the *breuiarium* , Suet., *Aug.* , 28, 1; 101, 4; Dio, LIII, 30, 2, LVI, 33, 2. Augustus regarded the other consul, Piso, as the responsible magistrate during his illness in 23 B.C., although he gave his seal ring to Agrippa, probably to indicate him as his legal executor. Later the seal ring had a public significance; cf. above, Ch. VII, n. 26. In 14 A.D. the Senate was apparently the body to which his documents were addressed.
14. The position of Augustus towards the public funds is commonly compared to that of the republican general towards the *manubiae* , or spoils of war; cf. Mattingly, *Imperial Civil Service* , p. 16, but Holmes, II, p. 178, doubts this. The best parallel is Agrippa's treatment of the water-works. He assumed it as a liturgy in 33 B.C. and managed it with his personal slaves, whom he bequeathed to Augustus in 12 B.C. Augustus turned them over to the state and issued an edict on the matter and appointed a curator whose functions were defined by a decree of the Senate. Claudius increased the number of slaves and added an imperial procurator. This indicates the increasing necessity of imperial supervision. Cf. Frontinus, *de Aquis* , II, 98-101; 116; Suet., *Aug.* , 42, 1; Pliny, *N.H.* , XXXI, 3, 24 (41); Dio, XLIX, 42, 2. Similarly Augustus sought by precept and example to induce rich senators to undertake the repair of roads

- at their own expense; Dio, LIII, 22, 1; Suet., *Aug.*, 30; *Mon. Anc.*, IV, 19.
15. The arrogant retirement of Pallas under Nero is thus reported by Tacitus, *Ann.*, XIII, 14, 1-2: *ferebaturque degrediente eo magna prosequentium multitudine non absurde dixisse, ire Pallantem ut eiuraret. sane pepigerat Pallas ne cuius facti in praeteritum interrogaretur paresque rationes cum re publica haberet.*
16. Seneca, *de Ben.*, VII, 6, 3, said: *Caesar omnia habet, fiscus eius priuata tantum ac sua, et uniuersa in imperio eius sunt, in patrimonio propria.* This is hard to translate and has commonly been taken to mean that the Emperor "owned" the public funds in the *fiscus*. It may, however, be taken to mean that, though the Emperor rules everything, his *fiscus* contains only his private property, and that though everything is under his sway, his patrimony contains only his own possessions, that is, that the Emperor distinguished carefully between his and the state's goods and that his personal financial bureau had no state funds. Dio, LIII, 16, 1, says that Augustus λόγῳ μὲν τὰ δημόσια ἀπὸ τῶν ἐκείνου ἀπεκέκριτο, ἔργῳ δὲ καὶ ταῦτα πρὸς τὴν γνώμην αὐτοῦ ἀνηλίσκετο, but Dio was writing in the third century, and the jurists of the second century already regarded the funds in the *fiscus* as *quasi propriae et priuatae*; Ulpian, *Dig.*, XLIII, 8, 2, 4.
17. Senate in administration, cf. above, Ch. XIX, pp. 157-158.
18. *Curae* acting *ex s. c.*, cf. above, Ch. XIX, n. 23.
19. The *praefectus annonae*, the *cura uiarum*, the *cura aquarum*, the *cura aluei Tiberis*, and the *cura tabularum publicarum* all seem to have been imperial appointments. Possibly the *cura operum publicorum* was also. The *cura frumenti populo diuidundi* was by nomination of the magistrates and then by lot, and the *cura locorum publicorum iudicandorum* may have been by lot. Abele (*Sen. unter Aug.*, p. 37) thinks, with Kornemann, that the *curationes* were in general appointed by both the Senate and the Emperor, and that it is only the vagueness of the sources, especially Dio, that has concealed this coöperation.
20. A detailed discussion of the imperial civil service will be found in the books mentioned in n. 1. Vitellius put knights in the secretarial posts in place of freedmen, *Hist.*, I, 58, and Hadrian made this general (*Vita Hadriani*, 22, 8), but not universal, as freedmen occur thereafter; cf. Henderson, *Hadrian*, p. 65, n. 1.

21. For the provision of staffs by magistrates cf. Agrippa and the water-works, above, n. 14. The state did provide a good many clerks, attendants, etc.; Mom., I, pp. 320-371 (I, pp. 362-421).
22. Trials for extortion under the Empire, cf. above, Ch. XXI, n. 49; cf. the trial of Marius, prosecuted for extortion in the Senate by Pliny and Tacitus in 100 A.D., Pliny, *Ep.*, II, 11.
23. The incredible story of how Licinus, a Gaul, freedman of Caesar, and appointed procurator of the Gauls by Augustus, mulcted the provincials and, when they complained to the Emperor, excused himself on the ground that he was gathering the money for Augustus and depriving the Gauls of the sinews of revolt, occurs in Dio, LIV, 21, 3-8. For the spelling of the name cf. Boissevain *ad loc.* Cf. also Suet., *Aug.*, 67; *P.W.*, Reihe I, XXV, cols. 503-505. For Pallas cf. the refs. in Furenaux, II, index, and also Suet., *Cl.*, 28.
24. Imperial interference in senatorial provinces, cf. above, Ch. VI, pp. 54-64; in Rome, above, Ch. XVI, n. 49; in the *aerarium*, above, n. 9.
25. For the establishment of a regular salary for senatorial governors cf. the refs. above in Ch. VI, n. 53. Cf. in general for the pay of officials Mom., I, pp. 293-306 (I, pp. 330-345).
26. For the good government under the early Empire cf. Gibbon, Chs. I-III, esp. p. 78 in Bury's ed.: "If a man were called to fix the period in the history of the world during which the human race was most happy and prosperous, he would, without hesitation, name that which elapsed from the death of Domitian to the accession of Commodus."
27. For the sense of public service under "the enlightened monarchy of the Antonines" cf. Rostovtzeff, *SEH.*, pp. 116-120.
28. Dill, *Roman Society in the Last Century of the Western Empire*, pp. 227-281.
29. For the elimination of the People from the government cf. above, Ch. XVII, pp. 143-145. This happened under Augustus in Rome, and by the end of the second century they retained little share in the government of the municipalities; Rostovtzeff, *SEH.*, pp. 125-142; Greenidge, *RPL.*, p. 423.
30. Gallienus separated senators from the military commands; Victor, *Caes.*, 33, 34; 37, 6.

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