

The Role of Eloquence in Tacitus

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The important position occupied by rhetoric in ancient literature in general and historiography in particular is too well known to require much introduction. This work will attempt to trace the boundaries of that position more accurately.

This project originated in asking a very simple question: Given that the primary function of a speech is to persuade its audience, do the numerous speeches in Tacitus' works actually fulfill that function within the narrative? Do the speeches aimed at calming a mutiny or acquitting a defendant in fact achieve that aim? Overwhelmingly, they do not. Then why not?

This work will therefore examine how Tacitus portrayed the functional role of eloquence under the Principate by looking at many of the speeches in Tacitus' historical works and the part they play in the larger narrative. With Tacitus, of course, we are fortunate enough to have a work concerned with this exact theme, the *Dialogus*; but the *Dialogus*, we shall see, is far from straightforward. In the end, it will become clear that Tacitus devotes so much narrative space to oratory precisely because it no longer works as it should: eloquence, as he portrays it, has no real function under the Empire. This is especially evident if one examines the treason trials of the *Annals*, which represent the most conspicuous failure of oratory to live up to its traditional role in Roman society.

Chapter 1, then, will be a brief historical overview of *maiestas* and how it was seen in the Roman historiographical tradition. Chapter 2 will examine the *Dialogus*, and will argue that the *Dialogus* can only be fully understood by reading it alongside Tacitus' other works, and comparing what the interlocutors say to what Tacitus tells us actually happens. Chapters 3 and 4 will cover the *Histories*: Chapter 3, oratory's failure in the Senate and its inability to control the soldiery, and Chapter 4, a revealing exemption to this pattern of failure in Julius Civilis, a Germanic chief leading a rebellion against Rome. Lastly, Chapters 5 and 6 will look at the *Annals*: Chapter 5, the reign of Tiberius and the beginning and growth of *maiestas* accusations, and Chapter 6, further developments during the reigns of Claudius and, finally, of Nero.

Chapter 1: *Maiestas* and Delation, Historical Background

A large part of what follows will be concerned with ancient perceptions of *maiestas* and the *delatores*. It will therefore be necessary to explain precisely what these concepts are, their historical origins and their development up into the time of the early Principate. Thus we will begin with an historical overview of *maiestas* before continuing on to delation, in both cases trying to stay as close to the facts as possible. For the imperial period itself, however, the bulk of our evidence comes from the often biased ancient authors themselves, and scholars have understood the role of the *delatores* only by criticism and reappraisal of these sources; the historical overview will thus be followed by a careful description of the ancient *perception* of these issues, and then by a discussion of recent scholarship reevaluating and in a large degree correcting that perception. We will conclude with a summary and synthesis of the various viewpoints.

Maiestas is an inherently nebulous concept, difficult to define, and so too must be the *crimen maiestatis minutae* (often itself simply called *maiestas* or translated simply as “treason”).¹ It derives from *maior* and expresses the idea of absolute superiority, and in its earliest usage *maiestas* is the possession of the gods alone.² By extension, it describes those who are *like* the gods, and in the Republic was the only word fit to assign to the greatness of the assembled *populus Romanus*: by extension again, it is the (temporary) property of the Roman magistrates, who ultimately derive it along with their authority from the vote of the *populus*.³ It is perhaps easiest to see what *maiestas* is if we observe what a violation of it could consist of.⁴ The crime of diminishing the *maiestas* of the Roman

1 For everything that follows concerning *maiestas*, we must emphasize at the start how little is known for certain: the judicial authors who discuss the subject come later, after it is clear that much (but not how much) had changed. Everything we say is based at best on probability, but still clouded by a more or less heavy fog.

2 Drexler (1956) 196, Bauman (1967) 1-4. Drexler catalogues a large number of the uses of the word in a wide variety of Latin authors.

3 Drexler (1956) 197, Bauman (1967) 12-13. At Livy 2.7.7 (discussed by Bauman), the consul Valerius Poplicola, founder of the Republic, has his *fasces* lowered when he addressed the *populus*, symbolically demonstrating the relative inferiority of his own position. Cf. Aulus Gellius 13.13.3: *quoniam [quaestor] magistratus populi Romani procul dubio esset et neque vocari neque, si venire nollet, capi atque prendi salva ipsius magistratus maiestate posset*.

4 Drexler (1956) 201.

people could be committed both by a private citizen against a magistrate (the representative of the *populus*) or by a magistrate himself acting in an illegal or shameful way; in the former category, it could be *maiestas minuta* physically to restrain a tribune from speaking, or even for one tribune to continue speaking after another tribune had interposed his veto, as this was a slight against the *maiestas* of the representative of the people;⁵ among the acts of a magistrate that could constitute *maiestas minuta* (in the last few centuries BC), Bauman enumerates:

unauthorized warfare and departure from a province, military failures, cowardice, ill-treatment of allies and enemy prisoners, disregard of the auspices, and unfair division of booty; retention of office beyond the due term; bias in the administration of justice; neglect of sacral duties; misuse of public funds ... and breaches of duty by legates, senators, and private individuals who undertook services on behalf of the State.⁶

As even this short list shows, *maiestas* can cover a wide variety of actions that were viewed in some way as diminishing the honor or dignity of the Roman people or the Roman State.

A problem arises, however: the relationship between *maiestas* and *perduellio*. *Perduellio*, properly referring only to high treason and militarily bearing arms against the state, is far the older of the two, and many of the early examples of *maiestas* may actually have been *perduellio* – may have been, because the connections and differences are far from clear, and there is still much debate. There was no actual *lex* defining *maiestas minuta* as a crime until the *lex Appuleia* of 103 or 100 BC; before that everything must have followed the procedure of *perduellio*:⁷ in the absence of a *lex* defining the *crimen* and assigning a court, every indictment for *perduellio* was made before the full *comitia*

⁵ Bauman (1967) 31, discussing the case of C. Flaminius (tribune 232 BC) mentioned by Cicero, *De Inventione* 2.52. Crawford (1994) 65-70, on the fragmentary *Pro Cornelio* of Cicero

⁶ Bauman (1967) 21-22. Also p. 82: a magistrate might be guilty of *maiestas* for doing something a private citizen could lawfully do, such as if a praetor visited a brothel in his official capacity.

⁷ The word *maiestas* may or may not have been used before the *lex Appuleia*: Bauman (1967) 38 thinks so, but Ferrary (1983) 556-572 considers this terminology anachronistic.

centuriata of the people, and every conviction – far from a judicial decision by a court – was effectively a legislative act, a decree that so-and-so was guilty of treason.⁸ Such a procedure is implicit in Diodorus 24.12.1-3, where the Atilii were accused by the tribunes because their cruelty to a prisoner disgraced Rome; and in Cicero, *De Officiis* 3.112, where the dictator L. Manlius was accused by the tribune M. Pomponius for illegally extending his term of office: the fact that the tribunes summoned them to court in their *official* capacity as magistrates (Cicero has *diem dixit*) implies that the “trials” were really *ad populum*.⁹ In these circumstances, *perduellio* consisted of whatever a majority of the people agreed it to be at any given time; it thus covered a very broad and wide-ranging category of offenses.¹⁰

The *lex Appuleia*, the first *maiestas* law, changed this only somewhat. It set up a permanent *quaestio* to deal with the crime of *maiestas minuta*, but left the crime itself undefined, only proclaiming in the style of republican laws that those who did certain acts would be considered guilty of *maiestas*.¹¹ This did not limit *maiestas* to those offenses covered by the law, but only codified a small subset of the acts that had long been (and continued to be) considered *perduellio*; thus the *quaestio* only applied to those charged with *maiestas* according to the *lex Appuleia*, while in theory one could still be indicted before the *comitia centuriata* for *perduellio*. This will be a common trend: *maiestas* was never fully codified and delineated until the very late Empire, and remained a nebulous concept and an uncertain crime.

Sulla certainly passed a *lex Cornelia maiestatis* in 81, but even this gave no general definition.¹² Not unreasonably, after his own actions and those of others in the civil war, Sulla was greatly concerned to limit the authority and independence of provincial governors, and his *maiestas* law

⁸ Bauman (1967) 20-26.

⁹ The case of Lucius Manlius is mentioned by Bauman (1967) 23, who, however, incorrectly states that it occurs at 2.112.

¹⁰ Bauman (1967) 20-23.

¹¹ Bauman (1967) 44-50, 54-55. *Leges* tended to be *ad hoc*: 82.

¹² Bauman (1967) 68-75.

applied primarily to them: it was now treason, for instance, for them to leave their province during their term of office. The *lex Cornelia*, then, like the *lex Appuleia*, only codified a particular subset of possible *perduellio* offenses as now definitely constituting *maiestas* and being subject to the *quaestio*; it was not a general *maiestas* law – revealingly, no one was ever prosecuted according to the *lex Cornelia* for an offense previously covered by the *lex Appuleia*.¹³ Thus the *lex Cornelia*, like the *lex Appuleia*, did not give a comprehensive definition of what was or was not *maiestas*; rather it only took a particular set of actions that *could* have been prosecuted as *maiestas/perduellio* before the *comitia centuriata* according to the old procedure, and codified it as definitely constituting a criminal offense to be handled by the new courts.

Now, however, we come to the most important (for our purposes) and most controversial point: the *lex Iulia maiestatis*. Undoubtedly there was such a law, but it has long been debated (1) whether it was passed by Julius Caesar or Augustus, (2) to what degree it was a general definition of *maiestas* and what offenses it included, and (3) what punishment it laid down for *maiestas minuta*.

(1) Chilton argues for an Augustan law.¹⁴ It is unquestionable that a large number of changes to *maiestas* procedures and the categories of offenses (see the next section) happened under Augustus; most notably, *maiestas* trials were moved from the *quaestio* to the Senate, the circumstance with which readers of Tacitus or Pliny are familiar. *A priori* this suggests to Chilton the passage of a *lex*. Bauman is less certain, and his conclusions only tentative, but after admitting the difficulty that no Augustan *maiestas* law is attested by literary sources and that such a law would have to date to 27 or earlier – before Augustus' legal reforms are usually agreed to have begun – Bauman too concludes that the significant changes in *maiestas* procedure that are seen to happen under Augustus necessitate an Augustan *lex maiestatis*. On the other hand, Allison and Cloud convincingly argue from two basic and

13 Op. Cit.

14 Chilton (1955) 73-81.

irrefutable pieces of evidence that the *lex Iulia* was Caesarian: no contemporary sources ever refer to such a law being passed by Augustus, but Cicero mentions in no uncertain terms a *maiestas* law passed by Caesar.¹⁵

If this is so, how does one account for the changes to *maiestas*, both the transfer of such cases from the *quaestio* to the Senate and the expansion of the category of offenses, which certainly occurred during the reign of Augustus?

(2) Although the *lex Iulia* is probably Caesarian, a new type of offense was certainly included under the heading of *maiestas* by Augustus: verbal treason, or more specifically the elevation to *maiestas minuta* of the libel of *virii illustres*.¹⁶ The Augustan principate was beset by anonymous pamphlets libeling important men; this was already illegal under one of the *leges Corneliae*, but did not, says Bauman, rise to *maiestas* according to these laws. At least one *senatus consultum* failed to curb the trend, since anonymous pamphlets are by their nature difficult to trace, and so in AD 8 Augustus, by power of an edict and ratified by the authority of the Senate, elevated such cases of libel to *maiestas*: for accusations of *maiestas*, unlike any other charge (with the exception of incest, rarely alleged), allowed the examination of slaves against their master (Cicero, *Pro Mil.* 59, *Part. Orat.* 118). Strangely for a move meant to counter *anonymous* libel, we know the name of (probably) the first Roman convicted of this new offense. An historian named Titus Labienus was convicted before the Senate of *maiestas* for his writings; his books were publicly burnt and he committed suicide.¹⁷ Augustus' expansion of the *maiestas* law to cover verbal injuries thus had some perhaps unintended

¹⁵ Cicero, *Phil.* 1.8.18-9.23. Allison and Cloud (1962) 711-731. Bauman (1967) 166-168 argues that the supposed *lex Iulia* referred to by Cicero was actually a *lex Hirtia*, and that Cicero was being ironical: Caesar was really in charge, so it made no difference whom the law was named after. This is unfortunately not impossible.

¹⁶ Bauman (1974) 14-15, 25-44, 113, on this and what follows. Cf. Dio 55.27.1-3. Kutzer-Rice (2006) 3-11 and 62-73 argues that *anonymous* pamphleteering was criminalized as *maiestas* earlier than open criticism because of the way in which Roman honor culture worked: for the elite, *refuting* slanders from a social equal was never necessary; all that mattered was that one could respond in kind and so prove one's worth; but anonymous pamphlets removed that ability.

¹⁷ Hennig (1973) 245-254. Cramer (1945) 157-196, who invariably regards cases of *maiestas* as tyrannical, has a good discussion on this case. He also mentions a teacher of rhetoric convicted of *maiestas* for debating the pros and cons of birth control during the time of Augustus' moral reforms.

consequences, of which we shall see more later.

(3) The legal penalty for *maiestas minuta* laid down by the *lex Iulia*, and thus operative during the early imperial period in which we are interested, is also much debated. Many Romans are mentioned in the literary sources as having been punished with exile, and many others with execution. To account for this discrepancy, some scholars have posited that *perduellio* and *maiestas* were separate offenses, the former punished with death and the latter with exile, but most now agree that they represent different stages in the development of the same offense, and that the statutory penalty for both was always *aquae et ignis interdictio*: *interdictio* itself, moreover, may have changed over the years and sometimes included confiscation, sometimes not; sometimes *relegatio* to a specific place, sometimes simply banishment from Rome or from Italy on penalty of outlawry; but it was always exile of some sort.¹⁸ Chilton's extremely forceful phrasing of this, however – that the legal penalty was *only* ever exile, and thus that every execution was a blatantly illegal act of tyranny by the *princeps* – has created resistance – particularly when we consider the confusion caused by the fact that exile seems to have been originally considered a form of capital punishment¹⁹. Rogers asserts, strongly and repeatedly, that the empire was a rule of law, and the emperors were bound by the law, and thus the law must have allowed capital punishment for *maiestas*.²⁰ Levick argues *contra* Tacitus that the legal penalty was *never* exile but was always capital at least in theory.²¹ This we cannot accept; the evidence for exile is too strong. But Allison and Cloud, seconded by Levick, do make an additional point that militates against Chilton's tyrannical reading: the Roman justice system was probably not as concerned as ours with the proper and legal penalty for a given offense, and it was considered perfectly acceptable

18 Chilton (1955) 73-81, Allison and Cloud (1962) 711-731, Bauman (1974) 11.

19 Bauman (1967) 65-66, 189-190. According to Bauman, the archaic penalty for various crimes was always death; but this grew uncommon in practice, as it became customary to allow a convicted defendant to flee; this custom eventually hardened into a rule of law, such that exile became automatically substituted for death as a penalty *in all cases*. This exile, however, was still inked to capital punishment: it was less exile than a form of outlawry (Bauman does not use the word), in which the convicted, if he returned to Italy or Rome, could be killed by anyone with impunity.

20 Rogers (1952) 279-311, (1959) 90-94.

21 Levick (1979) 358-379. This article is excellent on the confusion between *exilium*, *interdictio*, *relegatio*, *deportatio*, etc.

(especially for the Senate) to pass a heavier sentence than specified by law if it decided the case was sufficiently heinous.²² If so, and the Senate's sentences tended to be *ad hoc*, then the occasional penalty of death will not necessarily have been an illegal act of tyranny even though the statutory penalty was *interdictio*.²³

One other Augustan development needs mention: how *maiestas* came to be a property of the *princeps*.²⁴ As mentioned above, *maiestas* was originally a permanent quality of the *populus Romanus*, and a temporary one of any magistrate to whom they delegated their authority. It was on these grounds that Augustus, almost by accident – witness above his halting expansion of *maiestas* to cover verbal treason – had *maiestas* attributed to himself and his successors. In the restored Republic, the position of the *princeps* was analogous to a kind of super-magistrate: not annually elected, but still in some way representing the *populus Romanus*. If a praetor had *maiestas* that it was a crime to slight, then why would not the *princeps*, who embodied the Roman people and the Roman state much more completely? Moreover, there was the semi-military oath of loyalty to the Caesars: though it was originally instituted for quite different reasons, breaking such an oath would be *impietas*, and the line between *impietas* and *maiestas minuta* was never very well defined.²⁵ Thus the first emperors gradually acquired permanently the *maiestas* that consuls and praetors had possessed only during their term of office.

The almost accidental growth of *maiestas* and its attribution to the emperors is also emphasized by Michael Peachin in a forthcoming article.²⁶ On his view, there was never a final *lex* or a single act of any kind that codified this state of affairs; rather, the *de facto* increase of the power of Augustus led to his being seen (and used) as a sort of court of last appeal for the entire empire. This was naturally all

22 Allison and Cloud (1962) 711-731, Levick (1979) 368-369, Talbert (1984) 471.

23 This is not to say that execution was therefore necessarily *not* tyrannical: the Senate may have had the authority to increase the penalty, but the *princeps* might still exert an undue influence to coerce them to use that authority.

24 Bauman (1967) 206-222.

25 Bauman (1967) 225-228. Bauman (1974), the author's second book on *maiestas*, is entitled *Impietas in Principem*. Forsyth (1969) 204-207 also covers *impietas* as treason. Seager (1976) 230-231 points out that misconduct by provincial governors could be considered *impietas*.

26 Peachin (Forthcoming), cited with permission of the author. It is an immensely useful and learned article.

the more true for issues thought to touch on his personal interests, which included all manner of treasonous behavior: activities possibly regarded as treasonous or as detrimental to the interests of the new *princeps*, even though they had not been codified as *maiestas* by any law and so had had no proper venue assigned to try them, were brought before Augustus personally. The emperor in turn decided whether the actions in such cases constituted *maiestas* or not, not because he had acquired for himself the legal *potestas* to do so, but because various quarters *wanted* him to do so (often claiming, in an attempt to force the emperor to take a personal interest in their own quarrels, that *maiestas minuta* had occurred). This is especially true where the law was ambiguous with regard to the position of the new *princeps*: in such cases (for instance, moving a statue with the emperor's name on it, as in Peachin's discussion of the Second Cyrene Edict) there would be exploratory accusations by *delatores*, meant primarily to test just how far the emperor's *maiestas* went and of what the crime of *maiestas minuta* could consist now that there was a *princeps* (whose position as a perpetual quasi-magistrate was of course not foreseen by republican precedents). Thus, for example, a private citizen who was found to have written defamatory verses about the emperor might be accused of *maiestas* by a *delator* curious whether such an action by such a person could constitute treasonous behavior or not. As Peachin argues very forcefully, then, the widening of the categories of *maiestas* and its possession by Augustus was not a plan by the emperor himself, but a result of various elements of Roman society feeling their way (by means of test accusations)²⁷ through uncharted legal territory.

To summarize: *maiestas* is the supreme level of grandeur and dignity, originally the possession only of the gods and the Roman people, then lent to the magistrates temporarily representing the state. Any act of an individual, whether a magistrate or a private citizen, that somehow diminished or insulted this *maiestas* was the crime of *maiestas minuta* or treason. Such a crime was originally covered by no statute and was prosecuted as a semi-legislative matter before the *comitia centuriata*; over time,

27 Cf. Tacitus, *A.* 1.73.1, *praemptata crimina*.

however, the categories of offenses that constituted *maiestas minuta* (or simply *maiestas*) were codified in various laws, ending with the *lex Iulia*. Nonetheless, several important changes occurred under Augustus. First, the trying of *maiestas* cases was moved from the *quaestiones* to the Senate. Second, *maiestas* came to include not merely acts but also verbal statements, whether in writing or speech. Third, the *principes* themselves acquired permanent and supreme *maiestas*. These last two developments would combine to create problems doubtless unforeseen and unintended by Augustus, but of great importance in the works of Tacitus and Pliny: under succeeding emperors an individual's words could be sifted and searched to find any disrespect for the *princeps*, and thus grounds for an accusation of *maiestas*.

Here we must turn to the *delatores*, for it is precisely this sifting of words in search of grounds for accusation that many of the ancients regarded as typical of the *delator*. Properly speaking, a *delator* is nothing more than an accuser or an informer, and delation nothing more than an accusation: Rome lacked a public prosecutor, and its laws were enforced by encouraging citizens to bring charges against any person whose alleged crime or illegality came to their attention; if successful, they would often be rewarded with a portion of the fine imposed upon the defendant, or a portion of his estate if it were confiscated. Such activity was perfectly respectable and traditional in itself; taking it to excess and making a habit of delation was frowned upon, but young and ambitious Romans would often seek to make a name for themselves by bringing charges against someone prominent, and in the Republic accusations of extortion were seen as a valid weapon against one's political opponents. But when Roman authors of the imperial period refer to *delatores*, they mean something much more specific than this. For them, *delator* tends to be a term of severe disapprobation: it refers particularly to a detested class of orators who voluntarily undertake accusations, especially for *maiestas*; who do so, not once, but often and habitually, almost making a sort of profession out of it; and who do so primarily for their own private gain, whether for wealth from a share of confiscated estates or to gain favor with the

powerful.²⁸ They tend to be seen as being closely allied to the regime, attacking the enemies of the *princeps* and receiving from him protection and advancement.

This picture of the typical *delator* comes from the ancient literary sources. It has been sharply criticized by recent scholars, who point out ways in which this picture is at best biased, and at worst a willful distortion. But since almost all of our evidence for delation does come from Roman literary authors, it will be necessary first to look more closely at how they portray the imperial-period *delatores*, and only then to turn towards modern criticisms of their portrayal.

The first passage we have to consider comes, perhaps not surprisingly, from Tacitus' *Annals*.²⁹ Here, in describing the morals of a certain Romanus Hispo, he gives the classic description of a professional informer (*A.* 1.74.1-2):

qui formam vitae iniit quam postea celebrem miseriae temporum et audaciae hominum fecerunt. nam egens ignotus inquires, dum occultis libellis saevitiae principis adrepat, mox clarissimo cuique periculum facessit, potentiam apud unum, odium apud omnes adeptus dedit exemplum quod secuti ex pauperibus divites, ex contemptis metuendi perniciem aliis ac postremum sibi invenerunt.³⁰

Here is the portrait of a *delator*. Some may have been wealthy from the beginning, but they were stereotyped as the worst of social-climbers: poor and unknown, but of restless spirit and ambitious, they acquired influence with cruel emperors by their whispered accusations – and it could only be a cruel emperor, a Tiberius or a Nero, with whom they could curry favor by destroying prominent citizens. How Tacitus felt about men who thus fed their ambition with blood is clear from the strong

28 Rutledge (2001) 9-12.

29 All passages from the *Annals* and *Histories* will be discussed much more fully, with the relevant scholarship, in their own chapters. Here our only purpose is to use them to illustrate the ancient picture of the *delatores*.

30 “Who entered on a manner of life that afterwards the miseries of the times and the boldness of men made famous. For, being originally poor, unknown, and restless, while he slithered into the savagery of the *princeps* by means of secret accusations, he was soon creating danger again and again for all the most eminent men; having acquired power with one man and odium with all he gave an example, following which paupers become wealthy, and contemptible men become feared, found destruction for others and at last for themselves.”

contrast in *potentiam apud unum, odium apud omnes*: he hated them and believed (with some reason) that all others shared his hatred.

Two passages from the *Histories* are also illuminating. At *H.* 2.10, while the Senate still enjoyed a revival of spirits after Nero and some were still hoping for the punishment of the tools and sycophants of the previous regime, Vibius Crispus brought to trial Annius Faustus, a notorious *delator*. But Vibius Crispus was himself a notorious *delator*, if anything much worse than Faustus. For this reason, Tacitus says, Crispus' action was so distasteful to the Senate that there was actually sympathy with Faustus; he was eventually condemned, but by a much closer vote than his crimes deserved, for *ipsum Crispum easdem accusationes cum praemio exercuisse meminerant, nec poena criminis sed ultor displicebat*.³¹ So great was the revulsion felt against Crispus that a large portion of the senators felt constrained to oppose him here, purely on the moral grounds that he had been a *delator* himself. Similarly, later in the same book (*H.* 2.53) there was a minor and ambiguous quarrel between a certain senator and Epirus Marcellus, the other *delator* often mentioned in connection with Crispus; here too, the mere fact that Marcellus had undertaken accusations voluntarily was enough to bias the other senators against him.³²

It was also commonly believed that the *delatores*, who thus rose to their bad eminence by undertaking accusations, were somehow encouraged and protected by the *princeps*, especially when it came to cases of *maiestas*. A key text for this belief is again Tacitus. Immediately after Tiberius was questioned whether *maiestas* accusations were to be allowed and had responded that the laws were to be enforced (*A.* 1.72.3), Tacitus proceeds (1.73.1-2):

Haud pigebit referre in Faianio et Rubrio, modicis equitibus Romanis,
praetemptata crimina, ut quibus initiis, quanta Tiberii arte gravissimum exitium
inrepserit, dein repressum sit, postremo arserit cunctaque corripuerit, noscatur.³³

³¹ “They (the senators) remembered that Crispus too had practiced the same accusations with profit, and what displeased them was not the punishment of the crime but the punisher.”

³² *H.* 2.53.1: *invisum memoria delationum expositumque ad invidiam Marcelli nomen*.

³³ “It shall not be amiss to relate the crimes (*crimina* is a common word for the activities of *delatores*) attempted against

The cases of Faianius and Rubrius, indicted for *maiestas* on somewhat trivial grounds, follow. Now, it is absolutely and undeniably clear that Tacitus means us to understand that Tiberius was responsible for the growth and eventual blazing forth of *maiestas* delation. *Tiberii arte* can have no other meaning. It makes no difference that Faianius and Rubrius were both acquitted: Walker may seize on this point to undermine Tacitus' connection between Tiberius and the *delatores*, but Koestermann much more sensibly points out that Tacitus must have been truly incompetent if he had, only a couple of sentences apart, propounded a great historical theme and then given two specific examples that directly contradict that theme.³⁴ The truth about *Tiberii arte* is much more insidious: if Tacitus promises to show us how Tiberius caused the growth of *maiestas* accusations, then gives two cases where the accused were pardoned, it can only mean that he thought Tiberius somehow pardoned them *in order to bring about* more delation. The emperor did not, after all, forbid such accusations nor punish the accusers. With his usual subtlety, Tiberius tried to lessen the public outcry by introducing *maiestas* prosecutions gradually, rather than having them break forth all at once. Whatever the truth of this interpretation, it is that of Tacitus, and it emphasizes just how close he felt was the relationship between *princeps* and *maiestas* delation.³⁵

In a later passage in the *Annals*, we see the same emperor encouraging the *delatores* much more directly. At 4.30, there is a proposal in the Senate that, if someone charged with *maiestas* committed suicide before being convicted, his estate should remain safe, and the *delatores* should be deprived of their usual portion of the confiscated wealth. Then (*A.* 4.30.2-3):

ibaturque in eam sententiam, ni durius contraque morem suum palam pro

Faianius and Rubrius, Roman knights of moderate wealth, so that it might be known with what beginnings, with what art of Tiberius that most grave destruction (i.e. *maiestas* prosecutions) crept its way in, then was repressed, and finally blazed forth and took hold of everything.”

34 Walker (1952) 82-110, Koestermann (1955) 81-83 and n. 27. Woodman (2012) 162-165 discusses the medical imagery in this passage: *ars* is common of doctors, and Tiberius was metaphorically the physician of the state; thus “the man who should look after his subjects' welfare is using his special skill to ensure their destruction.” The rest of the article strongly emphasizes (among other things) Tacitus' conception of delation as a disease of the body politic.

35 Heinz (1957) 54-61, Malitz (1985) 231-246, Rudich (1993), and Beutel (2000) 38-57 all discuss the closeness of this relationship that was perceived to exist between them.

accusatoribus Caesar inritas leges, rem publican in praecipiti conquestus esset: subverterent potius iura quam custodes eorum amoverent. sic delatores, genus hominum publico exitio repertum et ne poenis quidem umquam satis coercitum, per praemia eliciebantur.³⁶

Here, the emperor speaks openly in defense of the interests of the *delatores*. Tiberius was no fool, and he must have been able to predict the effects of this speech: the *delatores* knew that their rewards were not in danger, and that the *princeps* supported them – and their activities.

That he did support and encourage them for his own ends is clear from elsewhere. Part of the ancient portrait of the *delator* is that, in exchange for this protection and these rewards from the emperor, it was their job to attack the emperor's enemies. Among many passages, two may be discussed briefly. At *Annals* 4.17-19, Tiberius is increasingly suspicious of the family of his late nephew Germanicus, and of the circle forming around them. The *delatores* somehow sense this and recognize their cue to attack. C. Silius, a consular and a friend of Agrippina, is destroyed; some pretext is found in statements he had made that could be taken as disrespectful of the emperor, but Tacitus is clear on what he considers the real cause: *amicitia Germanici perniciosa* (4.18.1). Later, for similar reasons, there is the sad case of Titius Sabinus at *Annals* 4.68-70. A number of men led by a certain Latiaris, hoping to gain great rewards (perhaps even the consulship), realize that the only way for them to acquire such favor with Sejanus (who then held the consulships in his hands) was by a signal act of crime: *neque Seiani voluntas nisi scelere quaerebatur* (4.68.2). The destruction of a friend of Germanicus and of Agrippina, and thus a perceived enemy of the *princeps*, would do nicely. Latiaris therefore meets Sabinus and feigns pity for the house of Germanicus; thus he befriends Sabinus on the grounds of their mutual sympathy with the out-of-favor relatives of Tiberius. Secreting his accomplices away where

³⁶ “This opinion was prevailing – except that the Caesar, rather forcefully and contrary to his custom, on behalf of the accusers complained openly of the vain laws, the Republic in danger: let them rather [he said] overturn the laws than remove the guardians of the laws. Thus the *delatores*, a race of men destined for the public's destruction and never sufficiently restrained even by punishment, were drawn forth with rewards.”

they can hear, he then complains to Sabinus of the current hardships. Sabinus responds in turn – precisely what he says is not clear, and probably did not matter. At that moment the trap was sprung. Latiaris and his accomplices showed themselves as witnesses to whatever “treasonous” statements Sabinus had said. Letters are immediately sent off to Tiberius, a trial is held, and Sabinus is quickly convicted – and executed. What is most striking in this story is that the ultimate penalty was inflicted upon a Roman citizen, not for any action, but for his words; and not for words hostile to the emperor or insulting, but words of pity and sympathy; and that, in a clear case of what today would be considered entrapment, and which was no less horrific to Tacitus. What justified this extreme treatment was nothing more than that Sabinus was friendly towards a group then out of favor, and so was perceived as an enemy of the *princeps*. He was thus a target of the *delatores*. It is not mentioned by Tacitus, but his estate will naturally have been divided between Latiaris and the other informers.³⁷

Many such passages for the *delator*-portrait come from Tacitus, but there are of course other sources. One is Pliny the Younger. In his *Panegyricus* of Trajan he has a great deal to say about the *delatores*, who he says flourished under Domitian, who were closely linked with the emperor, and who were used by him to attack anyone perceived as disloyal. In praising the games put on by Trajan, Pliny contrasts them with those of Domitian (*P.* 33.3-4):

Nemini impietas ut solebat obiecta, quod odisset gladiatorem; nemo e spectatore spectaculum factus miseris voluptates unco et ignibus expiavit. Demens ille verique honoris ignarus, qui crimina maiestatis in harena colligebat, ac se despici et contemni, nisi etiam gladiatores eius veneraremur ... interpretabatur.³⁸

Domitian, as portrayed, was a madman who carried *maiestas* into absurdity, but the essence is no

³⁷ Zäch (1971) has good discussions of these and other trials in Tacitus, and emphasizes Tacitus' loathing of the *delatores*.

³⁸ “Against no one was the charge of impiety cast because they disliked a certain gladiator, as had been accustomed [under Domitian]; no one, made a spectacle instead of a spectator, expiated those wretched pleasures with the hook and fire. That man was mad and ignorant of true honor, who collected accusations of *maiestas* in the arena, and who took it that he himself was despised and disregarded unless we revered his gladiators as well. ...”

different from what Tacitus said of Tiberius: the *delatores* were ready to attack anyone who they saw had earned the emperor's displeasure – for whatever reason, no matter how trivial.

Pliny next discusses with joy the punishment of the *delatores* by Trajan (*P.* 34.1-35.3). The entire passage is remarkable for the exquisite pleasure, the rapture with which Pliny dilates upon all the misery of those who had once caused misery, and for how highly he praises Trajan for this severe act of justice. But certain statements of his are especially noteworthy, as expressing what he perceived as the motivation of the *delatores* and the fear in which they were consequently held. Thus (35.3):

Ereptum alienas pecunias eunt; perdant quas habent. Expellere penatibus gestiunt; suis exturbentur, neque ut antea exsanguem illam et ferream frontem nequiquam convulnerandam praebeant punctis, et notas suas rideant, sed exspectent paria praemio damna, nec maiores spes quam metus habeant, timeantque quantum timebantur.³⁹

The *delatores* may have served the whims of a tyrant by attacking those that he hated, but Pliny is clear why they did it: greed and ambition. They were shameless and engaged in all manner of *crimina*, destroying the innocent, as long as it paid. As Pliny says, the *delatores* so flourished under the protection of the emperor that *nulla iam testamenta segura, nullius status certus; non orbitas, non liberi proderant* (*P.* 34.1).⁴⁰ The implication must be that anyone wealthy automatically became a target, not of legacy-hunters (whom *orbitas* would entice but not *liberi*), but of condemnation for treason against the *princeps* – and that the *princeps* supported this. Part of his reasoning might be hatred or suspicion; another part was that he shared the *delatores'* greed (*P.* 42.1): *locupletabant et fiscum et aerarium non tam Voconiae et Iuliae leges quam maiestatis, singulare et unicum crimen*

³⁹ “They aimed to snatch away other's money; let them lose even what they have. They desired to cast men out from their homes; let them be driven from their own. Let them not, as before, show forth their unblushing and iron faces to be wounded in vain with marks of disgrace, let them not laugh at their public infamy, but let them expect losses equal to their rewards; nor let them have greater hopes than fears, and let them fear as much as they were once feared.”

⁴⁰ “No wills were any longer secure, the condition of no one safe; childlessness was no help, nor children.”

eorum qui crimine vacarent.⁴¹ Thus, since part of the estate of the convicted was divided among his accusers but the rest went to the treasury, Domitian encouraged *maiestas* delation and rewarded the *delatores*, not only because of his innate cruelty, but because it was profitable.

Delation is also mentioned in this way by Suetonius. There is a brief but very revealing line at *Tiberius* 54.2, referring to Tiberius' feelings towards the house of Germanicus: *ex eo patefacta intentiore animi sui nota omnium criminationibus obnoxios reddidit*.⁴² That is, Tiberius did not have to order any prosecution, nor write a letter to the Senate, nor pass an edict of banishment, or even conspire in private with anyone to get them to attack: it simply became known that the emperor was not fond of his grand-nephews and would not take it amiss if charges were to be filed against them, and the *delatores* knew what they were supposed to do.⁴³ What is perhaps even more revealing is that Suetonius does not take the trouble to say this outright: that this is the way things worked at Rome was to him so obvious that it did not deserve explanation.

That such delation was a serious problem and could reach horrific proportions under bad emperors was not doubted by any of our sources. Suetonius again, describing Tiberius (61.1-3):

Mox in omne genus crudelitatis erupit numquam deficiente materia ... post cuius [Seiani] interitum vel saevissimus exstitit. Quo maxime apparuit, non tam ipsum ab Seiano concitari solitum, quam Seianum quaerenti occasiones sumministrasse. ... Singillatim crudeliter facta eius exsequi longum est; genera, velut exemplaria saevitiae, enumerare sat erit. Nullus a poena hominum cessavit dies, ne religiosus quidem ac sacer; animadversum in quosdam ineunte anno novo. Accusati damnatique multi cum liberis atque etiam a liberis suis.

41 "It was not the Voconian and Julian laws that enriched both *fiscus* and *aerarium*, but the law of *maiestas*, the one sole accusation against those who were free from any real fault."

42 "From then on, the inner thoughts of his mind being revealed, he rendered them liable to the accusations of all."

43 Similarly, the *renuntiatio amicitiae*, in theory an entirely private matter, could leave the victim open to prosecution from all quarters. The most famous case is that of Gallus, discussed by Bauman (1967) 180-183 and Peachin (Forthcoming).

Interdictum ne capite damnatos propinqui lugerent. Decreta accusatoribus praecipua praemia, nonnumquam et testibus. Nemini delatorum fides abrogata.

Omne crimen pro capitali receptum, etiam paucorum simpliciumque verborum.⁴⁴

Here Suetonius describes, in the strongest terms, the greatness of the catastrophe of delation. It was another Reign of Terror: if the Romans had used the guillotine, the streets would have run red. But the cause was Tiberius alone. Suetonius emphasizes the emperor's responsibility: vast rewards were granted to accusers in order to encourage them, and any *delator* was immediately believed, such that to be accused was to be condemned – and condemned of *maiestas*, a capital offense, even for the utterance of *paucorum simpliciumque verborum*. A more depressing picture of the destruction caused by the unholy alliance of *princeps* and *delator* is hard to imagine.

And yet Tacitus gives us one. He describes the universal fear inspired by the accusation of Sabinus by Latiaris above (*A.* 4.69.3):

non alias magis anxia et pavens civitas, tegens adversum proximos; congressus conloquia, notae ignotaeque aures vitari; etiam muta atque inanima, tectum et parietes circumspectabantur.⁴⁵

The reign of terror caused by the *delatores* was thus very real: everyone felt the fear they inspired, and the mass panic. With good reason: for Tacitus describes the aftermath of the treason trials following the destruction of Sejanus, saying *iacuit immensa strages, omnis sexus, omnis aetas, illustres ignobiles,*

44 “Soon he broke out into every type of cruelty, never lacking opportunities ... after the death of Sejanus he stood forth more cruel than ever. By this it was clear that he had not usually been incited by Sejanus so much as Sejanus had offered occasions when he looked for them. ... It would be a great task to go through all his cruel deeds one by one; it will be enough to list the types, like examples of savagery. No day went without the punishment of men, not even holy and sacred days; some men were punished on the first day of the year. Many were accused and condemned with their children, even by their own children. An edict was passed that relatives should not mourn for one convicted of a capital crime. Vast rewards were given to the *delatores*, sometimes even to the witnesses. Credit was denied no *delator*. Every crime was accepted as capital, even the uttering of a few simple words.”

45 “On no other occasion was the city more troubled and frightened. Each man protected himself against his nearest friends; meetings and conversation, known and unknown ears were avoided. Even mute and inanimate things, the roof and walls of one's own house, were watched with suspicion.”

dispersi aut aggerati (A. 6.19.2).⁴⁶ And at A. 6.29.1 he uses the expressive phrase *caedes continua*, continual slaughter. *Immensa strages* and *caedes continua* can only be used to reference a true catastrophe, a vast scene of universal terror, ruin, and death.

Such is the traditional picture of the *delator* that we find in ancient sources. But this portrait has been questioned by modern scholars. Walker seized in particular upon the last two phrases in Tacitus, *immensa strages* and *caedes continua*, which necessarily suggest the most brutal tyranny. And yet she can find no more than 86 cases of *maiestas* mentioned by Tacitus from the entire reign of Tiberius – and many of those 86 accused persons were acquitted, and the majority of the rest were exiled, not executed.⁴⁷ Tacitus is often vague or unclear, and hard numbers are very difficult to attain: to Walker's 86, I found only 55 cases in *Annals* 1-6 that were unequivocally for *maiestas*. Our numbers, as shown in the previous footnote, are mostly similar with the one exception of the acquittal rate: her calculation is 41%, mine a mere 22% (undoubtedly because my restriction to definite *maiestas* cases weeded out a large number of frivolous accusations). But even going with the most pessimistic accounting, Tacitus mentions no more than 86 separate cases of *maiestas* under Tiberius, of which only 18 ended with an execution. It is hard, Walker points out, to see these numbers as describing an *immensa strages* or a *caedes continua*.⁴⁸

Walker therefore rejects Tacitus' account and concludes that he is greatly exaggerating the badness of Tiberius.⁴⁹ She struggles somewhat to understand why – perhaps he is being anachronistic

46 “A tremendous destruction lay everywhere, every sex, every age, illustrious and ignoble, scattered or heaped together.”

47 Walker (1952) 82-110, esp. 84-85. Walker's count for *Annals* 1-6: accused of *maiestas*, 86. Acquitted or charges dismissed, 35 (41%). Executed, 18 (21%). The details of the remaining 33 are vague. My own count, including only cases that were *definitely* for treason, is thus: accused of *maiestas*, 55. Acquitted or charges dismissed, 12 (22%). Executed, 10 (18%). Exile or unclear punishment, 18 (33%). Suicide, 15 (27%).

48 *Immensa strages* occurs with reference to the conspiracy of Sejanus, where it is not improbable or unreasonable that the (real or only alleged) participants of a treasonous conspiracy were in fact killed off in great numbers. Walker's contention, however, is that the number of *maiestas* cases mentioned by Tacitus, *including* the conspiracy of Sejanus, is insufficient to justify the use of phrases like *immensa strages*; she argues that, even counting the Sejanians, many *fewer* people were actually punished than the impression given by Tacitus.

49 Op. Cit. See also Bradley (1973) 172-181, who argues that a particular treason trial, that of Antistius in AD 62, was likewise blown out of proportion by Tacitus and misleadingly used by him to represent a turning point in Nero's reign.

and reading Neronian or Flavian events back into the early principate, but this, she says, involves the difficulty that Nero for the most part used edicts rather than *maiestas* trials – but considers it evident that neither *maiestas* nor delation can have been anything as bad as the impression given by our sources (at least for the reign of Tiberius).

McAlindon takes up the case, arguing that many of the “victims” of *maiestas* mentioned in the historiographical tradition were in fact guilty of treason and were planning armed rebellion and assassination.⁵⁰ He starts from the fact that there undoubtedly *were* revolts and assassination attempts, and concludes that it was therefore perfectly reasonable for the *princeps* to be suspicious; the blackening of the emperors' intentions in our sources is because the historiographical tradition is overwhelmingly senatorial and senate-biased, and presumes *a priori* that every accusation of *maiestas* is false – and therefore tyrannical – unless accompanied by clear and undeniable proof of an actual seditious conspiracy (e.g. the Pisonian attempt). This presumption sets up an unfair standard of evidence, which it is only natural the *principes* should fail to meet and so stand condemned of tyranny. But this, McAlindon insists, is due to the bias of our sources, not to the historical reality.

Not unreasonably, Tacitus has been the primary target of scholars attempting to correct the ancient portrait of delation, but Giovannini turns many of these arguments against Pliny as well.⁵¹ He argues that Pliny's account of the *delatores* in the *Panegyricus* obscures the fact that comparatively little delation was aimed at *maiestas*, but was mostly concerned with property and financial issues. Inheritance and taxes were areas where fraud was prevalent, and the government had to take notice; but in Rome, delation – and rewarding the *delatores* with a portion of all financial fraud they uncovered, not unlike modern whistleblowing laws – was necessary for the system to function. Far from an instrument of tyranny, delation was therefore a normal part of the Roman state apparatus. If so, then

50 McAlindon (1956) 113-132. Raaflaub (1987) 1-45 likewise deals with “opposition” to the Principate among the Senate and what forms it took, and argues that Tacitus fudged the facts to make Tiberius look worse.

51 Giovannini (1987) 219-248. Levick (1987) 187-218 also covers delation for financial issues.

Domitian will not have been as bad as he appears in the *Panegyricus*; Giovannini suggests that Pliny intentionally falsified his account in order to fit in with the new regime (and to distance himself from Domitian, since he too, though not a *delator*, had been involved in these financial affairs).

Many scholars also reanalyze the motives of emperors like Tiberius and question the supposed connection between them and the *delatores* that is so prominent in Tacitus. Shotter examines the case of Silius from *Annals* 4.18-19, who was accused of complicity in the rebellion of Sacrovir and of extortion, and who committed suicide before conviction; the first charge, says Shotter, is obviously false, and the second hardly sufficient to justify his despair, so what explains his suicide? Tacitus says that Silius lost hope on seeing the impassive face of Tiberius; on Shotter's reading, Tiberius in fact tried to be rigorously fair and to seem biased neither for or against the defendant, but he naively misread the situation: in the senatorial climate of the time, only the *active* intervention of the emperor could prevent a *maiestas* accusation from turning to injustice.⁵² Christ likewise defends Tiberius: he made honest attempts at fairness and even tried to discourage the *delatores* by repeatedly pardoning those charged with *maiestas*, but could not foresee their abuses and so did not go far enough to stop them; Tacitus is most unfair and misrepresents history to make the emperor seem much worse than he was.⁵³

By far the most significant revisionist history of the *delatores*, however, is Rutledge.⁵⁴ He argues at great length that contemporary writers did indeed exaggerate the evils of delation and *maiestas*, especially for the time of Tiberius. Like other scholars cited above, Rutledge points out that delation was a necessary part of the functioning of the Roman judicial system, and that their activities were good and republican: far from just *maiestas*, they were also involved in *de repetundis* or extortion

52 Shotter (1967) 712-716. Cuff (1964) 136-137 also argues for an innocently naïve Tiberius: that, when Tiberius responded *exercendas leges esse* to the praetor who asked whether *maiestas* accusations should be accepted, he was guilty only of misunderstanding the times and how *maiestas* would inevitably be twisted. Scholars have also tried to rehabilitate Domitian, notably Waters (1964) 49-77 and (1969) 385-405, who manages to write two such articles that barely mention *maiestas* at all.

53 Christ (1996). Christes (1994) 112-135 also argues that Tiberius tried to be fair and is misrepresented by Tacitus.

54 Rutledge (2001) ix describes itself as a "revisionist history" even though the author did not set out to write one. Rutledge's book contains a far greater wealth of information and erudition than, unfortunately, we have the chance to discuss here.

cases, which was actually an improvement from the time of the Republic and made things more fair for the provincials; moreover, one of their chief activities was to ferret out all manner of fiscal fraud, and, again, the Roman system could not have functioned without them.⁵⁵ The reason they were so hated by mainstream senatorial writers, Rutledge suggests, is that they were mostly new men who rose by untraditional means: there was nothing wrong with accusing someone, but only with doing it habitually and for gain (especially financial gain, given the Romans' suspicion of anyone who rose too quickly in society). This led authors like Tacitus to overestimate drastically the rewards given to *delatores* for successful accusations, which Rutledge argues were actually quite modest.⁵⁶ Thus the overwhelmingly negative portrait of the *delator* is an exaggeration of senatorial historians inspired at least partly by elitism and social bias.

Finally, in an article on Juvenal, Powell finds the opportunity to correct the ancient portrayal.⁵⁷ He argues that a number of Juvenal's targets who had been unknown in fact represented *delatores*, but that Juvenal's criticisms of them, albeit traditional, are hardly fair: they were performing a normal and necessary role in Roman society, despite the negative image of them that began as early as Cicero's time and only got worse during the Principate.

Many scholars, then, have sought to revise the traditional impression of the *delator* that comes down to us from antiquity. They argue that delation was necessary for the functioning of the Roman governmental system, and it is only the bias of Senate-minded historians and authors that exaggerates their evils. Most of them either deny that there was any real connection between *delatores* and the emperors, or even (if some degree of badness is allowed to delation) that some emperors tried to restrain the evil, and failed through naiveté rather than malice. All of them are agreed that the idea of scheming tyrants using *maiestas* delation to let loose a reign of terror upon their innocent subjects is

⁵⁵ Rutledge (2001) 6, 19, 78-79.

⁵⁶ Rutledge (2001) 22-24, 36-37. Rutledge (1999) 555-573 also makes the point that delation was traditional, as long as one did not do it too much.

⁵⁷ Powell (2010) 224-244.

false.

We must note, however, that not all scholars concur with the revisionist view. Koestermann in particular defends the integrity and honesty of Tacitus against those – especially Walker – who accuse him of malicious distortion.⁵⁸ He argues that *maiestas* was indeed a tool used by emperors to attack any opposition, and that this did lead to a widespread climate of fear and distrust as described in the *Annals*. For example, he complains that scholars have criticized Tacitus for saying that Tiberius brought back the *maiestas* law when in fact, they point out, it had never been abridged, so Tiberius cannot have brought it *back*; then why, asks Koestermann, did the praetor at *Annals* 1.72.3 feel it necessary to ask Tiberius' opinion? Because the praetor knew what modern scholars do not: whatever laws were formally on the books, something that touched the emperor's interest as closely as *maiestas* did would be dependent on the wishes of the princeps; and in this case, Tiberius' decision to enforce the *lex Iulia* showed clearly to all involved what sort of principate he intended.⁵⁹ We have already touched on Koestermann's comments on *ars Tiberii*, how Tiberius (on Tacitus' presentation) promoted *maiestas* delation while seeming publicly to restrain it; thus Koestermann goes on to list cases from the *Annals* where Tiberius, though disallowing a particular prosecution, nonetheless insists on keeping the rewards for successful delation or, when a *delator* has laid himself open to the hatred of the Senate and a charge of *calumnia* (for knowingly making a false accusation of *maiestas*), protecting him from the normal legal penalty.⁶⁰ One of Koestermann's most important arguments, however, relates to the number of *maiestas* cases. Walker had made much of the fact that the total number of Tiberian *maiestas* charges mentioned by Tacitus (86 on her count) can hardly justify the use of such extravagant phrases as *immensa strages* or *caedes continua*; she thus uses these phrases as emblematic of what she sees as

⁵⁸ Koestermann (1955) 72-106.

⁵⁹ Koestermann (1955) 76-78. Cf. Cuff (1964) 136-137 for a more harmless but less convincing reading of the passage.

⁶⁰ Koestermann (1955) 83-88. Tiberius forbids that the *delator* be punished with exile as the law demanded, but permitted his removal from the Senate: for Koestermann, this is a slap on the wrist compared to exile, and so a clear example of the *ars* by which Tiberius could seem publicly to be a foe of the *delatores*, while in truth promoting and protecting them from the full legal penalty.

Tacitus' wild and willful distortion of the prevalence of these trials, an exaggeration that she sees as a major theme throughout his work. Koestermann argues for a simple solution: Tacitus does not narrate every single case of *maiestas*; he knew of many more than he tells, and only tells those that seemed especially important or interesting.⁶¹ This is in fact indisputably true: Bauman discusses an entire category of *maiestas* convictions under Tiberius known from other sources but not mentioned by Tacitus.⁶² It is of course impossible to ascertain precisely how many cases Tacitus neglected to mention, but Koestermann argues that it was very many – enough, in fact, to save him from Walker's criticism of wild exaggeration. For all these reasons, Koestermann defends Tacitus and his portrayal of *maiestas* delation under the Principate: it really was as bad as he says.

The revisionist interpretation is also countered vocally by Rudich.⁶³ Rudich is strongly concerned with defending the ancient view of delation, most especially the *delatores'* close relationship with the emperor: thus most of his book focuses on how the emperors offered vast rewards to the *delatores*, who in turn used *maiestas* to rid the emperor of troublesome or annoying citizens.⁶⁴ But Rudich also calls attention to the immense power of the *princeps*, arguing that whatever were technically the legal powers of the emperors, the influence they wielded over every aspect of society was vastly greater; *maiestas* trials were held before the Senate, but only as a show, as most of the senators were under the emperor's thumb and would not dare give a verdict contrary to his wishes. The *delatores* knew whom to attack, and they rarely attacked in vain, as “it depended solely on the emperor and his close associates whether the intended victim perished or not.”⁶⁵ The sham nature of the trials – the irrelevance of the oratory both of prosecution and defense – is Rudich's main contribution to the

61 Koestermann (1955) 96-98.

62 Bauman (1974) 82-87. The category is desecration of images, and possibly also punishing a slave who had grasped a statue of the emperor for asylum. Both are mentioned by Tacitus, but only in cases that resulted in acquittal: no one in the *Annals* is found guilty of these offenses, as we know from other sources they were.

63 Rudich (1993). It is interesting to note that Koestermann and Rudich, the two scholars most concerned to defend Tacitus' account of the badness of imperial tyranny, both grew up in modern dictatorships, Koestermann in the Third Reich and Rudich in Soviet Russia.

64 Rudich (1993) 1-6, 178-180.

65 Rudich (1993) xiii-xxiv, 241. Cf. MacMullen (1966) 15-20.

subject.⁶⁶

It is never interesting to say that the truth lies in between. So we shall say instead that the ancient authors undoubtedly *did* exaggerate the evils of *maiestas* delation, and they are perhaps guilty of placing too negative an emphasis on the crimes of the *delatores*, of using too-dark colors to paint their imperial portraits. But only to a degree, and not through malice. Their exaggeration is understandable, both from their experiences of the world they lived in and from some inherently ambiguous characteristics of *maiestas*, which led to the abuses they describe vividly and indeed truly, if not always accurately.⁶⁷

Rudich mentions, rightly, the uselessness of oratory in *maiestas* trials and the absolute control exercised there by the *princeps*. It might reasonably be asked why contemporaries did not always perceive this uselessness more clearly, in an age when the schools of rhetoric flourished more than ever, when Quintilian was composing the magisterial *Institutio Oratoria*, when Pliny often mentions in his letters his own forensic speeches and the work that he put into them, when Tacitus himself made his name as an orator. And it must be admitted that, in a thousand areas of life, from the countless local assemblies scattered throughout Italy and the empire up to the Centumviral Court at Rome, eloquence probably continued to be at least as important and crucial as it had ever been during the Republic. On the other hand, the advent of the Principate rendered most high affairs of state beyond the freedom of open debate; this has long been a truism regarding the deliberative functions of the Senate, but it is no less true of the Senate in its judicial capacity. All the more so for *maiestas*, which (at least in theory) was an issue that always touched on the life and safety of the *princeps*: this was necessarily an important enough affair that the senators might fear to treat it on their own, and so it would always *de*

66 Shotter (1969) 14-18 and (1980) 230-233, for instance, seem to take at face-value Tiberius' complaint in the *Annals* that the Senate often convicted too hastily and against his will, without observing Tacitus' comment: the Senate promptly voted for a delay of executions, but no delay ever availed.

67 Specific instances in Tacitus and Pliny of strain between historical reality and perception will be described as those passages become relevant in those authors' chapters.

facto have been resigned to the emperor's judgement. Whatever was the flourishing state of oratory in other affairs, here it could be of comparatively little use. If ancient sources like Tacitus seem to overstate the decline of the importance of eloquence and the arbitrariness of imperial power, it was not unreasonably done: they were senators or at least equestrians, and their notice naturally fell most often on men of their own rank – precisely those who were the most likely to experience trouble with *maiestas*. This is all the more true for historians: the kind of history the ancients wrote focused almost exclusively on great names and important men, and so a Tacitus, or a Pliny writing his *Panegyricus*, will have experienced a sort of tunnel vision focusing, again, exactly on those whose lofty position in affairs of state would make forensic eloquence less important than the intrigues of the palace when danger threatened. It is hardly surprising and is certainly pardonable if our ancient sources exaggerated here, being who and what they were.

At the same time, some aspects of *maiestas* delation laid it open to noticeable abuses. Bauman discusses how *maiestas* was often tacked on as a co-accusation to other crimes, because only in *maiestas* cases was it permissible to interrogate slaves for information against their master's life: thus if a *delator* suspected a senator of, say, bribery but could not prove it, he could file charges of bribery and *maiestas* together, and so interrogate the senator's slaves; he might find no evidence of *maiestas*, but any evidence of bribery so obtained was admissible in court.⁶⁸ The fact that *maiestas* was already ill-defined and hazy meant that it *could*, with very little trouble for the *delator*, easily be tacked on to other accusations in this way, and so circumvent many of the legal rights that a citizen would normally possess. A second point is this haziness itself: *maiestas* was so ill-defined that it was often difficult for a citizen to know if his actions were illegal or not – an ambiguity often exploited by the unscrupulous.⁶⁹ Moreover, only in cases of *maiestas* could trial and conviction – and therefore confiscation of one's

68 Bauman (1974) 53-58, 92-93. He is of course discussing the famous passage at *A.* 3.38.1, *addito maiestatis crimine*.

69 Bauman (1974) 51, Rudich (1993) 178.

estate – continue after one's death; thus suicide, sometimes practiced by defendants to save their property for their wives and heirs, was of no avail here.⁷⁰ Even Rutledge, in his revisionist study of the *delatores*, confesses that in many ways *maiestas* accusations were inherently liable to abuse: accusing someone of *maiestas* did in fact remove most of his legal protections, and for the profit-minded *delator*, *maiestas* was undoubtedly the most lucrative charge to bring.⁷¹ Rutledge thinks that Cremutius Cordus was innocent of any real conspiracy and was destroyed entirely by the enmity of Sejanus, *maiestas* offering an easy grounds for accusation.⁷² Moreover, the traditional mechanics of prosecution – that an ambitious young Roman would bring charges against a better-known statesman to make a name for himself – changed once the emperor became the fount of all influence; and there is “no doubt,” says Rutledge, that *delatores* did seek imperial favor by attacking perceived enemies of the regime.⁷³ A *delator* so minded could thus easily exploit the ambiguities in the definition of *maiestas*, and the special advantages it gave an accuser by removing most of the defendant's legal protections, for his own gain. The *princeps* may not have been actively conspiring to unleash *delatores* on the Senate, but senators were not therefore necessarily safe from *delatores* seeking the emperor's favor. Even if this practice was not as ubiquitous nor as common as a reading of the *Annals* or the *Panegyricus* suggests, it is easy to see how such odious abuses would tend to stick in the mind of an observer.

We have also seen how the number of attested *maiestas* cases has been used by some, notably Walker, as an argument against the overwhelmingly negative traditional assessment: if only 86 trials for *maiestas* can be found from the whole reign of Tiberius, this represents such a miniscule proportion of the population of Rome (let alone the provinces) that such trials can hardly have been a real issue at all. But even if for the sake of argument we grant that the number was only 86 (we know in fact that there

70 Bauman (1974) 117, responding to Rogers (1933) 18-27, whose article is revealingly titled “Ignorance of the Law in Tacitus and Dio.” Cf. Furneaux (1896) on *Annals* 4.20.1 and 2.32.1.

71 Rutledge (2001) 31, 40, 68.

72 Rutledge (2001) 96, *pace* Rogers (1965) 351-359.

73 Rutledge (2001) 176. An old article, Laqueur (1932) 237-240, nonetheless shows how the emperors did often consider it in their interests to protect *delatores* as a general principle.

were more, just not how many more), it is a mistake to compare this to the total population of Rome. The targets of the *delatores* were overwhelmingly of the senatorial order, or at least the wealthy equestrian class. 86 accusations during a single reign is a tiny percentage of the overall population, but taken as a proportion only of a few hundred senators (and some equestrians), it is alarmingly high. *Every* senator must have personally known several of the defendants. *Most* senators will have been related to one by marriage, if not more closely. A very large number of equestrians will likely have known them by sight, and certainly by repute. The numbers would be no better for the reign of Domitian – if anything, worse. It is therefore not surprising that senatorial writers like Tacitus and Pliny, and even equestrians like Suetonius, pay more attention to the looming threat of *maiestas* than some moderns think proper: for them, it really was a looming threat, or at least they remembered a time when it had been. For the historically minded of them, their reading will have confirmed this, since, again, Roman historians will have focused on that class (which happened to be their own class) especially susceptible to *maiestas* delation. *Maiestas* thus figures prominently in their own writings, not through malicious distortion, but at worst through their wearing blinders: for them and people like them, the *delatores* were indeed an overshadowing threat; they were simply blinded to the fact that, for most Romans, this was not so.

We have thus sufficiently described the origins and progress of *maiestas* and delation, from relatively innocent beginnings to their perceived role as tools of tyranny and oppression during the Principate. Many scholars have rightly criticized this perception as overblown or the evil as exaggerated. No doubt it was somewhat exaggerated – the tyrant who schemes to sate his bloodlust by unleashing the *delatores* on an unsuspecting citizenry belongs more to fiction than to history – but if so, it was understandably so. *Maiestas* was not quite as innocent as some modern scholars believe; some aspects of it, in fact, were inherently liable to abuse. Moreover, it is not surprising that the ancient sources focus so much on the *delatores*: being senators and equestrians, for them delation was not an

abstract terror but a real and possible danger. If they have given undue emphasis to delation in their writings, this too is not surprising: the sort of history written by the Romans happened to center on precisely those people most likely to run afoul of the *delatores*; about the rest of the populace they had less to say. Nonetheless, for our purposes, we shall – mostly – be concerned with their perception rather than the historical reality, since the perception drove the portrayals of imperial Rome that we find in the texts of Tacitus and Pliny. As we shall see, this perception of the growing evil of *maiestas*, and our authors' heavy emphasis on it in their works, encouraged them to portray forensic eloquence as no longer meaningful or useful in the Principate.

Chapter 2: The *Dialogus*

In any discussion of the role of oratory in imperial society and literature, the *Dialogus* of Tacitus must have the chief place. But the *Dialogus* is not an easy work to understand. The scholarly debates have been interminable: besides the probably unsolvable but much-conflicted issue of its dating, which is important to the interpretation of the work, many commentaries and monographs once felt compelled to begin by arguing that it was indeed written by Tacitus, which was not rarely doubted. Then there is the fact that Tacitus says remarkably little in his own person – much less than Cicero does in any of his dialogues – and everything of substance is found in one of five speeches (two of them incomplete) by three different speakers, where it is unclear who, if anyone, is Tacitus' mouthpiece, to what degree the speakers are consistent with themselves, and how much the speakers as characters even mean their own words to be taken seriously – let alone how much Tacitus means them to be. As the crown of confusion, there are abundant textual issues, including a sizeable lacuna that has certainly deprived us of the beginning of the concluding speech, and which (it has been suggested) would have contained a complete *sixth* speech by an otherwise silent character.⁷⁴

Before giving my own reading of the *Dialogus*, therefore, it will be necessary to begin with an abbreviated overview of the scholarship. What follows will make no pretense of being a complete bibliography, but will give only the necessary backdrop against which the outlines of my argument will be more clearly visible. This is especially the case for such issues as the dating of the *Dialogus* (and thus its connections with contemporary literature and events), how it should be approached, and how the speakers' opinions relate to each other and ultimately to that of Tacitus himself.

The date must be discussed first. The idea that the *Dialogus* must have been written early in Tacitus' career because its relatively Ciceronian style represents an early stage in his development is no

⁷⁴ See Gudeman (1894) 13-103, Luce (1993) 11-18, Costa (1969) 19-34, Häussler (1969) 24-67 and (1986) 69-95, and Brink (1994) 251-280.

longer seriously considered; it was already questioned by the time of Gudeman's 1894 (English) edition of the text.⁷⁵ More recently scholars have realized that the date can only be discerned through an analysis of parallels and allusions between the *Dialogus* and other contemporary authors. Since Güngerich, Tacitus' extensive use of the *Institutio* of Quintilian has become clear,⁷⁶ and thus a *terminus post quem* of late 96: the *Dialogus* can be no earlier than the last years of Domitian. Numerous intertextual relationships with Pliny, especially the *Panegyricus*,⁷⁷ help us narrow the range, but by how much of course depends on which way the allusions go. Bruère was inclined to think the *Dialogus* had precedence, at least before the revised edition of the *Panegyricus* c. 103. Murgia presses the issue: in two excellent but ultimately unconvincing articles, he argues that the *Dialogus* is in fact the earliest of Tacitus' works, in the first, because parallels between it and the *Agricola* and *Germania* are more likely to have come from the *Dialogus*, since the statements are commonplaces in the rhetorical genre (they probably come from Cicero and Quintilian) rather than the biographical or ethnological;⁷⁸ in the second, because Pliny *Ep.* 1.6 (the hunting letter), which is dated to 97, arguably contains an allusion to the *Dialogus*.⁷⁹ In this letter, however, Pliny is giving Tacitus advice he seems to think his friend may disagree with, and Woodman convincingly argues that the allusion makes more sense if *Tacitus* is alluding to *Pliny*:⁸⁰ thus the *Dialogus* cannot be earlier than the end of the reign of Nerva. But Brink, weighing in at length on the entire debate, probably provides as close to a final answer as we get.⁸¹

While agreeing that the *Panegyricus* alludes to the *Dialogus*, he argues that this is probably only the

75 Gudeman (1894) 40-53.

76 Güngerich (1951) 159-164.

77 Bruère (1954) 161-179.

78 Murgia (1980) 99-125. Better are Murgia's reasons for rejecting traditionally accepted dates. Scholars have tended to grasp at 101/2 because the consulship of the dedicatee Fabius Justus – it is assumed that there was a custom of dedicating works to the consul – gives a hard and fast year, not without a touch of washing their hands of the dating debates. Murgia correctly points out that, where we have information, the dedicatee of a work is *much* more often *not* the consul of the year than the consul.

79 Murgia (1985) 171-206. Not Murgia alone, but also Bruère and Gudeman op. cit., assert the chronological priority of the dialogue over the epistle. Barnes (1986) 225-244 also tentatively considers the *Dialogus* the earliest of Tacitus' works, arguing that its views should logically come before those of the *Agricola*.

80 Woodman (2009) 32-35.

81 Brink (1994) 251-280. Notably he does not consider the “evidence” of Fabius Justus' consulate.

case for the revised, published version of the speech, and thus there is no absolute necessity for the *Dialogus*' being any earlier than 103.⁸² But Brink's strongest evidence comes from his interpretive reading: where Murgia believed that the pessimistic tone best fits with a pre-Trajanic date, before the punishment of the *delatores*, Brink suggests that the point of view of the *Dialogus* is much more balanced, much more mature, than that of the *Agricola* or *Germania*, and that the mix of pessimism and optimism better reflects the time of Trajan, during the exuberant atmosphere of which the criticisms would be all the more pointed. Brink ultimately dates the *Dialogus* to between 99 and 103 – a window, he admits, that might seem excessively broad, but which is suitably precise for our purposes: the work is certainly Trajanic, and therefore written after the expulsion of the *delatores*, which Pliny so praised (*Panegyricus* 35-36), and during the general optimism of the age (e.g. *Ag.* 3, *H.* 1.1).

The second issue we must consider, and one critical for the understanding of the entire work, is the role of the interlocutors. The first scholarly work of importance that reads between the lines and considers how Tacitus might hide his own real meaning under the ostensible views of the characters in their speeches is Köhnken.⁸³ Köhnken compares the viewpoint of the second speech of Maternus (that eloquence is no longer needed under the good government of the emperors) to opinions enunciated elsewhere by Tacitus himself – especially in the *Histories* and the *Annals*, which are hardly pro-Principate – and concludes that Maternus is being ironic: what is on the surface praise of a political system where one does not *need* eloquence should instead be taken as condemnation of a system where eloquence has no *use*.⁸⁴ The actual opinion of Tacitus, while not identical with that of any of the characters, can thus be fairly easily uncovered. Gordon Williams, however, rejects this view, arguing

82 I am in fact convinced that the *Dialogus* must, in at least one place, be alluding to the *Panegyricus* – see pp. 12-14 below – but this could just as easily be to the delivered as to the published speech. Because of the nature of ancient publication and the extended revisions of the *Panegyricus*, it is probable that the works were written concurrently over an extended period of time, and that each alludes to the other.

83 Köhnken (1973) 32-50.

84 Id. (1973) 46. While I do not believe Köhnken's reading of this speech is entirely right, this particular point, as well as his general method of comparing the *Dialogus* to Tacitus' other works, will be heavily used later.

that Köhnken wrongly compares Maternus' views to those Tacitus expresses on the Julio-Claudian and Flavian eras, when they should be compared to what he says about the reign of Trajan.⁸⁵ Instead, Williams prefers to read the various speeches in the *Dialogus* as expressing Tacitus' own views at various points in history: the first speech of Aper represents the circumstances as of 75, the time of the dramatic date of the work, and the final speech of Maternus that of the *actual* Trajanic date. The critical difference, Williams suggests, was that in the interval Trajan had abolished delation, and however morally questionable the role of the *delatores*, they represented the last significant usage of oratory under the Principate: Aper thus speaks for a time when oratory still had a meaningful purpose, but Maternus describes the contemporary scene, when Trajan's abolition of *maiestas* and punishment of the *delatores*, while good and desirable in themselves, have destroyed the last vestige of eloquence. We shall have more to say about this singular reading later, but for now it is noteworthy that Williams takes the views of Tacitus to be revealed, not in any single speech or character, but in their interaction with one another and in the work as a whole.

Luce opposes both Williams and Köhnken.⁸⁶ His primary target is scholars who place too much emphasis on apparent contradictions between speeches or inconsistencies in the characters: the ancients were trained to evaluate oratory as connoisseurs, and as connoisseurs they would expect each of the interlocutors to make the best case possible, whatever their case happens to be at a given moment and regardless of what they say elsewhere. Thus Köhnken is wrong to try to solve the apparent inconsistencies by concluding that Maternus is ironic, and Williams is wrong to do so by assigning some statements to AD 75 and others to AD 102: the ancients would not have been troubled by such inconsistencies. But, Luce continues, one must approach the speeches on two levels: as a connoisseur, but also as a critic, whose task is not to admire the verbal dexterity of the speaker but to ask, "Is this a

85 Williams (1978) 26-51, esp. 35-40.

86 Luce (1993) 11-38. Luce's article is also an excellent introduction to and discussion of several problems in the *Dialogus*.

good case? Do I myself believe it?" For an example, he points to Aper's choice of Marcellus and Crispus, the *delatores*: by the first criterion they are excellent *exempla*, but, according to the second, Tacitus' pronounced hatred of *delatores* surely means that we are supposed to be biased against Aper. Luce leaves off trying to fully explain the *Dialogus* on these terms: his intention is only to clear the ground of what he sees as shaky foundations.

Ronald Martin points out a critical difference between the *Dialogus* of Tacitus and all other extant dialogues, certainly those of Cicero: there is no character who speaks for Tacitus, none who is even meant to be taken as *more* representative of him than the other speakers.⁸⁷ Martin also makes an important observation on the character of Aper: usually taken as the villain of the piece, Aper's understanding of the "real state of affairs under the Principate" is better than that of the optimistically Ciceronian and (on the surface) sympathetic Messalla.⁸⁸ Thus not only does no character act as Tacitus' mouthpiece, but none is likely to be entirely wrong or unsympathetic either. This approach, however, is strenuously opposed by Barnes: since the *Dialogus* is a dramatic and an artistic work, we are meant to judge the speakers at least in part by their personality; thus the angry, headstrong, and contentious character of Aper – which after all Tacitus was not compelled to mention unless he wanted to – is meant to bias the reader against his statements.⁸⁹ Barnes further argues that Maternus does in fact speak with Tacitus' voice: he identifies Maternus with a consular governor of Syria executed by Domitian partly on the evidence of his dramas, and who was thus a martyr for freedom on the lines of Thræsea or Helvidius, and whose words are meant to carry weight.

Brink, whose opinions we shall revisit more than once, attempts to understand the *Dialogus* in view of the historical interests of the author: for him, the dialogue is almost a work of history itself.⁹⁰

87 Martin (1981) 64.

88 Id. (1981) 61.

89 Barnes (1986) 225-244. It has also been argued that Aper does not take his own arguments seriously, and is only making them because his contentious spirit drives him to disagree: Dammer (2005) 329-348.

90 Brink (1993) 335-349.

This questionable foundation is improved by a plausible explanation of all the speeches individually and how they relate to one another generally to produce the real meaning of the *Dialogus*. For Brink, each of the interlocutors represents some facet of the historical conditions (e.g. Aper stands for the Modern Orator as a type), and added together they reveal the whole. We should not therefore ask simply whether Aper is wrong or right, but what he represents: his defense of contemporary oratory and his praise of notorious *delatores* show that he stands for both sides of imperial eloquence, successful and vigorous, but involved in the morally questionable activity of professional delation. This, says Brink, should not be the reader's judgement on Aper, but is Tacitus' own historical judgement on certain aspects of the period that Aper represents. Likewise Maternus: the historical focus of his last speech is obvious, but Tacitus gives this view of the Principate because it was itself an historical phenomenon, paralleled in other authors of the time. I do not consider it likely that each speaker represents a discrete facet of history, which must limit the possible interdependency of the speeches; but Brink's historical reading of the *Dialogus*, that Tacitus embeds historical judgements therein and requires the reader to interpret the speeches in terms of actual history, is one we shall return to.

Finally, Goldberg, in two articles, decisively routs the notion that Aper may be taken as *completely* wrong or Maternus as *completely* right.⁹¹ The ostensible odiousness and respectability of Aper and Maternus tempt readers to reject the one and support the other, but, as we might expect with Tacitus, things are more complex. First, as Goldberg points out, the ancients were accustomed to have unsavory characters proclaiming harsh truths,⁹² and Aper does make some good points. Maternus, moreover, denies eloquence any useful role in society and seeks to retreat from politics and political obligations (whereas Aper proclaims the traditional Roman viewpoint of practical oratory as the means of fulfilling one's obligations to clients, etc.), which cannot but have been alarming to a senatorial

91 Goldberg (1999) 224-237 and (2009) 73-84.

92 See Gellius 10.24; e.g. Tacitus, *H.* 4.8.

audience. This is not to say, of course, that Aper is Tacitus' spokesman any more than Maternus is the villain: no character speaks or does not speak for Tacitus, and every speech, every statement must be evaluated on its own merits.

My own analysis will accept points made by scholars like Martin and Goldberg: it is assumed that no character in the *Dialogus* speaks for Tacitus in the same way that Socrates has traditionally been understood to speak for Plato in the *Republic*, or Cato for Cicero in the *De Senectute*. It will follow still more closely the holistic approach of Brink and Williams⁹³ et al., if not in every detail of interpretation, then certainly in method: whatever Tacitus intended to do with the *Dialogus* can only be understood from the interplay of the interlocutors with each other. But not from this alone. The technique used by Köhnken, of reading passages of the *Dialogus* against the ideological tenor of the later historical works in order to understand how Tacitus intends, say, the final speech of Maternus to be taken, is useful and illustrative. But Köhnken did no more than apply it to one speech, and his goal was to use this speech as a test case to prove that Tacitus is sometimes ironic, not to explain the *Dialogus*. Still less have any scholars retraced their steps and, having elucidated the *Dialogus* by means of the historical works, in turn attempted to explain the *Histories* and *Annals* with the aid of of these new revelations.⁹⁴ Therefore, after a close look at the *Dialogus* on its own, we shall describe briefly the overall worldview of Tacitus' histories and see what this can tell us about how he meant the *Dialogus* to be read. This general knowledge in hand, later chapters will turn to the *Histories* and *Annals* for a much closer examination of the particular interdependencies of all three works, as well as how this reading of the *Dialogus* throws light on several hitherto hidden but nonetheless major themes in the historical works.

Now, on to the *Dialogus*.

93 Although Williams also claims that the speeches are mostly meant to be taken as self-contained: (1978) 30.

94 In fact, Scott (1998) 8-18 attempts to link the *Dialogus* and the *Annals*, but somewhat unconvincingly: he argues that the passages in the *Dialogus* referring to bad education are not general but specifically about Nero, and that this is the key to understanding Tacitus' Nero in the *Annals*.

After a brief introduction of the topic – ostensibly a reply to a certain Fabius Justus, who had inquired about the reasons for the decline of oratory – the core of the *Dialogus* consists of five speeches: Aper, sometimes conventionally referred to as Aper I to distinguish this from his second speech, on the value of oratory; Maternus or Maternus I on poetry; Aper II against the supremacy of the ancients; Messalla (whose “speech” may be regarded as two or even three semi-separate discourses, as he is frequently interrupted) on education as the reason for the ancients' superiority; and, concluding, Maternus II on political reasons for the decline of eloquence.⁹⁵ The speeches themselves are complex enough, but this bare outline is far from capturing the subtlety of the *Dialogus*, where the speeches are set against a background of characters coming and going, their dramatic situations, their personalities, and their interruptions of each other, by which means Tacitus dexterously manages to add dramatic depth and to move the conversation from one subject to another. Much of this is hackneyed – it would be tiresome of me to describe how Maternus is first found courting danger with a series of plays that can only be taken as anti-tyrannical – but much of it is also important. Some mention, then, but short of a full description unless appropriate, will be made of the dramatic movement of characters on the Tacitean stage.

Aper and Secundus thus begin by paying a visit to their friend, the poet Maternus, whom Aper gently chides for spending so much effort on poetry and abandoning the social duties of an orator in the forum⁹⁶ – apparently a topic much-discussed among them (*D.* 3.4-4.1). This leads naturally to his first speech (5.3-10.8), which is a defense of oratory generally, not just of modern oratory. Specifically it is a defense of the active life of an orator against the retiring life of a man of letters. His criticism of Maternus is that (5.4):

95 Häussler (1969) 24-67 and (1986) 69-95 develop a similar classification of the architecture of the work, among other issues; but the scholarship of Häussler is not for the faint of heart to attempt.

96 It is worth noting at the outset that “eloquence” in the *Dialogus* exclusively means *forensic* eloquence, and “the duties of an orator” refers exclusively to the courtroom-duties of an advocate. Deliberative and epideictic oratory have no place in the discussion at all, and are not mentioned even to be dismissed.

natus ad eloquentiam virilem et oratoriam, qua parere simul et tueri amicitias, asciscere necessitudines, complecti provincias possit, omittit studium quo non aliud in civitate nostra vel ad utilitatem fructuosius vel ad voluptatem iucundius vel ad dignitatem amplius vel ad urbis famam pulchrius vel ad totius imperii atque omnium gentium notitiam inlustrius excogitari potest.⁹⁷

To Aper, Maternus, who is capable of the highest eloquence, is incomprehensible in his voluntary abdication of such benefits. For, he continues, if *utilitas vitae* is the standard by which we make decisions, we should certainly practice *eam artem* (5.5-6):

qua semper armatus praesidium amicis, opem alienis, salutem periclitantibus, invidis vero et inimicis metum et terrorem ultro feras, ipse securus et velut quadam perpetua potentia ac potestate munitus. ... sin proprium periculum increpuit, non hercule lorica et gladius in acie firmiter munimentum quam reo et periclitanti eloquentia praesidium simul ac telum ...⁹⁸

Here, in an important metaphor, Aper compares eloquence to the armament of a soldier: it renders one at once invulnerable and dangerous; by it an orator can protect himself or his friends and clients in court, and at the same time lash out and destroy his enemies with judicial accusations.

As for the pleasure granted by oratory, Aper makes it clear that he does not have the quiet contemplation of literature in mind: he describes the strings of wealthy and powerful clients accompanying the orator, the throngs waiting at his doors to seek his aid as an advocate, the sense of one's own greatness this must afford a *liber et ingenuus animus* (D. 6.1-3). Speaking for himself, Aper

97 "Though born suitable for a manly eloquence and for oratory, by which he could at once obtain and protect friendships, create obligations, and embrace provinces, he neglects a study than which nothing in our state can be considered more fruitful for usefulness or more enjoyable for pleasure or grander for one's *dignitas* or fairer for one's fame within the city or more glorious for one's good repute throughout the whole empire and all the nations." All translations are the author's unless noted otherwise.

98 "Always armed with which one might moreover bear protection to one's friends, aid to strangers, salvation to men under judicial danger, and fear and terror to one's opponents and enemies, being oneself secure and fortified by everlasting power and authority. ... But if personal danger threatens, then surely mail and sword are no more solid protection in the battle-line than eloquence is at once a protection and a weapon for a defendant in court ..."

claims that no pleasure he ever experienced in his life, not becoming a senator nor being elected tribune or even praetor – a list of *laeti dies* noteworthy in itself – equal his enjoyment when he secures an acquittal for a client or wins any other case; at such times he feels himself to rise higher than consuls (7.1-2). As the greatest of pleasures, it is the orator more than any other profession who is pointed out to passers-by visiting the city, desirous of gazing upon such famous men (7.4).⁹⁹ Even when detailing the enjoyments of the orator's life, Aper centers on substantial and practical pleasures.

As exemplars of the life of eloquence, orators who enjoyed all the glory, all the benefits, all the pleasures just described, Aper names Eprius Marcellus and Vibius Crispus (*D.* 8.1).¹⁰⁰ Both these men were notorious for delation, their names almost synonymous with villainy; both are mentioned elsewhere in Tacitus, neither of them with approbation.¹⁰¹ This fact has been used to paint Aper as little more than an apologist for the *delatores* and therefore to dismiss everything he says; even Champion, one of his defenders, must admit that the choice of Eprius and Vibius “cannot be meant to endear Aper to the reader.”¹⁰² The mention of two universally acknowledged scoundrels must indeed be disquieting, but one cannot help but feel for Aper's difficulty: if he wanted to name well-known and successful orators of his own day, there were none at the summit of fame and fortune who were *not* also known for delation. He could perhaps have named eminent civilian senators, one of the Helvidii or Thrasea from the previous generation, but these were known as virtuous statesmen or something similar, *not* first and foremost for their eloquence. All the men who had made their name purely by their oratory (and it is clearly only such that Aper is concerned with: 8.2-4) were necessarily *delatores*, if only because there were no other paths open to the aspiring orator that could lead so rapidly to such

99 The sentiment, seeming perhaps narcissistic to us, is not without parallel among the ancients: for Demosthenes, see Cicero, *Tusc. Disp.* 5.103; for Themistocles, see Plutarch, *Themistocles* 17.2.

100 For biographical information on their careers as *delatores* see Rutledge (2001) 225-228 and 278-282.

101 Aper himself admits *neuter moribus egregius* (8.3). They are mentioned at *H.* 2.10, 4.6, 4.42, et al. Delation was, at best, frowned upon by the Roman elite, and was more often viewed as an unpardonable crime, though many modern scholars have argued it was a necessary and innocuous part of the Roman judicial system: Rutledge (2001) 9-12, Powell (2010) 224-244, Köhnken (1973) 44. See Güngerich (1980) 27-30 and Gudeman (1894) 91-92, 107-108.

102 Champion (1994) 154.

heights.¹⁰³ Naming Eprius and Vibius as *exempla* does indeed discomfit the reader, but they are not unsuited to Aper's argument: they were orators, and they did attain the very summit of fame, wealth, and influence – which, after all, is Aper's criterion for the value of the orator's life.

Aper ends this speech by attacking the life of poetry, in very much the same terms as he has defended that of eloquence. Being a poet, he claims, simply does not pay: even the truly first-rate – and there are but few of these – make little money; even their greatest successes create no obligations and earn them no clients, and the glory of the best soon passes (*D.* 9.1-5). Aper even contrasts the poet with what he previously claimed for famous orators: no one on visiting the city of Rome asks to see the *poet* he has heard so much about (10.2).¹⁰⁴ Thus he denigrates the life of poetry as being of little *utilitas vitae* compared with that of the orator.

Thus Aper's praise of oratory – made, we remember, in the context of encouraging Maternus to abandon poetry in favor of advocacy – centers not on oratory itself but on the practical benefits of the active life of an orator.¹⁰⁵ First and foremost are the security and safety (from judicial prosecution) that eloquence offer, next the ability to attack one's enemies (again in a judicial setting); then there are the clients one can gain, the trains of dependents, the favor even of the emperor, as Eprius Marcellus and Vibius Crispus attest; one's fame and *dignitas* will be on everyone's lips; even the pleasures of practicing oratory are earthy and almost materialistic, consisting of the feeling of elevation, of one's own self-importance upon winning a case and triumphing over opponents. Such a case often leaves a bad taste in the mouths of modern readers. This slight revulsion is probably due to the vast gulf that separates the mental world of the ancients from ours: one is reminded how the endless self-praise of Cicero is so often tiring to us, but apparently did not disturb his Roman readers. That a great man

103 Murgia (1980) 118; Rutledge (2001) 22-24, 40-46; Rudich (1993) 180.

104 If by “poetry” one means “literature” generally, one is obliged to observe that this is strictly speaking untrue, and would have been known to be untrue to Tacitus' readers: Pliny tells, as a famous and well-known story, of a man from Cadiz who journeyed to Rome for no other reason than to gaze upon Livy (*Ep.* 2.3.8).

105 Williams (1978) 28 calls his values “vulgar,” and Barnes (1986) 237 agrees. It is more accurate to identify them with a deep but not universal pragmatism or utilitarianism in Roman thought.

should strive for his own glory, for his name to live on in all countries and all times, would have seemed natural and proper to the ancients.¹⁰⁶ Nor should it necessarily be troubling that Aper speaks of using oratory to destroy one's enemies: with a few exceptions among the philosophers, the Greeks and Romans did not doubt that a man had enemies, and that the proper thing to do was to harm them.¹⁰⁷ In fact, for a work that begins with the fundamentally pessimistic question of why eloquence had declined, Aper's first speech is decidedly optimistic: he gives oratory and the life of an orator an important place – perhaps the *most* important place – in society, little different in fact from the place it had traditionally held.¹⁰⁸ Aper thus begins the discussion of the decline of eloquence by denying that any decline has taken place, and by asserting the continued value of oratory.

There immediately follows the speech of Maternus in defense of poetry as an alternative to the life of an orator (*D.* 11.1-13.6).¹⁰⁹ He begins by utterly disclaiming – as a former advocate, and a successful one, who knows what he is giving up – any interest in all the pleasures touched upon by Aper: he has no interest in trains of dependents and in fact finds them troublesome, rejecting the active bustle of an advocate's house, the clients and the accused who seek his help, in favor of the pure and calm retreats of the poet (11.2-12.2). But his preference is not merely personal. He attacks on moral grounds, and in no ambiguous terms, the sort of oratory praised by Aper: *lucrosae huius et sanguinantis eloquentiae usus recens et ex malis moribus natus* (12.2).¹¹⁰ That he is referring to delation

106 Champion (1994) 155, Goldberg (1999) 224-237. Heldmann (1991) 218-220, though on a different subject, expresses, in the strongest possible terms, the complete and utter misunderstanding of Roman culture required to take the statement “so-and-so desired glory” as a criticism.

107 One remembers the eternal monuments of suffering inflicted upon enemies from Thucydides 2.41. See also Plutarch, *Cato the Elder* 15.3. It is well known that judicial prosecutions in the time of the Republic were a common and perfectly legitimate means to attack political opponents and for young men to make names for themselves; Cicero's reservation about prosecution was not primarily that it was immoral, but that it did not earn you clients: Peterson (1963) 68-74.

108 At least as far as forensic oratory is concerned, for like all the other characters, Aper has nothing whatsoever to say about deliberative oratory, *pace* Van den Burg (2012) 191-211. In concessions to modernity, he mentions prominent *delatores* such as did not exist under the Republic, and says that eloquence can gain the favor of the *princeps*, but on the whole his practical defense of the value of eloquence would not have been unfamiliar to Cicero.

109 It is interesting, though it is unclear why, that Maternus I is so much shorter than Aper I – indeed, is by far the shortest of any of the speeches, shorter even than the conversation separating it from the next. Probably this is because, though having a poet to oppose oratory is important, for reasons we shall see, Tacitus is little interested in poetry in the *Dialogus*, and only cares how he can use it to reflect upon eloquence.

110 “The use of this greedy and blood-thirsty eloquence is recent and born of our evil ways.”

– if there were any doubt – is made clear later when Maternus deals with Aper's two exemplars of the usefulness of eloquence, Crispus and Marcellus (13.4):

Nam Crispus iste et Marcellus, ad quorum exempla me vocas, quid habent in hac sua fortuna concupiscendum? quod timent, an quod timentur? quod, cum cotidie aliquid rogentur, ii quibus non praestant indignantur? quod adligati omni adulatione nec imperantibus umquam satis servi videntur nec nobis satis liberi?¹¹¹

Maternus is clearly not impressed by Aper's choice of such champions. Not only are their lives unpleasant and unenviable, their chosen profession requires them to practice all manner of wickedness and shame: thus (in addition to *lucrosae et sanguinantis eloquentiae* above, which must also describe the behavior of *delatores* such as they are) they are branded with adulation and servility, two of Tacitus' favorite and most damning words of moral disapprobation.

The tone of moral judgement here is underscored by an allusion to Pliny's *Panegyricus* (35.3): *quod timent an quod timentur?* is parallel with Pliny's *timeantque quantum timebantur*.¹¹² Most scholars have concluded that, where a parallel between the *Dialogus* and the *Panegyricus* exists, Pliny must be alluding to Tacitus; but I argue that this passage makes better sense if Tacitus is in fact alluding to a famous passage of Pliny. This must indeed be so, if we follow the principle that, when a parallel is found, the original is the passage wherein the parallel language better fits the context. Tacitus is attempting to show that the life of *delatores* is undesirable (*quid concupiscendum?*) as well as shameful; in this context *timent* makes perfect sense, but why should it be undesirable that they *are* feared? If anything, the fact that someone is feared by others, separated from any other element, should

111 “For that Crispus and Marcellus to whose example you call my attention, what do they have at all desirable in their lot? That they fear, or that they are feared? That, when they are daily requested [to take up cases], those whom they do not oblige are indignant at them? Or that, bound by every manner of adulation, they never seem either sufficiently servile to the powerful or sufficiently free to us?”

112 Güngerich (1980) 54 simply notes that the antithesis is common, and indeed it is – but only *after the time of the Dialogus*, such as in the *Histories*. The only direct parallel from an earlier time is Seneca, *Ep.* 105.4., but the immediate source for Tacitus is more likely to be Pliny.

be a good thing, at worst neutral: in ancient tradition it is always being afraid and not being feared that is bad.¹¹³ Such difficulties are not found in Pliny, where the entire phrase makes perfect sense, and both parts of it perfectly fit the context. There, Pliny is rejoicing in the punishment meted out to the *delatores* by Trajan, who abolished *maiestas* accusations and exiled or executed the most notorious informers. He enjoys a long string of wishes about the terrible fate that will befall the exiles, and sums up with the ringing phrase: *timeantque quantum timebantur*, “and let them fear as much as they were feared.” The fear that the *delatores* had once inspired – but no longer do – is a common refrain in the *Panegyricus* (e.g. 34.1, 36.2), so *timebantur* is easily understood. As is *timeant*: fearing is agreed to be unpleasant, so Pliny sensibly expresses a wish that the *delatores* be afraid. The two parts fit together neatly: Pliny is saying, in essence, “May the *delatores* now, under a just emperor, feel the fear that under a tyrant like Domitian they inspired in others.” Clearly, the phrase in its entirety works much better in its context in Pliny than in Tacitus, and so we conclude that Tacitus is the one making the allusion. It is probable that Tacitus intended something of the context of the *Panegyricus* to carry over: thus when Maternus uses the phrase *quod timent an quod timentur* of Crispus and Marcellus, he is comparing them to the notorious *delatores* whose punishment was so rejoiced in by Pliny, and underscoring his moral condemnation of their kind of oratory.

Thus Maternus responds to Aper's praise of eloquence by attacking the practice of such eloquence as morally contemptible. But he does not stop there. He denies the very foundation of Aper's argument, namely that men like Crispus and Marcellus owe their position and their possession of the emperor's favor to their eloquence. The passage quoted above continues (*D.* 13.4):

... quod adligati omni adulatione nec imperantibus umquam satis servi videntur
nec nobis satis liberi? Quae haec summa eorum potentia est? Tantum posse

¹¹³ The original source for the phrase, Seneca 105.4, makes this clear: there the fact that someone is feared is bad *only* because such a person must in turn fear others, *and for no other reason*. That cannot be the case in Tacitus, where the fearing and the being feared are treated separately.

liberti solent!¹¹⁴

Thus, where Aper had in no uncertain terms attributed their success to their oratory and their oratory alone (8.3), Maternus attributes it ultimately to the emperor: they must act with servility in complying with his wishes, they must practice every kind of adulation – and still their much-vaunted power is no greater than that of the emperor's freedmen. The comparison, and the fact that these certainly owe whatever influence they have to the emperor and not to any other skills, further undermines Aper's arguments. It is a point to which we shall return.

Moreover, the life of an orator is perilous: Maternus begins and ends his speech with this point. Fame attracts attention, and under the Principate attention from high places is not necessarily desirable. As he says: *nec incertus futuri testamentum pro pignore scribam, nec plus habeam quam quod possim cui velim relinquere* (*D.* 13.6).¹¹⁵ The precautions needed to secure the validity of a testament, especially if the estate be a large one, will be familiar to readers of Tacitus: one remembers *Ag.* 43.4, that Domitian did not know *a bono patre non scribi heredem nisi malum principem*.¹¹⁶ Earlier, Maternus denies Aper's central point about the usefulness of eloquence in defending oneself: *statum cuiusque ac securitatem melius innocentia tuetur quam eloquentia* (11.3).¹¹⁷ This is especially true in his own case: because he has shifted to the practice of poetry, he no longer fears that he shall have to give a defense speech except on behalf of someone else – meaning, emphatically, that he himself will never come into judicial danger (11.3).

This is because, for Maternus, poetry offers a safe alternative to oratory (*D.* 13.5). And it is in fact a true alternative: although free from the perils of oratory, the life of a poet can bestow the same

114 “[Or is it to be envied] that, bound by every manner of adulation, they never seem either sufficiently servile to the powerful or sufficiently free to us? And what is the extent of this power of theirs? The imperial freedmen are accustomed to be so powerful!”

115 “Nor, uncertain of what would happen, do I wish to write my will in the form of a pledge [of the integrity of my estate, i.e. by naming the emperor among his legatees], nor do I wish to have more than what I could leave to whomever I should choose.”

116 “None but a bad emperor is named heir by a good father.”

117 “Innocence protects each man's position and safety better than eloquence.”

glory and raise its practitioner to the same level of fame – if anything, can do so better. Homer is no less famous than Demosthenes; Euripides and Sophocles are no less widely known than Lysias or Hyperides; *no* writing of Asinius Pollio, a famous orator of the very first rank, is as famous as the *Medea* of Ovid (12.5). Moreover, Aper's contention at 10.2 that no one comes to Rome to gaze upon famous poets is explicitly contradicted: Maternus describes a time when a theater audience, on hearing one of Virgil's lines quoted, rose up and adored the poet (who happened to be present) exactly as they would have done the emperor Augustus (13.2). Thus poetry offers all the same rewards, without any of the dangers, of oratory.

Maternus, in fact, seems to be setting up for poetry a niche that oratory had traditionally occupied: free and forthright criticism.¹¹⁸ This is clear if we remember the dramatic situation in which Aper and Secundus first find Maternus and compare it to statements the he makes later in the *Dialogus*. Maternus is first encountered editing a copy of his play *Cato*, which had (as such a play surely would) caused offense among the powerful (*D.* 2.1, 3.1). But when Secundus reasonably asks him whether his editing consists of removing the most controversial passages and thus making the play safer, Maternus not only denies this, but positively boasts that all such passages will be left in (3.2-3); moreover, as though his *Cato* were not enough, he promises soon to produce a *Thyestes* which, far from moderating its tone, will say whatever the first left unsaid. This is actively courting controversy: from the title alone (let alone such boastful promises), it is hard to imagine a *Thyestes* that would *not* be read as a harsh critique of the imperial regime.¹¹⁹ From this first speech, however, we can tell that Maternus fully expected that his criticism would be safe: by couching it in poetry rather than public oratory he believed he could avoid any of the dangers that he has described besetting the orator, while still guaranteeing the wide distribution (and thus fame) that he has said belong to poetry. That he is thus

¹¹⁸ This case is made most strongly in Bartsch (2012) 119-154.

¹¹⁹ See Rudich (1993) xxxii-xxxiii. A *Thyestes* was indeed produced in 29 BC in honor of Octavian's victory, but it was still anti-tyrannical: only Antony was the tyrant compared to Atreus, from whom Octavian had by implication saved the Republic. See Leigh (1996) 171-197.

trying to grant the poet the role once held by oratory is clear from later statements: in his final speech he mentions as among the chief purposes of oratory the impeachments of and informal attacks on the powerful that could happen under the Republic, but emphatically were no longer possible (esp. 40.1; also 36.3, 39.5). At 27.3 he urges Messalla *cum de antiquis loquaris, utere antiqua libertate, a qua vel magis degeneravimus quam ab eloquentia*.¹²⁰ Thus Maternus is assigning to poetry the right once possessed by oratory, that of freely and openly criticizing the powerful.

So we see that Maternus' reply to Aper centers on poetry as a real alternative to oratory, at least for his contemporaries. He attacks Aper's position at nearly every point, claiming that modern eloquence is morally contemptible because it is so associated with delation; that its greatest practitioners enjoy little pleasure as the reward of their shamelessness, indeed are beset by care and danger; and that in any event their position is not even due to their eloquence at all, but to imperial favor. He then begins building his own case for poetry: first of all, it is innocent and guiltless, and free of all the troublesomeness of the orator's life; moreover, the poet can easily equal or even surpass the fame of the greatest orator, without being exposed to any of the dangers of prosecution or persecution. An analysis of his dramatic situation shows that he in fact setting poetry in the niche once – but no longer – occupied by eloquence, and attempting to establish poetry as a genuine alternative to oratory.

Immediately after Maternus finishes speaking, Vipstanus Messalla enters (*D.* 14.1). It is unclear why exactly Tacitus has him interrupt now, but certainly his late arrival is politic in that he misses the earlier reference to *sanguinans eloquentia*, his brother being the notorious Aquillius Regulus;¹²¹ more importantly, however, his entrance allows Tacitus to move the flow of conversation away from the conflict between poetry and oratory and towards the (ostensibly) real theme of the *Dialogus*, the

120 “When you speak of the ancients, make use of their ancient forthrightness, from which we have declined even more than from their eloquence.”

121 Williams (1978) 29. We shall have more to say about Regulus later, since he was something of the arch-nemesis of Pliny; it suffices that he was among the most notorious of the *delatores* and is mentioned as such by Tacitus elsewhere: *H.* 4.42.1.

decline of oratory. For Messalla is the first character who explicitly brings up this topic. After being informed by Secundus how the debate was going, Messalla rejoices – in terms reminiscent of Cicero¹²² – that men of such eloquence did not merely spend all their leisure time on declamation or legal issues, but debated one another on other intellectual topics, which among other benefits is, he says, the *eruditionis ac litterarum iucundissimum oblectamentum* (14.3). Yet he gently chides Aper for spending his leisure in the manner of modern rhetoricians rather than the orators of old; Aper in turn complains that Messalla admires only ancient practices while condemning the modern; and this is the first such contrast in the *Dialogus* between ancient and contemporary eloquence (14.4-15.1). But Secundus is in agreement with Messalla, and they proceed more or less to ignore Aper,¹²³ planning out the rest of the discussion on their own lines, until Aper suddenly interrupts with his second speech, saying that he refuses to let their own times go undefended (15.2-16.4).

Aper's second speech (*D.* 16.4-23.6) is an impeachment of the oratory of the ancients. But he first spends several pages belaboring a point that has struck most readers as trivial,¹²⁴ that the “ancients” are not in fact very ancient (16.5-6):

Ego enim cum audio antiquos ... mihi versantur ante oculos Ulixes ac Nestor,
 quorum aetas mille fere et trecentis annis saeculum nostrum antecedit; vos autem
 Demosthenem et Hyperidem profertis, quos satis constat Philippi et Alexandri
 temporibus floruisse ... ex quo adparet non multo plures quam trecentos annos
 interesse inter nostram et Demosthenis aetatem.¹²⁵

122 Cf. e.g. *Tusc. Disp.* 1.7-8. The similarity establishes where Messalla stands ideologically. See Güngerich (1980) 62.

123 At 15.2, Messalla says he does not believe that Aper himself seriously means his own argument, and later asserts a second time that Aper is simply playing devil's advocate (24.2). Parallels are often drawn between Aper and Ciceronian interlocutors acknowledged to be devil's advocates; and it is also often pointed out that, unlike them, Aper never admits the charge himself. See Dammer (2005) 329-348, who discusses the issue in depth, but – probably wrongly – concludes that Aper is simply combative and would have argued against whatever position the others espoused, and at the same time that Aper's arguments are so bad he can only have been intentionally undermining his own position. For a brief but good discussion, see Luce (1993) 18-20.

124 Dammer (2005) 329-348 argues that this argument is intentionally bad, and that Aper uses its intentional badness as a signal not to take his own claims seriously. As we shall see, this is not the case.

125 “For when I hear of the 'ancients,' there appear before my eyes Odysseus and Nestor, whose age preceded ours by 1300

Aper goes on to emphasize the triviality of a 300-year gap if one considers the True Year, which as Cicero wrote is the complete revolution of all the planets and all the stars and all the constellations, and lasts 12,954 years. Why we should consider the True Year is not immediately evident, but Aper presses on. The gap between Demosthenes and his contemporaries, he continues, is even greater than that between them and the “ancients” of Latin oratory, since the “ancients” whose eloquence people like Messalla never cease praising do not date from the founding of the Republic, but were such orators as Cicero and Caesar and Calvus; these men, after all, lived – counting from Cicero's death – only some 120 years before the present (17.1-3). Aper himself claims – and it is just conceivably possible¹²⁶ – that, when a young man, he met in Britain a very old man, who had taken arms against Caesar himself; if this Briton had for some reason come to Rome, he might have heard Cicero speak, and could have told Aper about it. The age of Cicero is thus *just* within the possible limit of living memory; how, then, can it be called ancient (17.4)? If all this is so, he tells Messalla and Secundus, then they must stop trying to draw a dividing line chronologically.

From this, Aper moves on to what is usually considered his main point: that oratory has always and will always change to fit its circumstances, and there is nothing wrong with this (*D.* 18.2-3):

Agere enim fortius iam et audentius volo, si illud ante praedixero, mutari cum temporibus formas quoque et genera dicendi. ... Nec quaero [quis veterum] disertissimus: hoc interim probasse contentus sum, non esse unum eloquentiae vultum, sed in illis quoque quos vocatis antiquos plures species deprehendi, nec statim deterius esse quod diversum est, vitio autem malignitatis humanae vetera

years; but you bring forward Demosthenes and Hyperides, who it is well established flourished in the time of Philip and Alexander, from which fact it is clear that little more than 300 years separate ours and Demosthenes' age.”

¹²⁶ Caesar invaded Britain in 55 BC, and Aper's excursion may have been under Claudius in AD 43 (Güntherich [1980] 71). If the Briton had been perhaps 15 at the time (and may even have been younger), then Aper could have spoken to him at the age of 113 – a highly unlikely, but technically a *possible*, occurrence. But it is in fact *likely* that Romans who as youths had heard the *Philippics* would have still been alive in Aper's boyhood.

semper in laude, praesentia in fastidio esse.¹²⁷

Aper may well claim to be speaking *fortius et audentius*: this sentiment, so baldly expressed, is far from characteristic of mainstream Roman opinion.¹²⁸ Yet he presents his case firmly and reasonably. How can one speak of an “ancient” style, when there were so many different styles, all criticized by the practitioners of the others? In his own day, even the great Cicero did not please everyone (18.5). But it is not his purpose, says Aper, to critique the ancients (yet); it is enough to show that no uniform style of oratory existed even then, as oratory must always be changing.

The reason this is so is that eloquence does not exist in a vacuum: it is meant to act upon an audience in certain circumstances, and the background circumstances themselves are always changing. Thus Aper defends Cassius Severus, who is usually attacked for changing his mode of speaking from the old-fashioned manner (*D.* 19.1-2):

Vidit namque, ut paulo ante dicebam, cum condicione temporum et diversitate aurium formam quoque ac speciem orationis esse mutandam. Facile perferebat prior ille populus, ut imperitus et rudis, impeditissimarum orationum spatia, atque id ipsum laudabat si dicendo quis diem eximeret.¹²⁹

But whereas such a public in the olden days enjoyed such lengthy speeches, an advocate, forced now to plead before judges who are overbearing and impatient, who even interrupt speeches that seem to digress from what they consider the main point, who have the right to decide cases *vi et potestate, non iure aut legibus* – itself a noteworthy phrase that we shall be returning to – such an advocate *must*

127 “For I now wish to plead more firmly and more boldly, taking it as a premise that the form as well as the type of oratory changes with the times. Nor do I inquire which [of the ancients] was the most eloquent: I am now content only to have proved that there is no one face of eloquence, but that even in those whom you call ‘ancient’ can many appearances be grasped, and that what is different is not necessarily worse, but that by an inherent vice of human malice the old-fashioned is praised, the contemporary condemned.”

128 It is also famously expressed by Tacitus at *A.* 3.55.5, though this momentary optimism runs counter to the general impression of his works.

129 “For he saw, as I was just saying, that with the condition of the times and the difference of taste the form and style of oratory too had to change. The people, being then uneducated and rough, had previously been accustomed easily to endure the great lengths of slow-going speeches, and if someone used up a whole day in speaking, they would praise that very fact.”

correspondingly alter his manner of speaking, if he wants to be successful (19.5, 23.3). Likewise, when philosophy was new and strange, a speaker who inserted the most trivial philosophical commonplace was praised to the heavens for his sagacity; now that this knowledge has become almost universally familiar, one would do better to avoid such displays (19.3-4). All this is to say that historical, social, and political conditions change, and oratory must change with them; however much we admire the style of a particular time period, it was fitted to that one period and to it alone; the changing circumstances have made it obsolete. But Aper is not here claiming that being thus obsolete makes it *bad oratory*; nor, although he denies such change is bad, should he be taken as arguing that it is in itself good: it simply is. Oratory is a practical art designed for specific circumstances: as those change, so must it.¹³⁰

The final section of Aper's speech, although not as important as what has gone before, deserves mention. He is not content simply to argue that oratory changes and must change: he also wants to chip away at the ancients' pedestal, and by pointing out their flaws allow the present generation to improve upon them. He systematically and irreverently goes through the list of the great names of Latin oratory, cataloguing their flaws and generally acting the iconoclast. Calvus is one of those revered authors whom all profess to adore but no one actually reads: of his twenty-one volumes of published speeches, at most two are worthy of his fame, the rest arid (*D.* 21.1-2). Caelius, if one examines him candidly, was repetitive and sloppy (21.3-4). Caesar and Brutus can be excused for having higher designs than eloquence, but even so their speeches are not as good as commonly thought, and some are downright bad (21.5-6). Cicero himself, eloquent as he admittedly is, is not perfect: he is often tedious and dull, or else turgid and overblown; some of his phrases are so pretentious, or his puns so bad, that they cannot be read without a smile; and he had a tic for *esse videatur* (22.1-23.1). Thus it is not just that oratory

¹³⁰ Cicero, *Brutus* 184-192 is similar on the practical purpose of oratory, and the necessity of its being effective on its intended audience as well as admired by connoisseurs.

must change with the times to remain effective: even from a purely artistic point of view, the ancients had their flaws, flaws that one should try to move away from rather than to imitate.

Aper's second speech, we see, is not merely the defense of modern oratory nor the impeachment of ancient oratory that it seems on the surface. It contains insightful points about the interdependency of eloquence on the one hand and society and politics on the other. Most important for our purpose, it treats them historically: historically in a true sense of searching for causes, and not a simple chronological division between “ancients” and “moderns.” Aper emphasizes this in his opening, so often considered a silly argument: the orators of Cicero's day are by no means “ancient” in any real sense, being within the bounds of living memory; the acknowledged difference between them and contemporary oratory thus must lie elsewhere than in a simple “decline over time” narrative. There must be causes for the sudden change.¹³¹ These causes Aper places, as we would expect him to do from his first speech, in the need for eloquence to be *practical*: it serves the end of convincing a particular audience, set in particular circumstances. As the audience changed, whether growing more sophisticated or becoming a wholly different audience (as the jurisdiction of some cases moved, e.g., to the Centumviral Court), oratory had to change with it. Some of the new conditions strike us as actually bad: the fact that judges decide cases *vi et potestate, non iure aut legibus* (D. 19.5), their impatience and almost arbitrariness (20.2), do not depict a healthy state of oratory.¹³² But Aper presents them neutrally: whatever we might think of such changes, they have occurred, and an advocate must deal with the world as he finds it and conform to it his own style of speaking. Aper's analysis thus links alterations in oratory to historical events and their effects on social and political conditions. It might be clear to the reader that the main such event must be the end of the Republic and the beginning of the Principate; but although subsequent speeches will certainly focus on this, Aper resolutely refuses to

131 That the change was sudden is implied by *usque ad Cassium* at D. 19.1, but unfortunately a lacuna prevents our following the rest of the thought.

132 Pliny makes similar complaints during the reign of Trajan, lamenting the state oratory had fallen into (*Ep.* 6.2).

mention aloud this most obvious point. He is not here concerned to make sweeping political statements, but to tie the beginning of “modern” oratory to specific changes in the day-to-day conditions that would confront a practicing advocate and so affect his oratorical style.

As soon as Aper is finished speaking, Maternus breaks in, almost ignoring the entire speech and jumping back to where the conversation was between Messalla and Secundus before Aper started. He says that what they need is an analysis of why oratory had declined from the ancient standard: the fact that it *had* declined is explicitly assumed, such that there is no need to eulogize the ancients when all present were in agreement – Aper too, who was simply playing devil's advocate (*D.* 24).¹³³ Aper's arguments thus being summarily rejected, Messalla begins to speak.

Messalla's speech extends, with some interruptions from the other interlocutors, from *D.* 25.1 to the lacuna after 35.5; his conclusion is missing. But enough is extant to get a sense of his main points. Strangely, he begins by ignoring Maternus' advice and giving precisely what was said not to be needed: a refutation of Aper and a defense of the ancients. He treats Aper's argument that the ancients are not truly ancient as a verbal quibble, saying he does not care what one calls them, provided it is agreed that their eloquence was superior to that of the present day (25.2). Of course, it is not so agreed, and so Messalla goes on to defend the orators of Cicero's day and attack those of his own (25.2-26.8) – at least until Maternus calls him back, reminding him that they saw no need to make the point that eloquence *had* declined; what was wanted was an explanation why (27.1).

After his second start, then, Messalla begins to discuss the main focus of his speech: the effect of education on oratory. The worsening of education is considered as a subset of the general worsening of morals (*D.* 28.2):

Quis enim ignorat et eloquentiam et ceteras artes descivisse ab illa vetere gloria
non inopia hominum, sed desidia iuventutis et neglegentia parentum et inscientia

¹³³ See p. 49 n. 123 above.

praecipientium et oblivione moris antiqui? Quae mala primum in urbe nata, mox per Italiam fusa, iam in provincias manant.¹³⁴

Quis ignorat indeed, for this is the standard, not to say the clichéd attribution of all causation to the growth of vice and decay of virtue.¹³⁵ Messalla goes on to give specifics of what he means: in the olden days, children were raised by their mothers, decent and reverend matrons who carefully watched the talk and even the games of their children (28.4-5); now, on the other hand (29.1-2):

At nunc natus infans delegatur Graeculae alicui ancillae, cui adiungitur unus aut alter ex omnibus servis, plerumque vilissimus nec cuiquam serio ministerio adcommodatus. Horum fabulis et erroribus virides statim et rudes animi imbuuntur; nec quisquam in tota domo pensi habet quid coram infante domino aut dicat aut faciat. Quin etiam ipsi parentes nec probitati neque modestiae parvulos adsuefaciunt, sed lasciviae et dicacitati. ...¹³⁶

This is especially true in the first elements of (higher) education: the close reading of authors, from which one's knowledge is increased and one's style purified, and without which it is impossible to attain real eloquence (30.1) Thus the decline of oratory is attributable to the worsening of educational practices, the neglect of parents in teaching their children.

Both these claims echo similar statements in Quintilian, especially the famous literary judgements of Book 10, and so Messalla has often been taken as representing a disciple of Quintilian as well as of Cicero (30.4-5).¹³⁷ If so, his complaints may embody something of a program, an argument

134 "For who does not know that eloquence and the other arts have declines from their pristine glory, not through scarcity of men, but by the laziness of the youth, the negligence of parents, the ignorance of teachers, and the loss of the old way? These evils, though born in the city, soon spread through Italy, and now flow out into the provinces."

135 Williams (1978) 19-25.

136 "But now, the baby on being born is handed over to some Greekling serving maid, who is aided by one or another of the slaves, usually the most worthless of all, unaccustomed to any serious occupation. Their minds, still green and untutored, are imbued with the nonsense and idiocies of their nurses, and to no one in the entire household does it matter what he says or does in front of his young master. Even the parents themselves do not accustom their little ones to uprightness and modesty, but to laxness and vain chattering."

137 For this paragraph, see Kennedy (1972) 522-523; Williams (1978) 44; Barnes (1986) 238; Brink (1989) 472-503.

that, if we gave up our degenerate modern practices and copied the institutions of our ancestors, oratory too could become again what it once was, and flourish as it once did. Such a program is of course explicit in Quintilian, and the numerous parallels have led many scholars, especially Barnes, to feel justified that Messalla's speech would have ended on a correspondingly optimistic note. In what remains, such optimism is implicit and conditional, but still probable – the modern degeneracy will continue *unless* we change our ways, but once they have changed, the style of oratory as actually delivered in the courts might revert to something more Ciceronian.

Messalla has much more to say on this topic, but he is eventually interrupted once again by Maternus, who wants him to go into much more detail about the ancient training of aspiring orators (*D.* 33.1-4). He is supported in this by Secundus and Aper (!), and so Messalla makes a third beginning. What he describes of the old manner of training is, as we might expect, the same as that mentioned by Cicero and praised by Quintilian:¹³⁸ that a young man, after receiving a good background education at home such as was delineated above, should be apprenticed out to some famous practicing orator, to follow him around and learn by real-life observation (34.1-2). The practical benefits of such a system in molding the ideal orator are considerable (34.3-7). Needless to say, this is not how Messalla portrays things as being done in the degenerate present, when the youth are instead handed over to professional rhetoricians who teach nothing but the most absurd and unrealistic set themes, which leaves them utterly unable to succeed when pleading actual cases (35.1-5).¹³⁹ As has often been observed, this seems to ignore the presence of Tacitus, who tells us that he was present at this discussion because he practiced exactly this sort of apprenticeship (2.1). But Messalla does not claim that there were *no* skilled speakers in his day, and in fact is explicit that the opposite is true (14.3); the presence of Tacitus

¹³⁸ *Institutio* 10.5.19.

¹³⁹ It is worth emphasizing just how utilitarian, how focused on real-life success in actual court cases, is Messalla's argument on these points. He is of course also concerned with getting back to good oratory in an absolute and objective sense, but he is far from ignoring practicality. From this point of view, his fundamental assumptions are not so different from those of Aper, whose pragmatism has often been mistaken as something un-Roman.

need do no more than qualify his statement: it is not that *no one* followed such practices, but that *few* did so, and so few as to be negligible to the general oratorical culture. This might be taken as more implicit optimism: if it is possible for some pupils to receive an old-fashioned education and follow the old ways and so grow up to be true orators, however few, then there is no reason there cannot be a general revival of the ancient standard. Unfortunately, it is at this point in the discussion that Messalla's speech breaks off.

Thus Messalla's speech answers the question why oratory had declined. Like Aper II, he ties changes in oratory to observable historical phenomena, to changes in the sociopolitical conditions; unlike Aper, however, who saw such change as necessary and neutral, he views it as a regrettable decline from a superior standard. The fact that the rise a different style of eloquence can be explained by reference to historical factors, even the fact that it was necessary, does not make it any less regrettable. But Messalla is optimistic (as was Aper, in his own way): the social changes that caused the new style of speaking can be reversed, and a revival of the ancient type of education could correct modern trends and lead to contemporary orators again delivering their speeches in a purer, more old-fashioned style.

Between *D.* 35.5 and 36.1 is a lacuna of unknown size that has deprived us at least of the end of Messalla's speech and the beginning of Maternus' second (36.1-41.5), which concludes the *Dialogus*. It picks up in mid-sentence, and Maternus is evidently continuing to discuss the reasons for the difference between ancient and modern rhetoric; that a decline and not a neutral change had occurred seems assumed. For Maternus, the shift is explicable in terms of political conditions, but with a twist. Even from the beginning he seems to treat the issue in a novel manner (36.2-4):

Nam etsi horum quoque temporum oratores ea consecuti sunt quae composita et
 quieta et beata re publica tribui fas est, tamen illa perturbatione ac licentia plura
 sibi adsequi videbantur, cum mixtis omnibus et moderatore uno carentibus

tantum quisque orator saperet quantum erranti populo persuadere poterat. ...
 Quae singula etsi distrahebant rem publicam exercebant tamen illorum
 temporum eloquentiam et magnis cumulare praemiis videbantur, quia quanto
 quisque plus dicendo poterat, tanto facilius honores adsequebantur.¹⁴⁰

The length of the quotation might be excused: this is indeed a new perspective. Tying the decline of rhetoric to political factors was not unknown (although the moral cause and decline by luxury were preferred), but it was usually argued that, at Rome as in Greece, the loss of freedom had destroyed the right of free speech – that is, something bad in itself had also had bad effects on oratory.¹⁴¹ The position enunciated by Maternus is the opposite: a political change good and necessary in itself had unfortunately led to a loss of eloquence. Cicero had flourished in the late Republic, because only the tumultuous and bloody times of the late Republic gave orators a grand enough theater to reach perfection in their art; now that the Principate has brought peace and good government, now that there is a *moderator unus*, there are no more Ciceros. The decline of eloquence is regrettable, but the political changes that caused it were in themselves desirable.

Maternus continues by elaborating on the greatness orators could attain in that time (*D.* 36.5):

Hi clientelis etiam exterarum nationum redundabant, hos ituri in provincias
 magistratus reverebantur, hos reversi colebant, hos et praeturae et consulatus
 vocare ultro videbantur, hi ne privati quidem sine potestate erant, cum et
 populum et senatum consilio et auctoritate regerent.¹⁴²

140 “For although the orators of today, too, have attained all that it is right to grant them under a settled, peaceful, and prosperous condition of the commonwealth, nonetheless the orators of old seemed to accomplish more in that age of upheaval and license when, everyone being chaotically thrown together and lacking one man to moderate them, each speaker was wise to the extent that he could persuade the fickle crowd. ... All this [chaos] on its own tore the republic apart, but it exercised the eloquence of those times and seemed to load it up with great rewards, because the more skilled one was at speaking the more easily did he attain honors.”

141 Williams (1978) 25. The argument was not necessarily wrong.

142 “These men overflowed with clientships even of foreign nations, the magistrates who were soon to go into their provinces revered them, and on returning courted them; praetorships and consulships seemed to call to them spontaneously [i.e. rather than their having to seek them]; even as private citizens they were not without power, since they ruled both the people and the Senate by their counsel and *auctoritas*.”

Maternus dilates somewhat on the power and practical advantages of skilled orators, not as Aper had done to praise their life as the best (for Maternus earlier argued against that very point), but to explain why the orators of the past were so much better: the fact that such great rewards were ready to hand for anyone with eloquence encouraged everyone who *could* be eloquent to exercise their talent to the uttermost; it could thus be assumed that everyone would strive for the highest level of skill possible. But this was not the only reason for their success. The social conditions of the time also demanded it, and a man who could not speak fluently was ashamed (36.7-8):

Nec mirum ... cum in aliquam invidiam aut crimen vocati sua voce respondendum haberent, cum testimonia quoque in iudiciis publicis non absentes nec per tabellam dare, sed coram et praesentes dicere cogentur. Ita ad summa eloquentiae praemia magna etiam necessitas accedebat, et quo modo disertum haberi pulchrum et gloriosum, sic contra mutum et elinguem videri deforme habebatur.¹⁴³

The importance of the themes on which republican orators could speak also contributed to their eloquence, *nam multo interest utrumne de furto aut formula et interdicto dicendum habeas, an de ambitu comitorum, de expilatis sociis et civibus trucidatis* (37.4).¹⁴⁴ Thus the ancient orators surpassed those of the present day so much because of the great rewards open to eloquence, the social stigma of being thought inarticulate, and the great themes on which they were called upon to speak.

But Maternus emphasizes that the mere fact that earlier eloquence was superior does not make the conditions necessary for it desirable. Speaking of the great and important topics on which the

¹⁴³ “Nor is this surprising, when they considered it necessary to respond with their own voices to any odium or accusation when called upon to do so, and when they were compelled to give even their testimony in public trials, not *in absentia* nor by affidavit, but to speak it in person themselves. Thus great necessity too impelled them to the highest rewards of eloquence, and just as it was considered noble and glorious to be held eloquent, so on the other hand was it considered shameful to be held awkward and unready of speech.”

¹⁴⁴ “For it makes a great difference whether you have to speak about a theft, or a procedural technicality, or a praetorian decree on the one hand, or about electoral bribery and the extortion of our allies and the murder of citizens.”

republican orators so often declaimed, he says (*D.* 37.5-7):

Quae mala sicut non accidere melius est, isque optimus civitatis status habendus in quo nihil tale patimur, ita cum acciderent ingentem eloquentiae materiam subministrabant. ... Non, opinor ... Ciceronem magnum oratorem P. Quintius defensus aut Licinius Archias faciunt: Catilina et Milo et Verres et Antonius hanc illi famam circumdederunt, non quia tanti fuit rei publicae malos ferre cives ut uberem ad dicendum materiam oratores haberent, sed, ut subinde admoneo, quaestionis meminerimus sciamusque nos de ea re loqui quae facilius turbidis et inquietis temporibus exstitit. Quis ignorat utilius ac melius esse frui pace quam bello vexari? Plures tamen bonos proeliatos bella quam pax ferunt.¹⁴⁵

It is better for such disturbances, such villains to be lacking: but if they exist then they offer grand themes for the orator. The connoisseur of eloquence might regret the loss of such perfect oratory as could only arise amidst disorders, but it is surely better that the Principate has brought peace and tranquillity. Medicine may be a noble art, but it is not needed except where people are sickly; likewise oratory is no longer of any use in the now-healthy state of society (41.3-4):

Quid enim opus est longis in senatu sententiis, cum optimi cito consentiant?
 Quid multis apud populum contionibus, cum de re publica non imperiti et multi deliberent, sed sapientissimus et unus? Quid voluntariis accusationibus, cum tam raro et tam parce peccetur? Quid invidiosis et excedentibus modum defensionibus, cum clementia cognoscentis obviam periclitantibus eat?¹⁴⁶

¹⁴⁵ “Although it is better that such evils should not happen, and that must be held to be the best state of society in which we do not suffer any such thing, nonetheless when they happened they offered a great material for eloquence. It is not the defense of Quintius or Archias that make Cicero a great orator: Catiline and Milo and Verres and Antony girded him with this fame – not because it was worth so much for the republic to bear evil citizens just so that orators would have rich material to speak on, but, as I repeatedly admonish you, let us remember and recognize that we are speaking about a thing that flourishes more easily in chaotic and restless periods. Who does not know that it is more profitable and better to enjoy peace than to be troubled by war? Yet war produces more good fighters than peace.”

¹⁴⁶ “For what need is there of long speeches in the Senate, when the best men quickly come to agreement? What need of so many *contiones* before the people, when it is not the ignorant multitude that deliberates about the commonwealth, but

Thus, under the benevolent rule of the Caesars, there is no longer any need of any kind of oratory. Every occasion for the old speech-making is gone, and thankfully so: the new conditions are better for everyone, Senate and people, accusers and defendants alike.

There is no need to belabor the point further: the gist of Maternus' argument should be clear, as well as how it fits with the previous speeches. Maternus continues the analysis of oratorical change in terms of historical factors, as Aper and Messalla before him. But he differs from both in critical ways. Unlike Aper but like Messalla, he sees such change as negative: the fact that it is explicable does not make it any less regrettable, or the oratory of the past any less superior. Unlike Messalla, however, he considers the changes that led to the new state of eloquence necessary and good: Maternus has no program for any kind of revival; a reversal of conditions would not be desirable even if it were possible. The end of the Republic and the beginning of the Principate had permanently changed the face of eloquence. Such a massive political upheaval could not be reversed, and even if it could, it should not be: no sane person would want to return to the chaos of the late Republic, no matter the quality of the oratory. Thus, from a purely artistic view, Maternus can join with Messalla in lamenting the loss of old-fashioned eloquence; but he must part from him and join with Aper in acknowledging that the loss was permanent, and no simple change in educational methods would or should reverse it.¹⁴⁷

On one central point, however, Maternus is drastically different from both his interlocutors. Aper and Messalla are both fundamentally concerned with the *quality* of oratory: their speeches are first and foremost about the manner of speaking, the actual style of orators of different periods. Maternus does touch on this in his explanations of why the orators of the past were indeed qualitatively better than his contemporaries. But he is mostly concerned with something else entirely: the *function* of

one man and the wisest? What need of voluntary accusations, when crimes are so rare and trivial? What need of hostile and exceedingly long defense speeches, when the clemency of the judge goes out to the defendant?"

147 Köhnken (1973) 37.

eloquence in society and politics. The republican orators were superior – because they *had* to be, because eloquence held such a central role in the world in which they lived. To be inarticulate was for them unthinkable – and, in the conditions of the times, dangerous. What is different about the Principate is primarily that eloquence was no longer so needed: thus Maternus emphasizes that the emperor made vociferous debates in the Senate unnecessary, and his clemency removed the driving need for a man to use his eloquence to defend himself in court. Under such circumstances, oratory would be less practiced and would necessarily decline, but Maternus is less focused on the decline of oratory itself than on its changing sociopolitical role.

There are two works of scholarship with especial reference to the final speech of Maternus of which we must take account. Both were mentioned in passing above, but are worth reviewing. Köhnken uses this speech as a test case for Tacitean irony, by which he simply means that something other than the surface meaning is intended.¹⁴⁸ He focuses especially on *D.* 41.3-4, quoted above, where Maternus claims that there is no need for defense speeches because of imperial clemency, etc. According to Köhnken, Maternus has often been taken as serving as Tacitus' spokesman,¹⁴⁹ but he rightly points out that this is, to say the least, unlikely: it is clear from Tacitus' other works that Maternus II is diametrically opposed to Tacitus' pessimistic views on the Principate, which (though he was certainly no republican ideologue) he at best accepted reluctantly as a necessary evil; and Tacitus is also habitually suspicious of high-sounding words like *clementia*, and tends to pronounce them only with a sneer. Tacitus aside, the character Maternus as presented in the *Dialogus*, the author of stridently anti-monarchical plays, is not the person to conclude a discussion with sincere praise of the Principate. It is therefore concluded that the praise is ironic. But it is one thing to say that a speech is ironic, another to explain its function; and Köhnken points out that many scholars have taken it as simply

¹⁴⁸ Köhnken (1973) 32-50. Ahl (1984) 174-208 is of course excellent on this point, though his work is general and not aimed specifically at Tacitus; but the work of Ahl ought to predispose us almost to *assume* that something like Köhnken's argument is going on, unless we have reason to believe otherwise.

¹⁴⁹ See e.g. Kennedy (1972) 518.

ironic exaggeration, as though Maternus were playfully overstating his own case. But to be ironic in such praise is to condemn. Maternus' ostensible eulogy must thus be taken as an attack. When he says there is no *need* of defense speeches because of the emperor's clemency, he must mean that defense speeches are of no *use* when one man determines the outcome of cases.¹⁵⁰ When he says senators have no *need* of deliberative oratory, he must mean that deliberative oratory is of no *use* when the Senate is not seriously allowed to deliberate. His whole speech can be read this way: every word of praise is in truth censure; all the talk about eloquence not being needed under the good government of the Principate really means that the stifling atmosphere of the Empire makes eloquence useless.

Williams sets himself against this view and develops another reading of Maternus II.¹⁵¹ Williams starts from an intention to explain how the *Dialogus* can be relevant both to the dramatic date of 75 and to the actual date of 102; to have the characters debating entirely anachronistic issues would be outside the usual practice of ancient dialogues, and so there must be some relevance to the year 75 as well. This Williams finds in aligning different periods with different speeches. Thus Aper's first speech, the praise of the life of the orator, is meant to represent the year 75, indeed Tacitus' own historical opinions about the year 75; Maternus' final speech on the irrelevance of eloquence in contemporary society, on the other hand, is Tacitus' commentary on his own day. The main event separating the two periods is Trajan's punishment of the *delatores*: in the period represented by Aper I, delation was still a real arena for the orator, a viable means of showing off one's eloquence and rising in influence; by the time of Maternus II, this is no longer the case. Aper's mention of the *delatores* Eprius Marcellus and Vibius Crispus is thus explained: however morally questionable in some eyes, their way was the only way left for orators to make a name for themselves; but after Trajan removed delation as a possibility, this too was lost, and with delation was lost the last possible theater for practical oratory. For this to be the case,

150 Köhnken (1973) 50: "Der Satz des Maternus kann wohl nur bedeuten: 'wozu brauchen wir noch lange Verteidigungsreden, mit denen wir uns nur unbeliebt machen, da das Schicksal der Angeklagten ohnehin nur von der Willkür des kaiserlichen Richters abhängt?'"

151 Williams (1978) 26-51, esp. 40.

however – for Maternus to represent a post-*delatores* world – Williams needs his speech to be sincere, and thus argues at length against Köhnken. If Maternus is indeed sincere, then his speech, set alongside that of Aper, is almost a narration of the final destruction of oratory: ostensibly about the end of the Republic, it is really about the advent of Trajan, and how the end of the *delatores*, although good and desirous in itself (just as on the surface he claims the good government of the Principate was), removed all the remaining incentives and the last remaining theme of importance for orators to speak on. It is better that there is no delation, but without the rewards of a successful accusation and the chance to show one's worth by attacking opponents in court, eloquence must die too.

Both these positions have their advantages, but neither can be wholly accepted. Williams' division of the speeches, that each is relevant for a different period and only for that period, is unlikely; besides which it does not take into account the other three speeches, and any attempt to assign them to separate periods without any overlap would make it impossible for the *Dialogus* to function as any kind of unity. Each of the speeches must discuss and be relevant to the same time period, whether that means the year 75 or 102 or both. Köhnken has demonstrated that there must be a large degree of irony in Maternus II; if so, then his speech may indeed be taken as a reply to Aper I, but as a true reply: Maternus is not simply giving an historical overview of a time different from that considered by Aper, but arguing that Aper was wrong, and equally wrong whether we assign him to the dramatic or the actual date of the work. Aper had claimed that oratory still possessed the greatest practical benefits, but Maternus, taken ironically, counters that oratory had not had such a role since the advent of the Principate rendered all forms of eloquence obsolete.

Nor can we follow Köhnken without reservation. He is correct that Maternus' love of the Principate is by no means consistent with Tacitean statements elsewhere, but Williams is also correct that we should compare Maternus, not to what Tacitus thought about the emperors from Tiberius to

Domitian, but to what he said about Trajan; and for Trajan Tacitus has nothing but praise.¹⁵² I therefore suggest that Maternus II is meant to be taken both ways. With reference to the dramatic date, Maternus does indeed speak with the irony Köhnken attributes to him; his speech is indeed about the uselessness of oratory under the emperors. But with reference to the actual date of the *Dialogus*, during the reign of Trajan, Maternus must be taken as at least partly sincere: under such a good emperor, one does not *need* (e.g.) defense speeches, among other reasons because Trajan abolished the accusations of *delatores*; nor is there *need* of lengthy debate in the Senate, for Trajan really is the *sapientissimus et unus* of *D.* 41.4. At the same time, the fact that Maternus II should be taken as two-sided to begin with causes uncertainty; the reader feels confronted with the usual Tacitean ambiguity of judgement. If praise of the Principate can be taken not only as panegyric of the current ruler, but also as condemnation of all the others, then the element of panegyric has an element of conditionality: the praised ruler could just as easily act as the condemned had. Tacitus (and Pliny too, and all those like them who praised Trajan) could look back on a long succession of emperors: many were bad all through, but still more augured well at the beginning of the reigns that they ended as tyrants,¹⁵³ and even those few who could be sincerely regretted were always succeeded eventually by monsters. Trajan was a good emperor: yet who knew but that he would be followed by a tyrant? And as for Trajan himself, everyone understood that, if he acted the part of a good *princeps*, it was purely voluntary, and there was nothing that could possibly restrain him if he should choose the opposite course.¹⁵⁴ Thus the current emperor might rule as a benevolent king deserving of praise, but the underlying conditions of the Principate had not changed: the happiness of Rome still depended on the arbitrary will of a single

152 Williams (1978) 40. It is not for this chapter to consider what kind of ruler Trajan actually was, but only how he was portrayed by contemporaries; the historicity of the portrayal is reserved for a later discussion.

153 Caligula and Nero are the most notable examples, but to some degree this is universally true, especially if one looks at the new emperors' actions regarding *maiestas*: often at the beginning of a reign *maiestas* would be formally abolished and exiles would be pardoned, but, if *maiestas* itself were not eventually restored as an accusation, some other replacement was always found: Bauman (1974) 192-195, 227.

154 Williams (1978) 155-156; Morford (1992) 575-593; Beutel (2000) 65, 117-120, 191-195.

man.

Maternus II is thus a drastic change from the previous speeches: where Aper and Messalla had been debating the reality or the causes of a decline in the *quality* of oratory, Maternus closes the *Dialogus* with a discussion of how its social and political *function* had been radically altered by the advent of the Principate.¹⁵⁵ This is so whether the speech is taken as pure irony or not: if it acts as a condemnation of the emperors generally, then it points out how eloquence is no longer of any use in the new conditions; if it is a panegyric of Trajan specifically, then it is true that eloquence is no longer *needed*, but it would still be of no *use* against Trajan if he should take a turn for the worse or against any future tyrant that might arise. The speech also rounds off the points made by all the previous speakers. Where Aper had described neutrally how historical circumstances affect oratory, Messalla argued that such changes had lowered its quality but gave a program for revival; but Maternus concludes that the changes went much deeper than either had acknowledged: there was no possibility of a restoration, as Messalla suggested, and at the same time the very sociopolitical shifts mentioned by Aper, far more than simply necessitating a new kind of eloquence, actually made it obsolete. Both their views were anachronistic.

So ends our rough overview of the *Dialogus*. But the full meaning remains unclear. We have examined what the characters say to one another, and to some extent (for Maternus' final speech) how what they say is meant to be taken; but we have yet to analyze why Tacitus has them say what they say. We have touched on some of the relations between the speeches, especially how Maternus responds to the earlier interlocutors; but we have yet to see how far each speech is right, according to Tacitus, or on which points each is right – for though Maternus is given the last word, it should not simply be assumed that he is meant to sum up Tacitus' own views or to sit in judgement on all the other speakers. He might in fact do so: but this is to be argued, not assumed. To understand fully what Tacitus is doing

155 Cf. Gowing (2005) 109-117.

with the *Dialogus* as a whole, I argue, we must read it alongside his other works, chief among these being the *Histories* and the *Annals*, which often discuss similar themes and where Tacitus speaks in his own voice. Therefore it is to the historical works we must now turn.

The next chapters, then, shall be devoted to Tacitus' historiographical works. I propose to go through them in the order of their composition: the following two chapters will cover the *Histories*, in the extant parts of which oratory plays a lesser role than in the *Annals* but still a significant one, and then the next two chapters will explore how the themes discussed here play out and are fulfilled in the *Annals*. Having studied the *Dialogus*, it will be easier for us to understand the role of eloquence in the historical works; then, having thoroughly examined the *Histories* and *Annals*, it will in turn become more clear what Tacitus is doing in the *Dialogus*, and so we will conclude with a brief retrospective look at the *Dialogus*.

Chapter 3: The *Histories*, Part One – Senate and Soldiers

I would like to begin this chapter by quoting a famous passage from the *Aeneid* (1.148-153):

Ac veluti magno in populo cum saepe coorta est
 seditio saevitque animis ignobile vulgus
 iamque faces et saxa volant, furor arma ministrat;
 tum, pietate gravem ac meritis si forte virum quem
 conspexere, silent arrectisque auribus astant;
 ille regit dictis animos et pectora mulcet. ...¹⁵⁶

Here, in describing how an eloquent and reverend statesman can calm sedition and stop riots simply by speaking, Virgil is expressing the ideal way in which things ought to work in Roman society. In cases of factionalism or sedition, with which the Romans were so lamentably familiar, a man of established *auctoritas* (which word cannot appear in hexameter), it was hoped, could use his skill in speaking to address the crowd and soothe its fury before it turned to bloodshed. But if Virgil describes the ideal, Tacitus' *Histories* show us the sad reality. Time and again in the *Histories*, we see incipient mutinies and riots, and speakers rising to address them; and time and again we see their speeches fail utterly. This reversal of the Virgilian passage (with which Tacitus was undoubtedly familiar, though I do not want to argue that he was intentionally echoing or undermining it) is emblematic of the role of eloquence in the *Histories*.

When we get to the *Annals*, we shall see fully developed the effect of the Principate on civilian, and especially forensic, oratory. By an accident of transmission, the extant books of the *Histories* are concerned primarily with the events of the civil war of AD 69-70 and its immediate aftermath in Rome and the provinces, but even here Tacitus makes the functional role of eloquence a major theme of his

¹⁵⁶ “And just as when sedition has often arisen in a great people and the ignoble mob rage in their heart, and torches and stones are already flying, furor provides arms; then, if by chance they have seen some man dignified by his *pietas* and merits, they fall silent and stand with ready ears; he governs their spirits with his words and calms their hearts...”

work.¹⁵⁷ It has been observed that a great part of the *Histories* focuses on what happens to society when long-accustomed sources of authority are broken and on the chaos and fragmentation resulting from the civil war.¹⁵⁸ It is moreover a truism of ancient thought that oratory and *libertas* go together.¹⁵⁹ When, however, the chains of the Principate are temporarily loosened in the *Histories*, what results is not freedom, but license: Roman society, far from flourishing, begins to disintegrate, as the urban populace alternately riots or cowers and the armies repeatedly mutiny, all alike heedless of authority. This in itself is not a new argument; what has not yet received adequate attention in the scholarship, however, is how Tacitus ties the theme of the role of oratory to this dissolution. Having lived so long under the Principate, the Romans, from senator to soldier, were unaccustomed to the free oratory of the Republic, and were therefore unresponsive to the attempts of various speakers to rein in the chaos resulting from the civil war.

This chapter and the next will therefore cover these aspects of the *Histories*. The current chapter will examine the role of eloquence as it relates to the dissolution of Roman society during and after the civil war in two ways: the actions of the Senate at Rome on the one hand, and on the other, those of the soldiery throughout the empire. In the absence of a *princeps*, the Senate makes a brief attempt to gain more independence for itself, especially when its members attack the most notorious *delatores* left over from Nero's reign (themselves perceived as emblems of his tyranny). They make many speeches and score some successes, but as soon as they meet with imperial resistance, they crumple: having lost during long servitude (as Tacitus would describe it) the spirit of inner freedom, freedom as a manner of

157 Leidl (2010) 235-258 discusses this phenomenon in other authors with a focus on narratological theory.

158 Ash (2009) 85-99.

159 Jens (1956) 338-341.

behavior,¹⁶⁰ they no longer have the heart to persevere, and all their oratory is shown to be ineffective.¹⁶¹ At the same time, the legions everywhere become uncontrollable: they mutiny against their officers, they demand the death of perceived traitors, they themselves betray the emperors whom they had only just proclaimed. There are many speeches attempting to calm them, but these almost invariably fail, showing just what value much-idealized eloquence really has in civil war. But Tacitus goes further than this. He assigns to the soldiery all the traditional attributes of a democratic (in the worst sense of ancient political thought) and fickle mob, and shows how civil war allows for the rise of greedy, restless, and eloquent demagogues to positions of power and authority – but as with all demagogues, they too find themselves led by, rather than leading, the soldier-mob. The behavior of the soldiers, too, can partly be ascribed to the loss of *libertas* (meaning the sort of behavior thought to be characteristic of the good old days of the Republic).¹⁶² This chapter will therefore explore two ways in which the traditional role of eloquence is undermined and shown to be ineffective in the *Histories*. The following chapter will discuss the exception that proves the rule: the German revolt of *Histories* 4-5 led by the Batavian Julius Civilis. There are many unsavory aspects about the Batavian revolt as Tacitus presents it, it is true, and the Germans too are prone to disunity and license; but at the same time, unlike the Romans, they are truly striving for *libertas* and have not yet been accustomed to servitude.¹⁶³

Correspondingly, in stark contrast to the behavior of the Senate and the legions, speeches either made

160 It is necessary to make passing mention of what *libertas* meant to the Romans and to Tacitus. By the Flavian period, it had lost most of its political connotations – those who took *libertas* as their watchword by no means sought a full restoration of the Republic – but tended to indicate freedom as a type of dignified, traditionally Roman behavior, an inner freedom, as contrasted with slavishness or over-obsequiousness. *Libertas* and *res publica* were primarily sentimental, not political, terms; this was especially true among the Senate. The supposedly free spirit of the barbarians could often be used as a foil to the slavishness of the Romans. See Wirszubski (1950), Momigliano (1951) 146-153, Balsdon (1952) 43-44, Jens (1956) 331-352, Hammond (1963) 93-113, Edelmaier (1964) 17-49, Kloesel (1967) 120-172, Ducos (1977) 194-217, Percival (1980) 119-133, Martin (1981) 119, Vielberg (1987) 150-168, Oakley (2009) 184-194, Gallia (2012), Liebeschuetz (2012) 73-94, Lavan (2013) 124-155.

161 Devillers (2010) 187-197.

162 A major argument of Gallia (2012) is that, while *libertas* and *res publica* meant different things to different people, and the emotional significance of the words was hotly debated, they were always *normative* terms: whatever the Republic was, however the speaker conceptualized it (which was rarely in a purely political sense), it usually involved how the speaker thought things *should* be. Gowing (2005) discusses how the collective memory of the Republic interacted with the actual culture of the Principate.

163 Pace Hose (1998) 297-309 et al.

by or to Germans almost invariably succeed, even in cases where the pessimistic narrative leads us to expect them to fail – and again unlike the Romans, the success of German oratory is never qualified by Tacitus.¹⁶⁴ They are therefore a Tacitean foil to the Romans, a symbol of the necessary link between eloquence and freedom lost during the Principate.

We shall begin with the affairs of the Senate. There are two themes in the *Histories*, interconnected but scattered across different books, that play out as the attempt of some Senators to establish a measure of independence for themselves: the movement, spearheaded by Helvidius Priscus but with broad senatorial support, to punish the Neronian *delatores* now that Nero is dead; and the great debate between Helvidius Priscus and Eprius Marcellus (himself the most notorious of the *delatores*) at 4.5-8, ostensibly on the choice of ambassadors to Vespasian, but really implying much weightier matters. Both threads of the narrative are intertwined, as we shall see, and the Senate's struggle for importance gathers steam as the narrative progresses, until finally Mucianus and the young prince Domitian move decisively to protect the *delatores*; and as soon as the senators encounter resistance on this front, their resistance fails everywhere, and we hear no more of their struggle. Tacitus very frequently punctuates this narration with speeches in both direct and indirect discourse, underscoring the role of oratory; but the ease with which all this senatorial eloquence is quashed likewise emphasizes that it no longer has an effective role.¹⁶⁵

That Tacitus intended the evils of delation to be a major theme of the *Histories* is clear from the very beginning of the work. Finishing up his list of the atrocities and disasters that befell Rome during the period he intends to cover, he writes (1.2.3):

¹⁶⁴ E.g., at *Histories* 1.69 (a passage that will receive more attention below), a plea for mercy before violent and angry legionaries succeeds, but Tacitus uses this success to underscore the fickle nature of the troops and their wild mutability.

¹⁶⁵ A great amount of scholarship is of course concerned with analyzing the speeches themselves, looking for common themes and tying them to the narrative, trying to come up with an interpretive synthesis; Keitel (1993), for instance, is an excellent article that does exactly this, and one which I will have much to say about. To some degree, I will be performing this kind of analysis, but it is not my primary concern in these chapters. What I want to look at is something that has been largely neglected, namely, are these speeches *actually successful in the narrative* or not? If so, why? And if not, why not? Considering that the primary function of most speeches is to persuade, this is a topic that has received surprisingly little attention, while scholarly focus has been devoted heavily to clausulae and vocabulary.

Atrocius in urbe saevitum: nobilitas, opes, omissi gestique honores pro crimine, et ob virtutes certissimum exitium. Nec minus praemia delatorum invisum quam scelera, cum alii sacerdotia et consulatus ut spolia adepti, procurationes alii et interiorem potentiam, agerent verterent cuncta odio et terrore. Corrupti in dominos servi, in patronos liberti; et quibus deerat inimicus per amicos oppressi.¹⁶⁶

It is unfortunate that we are missing the larger part of the *Histories*, including that covering the years when we would see these themes play out more fully; it is not unlikely that treason trials were no less prominent in the complete *Histories* than in the extant books of the *Annals*.¹⁶⁷ Even in what remains, however, delation is a frequent topic, and one to which this programmatic passage calls our attention: Tacitus clearly means us to understand that the *delatores* were to be a major theme running throughout the work. His strong and vivid language likewise leaves no doubt that he saw and meant us to see this as a great evil.

The next significant mention of *maiestas* delation comes at 1.77.3. As the new emperor Otho is distributing rewards and honors to his partisans, we read the following:

Redditus Cadio Rufo, Pedio Blaeso, Saevino P [lacuna] senatorius locus.
 Repetundarum criminibus sub Claudio ac Nerone ceciderant: placuit
 ignoscentibus verso nomine, quod avaritia fuerat, videri maiestatem, cuius tum
 odio etiam bonae leges peribant.¹⁶⁸

166 “There was more ferocious savagery in the capital: nobility, wealth, honors neglected or performed were all grounds for accusation, and the surest destruction was because of one's virtues. Nor were the rewards of the *delatores* less hated than their crimes, when some, having obtained priesthoods and consulships as their spoils, others imperial service and more secret power, handled all matters and overturned everything with hatred and terror. Slaves were corrupted [into giving false evidence] against their masters, freedmen against their patrons; and those who had no enemy were destroyed by their friends.”

167 *H.* 2.84 foreshadows the later years of Vespasian, when Tacitus says the emperor began to encourage delation as a way of filling the imperial coffers.

168 “Senatorial station was returned to Cadius Rufus, Pedius Blaesus, and Saevinus P- [lacuna]. They had fallen to charges of extortion during the reigns of Claudius and Nero: those who pardoned them were pleased that, by a change of name, what had been greed should seem *maiestas*, by the hatred of which even good laws were perishing.”

The meaning of this passage is worth unpacking. A number of men had been convicted of extortion during previous reigns; whether because they were allies of his or because he wanted a reputation for clemency, Otho decided to pardon them. But it would not do to begin one's reign by pardoning extortionists. It was therefore put forth that these men had actually been convicted of *maiestas*, and that it was of this crime that the new emperor was pardoning them. Presumably, nullifying *maiestas* convictions was a much more popular move than nullifying any other charge, else Otho would not have resorted to this subterfuge – we might note that Trajan later did the same thing, calling all unpopular condemnations from Domitian's reign *maiestas* whether they were or not, and then punishing the original accusers, presumably for bringing frivolous charges.¹⁶⁹ This can only be the case if there was a *prima facie* popular suspicion that *maiestas* charges were inherently dubious: thus pardoning men convicted of *maiestas* could be seen as a simple act of justice, clearing the names of innocent men wrongfully convicted by the new emperor's tyrannical predecessors. Not accidentally, it would also distance the new *princeps* from his predecessor and be seen as a positive precedent.¹⁷⁰ Furthermore, we might note that, since Roman law allows the punishment of an accuser who knowingly brings false charges (as the example of Trajan shows), the nullification of *maiestas* convictions from the previous reign would call into question *all* such previous convictions (on the grounds that a *princeps* who was tyrannical enough to allow *maiestas* charges would not do so just once) and so open the way to counter-charges against the original accusers. Strangely, then, the movement to punish the *delatores* that would soon gather steam in the Senate received its first impetus from the usurper and assassin Otho – strangely, and not auspiciously, when we remember Tacitus' acerbic comment that “by the hatred of [*maiestas*] even good laws were perishing.”

169 Bauman (1974) 194.

170 One wonders, however, why Otho had to resort to this subterfuge, as there was no shortage of actual condemnations for *maiestas* from Nero's reign. A possible answer might lie in the high number of Neronian executions: comparatively few who were under suspicion lived through the aftermath of the Pisonian conspiracy, for example, and so if Otho wanted *living* men to pardon, he might have to invent them. And yet one assumes that some exiles might still be alive.

Some time later we meet with the *delator* Vibius Crispus, of some notoriety from the *Dialogus*. Tacitus prefaces this episode by saying *in civitate discordi et ob crebras principum mutationes inter libertatem et licentiam incerta parvae quoque res magnis motibus agebantur* (H. 2.10.1: “In a state disordered and, because of the frequent change of *princeps*, wavering between liberty and license, even small things were handled with great tumultuousness”). What follows is therefore called a *parva res*, but this does not mean that we would be justified in dismissing it as unimportant: this is not the only time Tacitus refers to his own chosen topics self-deprecatingly.¹⁷¹ If these events were indeed insignificant, they would have been mentioned at most in passing, perhaps not at all. Moreover, the first part of the sentence – that the state was still disordered and wavering *inter libertatem et licentiam* – recalls to our attention the major theme of the narrative, the still-raging civil war, and ties the prefaced passage into that theme. What Tacitus has to say about Vibius Crispus is therefore part of the larger narrative, and reflects in miniature the struggle between liberty and license occupying the whole Roman world. And this is what Tacitus has to say (2.10.1):

Vibius Crispus, pecunia potentia ingenio inter claros magis quam inter bonos, Annium Faustum equestris ordinis, qui temporibus Neronis delationes factitaverat, ad cognitionem senatus vocabat; nam recens Galbae principatu censuerant patres ut accusatorum causae noscerentur. Id senatus consultum varie iactatum et, prout potens vel inops reus inciderat, infirmum aut validum, retinebat adhuc aliquid terroris.¹⁷²

That is, when Galba was emperor (it has not previously been mentioned by Tacitus), in the first flush of excitement after the death of Nero, the Senate had decreed that they were ready to hear accusations

¹⁷¹ Cf. *Annals* 4.32.1.

¹⁷² “Vibius Crispus, considered on account of his wealth, power, and genius as one of the notable rather than of the good, summoned Annius Faustus, an equestrian who had often practiced delation in the time of Nero, to trial before the Senate; for recently, during the principate of Galba, the senators had decreed that they would hear charges against accusers [i.e. against notorious *delatores*]. That *senatus consultum*, having been hurled back and forth with various fortune, weak or strong insofar as the accused was powerful or poor, still held some terror.”

against the more notorious *delatores* from his reign. The originally idealistic decree (since the *delatores* were considered associates of tyranny, it must have been idealistic to seek to punish them, and to better the position of the Senate at the same time)¹⁷³ had not quite had the intended effect, however, but it was still enforceable. Annius Faustus was therefore brought to trial by Vibius Crispus. That Annius was a habitual *delator* is not doubted by Tacitus (*delationes factitaverat*), but so of course was Vibius Crispus; he hardly seems the man to bring such charges. This thought also occurred to the senators (2.10.2-3). Crispus had maneuvered them into an awkward situation: if they still wanted to bring justice to the Neronian *delatores*, they now had to vote to support the most notorious *delator* of them all (except perhaps for Epirus Marcellus), and in so doing probably would enrich him with a portion of the defendant's estate. Many of them would probably rather have had the senator Crispus than the equestrian Faustus on trial. In the end, however, Tacitus tells us that they did narrowly vote to condemn Faustus, who was undoubtedly guilty, though many were unhappy about it. This passage therefore continues the theme of the Senate's seeking vengeance for the wrongs committed by *delatores* under Nero.

An incident from the brief reign of Vitellius is worthy of mention. Discussing the emperor's behavior in civilian matters, Tacitus says (*H.* 2.91.2-3):

Ventitabat in senatum, etiam cum parvis de rebus patres consulerentur. Ac forte Priscus Helvidius praetor designatus contra studium eius censuerat. Commotus primo Vitellius, non tamen ultra quam tribunos plebis in auxilium spretae potestatis advocavit; mox mitigantibus amicis, qui altiore iracundiam eius verebantur, nihil novi accidisse respondit quod duo senatores in re publica dissentirent; solitum se etiam Thraseae contra dicere.¹⁷⁴

¹⁷³ Beutel (2000) 62-64. See Chapter One on *maiestas* and delation.

¹⁷⁴ "He often came into the Senate, even when the senators were taking cognizance of small matters. By chance, the praetor designate Helvidius Priscus once gave an opinion contrary to his wishes. Vitellius, disturbed at first, nonetheless did nothing more than call the popular tribunes to aid his scorned power. Later, when his friends, who feared that his

As before, we should not take Tacitus' *parvis de rebus* as indicative of unimportance or insignificance. Vitellius' behavior in attending the Senate and his pretense of being just another senator – particularly when Helvidius Priscus spoke against him, and his friends, expecting him to save up his anger for a later date (echoes of Tiberius),¹⁷⁵ desperately try to prevent him from taking any kind of vengeance, but Vitellius himself simply shrugs off the whole affair – is an example of *civilitas*, the virtue which good emperors are expected to show in respecting the prerogatives of the Senate and not parading their own power.¹⁷⁶ *Civilitas* was a virtue because the *princeps* always had the power to act differently:¹⁷⁷ hence the very reasonable fear of the emperor's friends that he would do something drastic in response. It is indeed remarkable to see Vitellius, not usually considered a good emperor, acting with such *civilitas*; perhaps his reign was too short for him to save up his anger in Tiberian fashion, or perhaps he wanted to make himself look good in comparison with his predecessors; perhaps he was simply civil by temperament. Whatever the reason, the effect of his behavior on the Senate is not hard to imagine. After the reigns of Galba and Otho, too short for either emperor to consolidate much power, the republican manners of Vitellius, his tolerance even of abrasive and outspoken personalities such as Helvidius – and most important for our purposes, *his tolerance of a degree of free speech and open debate* – must have been extremely encouraging to those who wanted more freedom and authority for the Senate. It will have seemed that things were undergoing a radical change from the days of Nero, and the *libertas*-minded senators may have seen their chance.

We have next to discuss the famous conflict between Helvidius Priscus and Eprius Marcellus. Each is given a speech, one in direct and the other in indirect discourse, but before we come to these speeches we must examine how Tacitus introduces each of them. He first mentions Helvidius as though

anger was more deep-seated, were trying to soothe him, he responded that nothing strange had happened because two senators disagreed what was in the interests of the state; he himself had often spoken against Thrasea.”

175 *Annals* 4.29.3.

176 Wallace-Hadrill (1982) 32-48. The author convincingly maintains that, though the pretense that the emperor was just another senator was a sham, it was not “just” a sham, but expressed real ideals and had great symbolic importance.

177 Williams (1978) 156.

in passing; this leads him to a panegyric of Helvidius' character, and then to a description of an even earlier conflict between Priscus and Marcellus, before circling back around to the speeches. His first mention of Helvidius Priscus in this connection, then, comes at *Histories* 4.4: Mucianus, the lieutenant of the now-victorious Vespasian, has sent a letter to the Senate, and the senators are debating the appropriate response and making proposals. Helvidius, as praetor-elect, rises to speak (4.4.3):

Ubi ad Helvidium Priscum praetorem designatum ventum, prompsit sententiam ut honorificam in bonum principem, [*lacuna*] falsa aberant, et studiis senatus attolebatur. Isque praecipuus illi dies magnae offensae initium et magnae gloriae fuit.¹⁷⁸

The content of Helvidius' *sententia* is not clear, but it was evidently something remarkable for its freedom of speech and very different from the *adulatio* that had come before, since whatever he said greatly offended Mucianus. Moreover, anyone familiar with the outspoken and stubborn Helvidius of the ancient tradition – the Stoic martyr (to Epictetus and others) or the trouble-making fanatic (to Cassius Dio) – can easily imagine the gist of his speech.¹⁷⁹ What is remarkable is that the Senate receives his opinion with such favor: the Senate in Tacitus could more often be accused of timidity than fervor. In fact, this is the first taste we have of the evident popularity of Helvidius: despite his outspokenness, he is no voice crying out in the wilderness, but (as we shall see) the leader, at least for a while, of a considerable portion of the Senate, known and praised for his eloquence in defense of *libertas*.¹⁸⁰

Immediately afterwards, Tacitus claims that, since he has made mention of Helvidius, a man

178 “When it came the turn of Helvidius Priscus, the praetor-elect, he gave an opinion that, though honorable to a good *princeps*, [*lacuna*] falsehood was absent, and it was received with the applause of the Senate. That distinguished day was for him the beginning of great offensiveness and of great glory.”

179 Epictetus, *Discourses* 1.2; Dio 66.12. He was associated with the senatorial opposition and often linked with Thrasea Paetus: Jens (1956) 345, Heinz (1957) 74-75, MacMullen (1956) 57, Malitz (1985) 231-246, Beutel (2000) 196. He was later executed under Vespasian, probably for *contumelia* of the *princeps*: Bauman (1974) 157-158.

180 Malitz (1985) 231-246.

who shall recur frequently in his narrative, it would be a suitable place to give a brief overview of his life and character (*H.* 4.5-6). This odd passage, which is very similar in form to eulogies or death notices elsewhere in Tacitus (except of course that the subject is still living), is favorable in the extreme; we might without exaggeration call it the Praise of Helvidius. Even Tacitus can find very little negative to say about him, and nothing bad is stated as his own opinion. After Helvidius' father and place of birth have been noted, we read: *ingenium inlustre altioribus studiis iuvenis admodum dedit, non, ut plerique, ut nomine magnifico segne otium velaret, sed quo firmior adversus fortuita rem publicam capesseret* (4.5.1): “While still a youth, he gave his extraordinary genius to higher studies, not, as most, in order to cover lazy inaction with a magnificent name, but so that he might engage in public affairs with greater firmness against good and bad fortune”); Tacitus then notes that he was a devoted Stoic. Now, Tacitus' comments on the Stoics and on philosophers in general are far from universally favorable, as we remember from the *Agricola*,¹⁸¹ but his criticism is usually aimed at those who *do* “cover lazy inaction with a magnificent name.” He is quite clear here that Helvidius' study of philosophy was everything that befit a Roman and a senator, and one who had duties to the State. Next, he records that, having been chosen as son-in-law by the famous and controversial Thrasea Paetus,¹⁸² *e moribus soceri nihil aequae ac libertatem hausit* (4.5.2: “from the character of his father-in-law he derived nothing so much as his *libertas*”). This is to be the defining characteristic of Helvidius Priscus, as it was of Thrasea (and we note that *libertas* here must indicate a character trait, the kind of inner freedom discussed above): Helvidius is, above all else and at all times, known for his spirit of liberty and as a fighter for liberty, both when this is a noble goal and when it seems imprudent and unwise.

Tacitus continues (*H.* 4.5.2-6.1):

Civis, senator, maritus, gener, amicus, cunctis vitae officiis aequabilis, opum

¹⁸¹ *Agricola* 4.3.

¹⁸² We shall have much more to say about Thrasea Paetus in the *Annals* chapters. Suffice it to say here, that I believe Tacitus' presentation of Thrasea to be *almost* entirely positive.

contemptor, recti pervicax, constans adversus metus. Erant quibus adpetentior
 famae videretur, quando etiam sapientibus cupido gloriae novissima exuitur.¹⁸³

Here we have quite an exhaustive list: Helvidius fulfilled his duties in every conceivable area of life, and was in every way exemplary. The one criticism that Tacitus can find to make is that he was eager for fame, and this he puts in a non-committal and uncertain relative clause of characteristic, *erant quibus videretur* – there were *some* (unnamed) persons to whom he *seemed* over-desirous. And, for the worst comment Tacitus can make about him, desire for fame counts as a petty, trivial little vice indeed on the Roman scale of values¹⁸⁴ – particularly when Tacitus has already told us, in his own voice and not as the opinion of unspecified others, that Helvidius' motivation in pursuing his studies was to be *firmiter adversus fortuita* in the service of the State. Next, Tacitus circles back to the theme of the *delatores* and tells us (4.6.1-2):

Ruina soceri in exilium pulsus, ut Galbae principatu rediit, Marcellum Eprium,
 delatorem Thraseae, accusare aggreditur. Ea ultio, incertum maior an iustior,
 senatum in studia diduxerat: nam si caderet Marcellus, agmen reorum
 sternebatur. Primo minax certamen et egregiis utriusque orationibus testatum;
 mox dubia voluntate Galbae, multis senatorum deprecantibus, omisit Priscus,
 variis, ut sunt hominum ingenia, sermonibus moderationem laudantium aut
 constantiam requirentium.¹⁸⁵

In this passage, which concludes the Praise and after which we return to the main narrative, Tacitus

183 “As a citizen, a senator, a husband, a son-in-law, and a friend, he was equal to all the duties of life, a despiser of riches, obstinate of justice, steadfast against fear. There were some to whom he seemed over-eager for fame, since the desire for glory is the last to be removed even from the wise.”

184 Heldmann (1991) 219-220. See also Knoche (1967) 420-445.

185 “Driven into exile by the ruin of his father-in-law, when he returned during the principate of Galba he moved to accuse Eprius Marcellus, the *delator* of Thrasea. That act of revenge – it is uncertain whether it was grander or more just – divided the Senate into factions: for if Marcellus fell, a host of the guilty would be destroyed. The contest was at first menacing, as evidenced by the eloquent speeches on both sides; but soon, Galba's wishes being unclear, and many of the senators praying he cease, Priscus gave up the accusation, some (as is the case with human character) praising his moderation, others wishing he had been more steadfast.”

includes a number of important themes in great density. First, as preface to the upcoming conflict with Epirus Marcellus, we are told that the two *already* had bad history – and that it involves delation and the attempt of some senators to avenge it, for Marcellus, who had accused Thrasea Paetus of *maiestas* during the last reign, was by far the most notorious of the Neronian *delatores*. Helvidius' attack on so prominent a villain clearly touched a nerve: we are told that the Senate, with mixed motives, watched the case with great interest, for the fall of Marcellus would have been the signal for a mass-attack on the Neronian *delatores*. Second, we note that Helvidius was seen as something of a leader in this movement: he launched the first attack against an especially powerful *delator*, and the other sympathetic senators were following his lead. Third, Tacitus clearly looked with approbation on this attempt to punish the *delatores*: he finds it hard to say whether the attempt at revenge was more grand or more just (*incertum maior an iustior*); there is no negative comment of any kind. Fourth, significantly for our theme of eloquence, we are told that the contest was sharp and that there were speeches on both sides – these, however, went nowhere, not because the Senate was dead-locked, but because the opinion of the *princeps* was unknown. The senators still did not dare to do anything (or did not have the power to do anything) without at least the tacit approval of the new emperor; without that, all their speeches amounted to no more than pointless bickering. Fifth and finally, when Helvidius gave up the case, Tacitus allows himself the only other possible negative reflection on Helvidius' character: there were some, he says, who regretted that he had not shown more constancy. It is by no means certain that Tacitus' opinion should be identified with these, instead of with those who praised his moderation; but *even if* Tacitus is criticizing Helvidius here, it is important to note that he is not criticizing Helvidius' notorious outspokenness and stubbornness in pursuit of *libertas*, but is lamenting that he was not *more* outspoken and *more* stubborn.

To summarize what the Praise of Helvidius tells us: whatever the opinions of the rest of the historiographical tradition, or even whatever opinions Tacitus himself expresses elsewhere in his works

(if indeed *Agricola* 42.4 is to be taken as critical of Helvidius), it is clear that, in the *Histories* at least, Tacitus is overwhelmingly positive towards the character of Helvidius Priscus. His virtues are gone over exhaustively and at length. The only possible criticisms implied are that he was too eager for glory and that he was perhaps not radical *enough* – and neither of these is stated as Tacitus' own opinion, as the praise of his virtues is. We also learn that Helvidius had a long-running feud with Eprius Marcellus, and that he had spear-headed an earlier attack on the Neronian *delatores*. Even though this attempt came to nothing, its position in the narrative, immediately preceding the major conflict between the two, is meant to color our reading: what follows should be read against the background of what has already happened, and the upcoming verbal duel between Helvidius and Marcellus should be understood as simply the next round in a fight between a notorious *delator* and a champion of *libertas*.

Their quarrel proper begins at *H.* 4.6.3-7.1. On the same day as the earlier Senate debate mentioned at 4.4.3 – when Helvidius first rose to speak in answer to the letter of Mucianus – it was decided to send official legates to congratulate the new emperor Vespasian. It would be normal for these legates to have been selected by lot, but Helvidius made his own suggestion: the magistrates then in office should select those they regarded as the most worthy to undertake the mission. Marcellus opposed this, we are told, for the not entirely reputable reason that he feared his dignity would be slighted if the magistrates chose anyone other than himself – a typically Tacitean means of revealing a character's “true” motivation and so discrediting, or at least undermining, whatever he has to say in advance.

Helvidius speaks first, in indirect discourse (*H.* 4.7). His speech revolves around the dual themes that it is better for the Senate to choose men of approved morality and justice than to take whatever villains a random and indiscriminate lottery would give, and consequently that Marcellus would have no chance of being chosen by the magistrates, since he had been a *delator* (Helvidius seems completely aware of Marcellus' real motivation, according to Tacitus, and tailors his arguments

accordingly, unmasking Marcellus' basically selfish concern and saying he is right to fear he would not be chosen). He says (4.7.1-2):

Esse illi [Marcello] pecuniam et eloquentiam, quis multos anteiret, ni memoria flagitiorum urgeretur. Sorte et urna mores non discerni: suffragia et existimationem senatus reperta ut in cuiusque vitam famamque penetrarent. Pertinere ad utilitatem rei publicae, pertinere ad Vespasiani honorem, occurrere illi quos innocentissimos senatus habeat, qui honestis sermonibus auris imperatoris imbuant.¹⁸⁶

Helvidius thus asserts that Marcellus' main concern is (as Tacitus has told us) that he would not be chosen: but why would this be, Priscus asks rhetorically, since he is both wealthy and eloquent – unless he were afraid that his fellow senators would judge him to be of poor character? The phrase *memoria flagitiorum* is revealing: it must refer to the senators' memory of Marcellus' crimes, and in this context, the *flagitia* can only refer to delation. It was necessary for the sake of the State, Priscus continued, that the “most innocent” should be chosen to meet Vespasian – and in this context, again, “innocent” can only mean those who were not *delatores*, i.e. not Marcellus. The reason for this is important: it was critical that such innocent men, and *not* those guilty of delation, should surround the new *princeps*. In other words, Helvidius is not imagining that the office of the legates would only be to present the new emperor with the congratulations of the Senate: he envisions that they would *represent* the Senate and its collective wisdom and in fact advise him in the critical early period of his reign, and that the emperor should respectfully heed the advice of the Senate.¹⁸⁷ On this view, it was indeed important that the Senate should have the power to choose the legates: messengers can be of any character, but

186 “Marcellus had wealth and eloquence because of which he would surpass many, except that he was oppressed by their remembering of his crimes. Character was not judged by lot and urn: the votes and opinion of the Senate had been found so that they could penetrate into each man's life and reputation. It mattered to the utility of the State, it mattered to the honor of Vespasian, that he should meet those whom the Senate held the most innocent, who might imbue the ears of an emperor with honorable speech.”

187 Malitz (1985) 235-237.

advisers must be wise and just, and here that means above all that neither *delatores* nor those connected with *delatores* (and especially not Eprius Marcellus) could be allowed to poison the ears of Vespasian. We note the intertwining of two seemingly distinct issues: the freedom and independent dignity of the Senate with respect to the *princeps*, and the evil of the *delatores* – for so closely were the latter thought to be allied to tyranny that they were seen as incompatible with the former.

This is emphasized by the conclusion of Helvidius' speech (*H.* 4.7.2-3):

Fuisse Vespasiano amicitiam cum Thrasea, Sorano, Sentio; quorum accusatores etiam si puniri non oporteat, ostentari non debere. ... Satis Marcello quod Neronem in exitium tot innocentium impulerit: frueretur praemiis et impunitate, Vespasianum melioribus relinqueret.¹⁸⁸

Here we see again the earlier theme of the punishment of the *delatores*. Helvidius, so far frustrated in his attempt to bring Marcellus and his ilk to justice, claims that at least they should not be paraded before Vespasian: Vespasian after all had been the friend of Thrasea Paetus, whom none other than Eprius Marcellus had accused; it would therefore be highly inappropriate if the lottery selected Marcellus as an emissary. Marcellus should enjoy the rewards he had already obtained and the fact that the Senate (again Helvidius speaks with some bitterness) had not punished the *delatores* like him, but at least the Senate could make sure that it did not *choose* such *delatores* as their representatives before the new *princeps*. The magistrates therefore, not a lottery, should select the legates.

Thus Helvidius' speech addresses more important issues than it seems on the surface. It is ostensibly simply an argument for the selection of emissaries by the current magistrates. In fact, it is a shrewd political move aiming at greater autonomy for the Senate: sending to Vespasian, not randomly chosen messengers, but the senators picked out by their peers for outstanding character and merit,

¹⁸⁸ “Vespasian had been friends with Thrasea, Soranus, and Sentius; even if it was not necessary to punish their accusers, they should not be openly displayed. ... It was enough for Marcellus that he had driven Nero to exile so many innocents: let him enjoy his rewards and his impunity, but leave Vespasian to better men.”

would send a clear message that the latter were meant to be taken as the *representatives* of the Senate as a whole and to speak with the Senate's voice.¹⁸⁹ It would be clearly implied thereby that they expected the new emperor to pay attention to the Senate's voice. Messengers would become instead advisors, the Senate would gain in political importance. To this end, it was necessary above all that the legates not be affiliated with the *delatores*: delation was both morally and politically unacceptable in this context, as the practice of greedy and wicked persons like Eprius Marcellus and the tool of tyrants like Nero. We thus see how the speech of Helvidius Priscus intertwines the two issues of the *libertas* of the Senate and the attempt to punish (or at least make irrelevant) the Neronian *delatores*.

Eprius Marcellus speaks next, again in indirect discourse (*H.* 4.8). It is sometimes difficult to remember that Tacitus has discredited him in advance and generally seems to dislike him intensely, for his arguments are on the surface moderate and reasonable. He replies to Helvidius that the selection of legates by lot was traditional and that there was no reason to depart from the ancestral constitution; moreover, he claims that Helvidius' conception of the Senate as an important advisory body is fanciful and out of touch with the times, when the *libertas* of the Senate was no more and the senators (in his own words: I am not interpreting) had all already been slaves. Thus (4.8.1):

Marcellus non suam sententiam impugnari, sed consulem designatum censuisse dicebat, secundum vetera exempla quae sortem legationibus posuissent, ne ambitioni aut inimicitiis locus foret. Nihil evenisse cur antiquitus instituta exolescerent aut principis honor in cuiusquam contumeliam verteretur; sufficere omnis obsequio.¹⁹⁰

This argument is on the whole traditional and likely to appeal to a Roman – Marcellus was after all a

¹⁸⁹ Pigon (1992) 235-246.

¹⁹⁰ “Marcellus said that it was not his opinion that was being impugned, but that the consul-elect had given this as his opinion in accordance with the ancient examples which prescribed a lottery for legations, lest there be any room for ambition or hostilities. Nothing had happened why the things instituted of old should grow obsolete or the emperor's honor be turned into an insult against anyone: they all sufficed for obedience.”

skilled orator, and he knew that it would be prudent to appeal to the Senate's inherent conservatism. But in some places Tacitus sneakily inserts a few innocuous-looking words and phrases that are a pointed, albeit subtle, criticism of Marcellus' position. The first is *sufficere omnis obsequio*, “they all sufficed for *obsequium*.” In Tacitus, *obsequium* is a much more loaded term than simple “obedience,” and he often uses it of an extreme and shameful slavishness – using it as a moral quality, the opposite of *libertas*.¹⁹¹ Marcellus' argument is presumably something like “there is no reason that something meant to honor the emperor should be used to insult or endanger any individual senator who is not chosen, since legates-by-lot could represent the collective obedience of the entire Senate”; but Tacitus' use of *obsequium* unmasks Marcellus' real motives for a brief instant. If Helvidius' speech was in defense of *libertas*, Marcellus' is a plea for obedience and submission.

This becomes more clear when Eprius tries to defend himself from the charge that he was guilty of delation (*H.* 4.8.3):

Non magis sua oratione Thraseam quam iudicio senatus adflictum; saevitiam
Neronis per eius modi imagines inlusisse, nec minus sibi anxiam talem
amicitiam quam aliis exilium. Denique constantia fortitudine Catonibus et Brutis
aequaretur Helvidius: se unum esse ex illo senatu qui simul servierit.¹⁹²

He claims that Thrasea Paetus, whom he had accused, had been destroyed by the vote of the Senate – but really by the cruelty of Nero, which enjoyed *imagines* such as the Senate pretending to vote on such matters – rather than by his own oratory. This may well be true; in fact, I think that it is true, and that in this case Marcellus is a villain who nonetheless speaks the truth, that oratory was irrelevant to the

¹⁹¹ Sometimes good as the obedience of a soldier, just as often bad, as the slavish disposition before kings and tyrants: *A.* 2.55.6, 3.75.2, 4.20.3; *H.* 4.3.4; *D.* 40.1; *G.* 44.1. Lavan (2013) 124-155 notes that the same phrase, *obsequium ac modestia*, is used in the *Agricola* both of the qualities necessary to be “safe” under a bad *princeps* and by Calgacus to describe Roman slavishness. Cf. *OLD obsequium* 2b. See also Vielberg (1987) 130-134, 179-181.

¹⁹² “Thrased had been destroyed less by his oratory than by the judgment of the Senate; the cruelty of Nero had enjoyed displays of that kind, nor was such a friendship less anxiety-inducing to him (Marcellus) than exile was to others. Therefore let Helvidius equal Cato and Brutus in steadfastness and courage: he himself was only a member of that Senate that had been slaves together.”

outcome of *maiestas* trials and that the *princeps* decided everything. True or not, it is an argument for the irrelevancy and *servitium* of the Senate, and in the context of Helvidius' movement to restore senatorial *libertas* it is one thing to point out that the senators were slaves, and another to mention this fact with complacency, as Marcellus does.¹⁹³ All this aside, we can note that, as with *obsequium* above, Tacitus' making Marcellus use the verb *servio* here would leave an unpleasant taste in the mouth of a Roman reader: Marcellus might have intended to give a realistic portrayal of the way things were under the Principate, but to call the Senate a group of slaves, not in protest but with resignation, could only disgust. Likewise, he hardly does Vespasian any favor when he says *quo modo pessimis imperatoribus sine fine dominationem, ita quamvis egregiis modum libertatis placere* (“Just as the worst emperors prefer an unlimited domination, so do even the best prefer a limit on liberty”) – admitting by implication that his speech is attacking *libertas*.¹⁹⁴ Thus the *libertas-servitium* theme continues to pervade Marcellus' speech and to undermine his apparently reasonable arguments.

Tacitus narrates the result of their debate thus (*H.* 4.8.5):

Haec magnis utrimque contentionibus iactata diversis studiis accipiebantur. Vicit pars quae sortiri legatos malebat, etiam mediis patrum adnitentibus retinere morem; et splendidissimus quisque eodem inclinabat metu invidiae, si ipsi eligerentur.¹⁹⁵

Helvidius was defeated, even though he was supported by a considerable portion of the Senate. To explain this defeat, Tacitus, as he often does, gives two reasons, one quite understandable and the second rather discreditable. On the one hand, most of the senators did not desire to depart from

¹⁹³ Saying that the senators were slaves is not hyperbolic language: the verb *servio* used by Marcellus does not simply mean “to serve,” but “to be a slave.” Calling the senators slaves is likely less metaphorical and more literally intended than we imagine: Lavan (2013) 73-123.

¹⁹⁴ Jens (1956) 345, Malitz (1985) 231-246, Pigon (1992) 235-246.

¹⁹⁵ “These speeches, delivered on both sides with great contention, were received with divided feelings. The part prevailed that preferred the legates to be selected by lot, since even the senators of moderate means were eager to preserve the old custom, and the most prominent were all inclined in the same direction by fear of envy in case they should be chosen.”

tradition, and tradition dictated that the legates be selected by lot; this is perfectly good and Roman. On the other, many feared that, if the emissaries were to be chosen for their merit, and they themselves were so selected, they would face envy – and presumably also danger, given the penchant of tyrannical emperors to destroy the most prominent of the senators.¹⁹⁶ This reasoning, we note, is the inverse of that of Epirus Marcellus: Marcellus wanted a lottery out of fear of disgrace if he were *not* chosen, the senators out of fear of envy if they *were*. Of the two, Marcellus' is the more shameful motivation, but that of *splendidissimus quisque* is not entirely innocent. Helvidius and Marcellus had both based their arguments (albeit self-servingly in the case of the latter) on the good of the State; the Senate, in making its decision, does not consider this at all. Instead, they make their decision based on cynical political considerations: it would be dangerous for them to be chosen. The arguments and oratory of Helvidius and Marcellus matter nothing to them; their only concern was to keep their own heads down. They do, it is true, seem to heed Marcellus' argument for following tradition, but just as Tacitus explicitly told us that Marcellus used this as a respectable cover for his real, selfish motivation (*H.* 4.6.3-7.1), likewise the appeal to the *mos maiorum* served as a plausible excuse for the more timid of the senators – especially those who acted *metu invidiae*.¹⁹⁷ Moreover, there is a bite in Tacitus' description of their motivation: acting according to fear of *invidia* as they do is only possible under the Principate, and specifically a Principate where there is the possibility of another Nero who (as Domitian did: *Ag.* 41.1, *infensus virtutibus princeps*) hated the most meritorious of his subjects. Even as Helvidius is trying to restore a measure of *libertas*, most of the senators are still using the calculus of *servitium*.

The debate between Helvidius Priscus and Epirus Marcellus, then, is only the next stage in an on-going conflict. Helvidius is the exponent of *libertas*, trying to lead the Senate to greater autonomy

¹⁹⁶ *Invidia* is a constant danger in the *Agricola*, for instance.

¹⁹⁷ Calling a senator *medius* – “moderate” – is not, moreover, necessarily a compliment; cf. *H.* 1.19.1, *medii ac plurimi obvio obsequio, privatas spes agitantibus sine publica cura*. Latin *medius* does not necessarily have a positive moral connotation, as our “moderate” does; Heubner (1963) 57 notes that it can simply indicate neutrality or indifference between two opposing sides or viewpoints.

and independence (but *not* to restore the full Republic). It is no accident that Tacitus sets up Marcellus as his opponent: Marcellus, the arch-*delator*, naturally reinforces the running theme of delation and the senatorial attempt to punish the Neronian *delatores*. But the fact that a *delator* is made champion of the Principate and the interests of the *princeps* also ties the two strands of this theme together: delation and *servitium* necessarily go together, and a struggle for more *libertas* (in the sense of the liberty of the Senate) is also necessarily a struggle against the *delatores*. The senators are not yet ready to make as firm a stand as this requires, and so Helvidius loses this round of the fight.

That Helvidius is not yet ready to give up the fight, however, is shown by the passage immediately following (*H.* 4.9). The consul-elect wished to await the presence of Vespasian to discuss some important financial issues, but Helvidius moved for the Senate, which in theory had cognizance of such matters, to make the decisions itself – clearly an example of his striving for greater senatorial authority. (We are not told how the debate went, for there was no debate: a tribune vetoed any further discussion except in the presence of the emperor.) Helvidius then proposed that the burnt Capitol be restored at public expense and that Vespasian should assist (4.9.2: *ut Capitolium publice restitueretur, adiuuaret Vespasianus*); that Vespasian was only to “assist” was thought an insult to his dignity, and we are told, ominously, *fuere qui meminissent*, “there were some who remembered.” Sadly, however, we hear no more of the matter in the extant books of the *Histories*.

The next stage of the conflict begins at *H.* 4.10:

Tum invectus est Musonius Rufus in P. Celerem, a quo Baram Soranum falso testimonio circumventum arguebat. Ea cognitione renovari odia accusatorum videbantur. Sed vilis et nocens reus protegi non poterat: quippe Sorani sancta memoria; Celer professus sapientiam, dein testis in Baram, proditor corruptorque amicitiae cuius se magistrum ferebat. Proximus dies causae destinatur; nec tam Musonius aut Publius quam Priscus et Marcellus ceterique,

motis ad ultionem animis, expectabantur.¹⁹⁸

The famous philosopher and statesman Musonius Rufus brought charges against Publius Celer, who had given (allegedly false) evidence against Barea Soranus.¹⁹⁹ The trial revived the hatred felt against the *delatores*, for Celer's crime was thought to be especially heinous. This passage also testifies that, although Helvidius Priscus had suffered a series of setbacks, his attempt was not yet over: a large number of the senators still supported him on punishing the *delatores*, and they watched the Musonius-Celer case eagerly, expecting it to be the prelude to a final showdown between Helvidius Priscus and Eprius Marcellus.

The case is taken up later during the presence of Domitian, the son of the absent emperor. The entire course of the trial is narrated thus: *Repeti inde cognitionem inter Musonium Rufum et Publium Celerem placuit, damnatusque Publius et Sorani manibus satis factum* (H. 4.40.3: “It was decided to revisit the case involving Musonius Rufus and Publius Celer; Publius was condemned, and atonement was made to the *manes* of Soranus”). There is no indication of speeches on either side, though they must have been delivered. Tacitus either considered oratory irrelevant to the outcome of the trial, or thought this particular trial too unimportant to merit mention of the speeches; but it was not an unimportant trial (as it is mentioned more than once), and if we ask *why* Celer was condemned, the answer cannot be found in any speeches. The Senate, on Tacitus' presentation, seems to have simply considered him manifestly guilty (*manifestum reum*). Indeed, we are told explicitly that Celer lacked the eloquence to defend himself from danger (4.40.3: *ipsi Publio neque animus in periculis neque*

198 “Then Musonius Rufus attacked P. Celer, alleging that he had secured the condemnation of Barea Soranus by committing perjury. The hatred against the accusers was seen to be renewed by this case. But a vile and noxious defendant could not be protected: for indeed, the memory of Soranus was sacred; and Celer has professed philosophy, then been a witness against Barea, the betrayer and profaner of friendship, which he claimed to teach. The next day was set down for the case; nor were Musonius and Publius so eagerly awaited as Priscus and Marcellus and the rest, for the minds of the senators were now set on vengeance.” NB: The phrase *falso testimonio circumventum arguebat*, though difficult to translate, is presumably a reference to the *lex Sempronia ne quis iudicio circumveniat*, relating to various and hazily defined crimes including perjury, bribery of juries, etc.

199 Barea Soranus is often associated with Thræsea Paetus: both met their deaths at the orders of Nero in *Annals* 16. He will be more fully discussed in the *Annals* chapters.

oratio suppeditavit). Domitian seems to have made no effort to save him, evidently regarding it not worth offending the Senate to save someone they so universally detested. This enheartens the opposition (4.40.3). Some of the senators took the condemnation of Celer as a prosperous omen for their ongoing struggle against the *delatores*, since Domitian had not intervened to save him. They therefore requested that the Senate be granted the authority to look into the *commentarii*, notebooks or records, of the imperial house, presumably from Nero's reign; these would contain information on who had informed against whom, and who had been acting closely with the regime.²⁰⁰ This would allow the easy prosecution of the *delatores*, but there was still more to the request than that: the *commentarii principales* would have contained the hidden secrets of imperial policy, and for the Senate to have the legal right (*potestas*) to inspect them would have meant a great increase in its authority and influence. In other words, the attempt to punish the *delatores* is again identical with the attempt to secure more *libertas* for the Senate. Domitian recognizes this and responds that only the *princeps* could give such permission, and they should therefore await the decision of Vespasian (4.40.3).

The Senate next drew up and required all its members to take an oath, affirming that they had done nothing to harm anyone's safety or to profit thereby (*H. 4.41.1: nihil ope sua factum quo cuiusquam salus laederetur, neque se praemium aut honorem ex calamitate civium cepisse*) – that is, that they had not practiced delation. Some members, we are told, mumbled through the oath or changed certain parts of it; several former *delatores* thus became even more odious, and some were driven from the Senate.²⁰¹

The Senate next took up the case of Aquilius Regulus, when charges were pressed by the family

200 Cf. *Annals* 13.43.3, from the beginning of Nero's reign: *eam orationem Caesar cohibuit, compertum sibi referens ex commentariis patris sui nullam cuiusquam accusationem ab eo coactam*: “The Caesar checked that speech, saying that he had found in his father's [Claudius'] *commentarii* that he had compelled no accusation.”

201 It is worth noting the mention of Vibius Crispus and his unpopularity in this passage: *Africanus neque fateri audebat neque abnuere poterat: in Vibium Crispum, cuius interrogationibus fatigabatur, ultro conversus, miscendo quae defendere nequibat, societate culpae invidiam declinavit*, “Africanus did not dare to confess nor could deny his crimes, and so turning upon Vibius Crispus, by whose questions he was being exhausted, he implicated him in crimes he could not deny and so turned aside some hatred by the association of blame.”

of one of his victims; he was defended by his brother Vipstanus Messalla (*H.* 4.42).²⁰² This case is marked by the presence of one of the great direct-discourse speeches of the *Histories*, that of Curtius Montanus. Now Regulus was not exactly popular among the senators, and was an archetypical *delator* (4.42.1): he had undertaken delation *voluntarily*, out of the hope of gain, and this fact was especially damning. Messalla's defense strategy was not to deny or counter the charges – a tactic that would have been sure to fail – but essentially to throw himself on the mercy of the court on his brother's behalf: *Igitur Messalla non causam neque reum tueri, sed periculis fratris semet opponens flexerat quosdam* (8-9: “Messalla therefore did not make a defense either of the case or of the defendant, but by opposing himself to the dangers of his brother had changed the minds of some”).

Curtius Montanus, however, was having none of it (*H.* 4.42.2):

Occurrit truci oratione Curtius Montanus, eo usque progressus ut post caedem Galbae datam interfectori Pisonis pecuniam a Regulo adpetitumque morsu Pisonis caput obiectaret.²⁰³

Whatever the truth of this charge – Tacitus' phrasing, *eo usque progressus ut ... obiectaret* suggests a degree of skepticism on his part, as though he considered it absurd that Montanus would go so far as to make such claims – it was evidently chosen for its emotional impact, to counter the equally emotional plea for pity from Messalla. At this point, Montanus' speech transitions into direct discourse (4.42.3-4):

Sane toleremus istorum defensiones qui perdere alios quam periclitari ipsi maluerunt: te securum reliquerat exul pater et divisa inter creditores bona, nondum honorum capax aetas, nihil quod ex te concupisceret Nero, nihil quod timeret. Libidine sanguinis et hiatu praemiorum ignotum adhuc ingenium et nullis defensionibus expertum caede nobili imbuisti, cum ex funere rei publicae

²⁰² Aquilius Regulus was perhaps the third most notorious *delator* of the times, after Epirus Marcellus and Vibius Crispus; he is the frequent target of Pliny, e.g. *Ep.* 1.5, 2.20.

²⁰³ “Curtius Montanus opposed him with a bitter speech, going so far as to allege that, after the death of Galba, Regulus had given money to Piso's killer and had bitten the head of Piso when it was brought to him.”

raptis consularibus spoliis, septuagiens sestertio saginatus et sacerdotio fulgens
 innoxios pueros, inlustri senes, conspicuas feminas eadem ruina
 prosterneret....²⁰⁴

Here, Montanus runs through the list of the most hated stock-characteristics (which does not necessarily imply that they are untrue) of *delatores* to paint Regulus as black as possible: there was no reasonable ground under which he could have been *compelled* to ply accusations – this would have been at least pardonable; instead, the evidence is clear that he did so voluntarily, out of *libidine sanguinis et hiatu praemiorum*, bloodlust and greed. Montanus works himself up to a high oratorical pitch, which often signifies strong passion: there is much alliteration (*consularibus spoliis, septuagiens sestertio saginatus et sacerdotio fulgens*) and anaphora (*nihil quod ... nihil quod*), concluding in an emotionally charged tricolon with asyndeton (*innoxios pueros, inlustri senes, conspicuas feminas*). The greed with which Montanus so vividly charges Regulus, moreover, was well sated: Nero granted him vast wealth and the highest honors of the State as the reward of his cruelty. All this is standard for the attacks leveled at *delatores*. Montanus continues and urges his punishment (4.42.5-6):

Invenit aemulos etiam infelix nequitia: quid si floreat vigeatque? Et quem adhuc
 quaestorium offendere non audemus, praetorium et consularem ausuri sumus?
 An Neronem extremum dominorum putatis? Idem crediderant qui Tiberio, qui
 Gaio superstites fuerunt, cum interim instabilior et saevior exortus est. Non
 timemus Vespasianum: ea principis aetas, ea moderatio; sed diutius durant
 exempla quam mores. Elanguimus, patres conscripti, nec iam ille senatus sumus

204 “Let us indeed endure the defense of those who preferred to destroy others than themselves to run dangers: you were left safe by the fact that your father was an exile and his estate had been divided among his creditors, the fact that you were of an age not yet capable of honors, the fact that there was nothing Nero could hope for from you, and nothing he could fear. When it was still unknown and inexperienced in defense you imbued your nature in the slaughter of nobles, driven by your lust for blood and greed of gain, when, having seized consular spoils in the ruin of the State and having gained seven million sesterces and being resplendent with a priesthood, you laid low innocent boys, illustrious old men, and noble women in the same destruction. ...”

qui occiso Nerone delatores et ministros more maiorum puniendos flagitabat.

Optimus est post malum principem dies primus.²⁰⁵

Montanus' reasons for urging the punishment of Regulus are critical. First, there is the simple argument that punishment is needed as a deterrent; second, because Regulus would only grow in power and prominence over time and so become harder to attack. Then Montanus changes tack. He closely associates delation and tyranny, and points out that Nero was surely not going to be the last bad emperor: if he were, then it would be safe to leave Regulus in peace, but as it is the Senate has to show that it intended to destroy the *delatores* at every opportunity – partly as a precedent to future senators, but also as a warning to future tyrants, a sign of senatorial resolve. The Senate had to be ready to assert itself and to enforce justice even against the ministers of despotism.²⁰⁶ In other words, Montanus' speech is meant to convince the rest of the Senate to throw in with the faction that we have seen struggling for greater *libertas*, and the first step towards that *libertas* was to deal with the *delatores*. A blow at the *delatores* was a blow at tyranny, and Montanus urges the Senate to strike this blow quickly, before it loses the resolve it gained after the death of Nero.

They seem eager to do so: so much so that Helvidius Priscus is encouraged enough by their anger against Regulus to try his luck attacking Eprius Marcellus again (*H.* 4.43.1). This he did, but unlike the last time when he wrangled with Marcellus over the choice of legates, this time the Senate listens with approval (*ardentibus patrum animis*); they seem to have been brought over to Helvidius' side by joy at the condemnation of Celer – and especially by the speech of Montanus. Marcellus'

205 “Wickedness, even if unsuccessful, finds emulators: what if it flourished and were strong? And him whom we do not dare to offend as an ex-quaestor, shall we dare to offend when he is a praetorian and a consular? Or do you think Nero was the last despot? They believed the same thing who survived Tiberius and Caligula, but meanwhile a more cruel and implacable one arose. We do not fear Vespasian, such is the age of the *princeps*, such his moderation; but precedents last longer than character. We grow weak, conscript fathers: we are no longer that Senate which, on Nero's death, demanded that the *delatores* and the ministers of tyranny be punished according to the ancient manner. The best day after a bad emperor is the first.”

206 It is not accidental that Montanus does not mention Domitian in the speech, even though the latter was present and had spoken not long before, nor that the movement to punish *delatores* continued even after Domitian signaled his less-than-full approval of the attempt.

reaction certainly implies that he saw the situation as dire and almost the whole body of the senators as ranged against him (4.43.1-2):

... ardentibus patrum animis. Quod ubi sensit Marcellus, velut excedens curia
 “imus” inquit “Prisce, et relinquimus tibi senatum tuum: regna praesente
 Caesare.” Sequebatur Vibius Crispus, ambo infensi, vultu diverso, Marcellus
 minacibus oculis, Crispus renidens, donec ad cursu amicorum retraherentur. Cum
 glisceret certamen, hinc multi bonique, inde pauci et validi pertinacibus odiis
 tenderent, consumptus per discordiam dies.²⁰⁷

Marcellus sensed that the odds were against him today, and made a show of leaving the Senate. His parting words are revealing: *relinquimus tibi senatum tuum: regna praesente Caesare* (“I leave you your Senate: play the king in the presence of Caesar”). The fact that he can refer to the Senate as *senatus tuus* shows not only how hated he himself was, but how popular Helvidius was: he was no voice calling out in the wilderness, but (at least at this moment) one of the leading influences of the Senate.²⁰⁸ This cannot have been due to Helvidius' age or rank; we remember that he was only the praetor-elect at the time (*H.* 4.4.3). It can only have been due to his growing reputation as a champion of *libertas* and his eloquence in defense thereof, which at this crisis seemed finally to be bearing fruit: his several speeches so far have sometimes failed, but always rendered him a more prominent individual than before, and now at last the large majority of the Senate (*multi bonique* as opposed to *pauci et validi*)²⁰⁹ seems to be going along with him and his vision of a *delator*-less *libertas*. Marcellus recognizes and fastens on to the *political* implications of Helvidius' attack on him with the words *regna*

207 “... with the enthusiasm of the senators. When Marcellus perceived this, he said, as though leaving the curia, “I am going, Priscus, and I leave you your Senate: play the king in the presence of Caesar.” Vibius Crispus started to follow him, both of them hated, but with different expressions: Marcellus' eyes were threatening, but Crispus was smiling; at last they were both dragged back by a group of their friends. As the struggle increased, and the many and good on one side and the few but strong on the other contended with obstinate hatred, the day was consumed in discord.”

208 Malitz (1985) 237, 244-246: “Sogar die augenblickliche Stellung des Helvidius als *Vormann des Senats* (my emphasis) erkennt Marcellus ironisch an: *imus, Prisce, et relinquimus tibi senatum tuum.*”

209 This phrase is made much of by Rudich (1993) xxiv-xxv.

praesente Caesare: such a senatorial movement against the *delatores* is at the same time a movement for greater independence and so, in some measure, an attack on the *princeps*.

What is happening, then, is something of a crisis-point: in the long-running struggle that we have been examining between Helvidius Priscus and the *delatores* for senatorial *libertas*, Helvidius and the Senate seem finally to have gained the upper hand. The oratory of Helvidius and Montanus has brought around to their side the large majority of the senators – and the fact that they are open to persuasion by eloquence is itself a sign of their disposition to *libertas*, since, to Tacitus, it is only in free states that eloquence has that power.²¹⁰ We have therefore reached the point – in the presence of Domitian, no less – where the senatorial struggle for *libertas* is reaching its crescendo.

But not for long. At *Histories* 4.44.1, the final passage relating to the Senate that we will be examining, we see the imperial response:

Proximo senatu, inchoante Caesare de abolendo dolore iraque et priorum temporum necessitatibus, censuit Mucianus prolixè pro accusatoribus; simul eos qui coeptam, deinde omissam actionem repeterent, monuit sermone molli et tamquam rogaret. *Patres coeptatam libertatem, postquam obviam itum, omisere* (my emphasis).²¹¹

Domitian and Mucianus (Vespasian is still absent) recognize the senatorial movement for what it is and decide to quash it. It did not take much: Domitian recommended that the wrongs of the past be forgotten and the deeds that people had been forced to do (i.e. delation, implying, contrary to Montanus, that *all* such acts had been forced by Nero and not voluntary) be forgiven; Mucianus spoke on behalf of the *delatores* and discouraged the revival of old charges (against people like Marcellus);²¹²

²¹⁰ For good or evil: *Dialogus* 36, 40. Jens (1956) 340, Williams (1978) 19-51.

²¹¹ “At the next meeting of the Senate, after Domitian opened by discussing the oblivion of the wrongs and anger and necessities of the past, Mucianus spoke at great length on behalf of the accusers; at the same time, in a gentle speech he admonished and almost pleaded with those who were reviving cases that they had previously begun and then dropped. The senators, as soon as they met resistance, gave up the liberty they had begun.”

²¹² Malitz (1985) 237. Malitz calls the speech of Mucianus a “Verteidigungsrede für den Delatoren.”

and the Senate's struggle died, not with a bang, not even with a whimper, but with acquiescence. *Patres coeptatam libertatem, postquam obviam itum, omisere* – this remarkable sentence tells us several important things. First, their previous fury against the *delatores* and their following of Helvidius had indeed been *coeptata libertas*. Second, this *libertas* was not wrested violently from them, but they themselves gave it up (*omisere*). Finally, they did this as soon as they met the slightest resistance: *postquam obviam itum* is perhaps the least forceful way Latin has to say “they were opposed,” and as we saw, the nature of the opposition – two moderate and gentle speeches by Domitian and Mucianus – was not overly violent. The rapidity with which the senators yielded and gave up their attempt at *libertas* – so soon after the powerful speech of Montanus! – is indicative of their own weakness, but it was also inevitable: whatever hopes some of the senators had, they were aware of the contemporary reality, and of their own lack of power relative to that of the *princeps*. They must have hoped that the new regime would *voluntarily* respect their rights and dignity, that it would allow the speeches of Helvidius and Montanus the influence they deserved (since many of the senators had been persuaded by them), but when they met opposition and knew that this would not be the case, they also knew that they could not possibly *force* the emperor to accede to their wishes. The fact that the opposition was on the surface so gentle makes no difference: it was evidence of the direction of imperial policy, which the regime could easily force upon them if they disregarded Domitian and Mucianus' speeches. These speeches then were not just speeches: they concealed the full power of the Principate.²¹³ This the Senate knew they could not oppose directly, and so they gave up.

At the same time, I want to suggest that there is also an element of paradox to the way the senators so quickly gave up their incipient liberty. *Libertas*, we remember, is an ethical quality quite as much as a political descriptor, and one of the virtues associated with it is steadfastness or independence

213 At *H.* 4.44.2 Mucianus makes a token show of respect for the Senate and its hatred of Neronian criminals by sending back into exile two insignificant ex-senators who had tried to return to Rome; but the Senate saw through his obvious attempt to pose as their friend and an enemy of the Neronian *delatores*, and they continued to hate him and fear the latter: *accusatorum ingenia et opes et exercitia malis artibus potentia timebantur*.

of action; the corresponding vice of *servitium* is obsequiousness, over-ready obedience. If the loss of political *libertas* corrodes ethical freedom, and living under *servitium* inculcates moral slavishness, then we could hardly expect the Senate, accustomed (Tacitus would say) to long slavery during the reigns of the Julio-Claudian emperors, to act otherwise than it did. The senators had lost the inner *libertas* that would have allowed them to stand up to opposition from Domitian and Mucianus in the first place. Hence the paradox: only a Senate that had long enjoyed political freedom could act with the moral freedom to stick together and stand up to imperial opposition – but such a Senate would never have had occasion to encounter imperial opposition in the first place. The actual Senate of Vespasian's day, on the other hand, was too accustomed to the ways of the Principate to act with sufficient ethical *libertas* to restore any degree of political or senatorial *libertas*.

We have seen, then, the beginning, growth, and sudden collapse of a senatorial movement aimed at greater autonomy. The weakening of the central state power during the civil wars following the death of Nero, when chaos reigned throughout the Empire and the frequent change of *principes* loosened the imperial grip, resulted in the perfect opportunity for an outburst of *libertas*. The senators spearheading the movement, most prominent among them Helvidius Priscus, may not have aimed at a restoration of the Republic (which in AD 69/70 would have seemed a pipe dream), but they still sought freedom of a sort, equated mostly with greater authority and dignity for the Senate within the imperial system. The first target of their fury, therefore, was a group seen as the biggest threat to the independence of the Senate and as the most hated mainstay of tyrannical emperors: the *delatores*. The movement grew through the persuasive eloquence of its leaders: it was the oratory and speeches of Helvidius and Montanus that brought round more and more of the senators to their side; it was their eloquence that finally united a majority of the Senate behind them and their attempt. This is as it should be for a *libertas*-movement, for, to the Romans, liberty and eloquence go together, and the loosening of imperial control during the civil war was an ideal situation where something *like* liberty could bloom

and eloquence could regain its old position. For a while. Vespasian soon ended the civil war and reestablished control, and those who exercised his now unquestioned authority in Rome, Domitian and Mucianus, were quick to put an end to this senatorial movement. However much they concealed it behind words, they wielded the full might of the Principate; the Senate was cowed, and all their eloquence and all their speeches had no lasting effect. It is significant that the imperial counter-attack comes immediately after the great direct-discourse speech of Montanus, which finally rallied most of the Senate: his oratory seemed effective at the time, but the lightest and gentlest reassertion of imperial power was enough to show how insignificant all such eloquence now was.

No little scholarship has been written on these passages (though none on quite this theme), and much of it is worth discussing. Martin wrote an article focusing mainly on the speech of Montanus against Regulus: he noted the extreme Ciceronianism of the speech, very rare for Tacitus, and took this as indicative of a reference to contemporary events, namely the self-professedly Ciceronian Pliny – who had also promised (without yet having followed through) to prosecute this same Regulus.²¹⁴ He takes Montanus' final statement, *optimus est post malum principem dies primus*, which referred originally to Vespasian, as a sign of Tacitus' own disillusionment with Trajan. Malitz, though his article has already been cited several times, is worth more than passing mention: he writes what is in essence a defense of Helvidius Priscus, who was much maligned by Flavian historians and those who followed them; but Malitz points out that Priscus is mentioned very positively elsewhere in the ancient tradition, as not just a good man but an important and influential one, and that there is no basis whatsoever for (and quite a lot of evidence against) the assumptions of some scholars that Tacitus would have presented Priscus negatively in the lost books of the *Historiae*.²¹⁵ Pigeon similarly notes that more was at stake in the debate between Helvidius and Marcellus than appears, and that Helvidius was on the side

214 Martin (1967) 109-114.

215 Malitz (1985) 231-246.

of greater importance for the Senate, Marcellus for the emperor; but he focuses on ways in which Marcellus, though a somewhat reprehensible character, speaks wisely: Marcellus, after all, argues that the Senate was weak, which, considering the result, shows that he had a better understanding of the reality of the Principate (and one closer to that of Tacitus) than did Helvidius.²¹⁶ Above all, however, mention must be made of Keitel's 1993 article "Speech and Narrative in *Histories* 4," which we will have occasion to mention more than once.²¹⁷ She sees the main theme of Book 4, especially of the speeches, as the struggle for freedom, both on the part of the Senate and that of the Germans (which will be discussed in the next chapter); her main concern, however, is a pessimistic reading of the ways in which Tacitus undermines all the high-sounding rhetoric about *libertas*. With reference to the Senate, she does this by focusing on their essentially servile nature: their "freedom" is both anachronistic and false; the senators of Vespasian's day were not the men to strive for *libertas*; rather, accustomed to servility, they quickly submit and give up the attempt.²¹⁸ Ash has also written on dissolution and eventual reintegration as the major theme of the *Histories*: the death of Nero and the subsequent civil war result in a power vacuum, the strife over which – not by rival emperors alone, but also by the senators, the soldiers, and the Germans, all looking for their own advantage while they could – tore apart the Roman empire.²¹⁹

We have seen how Tacitus uses the Senate and its struggles to depict the role of eloquence and its connection with *libertas* during the civil war. It remains to discuss his portrayal of the usefulness of oratory as it relates to the soldiery in the *Histories*, which will be the focus of the rest of this chapter.

A major theme of the *Histories*, we remember, is what happens to Roman society when the shackles of authority are temporarily loosened: what results is not *libertas* (the Republic was too far in

216 Pigon (1992) 235-246.

217 Keitel (1993) 39-58.

218 Keitel's argument is very similar to mine – for this chapter. In the next, on the Batavian revolt, we will part ways.

219 Ash (2009) 85-99.

the past for that), not a state where eloquence is valued, but license. One of the clearest examples of this is the behavior of the Roman legions during the civil war: time and time again, they mutiny, disobey orders, threaten or even kill their officers, and are uncontrollable in the general chaos; for they know that, as long as the Empire is divided, there is none to control them. Again, this is not a new argument but is well known. What I want to focus on here, however, is the role of oratory: what part it plays in the narrative of repeated mutiny, and what point Tacitus intends to make thereby – a topic that has received little attention. The calming of seditious mobs is one of the main functions traditionally assigned to eloquence by the Romans, and in a theater as rife with sedition as the *Histories* we would expect, and we do find, a great many attempts by Romans to use oratory to bring their troops back to obedience and good order.²²⁰ The problem, however, is that these attempts almost invariably fail, and fail utterly and drastically (the one major exception will be discussed in the next chapter); but even on the rare occasions when they succeed, the circumstances are hardly such as to redound to the credit of the speaker. On such occasions, the speaker tends to succeed because, taking advantage of the upheaval of civil war for his own ends, he has acquired an unsavory influence over the troops by improper means – has become, in effect, the stock-character of a demagogue from the Greek and Roman historiographical tradition, and is (sometimes) successful less because of his eloquence than because of his demagoguery. Like all demagogues, however, he is led by the soldiers much more than he leads them. In the chaos of the civil war, then, the behavior of the soldiers offers a prime example of the failure of oratory to live up to its traditional role in a free state. The once-proud legionaries, moreover, are portrayed by Tacitus with all the characteristics of a fickle mob, and their disobedience and unsuitedness to *libertas* allow the rise of self-serving villains.

It is fitting to begin with Galba's speech to Piso on the latter's adoption as his heir; it is, after all, the first speech in the *Histories*, and might therefore be expected to be programmatic of eloquence. And

²²⁰ A good general was expected to be eloquent: Brèthes (2010) 117-131.

indeed it is. Much of it is not directly relevant to our current theme (since it is the introductory speech of the entire *Histories*), but there are nonetheless some very telling remarks that prepare us fully to understand what is to come. Galba begins by emphasizing that, as Piso is being made heir to the Empire, the matter is not one of private interest but of the common good; he has consequently chosen Piso as the man most suitable by his character and morals, the only legitimate criteria in such an important selection (*H.* 1.15.1-4). What he says next is very striking (1.16.1):

Si immensum imperii corpus stare ac librari sine rectore posset, dignus eram a quo res publica inciperet: nunc eo necessitatis iam pridem ventum est ut nec mea senectus conferre plus populo Romano possit quam bonum successorem, nec tua plus iuventa quam bonum principem. Sub Tiberio et Gaio et Claudio unius familiae quasi hereditas fuimus: loco libertatis erit quod eligi coepimus.²²¹

Galba, in solemn and somewhat poetic language (*dignus eram a quo res publica inciperet*), expresses a faint wish to restore the Republic, but acknowledges that such a thing is no longer possible: the best that can be hoped for is that one good emperor should succeed another. Interestingly, he calls this a kind of *libertas*.²²² The fact that the ruler should in effect designate his own successor might not seem like liberty to us, but it evidently seemed hopeful to contemporaries; and, combined with the other criteria Galba has mentioned – of searching throughout the entire state for the man best qualified to rule, rather than letting the empire be the property of a single family – it does not seem at all terrible compared to the Julio-Claudians.²²³ There was, moreover, a long intellectual tradition viewing rule by a wise and good monarch as the best form of government; perhaps allowing such a monarch to choose

221 “If the vast body of the Empire could stand and be balanced without a guiding hand, I would have been worthy to be the man by whom the Republic began; but it has long since come to that degree of necessity that neither can my old age confer more on the Roman people than a good successor, nor can your youth bestow more than a good emperor. Under Tiberius and Caligula and Claudius we were almost the private estate of one family: it will be a kind of *libertas* that we emperors have begun to be selected [in adoption].”

222 Jens (1956) 331-352 discusses how Tacitus regarded adopted emperors and a balance of power as the next best thing to liberty, or at least the best that Rome was still capable of. Cf. Gowing (2005) 102-104.

223 In Roman tradition, there is also the fact that the early kings, before the kingship turned to tyranny, did not inherit the throne, but were chosen by their predecessors or even elected: Damon (2003) 140 ad loc.

the next ruler was indeed the next best thing to freedom. This theme is given further prominence in that it forms the conclusion of Galba's speech – indeed, in that *libertatem* is the final word of the final sentence (1.16.4):

Neque enim hic, ut gentibus quae regnantur, certa dominorum domus et ceteri servi, sed imperaturus es hominibus qui nec totam servitutem pati possunt nec totam libertatem.²²⁴

This thought, that the Romans of the Principate were suited neither to complete servitude nor to complete freedom – for they still had memories of the Republic and could not stand true tyranny, but nor were they raised any longer to act with the sort of behavior that would make them worthy of freedom (as the Senate showed, and the soldiers will show) – will turn up throughout the *Histories*. For our purposes, it is most relevant to the Roman legions: as we shall see, they will prove unable to endure the temporary freedom granted them by the civil war and will turn it to the worst ends. One reason for this is that, unlike the Romans of the Republic, who were accustomed to free debate and could persuade with and be persuaded by eloquence, they are uncontrollable in their license and despise all orators and oratory.

Galba's speech has a sad aftermath, and an ominous one. It was debated whether to announce Piso's adoption in the Senate or in the praetorian camp: *iri in castra placuit; honorificum id militibus fore, quorum favorem ut largitione et ambitu male adquiri, ita per bonas artis haud spernendum*²²⁵ (*H.* 1.17.2: “It was decided to go to the camp, for it would be a sign of respect to the soldiers, whose favor, as it was shameful to seek by largess and bribery, so it was hardly to be spurned if acquired through honorable means”). The decision was wise, but ineffectual: it is, of course, these same praetorians who

²²⁴ “For there is not here, as in the nations that are ruled by kings, one particular house of masters, and all the others are slaves; you are rather to be emperor of men who can endure neither complete servitude nor complete freedom.”

²²⁵ The word *sperno* will occur with alarming frequency in the following pages. It is almost always the reaction of soldiers to hearing oratory that goes contrary to their inclinations. Cf. Ennius 8.264, quoted at Gellius 20.10.4: *spernitur orator bonus, horridus miles amatur*.

will soon assassinate Galba and murder Piso. Their main reason for doing this is greed: Otho will buy them and their loyalty. The favor of the troops may be hardly to be despised, if acquired by honorable means (*per bonas artis*); but the honorable means here attempted fail when the less scrupulous Otho appeals to their greed (*largitione et ambitu male adquiri*). The foreshadowed result of Galba's programmatic speech is thus itself programmatic: it will be the first time, but not the last, that the troops prove unpersuadable by legitimate and honest methods, but easily corrupted by greed and license. In doing so they confirm Galba's prediction that Romans cannot endure *totam libertatem*.

The first subsequent problems caused by the disloyalty of the soldiery, and a depiction of their character, are recorded early in Book 1. Here the soldiers are the praetorian guards, whose favor Otho is soliciting against Galba (*H.* 1.24.1-2):

Flagrantibus iam militum animis velut faces addiderat Maevius Pudens, e proximis Tigellini. ... eo paulatim progressus est ut per speciem convivii, quotiens Galba apud Othonem epularetur, cohorti excubias agenti viritim centenos nummos divideret; quam velut publicam largitionem Otho secretioribus apud singulos praemiis intendebat, adeo animosus corruptor ut Cocceio Proculo speculatori, de parte finium cum vicino ambigenti, universum vicini agrum sua pecunia emptum dono dederit. ...²²⁶

This is the original means by which Otho obtains the preference of the troops: little less than outright bribery. We, who are desensitized by hindsight and can easily recall stories of how the praetorians once murdered the reigning emperor and auctioned off the empire to the highest bidder, should not forget how shocking and repulsive this blatant corruption (*adeo animosus corruptor*) will have been to

226 "To the already burning hearts of the soldiers Maevius Pudens, one of the friends of Tigellinus, had applied torches. ... He gradually went so far that, under pretext of a banquet whenever Galba dined at Otho's house, he distributed a hundred sesterces to each man of the cohort on guard. Otho extended this almost public largess by more secret rewards to individuals, and was so bold a corruptor that, when Cocceius Proculus of the bodyguard was in a dispute with his neighbor over boundaries, he bought the entire property of the neighbor with his own money and gave it as a gift to Cocceius."

contemporaries.²²⁷ All the emperors so far, with the exception of Galba, had been of the Julii and Claudii and could claim a family connection to Augustus; there had often been intrigue, and in the case of Galba even civil war, but soliciting the imperial dignity by means of bribing the army in this fashion was thus far unheard of. The attempt is not unsuccessful, and many of the soldiers defect from Galba to Otho (1.25.2). The link in the motivations of all the soldiers here, high and low, is that they had been corrupted during the reign of Nero: the leaders were supposed to be suspected for having enjoyed his favor, and the common mob – it is revealing, and perhaps foreshadowing of my demagoguery argument, that they are called the *vulgus*²²⁸ – were angered by not receiving the monetary bonus they expected. Some went so far as to miss Nero and the *prior licentia* that they had enjoyed under him, but all feared that their easy and profitable terms of service would be changed by the notoriously old-fashioned Galba.²²⁹ In other words, the tyranny of Nero had corrupted the soldiers: their discipline was destroyed, and their ruling passions were now avarice and license.²³⁰ Enter Otho, bearing gifts.

Galba, meanwhile, is ignorant of the plot; when it becomes known and in fact is already in progress, his adopted heir Piso is sent to test the loyalty of the praetorians, and to see whether he can persuade them to be loyal. This he attempts in the second major speech of the *Histories*.²³¹ After a plea not to stain Rome with blood and some predictable (and perfectly true) attacks on Otho's character, Piso concludes (*H.* 1.30.2-3):

Galbam consensus generis humani, me Galba consentientibus vobis Caesarem
dixit. Si res publica et senatus et populus vacua nomina sunt, vestra,
commilitones, interest ne imperatorem pessimi faciant. ... Minus triginta

227 Damon (2003) 153 ad loc. notes how rare attempted bribery of the praetorians was before this.

228 For Tacitus' thoughts on the soldiers, that they were mostly an undisciplined mob motivated primarily greed, see Kajanto (1970) 697-718. See also Rich (1993) 38-68.

229 Cf. *H.* 1.49.3-4.

230 Ash (1999) is a very balanced account of the portrayal of soldiers during the civil war. A frequent refrain from almost every page (e.g. 6, 7, 12, 24-26, 31, 37), however, is that the soldiers are now motivated by greed and are susceptible to bribes, and that this destroys the discipline of the legions.

231 The speech of Piso is properly read alongside the earlier speech by Galba announcing Piso's adoption and elevation (1.15-16). See Keitel (1991) 2772-2794, which is good on this speech and others.

transfugae et desertores, quos centurionem aut tribunum sibi eligentis nemo ferret, imperium adsignabunt? Admittitis exemplum et quiescendo commune crimen facitis? Transcendet haec licentia in provincias, et ad nos scelerum exitus, bellorum ad vos pertinebunt. Nec est plus quod pro caede principis quam quod innocentibus datur, sed proinde a nobis donativum ob fidem quam ab aliis pro facinore accipietis.²³²

Piso's argument is a reasonable appeal to the common welfare and good discipline, as well as a series of predictions of what would happen if the soldiers disregard his warning (as they will, and his predictions of an empire-wide civil war prove to be accurate). He appeals to the good of the State and the Senate and People, which would all alike be harmed by such a precedent as allowing an emperor to be chosen by the army; but if these things are nothing to them, he says, preventing such a precedent is in their interest: it would destroy discipline to allow a rabble of soldiers who would not even be allowed to choose their own centurions to decide on the master of the whole Empire. If this were to happen, the example would not be contained; the lack of discipline would go from Rome to the provinces (*transcendet haec licentia in provincias*), and the result would be civil war, the first victims of which would be the very soldiers whose disloyalty was the cause. Piso ends with an untruth, that the soldiers would receive as great a donative for loyalty as for treachery, since the lack of a donative and the improbability that Galba would ever be as generous as Otho were among the primary reasons for the incipient mutiny; but it is a revealing untruth: the strongest argument that he can think of to conclude his speech is an appeal to the praetorians' avarice. Piso, in fact, has judged the situation well,

232 "The consent of the human race made Galba a Caesar; Galba, with your consent, made me one. If the Republic and the Senate and the People are empty names, it is in your interest, fellow soldiers, that the worst men do not make the emperor. ... Will fewer than thirty defectors and deserters, whom no one would allow to choose a centurion or a tribune for themselves, bestow the Empire? Will you admit the precedent and by remaining silent make the crime yours? This license will migrate into the provinces, and the destruction coming from these crimes will fall on us, from the wars, on you. Nor will more be given for the murder of the *princeps* than to the innocent, but you will receive no less a donative from us on account of your faithfulness than you would from others for this crime."

and his speech at times reads less like an attempt at persuasion than prophecy: partly as a consequence of their greed, the troops have lost their discipline, and their license will result in a ruinous war. Even his complaint that soldiers who should not be allowed to elect their own centurions were bestowing the *imperium* is fulfilled soon afterwards when Otho cannot restrain the troops from choosing their own officers and even the urban prefect (1.46).²³³

The reasonableness of Piso's arguments and what the reader knows as the truth of his predictions create an expectation that he might just succeed. This is reinforced by the form of his arguments, traditional and oratorical: asyndeton is not uncommon, nor is chiastic word order (*ad nos scelerum exitus, bellorum ad vos pertinebunt* – where the important word *exitus*, we note, is both *apokoinou* and in the exact middle of the chiasmus). This expectation is not met. Piso's failure is almost immediately evident: some of the praetorians snuck away at once, while others, ostensibly loyal, milled about aimlessly and chaotically, and did nothing to stop the revolt in progress or to halt the forces rushing to join Otho and disarming Galba's supporters (*H.* 1.31). We know, of course, that Otho was successful, and so we must regard Piso's eloquent attempt to prevent and to put down a mutiny – the first in the *Histories* – as a failure. The liberal bribery of Otho had already obtained their secret support (1.24, discussed above).

The praetorians' enthusiasm for Otho is clear at *H.* 1.36.1-3, when the mutiny is well under way. The common soldiers (*gregarius miles*) stream to Otho and warn each other to beware their officers, they shout in uproar.²³⁴ Not merely the strength of their preference for Otho, but the associated disorderliness is important: the *gregarius miles* that supported Otho warned each other not to trust their superiors, who were presumably loyal (or suspected of being loyal) to Galba – and this distrust between officers and the enlisted, believed to support rival claimants, will continue throughout the *Histories* and

²³³ Keitel (1991) 2772-2794 is excellent on the responson of these speeches to one another and to the narrative.

²³⁴ As an interesting foil to this scene of military license, Galba, at the end of 1.35.2, is described as *insigni animo ad coercendam militarem licentiam* – not that it did him much good in the end.

be a constant source of undiscipline. It is, to say the least, not how the Roman army is supposed to work. Nor is the behavior of Otho exemplary (*H.* 1.36.3: *nec deerat Otho protendens manus adorare vulgum, iacere oscula et omnia serviliter pro dominatione*). He greets the soldier-mob and shamefully courts their favor, and the striking phrase *omnia serviliter pro dominatione* needs no lengthy exegesis.²³⁵

This is followed by a speech from Otho encouraging his troops, but the effect it has on the soldiers is just as interesting as the speech itself.²³⁶ He opens by making it clear that he has thrown his lot in with that of the praetorians (*H.* 1.37.1):

Quis ad vos processerim, commilitones, dicere non possum, quia nec privatum
me vocare sustineo princeps a vobis nominatus, nec principem alio imperante.
Vestrum quoque nomen in incerto erit donec dubitabitur imperatorem populi
Romani in castris an hostem habeatis.²³⁷

Otho thus begins by aligning himself entirely with the soldiery; we note the powerful word *commilitones*.²³⁸ Again, we who are accustomed to emperors' being named by the armies should not overlook how troubling Otho's rhetoric would have been so soon after the relative stability of the Julio-Claudians, that he can no longer legitimately call himself a private citizen after the soldiers – not the Senate or a magistrate or an assembly of the people, but a faction of the praetorian guard – had called him to the principate. This is disturbing because Otho is placing real authority in the hands of the troops, in essence treating them as if they were the *populus*, the legitimate rulers of the state. The note of demagoguery²³⁹ is hard to miss, and is only emphasized by the criticisms aimed at Galba (1.37.4):

²³⁵ Ash (2009) 25 notes that a direct and passionate, albeit somewhat unhealthy and certainly untraditional, relationship with the troops is characteristic of Otho.

²³⁶ For this speech, see Keitel (1987) 73-82.

²³⁷ "I cannot say, comrades, what I come before you as, since I cannot call myself a private citizen after being named *princeps* by you, nor can I call myself *princeps* while another is on the throne. Your name, too, will be ambiguous as long as it is uncertain whether you have an enemy or an emperor of the Roman people in your camp."

²³⁸ *Commilitones* is a traditional term of flattery for the army, associated with Julius Caesar: *OLD commilito* 1b.

²³⁹ The demagogue has a long tradition in Greek and Roman thought and became something of a stock figure. Notably, Thucydides 2.65 describes Pericles as the opposite of a demagogue, who courts the people with ignoble favors and, in

Quae usquam provincia, quae castra sunt nisi cruenta et maculata aut, ut ipse praedicat, emendata et correcta? Nam quae alii scelera, hic remedia vocat, dum falsis nominibus severitatem pro saevitia, parsimoniam pro avaritia, supplicia et contumelias vestras disciplinam appellat.²⁴⁰

Here, in terms very reminiscent of the famous passage of Thucydides,²⁴¹ Otho accuses Galba of mutilating language and changing the meaning of words – when in fact it is likely Otho who is doing the mutilating, undermining Galba's old-fashioned virtues by calling his parsimony “greed” and his *severitas* “cruelty.”²⁴² In doing so, he further undermines the discipline of the troops, for by calling discipline by names like *supplicium* and *contumelia* he only teaches them to hate it, and so to become more like a disordered mob.

This they do, in their response to his speech (*H.* 1.38.3):

Aperire deinde armamentarium iussit. Rapta statim arma, sine more et ordine militiae, ut praetorianus aut legionarius insignibus suis distingueretur: miscentur auxiliariibus galeis scutisque, nullo tribunorum centurionumve adhortante, sibi quisque dux et instigator; et praecipuum pessimorum incitamentum quod boni maerebant.²⁴³

Otho gives the command to take up arms, and the soldiers obey – ostensibly a mark of military order

trying to lead them, is himself forced to follow them. The archetypical demagogue is Cleon; the standard characteristics (in the tradition) are political selfishness in appealing to the common mob, usually by somehow overturning or undermining the social order, and ending up a slave of the mob's fickleness rather than their leader. See Dorey (1956) 132-139 and Finley (1962) 3-24.

240 “What province is there anywhere, what camp, which is not bloody and gory, or, as he calls it, corrected and disciplined? For what others call crimes, he calls remedies, as, under false names, he calls savagery 'severity,' avarice 'frugality,' your punishments and insults 'discipline.’”

241 Thucydides 3.82.4-5. Damon (2003) 177 notes other Thucydidean parallels in this speech, on the breakdown of stability in revolutionary times.

242 What would have been Galba's virtues, after all, were antiquated and no longer prudent in a degenerate age (*H.* 1.18.3: *nocuit antiquus rigor et nimia severitas, cui iam pares non sumus*); but by no means could he be convicted of the vices Otho ascribes to him.

243 “He ordered them to open the armory. At once they seized their weapons, without military order or custom, such as that by which a praetorian or a legionary are distinguished by their insignia: they were mixed up with auxiliary helmets and shields, since there was no tribune or centurion to give commands; each man was his own general and instigator. The greatest incitement of the worst was that the good mourned.”

and discipline.²⁴⁴ But this effect is immediately undone: the soldiers obey, but chaotically: they do not take up their own weapons or insignia, but all haphazardly, with the result that praetorians and legionaries cannot be distinguished from each other or even from non-citizen auxiliaries. It is impossible that this not be so, since there are no tribunes or centurions at hand to give the orders – and if there were they would not be obeyed. We note the presence of an allusion to Livy in the phrase *sibi quisque dux et instigator*, which recalls Livy 22.5.7, *tum sibi quisque dux adhortatorque*; the context is the Battle of Trasimene, where the Roman army has lost contact with itself owing to dust and noise, and each soldier had to rely on himself.²⁴⁵ *Instigator*, however, is rather less positive in connotation than Livy's *adhortator* – indeed, when Tacitus wants to say that there were no officers to give orders, he uses the words *nullo tribunorum centurionumve adhortante!* Here, then, we have Tacitus alluding to Livy and twisting a case of old-fashioned Roman virtue (albeit in hopeless circumstances) to emphasize the breakdown of that very virtue. Otho's speech may have succeeded in persuading the soldiery to take up arms in support of him, but it is also demagogically contributing directly to the destruction of military discipline and the encouragement of military license.

This note of license and degradation is continued later. After the successful coup and the assassination of Galba, amid Otho's attempts to consolidate power, we are told (*H.* 1.45.2):

Marium Celsum, consulem designatum et Galbae usque in extremas res amicorum
fidumque, ad supplicium exostulabant [milites], industriae eius innocentiaeque
quasi malis artibus infensi. Caedis et praedarum initium et optimo cuique
perniciem quaeri apparebat, sed Othoni nondum auctoritas inerat ad
prohibendum scelus, iubere iam poterat. Ita simulatione irae vinciri iussum et

²⁴⁴ It is, perhaps, not expected that the reader should remember *Germania* 44.3, or conclude that the Romans here are meant to be compared to the Suiones, who are held to be servile and hardly free because they, like the Romans, keep their weapons and armor locked away *sub custode* and cannot access them until ordered, tempting as the possible allusion is.

²⁴⁵ The allusion is not mentioned by Heubner (1963) 89 ad loc., but the similarity of the phrases can speak for itself.

maiores poenas daturum adfirmans praesenti exitio subtrahit.²⁴⁶

The soldiers already show that they are no readier to be tools of Otho than they had been of Galba; they demand the execution of those deemed their own enemies, rather than quietly awaiting Otho's orders or even demanding the punishment of *his* enemies. They are grown so unruly that Otho himself cannot control them: he can order them to commit crimes, but he lacks the *auctoritas* to restrain them from crimes that they are set on committing. It is indicative of the new emperor's weakness that he cannot save an innocent and industrious man from the soldier's fury except by subterfuge (we note the absence of any attempted speech: doubtless Otho knew eloquence would not succeed in securing mercy for Celsus) – but of course we cannot feel too sorry for Otho, for he is only being driven by the forces that he himself unleashed.

Immediately following, Tacitus shows us the fulfillment of the prediction of Piso at *Histories* 1.30, regarding the soldiers whom no one would allow to elect a centurion or a tribune for themselves; for this and worse is exactly what happens (1.46.1). In an astounding display of insubordination, the praetorians, far beyond choosing their officers, dare to choose for themselves the praetorian prefects and even the urban prefect – the most powerful positions in Rome, next only to the *princeps* himself (whom, of course, the soldiers had also selected for themselves). It cannot be meant as a compliment that they followed the judgment of Nero in their choice of urban prefect; whenever the adherence of the soldiery to the memory of Nero is mentioned, it is always in the context of the notorious license they had enjoyed under that emperor (cf. *H.* 1.25.2). More than that, however, the soldiers are making *policy* themselves: that is why they specifically chose Sabinus as a sop to his brother Vespasian (*plerisque Vespasianum fratrem in eo respicientibus*), whose plans were still ambiguous and whose adherence to

246 “[The soldiers] then demanded the punishment of Marius Celsus, the consul-elect and one who had been a friend and confidant of Galba up to the end, for they hated his industry and innocence as if these were evil arts. It appeared that the beginning of slaughter and looting and of danger for every noble citizen were being sought, but Otho did not yet have the *auctoritas* to prohibit crime, though he could already order it. Therefore, by a simulation of anger, he ordered Celsus to be bound and, affirming that he would inflict worse penalties later, saved him from immediate destruction.”

the new regime (*their* regime, one might be tempted to say) it would be advantageous to secure. The growing indiscipline of the soldiery is therefore proceeding apace.

So far, then, we have seen how the soldiery, disaffected at the discipline instituted by Galba after the license of Nero, were corrupted by Otho's appeals to their greed and hatred of authority.²⁴⁷ They have thereby become utterly uncontrollable, even by Otho, and insist on having their own way in all things. This headstrongness of theirs will only increase as we progress through the *Histories*, and it will prove ungovernable despite the many attempts of eloquence to restrain it, just as Galba and Piso have already proved unable to restrain it.

The next such attempt that we see, however, is successful, but it is a success so qualified by Tacitus as to be as pessimistic and cynical as a failure. Vitellius has revolted and raised his standard; during his march south from the Rhine, his army is intercepted and resisted by some irregular forces of the Helvetians. These are quickly defeated, and when they send envoys to surrender, the following notable event occurs (*H.* 1.69):

Haud facile dictu est, legati Helvetiorum minus placabilem imperatorem an militem invenerint. Civitatis excidium poscunt, tela ac manus in ora legatorum intentant. Ne Vitellius quidem verbis et minis temperabat, cum Claudius Cossus, unus ex legatis, notae facundiae sed dicendi artem apta trepidatione occultans atque eo validior, militis animum mitigavit. Ut est mos, vulgus mutabile subitis et tam pronum in misericordiam quam immodicum saevitia fuerat: effusis lacrimis et meliora constantius postulando impunitatem salutemque civitati impetravere.²⁴⁸

²⁴⁷ This is mostly typical of the motivations of soldiers in Tacitus: Kajanto (1970) 697-718.

²⁴⁸ "It is hard to say whether the legates of the Helvetians found the general or the soldiery more implacable. The soldiers demanded the destruction of the city; they brandished their weapons and hands in the faces of the legates. Not even Vitellius refrained from words and threats, until Claudius Cossus, one of the emissaries, a man of famous eloquence but hiding his skill at speaking beneath a well-timed display of trepidation (and all the more successful thereby), appeased the hearts of the soldiers. As often happens, the *vulgus* was easily changed by sudden happenings and was as liable to

The soldiers are set on the destruction of the Helvetians (and it is notable that it is the soldiers, not Vitellius, whom the emissaries need to persuade: they are the ones really in control). Claudius Cossus, their emissary, obtains mercy – but he does this, we are explicitly told, by *hiding* his eloquence, not by using it; by comparison, the case of Musonius Rufus, to be discussed more fully below, shows how little oratory *per se* (or even oratory mixed with *sapientia*) could achieve on such occasions.²⁴⁹ Moreover, the fact that the army relents earns them no credit with Tacitus; rather than praising their mercy, the historian condemns their fickleness and instability. What could easily have been portrayed as an instance of the power of eloquence is instead used by Tacitus only to underline and condemn the mob-mentality of the army: they are a *vulgus mutabile subitis*, and they are persuaded, not by the speech of the emissary (of which in any event Tacitus neglects to provide even the barest outline), but because his eloquence is hidden away.

Some time later, there is a mutiny at Ostia over trivial causes; but it was also rumored that the senators were plotting against Otho, which enraged the cohorts faithful to him, to the point that they killed their own tribune when he tried to calm them (*H.* 1.80). The mutineers then traveled to Rome, which caused no little anxiety for Otho – not necessarily on his own account, but because he feared they would massacre the Senate, and he evidently doubted his ability to control them (1.81). Rightly so, for they burst in upon him when he was having a banquet. Tacitus describes what follows (1.82.1-3):

Undique arma et minae, modo in centuriones tribunosque, modo in senatum universum, lymphatis caeco pavore animis, et quia neminem unum destinare irae poterant, licentiam in omnis poscentibus, donec Otho contra decus imperii toro insistens precibus et lacrimis aegre cohibuit, redieruntque in castra inviti neque innocentes. ... Manipulatim adlocuti sunt Licinius Proculus et Plotius Firmus

pity as it had been immoderate in savagery: pouring out tears and stalwartly begging for better things, they obtained impunity and salvation for the city.”

249 *H.* 3.81; his grand oratory (Musonius was one of the leading speakers and philosophers of the time) earns only the disdain and laughter of the army. He is forced to abandon his *intempestiva sapientia*, “ill-timed wisdom.”

praefecti, ex suo quisque ingenio mitius aut horridius. Finis sermonis in eo ut
 quina milia nummum singulis militibus numerarentur: tum Otho ingredi castra
 ausus.²⁵⁰

The scene of chaos is painted in the most vivid colors. The mutineers burst in on Otho himself, and things almost go very badly. This is not, we note, a disloyal mob: the soldiers still support Otho and do not want a change of emperor; but, even so, Otho can barely restrain them. At last, in a manner ill-fitting his imperial dignity, he at least prevails on them to return to their camp. The next day, apparently not daring to visit them himself, he sends the two praetorian prefects (the same whom the soldiers themselves just elected) to try their temper; the prefects revealingly conclude by promising a huge donative of 5,000 sesterces per man; only then, we are told, does Otho dare to enter their camp and address them himself. Otho is soon to give a speech, but it is important to note that he does not trust the soldiers enough even to appear before them to deliver it until the praetorians have been promised a princely sum of money as a bribe: he knows perfectly well which of the two would be the more persuasive.²⁵¹ It was Otho himself, after all, who courted the soldiers' favor with bribes and fired their greed in the first place. Now he has no choice but to appeal to the same avarice that he taught them.

Otho's speech follows. It is a speech that is deeply ironic, for the usurper who corrupted the soldiers is forced to speak in praise of discipline and obedience, and many of his claims about the soldiers' virtues are contradicted by the narrative. He begins (*H.* 1.83.2):

250 "On all sides were arms and threats, now against the centurions and tribunes, now against the whole Senate, their hearts drunk with blind fear; and because they could not designate any one person for their wrath, they demanded license against them all, until Otho, contrary to the imperial dignity, stood upon a couch and with prayers and tears barely restrained the soldiers, and they returned to their camp unwillingly, and not innocent. ... Licinius Proculus and Plotius Firmus the prefects addressed them by maniple, more gentle or stern according to the character of each; they ended their speeches by promising that 5,000 sesterces should be distributed to each soldier. Only then did Otho dare to enter the camp."

251 Ash (1999) 30-31 has a slightly different take on this mutiny: she argues that Otho's original speech was actually successful in calming the soldiers by its own merits, and she seems to imply that the decision of the prefects to bribe the praetorians was entirely of their own initiative, that Otho did not order it at all, and that their ill-timed bribery actually served to undermine the success that Otho enjoyed. I find it difficult to believe that, at such a critical event and with the emperor present, the prefects would dare take such a step without explicit instructions.

Neque ut adfectus vestros in amorem mei accenderem, commilitones, neque ut animum ad virtutem cohortarer (utraque enim egregie supersunt), sed veni postulaturus a vobis temperamentum vestrae fortitudinis et erga me modum caritatis. Tumultus proximi initium non cupiditate vel odio, quae multos exercitus in discordiam egere, ac ne detrectatione quidem aut formidine periculorum: nimia pietas vestra acrius quam considerate excitavit.²⁵²

Several things are of interest here. First, Otho begins his speech with pure flattery (we note again the presence of the word *commilitones*): the mutiny, he insists, was certainly not caused by any vice on the soldiers' part, for they are completely free of avarice and hatred and fear, indeed of any vile passion that could incite them to mutiny. Rather, the confusion was caused by their excessive virtue: *nimia pietas* drove them to it, and too much fortitude and too much love (*caritas*) for their leader. It is only to ask for a moderation of their laudable qualities, Otho says, that he comes before them. Now, whether true or not, this is absolute flattery: Otho is flattering the soldiers, denying that they have any vices and claiming that any unfortunate event is because they are simply *too good*. These are the claims of a demagogue who flatters the mob, and we see clearly that Otho is playing the role of a demagogue, and the army is his mob. Beyond this, however, the claims are in fact demonstrably untrue. Not only does the phrase *nimia pietas* seem at variance with the overall feel of the mutiny, but the claim that the cause was neither avarice nor hate nor fear is flatly contradicted by the earlier narrative: Tacitus says plainly that many of the worst soldiers were motivated by hope of plunder (1.80.2), and of course the praetorians are only calmed the next day by the promise of money. Their hatred of the senators, moreover, is quite clearly shown when they burst in on Otho's banquet and the words *arma et minae ...*

252 "I come before you, fellow soldiers, neither to inflame your passions with love of me nor to invite your hearts to courage (for both of these things are in great abundance), but to ask of you a temperance of your bravery and some moderation of your favor towards me. The origin of the previous tumult was neither greed nor hate (which have driven many armies into discord), nor even a shirking or fear of dangers: your excessive *pietas* urged you on with fierceness rather than with due consideration."

in senatum universum, and the phrase *lymphatis caeco pavore animis* clearly indicates no small degree of fear. Otho is thus a demagogue, seeking to control the soldiers by means of flattery and false praise.

The rest of Otho's speech is a panegyric on obedience and on the Senate, neither of which seems suited to the character he has shown thus far in the *Histories*. And yet his speech is successful in calming the praetorians – partly, and we should remember than even that *partly* is due as much to the bribe of 5,000 sesterces to every man as to the speech itself (*H.* 1.85.1):

Et oratio apta ad perstringendos mulcendosque militum animos et severitatis modus (neque enim in pluris quam in duos animadverti iusserat) grate accepta compositique ad praesens qui coerceri non poterant. Non tamen quies urbi redierat: strepitus telorum et facies belli, militibus ut nihil in commune turbantibus, ita sparsis per domos occulto habitu, et maligna cura in omnis quos nobilitas aut opes aut aliqua insignis claritudo rumoribus obiecerat.²⁵³

The soldiers are dissuaded from further mutiny and riot, partly by Otho's speech, partly by his lack of severity.²⁵⁴ But they are not entirely brought back to good order: they disperse themselves among the houses of the powerful to act as informers, hoping to catch them saying or doing anything disloyal in order to file charges of *maiestas* (which gives the lie to Otho's claim that they were not motivated by hatred). Moreover, the city still endures *strepitus telorum et facies belli* (1.85.1).²⁵⁵ Clearly, the situation after Otho's speech is not what we should expect if the soldiers were truly pacified and restored to

253 “Both the oration, suited as it was to sting and calm the hearts of soldiers, and the moderation of severity (for he had ordered the punishment only of two men) were received gratefully, and those who could not be restrained were calmed for the present. But quiet did not return to the city: there was the sound of arms and the appearance of war; the soldiers may not have been rioting generally, but they were scattered through private homes in secret garb, and they exercised a malignant office against all whom nobility or wealth or any other famous excellence had made liable to rumors.”

254 The fact that the Othonians hate and cannot endure *severitas* is a running theme: Otho, we remember, referred to Galba's well known *severitas* as cruelty (1.37.4), and at the beginning of the current mutiny the soldiers killed the *severissimos centurionum* (1.80.2). *Severitas* is a good old-fashioned quality (cf. Galba's anachronistic *antiquus rigor et nimia severitas* at 1.18.3), and the fact that the soldiers cannot endure it is another indication of their inherent vice.

255 It is a common motif that tyrannical emperors treat Rome like a captured city, but here it is the Roman legions themselves so treating Rome, and the Roman emperor trying, and failing, to stop them. See Keitel (1984) 306-325 and Woodman (2012) 315-337.

discipline: it took the supreme exertion of his influence to prevent them from massacring the Senate, but not even Otho can calm the soldiers entirely.

To summarize the mutiny of *Histories* 1.80-85, then: since the death of Galba, the soldiers have been growing more and more uncontrollable. This is to be expected from how Otho corrupted them: he bribed them and taught them to hate discipline, and so turned them against Galba; but now he himself can barely restrain them. It takes all his influence (as well as another bribe) to calm this mutiny, and even then he is only partially successful. Otho's speech, which does pacify them somewhat, does not succeed by its eloquence: its power comes from the fact that Otho has already obtained the favor of the soldiers in various unsavory ways, not the least of which is encouraging their avarice and their license. Finally, the speech relies primarily on flattery: Otho flatters the soldiery just as a demagogue would flatter a mob. The note of demagogy explains all the rest, and we see how Otho, in using shameful means to obtain the soldiers' favor, has in fact made them shameless, and in trying to lead them is in fact led by them. He is unable to pacify a mutiny, not against him, but *for* him and against his supposed enemies, and whatever small success he has in calming it is not due to the eloquence of his speech (and it is admittedly eloquent), but to the demagogy that caused his problems to begin with.

Another example occurs during the Vitellian invasion of Italy. When the German legions and auxiliaries, led by Vitellius' lieutenant Caecina, have crossed the Alps and are marching on Placentia, the scene shifts to Spurrina, the commander of the Othonian forces there (*H.* 2.18). Spurrina tallies up his numbers and those of Caecina and concludes that he is grossly out-matched, and therefore determines to stay behind the walls of the city. His soldiers, however – some of whom had participated in the just mentioned mutiny²⁵⁶ – have other plans (2.18.2):

Sed indomitus miles et belli ignarus correptis signis vexillisque ruere et retinenti
duci tela intentare, spretis centurionibus tribunisque: quin prodi Othonem et

²⁵⁶ Ash (2007) 125 ad loc.

accitum Caecinam clamitabant. Fit temeritatis alienae comes Spurrinna, primo coactus, mox velle simulans, quo plus auctoritatis inesset consiliis si seditio mitesceret.²⁵⁷

Here we see for the first time a series of events that will play out repeatedly in the *Histories*: a general decides on a cautious course, but his soldiers, wild and undisciplined and unable to follow wise counsels, demand to be led to battle, and even accuse their general of treason. To their minds, the only possible explanation why an officer would not support their desire for immediate battle is that he has betrayed the emperor that they favor. This will be yet another ongoing source of friction between the soldiers and their leaders, and a further symptom of their ungovernability. Spurrinna's response to this is quite prudent. He realizes that he cannot control the soldiers by appealing to their loyalty or patriotism, and he knows that they would not be persuaded to abandon their mutiny by a speech. He therefore pretends to go along with their plans and agrees to lead them out, so that, by not opposing them, he will remain in their favor and maintain a degree of informal *auctoritas* over them. This, too, is a theme that we will see repeated often: that, during the civil war, the *auctoritas* of a general over his soldiers does not necessarily come from any lawful or legitimate source – not from a general's inherent right to command nor from any eloquence – but is the result of somehow staying in their good graces, whether by letting them have their way or flattery or other such means. In other words, *auctoritas* will often be used almost in the way of a demagogue's influence over a mob. Spurrinna is among the first to recognize this, and goes along with the soldiers' wishes in order to preserve his *auctoritas*, his influence over them, for when it could be useful (since a head-on confrontation or a speech would avail nothing and would probably only make the soldiers even more disloyal).

²⁵⁷ “But the soldiery, uncontrollable and ignorant of war, seized their standards and ensigns and rushed forwards, and when the general tried to restrain them, brandished weapons at him, disdainful of their centurions and tribunes. They even shouted that Otho was being betrayed and Caecina sent for. Spurrinna became the comrade of others' rashness, at first compelled, then pretending that he wished it, so that he would possess more *auctoritas* in their councils if the mutiny should subside.”

He is right to do so. At *Histories* 2.19, he leads them out from the fortifications of Placentia, as they wanted; but as soon as they are in the open (and also suitably tired by the hard work of entrenching a camp for the night), they realize how badly they are out-numbered and how quickly they would be defeated in a set battle against the Vitellians. The centurions and tribunes²⁵⁸ go back among the soldiers who had disdained them and reestablish a measure of discipline. Finally, the soldiers are again ready to obey (at least for now), and consent to be led back to Placentia, where Spurrinna looks to secure their *obsequium et parendi amor* (2.19.2). Spurrinna therefore succeeds in reestablishing discipline and ending a mutiny, but the way in which he does so is noteworthy: first and foremost, he attempts no speech calming the sedition, which would be the ideal Roman way praised by Virgil (see p. 68 above)²⁵⁹ – in fact, he does not confront the mutiny directly at all; rather, he goes along with it in order to preserve his influence with the soldiers until it could avail something, and he only attempts to exercise this influence then the soldiers are in a suitable mood and the mutiny has, in essence, run its course.²⁶⁰ This is not a case of good discipline: so far from it, in fact, that not only can generals not control their own troops, but they must even allow themselves to be led around *by them*; otherwise the soldiers would ignore them entirely, and might even kill them.

An interesting parallel to this passage comes some time later, when the Vitellians rather than the Othonians are the ones to mutiny. Caecina sent his troops into battle piecemeal rather than all at once, and so they were crushed when Otho's troops charged; predictably, the soldiers threw around accusations of treason (*H.* 2.26.1). But the indiscipline of the soldiers, their wild impetuosity and

258 Centurions and tribunes are often paired in the *Histories* almost as personifications of proper military discipline: see, so far, 1.30, 1.36, 1.82, 2.18, 2.19.

259 It is worth remembering Virgil's *saevitque animis ignobile vulgus*, which parallels Tacitus' frequent references to the Roman army as a *vulgus*; to *pietate gravem ac meritis*, which is nothing but an excellent rendering of *auctoritas* (which will not fit in hexameter), which Tacitus in turn often mentions in these contexts; and finally to *regit dictis animos*, which confirms that the influence Virgil expects a statesman to wield comes primarily from his eloquence (*eloquentia* also cannot be used in hexameter verse), which is not what happens in the *Histories*.

260 Ash (2007) 128 is not favorable to Spurrinna's actions here, saying that he “unglamorously mops up a mutiny” only after his subordinate officers had done the hard work. Considering the fates of other generals in the *Histories*, however, who are sometimes even murdered by their soldiers, Spurrinna's record is not shabby: he does, eventually, succeed.

headstrongness, are not confined to one side or the other. Just like the Othonians above, the Vitellians here accuse their officers of treason when things do not go exactly their way; in fact, these qualities are emphasized vividly when Tacitus shows both sides simultaneously so engaged: there were two brothers who fought on opposite sides, and at exactly the same time each was accused of betraying his own side for his brother's side, and at exactly the same side each was thrown into chains by his own troops. We must note that it is the soldiers themselves, not their generals, taking it upon themselves to imprison their officers – indeed, any attempt by any officers or generals to restrain the soldiers is conspicuously absent. Presumably they knew it could not succeed.

Some time later, the soldiers of Valens, the other Vitellian general, mutiny. Valens sends his lictors among them to bring them to heel, which turns out to be the wrong move (*H.* 2.29.1):

... ipsum invadunt, saxa iaciunt, fugientem sequuntur. Spolia Galliarum et Viennensium aurum, pretia laborum suorum, occultare clamitantes, direptis sarcinis tabernacula ducis ipsamque humum pilis et lanceis rimabantur; nam Valens servili veste apud decurionem equitum tegebatur.²⁶¹

A more chaotic or violent scene of military license can hardly be imagined. Indeed, it is only by dressing as a slave and hiding that Valens is able to escape murder. Among the reasons for the soldiers' rage against him is the same greed we have seen emphasized throughout the *Histories*: they believe that the spoils that they stole in the Gallic provinces as they marched through belong rightly to them, and they suspect (correctly, though it does not quite justify their license) that Valens has enriched himself on these spoils. Therefore they mutiny.

But their mutiny is short-lived: the next day, the camp prefect, Alfenus, simply does nothing; he forbids the officers to give the usual morning summons to various duties (*H.* 2.29.2). The soldiers are

²⁶¹ “They attacked Valens himself, they threw rocks, they pursued him when he fled. Shouting that he was hiding the spoils of Gaul and the gold of Vienne, the rewards of their own toil, they tore up his baggage and searched the general's tent and even the ground with javelins and spears [looking for buried treasure]; for Valens was hiding in servile garb at the tent of a decurion of the cavalry.”

immediately cast into complete confusion and have no idea what to do: *igitur torpere cuncti, circumspectare inter se attoniti et id ipsum quod nemo regeret paventes* (29.2: “Therefore they were all paralyzed; they looked at each other astonished and afraid from the very fact that no one gave orders”).²⁶² Their mood changes, and Valens takes the opportunity to cast off his disguise and reappear before them. They rejoice and welcome him just as much as they had hated him the previous day – for, says Tacitus, the mob is immoderate in both directions (29.3: *ut est vulgus utroque immodicum*). As with the case of Spurrinna, we note that the mutiny is not calmed or even opposed in any way: it is simply allowed to run its course. This it does, and with the natural fickleness of a mob, a *vulgus*, the soldiers soon experience a drastic change of heart. Only then does the general think it safe to appear. Valens' behavior is also notable: he ordered no punishments, recognizing, in Tacitus' acerbic and revealing comment, that in civil war soldiers have more license than their generals (29.3: *gnarus civilibus bellis plus militibus quam ducibus licere*) – an accurate, sententious summary of many of the themes we have been discussing, since *licere* is of the same root as *licentia*.²⁶³

The repentance of Valens' troops is short-lived. After they learn of Caecina's defeat, they mutiny yet again (*H.* 2.30). They had not been present at the battle, and immediately jumped to the conclusion that Valens had betrayed them in holding them back (2.30.1). By now the pattern is established: at some setback or other, the soldiers blame all their ills on their own general and his supposed treason. They at once march forward of their own accord. Valens is unable to control them by any means; indeed, his troops are more loyal to Caecina – and the reasons for this are noteworthy: *studia tamen militum in Caecinam inclinabant, super benignitatem animi, qua promptior habebantur, etiam vigore aetatis, proceritate corporis et quodam inani favore* (30.2: “The soldiers inclined rather to Caecina, not only

²⁶² Ash (2007) 155-156 ad loc. notes that, whereas in the *Annals* mutinies are often led by named individuals, in the *Histories* they are typically leaderless and semi-spontaneous risings of the soldiery, and therefore that Alfenus' strategy is quite sound.

²⁶³ It is important that Tacitus uses *plus licere* rather than *plus libertatis* or *nimia libertas* or some such other construction: for the behavior of the soldiers, even though we might say loosely that they suffer from too much freedom, is not at all characteristic of *libertas*. License is not simply the extreme degree of freedom, but qualitatively different.

for his generous heart, in which he was believed readier, but also because of the vigor of his youthful age, his tallness of body, and a certain vain popularity”). This stresses the arbitrariness of what grants one *auctoritas* or influence with the common soldiers: in this case, Caecina is more popular than Valens not because of offices held or experience or eloquence, but because he is young and tall (and, we remember from above, because Valens had disappointed their avarice). Indeed, Tacitus cannot even fathom all the reasons for Caecina's popularity, and ends by saying that he was loved *quodam inani favore*. It is for this that Valens' soldiers mutinied in Caecina's favor (even though they were both on the same side).

The critical battle between Vitellius and Otho is now approaching. I would like to discuss the speech of the Othonian general Suetonius Paulinus, for though it is not, strictly speaking, relevant to mutiny, it is a revealing case of the failure of oratory under the Principate and of the consequent decay of military discipline. At *Histories* 2.32, Otho takes counsel with his generals on the best course of action to take. At this point, Suetonius Paulinus is introduced in terms of the highest respect: *nemo illa tempestate militaris rei callidior habebatur* (2.32.1: “No one at that time was regarded as more skillful in military affairs”). Rightly so, for Suetonius was perhaps the most successful Roman general then living: it was he who had defeated the British rebellion led by Boudicca. This is a man worth listening to. And in no uncertain terms he advises delay: in a lengthy speech, he dilates on the advantageous position of the Othonians, who are well furnished with supplies and who will only be reinforced by yet more armies as time passes; moreover, he says, if they wait but a little while for summer, the barbarians of northern Germany in whom Vitellius' strength lay would not be able to endure an Italian sun. According to the greatest Roman general of the age, all military considerations required that Otho simply wait and not yet fight.

But the greatest Roman general of the age is ignored. His speech is not refuted, his arguments are not answered; indeed, no counter-arguments are urged at all. We are simply told *Otho pronus ad*

decertandum (H. 2.33.1: “Otho was inclined to fight”), and that settles the matter. A brilliant general gives good strategic advice, and backs up his reasoning with a skillful speech; but *Otho pronus ad decertandum*. The arbitrariness of the decision (if we can even dignify it with the name of “decision”) to ignore Paulinus is itself shocking; but in the Principate, the *princeps* does have the power thus to ignore reason and eloquence. But even more shocking are the “arguments” used by some courtiers to justify his decision (2.33.1):

Frater eius Titianus et praefectus praetorii Proculus, imperitia properantes,
 fortunam et deos et numen Othonis adesse consiliis, adfore conatibus testabantur,
 neu quis obviam ire sententiae auderet, in adulationem concesserant.²⁶⁴

They urge that the gods and the *numen*, the divine force, of Otho himself (for they already flatter a still-living Otho that he is *divus*) would aid them in battle. Thus they effectively shut down all argument: for Suetonius to urge delay now would be tantamount to questioning the *numen* and slighting the *maiestas* of his emperor. No further opposition is forthcoming; Suetonius and the other generals yield, battle is given, and Vitellius is crowned. The flattery of courtiers thus becomes a perversion of eloquence, a form of speech that itself makes all other oratory useless (and even dangerous); the considered opinions of skilled generals are lightly set aside, and the effectiveness of the army is destroyed.

At *Histories* 2.68, after their victory, the Vitellian troops mutiny again. While Vitellius is at a dinner-party with Verginius Rufus, the following violent scene occurs (2.68.1-3):

Apud Vitellium omnia indisposita, temulenta, pervigiliis ac bacchanalibus quam
 disciplinae et castris propiora. Igitur duobus militibus, altero legionis quintae,
 altero e Gallis auxiliaribus, per lasciviam ad certamen luctandi accensis,
 postquam legionarius prociderat, insultante Gallo et iis qui ad spectandum

²⁶⁴ “His brother Titianus and the praetorian prefect Proculus, hasty because of their ignorance, proclaimed that fortune and the gods and the *numen* of Otho were present at their councils and would be present for their attempts; and lest anyone dare to oppose their opinion, they withdrew into flattery.”

convenerant in studia diductis, erupere legionarii in perniciem auxiliorum ac
duae cohortes interfectae. Remedium tumultus fuit alius tumultus.²⁶⁵

For such trivial causes do the licentious troops of Vitellius, taking their cue from their general, break forth into violent and bloody mutiny and turn their weapons against each other. And not only against each other: they even break in upon the dinner of Vitellius and demand the execution of Verginius, whom they hated for refusing their offer of the purple (2.68.4). Only with difficulty did Vitellius manage to keep Verginius alive – we are not told how, but it was not by means of a speech, and it is clear from the situation that he is not a man in control of his own soldiers.

So far, we have seen repeated mutinies as the soldiers, using the license granted by civil war and motivated by greed, have grown increasingly unruly. No commander has thus far shown himself able to restrain them consistently; even Otho, who came closest, was barely able to prevent a massacre of the Senate, and he had to resort to deception to save an innocent man from the soldiers' fury. Now, however, we can introduce the one general who, more than any other, uses the civil war to rise to a position of influence over the troops, though his goals are far from laudable and his methods are underhanded and disgraceful. I mean of course the Flavian general Antonius Primus. Primus comes to have more influence with the soldiers than any other general of any faction, including the imperial claimants themselves; but he does this by such demagogic methods that, like Otho, he gains the favor of the troops, but only in such a way that renders them still more headstrong and uncontrollable, to the point that he himself is led by them more than he leads. It will be profitable to see how Primus is introduced by Tacitus, what qualities are ascribed to him, and how far and in what ways these qualities allow him to achieve so powerful a position.

265 “In the army of Vitellius, everything was chaotic and besotted, more suited to an all-night bacchanalia than the discipline of a military camp. Therefore, when two soldiers, one from the fifth legion and one a Gallic auxiliary, were challenged in licentiousness to a contest of wrestling, and the legionary fell, and the Gaul insulted over him, those who were present to watch were divided and took sides, and the legionaries broke forth in desire to destroy the auxiliaries. Two cohorts were slain. The remedy of riot was another riot.”

Primus is introduced at *H.* 2.86. After Tacitus tells us some of his personal history – that he had been condemned for fraud but restored to senatorial rank during the war, then tried to find service and a position of power with several of the claimants – he gives us this description of the man (2.86.2):

Labantibus Vitellii rebus Vespasianum secutus grande momentum addidit,
strenuus manu, sermone promptus, serendae in alios invidiae artifex, discordiis
et seditionibus potens, raptor, largitor, pace pessimus, bello non spernendus.²⁶⁶

The last phrase sums Primus up nicely: “in peace the worst of men, but not to be despised in war.” He is by no means a good man, nor even one likely to succeed very much in peace; but in the chaos of a civil war he has exactly the right qualities and skills to exploit the situation for his own advantage.²⁶⁷ What are these? He is described prominently as *sermone promptus*, ready of speech – not quite the same thing as eloquence, but certainly implying a facility with words and the ability to persuade, and knowing the right time to speak. This phrase might give the impression that Primus controls his troops by means of speeches, firing them with zeal for his own purposes. And Primus does indeed have several speeches in the *Histories*. Surprisingly, however, in light of the fact that Tacitus thinks it so important to describe him as eloquent, his speeches almost always fail.²⁶⁸ This is particularly so when his troops mutiny – for Primus' soldiers mutiny no less than those of other, less popular generals, and he has no more success controlling them when they do. Moreover, as we shall see, the success he

266 “As the power of Vitellius tottered, he followed Vespasian and aided his cause greatly, being strong of hand and skilled of speech, a sower of hatred against others, powerful in discord and sedition [or “powerful by means of discord and sedition”], a thief, a briber – in peace the worst of men, but not to be despised in war.”

267 With Primus, there are echoes of Maternus' speech at *Dialogus* 36.4, 40.2, condemning the chaos of Republican *libertas* on the grounds that, even though (or because) it allowed for the meteoric rise of eloquent speakers, it was destructive of peace and social concord. The civil war is *like* liberty in that it is an interruption in the power of the *principes* and causes a situation where there is no one single dominating figure, thus leading to a Republic-like jockeying for power in which ambitious men can flourish. One such is Primus, who is admittedly eloquent; but as we shall see, just as civil war is not the same as *libertas*, so Primus' oratory is not really the same as eloquence.

268 Ash (1999) seems to be too misled by Tacitus' introduction of Primus and his eloquence to notice this fact. She habitually refers to Primus' as “charismatic” and calls his oratory “dynamic” and “shrewd,” and she emphasizes its effectiveness and that Primus almost alone had the practical skills necessary to lead the army (p. 95, 148, 153-154, 161). Tacitus does indeed create the expectation that this is the sort of leader Primus will be, but the subsequent narrative clashes with this expectation; Ash is not entirely unaware of this (p. 159), but underestimates the contrast. If a scholar of Ash's calibre can be thus misled, we must be careful indeed to notice when Tacitus intentionally creates expectations only to dash them.

sometimes enjoys, and the favor of the troops that he always enjoys, are primarily due to other factors: that is, rather than persuading his troops by means of his oratory, he obtains their favor through other means, and it is only because he has already obtained their favor (in rather unsavory ways) that his oratory is even sometimes influential. These other means are similar to Otho's: like Otho, Primus is a demagogue of the soldiers, flattering them in every way and encouraging their license and greed (Tacitus describes him as a *raptor* and a *largitor*). For these reasons he has a measure of influence over them. Like all demagogues, however, his authority is largely illusory. He will enflame the soldiers and direct their fury, but he will not be able to control the forces he has unleashed.

This becomes clear from the very first time his influence is tested. There is a Flavian war-council debating the best course of action to take against Vitellius. Most of the generals urge delay (for similar reasons as Suetonius Paulinus counselled Otho to delay), but Antonius Primus, the *accerrimus belli concitator*, is given a long speech in direct discourse in which he demands an immediate advance against the enemy (*H.* 3.2). He argues that the Vitellian troops are worn down by Italian luxury, and he flatters himself that the Flavian troops are so qualitatively better that their cavalry will simply ride the enemy down; he ends by boasting that, if the others choose delay, he himself will advance with only his own troops, and the other generals could follow his and his men's victorious march. These comments contain no little flattery of the army, and we may be sure that this is intended, since he intentionally spoke loudly enough to be heard by the soldiers outside (3.3.1). The result is that Primus becomes their favorite – but not just because of his speech (3.3):

Haec et talia ... ita effudit ut cautos quoque ac providos permoveret, vulgus et ceteri unum virum ducemque, spreta aliorum segnitia, laudibus ferrent. Hanc sui famam ea statim contione commoverat, qua recitatis Vespasiani epistulis non ut plerique incerta disseruit, huc illuc tracturus interpretatione, prout conduxisset: aperte descendisse in causam videbatur, eoque gravior militibus erat culpa vel

gloriae socius.²⁶⁹

Primus is undoubtedly a skilled orator, as we can tell here from the effect of his speech. But we must look also to the audience, and to their prior relationship with the speaker. The soldiers, just like all the soldiers elsewhere in the *Histories*, despise delay and are eager for action; they are thus inherently more likely to support anyone who proposes action (particularly one who flattered them so highly), whatever his skill at speaking. It is not a case of Primus persuading a reluctant crowd to follow his ideas; rather, the crowd supports him so enthusiastically because he says what they already want to hear. This is the behavior of a demagogue, not an orator.²⁷⁰ Moreover, Tacitus appends another extrinsic reason why the soldiers should favor Primus: at a previous assembly, he had not spoken ambiguously but had clearly thrown his lot in with Vespasian; the soldiers thereby respected him as someone ready to share their fate with them, whether in success or failure.²⁷¹ I do not mean to say that this is an illegitimate reason for the soldiers to favor Primus, but it is certainly a reason different from the traditional ones why Primus should be obeyed. And it is certainly not because of Primus' oratory that he is so supported. His speech, admittedly very eloquent and powerful, does not bring the soldiers to his side: it declares that *he* is on *their* side, and it only makes them more enthusiastic about a course of action they already advocated, and more passionately devoted to a leader they already respected.

Both the favor enjoyed by Primus and his ultimate lack of control are shown soon afterwards. When the Flavians have invaded Italy and set siege to Verona, a body of their troops were frightened by what they wrongly believed to be enemy cavalry; they at once, predictably, clamored that they had been betrayed, and a full-scale mutiny was begun (*H.* 3.10). For whatever reason – Tacitus himself is not

269 “He so poured forth this and similar words that he moved even the cautious and prudent, and the *vulgus* and the rest, spurning the hesitation of the others, proclaimed him, with praise, the one man and one leader. He had acquired this reputation at the public meeting at which, after the epistle of Vespasian was read, he did not (like most) speak ambiguously, interpreting now one way, now another, as it fit his interests; but he had clearly thrown in entirely with the faction, and so he was all the more respected by the soldiers as a companion either of their fault or their glory.”

270 In the sense of the idealized and perfect *vir bonus dicendi peritus*.

271 For this reason they also favor Cornelius Fuscus, who had spoken intemperately against Vitellius and for whom consequently failure was not an option: *H.* 3.4.2.

clear why – they designate a certain Tampius Flavianus²⁷² as the object of their wrath, and demand his immediate execution. Flavianus pleads for mercy, tearing his garments and falling to the ground and weeping, but (3.10.2-3):

Id ipsum apud infensos incitamentum erat, tamquam nimius pavor conscientiam argueret. Obturbabatur militum vocibus Aponius, cum loqui coeptaret; fremitu et clamore ceteros aspernantur. Uni Antonio apertae militum aures: namque et facundia aderat mulcendique vulgum artes et auctoritas.²⁷³

Flavianus' pleading only increases the soldiers' anger. When Aponius, one of the officers, rises to speak in his defense, he is shouted down. It is only Antonius Primus, we are told, that the soldiers would heed, on the grounds of his eloquence and *auctoritas* – but the *auctoritas* of a general in the *Histories* is not necessarily a positive thing (see p. 50 above), and we have been seeing and will see what the much vaunted eloquence of Primus amounts to in the end. But by praising Primus in such a way, Tacitus creates the expectation that, after the failure of Aponius and the others, it is Primus who will succeed in quieting the mutiny, probably by means of his *facundia*. This is not what happens. Indeed, Primus does attempt to save Flavianus,²⁷⁴ but we read (3.10.3):

Ubi crudescere seditio et a conviciis ac probris ad tela et manus transibat, inici catenas Flaviano iubet. Sensit ludibrium miles, disiectisque qui tribunal tuebantur extrema vis parabatur.²⁷⁵

272 I cannot believe that it is not intentionally ironic that a Flavian supporter referred to as, of all things, Flavianus is accused (falsely) of not being a proper Flavian. Tacitus is likely more fond of such puns, however beneath his supposed austerity they may seem, than he is usually believed to be: see Woodman (1998) 218-243.

273 “That itself [his pleading] was an incitement to his enemies, as though his excessive fear was proof of a guilty conscience. Aponius, when he began to speak, was shouted down by the voices of the soldiers; they disdain the others with uproar and shouting. To Antonius alone were the ears of the soldiers open, for he had eloquence, and skill at quieting the mob, and *auctoritas*.”

274 Tacitus does report a rumor, one which he does not endorse, that Primus actually engineered both mutinies in order to gain personal control of the army. The rumor certainly biases us against him, but the structure of the narrative does not suggest that Tacitus regards this as true.

275 “When the sedition was growing and the soldiers were switching from insults and reproaches to weapons and hands, he [Primus] ordered Flavianus to be cast into chains. The soldiers detected the trick; they scattered those who guarded the tribunal and prepared to use violent force.”

Instead of giving a speech, Primus resorts to a ruse similar to that used earlier by Otho (1.45.2): he orders Flavianus to be taken into custody, ostensibly as preparation for his punishment, really to protect him; but the soldiers are not deceived and begin to use force. It is revealing that Primus does not feel his influence powerful enough to oppose the mob directly and so has to resort to such tricks (just as Otho had been forced to delude his own soldiers in the same way because of his weakness) – especially so after Tacitus has just commented on Primus' eloquence and *mulcendi vulgum artes*.²⁷⁶ The sharp disjunction between what Tacitus has drawn our attention towards and the actual way in which he unfolds the narrative is surely intentional: Primus is, undoubtedly, an eloquent man and a general of great influence with the troops; the course of this mutiny simply shows us how little both of those qualities matter. Primus has so little confidence in the power of his oratory that he does not even attempt a speech, and his *auctoritas* – like that of Otho, and gained by similar means as Otho's²⁷⁷ – is such that he can enflame the troops, but not restrain them.

Flavianus is saved, not by any effort of Antonius Primus, but by a letter from Vespasian that proves conclusively his innocence of treachery (*H.* 3.11.1). The soldiers' wrath is in no way diminished; it simply finds a new target, and the mutiny flames back up, this time (the repetitiveness of the theme must surely have bored Tacitus himself) accusing Aponius Saturninus of – what else? – treason and demanding his execution. Tacitus allows himself the laconic observation that, whereas the soldiers had once competed with each other in virtue and obedience, they now competed in audacity and petulance (3.11.2: *ut olim virtutis modestiaeque, tunc procacitatis et petulantiae certamen erat*).²⁷⁸ The same fury endangers Aponius Saturninus as had endangered Flavianus; as with Flavianus, Aponius escapes by no

276 On this whole passage, the comment of Wellesley (1972) 90 is apt: “In civil war, the unruly soldiers are controlled, if controlled they can be, not by habit, discipline and idealism, but by bribery, rhetoric, histrionics, pathos or remorse.” The addition of rhetoric to the category of what can control the soldiers is, as we see, not entirely accurate.

277 Wellesley (1972) 90.

278 Wellesley (1972) 91 ad loc. takes *olim* to mean the time before the civil war. I think it more likely to refer to the period of the middle or even early Republic, when everything was stereotypically better. Heubner (1972) 39 ad loc. notes a parallel to Livy that might (this is my claim, not Heubner's) reinforce the connection to Republican times: Livy 10.23.7, *quod certamen virtutis viros in hac civitate tenet*.

eloquence of the generals, despite their efforts (11.2-3). Tacitus states very clearly that the generals, Primus included, tried every possible means (*omni modo nisi*) to save Aponius, but that none of this would have availed to calm the soldiers; rather, the object of their wrath escaped destruction for no other reason than that he hid where they did not find him. Twice, in very short succession, a mutiny has flared up and demanded the death of one of their officers, and twice the other generals and Primus have been unable to quash it.

Some little time later, the Flavian troops led by Primus approach the Vitellian-held city of Cremona (*H.* 3.19). Tacitus describes the state of mind of the soldiers by putting into indirect discourse their conversations with one another (3.19.1-2):

... posse coloniam plano sitam impetu capi. Idem audaciae per tenebras inrumpentibus et maiorem rapiendi licentiam. Quod si lucem opperiantur, iam pacem, iam preces, et pro labore ac vulneribus clementiam et gloriam, inania, laturus, sed opes Cremonensium in sinu praefectorum legatorumque fore. Expugnatae urbis praedam ad militem, deditae ad duces pertinere. Spernuntur centuriones tribunique, ac ne vox cuiusquam audiatur, quatunt arma, rupturi imperium ni ducantur.²⁷⁹

The soldiers, with shocking cynicism, demand to be allowed to take the city by storm, because if it is allowed to surrender they will be denied their plunder. Their motivation is purely one of greed, and they are ready to defy their officers and attack Cremona themselves if their avarice is not satiated.²⁸⁰

Into this situation comes Antonius Primus. He knows that a night-time assault on a fortified city,

²⁷⁹ “The colony, situated on a level plain, could be taken by assault. They would have the same boldness if they broke in by night, and a greater license of rapine; but if they waited for light, there would be peace treaties and pleas for mercy, and as the reward of their labor and wounds they would obtain clemency and glory, empty words, while the wealth of the Cremonese would be the possession of the prefects and legates. The wealth of a captured city goes to the soldiers, that of a surrendered city to the generals. They spurned the centurions and tribunes, and they clashed their weapons lest anyone's voice be heard, ready to mutiny if not led out to attack.”

²⁸⁰ They do, of course, eventually sack Cremona, though Tacitus is ambiguous in assigning blame for the disaster. The destruction of Cremona was remembered as one of the worst atrocities of the war. Ash (1999) 65-66, 161. Ash also points out (p. 37) that good commanders were typically not supposed to allow the sack of cities, certainly not in Italy.

with enemy troops possibly nearby, would not be militarily prudent, and so he rises to address the troops (*H.* 3.20). This is the first full speech of Primus urging restraint (his first speech had demanded haste and action); he begins thus (3.20.1-2):

... non se decus neque pretium eripere tam bene meritis adfirmabat, sed divisa inter exercitum ducesque munia: militibus cupidinem pugnandi convenire, duces providendo, consultando, cunctatione saepius quam temeritate prodesse. Ut pro virili portione armis ac manu victoriam iuverit, ratione et consilio, propriis ducis artibus, profuturum.²⁸¹

It is, to say the least, odd to hear such sentiments from Primus (and not for the first time, we note, does Primus resemble Otho), though he is undoubtedly correct. It is the soldiers' part to be brave, the general's to use his reason and foresight to direct their valor. And at the moment, he presses them, every military consideration urges delay (20.2-3):

An obpugnationem inchoaturos adempto omni prospectu, quis aequus locus, quanta altitudo moenium, tormentisne et telis an operibus et vineis adgredienda urbs foret? Mox conversus ad singulos, num securis dolabrasque et cetera expugnandis urbibus secum attulissent, rogabat. Et cum abnuerent, "Gladiisne" inquit "et pilis perfringere ac subruere muros ullae manus possunt? ... Quin potius mora noctis unius, advectis tormentis machinisque, vim victoriamque nobiscum ferimus?"²⁸²

281 "He affirmed that he did not wish to snatch either the glory or the reward away from those who so well deserved them, but that the offices of a general and an army were different: the love of battle was fitting for soldiers, but generals were useful more often by foresight, counsel, and delay than by temerity. As he had already helped victory by force of arms, as far as a man could, so he now would aid them by means of reason and consideration, the proper arts of a general." Tacitus is perhaps being rather tongue-in-cheek when he says that *cupido pugnandi* is proper for soldiers, since *cupido* has been the main fault of the soldiers throughout the *Histories*.

282 "Or were they going to begin an assault with no reconaissance, not knowing what ground was level or what was the height of the walls, or whether the city was to be approached with artillery and weapons or siege works? He then turned to individuals and asked whether they had brought with them axes and picks and the other tools for capturing cities. When they said no, he asked, 'Can any strength break down and overthrow walls with swords and spears? ... Why do we not, by the delay of one night, bring up our artillery and siege works and secure for ourselves power and victory?'"

These are all rational concerns, and very good reason not to press for an immediate assault. The soldiers did not even have with them the basic implements for attacking walls; it would be madness *not* to wait until the requisite tools and supplies could be brought up. Primus' arguments, themselves reasonable, are moreover skillfully deployed: the transition from addressing the soldiers generally to speaking to them individually, at the precise moment when Tacitus switched from indirect to direct discourse, is vivid and powerful, as is the striking and alliterative conjunction of *vim victoriamque*.²⁸³

How effective is Primus' reasoning and eloquence on the soldiers? Not very (*H.* 3.21.1):

Id vero aegre tolerante milite prope seditionem ventum, cum progressi equites sub ipsa moenia vagos e Cremonensibus corripiunt, quorum indicio noscitur sex Vitellianas legiones omnemque exercitum, qui Hostiliae egerat, eo ipso die triginta milia passuum emensum, comperta suorum clade in proelium accingi ac iam adfore. Is terror obstructas mentis consiliis ducis aperuit.²⁸⁴

Despite all the good advice of Primus, despite all his supposed influence with the troops, despite the vaunted power of his eloquence, his speech does so little to quiet the troops that they were on the verge of mutiny. The only thing that stopped them from disregarding their officers and storming Cremona outright (in the shameful hope of plundering an Italian city, we remind ourselves) is the sudden information that the army of Vitellius had undergone forced marches and was even then preparing to give battle. Tacitus is quite clear that it was this fear, and only this fear, that inclined them to pay any heed to Primus, whom they had utterly ignored only a few moments earlier. If not for the sudden appearance of the Vitellians, the army would have attacked Cremona against Primus' wishes, and Primus, despite his supposed powers of leadership, would have had no choice but to follow the desires

²⁸³ Wellesley (1972) 103-104 ad loc.

²⁸⁴ “The soldiers tolerated that very ill, and it came close to mutiny, when some forward cavalry caught a few Cremonese wandering beneath the walls; by their information it was learned that six Vitellian legions and the whole army that had been at Hostilia had, that very day, traveled thirty miles, and that they had learned of the slaughter of their allies and were girding themselves for battle and would be present instantly. This terror opened the closed minds of the soldiers to the counsels of their general.”

of the soldiers and join them in the assault.

The occasional similarity of Primus to the demagogic Otho has been mentioned. The behavior of Primus after the capture of Cremona, and the sort of behavior he likewise encouraged in his soldiers, is still another example (*H.* 3.49.1-2):

Ut captam Italiam persultare, ut suas legiones colere; omnibus dictis factisque viam sibi ad potentiam struere. Utque licentia militem imbueret, interfectorum centurionum ordines legionibus offerebat. Eo suffragio turbidissimus quisque delecti; nec miles in arbitrio ducum, sed duces militari violentia trahebantur.

Quae seditiosa et corrumpendae disciplinae mox in praedam vertebat. ...²⁸⁵

Here we again have Primus acting in the manner expected of a demagogue: he courts the legions for his own benefit, and intentionally encourages license (by allowing them to elect their own officers, no less; see p. 43). Primus secures for himself power and profit by means of this license, but by Tacitus' own explicit statement, the result was such a decay of discipline that the soldiers did not follow their generals, but the generals – including, presumably, Primus himself – were dragged about by the soldiers (*nec miles in arbitrio ducum, sed duces militari violentia trahebantur*). Thus Primus, like Otho and like all demagogues, is the victim and the servant of the license he himself has inculcated. This explains his earlier failures to restrain the troops by any means, least of all by his eloquence: his own actions have caused him no longer to be the one in control of events.

In these circumstances, the one time when Antonius Primus *is* successful in calming a mutiny by means of his oratory is all the more surprising. As the Flavian forces advance on Rome – an advance that will be fruitful of more disorder than just this one mutiny, not all of which Primus will be able to

285 “He scoured Italy as though it were captured, he courted the legions as though they were his own; with all his words and actions he prepared for himself the road to power. In order to imbue the soldiers with license, he offered the places of killed centurions to the choice of the legions. By that suffrage, the most turbulent were chosen; nor were the soldiers controlled by the authority of the generals, but the generals were dragged along by military violence. These marks of sedition, things which would ruin discipline, he soon turned to his own profit.”

control – and the power of Vitellius gradually contracts to the walls of the city, the generals of Vespasian again come to a position where it is better for them to wait than to press on (*H.* 3.60). The last army of Vitellius lies ahead, but as it has become clear to all that Vitellius can no longer expect to hold on to the Empire, they hope to bring the soldiers over rather than having to resort to battle. Their own troops, however – somewhat predictably – preferred victory to peace (3.60.1: *victoriam malle quam pacem*), and did not even want to wait for reinforcements, from equally predictably motives: they would have to share their plunder (60.1: *ne suas quidem legiones opperiebantur, ut praedae quam periculorum socias*). In this situation, Primus addresses the soldiers in a short speech, pointing out that it was folly for them to give battle when they had nothing to gain from victory and everything to lose from the despair of their enemies; moreover, he adds the more persuasive reasoning and appeals to the soldiers' greed, saying that their rewards would be all the greater if they entered Rome without bloodshed. Tacitus closes out the scene with a laconic *his ac talibus mitigati animi* (60.3: “their hearts were softened by these and like arguments”), and he has no more to say about this occurrence. Here, undoubtedly, is an occasion where the oratory of Primus succeeds as it is supposed to, where the supposedly characteristic *facundia mulcendique vulgum artes* (“eloquence and skill at calming the mob”) with which he is introduced at *H.* 3.10 is not actively contradicted by the narrative. The reader, accustomed despite all this to Primus' repeated failures, is tempted to exclaim *finally*. The surprising thing in this case is not that a character introduced specifically as being eloquent and skilled at calming mobs should, at long last, prove to be eloquent and able to calm a mob, but that this should be the *only* time he has done so. It is no less surprising that Tacitus should choose to make no more of it than to describe the aftermath of Primus' (short) speech with the five words *his ac talibus mitigati animi*. But this is easily explained: the story of powerful eloquence during the civil war is not the story Tacitus wanted to tell. His integrity as an historian²⁸⁶ may have forbidden him entirely to gloss over an event

286 Tacitus was not a modern historian, and he was free to embellish to a much larger degree than we would be comfortable

contrary to his thesis, but his skill as a literary artist did not require him to treat it at any great length. This single success of Primus is a one-off event, and one during a series of occurrences – the Flavian march from northern Italy to Rome – in which he will fail much more often than he succeeds at calming a mutiny. What I argue Tacitus is doing with his narrative, namely showing us how eloquence fails to live up to its traditional and idealized role during the civil war of AD 69-70, still holds even in the face of this one historical counter-example. Tacitus may have felt compelled to mention it, but he did not assign it any more narrative (and therefore historically interpretive) importance than it seemed to him to deserve.

As the Flavians advance closer and closer to Rome, the Senate votes to send emissaries to the armies and their generals to persuade them of the benefits of peace; but (*H.* 3.80.1-2):

Varia legatorum sors fuit. Qui Petilio Ceriali occurrerant extremum discrimen adiere, aspernante milite condicionis pacis. Vulneratur praetor Arulenus Rusticus: auxit invidiam super violatum legati praetorisque nomen propria dignatio viri. Pulsantur comites, occiditur proximus lictor, dimovere turbam ausus: et ni dato a duce praesidio defensi forent, sacrum etiam inter exteras gentis legatorum ius ante ipsa patriae moenia civilis rabies usque in exitium temerasset.²⁸⁷

The legates who visited the camp of Petilius Cerialis were in great danger – *not*, however, because of any action or disposition of Cerialis, but because the soldiers did not want peace (presumably since, as

with. He does not, however, lie. On truth and untruth in ancient historiography, especially for Tacitus, see: Ryberg (1942) 383-404, Walker (1952) 110-157, Wellesley (1954) 13-33 and (1987) 450-451, Martin (1969) 117-147 and (1981) 24, Miller (1969) 99-116, Goodyear (1970) 29-44, Dunkle (1971) 12-20, Wiseman (1979) and (1993) 122-146, Fornara (1983), Aubrion (1985), Murison (1991) 1686-1713, Brunt (1993) 181-209, Brock (1995) 209-224, Eck (2002) 149-164, Pelling (2002) 143-170, and Hausmann (2009) 136-140; see also Woodman (1998) 1-20, (1998) 70-85, (2008) 23-31, and (2012) 1-16.

287 “The legates were treated differently. Those who encountered Petilius Cerialis underwent extreme danger, because the soldiers disdained peace terms. The praetor Arulenus Rusticus was injured: more than the violated name of a legate and a prefect, his own dignity increased the indignation. His companions were beaten, his nearest lictor was killed when he tried to divide the crowd; if they had not been defended by a guard given by the general, the rights of envoys, sacred even among foreign nations, would have been violated bloodily by civil furor beneath the very walls of the *patria*.”

Tacitus has mentioned of their motivations before, peace does not lead to plunder). The matter-of-factness is disturbing: the envoys there underwent great danger, *aspernante milite condicionis pacis*; the simply explanatory ablative absolute is written with no other comment, as though there were nothing more natural than that the attitude of the *soldiers*, rather than of the *general*, should determine the reception enjoyed by emissaries. This may be the case in the *Histories*, but surely it is not how things are supposed to work in a Roman army. But thanks to the attitude of the soldiers, the envoys are received very poorly indeed: they are assaulted by crowds, one of the Arulenus' lictors is killed by the mob, and it is only with great difficulty that Arulenus himself escapes with his life. Tacitus expresses his shock and outrage when he says that the Romans nearly violated the *sacrum etiam inter externas gentis legatorum ius* – for the Romans are hardly acting like Romans. Yet these are the Flavian soldiers, and this is the control that their generals have over them.

Things are not entirely bleak, however: *aequioribus animis accepti sunt qui ad Antonium venerant, non quia modestior miles, sed duci plus auctoritatis* (*H.* 3.80.2: “Those who came to Antonius Primus were received with more even hearts, not because the soldiery was more modest, but because the general had more *auctoritas*”). The emissaries who visited the army of Primus were not treated with violence as those who visited Cerialis – but Tacitus is quick to assure us that this is *not* because Primus' soldiers were any less headstrong or violent than those of Cerialis (we have, after all, seen them mutiny several times, and it was Primus' soldiers who wanted to sack Cremona rather than let it surrender). Rather, their general had more *auctoritas*. As before, it is surprising that Tacitus makes no more of this. The entire description of the delegation to Primus is what I have quoted above; Tacitus has no more to say about it. By now, however, we should be able to read the signposts without needing the author to point them out. We are explicitly told that Primus' army is just as undisciplined as that of Cerialis, and since we already know this is at least partly Primus' fault, whatever follows cannot be an unmixed compliment. We are told that Primus has more *auctoritas* with the troops than Cerialis (and

we can note in passing that the lack of violence in Primus' camp is certainly *not* the consequence of any restraining effect of his eloquence; no speech is given or hinted at). The *auctoritas* of a general in the *Histories*, however, is not necessarily a good thing: we know that Primus has acquired his *auctoritas* by playing the demagogue, and that if he has any influence with his troops, it is because of he has flattered and courted them shamelessly; Cerialis' *lack* of such influence, paradoxically, could possibly indicate a degree of praise.²⁸⁸ The statement *non quia modestior miles, sed duci plus auctoritatis* is therefore, *at best*, a very back-handed compliment indeed.

The fate of one of the envoys in particular is interesting enough for Tacitus to mention it separately: that of Musonius Rufus, the famous philosopher, who was also prominently involved in public affairs. Tacitus describes the scene (*H.* 3.81.1-2):

Coeptabatque permixtus manipulis, bona pacis ac belli discrimina disserens, armatos monere. Id plerisque ludibrio, pluribus taedio: nec deerant qui propellerent procularentque, ni admonitu modestissimi cuiusque et aliis munitantibus omisisset intempestivam sapientiam.²⁸⁹

Musonius attempts, in essence, to give the troops a philosophy lecture. His behavior is, rightly, taken as ridiculous: the cynical Tacitus is poking fun at a naïve, wildly over-optimistic intellectual who has no idea how the depressing real world actually works. The picture is not entirely realistic: Musonius Rufus, after all, is no armchair philosopher, but was among the leaders in the attempt to punish the Neronian *delatores* and had spoken in the Senate on this matter (4.10). Even if Tacitus is allowed his fun, however, we have to ask ourselves: *why* is the behavior of Musonius in this instance so ridiculous?

²⁸⁸ Petilius Cerialis will enjoy significant military successes later in the *Histories*: it is he who finally puts down the Batavian revolt, which he does with (mostly) old-fashioned Roman firmness and old-fashioned Roman discipline. He had served in Britain under Suetonius Paulinus during Boudicca's rebellion and so had impeccable military credentials. We may note that, whereas Cerialis wins victories against barbarians, those of Primus are all against fellow Romans, and are therefore not unmixed with opprobrium.

²⁸⁹ “And, mixing with the common troops, he began to lecture on the benefits of peace and the chances of war, and to advise armed men. This was taken as a joke by many, with boredom by more: nor were men lacking who would have hurled him forth and trampled him down, if he had not taken the advice of the most modest soldiers and heeded the threats of the others, and ceased his untimely philosophy.”

He is, after all, a man not only wise, but also eloquent. Surely his attempt to use his powers of speech to calm the soldiery and persuade them not to imbue their hands with Roman blood is commendable – is even, considering Virgil 1.148-153, what he would have been *expected* to do? Nor was it a foregone conclusion that he would fail so miserably. The great Julius Caesar had once famously ended a mutiny simply by calling his soldiers *Quirites*: stranger things had happened. Musonius need not have hoped for any so great a success. His attempt is not *in itself* foolish; it only seems so ridiculous, so wildly out-of-touch with contemporary realities, because of the specific circumstances in which it was tried – namely, the civil wars and repeated mutinies of AD 69-70. It is only because the reader of the *Histories* is already accustomed to the bleak reality of the times, only because we have already encountered mutiny after mutiny and example after example of the soldiers' headstrongness, and failure after failure of oratory, that Musonius' attempt to use philosophy and eloquence to placate an unruly military strikes us as so misplaced. Not only, therefore, does his failure underline the unimportance of eloquence in these circumstances, but the very fact that the reader has been trained to view him – somewhat unfairly – as ridiculously naïve emphasizes just how hard Tacitus has been driving the point home.

Histories 3.82 returns us to the by now expected pattern. Antonius Primus again urges his troops to delay their advance, and they again ignore him (3.82.1):

Temptavit tamen Antonius vocatas ad contionem legiones mitigare, ut castris iuxta pontem Mulvium positis postera die urbem ingrederentur. Ratio cunctandi, ne asperatus proelio miles non populo, non senatui, ne templis quidem ad delubris deorum consuleret. Sed omnem prolationem ut inimicam victoriae suspectabant.²⁹⁰

The soldiers therefore proceed at once and enter Rome immediately. Tacitus does not actually say that

²⁹⁰ “Antonius called the legions together and attempted to calm them, so that they would set camp by the Mulvian bridge and enter the city the next day. His reason for delay was lest the soldiers, exasperated by battle, would spare neither the people, nor the Senate, nor even the temples and shrines of the gods. But they looked askance at every delay as inimical to their victory.”

Primus gave a speech, but a *contio* necessarily implies that he did so, making this another instance of a time when Primus has tried to use his vaunted oratory to restrain his over-eager troops and persuade them of the need for delay. His fears are shocking: that the soldiers would go on a rampage of murder and pillage within Rome itself – a not unreasonable fear, considering their behavior at Cremona, but one that reveals just what he thought of them. The soldiers, however, ignore Primus utterly: as before, they do not want peace or delay, they want victory, with all the chances of satisfying their avarice and perhaps their bloodlust that that implies. And so once again the supposed eloquence of Primus is ineffectual, and the troops show their inherent uncontrollability.

In contrast to Primus, there is one figure who demonstrates that he knows how to deal with a mutiny. This is Mucianus, Vespasian's lieutenant, who effectively rules Rome while the emperor is still in the East. At *Histories* 4.46.1, even after the final Flavian victory, another mutiny nearly breaks out (*militaris seditio prope exarsit*). The reason lay in the consolidation of the army following the reunification of the Empire: a large number of troops wanted to be restored to the praetorian guard, including many who had served Vitellius. There were, moreover, too many legionaries under arms for the treasury to bear the expense of the bonuses promised them – especially when many of these, too, had fought for Vitellius against Vespasian. The troops were near mutiny, and so Mucianus entered the camp to address the situation. The Vitellians, and most especially the barbarian troops from Germany and Britain, were ordered to appear without weapons, while the rest of the legions stood in battle array separate from them, their reaction one of terror (4.46.3): being so separated, the Vitellians feared that they were being destined for slaughter. Tacitus himself says nothing about Mucianus' intentions, but theirs was not an unreasonable guess (though the famed craftiness of Mucianus might incline us to doubt that he had any such plans, and may have engineered the entire situation). In any event, when the Flavian soldiers too begin to plead for their ex-Vitellian comrades, Mucianus calms their clamor by assuring them that the civil war is over now, and they are all soldiers of the same emperor (46.3:

eiusdem imperatoris milites appellans). So that day ended, but not the mutiny. The soldiers continued to demand service in the army and the praetorian guard – but observe Mucianus' treatment of them (46.4):

Preces erant, sed quibus contra dici non posset; igitur in praetorium accepti. Dein quibus aetas et iusta stipendia, dimissi cum honore, alii ob culpam, sed carptim ac singuli, quo tutissimo remedio consensus multitudinis extenuatur.²⁹¹

The soldiers continue to make their demands, and Tacitus explicitly categorizes these as demands which could not be refused (literally “against which it was impossible to speak”): Mucianus will have known he could no longer oppose them. And so he does not: their requests are granted, and they are allowed to join the praetorians. Then, however, he begins to get rid of them: some are dismissed on some honorable pretext, others for misdeeds (real or imagined). In this way, Mucianus is able to get around the united front of the soldiers by removing them one by one, giving in to the group as a whole but exercising his power over individuals. Thus is the mutiny averted, not by confronting it head-on, nor by attempting to calm it with a speech, but by deceiving the soldiery: Mucianus ostensibly yields and grants their wishes, defusing their rage, then immediately begins to move against them anyway, only dismissing them one-by-one instead of en masse as originally planned, in such a way as to avoid being detected and risking another flare-up. Tacitus mentions no downside, and in fact praises this means of dealing with a multitude: this is the author-approved way to deal with mutinies and unruly soldiers in the *Histories*.

The last example we shall discuss is also one of the most dramatic. At the height of the Batavian revolt of Julius Civilis (to be discussed in much greater depth in the next chapter) – a revolt which is drawing in many of the Gauls into a kind of Germano-Gallic alliance – the Roman commander in the

²⁹¹ “They pled, but their pleas were such as could not be spoken against; therefore they were accepted into the praetorian guard. Then those that were aged or that had performed meritorious service were dismissed with honor; the others were dismissed for some fault, but gradually and one at a time, which is the safest remedy by which the unity of a multitude is weakened.”

area, Vocula, learns of the planned treachery of Classicus and Tutor, two Gallo-Roman generals leading allied troops (*H.* 4.57). Vocula is given two speeches. The first is short and is addressed primarily to Classicus and Tutor themselves; it goes unheeded, predictably, and the aftermath is as follows (4.57.3):

Haec ferociter locutus, postquam perstare in perfidia Classicum Tutoremque videt, verso itinere Novaesium concedit: Galli duum milium spatio distantibus campis consedere. Illuc commeantium centurionum militumque emebantur animi, ut (flagitium incognitum) Romanus exercitus in externa verba iurarent pignusque tanti sceleris nece aut vinculis legatorum daretur.²⁹²

Vocula's speech thus fails, and Classicus and Tutor persist in their treachery: they strike camp and settle some little distance away, from whence they tamper with the loyalty of Vocula's troops, hoping that they can perhaps bring about a mutiny and a mass-defection to their own side. The magnitude of the planned treason still shocks Tacitus nearly forty years later: that a Roman army should even be asked to swear an oath to a foreign power or to murder its own leaders was wicked beyond all comprehension.

Vocula, however, saw the situation as sufficiently dire (and the loyalty of his troops as sufficiently questionable) to see a need for immediate action: *Vocula, quamquam plerique fugam suadebant, audendum ratus vocata contione in hunc modum disseruit* (*H.* 4.57.3: “Vocula, though many were urging him to flee, thought it was a time to act boldly, and so he called a *contio* and spoke thus”). Thus begins Vocula's second speech, a speech that is of a very considerable length (38 lines in the OCT) and that is given the distinction (rare in Tacitus) of being in *oratio recta* from beginning to end.²⁹³ It is therefore worth heavy excerpting; Vocula begins (4.58.1):

292 “Vocula spoke this fiercely. After he saw that Classicus and Tutor persisted in their treachery, he turned around and encamped at Novaesium; the Gauls encamped two miles away. The hearts of the centurions and soldiers that wandered thither were tampered with, so that – unheard of crime! – a Roman army should swear a foreign oath and should give, as the pledge of such a crime, the murder or capture of its officers.”

293 Keitel (1992) 327-337 has an excellent article on Livian allusions in this speech; she argues that Vocula is being compared to early-Republican generals who underwent *devotio* to save their troops and to secure victory, and that the comparison underscores the decline in morals from Republic to Principate.

Numquam apud vos verba feci aut pro vobis sollicitior aut pro me securior. Nam mihi exitium parari libens audio mortemque in tot malis ut finem miseriarum expecto: vestri me pudet miseretque, adversus quos non proelium et acies parantur; id enim fas armorum et ius hostium est: bellum cum populo Romano vestris se manibus gesturum Classicus sperat imperiumque et sacramentum Galliarum ostentat.²⁹⁴

Vocula claims, in honorable and even heroic terms, that he speaks unconcerned for himself: it is his troops for whom he is worried – *not* that they are in any danger of destruction in battle, but that they will commit an unheard-of crime and suffer the unimaginable shame of following the Gauls in a war against their fellow Romans.²⁹⁵ He tries to deepen the feeling of shame by recalling past examples of fortitude and fidelity (58.2):

Adeo nos, si fortuna in praesens virtusque deseruit, etiam vetera exempla deficiunt, quotiens Romanae legiones perire praeoptaverint ne loco pellerentur? Socii saepe nostri excindi urbis suas seque cum coniugibus ac liberis cremari pertulerunt, neque aliud pretium exitus quam fides famaue.²⁹⁶

Vocula goes on to say that it would be understandable, though still shameful, if the Romans were afraid because outmatched; but in fact their position is much more advantageous than that of the rebels, with

294 “Never have I spoken before you either more concerned for you or less concerned for myself. For I hear willingly that destruction is prepared for me, and I await death amid so many evils as the end of my misery: but I feel shame and pity for you, against whom no battle or battle-line is prepared (for that is the normal thing in war, and it is just for enemies to do): Classicus hopes to wage war against the Roman people with your hands, and he holds out to you the empire of all Gaul and the oath of service thereto.”

295 Most of the troops will have been Gauls or Germans by birth, and the auxiliaries will not even have been Roman citizens; but they were still an army of Rome, and Vocula addresses them as such. A degree of irony may possibly be intended: Vocula often reminds his troops of the virtue of the Romans of old and encourages them to be like their ancestors, rather than following a Treveran or a Batavian; but if his soldiers *are* in fact Treveri and Batavi, his arguments are misplaced and irrelevant to contemporary reality.

296 “If at the present moment fortune and bravery fail us, are we lacking ancient examples of how often Roman legions preferred to perish than to be driven from their position? Our allies often endured the destruction of their cities and the burning of themselves, their wives, and their children, nor did they hope for any other reward for their destruction than the reputation of having kept faith.”

numbers on their side and extensive defensive fortifications and the possibility of reinforcements and even an ample supply of money: for, he says, there had recently been a donative, “and whether you prefer to interpret it as given by Vespasian or by Vitellius, you certainly received it from a Roman emperor” (58.3: *quod sive a Vespasiano sive a Vitellio datum interpretari mavultis, ab imperatore certe Romano accepistis*). Perhaps the troops have something against Vocula personally: in that case, there are other legates, other tribunes they could follow; they were under no necessity to accompany Classicus or Civilis in invading Italy. But if they did so (58.5):

An, si ad moenia urbis Germani Gallique duxerint, arma patriae inferetis? Horret animus tanti flagitii imagine. Tutorine Trevero agentur excubiae? Signum belli Batavus dabit? Et Germanorum catervas supplebitis? Quis deinde sceleris exitus, cum Romanae legiones se contra derexerint? Transfugae e transfugis et proditores e proditoribus inter recens et vetus sacramentum in visi deis errabitis?²⁹⁷

Vocula here stops to imagine, and to elaborate on all the shameful details, just how far the soldiers would be willing to descend if they mutinied and joined the Gauls. It hardly needs saying that all the options would be deeply shocking to a Roman audience; all these facets of the potential crime are unimaginable; *horret animus tanti flagitii imagine*. From here Vocula begins his peroration (58.6):

Te, Iuppiter optime maxime, quem per octingentos viginti annos tot triumphis coluimus, te, Quirine Romanae parens urbis, precor venerorque ut, si vobis non fuit cordi me duce haec castra incorrupta et intemerata servari, at certe pollui foedarique a Tutore et Classico ne sinatis, militibus Romanis aut innocentiam

297 “Or, if Germans and Gauls should lead you to the walls of the city, will you bear arms against your fatherland? The heart shudders in imagining such a crime. Will the guards be assigned by the Treveran Tutor? Will a Batavian give you the signal for battle? Will you fill up the ranks of Germans? And then what will be the result of your crime when the Roman legions march themselves against you? Will you change from deserters to deserters, traitors to traitors, and wander between your new and your old oath, odious to the gods?”

detis aut maturam et sine noxa paenitentiam.²⁹⁸

The language is fittingly solemn, even religious²⁹⁹ (the repeated anaphoric *te* is characteristic of the hymnic style, and is common in perorations because of its powerful associations), and perfectly matches Vocula's tone from the beginning of his speech: that he addressed the troops concerned only for their sake, not himself. It strikes one as almost Ciceronian, certainly elevated and dignified by Tacitus' normal standards.

Vocula, then, has given what is on any reading a very powerful and a very eloquent speech. He has used reason to show his troops that they are in no danger from the Gauls and Germans, that in fact the military advantages are all on their own side (justifiably so: the Romans, of course, will eventually win this war). He has dwelt on the unheard-of shame that Roman legions should, of their own free will, desert their general to side with barbarians and external foes, that they should be willing to be led by Gauls in an attack on Italy, perhaps on Rome itself. He has mentioned *vetera exempla* of fortitude and faithfulness, of the stalwart virtue of the legions of old and the absolute loyalty even of non-Roman allies. He has ended with an invocation of Jupiter Optimus Maximus and Romulus Quirinus, the patron deities of Rome, than whom one could imagine none more suitable in an appeal to patriotism. And he has done so in a style that is certainly pleasing and elegant: there is much more parallelism than is usual for Tacitus, the vocabulary is less *recherché* than normal, pairs of nouns and verbs are common – the speech, in short, reads much more like actual Roman oratory than it does like Tacitus. Paired with the direness of the situation, it is among the most powerful and eloquent speeches in the *Histories*.

It is also an utter failure.³⁰⁰ Even by the pessimistic standards of the *Histories*, the sheer extent

298 “I beeech you, Jupiter Optimus Maximus, whom we have worshipped in so many triumphs for 820 years, and you, Quirinus, father of the Roman city, that if it is not your wish that this camp should be preserved uncorrupted and inviolate while I am general, that you certainly not permit it to be polluted and spoiled by Tutor and Classicus, and that you give the Roman soldiers either innocence or a timely and harmless repentence.”

299 It is this that Keitel (1992) 327-337 seizes upon to make the comparison to Livian generals who underwent *devotio*.

300 Levene (2009) 212-224 discusses how the speeches of the *Histories* are, like Vocula's, more traditional and republican in form than those of the *Annals*, intentionally: Tacitus, he argues, is putting republican-style oratory in circumstances where it no longer belongs, and the result is to make all the major speeches seem anachronistic and irrelevant.

of its failure is extraordinary. Here is the aftermath (*H.* 4.59.1-2):

Digressum Voculam et de supremis agitantem liberti servique prohibuere foedissimam mortem sponte praevenire. Et Classicus misso Aemilio Longino, desertore primae legionis, caedem eius maturavit; Herennium et Numisium legatos vinciri satis visum. Dein sumptis Romani imperii insignibus in castra venit. Nec illi, quamquam ad omne facinus durato, verba ultra suppeditavere quam ut sacramentum recitaret: iuraveri qui aderant pro imperio Galliarum.³⁰¹

Vocula had little enough faith in his own speech: immediately after delivering it, he departed and prepared to commit suicide. Tragically, he was persuaded to wait, and so instead of a (for a Roman) noble, self-inflicted death, he is murdered on Classicus' orders – by a Roman deserter. Classicus enters the Roman camp, and the troops swear allegiance to the Gallic empire. They will soon go to war beside the Gauls and Germans, against Rome. Vocula's oratory has failed completely: he tried to inspire his troops with loyalty, and they deserted to the Gauls; he tried to dissuade them from a vile crime, and he himself was murdered by a forsworn Roman working for Classicus, as the other loyal officers were taken prisoner by their own men. This example was something of the *experimentum crucis*: in few of the other cases we have examined has a general given a more moving speech, and in none were the stakes ever more dire: not mutiny or disorder – which would be bad enough – but high treason and allegiance to a foreign power. If this speech could fail so spectacularly, in these circumstances when it was needed most, then there really is no hope for eloquence.

Time and again, then, we have seen the Roman soldiery disobey and mutiny. During the

301 “Vocula departed; as he was preparing himself for the end, his freedmen and slaves stopped him from willingly preventing the worst of deaths [i.e., if he had nobly committed suicide, he would not have been murdered by his own men]. Classicus sent Aemilius Longinus, a deserter from the first legion, and hastened his death; it seemed sufficient that Herennius and Numisius be bound. Then, taking up the insignia of a Roman commander, he entered the camp. Though hardened to every kind of crime, no words came to him except to recite the oath: those who were present swore for the empire of all Gaul.”

loosening of authority during the civil war, they have grown increasingly more headstrong. The attempts of some self-serving men to court their favor has only fired their greed and hatred of discipline and rendered them all the more difficult to control, even for those who have bought their (often temporary and questionable) loyalty. On many occasions throughout the *Histories*, emperors and generals try to do the expected thing and restrain the troops by means of oratory; almost invariably, however, these speeches fail. The number of such attempts and such failures suggests that the theme is not accidental, that Tacitus is trying to emphasize something about the actual role of eloquence in contemporary society, namely that it had lost most of the function that it traditionally had in a free society and that Roman ideals still optimistically assigned to it. This is emphasized by the diversity of the speeches: generals and princes speak in many different styles and in many different situations, but all are alike in the monotonous sameness of their failure. The few times in the *Histories* when the speech of a general succeeds confirm rather than undermine this argument: the successes are invariably the consequence of other factors than the speaker's eloquence. Most often, any real influence that a speaker like Otho or Primus possesses with the troops is because they act in ways archetypal of demagogues: they flatter their soldiers as a demagogue would flatter the mob, and so gain their favor, but in consequence they teach the army to disdain authority and, like the demagogue, end up compelled to follow much more often than they are able to lead. Tacitus is thereby demonstrating that the idealized role of oratory is no longer possible: when one loosens the bonds of authority and corrupts discipline, the result is not *libertas* (freedom as a manner of behavior, of which the Romans of the Principate were rarely capable), but license, and a license that allows the worst of men to gain power.

All this is parallel to the other major theme of the *Histories* discussed in this chapter: the role of eloquence in the Senate's conflict with the Principate, as embodied in the *delatores*. There, a senatorial struggle for greater *libertas* in the aftermath of Nero's tyranny led to an attack on the *delatores*, long seen as one of the mainstays of imperial power. This attempt grew through a multitude of speeches and

seemed on the verge of success, when the regime finally took notice and, with almost shameful ease, destroyed it. Here, too, Tacitus is highlighting the traditional connection between *libertas* and oratory, only to show that, with the loss of one, the other is no longer possible. He may regret that it is so, but that does not change what he saw as the facts: *libertas* was dead and could not be restored, and eloquence – proper Roman eloquence, as it mattered in high affairs of state – was gone with it.

There is, however, even in the *Histories*, one major and notable exception to this pessimism. But it is not one which reflects much credit on Rome. The exception centers on the Batavian revolt, and will be the subject of the next chapter.

Chapter 4: The *Histories*, Part Two – The Germans and the Batavian Revolt

The forests and morasses of Germany were filled with a hardy race of barbarians, who despised life when it was separated from freedom; and though, on the first attack, they seemed to yield to the weight of the Roman power, they soon, by a signal act of despair, regained their independence, and reminded Augustus of the vicissitudes of fortune.

— Edward Gibbon, *Decline and Fall* Chapter 1

Regno Arsacis acrior est Germanorum libertas.

— Tacitus, *Germania* 37.3

The freedom of the northern barbarians was a truism of ancient historiography, no less than the danger posed by their warlike spirit to the more polished Italians. It is fitting, therefore, that when Tacitus has occasion to mention the revolt of the Batavi and allied tribes in the *Histories*, he uses all the resources at his disposal to paint the war as an epic³⁰² clash of worlds between civilized, imperial Rome and the wild but free savages of the North.³⁰³

It should not, moreover, be surprising that Tacitus uses such a picturesque conflict to underscore major themes from the rest of the *Histories*. In particular, the freedom of the Germans acts as a foil to the (lost) freedom of the Romans that we discussed in the previous chapter. Where the Senate and the legions either failed in attempts to regain their ancient *libertas* or showed themselves unworthy and incapable of it, the Batavian revolt³⁰⁴ centers on a people stereotypically renowned for their freedom

302 See Joseph (2012), aptly titled *Tacitus the Epic Successor*.

303 The Germans chiefly, but the Britons and Gauls too (for one barbarian from northern Europe was much the same as another to the Romans), were stereotypically free. But *libertas* implies *virtus*, and since the Germans moreover were not corrupted by luxury, their virtue (in the sense both of martial skill and of moral purity) was therefore also a commonplace. Tacitus himself, although he does not hesitate to point out the dark side of the German revolts, often expresses similar views, in the *Germania* and elsewhere, and he often displays no little sympathy with Britons and Germans who rise up and assert their *libertas* against Rome. It is enough to name Arminius, the *liberator haud dubie Germaniae*, but there are many others in Tacitus' works. See Walker (1952) 26-32 and 72, Jens (1956) 349-351, Brunt (1960) 494-517, Edelmaier (1964), Merkel (1966), Dorey (1969) 1-18, Goodyear (1970) 9-23, Dyson (1971), Baxter (1972) 246-269, Straub (1980) 223-231, Martin (1981) 116, Boesche (1987) 189-210, Roberts (1988) 118-132, Benario (1990) 163-175 and (1991) 3332-3352, Morford (1991) 3425, Trzaska-Richter (1991), Benario (1994) 252-258, Timpe (1995) 145-168, Adler (2008) 173-195 and (2011), Birley (2009) 47-58, Liebeschuetz (2012) 73-94, Rives (2012) 57, Lavan (2013) 73-123, Tan (2014) 1-24. But Woodman (2014) 15-25 points out that much of this might be rhetorical commonplace and due to the oratorical practice of giving the other side good arguments. See *H.* 4.68.5 and p. 34 n. 64 below.

304 It is called the “Batavian revolt” or *Bataveraufstand* as shorthand, because the leader of the revolt, Julius Civilis, was a Batavian. In fact a multitude of different Germanic and Gallic tribes was involved. It is much debated whether Tacitus

and notorious, in Tacitus' day, for some of the most severe defeats ever inflicted on a Roman army and for one of the only successful (and, as we know in retrospect, *permanently* successful) native rebellions against Roman imperialism. As with the Senate's assault on *delatores* and the disobedience of the soldiers, however, I want to focus on the role of oratory and its connection with freedom in Tacitus' portrayal of the Batavian revolt, an aspect that has received very little attention from scholars. Speeches by Romans, as we saw, were almost invariably ignored or otherwise ineffectual, because the long servitude of the Principate had made any real function of eloquence impossible in that society; by contrast, speeches by or to Germans in the *Histories* are almost invariably successful, for they still retained their ancient freedom and independence. Moreover, where Tacitus often raised expectations of Roman success only to dash them (as with the speech of Vocula, a respected general who makes an impressive speech on loyalty and fidelity, only to be murdered by his own troops), the opposite occurs with the Germans: we are often biased against the Batavian leader Civilis, and it is often made to seem that his speeches must fail (and indeed *ought* to fail), only to have his oratory succeed beyond all expectation. Sometimes literary art and allusion alike combine to create a hopelessly pessimistic situation, until the barbarians of Germany inexplicably heed the voice of eloquence, with such a happy result that we are almost surprised to find we are still reading Tacitus.³⁰⁵ This is not to overstate the virtue of the Germans: they have more than their share of faults in the *Histories*. Nevertheless there is a clear contrast between, on the one hand, the *libertas* of the northern barbarians, and on the other, the slavishness of the Romans.³⁰⁶ And one of the key ways in which this contrast manifests itself is in their

presents the Batavian revolt as a domestic or a foreign war, and whether he is right to do so: see Brunt (1960) 494-517, Jal (1963) 310-318, Merkel (1966), Nicols (1987) 374-375, Trzaska-Richter (1991) 187-211, Schmitt (1993) 141-160, Hose (1998) 297-309.

305 This occurs at the debate whether to destroy Cologne at *H.* 4.63-65, discussed extensively below. The city is spared. Nonetheless, Tacitean cynicism will eventually reassert itself later when the people of Cologne, after having traded hostages, slaughter the women and children entrusted to them as a sign of peace.

306 It is often debated to what degree Tacitus' Germans are hypocrites or genuine freedom-fighters. The truth is probably in the middle, but there is strong reason to presume that Tacitus was at least partly sympathetic to the barbarians whose freedom and virtue, no less than their savagery, was a topos in Roman historiography. Civilis indeed sought *regnum*, but it is doubtful that this fact, mentioned only once and only in passing, is meant to discolor *all* his other words and actions. Indeed, I would argue that the fact that the average Germans respond so positively to eloquence is a strong indication

different responses to oratory. This chapter will therefore examine the passages from the *Histories* relevant to the role of eloquence at every stage of the Batavian revolt, from its beginning to its end.

Julius Civilis comes to prominence only late in the extant books of the *Histories*, although he is mentioned very early on. Soon after Vitellius raises the standard of rebellion, we are told that he saved Civilis from some unspecified danger because he did not wish to alienate the Batavi, a powerful tribe to whose royal house Civilis belonged and who would lie in Vitellius' rear once he began his march on Italy (*H.* 1.59.1).³⁰⁷ The nature of the danger from which he is saved is not learned until much later; Tacitus refrains from mentioning it until he is ready to discuss the Batavian revolt, so as to create the impression (probably accurate) that a catalyst for Civilis' rebellion was anger at the treatment that he had received from the Romans. At *H.* 4.13.1, we are told that the brother³⁰⁸ of Civilis, a certain Julius Paulus, was executed by order of the Roman governor on false charges of rebellion (probably complicity in the rebellion of Vindex) – and it is noteworthy that Tacitus explicitly states that the charges were false and Paulus was innocent. Civilis himself was enchained and sent to Nero; fortunately, Nero was no longer able to decide his fate, and he was pardoned by Galba. But he was not yet out of danger: he presumably returned to Lower Germany, for we are next told that the soldiers of Vitellius (who had not yet crossed the Alps) demanded his death, and it was apparently with some

that they at least were concerned with *libertas*. See Jens (1956) 331-352, Brunt (1960) 494-517, Edelmaier (1964) 59-83, Merkel (1966), Trzaska-Richter (1991) 187-211, Schmitt (1993) 141-160, Hose (1993) 297-309, Keitel (1993) 39-58, Rutherford (2010) 312-330. Special note should be made of Keitel's excellent article, in which she argues that the second half of *Histories* 4, contrary to some scholars' arguments, does *not* see a divergence between the servility of the Senate and the freedom of the Germans; but that the Batavians are full of hypocrisy, and they want an empire over others instead of freedom for themselves. Nonetheless I will have ample occasion to disagree strenuously with Keitel.

307 The Batavi lived in the modern Netherlands, near the delta of the Rhine and the Waal. Although not incorporated into the Empire, they had a treaty that obliged them to provide auxiliaries for the Roman army, where their fighting prowess was highly respected (*G.* 29.1-2). A very disproportionate share of the Roman forces were made up of Batavi, as many as 10,000 men – roughly equivalent to two full legions: see Much (1959) 273. Julius Civilis was a Roman citizen according to the common practice of granting citizenship to powerful local dignitaries in the provinces, as part of which practice those so honored usually adopted Roman names (the real name of Arminius, for instance, was almost certainly not “Arminius,” and likely included the *Seg-/Sig-* prefix common among his relatives in the *Annals*); but if Civilis had a Germanic name, it is long forgotten.

308 Heubner (1976) 39. Tacitus explicitly calls them brothers at *H.* 4.32.2.

difficulty that Vitellius saved his life. His brother executed under false charges, himself cast into chains and sent to Rome, and put at peril of his life yet again by the unruly fury of the legions, it is not surprising that Civilis came away embittered and eager for vengeance³⁰⁹ (*H.* 4.13.1: *inde causae irarum*). Tacitus often calls attention to the wrongs inflicted by his fellow Romans upon their subjects (and we should remember that Civilis was not a subject but a citizen, making his treatment even worse), and to the role these injustices often had in fomenting revolt, and he does no less here.³¹⁰

Before we continue, there is one more issue relating to the introduction of Civilis. I would like to argue that there are very strong parallels between Tacitus' account of the beginning of Civilis' revolt and Livy's introduction of Junius Brutus and the beginning of *his* revolt. These parallels often rise to the strength of direct allusions;³¹¹ even if they are not intentional allusions, however, there are certainly strong echoes of Brutus, the founder of the Republic, in Civilis, which would naturally tend to make him a more sympathetic figure. This, in turn, would have great significance for understanding the role of his oratory in the *Histories*.

The two have much more in common than one would assume at first, and Tacitus seems at pains to highlight the similarities. Both are introduced as of royal blood, both had brothers who had been murdered by a tyrant, both would eventually fight against this tyrant, and both are said to have used cunning to hide their ambitions³¹² and their real characters while biding their time. In Livy, Brutus is introduced thus (1.56.7-8):

Comes iis additus L. Iunius Brutus, Tarquinia, sorore regis, natus, iuvenis longe
alius ingenii quam cuius simulationem induerat. Is cum primores civitatis, in
quibus fratrem suum, ab avunculo interfectum audisset, neque in animo suo

309 Tacitus is not unaware of the importance placed by Germanic tribes on the blood feud: see *G.* 21.1.

310 Cf. Edelmaier (1964) 104, Benario (1994) 252-248, Lavan (2013) 124-155. See also Adler (2011) 130-134.

311 Almost none of the parallels are noted by Heubner (1976). They must speak for themselves.

312 Civilis is often condemned as a hypocrite for having ambitions of power. The behavior of Brutus at Livy, 1.56.9-13, the episode of the Delphic oracle, clearly shows his ambitions for the *imperium summum* as well. If Civilis is to be condemned, so is Brutus; if Brutus is exonerated, so must Civilis.

quicquam regi timendum neque in fortuna concupiscendum relinquere statuit, contemptuque tutus esse ubi in iure parum praesidii esset. Ergo ex industria factus ad imitationem stultitiae, cum se suaque praedae esse regi sineret, Bruti quoque haud abnuit cognomen ut sub eius obtentu cognominis liberator ille populi Romani animus latens opperiretur tempora sua.³¹³

Much of this is paralleled in Tacitus' introduction of Civilis at *Histories* 4.13.1. They are both of royal blood: Tacitus' *Iulius Civilis, regia stirpe* recalls Livy's *Iunius Brutus, Tarquinia, sorore regis, natus*. Both of their brothers had been murdered: Tacitus has *Paulum Fonteius Capito falso rebellionis crimine interfecit*, where Livy says *fratrem suum ab avunculo interfectum audisset*. Where Livy's Brutus affected a far different *ingenium* from his real self, fearing danger from the king, Tacitus' Civilis is *ingenio sollers* and pretends to be a friend of the Romans for fear of facing them openly before his plans were ready (4.13.2). Just in the introduction of them, therefore, we see significant similarities: both were of royal blood and had lost brothers to the powers that be, and both, for fear of attracting too much notice (from those who had killed their brothers) before they were ready, cunningly pretended to be something harmless and innocuous, something other than they were. Both, in the meanwhile, bided their time and watched for their moment.

The parallel only deepens when we proceed to the actual beginning of their respective rebellions. I present the account of Tacitus (*H.* 4.14.1):

Igitur Civilis, desciscendi certus, occultato interim altiore consilio, cetera ex eventu iudicaturus, novare res hoc modo coepit. Iussu Vitellii Batavorum iuventus ad dilectum vocabatur, quem suapte natura gravem onerabant ministri

313 "As their comrade was added Lucius Junius Brutus, born of Tarquinia, the king's sister, a youth of a far different character than the one he pretended. When he had heard that the leading men of the state, including his own brother, had been killed by his uncle, he determined that he had nothing to fear of the king and nothing left to hope for in fortune, and that he would be safe in contempt when there was little protection by the law. Therefore, diligently changing to an imitation of stupidity, even allowing himself and his goods to be prey for the king, he hardly even refused the name of 'Brutus' so that, hiding beneath the cover of that name, the liberator of the Roman people might bide his time."

avaritia ac luxu, senes aut invalidos conquirendo, quos pretio dimitterent; rursus impubes et forma conspicui (et est plerisque procera pueritia) ad stuprum trahebantur.³¹⁴

The complaints of the Germans are a draft worsened by the corruption of the Roman officials, and the debauchery of their youth by said officials (and we should note again Tacitus' open admission of Roman injustice). It is worth remembering that the revolt of Brutus begins amid a general discontent caused by forced service on the king's wars and on his public projects (Livy 1.57.1-4, 59.9). The catalyzing event for Brutus, however, is of course the rape of Lucretia. And the rape of Lucretia is hardly different from the acts of lust perpetrated by the Roman officials; both involve tyrannical behavior on the part of the powerful acting as though their subjects are there for them to use as they see fit. Livy refers to the rape of Lucretia as a *stuprum* (1.59.8); Tacitus says *ad stuprum trahebantur*. In the case of both the Romans and the Batavi, then, there is an atmosphere of general discontent caused by levies and corruption, exacerbated by acts of *stuprum*.

The description of such outrages is followed, in both Livy and Tacitus, by a speech, by Brutus and Civilis respectively, urging the people to take up arms and vindicate their wrongs. Here we find significant verbal parallels. In Tacitus, the *primores gentis* are called together (*H.* 4.14.2); in Livy, the *primores civitatis* (1.59.6; the Batavi were a *gens* but not a *civitas*). Tacitus has *promptissimos vulgi ... vocatos* for Livy's *populum advocavit* (1.59.7); in Livy, moreover, they are summoned *in forum*, while Tacitus has *in nemus* (for the Germans have no *forum* and do their public business in a *nemus*: *G.* 9.3, 39.2; *A.* 2.12.1).³¹⁵ In Tacitus, Civilis refers to the Roman officials as coming with a *gravi comitatu et superbo* that comes *cum imperio*; in Livy, Brutus mentions the *superbia ipsius regis* (1.59.9; Civilis

314 "Therefore Civilis, determined to revolt but for the time hiding his deeper purpose, ready to judge the rest according to the outcome, began the revolution thus. By order of Vitellius, the youth of the Batavi was called to a draft, which, onerous enough by its very nature, the officers in charge worsened by their greed and luxury, seeking old men and invalids whom they might dismiss for a price; at the same time, the children and those conspicuously beautiful (and most of them are tall even as children) were dragged away for debauchery."

315 See Much (1959) 141.

could not refer to a Roman *regnum*, but *cum imperio* is proper and corresponds to Livy's *regis*). The result, to skip ahead slightly, is in Tacitus that *perpulere ut dilectum abnuerent*; in Livy, *perpulit ut imperium regi abrogaret* (1.59.11). Brutus urges the Romans to rise *adversus hostilia ausos* (59.4: “against those who had dared hostile deeds”); the same phrase, *hostilia ausus*, soon occurs in Tacitus (4.15.2). Notably, for our purposes, both speeches are wildly successful: Brutus persuades the Romans to expel the kings, and Civilis (a rarity in the *Histories*!) is heard *magno cum adsensu* and persuades the Batavi to rise against the Romans (4.15.1). While there is no direct verbal allusion, there is perhaps an echo in Tacitus of the immediately subsequent actions of Livy's Romans: in Livy, Brutus immediately proceeds to the camp at Ardea to gain the support of the army there (1.59.12); in Tacitus, messages are sent to the neighboring tribe and the local auxiliary cohorts to gain *their* support (4.15.1); where the Romans then proceed directly to have an election (Livy 1.60.4), the Germans do likewise (*H.* 4.15.2).

It is possible, then, that Tacitus has based his account of the beginning of the Batavian revolt on Livy's depiction of the beginning of the Roman uprising against the Tarquins at the birth of the Republic. Civilis strongly recalls the liberator Junius Brutus, to the point that Tacitus seems to have modeled many aspects of his character, and to have focused attention on the relevant biographical facts, in order to compare the two. Why does this matter? If Civilis is based to some degree on the founder of the Roman Republic, it goes far to establish him as a sympathetic figure. With reference to his oratory and the German response to eloquence in the *Histories*, it makes a great deal of difference whether Civilis is an ambitious hypocrite cynically exploiting *libertas*-rhetoric for his own ends or a genuine, albeit a flawed, freedom-fighter. The comparison with Junius Brutus suggests the latter, in which case the power and success of Civilis' oratory are linked to the freedom of the Germans – that is, Civilis can still speak in such a way, and the German tribes can still heed him, because they still live in a society characterized by *libertas*. This, in turn, emphasizes that the function of their oratory in Tacitus'

narrative is as a foil to the Romans of the previous chapter, who were not free, and whose speeches were therefore so often ineffective and powerless.

Let us return, then, to the first example of Civilis' eloquence. He gathers his fellow tribesmen together at a feast³¹⁶ and addresses them (*H.* 4.14.2-3):

A laude gloriaque gentis orsus iniurias et raptus et cetera servitii mala enumerat: neque enim societatem, ut olim, sed tamquam mancipia haberi. Quando legatum, gravi quidem comitatu et superbo, cum imperio venire? Tradi se praefectis centurionibusque; quos ubi spoliis et sanguine expleverint, mutari, exquirique novos sinus et varia praedandi vocabula. Instare dilectum, quo liberi a parentibus, fratres a fratribus velut supremum dividantur.³¹⁷

Civilis begins with the *laus* and *gloria* of the Batavi – a common pairing in polished prose,³¹⁸ and the pairing of nouns is itself characteristic of oratory, which tells us that we are dealing with a high stylistic register. Tacitus (for the speech is of course that of Tacitus) has deliberately chosen to give Civilis a dignified and elegant Latin style. Now the Batavi were technically allies of the Roman people, not part of the Empire and not subjects, but Civilis complains that they were nonetheless treated as slaves. He makes note of the evils of slavery and denounces the injustices committed against them (*iniurias ... et cetera servitii mala*).³¹⁹ Among these evils he notes the fact that they were not even subjected to Roman

316 The motives of Civilis at 4.14.2 might be questioned in that he gathers the Batavi together *specie epularum*, under pretense of a feast, and only addresses them *ubi nocte et laetitia incaluisse videt* – that is, it might seem that he tricks them into attending with a feast and only reveals his plans once they are drunk. At worst, this shows his cunning; Brutus, too, could be theatrical (Livy 1.59.1), and a good orator was supposed to know the opportune moment to speak. But there is nothing necessarily underhanded in Civilis' behavior. It was normal and customary for the Germans to discuss serious matters at their feasts, even while drunk (Tacitus himself is our authority for this: *G.* 22.2), and so Civilis is doing nothing unexpected or insidious.

317 “Beginning with the praise and glory of their nation, he then enumerated the injuries and thefts and the other evils of slavery, for they were no longer treated as an allied state but as slaves. When did a legate, albeit with a grave and arrogant retinue, visit them with *imperium*? They were handed over to prefects and centurions; and as soon as these were satiated with blood and spoils, they were rotated out, and new sources of wealth and different names for plunder were sought. Then the levy pressed upon them, by which children were as good as permanently separated from parents and brothers from brothers.”

318 Heubner (1976) 43 ad loc.

319 Cf. *Ag.* 15.1 on the beginning of Boudicca's revolt; see Heubner (1976) 43 ad loc.

governors, but to military prefects and centurions – who often abused their power with an arbitrariness and an avarice that Tacitus notes elsewhere (*A.* 4.72.1-2), justifying Civilis' statement that they had to be satiated *spoliis et sanguine* (note the emphatic alliteration). He complains, moreover, about the levy: bad enough on its own in that it parted children from parents and brothers from brothers, it is worsened by its inherent liability to abuse. Heubner suggests that the separation will not have been so complete or for so long as Civilis argues, and that he is therefore playing the demagogue here;³²⁰ but we do not need to rely on Civilis' description, since Tacitus himself, in his own voice, tells us that the levy was a genuine hardship abused by the greed of the Roman officials and therefore much hated by the Batavi (*H.* 4.14.1). Civilis then, in an eloquent speech, denounces the unjust practices of the Romans, summarizes the hardships of slavery that the Batavi suffered even though they were “allies” of Rome, and finally urges them to revolt and put an end to these evils.

A reader of the *Histories*, familiar with the first three books' worth of failed speeches that we examined in the previous chapter, might not unreasonably be led to expect Civilis, too, to fail. But this is not what happens. Instead, he succeeds wildly – that is, he manages to persuade the Batavi to rise up against Rome. The speech of Civilis is what sets off the entire Batavian revolt; it is the catalyst for the war that dominates the rest of the extant books of the *Histories*, the war that Tacitus regarded as important enough to give it a sort of “proem in the middle” (*H.* 4.12.1: *id bellum quibus causis ortum ... altius expediam*, in which sense *expediam*, in the future tense, is a significant and poetic term associated with the didactic genre and especially Lucretius and Virgil).³²¹ No other speech has such an outsized influence on events. The very next line, *magno cum adsensu auditus* (*H.* 4.15.1), seems to call attention to the fact that it was Civilis' oratory that was so effective: *auditus* emphasizes not only the speaker himself, but the effect of his words on his audience, who heeded and were persuaded by his

³²⁰ Heubner (1976) 44 ad loc.

³²¹ Tacitus is fond of this usage, and often employs it when he is embarking upon a new subject that he wishes to mark as especially important, e.g. *A.* 4.1.1, *H.* 1.51.1, *G.* 27.2. See Thomas (2009) 62.

eloquence. This usage and this phrase are not nearly as common as one might expect; they are used elsewhere in the *Histories* only at 4.43.1, *tanto cum adsensu senatus auditus est Montanus*, after the (short-lived) success of Montanus' speech on the *delatores* that we examined in the previous chapter. Since this occurred at the height of the Senate's movement towards *libertas*, we might take this reaction of the senators as a characteristic response by a free audience to free debate. The response of Civilis' Germans is to be taken in the same way. Not only is Civilis himself eloquent (for many of the Romans, including Antonius Primus, were skilled speakers), but more important, his audience is capable of properly receiving his eloquence.

The revolt spreads quickly. Emissaries are sent to the other barbarian auxiliaries serving in the Roman army, mostly Batavians but even some Britons, and they join in the uprising (*H.* 4.15.1). The neighboring German tribes then raise the standard of rebellion – first the Canninefates, then the Frisians, of whom Tacitus takes especial note as the first of the transrhenane tribes to revolt (4.15.2). The behavior of the Canninefates is remarkable: they immediately elect Brinno, of a noble family known for resistance to Rome, as war-leader according to the ancient Germanic custom of raising him on a shield. The mere fact of having an election, of course, is indicative of freedom, as is their doing so in the traditional manner. At this point, the Batavi, Canninefates, and Frisians encounter a few regular cohorts in the first open conflict of the revolt, and destroy them; still more tribes join with Civilis, and several Roman cohorts of barbarian origin, Tungrian infantry and some sailors, mutiny and desert to him (16.2-3). Civilis now finds himself in possession of a respectable army of Germans and begins to plan his next move.

It is not long in coming. The fame of the revolt spreads through Gaul as well as Germany, and Civilis' Batavi are apparently seen as an inspiration to all who were discontented with Roman rule: *magna per Germanias Galliasque fama libertatis auctores celebrabantur* (*H.* 4.17.1: “They were celebrated as the authors of freedom with great fame throughout all Germany and Gaul”). Still more

German tribes offer help, and at this favorable point Civilis first reveals part of his larger plans: to incite the Gauls to join the revolt and present a kind of pan-Celto-Germanic front, an alliance that could hope to face the Romans in open war and, possibly, win. Civilis therefore proceeds craftily to gain the trust and favor of the Gauls (4.17.1): those who had been in the Roman army and were captured in the recent fighting, he released from captivity, and he gave them the choice of going or staying. Those who stayed and chose to join the revolt were given military honors; those who departed home were sped on their way with gifts taken from the spoils. All this is well calculated, first, to assure the Gauls that the Germans were not their enemies (since they traditionally raided across the Rhine),³²² and, second, to secure their loyalty. The eloquence of Civilis is likewise helpful; he addresses the Gauls (*H.* 4.17.2-3):

Simul secretis sermonibus admonebat malorum quae tot annis perpassi miseram
servitute falso pacem vocarent. Batavos, quamquam tributorum expertes, arma
contra communes dominos cepisse; prima acie fustum victumque Romanum.
Quid si Galliae iugum exuant? Quantum in Italia reliquum? Provinciarum
sanguine provincias vinci. Ne Vindicis aciem cogitarent: Batavo equite protritros
Aeduos Arvernosque; fuisse inter Verginii auxilia Belgas, vereque reputantibus
Galliam suismet viribus concidisse. Nunc easdem omnium partes. ...³²³

³²² Cerialis will later claim (*H.* 4.73-74) that the Germans *were* the natural enemies of the Gauls, and therefore that the Gauls should side with Rome instead. Merkel (1966) and Keitel (1993) 39-58 seize on this point to underline what they sees as Civilis' essential hypocrisy, that he always intended to use the Gauls to defeat Rome and then to conquer and enslave them in turn; Civilis does, they point out, refer to them as *praeda victoribus* (*H.* 4.76.1). This latter comment is not so damning in context. When Civilis says it, most of the Gauls have already been resubjugated by Rome, and he is encouraging his Germans that the loss of Gallic support does not impair their strength, which always rested with the transrhene tribes anyway. It is stated, moreover, in a council of war that included the Gauls Tutor and Classicus; in their presence, it is most unlikely that Civilis' statement should be interpreted as insidiously or as hypocritically as Merkel and Keitel suggest. Merkel, moreover, regards it as deceptive that Civilis elides the distinction between Gauls and Germans; in actual history, however, there was very little difference between the Gallic tribes on the western, and the Germanic tribes on the eastern, bank of the Rhine. See also p. 36-37 below.

³²³ "At the same time, in secret conversations he admonished them of the evils, having suffered which for so many years they called a miserable servitude by the false name of 'peace.' The Batavi, although not subject to tribute, had taken arms against their common masters, and in the first battle the Romans had been routed and defeated. What would happen if Gaul threw off its yoke? How much strength was left in Italy? The provinces were conquered by the blood of the provinces. They should not think on the defeat of Vindex: the Aedui and Arverni had been ridden down by Batavian cavalry, Belgae had been among the auxiliaries of Verginius; if they considered the issue truly, Gaul had fallen prey to its own strength. Now they were all on the same side. ..."

Although this is not, strictly speaking, part of a set speech, but rather a series of *secreti sermones*, it nonetheless serves the narrative function of a speech and is appropriately filled with rhetorical devices.³²⁴ The sentences *Quid si Galliae ... provincias vinci* are striking: they form a tricolon, the first two elements of which are questions beginning with anaphoric interrogatives, the third being a conclusory *sententia*, which is itself remarkable both for rhyme and for etymological word-play (*provinciarum ... provincias vinci*).³²⁵ The use of the third-person imperfect subjunctive *cogitarent* to express a command in indirect speech, while common, is found especially in historians' speeches and is a favorite of Livy (e.g. 22.44.7). Civilis' arguments are no less powerful than his style. He chides the Gauls, in an argument appealing to any stereotypical barbarian, for enduring slavery and even calling it “peace” (cf. Calgacus at *Ag.* 30.4). The Batavi, he says, had taken up arms even though they were not subject to tribute and so not as enslaved as the Gauls, who presumably had even more reason to avenge themselves upon the Romans. He asserts that, if they joined together, there was no reason to fear the power of Rome: Italy itself was exhausted, and the provinces were usually conquered by the forces of other provinces – a perfectly true statement, when we reflect on the composition of the Roman army and recall that Agricola used only his auxiliary cohorts to defeat Calgacus (*Ag.* 36.1-2). Since both Civilis' audience and Tacitus' would have known this claim to be true, we might expect that it was intended to seem persuasive. The Gauls, moreover, should not be afraid because Vindex's rebellion had so recently been crushed: for Vindex's Gauls had been defeated by other Gauls and indeed by Batavi, but now all these were united and on the same side. Civilis continues (*H.* 4.17.4-5):

Servirent Syria Asiaque et suetus regibus Oriens: multos adhuc in Gallia vivere
ante tributa genitos. Nuper certe caeso Quintilio Varo pulsam e Germania
servitatem, nec Vitellium principem, sed Caesarem Augustum bello provocatum.

³²⁴ Heubner (1976) 49 chides Merkel (1966) 18 for calling the *secreti sermones* a speech, but then refers to *quid si* “als Mittel der rhetorischen Steigerung” which is common in dignified oratory and which Tacitus is fond of using in speeches. The reader is doubtless reminded of Cicero.

³²⁵ See Maltby (1991) 504 on *provincia*.

Libertatem natura etiam mutis animalibus datam, virtutem proprium hominum bonum; deos fortioribus adesse.³²⁶

Civilis continues the trend of standard freedom rhetoric with a concessive imperative: let other nations accustomed to slavery continue to be slaves, with the implied contrast “but we will be free” (cf. *A.* 14.35.2). His next claim, that there still lived Gauls who were born in the days of freedom, cannot literally be true if it is meant to refer to Julius Caesar's conquest,³²⁷ but nonetheless it is an argument Tacitus is fond of using (cf. *D.* 17.4). The reference to the Battle of the Teutoburg Forest serves two functions: first, it is a perfectly true and accurate claim, in that Arminius did indeed defeat the Roman legions, which shows that Civilis has no need to lie or misrepresent facts in order to be persuasive.³²⁸ Second, it underlines that Civilis was, or wished to be, seen as the successor of Arminius – certainly the two are often implicitly compared with one another by Tacitus.³²⁹ This passage is summed up with a *sententia* and some commonplaces typical of Roman oratory: freedom is the natural possession of all living creatures (and therefore the Gauls should join the Germans in asserting theirs), but the valor by which freedom is secured is proper to humans alone, and the gods would help the brave. All this ties in with the standard themes of barbarian freedom. In contrast to the oratory of Romans that we are often led to expect will succeed, it will also be persuasive.

But the optimistic tone of this speech is qualified by Tacitus' next comment: *Sic in Gallias Germaniasque intentus, si destinata provenissent, validissimarum ditissimarumque nationum regno imminebat* (*H.* 4.17.6: “Intent thus upon Gaul and Germany, he was eager, if his plans should come to fruition, to acquire the kingship of the strongest and the richest nations”). This statement is the only

326 “Let Syria and Asia and the East, accustomed to kings, be slaves: there were still alive in Gaul many born before the tribute. Recently indeed, with the death of Quintilius Varus, servitude had been cast out of Germany, and the *princeps* who had been challenged in war then was not Vitellius, but Caesar Augustus. Freedom was given even to mute animals by nature, but valor was the proper good of humans; the gods were present with the more courageous.”

327 Heubner (1976) 50 ad loc. mentions the possibility that *ante tributa* refers neither to the census of Julius Caesar (51/50 BC) or the first census of Augustus (27 BC), but simply says [*die*] *Versuche* [i.e. of scholars] ... *uberzeugen nicht*.

328 As contrasted, e.g., with Antonius Primus: *H.* 3.2.4. Compare Ash (1999) 154.

329 Heubner (1976) 51, Trzaska-Richter (1991) 205.

criticism that Tacitus ever aims at Civilis unambiguously, and so is seized upon by those who wish to demonstrate that Civilis is a hypocrite: he made all these fine-sounding speeches about freedom, they say, but what he really sought was *regnum* for himself; he even planned to use the Germans to conquer Gaul after the Romans had been expelled.³³⁰ Keitel goes further and uses this passage to undermine the entire Batavian revolt: *none* of the participants were fighting for freedom, but instead really wanted to set up an empire where they were the masters rather than the Romans.³³¹ It is true that the phrase *regno imminebat* must mean that Civilis was ambitious of the kingship (cf. Livy 42.29.5), and this is surely not praise. But it is worth considering just how damning this one fact, mentioned once in passing, is meant to be. It cannot be ignored; nor can these few words from this one passage be seized upon, to the exclusion of everything else in the *Histories*, as proof of the “real” goal (as opposed to the pretexts of *libertas*) of Civilis. Tacitus has already told us that Civilis had a very justifiable desire for vengeance against the Romans, who had after all murdered his brother and wrongly imprisoned Civilis himself (*H.* 4.13.1), so Civilis' motivation cannot be pure and unmixed ambition for kingship. Nor is the desire to obtain kingship mutually exclusive with the desire for freedom, either on Civilis' part or that of the Batavi generally. Arminius, after all, was undoubtedly a *liberator*, but was killed *regnum adfectans* (*A.* 2.88.2). A people's desire for freedom for itself, moreover, does not exclude imperial ambitions,³³² as every Roman would know (and every scholar should know) from the history of the conquering Republic, which was no sooner free of kings than it began the subjugation of Italy.³³³ This passage,

330 Merkel (1966), Hose (1998) 297-309.

331 Keitel (1993) 39-58. Rutherford (2010) 312-330 takes this as evidence of Tacitus' position on the Empire, that whatever flaws it had, its dissolution would only result in something worse. Edelmaier (1964) 78-79 and Merkel (1966) agree, but both of them believe that Civilis at *H.* 4.73-74 is acting as Tacitus' mouthpiece.

332 Pace Keitel (1993) 39-58. Keitel et al. also argue their case by citing *H.* 4.25.3: *mox valescentibus Germanis pleraque civitates adversum nos arma sumpsere spe libertatis et, si exuissent servitium, cupidine imperitandi*. On the contrary, however, this passage actually proves the compatibility of fighting for both liberty and empire. Even here, where Tacitus is supposedly undermining the Batavian revolt's focus on *libertas*, he can refer to Roman dominion as *servitium* and claim that the Germans and Gauls fought both *spe libertatis* and *cupidine imperitandi*. The grammar, moreover, suggests that liberty (for oneself) is a necessary precondition for empire (over others), and in no way contrary to it.

333 According to traditional chronology (i.e. Livy), the Battle of Lake Regillus, wherein Roman supremacy over the Latin League was reasserted, occurred perhaps ten years after the expulsion of the Tarquins. As the exiled Tarquins fought on the side of the Latins, the Romans can be considered to have fought both for freedom and for hegemony.

moreover, dashes the notion that Civilis intended to exercise a German empire over the Gauls: *validissimarum ditissimarumque nationum regno* includes Gaul on equal terms with Germany, since the phrase must be taken as using the plural for the singular and means “the kingship of the strongest nation (i.e. Germany) and the richest nation (i.e. Gaul),” since the Germans were stereotypically warlike but poor, and the Gauls of this period rich but militarily weak. *Validissimarum ditissimarumque nationum regno* therefore implies (as does *in Gallias Germaniasque intentus*) an empire constituted by both Germans and Gauls as equal partners, each balancing the shortcomings of the other; certainly, it does *not* indicate a conquest of one nation by the other. This one sentence, then, cannot be taken to undermine the character of Civilis or of the Batavi throughout all the rest of the *Histories*; it does prove that he was ambitious, and therefore that he is not presented as unambiguously good (which no one argues), but it does not show that he was a complete hypocrite, nor that the Batavian revolt was not first and foremost about *libertas*.

The revolt continues to gather momentum. After much delay, two full legions with auxiliaries are sent against the Batavi (*H.* 4.18.1). Civilis follows the traditional Germanic practice and lines his soldiers' mothers and sisters and wives up behind them to offer encouragement and deter cowardice, a passage that closely mirrors what Tacitus says in the *Germania* (*G.* 7.3-4). Tacitus' epigram *acrior est Germanorum libertas* is justified by the result of the battle: the legions resist stalwartly for a while, but in the end were routed by the Batavian rebels and forced to flee back to their winter camp at Vetera³³⁴ (*H.* 4.18.3). Civilis then gains still more support when his messengers catch up with a few veteran cohorts of Batavi sent towards Rome, who immediately begin looking for a pretext to defect, and having engineered one at once set off for Lower Germany to join their tribesmen (*H.* 4.19.1-2). Receiving these reinforcements, Civilis besieges the legionary camp at Vetera. Since Vitellius is still alive and powerful, Civilis goes through the pretext of having his army swear allegiance to Vespasian,

334 Modern Xanten.

and invites the besieged Romans to do the same (21.1).

Not surprisingly, they refuse, and Civilis takes more drastic measures: *quae ubi relata Civili, incensus ira universam Batavorum gentem in arma rapit; iunguntur Bructeri Tencterique et excita nuntiis Germania ad praedam famamque* (H. 4.21.2: “When this was reported to Civilis, he burned with anger and swept the entire nation of the Batavi into arms; the Bructeri and Tencteri joined him, as well as the rest of Germania, excited by his messengers, aiming at loot and glory”). Once again, though it is not dwelt on by Tacitus, Civilis' influence and persuasiveness are remarkable in his convincing his entire tribe and several others to join the revolt – a fact all the more remarkable because Tacitus believes very explicitly that Germans do not obey authority unless persuaded to do so: he tells us that the chieftains are heeded only insofar as they have *auctoritas* and, most important, eloquence (*G.* 11.5-6: *prout facundia est audiuntur*),³³⁵ itself a telling comment on the importance of oratory among the free Germans. Indeed, if they have one main fault in his eyes, it is *nimia libertas*, not over-ready obedience. The Bructeri and Tencteri, moreover, were different tribes entirely, and could not have felt compelled to obey a Batavian whatever his power over his own tribe; they were certainly persuaded as well. The fact that so many Germans joined him out of hope of *praeda* is less than laudatory, as greed for loot is often one of the signs of bad soldiers in Latin historiography; but Tacitus was realistic about the motives of the common soldiers of all nations, that they were not unmixed good or unmixed evil.³³⁶ A desire to fight for *fama*, at least, is entirely respectable.

As a foil to the persuasive authority of Civilis, Tacitus next discusses a case of mutiny among

335 The full passage reads: *Mox rex vel princeps, prout aetas cuique, prout nobilitas, prout decus bellorum, prout facundia est audiuntur. auctoritate suadendi magis quam iubendi potestate. Si displicuit sententia, fremitu aspernantur; sin placuit, frameas concutiunt: honoratissimum adsensus genus est armis laudare.* This passage is one of the most important on the political nature of the Germanic tribes, and one most expressive of their civil freedom and its connection with eloquence. The martial nature of their assembly (properly referred to as a *þing*, whence the English word *thing*) would seem less barbaric to the Romans than to us, who could compare it with the *comitia centuriata*, originally conceived as a meeting of the citizen-soldiery.

336 Kajanto (1970) 697-718. See also Silius Italicus, 15.199: *nulla acies famae tantum praedaeve pararit*, addressed to the great Scipio: “No other battle would furnish you with so much glory or spoil.” On the other hand, Scipio is the undoubted hero of the *Punica*, and the mention of spoil might therefore have been a not at all shameful motivator. This is probably not the case for non-Romans, however, and Tacitus criticizes the Germans' *praedae cupido* at H. 4.23.3.

the Romans who were supposed to be fighting him (I have postponed discussion of this passage from the previous chapter on the grounds that it is part of the Batavian revolt). Hordeonius Flaccus, who had been at best dilatory in combating the designs of Civilis, at last springs into action (*H.* 4.24.1-2), too late: the soldiers refuse to heed him and accuse him, in the predictable manner of mutineers in the *Histories*, of treachery (although there might well be something to their accusation in this one case, and Flaccus may have let the revolt spread in order to weaken Vitellius in favor of Vespasian: *H.* 4.18.1). Tacitus even gives the soldiers a speech in *oratio obliqua* as a mark of importance. The mutiny only grows more unruly at Flaccus' halting attempts to control it, until the legate Vocula steps forward and appeases the crowd (25.1-4). Since the soldiers universally hated Flaccus and preferred Vocula, Tacitus says, Flaccus stepped aside and allowed Vocula to take command. Not only is this not how the Roman army is supposed to function (we saw in the previous chapter the stigma associated with soldiers' choosing their officers, let alone replacing their general almost by a coup), but the troops' inherent fickleness is emphasized when we remember that this is the same Vocula who will later be murdered by the very soldiers who just made him their general.³³⁷ The disorder of the Romans contrasts unfavorably with the temper of Civilis' Germans up to this point. The problem is not simply that the Romans have too much freedom, since the Batavi and the transrhene tribes were certainly free; rather, they are unworthy of it. The Germans, on the other hand, have so far shown themselves capable and responsible by comparison, and the orderliness with which they follow Civilis, even though he has no claim on their obedience except what he can persuade them to do, is striking indeed when set against yet another Roman mutiny.³³⁸

The eloquence of Civilis soon gains another victory. After the fall of Vitellius, Alpinus

³³⁷ They will also kill Flaccus, dragging him from his bed in the middle of the night: *H.* 4.36.2.

³³⁸ Even Civilis is not always able to control his soldiers: *H.* 4.60.2-3. But his success so far has been exemplary compared with that of the Roman commanders, and he never faces a full-scale mutiny such as is so repetitively common among the legions, nor is he ever forced, as the Roman generals so often are, to give a speech trying to calm a mutiny (the loyalty of his troops begins to waver at *H.* 5.25-26, but this is hardly a mutiny, but rather a conspiracy of other chieftains against him, and in any event we are sadly prevented from reading the outcome by the abrupt end of the *Histories*).

Montanus, a Roman citizen of Gallic origin and a prefect in the army, is sent to Civilis to bid him lay down his arms: that Civilis was really fighting against Rome was known, but he is given the chance of abiding by his pretext (that he was merely supporting Vespasian against Vitellius) and, now that Vespasian is emperor, having peace with Rome (*H.* 4.32.1). But Civilis, upon realizing that Montanus was himself discontented with Roman rule, turns the tables and converts Montanus to his own side.

Civilis' persuasiveness is underlined by his being granted a speech in direct discourse (32.2):

Orsus a questu periculisque, quae per quinque et viginti annos in castris Romanis exhausisset, “egregium” inquit “pretium laborum recepi, necem fratris et vincula mea et saevissimas huius exercitus voces, quibus ad supplicium petitus iure gentium poenas reposco. Vos autem Treveri ceteraque servientium animae, quod praemium effusi totiens sanguinis expectatis nisi ingratham militiam, immortalia tributa, virgas, secures et dominorum ingenia?”³³⁹

Civilis first alludes to his long service in the Roman army,³⁴⁰ then, with deep sarcasm, recounts the “rewards” that he received in recompense for his loyalty: his brother was murdered, he himself was bound with chains, and he barely escaped death when the soldiery (for whatever reason) clamored for his punishment. Not unreasonably, therefore, he appeals to the *ius gentium* in seeking vengeance for his ill-treatment by the Romans, evidently expecting Montanus to sympathize with this claim. There is a possible Livian parallel here (albeit unnoted by Heubner), in that Livy assigns the cause of the sack of Rome by the Gauls less to Gallic bravery than to fate, which was justly punishing the Romans for violating the *ius gentium* when their emissaries took part in a battle (*Livy* 5.36.6; in this way, some face

339 “Beginning by complaining about the dangers which he had endured over twenty-five years in the Roman camp, he said, 'And a splendid reward of my labors have I obtained: the murder of my brother, my imprisonment, the savage voices of this army that demanded my death – for all of which I seek vengeance according to the right of nations [the *ius gentium*, which the Romans believed to be the customary international law followed by all peoples everywhere]. But you Treveri, and the rest of you servile creatures, after you have shed your blood so often, what reward do you expect, unless it be ingratitude for your service, unending tribute, the rods and axes, and your rulers to have the character of slave-masters?’”

340 Heubner (1976) 76 compares *orsus a questu periculisque quae ... exhausisset* to *Aeneid* 10.57 and *Livy* 33.39.9.

is saved for the Romans, who were not defeated because they were inferior but because they were paying for their own moral transgressions). Just as Livy's Romans in some sense deserved the fate that befell them because of their violation of the *ius gentium*, Civilis likewise claims it as part of the *ius gentium* that he is owed vengeance for the Romans' atrocious treatment of him and his family – and it is by no means certain, in light of the Livian passage, that a Roman audience would be expected to discount this reasoning. We should also note that all Civilis' complaints about his ill-treatment are perfectly true and have been confirmed, without equivocation, by the narrative itself. This again shows that, unlike some Tacitean speakers, he has no need to distort facts: he can tell the complete truth (with suitable oratorical flair), and it persuades. After all this, Civilis draws a parallel between his own experience and that of the Treveran Montanus: if he himself can serve so long and faithfully but be so poorly repaid, why should the Treveri expect any other treatment?³⁴¹ Indeed, the condition of the Treveri is much worse, for while the Batavi are nearly free, the Treveri are slaves who pay tribute and have to endure the sight of the rods and axes.³⁴² Civilis ends his speech with the words *denique ausos aut libertas sequetur aut victi idem erimus* (*H.* 4.32.3: “Finally, if we are daring, either liberty will follow us, or we shall both alike be vanquished”). Here, again, we have the theme of fighting for liberty as opposed to slavery, but if we expect such noble-sounding rhetoric to be undermined by the narrative (as it so often is in Tacitus), we are mistaken. Civilis again succeeds, and Montanus, persuaded by his eloquence, agrees to join the revolt.

The rebellion continues for some time; some battles are fought in which the Batavi are driven off by Vocula (with heavy Roman casualties), but Vocula was not able to press his advantage, and Civilis maintains the siege of the legionary camp at Vetera (*H.* 4.33.1-36.1). The war at this point seems to become a stalemate, and Tacitus turns his attention elsewhere for a while, until it is time for him to

341 Cf. *A.* 2.9.1-3.

342 Cf. *A.* 1.59.4.

discuss an event that gave the revolt new impetus: the revolt of several entire Gallic tribes (most notably the Treveri) and their alliance with Civilis.³⁴³ There are some differences between the aims of the Treveri and the Batavi: most important, the former are much more explicitly concerned to set up an empire of their own, an *imperium Galliarum*, than the latter (even though it is usually Civilis who is accused of this). But they are nonetheless part of the same revolt for freedom from Rome, and they will form a very close alliance with Civilis; they should therefore be accounted part of the same movement, and their rhetoric can be treated together.

Tacitus introduces the leaders of the Gallic conspiracy. They are Classicus, Tutor, and Sabinus (Classicus and Tutor both being Treveri). The Roman names should not mislead, for they are all undoubtedly of Gallic descent and proud of it: Classicus in particular was of the ancient royal family of the Treveri, and it was his boast that more of his ancestors had been enemies than allies of Rome (*H.* 4.55.1). This introduction of the conspirators emphasizes their barbarian origin, and it situates their current planned revolt in the context of their past: they were of tribes that had resisted Rome from the beginning, and if they were conquered, they were never entirely subdued, and continued to admire their ancestors as freedom-fighters whom they now had the chance to emulate. The conspirators meet at Cologne to plan their course of action (*H.* 4.55.4-56.1):

Certatim proclamant furere discordiis populum Romanum, caesas legiones,
vastatam Italiam, capi cum maxime urbem, omnis exercitus suis quemque bellis
distineri: si Alpes praesidiis firmentur, coalita libertate disceptaturas Gallias,
quem virium suarum terminum velint. Haec dicta pariter probataque.³⁴⁴

³⁴³ The Treveri were a Celto-Germanic tribe, to which Alpinus Montanus also belonged. They lived on the western side of the Rhine and spoke Gallic and so were accounted Gauls, but the Treveri themselves boasted that they were of Germanic descent: *G.* 28.4. It is often difficult to distinguish between Celts and Germans on either bank of the Rhine because of their cultural similarity (and in some cases possible bilingualism, if names are any indication: e.g. Ariovistus, Maroboduus, and Veleda are all Germans with [probably] Celtic names), and their claim cannot be dismissed. This would also go far to explain the seemingly unlikely alliance of Gauls and Germans.

³⁴⁴ “Striving against one another, they proclaimed that the Roman people was raging out of control with discord, the legions cut down, Italy devastated; that the City was even then being captured, and all the armies were distracted by their own respective wars; if they should fortify the Alps, Gaul, once freedom had taken root, would only have to arbitrate for

These claims are mostly substantively true: the civil war was still ongoing, several legions had fallen in battle, Italy had been plundered by Roman armies, Rome itself had been forcefully occupied by the Flavians (amid some fear that they would sack the city). It is true that there is irony in the timing here, for the conspirators only make these claims after the death of Vitellius, when the civil war was winding down because of Vespasian's final victory: the Gauls are seizing the moment of Roman disorder just when that disorder is ending. But they had no way of knowing that. In barely a year, four Roman emperors had fallen to rebellion, and a contemporary would be forgiven for expecting Vespasian to be the fifth. The attempt is therefore reasonable to the best of their knowledge. It is also true, and more damning, that there is no proper debate: *certatim proclamant* and *dicta pariter probataque* imply almost that the conspirators were striving to surpass each other in the extravagance of their arguments, without a single voice of dissent. This suggests that the Gauls are not so much participating in the kind of debate typical of freedom as caught up in a collective *furor* of their own. Be all this as it may, their speech still ends with mention of *libertas*: again, moreover, we see the twin aims, not thought of at all as incompatible, of striving for freedom for themselves and also an empire, though the ablative absolute *coalita libertate* suggests it is the more immediate aim without which the other could not be fulfilled. And this speech still commands the approbation of its audience, as few Roman speeches in the *Histories* do – yet, in light of the fact that there is no proper debate, it is less certain that this is meant to be a good thing than it is with most of Civilis' oratory.

The next example of their eloquence is more hopeful, however, for by it the course of action both more moral and more prudent avails against a violent majority. This is especially striking in contrast to most speeches in the *Histories*; when an Antonius Primus succeeds, for instance, it is because he fires his audience to do what they were already all too eager to do (e.g. *H.* 3.2-3). But here, the oratory of the minority persuades the majority to change their minds and abandon their rage. The

itself what limit it wanted for its own power. These things were no sooner said than approved.”

issue was what should be done with the former troops of Vitellius, and on this there were two positions, and a true debate. The large majority favored putting the ex-Vitellians to death as being untrustworthy and polluted by the blood of their own generals (*H.* 4.56.1). After the previous speech, when there was no dissenting voice and the speakers vied with one another in the fury of their language, the reader would justifiably expect this proposition, as it is that of the majority, to win the day. But the oratory of the minority proves convincing, giving some good, solid reasons why the more merciful was also the wiser course of action (56.1). A reader new to Tacitus might be led to expect this reasoning to succeed, but the veteran reader of the *Histories*, if anything, has the opposite expectation: that careful oratory will fail (e.g. *H.* 3.20-21) and that the worse alternative or the crueller will be adopted. It is therefore, paradoxically, surprising that the first intuition is the correct one, and reasonable discourse carries the day, even against the savagery of the majority. Yet this is what happens. Against all hope, oratory effects a drastic and sudden change for the better. This would be all the more surprising, except that, by now, we are almost accustomed to expect such successes from the eloquence of Civilis; now that the Gauls, too, are fighting for freedom, it seems that their eloquence has also suitably gained power.

Soon afterwards, the legion besieged at Vetera surrendered, and Civilis took possession of the camp. Joined by Classicus and Tutor, he then marched his army towards Cologne.³⁴⁵ Here there occurs the debate over the fate of Cologne, one of the most remarkable scenes in the *Histories* and certainly the most vivid example of Germanic eloquence and suitability thereto³⁴⁶ – all the more so because it is not Civilis who speaks, since we have already had adequate proof of *his* oratory. It is not the case, therefore, that Civilis is one charismatic leader, unique among the barbarians; rather, these speeches will show that, at least in this regard, all the common Germans and Gauls are also like him. The result of these speeches is all the more surprising in that Tacitus, using all his literary art, leads us to be

345 Colonia Agrippinensis, founded when the Germanic Ubii, allied to the Romans, had crossed the Rhine and been established as a friendly and privileged colony on Roman territory; it had grown great and prosperous.

346 Merkel (1966) and Keitel (1993) 39-58, who are both very pessimistic on the Batavian revolt, have curiously little to say about this episode.

pessimistic about the outcome, when in fact the barbarians of Germany flout all expectations and heed the voice of eloquence and of reason.³⁴⁷

The debate begins, therefore, when Civilis and Classicus envelope Cologne and consider whether to let their victorious armies plunder its considerable wealth.³⁴⁸ Tacitus describes their conflicting motivations (*H.* 4.63.1-2):

Saevitia ingenii et cupidine praedae ad excidium civitatis trahebantur: obstabat ratio belli et novum imperium inchoantibus utilis clementiae fama; Civilem etiam beneficii memoria flexit, quod filium eius primo rerum motu in colonia Agrippinensi deprehensum honorata custodia habuerant. Sed transrhenanis gentibus invisita civitas opulentia auctuque. ...³⁴⁹

The balance of reasoning is very careful here: Tacitus leads us through a serpentine path of expectations, where optimism gives way to pessimism and then rapidly back and back again. The first thing mentioned, which therefore sets the context for everything else, is the inherent cruelty and avarice of Civilis and Classicus: we expect, therefore, that they will sack the city. A glimmer of hope shines through in the mention of *ratio belli*, since it would be more prudent to acquire a reputation for clemency – but it is a small glimmer, since reasons of prudence have rarely won out against greed and cruelty elsewhere in the *Histories*. We are slightly more hopeful, again, when we learn that Civilis has a

347 There is perhaps a parallel to Thucydides 3.52-68, the destruction of Plataea. After a long siege and the surrender of the city, the Spartans and Thebans debate what to do; the Thebans, out of hatred, demand mass execution. The Plataeans are given a speech pleading for mercy, the Thebans a counter-speech. In the end, however, the Spartans pay no attention to either speech and decide simply to humor the Thebans, who were useful to them, and so the city is destroyed. Tacitus leads us to expect that something similar will happen to Cologne, when the actual result could not be more different.

348 We are surely meant to think of the plunder of Cremona at *H.* 3.32-34: the Roman troops, entirely out of greed, desperately wanted to loot the city, and their generals tried but failed to restrain them. Again, the result could hardly be more different, and the behavior of the Germans at Cologne contrasts strongly with that of the Romans, and not at all to the credit of the latter. See also *H.* 3.82.1.

349 “They were pulled by their cruelty of temper and the desire of plunder towards the destruction of the city. In the way of this stood their interest during war and the reputation for clemency, useful to those beginning a new empire. Civilis, moreover, was bent by the memory of the service done him, that his son had been arrested in Cologne at the beginning of the upheaval but was held in high honor while under guard. To the transrhenane tribes, however, the city was hateful because of its prosperity and growth. ...”

personal connection to Cologne, which has apparently treated his son well and honorably despite his being (technically and legally) the son of a traitor. Such personal connections do not always count for much in the *Histories*, but it is something, and overall the balance at this point appears favorable to the people of Cologne. But then there is an abrupt *sed*, a sudden break from this almost hopeful atmosphere, and a rapid transition to the last (and therefore the most important) motivation: Civilis and Classicus aside, the transrhene tribes universally detested Cologne for its wealth and position (for the Ubii of Cologne were themselves Germans).³⁵⁰ The situation at this point turns dark, and we seem to have what we have seen many times before: an army where the common soldiers hate and envy, while the generals prudently counsel restraint. And we know how this usually ends.

The Tencteri, therefore – one of the tribes opposite Cologne across the Rhine – send an embassy to present their demands to the city. Before we discuss their speech itself, it is notable that it is the Tencteri who participate in the debate and not Civilis or Classicus, the leaders of the army. Among the free Germans, we remember, a general or a king has no more authority than what he can persuade others to do: it is time for the Tencteri to persuade or be persuaded. The role of eloquence therefore comes to the foreground. If we are surprised that a barbarian tribe is given a speech (and a good one, as we shall see) in direct discourse – for the Tencteri are true barbarians from beyond the Rhine, not even half-romanized like some tribes – this is understandable, but we should cease being so, for the role of eloquence among the free Germans is one of the very themes that Tacitus is attempting to stress. Now the Tencteri begin their speech thus (*H.* 4.64.1):

Redisse vos in corpus nomenque Germaniae communibus deis et praecipuo
deorum Marti grates agimus, vobisque gratulamur, quod tandem liberi inter
liberos eritis; nam ad hunc diem flumina ac terram et caelum quodam modo

³⁵⁰ Tacitus, however, says that the Ubii were ashamed of their Germanic origin (*G.* 28.5), which explains much of their behavior in what follows.

ipsum clausurant Romani, ut conloquia congressusque nostros arcerent, vel, quod contumeliosius est viris ad arma natis, inermes ac prope nudi sub custode et pretio coiremus.³⁵¹

It is first worth noting that, for a speech supposedly by the *ferocissimus ex legatis* (4.64.1), there is very little here that can be considered *ferox*. On the contrary, the speech is moderate in tone, and the Latin is extremely polished (and this is no less true if there are darker undertones later in the peroration).³⁵² One could easily imagine Cicero delivering something similar: the unnamed orator begins with an invocation of the gods, which is actually quite rare in classical oratory and characteristic only of very high registers.³⁵³ Paired nouns, likewise highly stylized in rhetoric especially when they rhyme, abound (*corpus nomenque, conloquia congressusque, inermes ac prope nudi*), as does polyptoton (*communis deis et praecipuo deorum Marti, liberi inter liberos*). The first sentence is highly periodic and carefully structured (*redisse ... grates agimus*), but it is followed immediately by a reverse-periodic sentence, with the main clause first (*vobisque gratulamur ... eritis*), in a balanced, multi-clause chiasmus. The phraseology of the whole speech abounds in parallels and allusions.³⁵⁴ From a purely stylistic point of view, this speech is among the most polished, most “classical” in all the *Histories* – and it is delivered by an anonymous German barbarian, who is nonetheless apparently more than usually *ferox*.

As for what he says, it is reasonable enough so far – although we must keep in mind that these

351 “For the fact that you have returned to the body and the name of Germany, we give thanks to our common gods and to Mars [i.e. Tiwaz/Tyr, the chief of the Germanic pantheon until displaced by Wodanaz/Odin], chief among the gods, and we congratulate you, because at long last you will be free men among free men. For up to this day the Romans have closed off the rivers and the land and somehow the very sky itself, in order to prevent our conversations and our intercourse, or – what is more insulting for men born to arms – in order that we might come together unarmed and almost naked, under guard and having to pay for it.”

352 It is, of course, highly improbable that the Tencteran ambassadors spoke in highly polished Latin, or in Latin at all. To what degree the speeches reflect an actual historical debate is impossible to determine, but the speeches as we have them are pure Tacitus. This being so, it is not accidental that the Tencteri speak such polished Latin. Tacitus, if he had desired, could easily have made them appear to be illiterate (as they probably were) and ignorant savages; he chose to make them dignified and eloquent speakers.

353 Yunis (2001) 105-106. Ending with an invocation is somewhat more common, but hardly common, and is still reserved for powerful effect: *In Verrem* II.5.184-188 (the conclusion of the Verrine orations) ends with a famous example. Of Ciceronian speeches, only the *Ninth Philippic* has a somewhat similar opening to our passage here.

354 Heubner (1976) 147-148.

fine words must be something of a cloak, since Tacitus has already told us that the Tencteri were motivated by hatred of Cologne. The emissary expresses his joy that the Ubii had returned to the *corpus nomenque Germaniae* (for, being subject to Rome previously, they could not rightly be called part of *Germania*),³⁵⁵ and that, liberated from Roman control, they would now live as free men in a free society (*liberi inter liberos*). That the Ubii wanted to exist on such equal terms with the Tencteri is doubtful, since they were famously friendly to Rome, but there is nothing inherently menacing in these words; on the contrary, they are still quite hopeful. What comes next gets nearer to the real heart of the complaints of the Tencteri: for the mention of rivers and earth closed by the Romans can only refer to the restrictions on trade and migration imposed by the Roman government, and indeed by Cologne itself, which strictly regulated who could enter its walls and under what conditions. The fact that these included going unarmed was apparently resented by the Tencteri, who as Germans were accustomed to bear their weapons at all times, and will have struck them as mistrustful and therefore insulting. But the emissary is careful not to say this; instead, he assigns the restrictions solely to the Romans and, now that Cologne is liberated from Rome, congratulates the Ubii on being free from the restrictions that had plagued *both* them *and* their cousins across the Rhine. He is conceptually driving a wedge between the Ubii and the Romans, who were actually quite closely aligned, and uniting the interests of the (actually very distinct) Ubii and Tencteri. This is a slightly deceptive ploy but not an inelegant one, and in the circumstances is probably the best the speaker could do in the way of a *captatio benevolentiae*. Certainly the speaker is proving himself a skilled speaker.

The speaker's next words, however, quite justify his description as *ferocissimus*, though they are still expressed eloquently enough (*H.* 4.64.2-3):

Sed ut amicitia societasque nostra in aeternum rata sint, postulamus a vobis,

³⁵⁵ Much (1959) 284: "Der Schlußsatz zeigt erst, warum Tacitus die Bewohner der *decumates agri* nicht unter *Germaniae populos* rechnet. Nicht weil sie gallischer Herkunft sind ... sondern nur, weil der Boden, auf dem sie stehen, nicht mehr zur *Germania* gehört, sondern römisches Reichsland ist."

muros coloniae, munimenta servitutis, detrahatis (etiam fera animalia, si clausa teneas, virtutis obliviscuntur), Romanos omnes in finibus vestris trucidetis (haud facile libertas et domini miscentur): bona interfectorum in medium cedant, ne quis occulere quicquam aut segregare causam suam possit. Liceat nobis vobisque utramque ripam colere, ut olim maioribus nostris: quomodo lucem diemque omnibus hominibus, ita omnes terras fortibus viris natura aperuit.³⁵⁶

Here, the Tencteri get down to their real demands: that the walls of Cologne be torn down, and that all the Roman citizens there be killed. Their ire against the city walls and the corresponding restrictions on movement is at least understandable, since these were a radical departure from their traditional way of life and were felt as a real hardship, but of course the demand to pull down city walls is never entirely innocent or free from threat, because it puts the townsmen at the mercy of their neighbors – doubtless what the Tencteri wanted. The demand to execute all Roman citizens, however, is inexcusable in any context. Their hatred of the Romans is at least explained by the fact that they call them *domini*, and felt that all Romans were party to the abuses and injustices of the Empire, but it is made no less shocking thereby. Still, even this part of the speech is no less polished than the earlier passage: many of the same rhetorical features are present, and the overall stylistic register is still very high. Moreover, although turned to conclusions that a Roman could only find abhorrent, the arguments themselves are often very similar to commonplaces from Roman thought regarding primitivism and the superior virtue of a life so connected to “nature.” *Etiam fera animalia, si clausa teneas, virtutis obliviscuntur* is a thought that could easily come from the pen of Seneca, and it was a moral commonplace that city life had a degrading effect on courage. The rhetoric about freedom and slavery (*munimenta servitutis, haud facile*

356 “But in order that our friendship and alliance might be firm forever, we demand of you that you tear down the walls of your colony, the fortifications of slavery (even wild animals, if you keep them caged, forget their *virtus*), and that you kill every Roman in your borders (for freedom and masters do not easily mix). Let the property of the slain be held in common, lest anyone be able to hide anything or separate his interest from everyone else's. Let it be permitted for us and for you to inhabit both banks of the river, as it was for our ancestors: for just as nature has made light and day common for all humans, so has it opened all lands to the brave.”

libertas et domini miscuntur) is quite to the Roman taste, and the final *sententia* (*quomodo lucem diemque ... natura aperuit*) is in line with Roman thought about the desirability of living according to nature and with rhetorical commonplaces that the sun is by nature common to all humans everywhere.³⁵⁷ The speaker finishes the speech in a similar vein (64.3):

Instituta cultumque patrium resumite, abruptis voluptatibus, quibus Romani plus adversus subiectos quam armis valent. Sincerus et integer et servitutis oblitus populus aut ex aequo agetis aut aliis imperitabitis.³⁵⁸

The emissary invites the people of Cologne to resume their ancient customs – an argument to which a Roman audience will not have been unsympathetic. The statement that the Romans hold their subjects in check more by luxury than by force, moreover, is strongly reminiscent of Tacitus' own comment in the *Agricola*, that the introduction of Roman material culture among the Britons was in truth part of their enslavement (*Ag.* 21.2). He ends with the argument that has been common among both Gauls and Germans in the Batavian revolt, that at the very least, if the Ubii were to join Civilis, they would be free, and that they might even have an empire of their own – although it is doubtful that the Tencteri, who just demanded that Cologne pull down its walls, in fact wanted the Ubii as equal partners.

The speech of the ambassador of the Tencteri, therefore, is among the most polished in the *Histories*. It is not without its dark underside – indeed, the dark side of the speech, the menace, is only barely hidden beneath a thin cloak of fine words. Nonetheless, the speaker did the best he could with the case that it was his task to make. When Tacitus tells us that the Tencteri hated the Ubii, and that the *ferocissimus* of their emissaries spoke, this surely is not the speech that we originally expected – least of all when we remember that the issue was whether to sack the city. There is no violence of tone; indeed, there is little passion in the speech at all. Even the demand to execute all Roman citizens

³⁵⁷ Heubner (1976) 148 ad loc. compares Curtius 9.6.22.

³⁵⁸ “Resume the practices and culture of your fathers, and break off from practicing those pleasures that avail the Romans more against their subjects than do their arms. Purified and healthy and having forgotten your servitude, you will either live as a people on equal terms with others or will exercise empire over them.”

(although it is indeed shocking and cannot be ignored) is almost bloodless, and it occupies less than one full sentence, and the tone then quickly returns to one of affected conciliation. With this exception, the speaker maintains a tone of reasonableness and even friendliness; he is at great pains to emphasize that the Ubii and the Tencteri are of one kindred and should have the same interests. He does not indulge his supposed ferocity by calling for Civilis to destroy Cologne; rather, he makes a list of the substantive complaints that the Tencteri had against Cologne – mostly restrictions on trade and migration – and suggests some changes. Even these complaints, however, are couched in an extremely moderate, even ingratiating tone: the speaker is careful to make it seem that he is on the same side as the Ubii and that they, too, would naturally rejoice in being free of Rome and in the end of such odious restrictions (a standard rhetorical technique). The point at issue is supposedly whether Civilis should give Cologne over to plunder, but if so, this speech is astoundingly irrelevant;³⁵⁹ it seems that the object is to persuade the Ubii to join the revolt voluntarily. If this man is the most ferocious of the barbarians, the rest of them must have been milksops. For the most part, therefore, the speaker has been given a very difficult case, and has made it as well could be expected in the circumstances: the style is polished, the argumentation is on its face quite moderate, and the speaker carefully avoids antagonizing his audience and in fact tries very hard to be conciliatory. In short, it is an eloquent speech. There are, nonetheless, the two unreasonable demands of pulling down the city walls and of executing all the Roman citizens. Before we can say more about this, however, or what these demands say about the Tencteri, we must see how the Ubii respond, and what the final result of the debate is (including the ultimate reactions of the Tencteri).

The Ubii took counsel with one another and realized that they could not accept all the conditions of the Tencteri, nor could they safely reject them. They therefore spoke as follows (*H.*

³⁵⁹ It is possible that the speaker is attempting to make demands so stringent that they could not possibly be accepted, in which case the Tencteri would feel justified in sacking the city. This, however, is most unlikely in view of the result of the debate.

4.65.1-2):

Quae prima libertatis facultas data est, avidius quam cautius sumpsimus, ut vobis ceterisque Germanis, consanguineis nostris, iungeremur. Muros civitatis, congregantibus se cum maxime Romanorum exercitibus, augere nobis quam diruere tutius est. Si qui ex Italia aut provinciis alienigenae in finibus nostris fuerant, eos bellum adsumpsit vel in suas quisque sedes refugerunt: deductis olim et nobiscum per conubium sociatis quique mox provenerunt haec patria est; nec vos adeo iniquos existimamus ut interfici a nobis parentes fratres liberos nostros velitis.³⁶⁰

Considering the position in which the people of Cologne found themselves, the stance that they have taken is bold, but the speaker has done the best he could to make it palatable to the Tencteri (albeit with no shortage of irony). There is no pleading, and so far the Ubii have unequivocally rejected two of the demands made upon them. They refuse even to consider executing the Romans who were present in the city, for these, they (rightly) say, had intermarried with the natives, and Cologne was their *patria* no less than it was for the Ubii. They also refuse to pull down the walls; this refusal, however, is justified by the pretense that the walls should remain standing because of the threat posed by the *Romans*. This is the stance taken by the Ubii throughout their speech: they pretend that, instead of being Roman allies, they had actually supported the revolt and were now only too glad to join the Batavi and the Tencteri – a claim so patently false as to be shameful,³⁶¹ but one that will nevertheless prove persuasive.

360 “With more boldness than caution did we use the first chance of freedom that we were given, so that we might be joined with you and the other Germans, our kinsmen. The walls of our city it is safer to raise higher than to level, since the Roman armies are congregating so thickly. If there were any foreigners from Italy or the provinces in our borders, the war has since removed them, or they fled each to his own place; as for those who settled here and have since been joined with us by marriage, and those who have recently come forth, this is their native land; nor do we imagine that you are so cruel as to wish that we kill our own parents, brothers, and children.”

361 At *H.* 4.79.1-2 the Ubii slaughtered all the Germans in Cologne while they were feasting by locking them in and burning the buildings down around them, after solemnizing oaths of peace. Compared to this, the crime of betraying their pledges and handing over Civilis' and Classicus' families to the Romans is almost a misdemeanor. The supposed barbarians are responsible for no equivalent atrocity and no equivalent breach of trust, and the Romanized Ubii show themselves much more cruel than the ferocious Tencteri, who had easily been persuaded to lay aside their hatred.

The Tencteran speaker, after all, had used the technique of making himself seem on the same side as the Ubii; the representative of Cologne answers in kind, and expresses his joy at being reunited with his fellow Germans. As with the Tencteri, the speaker here has been given a difficult case – to reject outright two of the demands made by those in a position to destroy the city – but he makes it as best he can, and does everything possible to moderate his tone, to make the refusals palatable, and to soothe the passion of the Tencteri.

The speaker, however, does not reject all the terms, being hardly in any position to do so; but even the acceptance is qualified (*H.* 4.65.3):

Vectigal et onera commerciorum resolvimus: sint transitus incustoditi, sed diurni
et inermes, donec nova et recentia iura vetustate in consuetudinem vertuntur.

Arbitrum habebimus Civilem et Veleda, apud quos pacta sancientur.³⁶²

The Ubii agree to abolish many of the trade restrictions that had been so onerous to the Tencteri, and they agree to allow the transrhene tribes to cross the river at will. But that is all. They still demand that the crossings be by day and without arms, even though this restriction was explicitly condemned by the Tencteran ambassador. Still, the speaker does his best to soften the refusal: he almost apologetically makes it into a mere temporary expedient, with the implied promise that, once the Ubii grew accustomed to the loosened regulations, the rest of the restrictions could also be removed. As a final pledge of good will, the speaker offers to accept Civilis and the prophetess Veleda as arbiters of any disputes that should arise in the future, and to swear to a treaty in their presence.

The people of Cologne found themselves in a very hard position, with a hostile army nearby debating whether to plunder their city. And yet they make remarkably few concessions to the already moderate demands of their enemies.³⁶³ They offer to loosen, but not abolish, some trade restrictions,

³⁶² “We abolish the impost and the burdens on commerce: let there be unguarded crossings, but by day and without weapons, until these new and recent customs become habitual with time. We shall have Civilis and Veleda as arbiter, before whom our covenants shall be sanctified.”

³⁶³ The Tencteri could easily, for instance, have demanded that the Ubii hand over all gold and silver, all precious

and to accept Civilis as an arbiter of future disputes, but all other terms are rejected outright. They are able to get away with this because of the eloquence of their emissary, who does everything in his power to conciliate the Tencteri and even gain their friendship. Rather than opposing them, he disarms their fury by a *captatio benevolentiae*, quickly adopting the stance of a friend and an ally and expressing the happiness of the Ubii at being reunited in freedom with their transrhenane brethren. He softens the rejections to the point that they are almost as good as acceptances: the Ubii will not pull down the walls because the walls are their only defense against the Romans, and they will not kill the Romans of Cologne, because the Tencteri, surely, did not understand that they were asking them to kill their parents and their children – for the Tencteri, he trusts, are not so hard-hearted that they would have required this if they had known the real situation. He all but promises that all the remaining restrictions on trade and migration would vanish with time, and rather than defending the restrictions, almost apologizes for them, on the grounds that the Ubii would not be comfortable with so much change so quickly – but their kinsmen the Tencteri (it is implied) would naturally be patient with them, and understanding of this weakness of theirs. The speaker, in short, uses every means at his disposal to soften the terms and to conciliate the Tencteri.

What is the result of this debate? The Tencteri are calmed and lay aside their anger, the terms of the Ubii are accepted, and Cologne is spared (*H.* 4.65.4). Tacitus could hardly have made this result more unexpected; indeed, he seems to put his skill into making us expect the opposite. This is all the more surprising because, although Tacitus does often revel in frustrating the reader's expectations, this is usually with a result that is much *worse* than expected. Here, things turn out *better*. The scene began with a debate among the Germans whether to sack Cologne, and the mere fact that such a debate was held does not give the reader high hopes, particularly when even the Romans have been plundering

movables, and all slaves, in return for nothing more than their lives, as was the practice of the Goths several centuries later. The Romans regularly made much harsher demands to surrendering cities as well, and of course had just sacked Cremona, an Italian city, without offering any terms at all.

their way across northern Italy. The very first thing mentioned by Tacitus is that the natural cruelty of Civilis and his allies inclined them towards destroying the city. The last is that the Tencteri hated Cologne and envied it, and hate and envy are powerful emotions in Tacitus. We are given every reason to expect that Cologne would be destroyed. Then two speeches are given and suddenly all passion is calmed, all fury silenced. The only cause of this sudden change is eloquence. Among the Germans, we remember, a leader only has authority insofar as he can persuade others to follow him; this shows that they are accustomed to heed the voice of eloquence. It might be surprising that the Tencteri bother with a speech at all, but in their society, it is normal and natural: they give a speech because persuasion is the only means they know to accomplish their ends. But, by giving a speech, by attempting persuasion, they place themselves in a position where they must also be liable to being persuaded. They enter the arena, on ground where the Ubii can meet them on equal terms. The fact that the result of this episode is optimistic almost beyond hope is used by Tacitus to make a political statement: the Germans – Civilis, yes, but also the common Batavi and Tencteri – know how to use eloquence, and how to heed it, because their freedom has accustomed them both to persuading and to being persuaded. It need hardly be said that the Romans, and most of all the legions, are a different matter.

Soon afterwards, we see Civilis' eloquence decide the course of a doubtful battle. The Roman official Claudius Labeo gathers some scattered cohorts of Nervii and Tungri and meets Civilis on ground bordered by a river, where they could fight equally on the narrow strip of land (*H. 4.66.2: pugnabaturque in angustiis ambigue*). Tacitus notes, in passing, that some Germans swam the river and struck the Roman cohorts from behind, but he devotes much more space to what he considers the real cause of the battle's outcome, namely the actions of Civilis (66.2):

Simul Civilis, ausus an ex composito, intulit se agmini Tungrorum et clara voce
 “Non ideo” inquit “bellum sumpsimus ut Batavi et Treveri gentibus imperent:
 procul haec a nobis adrogantia. Accipite societatem: transgredior ad vos, seu me

ducem seu militem mavultis.”³⁶⁴

The Tungri at once sheathe their swords and go over to Civilis. This example is not quite as powerful as the debate at Cologne, because of Tacitus' hint that the defection of the Tungri may have been arranged ahead of time (*an ex composito*); nonetheless, it cannot have been arranged with the whole body of the soldiery, and there is no denying that they were genuinely moved by his words (66.3: *movebatur vulgus*). The theatricality of Civilis' gesture was no doubt important as well, as stepping forward, alone, and entering the enemy lines will have taken no little courage in himself and will have shown no little trust in them: Civilis knew how to play his audience, and this too was part of the orator's art.³⁶⁵

The same free spirit of the rebels, however, which made them suited to eloquence, also on occasion made them disordered. Tacitus is careful to portray this downside as well: since the Germans and the Treveri were accustomed only to do what they could be persuaded to do, they lacked a single leader who could expect automatic obedience and so direct the entirety of the war. As long as the Romans were divided, this proved only a little difficulty; once the Romans' own civil discord was ended, however, this disunity became a serious weakness. Once the Flavians have consolidated power, therefore, they begin to assemble a force of eight full legions plus auxiliaries – a formidable force by any measure, the size of which demonstrates their alarm – to deal with the situation in Germany (*H.* 4.68.4). The majority of the Gallic states, who had been vacillating between loyalty and rebellion, were panicked and sent representatives to a common meeting to decide what to do. A certain Treveran, Julius Valentinus, whom Tacitus calls skilled at stirring up sedition and popular on account of his furious eloquence, gives a fiery speech in favor of war; it is clear, however, that Tacitus does not think very much of him. He is a hack who speaks in cliché (68.5: *cuncta magnis imperiis obiectari solita ...*

³⁶⁴ “At the same time, Civilis, daringly or by arrangement, betook himself into the line of the Tungri and said in a clear voice, 'We have not taken up war so that the Batavi and Treveri might have empire over the nations: such arrogance is far from us. Accept our alliance: I defect to you, whether you prefer me as a leader or as a common soldier.'”

³⁶⁵ Cf. Lucan 7.87, on Pompey, and Sallust, *Catiline* 20.16. See Heubner (1976) 151 ad loc.

effudit).³⁶⁶ The next speaker, Julius Auspex, is introduced much more favorably: he delivers a speech (Tacitus only summarizes it) on the blessings of peace, stressing the unassailable power of Rome. Auspex wins the day: the Gauls, Tacitus says, admired the spirit of Valentinus, but followed Auspex (69.1). The oratory of Auspex therefore prevails, availing even against the warlike temper of Valentinus that the common barbarians stereotypically favored.³⁶⁷ Valentinus, however, has more success among his own tribe, the Treveri: when the rest of the Gauls urged the Treveri to yield and cease from war, Valentinus (Tacitus is quite clear that it was he who persuaded them) convinces them to continue.³⁶⁸ But most of the Gauls seem unable to decide what to do: they fight with each other and strive for the preeminence of their own *civitates*, and, in Tacitus' phrase, *nondum victoria, iam discordia erat* (69.3). Even the leaders of the revolt, Civilis included, cannot coordinate with one another, but each gallops off after his own discordant ends (70.1). All these seemingly divergent topics are set alongside one another by Tacitus, because they are all different facets of the same theme: the freedom of the Gauls and Germans, which, on the one hand, gives eloquence a powerful role in their society (which is itself sometimes for good, as with Auspex, sometimes less so, as with Valentinus), but which, on the other, causes disunity and disorder. The disorder is qualitatively different from that of the Roman troops in the

366 “He poured forth all the things with which great empires are customarily upbraided.” Tacitus is himself responsible for uttering many of the stereotyped complaints with which great empires are customarily upbraided – see Woodman (2014) 20-23 – so does this passage undermine the speeches that he gives to e.g. Boudicca and Calgacus elsewhere? I think not, not least of all because Tacitus does not only put these complaints in speeches, but vouches for them himself in the narrative. The complaints against Rome *were* hackneyed, but that does not make them either false or silly. It is not, moreover, sound methodology to take a single and epigrammatic comment from Tacitus, one that fits its narrow context (blackening the character of Valentinus) perfectly well, as *the one* true and complete representation of Tacitus' worldview, nor to allow a single passing *sententia* to undermine dozens of passages from the rest of his *oeuvre*. It is indisputable that some passages, at least, are written to portray the injustices inflicted upon barbarians by Romans vividly and sympathetically; e.g. *A.* 13.56, 14.31.1-4. Granted, moreover, that the complaints against the Empire were commonplaces, they are Roman commonplaces from Roman authors, and would not have been employed so freely and so often – and in conjunction with other commonplaces about barbarian freedom and virtue – if the authors had not felt that there was something in them beyond banal bombast.

367 Cf. *A.* 2.44.2.

368 There seems to be a strong sense among the other Gauls that the Treveri are alien: *H.* 4.69.2 states that the Treveri and Lingones – the very tribes now active in Civilis' revolt! – were suspected among the other Gauls because they had not joined the revolt of Vindex. This is probably due to the fact that the Treveri were half-Germanic and had as many cultural ties with the transrhene tribes as with the inhabitants of the heavily Romanized Gallia Narbonensis or Aquitania. If so, this also explains the different reception of Valentinus among the Gauls and the Treveri.

previous chapter, since it stems from *libertas* rather than *licentia* (as evidenced by the power of oratory among the Germans and its uselessness among the Romans), but it is still disorder, and it will still make the rebels weak against a united opponent.³⁶⁹

From this point, the rebels are on the defensive. Their forces are gradually pushed back, and the Roman army under Petilius Cerialis continues to advance. The leaders of the revolt therefore meet with one another (perhaps too late) to coordinate and decide on a single course of action. Here, in a council of war, they give a pair of contrasting speeches (*H.* 4.76.1-4). As happens so often in Tacitus, one advises delay, the other action. The course of this debate, in fact, should be compared to the council of war from *H.* 2.32.1-33.1, discussed in the previous chapter, where the great Suetonius Paulinus eloquently argued for delay, only for his speech to be ignored – not countered, but simply ignored – by the arbitrary will of Otho and the flattery of his courtiers. Here among the Germans, on the other hand, the result is determined entirely by the oratory of the participants. Civilis speaks first, urging that they wait for reinforcements (*H.* 4.76.1):

Civilis opperiendas Transrhenanorum gentes, quarum terrore fractae populi
Romani vires obtererentur: Gallos quid aliud quam praedam victoribus? Et
tamen, quod roboris sit, Belgas secum palam aut voto stare.³⁷⁰

According to Civilis, they should wait for reinforcements from the Germans beyond the Rhine; the Romans, after all, were terrified of such barbarians, and in any case the transrhenane tribes were their main source of strength. The next comment, that the Gauls were only *praeda* for the victors, has been

369 Merkel (1966) sees the interplay of freedom and disunity as critical in Tacitus' presentation of the Batavian revolt, but in such a way as to be unambiguously pro-Roman: independence might *seem* like freedom, he says, but it is *in truth* disunity, while only the Empire can end the chaos and disorder. In fact, Tacitus creates a neat balance: independence does bring freedom (good), but an unavoidable concurrence is disunity (bad); the Empire, on the other hand, puts a stop to chaos and universal war (good), but only at the cost of destroying freedom (bad). This will come out more clearly in the discussion of the speech of Cerialis.

370 “Civilis argued that they should await the transrhenane tribes, the fear of whom would break the power of the Roman people and so crush it. What were the Gauls but loot for the victors? And regardless, the Belgae – that part of the Gauls which was strong – were with them, either openly or in wish.”

much taken out of context.³⁷¹ It must be remembered that Tutor and Classicus, with whom Civilis was talking, were Treveri, and Civilis surely does not mean that the Treveri would be *praeda* for the victorious Germans – any more than he meant that the Belgae, whom he mentions next, would be *praeda*. Rather, this speech comes only in the context of the rest of Gaul having already submitted to Rome, and this statement comes precisely when Civilis is making the case for waiting on reinforcements. It is not a claim about the general aims of the rebellion, but an argument narrowly tailored to its context: most of the Gauls had submitted, but this did not matter since the Germans were the mainstay of the revolt's strength anyway. *Victoribus* necessarily applies to the Treveri and the other Gallic tribes still in revolt as well as the Germans, and so *Gallos* must mean “the *other* Gauls,” i.e. those who are no longer the allies of Civilis, Tutor, and Classicus, and who were therefore their enemies.³⁷² The Gallic Belgae, after all, are favorably mentioned in the very next sentence, and again in such a way as to show that Civilis' main point is that the loss of the other, weaker Gauls should not trouble them. On these grounds, then, Civilis makes the case for delay: the loss of the rest of Gaul was no real loss of strength, and they should await rather reinforcements from Germany.

Tutor speaks next. His speech is much the longer, and because of this, and because it comes second, it is probably intended by Tacitus to be seen as the more persuasive.³⁷³ He begins thus (*H.* 4.76.2):

Tutor cunctatione crescere rem Romanam adfirmabat, coeuntibus undique exercitibus: transvectam e Britannia legionem, accitas ex Hispania, adventare ex Italia, nec subitum militem, sed veterem expertumque belli. Nam Germanos, qui ab ipsis sperentur, non iuberi, non regi, sed cuncta ex libidine agere;

³⁷¹ See p. 157 n. 322.

³⁷² At the same time, of course, Civilis implies that the other Gauls would also be *praeda* for the Romans, in case of a Roman victory. His claim is actually a statement about the moral worth of the stereotypically peaceful Gauls (cf. *Ag.* 11.4): their fighting prowess was of no help to either side, and, being peaceful and submissive, they would only end up as prey to one or the other of their warlike neighbors. Tacitus would likely have assented to this analysis.

³⁷³ And yet we must remember that the rebels lose the subsequent battle, and that Tutor may, in fact, have been “wrong.”

pecuniamque ac dona, quis solis corrumpantur, maiora apud Romanos, et
 neminem adeo in arma pronum ut non idem pretium quietis quam periculi
 malit.³⁷⁴

The speech is by no means ineloquent: the phrasing is neatly balanced, and the common and pointed rhetorical device of a tricolon where the last element contrasts with the first two is frequent (*transvectam, accitas, adventare* – note the tense; *non iuberi, non regi, sed cuncta ex libidine agere*), as is the by now expected pairing of nouns and adjectives regular in oratorical prose (*veterem expertumque, pecuniamque ac dona*). The phrasing is allusive; *veterem expertumque belli* in particular recalls Livy and Virgil.³⁷⁵ There is also more than a little truth in Tutor's claims: now that the civil war was over, the Romans were indeed gathering forces from the corners of the western Empire to deal with the German revolt. It is also true that the Germans could not be controlled – persuaded, yes, but not reliably so – since Civilis himself has on occasion had difficulty with them. Only the last argument is ambiguous: Tutor fears that the Romans, who were much wealthier than the Batavi or Treveri, might in essence bribe the transrhene tribes not to participate in the revolt. While this is a reasonable concern, the Romans do not seem to have been seriously considering this at all (the Empire regularly supported friendly chieftains with lavish subsidies, but paying tribes in a state of actual war with them to lay down their arms was not common until much later), nor is it clear that the Germans, who as Tacitus describes them loved war more than all else, would even have accepted such an offer. But it is not an unreasonable fear, and Tutor's other points are accurate, and the entire argument is eloquently expressed. He continues (*H.* 4.76.3-4):

374 “Tutor began by asserting that the power of Rome was growing while they were hesitating, as armies were coming together from every side: a legion had crossed from Britain, several had been summoned from Spain, they were arriving from Italy – and not fresh levies, but veterans with experience of war. For the Germans, on whom they [Civilis et al.] placed their hopes, could not be ordered, could not be governed, but did everything according to their own wishes. The Romans, moreover, had more money and gifts, by which alone the Germans were corrupted – and no one was so ready to fight that he would not prefer quiet over danger for the same reward.”

375 *Aeneid* 10.173, *expertos belli iuvenes*; Livy 27.6.10, *veteres et expertes bellique peritos imperatores*. Cf. Curtius 5.8.11, *experto belli*. See Heubner (1976) 168-169 ad loc.

Quod si statim congregiantur, nullas esse Ceriali nisi e reliquiis Germanici exercitus legiones, foederibus Galliarum obstrictas. Idque ipsum, quod inconditam nuper Valentini manum contra spem suam fuderint, alimentum illis ducique temeritatis: ausuros rursus venturosque in manus non imperiti adulescentuli, verba et contiones quam ferrum et arma meditantis, sed Civilis et Classicus; quos ubi adspexerint, redituram in animos formidinem fugam famamque ac totiens captis precariam vitam. Neque Treveros aut Lingonas benivolentia contineri: resumpturos arma, ubi metus abscesserit.³⁷⁶

Here, Tutor carefully and elegantly lays out the case for immediate action. At the moment, Cerialis had no forces except the remnants of the legions that had once been stationed on the Rhine, that had supported Vitellius, and that had sworn allegiance to the Gallic empire, whose morale was therefore questionable at best. This is not quite true, since Cerialis had other forces with him already, but it is true that a large proportion of his army was composed of these unreliable troops. Their recent victory, moreover, had been over Valentinus, who was not the equal of Civilis or Classicus (Tutor modestly, or flatteringly, omits to mention himself), and so would enhearten them unreasonably and make them rash. Finally, the Treveri and Lingones may have been subdued (which fact prompted Civilis' argument that they should seek reinforcements in Germany), but Tutor points out that they felt no loyalty to Rome: if they therefore struck quickly and won a victory, the Treveri would instantly resume the revolt, making reinforcements unnecessary.

What is the result of this debate? Classicus is persuaded by Tutor, and so all three resolve on

³⁷⁶ “But if they came together at once, Cerialis would have no legions but the remnants of the army stationed on the Rhine, which were bound by their oaths to the Gallic empire. And the very fact that they had recently, against their own expectations, routed the unprepared force of Valentinus, would nourish their and their general's rashness: next they would dare and fall into the hands, not of an inexperienced youth more concerned with words and assemblies than iron and weapons, but of Civilis and Classicus. As soon as they saw these, there would return to their hearts fear and flight and hunger and the many times their lives were at our mercy when they were captured. Nor were the [recently subdued] Treveri and Lingones bound by any goodwill to the Romans: they would resume their arms as soon as fear departed.”

immediate battle (*H.* 4.76.4). This is remarkable when contrasted to the above-mentioned war council at which Suetonius Paulinus spoke: there, eloquence and reason had been crushed by the arbitrary will of the *princeps* and the flattery of his courtiers; here, on the other hand, the council proceeds as it ought to do. Opinions are freely expressed and freely debated, and in the end the speech that is undoubtedly the more persuasive wins, and all alike – including Civilis, who disagreed – willingly follow it. The fact that Civilis goes along is important: judging by the following defeat, his counsel may have been the wiser of the two, but he does not insist on having his own way. Rather, he accedes to the majority vote of his allies and lets himself and others be persuaded by the eloquence of Tutor, even though he and not Tutor was the real leader of the alliance – a testimony to the power that oratory could still exercise among the German and Gallic barbarians.

But the battle is lost, and there is now little time remaining for Civilis, and few opportunities for eloquence.³⁷⁷ In light of the importance of oratory in the Batavian revolt, however, it is fitting that both the rebellion and the extant books of the *Histories* end with a series of short speeches (*H.* 5.25-26). Indeed, the manuscripts break off suddenly in the middle of what was probably the final speech of Civilis. Since, however, we do not have the complete speech (and probably no more than a small opening portion at that), and we do not know if there was an answering speech by Cerealis, and we do not know the outcome of this speech – indeed, nothing whatsoever is known about the fate of Civilis – a discussion of Civilis' final oration would, sadly, be fruitless for our purposes. Even the two anonymous speeches by the Batavians that precede it, by the common people and the chieftains (5.25.1-2 and 25.3 respectively), are mostly interesting insofar as they occurred. As the Romans advanced and defeat became inevitable, the loyalty and ardor of the Batavi began to waver; rather than rise in mutiny, however, as the legions had so often done, they speak to one another, and that is enough.

³⁷⁷ It would be superfluous to discuss the pre-battle speech of Civilis at *H.* 5.17.1-2, for although it does succeed in rousing the troops to fight, this is true of nearly all such speeches in all authors.

Free Batavi do only what they are persuaded to do: when they begin to listen to each other instead of to Civilis, Civilis recognizes that his authority is at an end, and knows to give up.

The actual speech of the Batavi is noteworthy. It ties in neatly with the ongoing theme of freedom in the *Histories*, and it concludes the theme. They speak thus (*H.* 5.25.1-2):

Non prorogandam ultra ruinam, nec posse ab una natione totius orbis servitium depelli. Quid profectum caede et incendiis legionum, nisi ut plures validioresque accirentur? ... Respicerent Raetos Noricosque et ceterorum onera sociorum: sibi non tributa, sed virtutem et viros indici. Proximum id libertati; et si dominorum electio sit, honestius principes Romanorum quam Germanorum feminas tolerari.³⁷⁸

Even though it is the result of an accident of transmission, it is fitting that one of the last speeches in the *Histories* echoes the first: at 1.16.1, the new emperor Galba spoke of how the election of a *princeps* was almost the next best thing to freedom. Here, too, the Batavi speak of their condition as being *proximum libertati*. If their one tribe cannot avert the enslavement of the entire world (and it is noteworthy that even here they can refer to the Empire as *servitium*), nonetheless they should take solace in the fact that, unlike so many others, they do not have to provide tribute, but simply soldiers.³⁷⁹ They can even speak of submission to Rome as, in some sense, a choice: granted that they must have a *dominus* one way or the other, they at least have the choice of a master (Galba says *eligi coepimus*), and one could do worse than the Roman emperors.³⁸⁰ Civilis may have failed to lead them to complete *libertas* (which they still regard as optimal, only lamentably unattainable at the time), but they could

378 “Their ruin should not be drawn out any longer, nor could the servitude of the entire world be driven out by a single nation. What had been accomplished by the slaughter and burning of legions, except that more and stronger legions were summoned? ... They should look at the Raeti and Norici, and the burdens of all the other allies: tribute was not demanded of themselves, but only bravery and men. That was next to freedom. And if there was a choice of masters, the *principes* of the Romans were more honorably tolerated than the women of the Germans [i.e. Veleda].”

379 Though the fate of Civilis is unknown, this remained true of the Batavi even in Tacitus' day: *G.* 29.1-2.

380 Cf. *G.* 45.9, where Tacitus refers to a German tribe ruled by women as having fallen even below the level of slaves. It is likely that he here and in the *Histories* passage reflects Roman rather than Germanic prejudice, but nonetheless it is, in Tacitus' view, indicative of Batavian *libertas* that they prefer the emperors to the rulership of women.

still avoid complete *servitium*.

If the common Batavi seemed to think that Civilis had taken the honorable course, even though he had failed, the speech of the chieftains is full of personal invective against Civilis himself (Tacitus marks their speech with the unflattering adjective *atrociora*). They make no mention of *libertas* or *servitium* (*H.* 5.25.3):

Civilis rabie semet in arma trusus; illum domesticis malis excidium gentis opposuisse. Tunc infensos Batavis deos, cum obsiderentur legiones, interficerentur legati, bellum uni necessarium, ferale ipsis sumeretur. Ventum ad extrema, ni resipiscere incipiant et noxii capitis poena paenitentiam fateantur.³⁸¹

If the common Batavi seemed honorable, even in the moment of their capitulation, the behavior of the chieftains can only disgust: they try to avoid all blame in the rebellion and make Civilis the scapegoat for everything that had gone wrong. They even meditate treachery – the rest of the Batavi were unhappy with the result of the war and ready to lay down their arms, but they make no mention of handing Civilis over to the Romans for punishment. This second speech seems to be here only to set the first in a better light. The situation is, moreover, the exact reverse of what is normally the case for the Romans in the *Histories*: Roman soldiers frequently mutiny from the worst motives and even betray their commanders, while the generals themselves (with a few exceptions) seem mostly concerned to restrain the destructive impulses of their troops; here, however, it is the Batavian chieftains who seem the more shameful, and the common soldiers, the *vulgus*, who seem fair and reasonable, who are concerned with *libertas* or at least with whatever is *proximum libertati*, and who echo the speech of a tragically upright and old-fashioned Roman emperor. Even at the end of the Batavian revolt, a strong contrast is made between the Roman and the German soldiers, in which the Romans do not necessarily

³⁸¹ “They had been driven into arms by the madness of Civilis; he had opposed to his domestic troubles the destruction of his people. The gods were hostile to the Batavi when the legions were besieged, their legates were killed, and a war necessary to one man but destructive to them was taken up. They had come to the end – unless they should begin to come to their senses and, by the punishment of the guilty one, confess their repentance.”

come off the better.

Even Civilis, at the end, proves less than heroic, and perhaps unworthy of the loyalty of the Batavi. He weakens out of the hope of life (*H.* 5.26.1), and he makes a speech before the Roman generals, apparently defending his conduct and claiming (a claim that Tacitus has told us was a mere pretext) that he had only waged war on Vitellius on behalf of Vespasian. At this point, unfortunately, his speech breaks off. His fate is unknown, and we can say no more about him.

Throughout the Batavian revolt, therefore, from its beginning to its end, eloquence has proved to be a central theme. In contrast to the Romans in the *Histories*, for whom oratory was regularly powerless and who rarely allowed themselves to be persuaded by speeches, the rebellion of the Germans and Gauls began, grew, and ended according to the speeches of its leaders. In sharp contrast to the Roman legions, the Batavian soldiers listened to the voice of eloquence and were persuaded by it. Unlike the Romans, the Batavi never mutinied, even at the end. Nothing could avert the destruction of Cremona, and the emissaries of the Senate could hardly calm the Flavian troops marching on Rome; but the speech of the Ubii soothed the fury of the Tencteri and saved their city from ruin. For the Germans, unlike the Romans, remembered freedom, and fought for it, and in some sense were still free. The connection between freedom and eloquence is well known, but this aspect of its portrayal in Tacitus, and his use of it as a foil to the Romans, has so far gone unnoticed.

There remains, however, one more speech that must be considered in connection with the Batavian revolt. It is worth considering separately and at some length, for it has generated vast scholarship, and it is of the utmost importance for understanding the *Histories*. I refer to the famous speech of Petilius Cerialis.

After the defeat of the Treveri and Lingones, the Roman general Cerialis calls an assembly and harangues the crowd. His speech is a justification of the Empire, for all its flaws and abuses, and since

it is the longest of all the speeches in the already oratory-rich Book 4, we should not underestimate its significance. But it is a difficult speech to interpret, full of ambiguities and ironies that have divided scholars: some take Cerialis as giving Tacitus' own final word on the Empire, some point out how Tacitus undermines Cerialis' speech in the narrative.³⁸² In order to understand the Batavian revolt, therefore, and consequently the role of eloquence therein, we must discuss the oration of Cerialis.

Fittingly, Cerialis himself begins with a reflection on the value of oratory (*H.* 4.73.1):

Neque ego umquam facundiam exercui et populi Romani virtutem armis adfirmavi: sed quoniam apud vos verba plurimum valent bonaque ac mala non sua natura, sed vocibus seditiosorum aestimantur, statui pauca disserere, quae profligato bello utilius sit vobis audisse quam nobis dixisse.³⁸³

The contrast between words and deeds, λόγοι and ἔργα, with which Cerialis opens his speech is too well known to need much explanation, and of course it is traditionally assumed as part of the commonplace that deeds are better than words.³⁸⁴ But the distinction seems out of place here, perhaps even misapplied. The usual meaning is that λόγοι are empty or not to be trusted compared with the factual reality of ἔργα. Here, however, Cerialis is criticizing the Treveri, not for *making* useless speeches, but for *listening* to them. The essence of his complaint is that oratory still has a powerful role among them (*apud vos verba plurimum valent*) – but in Roman society this would normally be a *good* thing. That Tacitus gives eloquence a useful role among the barbarians as a mark of their freedom has been one of the main arguments of this chapter. It is only by his appropriation of the λόγος-ἔργον

382 Edelmaier (1964) 78-79 and Benario (1991) 3332-3353 fall into the first camp, Lyasse (2007) 519-534 into the second. Rutherford (2010) 312-330 argues that the speech is pessimistic but not inaccurate: it is an endorsement of the Empire, but a very begrudging one with many reservations (whereas Benario argued that Tacitus was unbegrudgingly and indeed enthusiastically pro-Empire).

383 “I have never practiced eloquence, but rather have asserted by arms the virtue of the Roman people. But since among you words have great power, and good and evil things are not judged by their own nature but according to the pronouncements of seditious men, I have determined to say a few things that, the war having been brought to an end, it will be more useful for you to hear than for me to say.”

384 There is also a possible allusion to Sallust in Cerialis' boast *neque ego umquam facundiam exercui*; of the famous Gaius Marius, *Bellum Iugurthinum* 63.3 says *non Graeca facundia ... sese exercuit*.

distinction that Cerialis can make this seem a bad thing; he is, in effect, condemning them for their best quality. It is, moreover, more than a little disingenuous to begin a speech by proclaiming the uselessness of speech. It strikes one almost as a *praeteritio* – “I do not want to make a speech, but if I must” – and emphasizes that Cerialis' claim to be a man of deeds rather than of words is simply a rhetorical pose. This is not to condemn Cerialis by any means: it may be a pose, but it is a very intelligent and powerful one. Whatever protestations Cerialis might make, we are dealing with a very skilled speaker. And this skilled speaker, having observed perhaps the role of eloquence in the rebellion, cleverly (albeit disingenuously) began by condemning this as a trivial obsession with words.

Cerialis next claims that the Romans had not obtained their empire over the Gauls in the first place out of greed or desire for power, but at the invitation of the Gauls themselves, to save them both from their own internal quarrels and from the invading Germans (*H.* 4.73.2). This is, to say the least, inaccurate. But it nonetheless forms a core part of Cerialis' argument: that the Empire did not exist for the sake of Rome, but for the common good of all. In the case of the Gauls, this mainly meant protecting them from the Germans. Cerialis' argument here is an ambivalent mixture of truth and exaggeration (73.3):

An vos cariores Civili Batavisque et Transrhenanis gentibus creditis, quam maioribus eorum patres avique vestri fuerunt? Eadem semper causa Germanis transcendendi in Gallias, libido atque avaritia et mutandae sedis amor, ut relictis paludibus et solitudinibus suis fecundissimum hoc solum vosque ipsos possiderent: ceterum libertas et speciosa nomina praetexuntur, nec quisquam alienum servitium et dominationem sibi concupivit ut non eadem ista vocabula usurparet.³⁸⁵

385 “Or do you believe that you are more dear to Civilis and the Batavians and the transrhenane tribes than your fathers and grandfathers were to their ancestors? The reason for the Germans' crossing into Gaul has always been the same: lust and greed and love of changing their place, so that, leaving behind their swamps and deserts, they might gain possession of this most fertile soil and of you yourselves. Freedom and specious names are offered as pretexts, but no one has ever

Cerialis' goal is to manipulate the collective memory of the Treveri to divide them from the Batavi; to this end, he posits a traditional and ancestral animosity between their peoples. Their recent alliance, he thereby suggests, was unnatural and fragile: the Germans would have been sure to turn on them, as all their ancestors had done. To a degree this is true. The Germans had, after all, often crossed into Gaul – Ariovistus comes to mind – and small plundering raids over the Rhine were not uncommon. The Germans in the *Histories* do show a greed for loot. On the other hand, as we have already discussed extensively, it is unlikely that Civilis or the Batavi had any intention of turning on their Gallic allies in this revolt (although the Gauls who sided with Rome would naturally be fair prey). The Treveri, moreover, were just as much Germans as they were Gauls; indeed, for much of the revolt, they have seemed more closely akin to the transrhenane tribes than to the other the Gallic peoples (who seemed to view them as outsiders). If Civilis was guilty, as some scholars have claimed,³⁸⁶ of eliding the distinction between Germans and Gauls, Cerialis is guilty of over-emphasizing it. The final comment, that *libertas* and similar fine words were simply a pretext to cover greed and ambition, is a very Tacitean observation, and undoubtedly there is truth to it. But it is also undoubtedly true from Tacitus' narrative that a large proportion of the motivation of the Germans and the Treveri in revolting is indeed *libertas*. Regaining their freedom was no more a pretext for them than preserving freedom was for the still independent Britons. Cerialis himself had fought these Britons earlier in his career, and he had commanded a legion during the revolt of Boudicca; he must have known therefore that *libertas* was not *always* just a pretext. His reason for making this claim can either be ignorance (unlikely) or rhetoric: his goal is to convince the Treveri to abandon the revolt, and it is not unpersuasive to argue that the *libertas* for which Civilis claimed to be fighting was simply a pretext for his own ambitions.³⁸⁷ Just as

desired to enslave others or make himself a master but that he laid claim to these selfsame terms.”

386 Merkel (1966).

387 Tacitus himself remarks on how easy it is to believe lies based on hatred (*H.* 1.41.1). Whatever the truth of Cerialis' claim, he probably thought, the natural cynicism of humans would make it easier for the Treveri to believe that Civilis was using *libertas* as a pretext than that he truly sought *libertas*.

Cerialis undermined the role of eloquence by condemning the Treveri for their obsession with empty words, so can he undermine the claim to be fighting for freedom by calling it a pretext to mask greed.

The real core of Cerialis' argument comes next (*H.* 4.74.1):

Regna bellaque per Gallias semper fuere, donec in nostrum ius concederetis.
 Nos, quamquam totiens lacessiti, iure victoriae id solum vobis addidimus quo
 pacem tueremur; nam neque quies gentium sine armis neque arma sine stipendiis
 neque stipendia sine tributis haberi queunt. Cetera in communi sita sunt: ipsi
 plerumque legionibus nostris praesidetis, ipsi has aliasque provincias regitis;
 nihil separatum clausumve.³⁸⁸

This is the important point: Cerialis argues that, before the coming of the Romans, Gaul was divided into a series of petty kingdoms at constant war with one another and with their neighbors in Germany and Britain. The Romans, however, arrived not as conquerers, but as upholders of peace and the common good: the Empire, Cerialis suggests, was not of Romans over provincials, but a unity, wherein the Romans demanded only as much from the provinces as was absolutely necessary to provide for the provinces' own defense against the Britons and Germans (74.2: *quibus Germani Britannique arceantur*). As evidence for this interpretation of the Empire as a mutually beneficial union, he points out that Gauls themselves often commanded legions and governed provinces. There is much truth in this view, but it is undoubtedly over-optimistic. The idea that the Romans came to Gaul as selfless benefactors is wildly inaccurate. Tribute was imposed and armies raised as much to keep down the provincials as to protect them³⁸⁹ – and even when the legions did in fact defend the provinces from

388 “There were always kingdoms and wars throughout Gaul until you yielded to our dominion. We, although so often provoked, have only used the right of victory to impose upon you that by which we could preserve the peace; for neither peace among the nations can be had without arms, nor arms without payment, nor payment without tribute. All else is in common: you yourselves often preside over our legions, you yourselves govern this and other provinces; nothing is separated or shut off.”

389 Lavan (2013) 25-72 argues that, during the time of Tacitus and Pliny, a major revolution was occurring in Roman thought: the major division was no longer perceived as between citizens and non-citizens, but between Italians and provincials regardless of their citizenship status, and that the latter began to be conceived of as subjects of the former.

outside invaders, the process of raising tribute and levying recruits was so hopelessly and cruelly corrupt as to be worse than the alternative. It was Tacitus, after all, who gave us so vivid and outrageous a picture of Roman injustice in the revolt of Boudicca, and who so often makes his characters complain about the abuses of the Roman government (*A.* 14.31.1-4, 4.72.1-2, *H.* 4.14.1).³⁹⁰ That Cerialis could, in such an environment, refer to provocations given to the *Romans*, and Roman patience in the face of such treatment (*quamquam totiens lacessiti*), is barely better than an outright insult. Moreover, his claim that Gauls commanded legions and governed provinces was true (Tacitus himself may have been of Gallic origin), but it is an exaggeration to say *nihil separatim clausumve*: only in the reign of Claudius had senatorial position been granted to a small number of Gauls, and those from the most Romanized part of Gaul, and even that was controversial. All the same, the ironies and problems in this passage must not blind us to the fact that parts of it are indeed true: Gauls did often command legions, and the main use of the tribute-money was to pay for the large number of soldiers stationed on the Rhine. If Cerialis makes too much of these truths, it is not surprising in the context: he is after all giving an *apologia* for the Empire.

Cerialis continues in this vein for some time, making the famous comment that the provincials should endure the vice or injustice of their rulers just as they endure bad weather – itself a shocking statement, and Tacitus is unlikely to have assented to such a defense of wickedness (*H.* 4.74.2). The speech concludes thus (74.3-4):

Nam pulsus, quod dii prohibeant, Romanis quid aliud quam bella omnium inter se gentium existent? Octigentorum annorum fortuna disciplinaque compages haec coaluit, quae convelli sine exitio convellentium non potest, sed vobis maximum discrimen, penes quos aurum et opes, praecipuae bellorum causae. Proinde pacem et urbem, quam victi victoresque eodem iure obtinemus, amate

³⁹⁰ Martin (1981) 173.

colite; moneant vos utriusque fortunae documenta, ne contumaciam cum pernicie
quam obsequium cum securitate malitis.³⁹¹

It is clear that, to Cerialis, the Empire exists for the common good of all. Since it preserves peace, its fall would result only in universal war; it cannot be torn apart by rebellion without destruction recoiling on the heads of the rebels. There is some evidence that Tacitus sympathized with this viewpoint, such as when he says of the rebels, *nondum victoria, iam discordia erat* (4.69.3). At the same time, it is ironic in the extreme for Cerialis to prophesy dire warnings of universal war in the case of Rome's fall precisely when such a universal war had just occurred. The *Histories* up to now has been little more than a narrative of how civil war filled all the corners of the Empire; the imperial prize drew into conflict troops from as far apart as Germany and Syria, who otherwise, if there had been no Empire, would have had no reason to fight. Cerialis might possibly be right in claiming that the fall of Rome would lead to war and more war – but it is certain that the existence of Rome did so. Cerialis then claims that conquered and conquerors alike both have equal rights as citizens, which is not false but a bit over-optimistic. The *sententia* with which the speech concludes, that the Treveri should prefer *obsequium cum securitate* to *contumacia cum pernicie*, is somewhat troubling: besides the thinly veiled threat, *obsequium* has strong negative connotations of slavishness, while *contumacia* is the negative equivalent of behavioral *libertas* (Helvidius Pricus, for instance, would be described as acting with *libertas* by his supporters but with *contumacia* by his detractors).³⁹² Cerialis is therefore toying with the meaning of words and substituting connotations: where he says the *contumacia*, others would understand *libertas*; what he calls *obsequium*, others would call *servitium*. Taken together with his

391 “For if the Romans – may the gods forbid it – were thrown out, what else would happen but universal war of all the nations with each other? By the fortune and discipline of eight hundred years has this conjoined structure grown, which cannot be torn apart without the destruction of those tearing it apart – but the greatest danger is yours, since you have in your possession gold and wealth, the chief causes of wars. Therefore love and cherish peace and the City, which we all alike, conquered and conquerors, hold with the same right; may the evidence of both kinds of fortune advise you not to prefer obstinacy with danger to obedience with safety.”

392 See Vielberg (1987) 150-168, 172-177, 179-181.

other statements, his conclusion must be taken as meaning that peaceful slavery to Rome is better than warring freedom.

The speech of Cerialis, therefore, serves as an *apologia* for the Roman Empire. Cerialis makes many good points, undoubtedly. But the speech is too filled with ironies and problematic connotations for it to be taken as the entire opinion of Tacitus himself, as it has sometimes been taken to be. To some degree, Tacitus must be undermining Cerialis' arguments by phrasing them in such a way that creates negative resonance with the narrative and with the historical facts. It is, moreover, inherently improbable that the usually cynical Tacitus should make so naively optimistic a defense of the Empire as to say that the Romans came to Gaul as selfless benefactors. Nor is it true, as Cerialis would have it, that those who rebel against Rome are never really motivated by *libertas*. At the same time, however, these problems must not blind us to the fact that there *are* truths in Cerialis' speech. The Romans did (except in civil war) keep peace, of a sort, since the Gauls no longer warred with each other; they did levy tribute primarily to fund the armies. Out of this mixture of half-truths and exaggerations comes Tacitus' real judgement, ambiguous as always, about the Empire. The Empire may have been as corrupt and unjust as he shows us elsewhere, and the Roman legions may have trodden on freedom wherever they marched – but, viewed in brute utilitarian terms, the Empire was better than the universal disunity that would replace it if it were torn apart by rebellion. Tacitus, the senator and the governor, could serve Rome with a clean conscience, for it was the least of evils. But this does not mean that he was unsympathetic with those who saw it differently: he judged pragmatically, but if others more idealistic could not forgive Rome for crushing the *libertas* of the provinces (as he could), or could only see Rome as a foreign occupier of their native country, he might nonetheless present their viewpoint favorably. Tacitus could feel anger at the treatment of Boudicca and yet rejoice in her downfall; he could be glad that Civilis failed to rend the Empire apart, while still respecting the principles of a liberator.

In the end, this is what Cerialis' speech can tell us about the Batavian revolt. Tacitus was a

Roman and supported Rome. His pragmatic side could not endure that a local revolt should spread and cause more disunity and war, and perhaps bring down the entire fabric of the Empire. But he could at least understand the idealism of those who fought for *libertas*, or who were justifiably angered by Rome's atrocious treatment of them. Civilis and the other Batavi need not be hypocrites, as some scholars make them; their goals could be noble, and Tacitus could present them as such, while still disapproving of them. Tacitus can show how the spirit of freedom found expression among them, and still reveal the occasional dark side of the revolt and the reasons for its ultimate, unavoidable failure.

The Batavian revolt in the *Histories*, then, is a stage on which Tacitus can trace the dual themes of eloquence and freedom in ways rarely noticed in the scholarship. Unlike the Roman Senate and the Roman legions, whose oratory was often ineffectual and over whom eloquence had no power, the Germans and Gauls who joined Civilis' revolt could both use speeches to persuade others and be persuaded by them. Traditional and stereotypical images of the barbarian, expressed by Tacitus himself in the *Germania* and elsewhere, show that this is the consequence of their continued freedom: the fact that their societies are still free, both in the sense of independence from Rome and in having quasi-democratic customs and institutions, grants eloquence a powerful role among them. This role is the same as Rome once had, when it had the same democratic institutions before the coming of the Principate, but which no longer existed for contemporaries. The Batavian revolt, therefore, is used by Tacitus as a foil to the Romans in the rest of the *Histories*, to emphasize just what had changed and how much they had lost along with their *libertas*.

Chapter 5: The *Annals*, Part One – The Reign of Tiberius

Sin proprium periculum increpuit, non hercule lorica et gladius in acie firmissimum munimentum quam reo et periclitanti eloquentia praesidium simul ac telum.
— Tacitus, *Dialogus* 5.6

These words are the core of Marcus Aper's argument from the *Dialogus*: that the life of the active orator is the best life because of its practical benefits, chief among which he names the usefulness of eloquence for both attack and defense. When danger threatens, he says here, armor and weapons are not as firm a protection for the soldier in battle as eloquence is for a man under accusation and on trial. As we said in our chapter on the *Dialogus*, a reading of the trials³⁹³ from the *Annals* underscores the falsity (to Tacitus) of this argument. It is now time to revisit and to justify that claim. This chapter and the next, therefore, will examine the trial scenes in the *Annals*, and it will be shown that Tacitus did not consider oratory important, either for defense or prosecution, in the outcome of these trials. Indeed, he assigns so little importance to forensic speeches that he very rarely even mentions them. It is the emperor, rather, who decides the outcome, typically for his own reasons, which most commonly involve supporting his favorites and punishing his enemies. The influence of the emperor is strong indeed: in Tacitus, a letter from Tiberius, his merest frown of displeasure with a defendant, is enough to secure conviction; acquittal is just as easily obtained by a trivial sign of favor. All this is especially true when it comes to the *delatores* and to trials for *maiestas*: for *maiestas*, according to Tacitus, is the political crime *par excellence*, and in the outcome of these cases, which touched imperial interests so closely, the Senate was always sensitively attuned to the wishes of the emperor. The *delatores*, moreover, were considered closely aligned with the *princeps*, and Tacitus will show us how a Tiberius or a Nero encouraged and protected the *delatores*, using them to bring their enemies to trial for *maiestas*, where they could be destroyed with a pretense of legality. In this way,

³⁹³ At least of those mentioned by Tacitus, i.e. the important cases that were tried before the Senate or before the emperor. This is naturally a very selective sample, and one where the direct influence of the emperor would presumably be more powerful than in other trials, but these are the cases that Tacitus chose to narrate, and that he considered important for his interpretation of history. See Goodyear (1970) 34-44, Köhnken (1973) 32-50.

maiestas accusations and the *delatores*, as the mainstays of tyranny, undermined the role of eloquence.³⁹⁴

That oratory lost most of its public function under the Principate is not a new argument. When the claim is usually made, however, it tends to be about deliberative oratory, i.e. that the Senate no longer had a real role in the government's decision-making process.³⁹⁵ Forensic or judicial oratory is rarely so treated, and is often overlooked. Indeed, even some attempts to link the *Dialogus* and the *Annals* have encountered problems precisely because they fail to take into account that the *Dialogus* is about forensic oratory almost exclusively.³⁹⁶ Here, however, we will be concerned specifically with the role of forensic eloquence in the *Annals*. The courtroom was, as the *Dialogus* shows, one of the main traditional arenas for oratory, and one no less highly regarded than the deliberative; in the *Annals*, however, it is precisely this role of eloquence that we see growing increasingly obsolete under the Principate.

The next two chapters, therefore, will focus on the trials in the *Annals*. This chapter will cover the reign of Tiberius; the next, the Claudian and Neronian books. In this chapter, we will pay especial attention to the role of Tiberius himself in fostering *maiestas* delation, and his reasons for doing so. The character of Tiberius is perhaps the most ambiguous in all of Tacitus, and endless debate has revolved around him, his alleged hypocrisy, his gradual “change” into a tyrant, and many other themes.³⁹⁷ Many

394 As we saw in Chapter 1, delation was in fact a necessary part of the Roman justice system, but it was liable to abuse, and this liability made it hated and unpopular, sometimes unfairly, sometimes with ample justification. See Drexler (1956) 195-212, Bauman (1967) and (1974), Raaflaub (1987) 1-45, Rudich (1993) xxvi, Rutledge (2001), Fuhrmann (2012) 109. Later emperors often did not bother with the pretense of legality and simply used the soldiery as their personal assassins, a practice that admittedly began very early: see Fuhrmann (2012) 123-145 *passim*.

395 E.g. MacMullen (1966) 15, Kennedy (1972) 430. Leidl (2010) 235-258 discusses the general phenomenon of why authors included unsuccessful speeches in their narratives. There is a degree of overlap between forensic and deliberative oratory in the *Annals*, since most forensic speeches actually occur in the Senate, a traditionally deliberative arena. This, however, only emphasizes the point, for deliberative oratory in the Senate went obsolete much more quickly than forensic, as the emperors extended their control over affairs.

396 Van den Burg (2012) 191-211. The article is useful as an explication of the theory of “rhetoric” in historiography generally, but it does not succeed in linking the *Dialogus* to the *Annals*, precisely because of its over-emphasis on deliberative oratory. See Ch. 2, p. 8, n. 28.

397 See e.g. Heinz (1957) 42-43, Martin (1981) 105, Gill (1983) 469-487, Woodman (1998) 153-167.

scholars have, convincingly, shown that Tacitus is not always entirely fair to the historical Tiberius, and it is probable that he was not half the tyrant that he appears in the *Annals*.³⁹⁸ It is even possible that he was, as some scholars have seen him, well intentioned but cursed to see all his efforts turn out for the worse.³⁹⁹ Nonetheless, in this chapter it is only the Tacitean Tiberius who will concern us, and it is indisputable that the Tiberius of the *Annals* bears complete responsibility for the rise of the *delatores* and the plague of *maiestas*. It is the *ars Tiberii* (to use Tacitus' phrase) that causes *maiestas* delation to be so widespread and that leads to the uselessness of eloquence.⁴⁰⁰ Whatever the guilt or innocence of the real Tiberius, the Tacitean emperor, as we shall see in this chapter, is almost solely responsible for crushing the traditional role of forensic oratory and for refuting the arguments of Marcus Aper.

The first important mention of *maiestas* and the beginning of Tiberius' role in promoting it comes at *Annals* 1.72. Tacitus has just told us that the emperor forbade the people to swear to follow his *acta* and refused the title *pater patriae*. But these positive actions of Tiberius are undermined, as they so often are in Tacitus, by an immediate transition to something much more negative (*A.* 1.72.2-73.1):

Non tamen ideo faciebat fidem civilis animi; nam legem maiestatis reduxerat. ...
 Facta arguebantur, dicta impune erant. Primus Augustus cognitionem de famosis libellis specie legis eius tractavit ... mox Tiberius consultante Pompeio Macro praetore, an iudicia maiestatis redderentur, exercendas leges esse respondit.
 Hunc quoque asperavere carmina incertis auctoribus vulgata in saevitiam superbiamque eius et discordem cum matre animum. Haud pigebit referre in Faianio et Rubrio, modicis equitibus Romanis, praemptata crimina, ut quibus

³⁹⁸ Ryberg (1942) 383-404, Rogers (1951) 114-115 and (1952) 279-311, von Fritz (1957) 73-97, Shotter (1980) 230-233, Woodman (1998) 40-69, Hausmann (2009) 36 and 136-140. On the contrary, see Dunkle (1971) 12-20. See also Heinz (1957) and Schmidt (1982) 274-287.

³⁹⁹ Cuff (1964) 136-137, Shotter (1967) 712-716 and (1969) 14-18, Christes (1994) 112-135, Christ (1996) 126-141.

⁴⁰⁰ Koestermann (1955) 72-106, Zäch (1971), Rudich (1993). On the *ars Tiberii*, see Woodman (2012) 162-180.

initiis, quanta Tiberii arte gravissimum exitium inrepserit, dein repressum sit,
postremo arserit cunctaque corripuerit, noscatur.⁴⁰¹

Tacitus' segue into the subject of *maiestas* is an occasion when one of the praetors, Pompeius Macer, asks Tiberius whether he should accept accusations on that charge. (We should also note that Tiberius' response was apparently conditioned by his annoyance at certain popular attacks on his character, which is the first hint we see of a characteristic of his that will prove important: for all that Tiberius is stereotypically dark and inscrutable, he is very liable to sudden furies whenever he is personally insulted.) Tiberius' seemingly innocuous response, *exercendas leges esse*, has spawned no little debate on the emperor's role here. It is, first, uncertain whether Tacitus is right to fault Tiberius for bringing back (*reduxit*) the *maiestas* law, since it seems that the law had never been officially abridged; but then it is hard to explain why the praetor felt it necessary to gauge the emperor's mood.⁴⁰² Probably *maiestas* was already considered so politically sensitive a charge and so tied up with the interests of the imperial house that it was unimaginable either to proceed with such accusations or to dismiss them as long as the new emperor's position was unknown. More importantly, however, Tiberius' own motivation in responding simply *exercendas leges esse* is up for debate. There are those who see in this phrase a respect for the rule of law on the part of the emperor; at worst, they would say, it was misguided, since the inherent ambiguities of *maiestas* would open the floodgates for *delatores* to test just how much they could get away with, and just how far they could extend the meaning of *maiestas* in their prosecutions (Tacitus does, after all, refer to the charges against Faianius and Rubrius as *praetemptata crimina*).⁴⁰³

401 "He did not, however, thereby create belief that he was citizen-minded, for he brought back the *lex maiestatis*. ... Deeds were material for accusation [early in the Republic], words were immune. Augustus was the first who dealt with inquiries about slanderous pamphlets by means of that law ... and soon Tiberius, when the praetor Pompeius Macer asked whether prosecutions for *maiestas* should be granted a hearing, responded that the laws were to be enforced. He was also exasperated by some anonymous poems that had been put out and that attacked his savagery and arrogance and the discord with his mother. We will hardly regret mentioning the accusations attempted against Faianius and Rubrius, Roman knights of modest means, so that it might be known from what beginnings, and by what cunning of Tiberius, a most terrible destruction crept in, then was repressed, and at last blazed forth and carried everything away." On *civilis animi* see Wallace-Hadrill (1982) 32-48. On *dicta impune erant*, see Cramer (1945) 157-196, Hennig (1973) 245-254.

402 Koestermann (1955) 72-106, Goodyear (1981) 141-150.

403 Rogers (1959) 90-94, Cuff (1964) 136-137; on Tiberius' attitude, cf. Shotter (1967) 712-716 and (1980) 230-233. On

Indeed, Tiberius is not without his defenders, whether they defend the historical Tiberius from Tacitus or even assert that Tacitus himself is positive towards Tiberius.⁴⁰⁴ But the view of Tacitus is utterly unambiguous: in the immediately subsequent section, he states clearly and unequivocally that it was by means of the *ars* of Tiberius that the evil of *maiestas* invaded the body politic.⁴⁰⁵ The words of Tacitus admit no other interpretation than that Tiberius intentionally encouraged the growth of *maiestas* delation, and that he used his *ars* to do so in some secretive or underhanded way. The emperor's response to the praetor, then, must be viewed through the lens of the main characteristic of Tiberius: his dissimulation.⁴⁰⁶ On the surface, *exercendas leges esse* seems like the honest statement of a citizen in support of the rule of law; in fact, it was the emperor's signal to the *delatores* and a mark of the coming tyranny, and it was universally understood as such (*non faciebat fidem civilis animi, nam...*). Some modern scholars have been deceived by Tiberius' doublespeak, but the Romans were not.

The first *maiestas* cases in the *Annals*, then, are these *praemptata crimina* against Faianus and Rubrius, which Tacitus mentions for the sake of discussing how, by means of the *ars Tiberii*, the evil of delation began and grew. It might therefore seem strange that both were acquitted, and that the emperor himself dismissed the charges against them – but this, of course, is the essence of the cunning of Tiberius. To ram these unpopular accusations through a Senate still unaccustomed to *maiestas* delation would not have been *ars*, and would not have been characteristic of the dissimulation of the emperor; part of Tiberius' cunning, rather, lay in the manner in which he often rebuffed accusations gently enough not to discourage them in the future.⁴⁰⁷ We will see more evidence for this as we

the legal issues, see Bauman (1974) 48-51. Goodyear (1981) 149 ad loc. disagrees with those who see no objection in the phrase, since “a weighty question of public policy was involved.”

404 See Christes (1994) 112-135, Christ (1996) 126-141.

405 Goodyear (1981) 154 ad loc: “*arte Tiberii* seems distinctly unfair when the charges were dismissed, but T. might claim that in itself indicated *ars*.” “Might claim” is weak, since that is undoubtedly Tacitus' argument: Koestermann (1955) 81-83 and n. 27 rightly points out, *pace* Walker (1952) 89, that Tacitus would have been an utterly incompetent author to introduce evidence against his own interpretation in the very next line. Cf. Koestermann (1963) 236-239. On the metaphor of delation as a disease in this passage and Tiberius as a bad physician, see Woodman (2012) 162-180.

406 Woodman and Martin (1996) 89 on the *dissimulatio* of Tiberius.

407 Koestermann (1955) 81-83, Goodyear (1981) 154.

proceed, but for the moment, we must discuss the first trials for *maiestas*. Tacitus describes the charges thus (*A.* 1.73.2):

Faianio obiciebat accusator, quod inter cultores Augusti, qui per omnes domos in modum collegiorum habebantur, Cassium quendam mimum corpore infamem adscivisset, quodque venditis hortis statuam Augusti simul mancipasset. Rubrio crimini dabatur violatum periurio numen Augusti.⁴⁰⁸

The first thing to note is that these first accusations all revolved around Augustus – indeed, Augustus is mentioned *by name* three times in two sentences. If the *delatores* were trying to find promising material for their first attempts at convictions before Tiberius, their choices were very reasonable, for Tiberius was famous for the immense respect and deference that he showed to the legacy of Augustus, and it was likely that he would respond harshly to any denigration of the memory of his adoptive father.⁴⁰⁹ If so, however, the *delatores* miscalculated (73.3-4):

Quae ubi Tiberio notavere, scripsit consulibus non ideo decretum patri suo caelum, ut in perniciem civium is honor verteretur. Cassium histrionem solitum inter alios eiusdem artis interesse ludis, quos mater sua in memoriam Augusti sacrasset; nec contra religiones fieri, quod effigies eius, ut alia numinum simulacra, venditionibus hortorum et domum accedant. Ius iurandum perinde aestimandum quam si Iovem fefellisset: deorum iniurias dis curae.⁴¹⁰

Tiberius' response is, on the surface, very reasonable and civil (in the sense of *civilis*). He orders that

408 “The accuser charged Faianius that, among the worshippers of Augustus who were associated in the matter of a *collegium* throughout all the great houses, he had admitted a certain Cassius, a mime-actor who had disgraced his body, and that, when selling some gardens, he had at the same time sold a statue of Augustus. It was alleged against Rubrius that he had sworn falsely by the divinity of Augustus.” On *corpore infamem*, see Goodyear (1981) 155 ad loc.

409 Cowan (2009) 179-210.

410 “When they related these things to Tiberius, he wrote to the consuls that heaven had not been decreed to his fathers for the reason that this honor might be twisted to the destruction of citizens. The actor Cassius had been accustomed, like others of that profession, to take part in the games that his mother had consecrated to the memory of Augustus; nor was it done contrary to religious scruples, that his image, like other statues of the gods, should go along with the sale of gardens and houses. They should judge the oath just as if he had sworn falsely by Jupiter: injuries against the gods were the concern of the gods.”

the charges be dismissed, on the grounds that Augustus had been divinized as an honor to himself, and not so that Roman citizens might be destroyed by slighting his *maiestas*. The presence of an actor among the votaries is justified by precedent, and Tiberius very logically points out that, if Augustus is a god, selling his statue should be just as much of a non-issue as selling the statue of any other god. Similarly, perjuring the name of Augustus should be the same as perjuring the name of Jupiter: if the gods were offended, the gods could avenge their own injuries. The behavior of Tiberius in this case appears very much that of a true statesman, or of a benevolent *princeps*. It is with some surprise that we remember that Tacitus introduced these cases *ut quanta Tiberii arte gravissimum exitium inreperit ... noscatur*, and that the very dismissal of the charges must therefore, somehow, be considered part of the *ars* by which Tiberius actually promoted *maiestas* delation. But our confusion should begin to clear on closer inspection. Tiberius' rejection of the charges is carefully crafted to apply *only* to the specific cases then before him; what he says has no bearing on other hypothetical *maiestas* cases, and he does nothing at all to discourage such accusations generally or in the future.⁴¹¹ These cases, after all, are reported immediately after Tiberius had ordered the praetor to allow charges of *maiestas*: if he had actually wanted to ban such delation, the praetor's inquiry gave him a perfect opportunity to do so. He did not. There is, moreover, an aspect of these cases so obvious that its full significance is rarely noted: they are decided entirely by a letter from the emperor. Legally, *maiestas* would be tried before the Senate, and the outcome was entirely in the Senate's hands.⁴¹² Tiberius does not technically dismiss the charges nor acquit the defendants, not having that legal power; rather, he simply makes his will known to the consuls, and his will is carried out. This is more than a little strange if his *exercendas leges esse* was an honest proclamation of the rule of law – but of course it was not. Tiberius' decision on these two

411 Koestermann (1963) 240 ad loc.

412 Chilton (1955) 73-81, Koestermann (1963) 240, Levick (1979) 358-379. The legal position was ambiguous at best: Furneaux (1896) 87-93, Talbert (1984) 460-487. See also Brunt (1984) 423-444 on the actual role of the Senate, and on the fact that historians were often imprecise in saying that the emperor did this or that when the decision was technically taken by the Senate.

cases is indeed reasonable and just, but the manner in which he decides is ominous.⁴¹³ He could very easily have decided differently.

The next case occurs when Granius Marcellus is accused of *maiestas* by Caepius Crispinus and Romanus Hispo (*A.* 1.74.1). The famous description of Hispo as the archetypical *delator* has already been discussed in Chapter 1: we will therefore note only in passing that, according to Tacitus, out of greed and impatience of repose he attached himself to the interests of the *princeps* and brought accusations whenever possible, so as to obtain *potentiam apud unum* (i.e. the emperor), *odium apud omnes* (74.2). He charges Marcellus with having made slanderous statements about Tiberius – and, Tacitus tells us, it was believed that Marcellus had made these statements because the statements were true (74.3: *nam quia vera erant, dicta credebantur*). One more charge is added on, and the immediate reaction of Tiberius is not favorable (74.3-6):

Addidit Hispo statuam Marcelli altius quam Caesarum sitam, et alia in statua amputato capite Augusti effigiem Tiberii inditam. Ad quod exarsit adeo, ut rupta taciturnitate proclamaret se quoque in ea causa laturum sententiam, palam et iuratum, quo ceteris eadem necessitas fieret. Manebant etiam tum vestigia morientis libertatis. Igitur Cn. Piso “quo” inquit “loco censebis, Caesar? Si primus, habebo quod sequar; si post omnes, vereor ne imprudens dissentiam.” Permotus his, quantoque incautius efferverat, paenitentia patiens tulit absolvi reum criminibus maiestatis.⁴¹⁴

413 Köhnken (1973) 50 makes the obvious but very true observation that someone who has the power to acquit contrary to the law also has the power, if he so wishes, to condemn contrary to the law. See also Talbert (1984) 471 and 477-480, who emphasizes that the judicial sphere was just one more of the many areas where the nominal authority of the Senate was circumscribed by the interest of the emperor; says Talbert, “There was [in *maiestas* cases] no exception to the principle which we have seen to apply to all other types of senatorial business, namely, that he expected his views to be adopted” (477).

414 “Hispo added that a statue of Marcellus had been placed higher than those of Augustus and Tiberius, and that on another statue the head of Augustus had been removed and that of Tiberius set in its place. At which Tiberius grew so wrathful that, breaking his silence, he proclaimed that he too would vote in this case, openly and with an oath, so that there would be the same necessity for the others. But there remained even then some vestiges of dying freedom. Therefore Cn. Piso said, ‘In what place will you vote, Caesar? If first, I will have something to follow; if last, I am afraid

This complex case has been interpreted in radically different ways. It is not easy to explain the vehemence of the usually reserved Tiberius' outburst, especially when we compare this case to the two previously: all involve insults to the *numen* of Augustus, and two involve offenses against a statue of Augustus, and so we might expect Tiberius to react similarly. The fact that he does not react similarly at all has generated scholarship. It is easiest to assume that Tiberius breaks out in anger at the defendant for the egregiousness of the offense, but the fact that the offense was so similar to two cases that Tiberius had dismissed has caused Goodyear to prefer another interpretation: Goodyear argues that it was not the defendant at whom Tiberius was angry, but the prosecutor Hispo.⁴¹⁵ On this view, Tiberius is angered precisely because he had just dismissed similar charges, only for Hispo to bring yet more in blatant defiance of his wishes;⁴¹⁶ the emperor therefore declares his intention to vote under oath as part of a formal trial, to make his objections to such delation a matter of established precedent, since his informal repudiation of the charges against Faianius and Rubrius evidently had little discouraging effect. The repentance of Tiberius, Goodyear argues, does not imply that Tiberius changed his mind, but simply that he regretted his outburst. This reading may be possible with reference to the historical Tiberius with whom Goodyear is concerned,⁴¹⁷ but it is very far removed from the text of Tacitus. The most natural reading of the story as told here is that the statement of Cn. Piso called Tiberius back to his senses and changed his mind; but the end result is acquittal, and therefore the emperor's original inclination must have been to condemn.⁴¹⁸ His outbreak was thus not aimed at Hispo, but at the defendant. This more natural reading also fits better with the surrounding context: Tacitus, in describing Hispo, has just told us how his delation brought him wealth and repute and *potentiam apud unum*,

I might dissent from you unintentionally.' Deeply moved by this, and because of how incautiously he had blazed forth, he repented and allowed the accused to be absolved of the accusations of *maiestas*."

415 Goodyear (1981) 162-166.

416 It is certainly true that *delatores* like Hispo were evidently not discouraged by the dismissal of the charges against Faianius and Rubrius. If anything, this supports my arguments on p. 7, that Tiberius did not in fact intend to discourage such charges at all.

417 Goodyear (1981) 164 calls *permotus his ... patiens* an "erroneous gloss" by Tacitus.

418 Goodyear (1981) 165 agrees that *tulit absolvi* indicates Tiberius' "grudging acquiescence" in acquittal, and therefore implies that his original intention was to condemn, but he seems to regard this as a distortion by Tacitus.

odium apud omnes (which implies that he did *not* have the *odium* of the *unus*); it would be absurd for Tacitus to follow with an episode demonstrating Tiberius' wrath *against* Hispo and desire to discourage *delatores* like him.

If this is so, however, we must explain why Tiberius' reaction is so different from what it was in the cases of Faianius and Rubrius. It may be that the emperor simply did not like Marcellus for whatever reason; it may be that, being present rather than sending a letter as in the former cases, his first and more violent response was visible this time. But there is no evidence for either of these possibilities. Tacitus hints, albeit very circumspectly, at what he probably regarded as the true reason: Tiberius was already biased against Marcellus because of the slanderous statements (*A.* 1.74.3: *sinistri sermones*) uttered against himself, and so, now having cause to dislike Marcellus because he was personally insulted, he responded with great anger to a provocation that had barely troubled him when it had come from people towards whom he felt no personal odium. This is the opinion of Koestermann, which Goodyear considers and rejects.⁴¹⁹ The personal insults against Tiberius are, however, indisputably the main difference between this and the previous cases. Nor is it a stretch to imagine that Tiberius was exasperated against the defendant because of these insults: one of the characteristics of the emperor in the *Annals* is that, despite his dissimulation, he tends to take slander against himself very personally and to grow enraged thereby, either immediately or storing up his resentment.⁴²⁰ In this case, therefore, the emperor, furious with someone who had insulted him, proclaims his desire to hold an immediate vote under oath, intending to convict the defendant. Evidently this was not received well by the Senate, probably because the emperor's taking so active a hand in condemning individuals for

419 Goodyear (1981) 162; Koestermann does not, however, either at (1955) 85-86 or (1963) 242, actually say what Goodyear accuses him of saying, that the antecedent of *ad quod* is *sinistri sermones*, which is (Goodyear correctly notes) unlikely because of the intermediate sentences. Rather, he merely makes the point that, in this case and unlike the previous ones, Tiberius “[fühlte] sich durch die *sinistri sermones* getroffen,” as indeed he was.

420 Koestermann (1955) 86 cites the case of Votienus Montanus at *A.* 4.42.2. I would also refer to *A.* 3.66.1-67.2, where Tiberius openly shows his intense dislike of the defendant rather than (as usual) trying to show neither favor nor disfavor nor any emotion at all. We shall have occasion to discuss both passages and others in due course.

maiestas was still considered uncivil (*manebant etiam tum vestigia morientis libertatis*); the remarks of Piso recall Tiberius to the practice of his *ars*, and he allowed the Senate to vote for acquittal.⁴²¹

The next case that we must examine is that of Libo Drusus, beginning at *A.* 2.27.1. It is of especial importance as the first *conviction* in the *Annals* on these charges⁴²² (Libo actually commits suicide, but he seems to have been convicted posthumously), and as the first time, according to Tacitus, that certain practices were brought to light that would eat away at the commonwealth (27.1). Throughout the trial, Tacitus is at pains to show how the emperor's hand was decisive at every step.⁴²³ Libo is described by Tacitus as a silly and superstitious youth, trusting much in the Chaldean astrologers and dream interpreters (a potentially serious political matter to the Romans); a certain Firmius Catus, one of his acquaintance, decided to take advantage of this, and, along with some accomplices, began taking note of Libo's actions and private conversations in order to gather material for an accusation (27.2). The emperor becomes involved soon enough (28.1-2):

Ut satis testium et qui servi eadem noscerent repperit, aditum ad principem postulat, demonstrato crimine et reo per Flaccum Vescularium equitem Romanum, cui propior cum Tiberio usus erat. Caesar indicium haud aspernatus congressus abnuat: posse enim eodem Flacco internuntio sermones commeari. Atque interim Libonem ornat praetura, convictibus adhibet, non vultu alienatus, non verbis commotior (adeo iram condiderat); cunctaque eius dicta factaque, cum prohibere posset, scire malebat, donec Iunius quidam, temptatus ut infernas umbras carminibus eliceret, ad Fulcinium Trionem indicium detulit.⁴²⁴

421 At least on the charge of *maiestas*: Marcellus still has to face trial for extortion (*A.* 1.74.6).

422 The charges are unclear; they may have been conspiracy, or black magic, or *maiestas* deriving from one or both of the first two charges (since consulting astrologers about the *princeps* was *maiestas*). See Koestermann (1963) 298-301, MacMullen (1966) 129, Bauman (1974) 59-61, Seager (1976) 231, and Goodyear (1981) 263-280. Tacitus wants it to seem that Libo is innocent of any actual conspiracy, and Goodyear (1981) 264 agrees that the existence of a conspiracy in this case is unlikely.

423 Heinz (1957) 54-57.

424 "As soon as he found enough witnesses and slaves who knew the same things, he begged for access to the emperor, making a demonstration of the accusation and the defendant through Flaccus Vescularius, a Roman knight, who had

Here we see Tiberius practicing his regular dissimulation. Whatever the exact nature of the information conveyed to him, he evidently heard enough to make him hate Libo, for Tacitus explicitly tells that he hid his resentment (*iram condiderat*). While covering up his anger, Tiberius continued to act as though nothing were wrong, even pretending to hold Libo in high favor – granting him a praetorship and conversing with him at dinners, and keeping a mask of hypocrisy the whole time – so as to have better knowledge of all his deeds and words when the time came to destroy him (*cum prohibere posset, scire malebat*). A modern historian, looking only at the authentic actions of the emperor, could ignore Tacitus' *iram condiderat* as biased and misleading and conclude that Tiberius was in fact being scrupulously fair in the face of as yet unfounded accusations; but Tacitus clearly wants us to see Tiberius as already planning to destroy Libo and only dissimulating this intention. The manner in which all this is told, moreover, is very unsettling: all the action happens behind closed doors and in secret, and all the principal actors have some personal connection to the emperor. Finally, information is carried to Fulcinius Trio, a notorious *delator* (28.3), and the Senate is summoned.

What happens next is so excellent an example of the declining role of oratory due to *maiestas* and the fear thereof that it is worth quoting (*A.* 2.29.1):

Libo interim veste mutata cum primoribus feminis circumire domos, orare
ad fines, vocem adversum pericula poscere, abnudentibus cunctis, cum diversa
praetenderunt, eadem formidine.⁴²⁵

Libo goes to all his neighbors attempting to find counsel for his defense, someone, anyone at all, willing to speak for him in his trial before the Senate – but no one is willing. Not to have defense

closer intercourse with Tiberius. The emperor, without rejecting the evidence, refused a meeting, saying that they could hold their conversations using Flaccus as an intermediary. And in the meantime he honored Libo with the praetorship and was near him at dinners, not hostile of face, not disturbed of speech (so deeply had he hidden his anger); and he preferred to know all Libo's words and deeds, rather than to forbid them – until a certain Junius, whom Libo had tried to get to summon the spirits of the dead by means of incantations, gave evidence to Fulcinius Trio [a *delator*].”

425 “Meanwhile, Libo, changing his clothing [i.e. putting on mourning] went from house to house with some noble women, and kept begging his neighbors for help, and kept pleading for the aid of some eloquent voice against his dangers; but everyone refused, although they made diverse excuses, on account of the same fear.”

counsel would be nearly as shocking to the Romans as it is to us; even the most notorious criminals, on the worst charges (one thinks of Verres), were rarely confined to just one advocate, but usually had several. Acting as counsel was traditionally one of the best ways for an ambitious Roman to make a name for himself, to acquire friends, and to create obligations, perhaps to be named in the will of his grateful client – and Libo, silly and superstitious though he may have been, was undoubtedly rich, and prominent enough to be named praetor. But he could find no one. Even putting on mourning clothes and going door to door pleading, he found *no one* willing to defend him before the Senate. They were all afraid.⁴²⁶ What they feared was, presumably, the displeasure of the emperor if they should defend one of his enemies (it was clear by now how he felt about Libo). This might strike us as a little strange: not only has no one in the *Annals* yet been prosecuted for being connected to someone accused of *maiestas* (as will certainly happen later), but no one in the *Annals* has yet been convicted for *maiestas* at all, so why should they be afraid? Tacitus may therefore be anachronizing here. It is unlikely, however, that he will have so distorted the facts as to give Libo no defense counsel at all if in fact he had been defended, and there is little other possible reason for so total an absence than fear of retribution. Whatever the truth, the case as Tacitus presents it vividly portrays how the role of eloquence was vanishing because of *maiestas* delation.

When the day of the trial came, Tiberius, keeping his expression inscrutable (*immoto vultu*), read out the charges: *mox libellos et auctores recitat Caesar, ita moderans ne lenire neve asperare crimina videretur* (*A.* 2.29.2: “Soon the emperor recited the charges and the authors thereof, so moderating his tone as to seem neither to make light of nor to aggravate the accusations”). Tiberius here practices his customary dissimulation: whatever his intentions or opinions (and the reader, at least, is fairly certain what they are), he is careful to *appear* strictly neutral. His appearance of neutrality is at best imprudent and naïve, since, as scholars have noted, the practice of delation was such that only the

⁴²⁶ Heinz (1957) 56. Cf. *A.* 6.19.3. This is the first time, but by no means the last, that fear will undermine eloquence.

active intervention of the emperor could curb it, and neutrality would *de facto* encourage it.⁴²⁷ In fact, Tiberius knew what result his affectation of even-handedness would have. This will be the first time in the *Annals*, but far from the last, that a defendant loses all hope at seeing the emperor, not necessarily hostile, but pretending neutrality. Now the accusations against Libo were mostly harmless, and Tacitus even calls them pitiable, with the exception of a paper found, allegedly in Libo's hand, containing a list of senators with mysterious marks by their names (30.2); it is hinted that this is a death list. It was therefore decided to examine Libo's slaves by torture – but there is a problem: *et quia vetere senatus consulto quaestio in caput domini prohibebatur, callidus et novi iuris repertor Tiberius mancipari singulos actori publico iubet* (30.3: “And because an old *senatus consultum* forbade the examination of slaves in capital cases against their master, Tiberius, cunning and an inventor of new law, ordered certain individuals to be sold to the public agent”). The action of Tiberius is actually not as novel as Tacitus suggests,⁴²⁸ but Tacitus wants this to appear as a case where Tiberius undermines the spirit of the law by cleverness with regard to its letter, to the detriment of the defendant.

Libo apparently realizes (as he had done since the beginning) that Tiberius was against him and that he could not win. During an adjournment, therefore, he takes a last and elaborate dinner and ends his own life (*A.* 2.31.1-2). This in itself is revealing, since it is the action of a man without hope of his acquittal.⁴²⁹ More revealing is the behavior of Tiberius after Libo's suicide (2.31.3-32.1):

Accusatio tamen apud patres adsequitur adseveratione eadem peracta, iuravitque

Tiberius petiturum se vitam quamvis nocenti, nisi voluntariam mortem

427 Shotter (1972) 88-98, Goodyear (1981) 263.

428 Goodyear (1981) 277 ad loc. notes an Augustan precedent. Bauman (1974) 42-55 specifies that the examination of slaves was, in fact, always permitted in *maiestas* cases, and Augustus had only expanded the definition of *maiestas* to allow the examination in a new kind of case. Tiberius may have done something similar here, but no more. Shotter (1972) 95 thinks that *callidus et novi iuris repertor* is complimentary and that Tacitus is genuinely and favorably impressed by Tiberius' legal acumen.

429 Cf. Talbert (1984) 479: “But in general the Senate looked to the emperor's wishes in deciding cases of *maiestas* and other serious crimes – matters frequently referred by him in the first place of course. His attitude was therefore of paramount importance, and the Senate seldom sought to exercise judgement independently. *The frequency with which defendants committed suicide before the completion of their hearing indicates how they might feel doomed in such circumstances* [my emphasis].”

properavisset. Bona inter accusatores dividuntur, et praeturae extra ordinem datae iis qui senatorii ordinis erant.⁴³⁰

There was nothing inherently unsavory about continuing a trial after the suicide of the defendant, as even Koestermann acknowledges.⁴³¹ What was unusual, however, was that the estate of the convicted was still confiscated and distributed among the accusers, a phenomenon that Tacitus assures us was, if not illegal, certainly not ordinary practice.⁴³² Certainly it belies Tiberius' claim: the emperor, after the death of Libo, asserted that he would have pardoned the defendant if not for his over-hasty death. There is no reason at all to believe this, and many reasons not to do so. If Tiberius had wanted to pardon Libo, he could have done so long before this point – indeed, he would never have allowed the trial to get so far, since it is entirely due to the behind-the-scenes influence of the emperor that Libo is prosecuted at all. Tiberius, moreover, makes this claim elsewhere, and Tacitus gives us good ground to conclude that it is a blatant lie (*A.* 3.51.2). Finally, if Tiberius had intended to pardon Libo, he would not have shown such harshness in confiscating Libo's estate and distributing it among the accusers.⁴³³ The prosecution were legally entitled to a portion of the defendant's estate, true, but only in case of conviction, and Tiberius here goes beyond the minimum legal requirement.⁴³⁴ Certainly he was under no obligation to bestow extraordinary praetorships on Libo's accusers. The only conclusion to be reached is that Tiberius is in fact rewarding the *delatores* for their destruction of Libo, because he wanted Libo destroyed, and that his claim of counterfactual clemency was pure hypocrisy, an empty assertion that made him seem merciful but cost him nothing.

430 “The accusation was nonetheless pursued before the Senate with the same severity. Tiberius swore that he would have pled for the life of Libo, however guilty he was, if he had not precipitated a voluntary death. Libo's estate was divided among his accusers, and extraordinary praetorships were given to those who were of senatorial station.”

431 Koestermann (1963) 307 ad loc.

432 Cf. *A.* 6.29.1: *damnati publicatis bonis sepultura prohibebantur, eorum qui de se statuebant humabantur corpora, manebant testamenta, pretium festinandi*. Rogers (1933) 18-27 attempts to prove that Tacitus (along with Dio and every ancient author who has mentioned the subject), although a consular and a successful advocate, was utterly ignorant of the legal issues involved.

433 Koestermann (1955) 90-91.

434 Goodyear (1981) 280.

The case against Libo Drusus, therefore, is a vivid example of how the emperor Tiberius promoted, albeit secretly and slyly, *maiestas* delation. His hostility to Libo, who is very nearly entrapped, is clear from the beginning; Tacitus explicitly says that Tiberius was less interested in preventing Libo's alleged crimes than in knowing the details. For the details would supply an accusation, and the accusation would provide material for the *delatores*, who could be rewarded from the forfeited estate. By far the most striking point of the trial, however, is what is not there: oratory. Tacitus regarded the case as important, as in some ways the beginning of a long downward trend (*A.* 2.27.1), and so elaborated it at length. But there are no speeches. They surely occurred, but neither the prosecution nor the defense is given a set speech, nor the barest summary of their remarks in indirect discourse (except that Tacitus does note the specific accusations against Libo, briefly and so as to ridicule them). Nor is any speech even mentioned. Indeed, Tacitus shows us the pitiable picture of Libo trying, and failing, to find anyone at all willing to speak for him. The fact that none did so is itself a testimony to the effect of imperial-sponsored delation on eloquence. Indeed, the cause of the trial's outcome has nothing to do with the oratory of either side, but rather with the behavior of the *princeps*: the center of the action is not the defendant, but the emperor, from the first moment when the accusation was reported to him, to his personal surveillance of Libo, to his dissimulation during the trial, to his rewarding of the accusers at the trial's conclusion. The fact that the chief part was played by the emperor Tiberius helps to explain why eloquence has so little role.

Tiberius acquits himself rather better in the next relevant case (at least for the present), but Tacitus can nonetheless use it to show how, even if the *princeps* acts *civiliter*, the general system of the Principate was problematic. This occurs when Lucius Piso sues Urgulania, the friend of Livia Augusta (*A.* 2.34.2):

Haud minus liberi doloris documentum idem Piso mox dedit vocata in ius
Urgulania, quam supra leges amicitia Augustae extulerat. Nec aut Urgulania

obtemperavit, in domum Caesaris spreto Pisone vecta, aut ille abscessit,
quamquam Augusta se violari et immini quereretur.⁴³⁵

The exact grounds of Piso's complaining against Urgulania are not clear. Tacitus is not interested in them. Piso may not have been either: a very old-fashioned and prickly personality, he probably looked for any grounds for a quarrel. He did this, as befit his Cato-like character, by invoking a very old and half-obsolete legal formula, the *in ius vocatio*: according to Goodyear, this formula carried severe penalties for non-appearance, but Urgulania would have been safe from those penalties as long as she remained in her own house.⁴³⁶ Urgulania, however, was equally combative: she disdained the summons of Piso and openly left her own house and went to the palace. It is here that the striking phrase *supra leges amicitia Augustae extulerat* becomes relevant: besides the fact that it is in itself a noteworthy comment on contemporary Rome that the friendship of a member of the imperial household (not even the *princeps* himself) put one above the law, Urgulania's action is a blatant assertion of the fact. Under the *in ius vocatio*, she was, legally, safe as long as she remained in her own house; she chose instead to travel to the emperor's palace (whence she could *legally* be forcefully removed) as a symbolic statement that, whatever the law said, she was *actually* safe under Livia's roof. Her move must be read as a commentary that she placed more trust in the *amicitia* of the imperial house than in the protection of the law – itself a damning indictment. This is all the more so when we consider the reasons *why* she felt safer at the palace, whence she could legally be dragged, than in her own house, whence she could not; the answer lies in Livia's complaints *se violari et imminui*. Both of these words imply a dire threat against Piso: they are the normal way of stating that someone has committed the crime of *maiestas* (*maiestas [im]minuta* or, from Augustus on, *maiestas violata*).⁴³⁷ Livia is essentially making the threat

435 “This same Piso soon gave proof of his no less free-spirited sense of indignation when he summoned to court Urgulania, whom the friendship of the Augusta had raised above the laws. Nor did Urgulania comply, despising Piso and having herself born to the house of the emperor, nor did he yield even though the Augusta kept complaining that she was insulted and diminished in dignity.”

436 Goodyear (1981) 294 ad loc.

437 Bauman (1967) 199-212.

that, if Urgulania should actually be forcefully removed from the palace as the law technically allowed, this would be regarded as diminishing the *maiestas* of the imperial house – as indeed it almost certainly would have been. Urgulania's action, therefore, is essentially a statement that the imperial family were above the law, that their superlegality could be extended to cover their friends, and that *maiestas* delation was in store for any that disputed this.

As Piso and Urgulania are at loggerheads, Tiberius, in order to avoid a crisis and to humor his mother, acts reasonably and responsibly (*A.* 2.34.3). He appears publicly in the forum, in the guise of an ordinary citizen with his train of dependants; he puts aside most of the imperial accoutrements and orders his soldiers to remain far behind.⁴³⁸ In the end, since neither Piso nor Urgulania is willing to yield, the Augusta herself ends the stand-off by paying Piso, out of her own pocket, the amount for which he was suing Urgulania. Tacitus says that both Piso and Tiberius came away from the affair with enhanced reputations (34.4). But this is Tacitus, and he cannot allow a scene to end on so positive a note, so he ends with the reflection that the power of Urgulania (which, remember, comes from the *amicitia Augustae*) was harmful to the state, and that she so flouted traditions and public *mores* that, on an occasion when a praetor was sent to ask her for testimony, she gave it in her own house, when even the Vestals (whose position was theoretically the most honorable at Rome) customarily appeared in the public forum. In this way Tacitus can end the episode by referring back to the beginning, to the excessive power of Urgulania deriving from nothing more than her friendship with the imperial house, and emphasize that, even in a case where Tiberius acted admirably, the Principate still caused problems from the very fact that those who had the favor of the imperial family were above the law.⁴³⁹

Next, we have another clear case of the *ars Tiberii*. At *A.* 2.50.1, Appuleia Varilla, the grand-niece of Augustus, is accused of treason. Tacitus introduces the case by stating *adolescēbat interea lex*

438 Even Koestermann (1963) 314 is favorably impressed. But see also Sailor (2008) 31-32.

439 This case will also eventually have a more negative ending: this same Piso will be destroyed in Book 4 by the saved-up anger of the emperor.

maiestatis (“the *lex maiestatis* meanwhile was growing to maturity”), which creates the assumption that the evils associated with *maiestas* delation were growing more prevalent and that Appuleia will therefore be convicted. But this is not what happens. Tacitus describes the case thus (*A.* 2.50.1-3):

Et Appuleiam Varillam, sororis Augustu neptem, quia probrosis sermonibus divum Augustum ac Tiberium et matrem eius inlusisset Caesarique conexa adulterio teneretur, maiestatis delator arcessebat. De adulterio satis caveri lege Iulia visum; maiestatis crimen distingui Caesar postulavit damnarique, si qua de Augusto inreligiose dixisset; in se iacta nolle ad cognitionem vocari. ... Liberavitque Appuleiam lege maiestatis; adulterii graviolem poenam deprecatus, ut exemplo maiorum propinquis suis ultra ducentesimum lapidem removeretur suasit.⁴⁴⁰

The accusation revolves around slanderous and impious remarks allegedly uttered against Augustus, as well as Tiberius and his mother. The *delator* was probably testing the limits of *maiestas*, trying to throw as much as possible against the wall to see what would stick.⁴⁴¹ Once again, however, the behavior of Tiberius seems exemplary. He acquits Appuleia of *maiestas*, and as for the charge of adultery, he argues against the harsher penalty and in effect remands the case back to the family, who could, in the traditional manner, and as a private rather than a criminal issue, impose a form of exile on the adulteress. But Tacitus said *adolescebat interea lex maiestatis*; evidently we are meant to see more at work. Tiberius is not as innocent as he appears. First, the *delatores* were not actually forbidden from proceeding, unlike in previous cases.⁴⁴² Second, the emperor does acquit Appuleia – eventually; before

440 “A delator accused even Appuleia Varilla, a grand-niece of Augustus, of *maiestas* on the grounds that she had slandered the divine Augustus and Tiberius and his mother with insulting comments, and because, although a relative of the emperor, she was open to a charge of adultery. It was thought that the *lex Iulia* took sufficient cognizance of the charge of adultery; Tiberius demanded that the crime of *maiestas* be distinguished, and that she should be condemned, if she had spoken impiously of Augustus; insults against himself he did not wish to be liable to trial. ... And he freed Appuleia of the charge of *maiestas*; deprecating the harsher penalty of adultery, he urged that, according to the example of the ancestors, she might be removed by her own relations beyond the two hundredth milestone.”

441 Goodyear (1981) 345. Goodyear is also good on the translation of *adulterio teneretur*.

442 Koestermann (1963) 346.

that, however, he demanded, to the full Senate, that if she had indeed slandered Augustus she should be condemned. This is far removed from the Tiberius of *A.* 1.73.3-4, who declared that his father had not been divinized for the sake of the destruction of citizens, and, regarding perjury by the name of Augustus, that offenses against the gods were the gods' concern. Quite the contrary: Tiberius here proclaims that slanderous and impious remarks (*inreligiose dixisset*) should indeed be treated as a criminal matter, in a sharp departure from previous policy. Having made that departure, he pardons Appuleia, whether because she was factually innocent or simply because he did not want to push things too far too quickly; but nonetheless, his *dicta* established that negative comments about Augustus could now be treated as criminal. It was now a matter of public record that such cases could be accepted in the future, and of course the *delatores* – as Tiberius knew well – would understand the signal. And at the same time, we must note again that there is no mention of any speech by any figure involved in the case, nor that any oratory or eloquence contributed in the slightest way to the conclusion. The emperor alone speaks, but he does not argue, he decrees; and the decrees of the emperor are based upon his own inscrutable purposes.

Most of the remainder of Book 2 concerns Germanicus and his death, and Book 3 begins with the return of his ashes to Rome, the mourning of the people, and the trial of Piso for his murder. The whole affair between Piso and Germanicus is perhaps the most criticized of Tacitus' narratives, for it is often thought that, in his hatred of the emperor, he so twists facts as to make it seem that Piso poisoned Germanicus on the orders of Tiberius.⁴⁴³ It is true that Tacitus presents Tiberius as overjoyed at the death of Germanicus, whom he clearly mistrusted and hated (e.g. *A.* 3.2.3, 3.3.3).⁴⁴⁴ In fact, the allegation that Piso murdered Germanicus is in no way supported by the narrative of Book 2 (which only mentions their usual animosity and Piso's joy upon learning, from hundreds of miles away, that

443 Walker (1952) 110-131, Rogers (1952) 279-311, Hausmann (2009) 119-140.

444 On these passages, see Woodman and Martin (1996) 89-93.

Germanicus had died), and it is explicitly contradicted by the narrative of Piso's trial (3.14.1).⁴⁴⁵ Nonetheless, the impression is understandable: Tacitus does everything that he can to create a dark and mysterious atmosphere at the trial, and he does not hide the animosity (or the dissimulation) of Tiberius. It will therefore be worthwhile to examine this trial in some detail, for it is an important case in itself, and by far the longest and most prominent example of *maiestas* that we have thus far encountered in the *Annals*.⁴⁴⁶

Charges were filed against Piso by the accusers Vitellius and Veranius, with a certain Fulcinius Trio joining (*A.* 3.10.1). There was some wrangling within the prosecution about who would speak on what, but, a consensus eventually being reached, Tiberius inaugurated the trial with a speech before Senate. This is the only direct-discourse speech of the trial, indeed the only one mentioned at any length (for the speeches of the prosecutors are touched on only in passing, to summarize their points in the barest indirect discourse). It is surely revealing that the only major speech is given, not by the prosecutors nor by the defense, but by the emperor.⁴⁴⁷ Moreover, the speech of Tiberius, as one would expect, is full of ambiguity and doubt, such that, even though he speaks, there is no reason to believe that it is his speaking that influences the course of events; his oratory is a facade for the public and a mask over the nature of his true power. In his speech, Tiberius tries very hard to maintain a pose of strict neutrality and fairness – but as usual with Tiberius, it is unlikely that Tacitus means us to believe this pose. Nonetheless, Tiberius begins his speech thus, in indirect discourse transitioning into direct (*A.* 3.12.1-2):

Patris sui legatum atque amicum Pisonem fuisse adiutoremque Germanico datum

⁴⁴⁵ Sinclair (1991) 2795-2831, Hausmann (2009) 139-140.

⁴⁴⁶ Tacitus nowhere says that the charges against Piso involved *maiestas*, but it is clear from inscribed text of the *Senatus Consultum de Cn. Pisone Patre* that *maiestas* was the core accusation: see Cooley (1998) 199-212. On the *senatus consultum* itself, see Woodman and Martin (1996) 114-118.

⁴⁴⁷ See Woodman and Martin (1996) 111: “Though ostensibly introductory in function, this single speech is presented at greater length than the subsequent cases of the prosecution and defense (13-14.2), which together take up the best part of three days: hence ... the emphasis of T.'s account suggests where the real power lay.”

a se auctore senatu rebus apud Orientem administrandis. Illic contumacia et certaminibus asperasset iuvenem exituque eius laetatus esset an scelere exstinxisset, integris animis diiudicandum. “Nam si legatus officii terminos, obsequium erga imperatorem exiit eiusdemque morte et luctu meo laetatus est, odero seponamque a domo mea et privatas inimicitias non vi principis ulciscar; sin facinus in cuiuscumque mortalium nece vindicandum detegitur, vos vero et liberos Germanici et nos parentes iustis solaciis adficite.”⁴⁴⁸

Tiberius is here careful to distinguish between Piso's personal offenses against himself and crimes against the state: if, he says, Piso hated Germanicus and rejoiced at his death (which no one could deny), then he will treat Piso as a private enemy, albeit one innocent of any actual crime and so not deserving of punishment; he should be condemned only if he went beyond this and is found in truth to have plotted against Germanicus and to have murdered him. The distinction between private wrongs against the man who happens to be *princeps* and crimes committed against the state is wise and statesmanlike, but it is unclear how sincerely Tiberius means it. He refers, after all, to his mourning at the death of Germanicus (*luctu meo*), which everyone knew was rank hypocrisy. More serious, Tiberius' talk of treating Piso as a merely private enemy and shunning him is not as innocent as it sounds – what he is actually talking about is the *renuntiatio amicitiae*, which was a very grave matter, and which would often blur just the distinction that Tiberius is trying to make.⁴⁴⁹ Nonetheless the

448 “He said that Piso had been the legate and friend of his father, and that he had been given as a helper to Germanicus by himself, by a decree of the Senate, in order to administer the affairs of the Orient. They were to determine, without bias, whether, while there, he had exasperated the youth with obstinacy and quarrels and had rejoiced in his death, or had destroyed him criminally. 'For if he shed the bounds of his office of legate and his duty towards his commander, and if he rejoiced in his death and in my mourning, I will hate him and shun him from my house and avenge my private animosities without using my imperial power; but if a crime involving the murder of anyone at all is discovered that must be avenged, then, senators, comfort both the children of Germanicus and us his parents with the solace of justice.’” In the author's opinion, Tacitus' Tiberian speeches are more than usually difficult to translate – intentionally so: cf. *A.* 1.11.2.

449 Bauman (1967) 180-183 and (1974) 112, Rudich (1993) xxvii. See also Woodman and Martin (1996) 143-145: “The difficulty, of course, was that an emperor's official and private *personae* tended to overlap, often with unfortunate consequences for other individuals.”

emperor continues in this vein (12.5-6):

Defleo equidem filium meum semperque deflebo; sed neque reum prohibeo quominus cuncta proferat, quibus innocentia eius sublevari aut, si qua fuit iniquitas Germanici, coargui possit, vosque oro ne, quia dolori meo causa conexa est, obiecta crimina pro adprobatis accipiatis. Si quos propinquuus sanguis aut fides sua patronos dedit, quantum quisque eloquentia et cura valet, iuvate periclitantem. Ad eundem laborem, eandem constantiam accusatores hortor.⁴⁵⁰

Here again, Tiberius continues the pose of neutrality, but the louder he proclaims his sadness at Germanicus' death, the worse and more obvious his hypocrisy. But whatever his attitude to Germanicus, it is still unclear, as he no doubt wanted it to be, what he plans to have done with Piso. As we move on from Tiberius' speech, however, we might note the somewhat disturbing line *quantum quisque eloquentia et cura valet*, whereby the emperor urges Piso's defenders to help him with all their eloquence – for of course it was Tiberius who would decide the outcome of the case, and not the eloquence of Piso's defenders.

The prosecution next makes its case (A. 3.13.2):

Post quem Servaeus et Veranius et Vitellius consimili studio, et multa eloquentia Vitellius, obiecere odio Germanici et rerum novarum studio Pisonem vulgus militum per licentiam et sociorum iniurias eo usque corrupisse, ut parens legionum a deterrimis appellaretur; contra in optimum quemque, maxime in comites et amicos Germanici saevisse; postremo ipsum devotionibus et veneno peremisse; sacra hinc et immolationes nefandas ipsius atque Plancinae, petitam

450 “I indeed weep for my son and shall always weep; but I do not prohibit the defendant from offering all the evidence by which his innocence might be relieved or, if there were any injustice done by Germanicus, excused; and I beg you not to accept crimes alleged for crimes proved because the case is connected to my pain. You, whom kinship of blood and his faithfulness have made his advocates, help him as he is in danger, as much as each of you has eloquence and diligence. I urge the prosecutors to the same labor and the same constancy.”

armis rem publicam utque reus agi posset, acie victum.⁴⁵¹

This presentation of the arguments of the accusers, despite the mention of the eloquence of Vitellius, is a fairly bare list of charges (or as bare as Tacitus is capable of writing). The language is almost judicial. Piso is accused of corrupting the legions, of cruelty to Germanicus and his allies, of murder, and finally of civil war. To this plain and straightforward statement of the charges is appended an even more plain and straightforward description of Piso's defense – for their arguments are not summarized at all, and only the aftermath of their speeches (which we assume occurred, though they are not even touched upon) is mentioned (14.1):

Defensio in ceteris trepidavit; nam neque ambitionem militarem neque provinciam pessimo cuique obnoxiam, ne contumelias quidem adversum imperatorem infitiri poterat: solum veneni crimen visus est diluisse, quod ne accusatores quidem satis firmabant.⁴⁵²

The prosecutors were at least mentioned as having speeches; the defense is not, and only the after-result of their presumed arguments is given: Piso could not refute the claims of tampering with the soldiers or private animosity towards Germanicus, but it was plain to all that he had refuted the accusation of poisoning, for which not even the accusers could give sufficient evidence. (It is this passage that is relied on to prove that Tacitus does *not* support the claim of deliberate murder and in fact explicitly contradicts it.) It is noteworthy that the charges that Piso could not refute all belong to the category that Tiberius had said would, if proved, merit his personal enmity but not judicial punishment (12.1-2:

451 “After him, Servaeus, Veranius, and Vitellius, with equal zeal, and Vitellius with great eloquence, asserted that Piso, out of hatred of Germanicus and eagerness for revolution, had so corrupted the common soldiery through license and injuries done to the allies that he was called 'parent of the legions' by the worst of them; that, on the other hand, he had been most cruel and savage to all the best men, especially the companions and friends of Germanicus; that afterwards, by curses and poison, he had done away with Germanicus himself; that his and Plancina's rites and unspeakable sacrifices were from this cause; that he had made war upon the Republic, and had been defeated in battle in order to be treated as a defendant.”

452 “The defense was confounded on the rest of the points, for he could not deny tampering with the soldiery nor that his province had been open to all the worst men, nor even the invective against his commander; it was only the accusation of poisoning that he had evidently refuted, an accusation that not even the accusers had sufficiently substantiated.”

contumacia et certaminibus asperasset and *si legatus officii terminos, obsequium erga imperatorem exiit*); the main issue, he had said, was whether murder had been involved (*sin facinus in cuiuscumque moralium nece vindicandum detegitur*). In other words, the prosecution failed: Tiberius had made a distinction between private offenses that would earn Piso his personal enmity on the one hand, and public offenses (namely the murder of Germanicus) that would have to be punished by the power of the *princeps* and the state on the other, and the prosecution has proved only the former category. The charge of poisoning broke down utterly (14.1-2). That should, logically, be the end of the case. Nonetheless, the trial continues. The Senate pursues the accusation, we are told, because they were still not sure the death of Germanicus had been innocent, Tiberius because civil war had been made. This shows that the Senate was not willing to allow itself to be persuaded (for it had just been proved that Piso was innocent of poisoning), and that Tiberius might have been less than ingenuous when he made so sharp a distinction between the charges.

In any event, the scene that follows shows where the power of decision and the causes of the case's outcome truly lay. Tacitus describes the turning point of the trial, namely the fate of Piso's wife Plancina, thus (A. 3.15.1-2):

Eadem Plancinae invidia, maior gratia; eoque ambiguum habebatur, quantum Caesari in eam liceret. Atque ipsa, donec mediae Pisoni spes, sociam se cuiuscumque fortunae et, si ita ferret, comitem exitii promittebat; ut secretis Augustae precibus veniam obtinuit, paulatim segregari a marito, dividere defensionem coepit. Quod reus postquam sibi exitiabile intellegit, an adhuc experiretur dubitans, hortantibus filiis durat mentem senatumque rursus ingreditur; redintegratamque accusationem, infensas patrum voces, adversa et saeva cuncta perpressus, nullo magis exterritus est quam quod Tiberium sine miseratione, sine ira, obstinatum clausumque vidit, ne quo adfectu

perrumperetur.⁴⁵³

Plancina, herself implicated in Piso's alleged crimes, shared her husband's tribulations for a while. But she stood high in the favor of the Augusta – eliciting the cynical comment that it was unclear how far the emperor would be allowed to proceed against her – and she soon, by the secret influence of her patroness, obtained pardon. This in itself is bad, since her pardon is the result of no legitimate judicial process, nor does any eloquence of any party prove relevant, all of the action happening as it were behind closed doors. Worse is the form that her pardon takes: for, although she had already secured her own salvation through the favor of Livia, Plancina was still technically under trial – indeed, it would prove embarrassing to the emperor when Piso's sons refused even to go through the motions of defending their treacherous mother (3.17.3), who had after all already been saved from any real danger. That is to say, Plancina had already been acquitted in secret by Livia's influence, but in order to make her acquittal legal, the trial had to continue, only her defenders were proving highly uncooperative in refusing to participate and so to legitimate the farce. All of which emphasizes that the action took place behind the scenes, that the real causes of Plancina's acquittal were entirely separate from the legal process, and certainly disconnected from any oratory.

Most revealing, however, is the behaviour of Piso after his wife's betrayal. The pardon of Plancina and her separating her defense from his, he understood as being fatal to himself (*A.* 3.15.2: *sibi exitiabile intellegit*). Why? Because he understood that what could actually secure his acquittal was not the questionable eloquence of his defenders – these had already proved his innocence on the charge of poisoning (14.1), but this mattered not at all, for the trial continued – but the secret influence of the

453 “Plancina suffered from the same hatred but had greater favor; therefore it was considered uncertain how far the emperor would be permitted [i.e. by his mother] to proceed against her. She herself, while Piso's hopes were in the balance, promised to be his ally in every fortune and, if it should turn out so, his companion in destruction; but when she obtained pardon by the secret prayers of the Augusta, she gradually began to separate herself from her husband and to divide their defense. When the defendant saw that this was fatal to himself, he doubted whether he should continue to contest the case, but on his friends' urging he hardened his mind and entered the Senate again. Struck there by the renewed accusation, the hostile voices of the senators, everything against him and savage, he was nonetheless terrified by nothing more than seeing Tiberius without pity, without anger, determinedly closed off lest he be moved by any emotional appeal.”

imperial family. With the Augusta, his wife had more favor than he (15.1), and so he recognized that, when their cases were separated, all the influence of the imperial household would go towards saving Plancina, not him. Piso therefore recognized that his predicament was dire. Because of the urging of his sons, however, he entered the Senate again and continued his trial, where he only encountered the hostility of the senators – but what set him to despair, we are told, was not their open enmity, but the neutral pose of Tiberius, inaccessible to all appearances of emotion. It is not the first time that the apparent neutrality of the emperor has been the harbinger of doom (cf. *A.* 2.29.2). He therefore left the Senate, returned to his own house, and committed suicide during the night (3.15.3).⁴⁵⁴

The aftermath of the trial both shows Tiberius' dissimulation and hints at his real intentions. He put on an appearance of sadness upon hearing the news of Piso's death (*A.* 3.16.2), an appearance that the account of Tacitus, which laid Piso's despair at the feet of the attitude of Tiberius, has prepared us to discount. Tiberius, after all, also claimed that he had intended to pardon Libo (2.31.3), with no more truth, as his rewarding of Libo's accusers showed (2.32.1). Here, likewise, the emperor's sadness at the suicide of Piso is undermined when he rewards Vitellius, Veranius, Servaeus and even Fulcinius Trio – who had all taken part in the prosecution – with priesthoods and promises of future support. Again, therefore, Tiberius is able to take the pose of fairness and neutrality, while rewarding the accusers of a man who was destroyed, not by the speeches of the prosecution, but by the influence (and the internal politics) of the imperial family.

In the trial of Piso, therefore, we have a revealing case of the secret workings of the Principate. Much of the emphasis in Tacitus' account is on the mystery and the uncertainty of the trial: it is not immediately clear from his presentation whether or not Piso was guilty, and no more intelligible are the intentions of the emperor, who could scarcely disguise his joy at Germanicus' death and yet seems in

⁴⁵⁴ Tacitus strongly implies but does not say that he committed suicide, stating only that he had the doors closed on him alone at night, and in the morning was found dead from a sword-wound. Perhaps there is meant to be a hint that he was murdered; more likely, in my opinion, is the fact that the mysterious revealing of the body of Piso is more dramatic.

the end hostile to Piso. The hazy atmosphere of doubt is intentional, for that is surely how it really was.⁴⁵⁵ Nonetheless, whatever the attitude of the emperor – and it is eventually understood that Piso is doomed – several things are clear. Most important, the locus of control over the trial, the nexus of causation of its outcome, resides with the imperial household. Speeches are made by the prosecution and the defense – at least three days' worth of speeches, in fact – but we hear almost nothing of them except for a bare summary. Tellingly, the speech that dominates the trial comes not from any of the participants, but from Tiberius. But it is not, of course, by means of his eloquence that Tiberius influences the course of the trial. Indeed, none of the speeches matter in the least, for we are clearly told that the defense successfully exonerated Piso of what Tiberius had considered the only serious charge against him, namely the murder of Germanicus. Despite Piso's proven innocence, however, the trial continues. The real power determining the outcome of such cases is vividly demonstrated at the turning point of the trial: Plancina's securing of her own pardon, secretly, by means of the intercession of Livia. As soon as this occurred, Piso rightly recognized that, whatever the speeches had asserted or proved, and whatever eloquence they had displayed, he was doomed. The attitude of Tiberius the next day is simply the final nail in his coffin. Understanding how much his successful defense was worth in the face of the hostility, or at best the malignant pseudo-neutrality, of Tiberius and Livia, Piso went home and voluntarily ended his life that very night. A more telling comment on the relative values of oratory and imperial favor in treason trials is hard to imagine.

It is next worth touching on the trial of Aemilia Lepida, for, although the main accusation against her is not *maiestas*, the case was very high-profile; and, although her eventual condemnation was well deserved according to clear signs of her guilt, the course of the trial still tells us much about Tiberius' attitude and methods. At *A.* 3.22.1, Publius Quirinius accuses Lepida, his ex-wife, of faking

⁴⁵⁵ See Sinclair (1991) 2795-2831, who argues, among other sensible points, that the frequent uncertainty about what really happened is an accurate portrayal of society under the emperors, whose regimes tended to keep internal politics secret. Contemporaries of Piso were probably even more confused than the readers of Tacitus.

motherhood (a significant issue to the Romans), as well as of adultery and poisonings and divination against the imperial house (which came very close to *maiestas*).⁴⁵⁶ She is defended by her brother Manius Lepidus. It is, however, important and surprising to note that, in the course of an emotional and vividly portrayed trial, we hear no more at all about her brother Lepidus, nor does the accuser Quirinius have any further role to perform. If they gave speeches, we hear nothing of it. Instead, the focus of the action passes to the *princeps*. But Tiberius' behavior is characteristically ambiguous and inscrutable, sometimes seeming to show signs of mercy, at others of anger (22.2-4). He first begged the Senate not to consider the offenses that might be categorized as *maiestas*.⁴⁵⁷ Then, however, he induced a certain Servilius to divulge information against Lepida. At the same time he handed over Lepida's slaves for examination, and yet forbade any examination of the points that concerned his own household (probably the charge of occult practices). Finally, even though his son Drusus was the consul designate, he released him from the obligation of giving his decision first – but it is even unclear whether this was a mark of clemency or of anger: *quod alii civile rebantur, ne ceteris adsentiendi necessitas fieret, quidam ad saevitiam trahebant: neque enim cessurum nisi damnandi officio* (22.4: “Some thought this a civil act, so that the others would be under no obligation to assent; some ascribed it to cruelty, for he [Drusus] would not have withdrawn unless it were his duty to condemn”).⁴⁵⁸ That is, not requiring a member of the imperial household to speak first seemed to some like a civil act, since it freed the other senators from the obligation of agreeing with him (and it is revealing in itself that it was assumed that the senators would have to agree!), but others thought that they saw veiled malice in this: if Drusus had been going to vote for acquittal, so public a display of clemency would surely be in the emperor's

456 On faking motherhood, see Woodman and Martin (1996) 210-212.

457 Perhaps adultery, which, according to Bauman (1967) 234-235 could rise to the level of *maiestas* if it concerned the especially prominent. Woodman and Martin (1996) 215 dispute this, and suggest that divination was meant; cf. MacMullen (1966) 129-131. But it is much debated whether such divination and occult practices, although criminal, were already codified as *maiestas* or not: see Bauman (1974) 59-69, who maintains that they were separate charges until the fourth century.

458 On this difficult passage, see Woodman and Martin (1996) 217 ad loc.

favor; it was only the ill-will resulting from a vote for condemnation (a vote necessitating that the rest of the Senate also vote to condemn) that Tiberius could wish to avoid. Tacitus might therefore imply that the preponderance of the evidence suggested that Tiberius was looking for a conviction. This seems to be what Lepida thinks, since her next move is to go about weeping in public to gather sympathy for herself (23.1). Manifest proof of her guilt eventually comes to light, however, and she is quickly condemned (23.2). Noteworthy is the absence of any real role of prosecutors or defense, who are no sooner mentioned than they vanish. Paramount are the actions of the emperor, and as always, his natural inclination to dissimulate.

A parenthetical comment by Tacitus is worthy of mention next. Discussing a proposal to amend the *lex Poppia Poppaea*, passed by Augustus for the sake of encouraging marriage and procreation, Tacitus adds *nec ideo coniugia et educationes liberum frequentabantur praevalida orbitate; ceterum multitudo periclitantium gliscebat, cum omnes domus delatorum interpretationibus subverterentur, utque antehac flagitiis, ita tunc legibus laborabatur* (A. 3.25.1: “Nor were marriage and the raising of children more frequent, because of the advantage of childlessness; but the multitude of defendants was growing, since all great houses were being overturned by the affidavits of *delatores*; and just as they had once labored under the weight of their crimes, so they then labored under that of the laws”). This is a small but revealing insight into the often ruinous role that the *delatores* could have in private life as well as in *maiestas* cases – and all the more so when we consider Tacitus' hints that Augustus *intended* his legislation to be ineffective, for the very purpose that violators could then be prosecuted, enriching both the *delatores* and the treasury (25.1: *augendo aerario*).⁴⁵⁹

A very famous passage is to be discussed next. Tacitus says (A. 3.36.1):

Exim promptum quod multorum intimis questibus tegebatur. Incedebat enim

459 See Woodman and Martin (1996) 234-235. Delation for non-*maiestas* cases was actually more common than for *maiestas*, though less touched upon by our sources; but for all charges, the base financial motivations of the *delatores* were a commonplace: see Giovannini (1987) 219-248, Levick (1987) 187-218, Powell (2010) 224-244.

deterrimo cuique licentia impune probra et invidiam in bonos excitandi arrepta
 imagine Caesaris; libertique etiam ac servi, patrono vel domino cum voces, cum
 manus intentarent, ultro metuebantur.⁴⁶⁰

This requires unpacking. Two separate issues are involved. First, why should slanderers and other miscreants have immunity simply by grasping the statue of the emperor? No formal right of asylum was attached to imperial statues in this period. Rather, there can only have been a *de facto* kind of immunity as the result of the magistrates' fear of being charged with *maiestas* if they were to drag someone from a statue of Tiberius or Augustus, thereby violating the imperial *numen*.⁴⁶¹ Tacitus does not mention this, but Bauman rightly points out that this could only have become a major issue if there had already been cases of *maiestas* along these lines – otherwise there would be no reason for the fear – and in fact we know from other sources that there were such cases, albeit unmentioned by Tacitus.⁴⁶² Second, why would freedmen and slaves be able to threaten their masters with impunity, even being objects of terror to them? Again, because of the threat of retaliatory *maiestas* accusations, either because they knew of actual offenses or could fabricate them.⁴⁶³ The case of Libo was a warning that one's intimates could be the source of destruction (*A.* 2.27.2-28.2; see also 4.68-70, to be discussed below). If the fear of *maiestas* delation had become so widespread that it could be used as a weapon even against the innocent, it is not surprising that the Senate took notice. A crisis was therefore reached in the case of Annia Rufilla, who, having been convicted of fraud by C. Cestius, slandered and threatened him in the forum and on the very threshold of the Senate, brandishing a statuette of the

460 “Next there became public what had been often concealed in the secret complaints of many. For all the worst men were acquiring the license of uttering insults and rousing hatred against good men with impunity, by seizing an image of the emperor; even freedmen and slaves, when they threatened their patron or their master with their voices and with blows, were still more feared.”

461 Koestermann (1955) 95-96, Bauman (1974) 86.

462 Bauman (1974) 86-90. This is in fact an important point for Tacitus' credibility: he has been accused by Walker (1952) et al. of exaggerating the evils of *maiestas*, on the grounds that the few cases that he mentions are not enough to justify the impression of overwhelming oppression. In fact, it is quite certain that Tacitus knew of more cases than he tells us: see Koestermann (1955) 97 and 105-106, Bauman (1974) 83-84 and 87, Goodyear (1981) 149; cf. Suetonius, *Tiberius* 58. For the contrary argument, see Woodman and Martin (1996) 319.

463 Koestermann (1955) 96-97.

emperor and therefore immune to legal action by Cestius, who, in his own words, did not dare (*neque ipse audeat*) to take action against her as long as she clutched her portable asylum (3.36.2-3).⁴⁶⁴ The fact that such a case could even occur is indicative of how widespread was the fear of *maiestas* delation, and how powerless even eloquent senators felt themselves in the face (literally) of the emperor: a senator of the first rank, who was a successful advocate and would rise to be consul, was unmanned by a woman with a statuette of Tiberius. The other senators related similar cases (36.4). But on its own, of course, the Senate was powerless to do anything, for the issue touched imperial interests closely; they therefore could do nothing more than beg Drusus to punish Rufilla as an example, to counter the impression of immunity. This he did (36.4). Tiberius would later abolish the right of asylum to avoid further cases like this,⁴⁶⁵ but the fact that it required imperial action to deal with the problem shows how tightly bound the emperor, *maiestas*, and delation were considered.

Several cases then follow in quick succession. At *A.* 3.37.1, two *delatores* were punished, on the emperor's own suggestion, for having made false accusations of *maiestas* against a praetor. But Tacitus does not long allow this laudable act (which may in fact have been an example of Tiberian *ars*, punishing some unimportant *delatores* as political cover)⁴⁶⁶ to remain untarnished. He is quick to say that these pardons were ascribed to the praiseworthy influence of *Drusus*, who mitigated the severity of his father (37.2). Moreover, as so often in Tacitus, a good action by Tiberius is rapidly followed by a worse (38.1-2):

Non enim Tiberius, non accusatores fatiscebant. Et Ancharius Priscus Caesium Cordum pro consule Cretae postulaverat repetundis, addito maiestatis crimine, quod tum omnium accusationum complementum erat. Caesar Antistium Veterem e primoribus Macedoniae, absolutum adulterii, increpitis iudicibus ad dicendam

464 Bauman (1974) 87.

465 Bauman (1974) 87.

466 See Koestermann (1955) 84.

maiestatis causam retraxit. ... Igitur aqua et igni interdictum reo.⁴⁶⁷

Noteworthy, first, is the close linking of the activities of Tiberius and the *delatores*: having just provided information that might indicate a separation between them (the emperor's proposal to punish two *delatores*), Tacitus now wants to reemphasize their alliance as the normal state of affairs. The first of these examples, the tacking-on of *maiestas* to the charge of extortion against Caesius Cordus, is not, perhaps, the most insidious of cases – Cordus is eventually acquitted⁴⁶⁸ – but what interests Tacitus at this stage is not the atrociousness of the case itself, but using the case as an example of the way things were trending. Tacitus will often mention something once, and only once, and then, having used it to make his point, move on; for example, one of the very first *maiestas* cases (at *A.* 1.73) involved selling a statue of Augustus, and the defendant was acquitted, and Tacitus never again mentions *maiestas* cases involving selling statues, even when they occurred and the defendants were convicted (which, one might think, would help his argument).⁴⁶⁹ The cases mentioned had a single, specific role to perform in the narrative – namely, illustrating the origins of *maiestas* delation under the emperors – and then Tacitus was done with them. Here, likewise, Tacitus mentions a case that results in acquittal, and which therefore seems like a weak example for him to use, but he is interested in it because it illustrates another step in the growth of *maiestas*: the addition of *maiestas* to all other charges as a way to catch the emperor's notice or to abuse the legal system to the disadvantage of the accused.⁴⁷⁰ That the defendant was acquitted this time did not matter: enough convictions would follow. The second case, however, is more obviously troubling: when Antistius Vetus was acquitted of the charge of adultery,

467 “For Tiberius did not tire, nor did the accusers. For example, Ancharius Priscus charged Caesius Cordus, the proconsul of Crete, with extortion, adding the accusation of *maiestas*, which then accompanied all charges. Also Antistius Veter, a Macedonian noble, who had been absolved of adultery, was recalled by the emperor (with sharp words for the judges) to face trial for *maiestas*. ... Therefore the defendant was punished with *aquae et ignis interdictio* [i.e. sentenced to exile, confiscation, and full outlawry].”

468 Woodman and Martin (1996) 318 ad loc.

469 Bauman (1974) 82-83.

470 Simply accusing someone of *maiestas*, without ever intending to convict them of it, deprived them of many judicial rights, and so a *delator* who intended to convict someone of extortion could also file charges of *maiestas* to circumvent many of the defendant's legal protections and thus make it the accusation of extortion easier to convict upon. See Bauman (1974) 53-58, Rutledge (2001) 66-69.

Tiberius actually took it upon himself to rebuke the judges who acquitted him, and to order him to stand trial for *maiestas*. Issues of judicial tampering aside, the message was very clear: the emperor wanted this man to be convicted. The message was received, and he was convicted and outlawed (the *aquae et ignis interdictio*). There is almost no need to mention the absence of any speech from any party involved. All that mattered was that the *princeps* had made his wishes known.

The trial of Clutorius Priscus follows, an exceptionally famous and important case, and a vivid example both of the growing injustice of delation (and the emperor's behind-the-scenes role therein) and of the irrelevance of oratory. This Priscus was a poet who had composed a poem lamenting the death of Germanicus, and who had been rewarded by Tiberius for his work (*A.* 3.49.1). On an occasion when Drusus had fallen ill, Priscus also penned a poem lamenting Drusus' death in advance, but when Drusus recovered, Priscus nonetheless read this poem publicly. For this he was set upon by the *delatores*; the exact nature of the charge is uncertain, whether *maiestas* or black magic.⁴⁷¹ Since he was manifestly guilty (although some who had heard his poem denied it), the consul-elect, Haterius Agrippa,⁴⁷² moved that he be punished with death (49.2).

At this point, Marcus Lepidus, one of Tacitus' heroes, rises to speak. Lepidus was, in Tacitus' phrasing, a grave and wise man, who, while maintaining the friendship of Tiberius, yet frequently argued with success against overly adulatory or cruel proposals.⁴⁷³ This is what he tries to do here.

471 Bauman (1974) 62-63 thinks that the charge was black magic, on the grounds that writing a poem about the death of someone living somehow predicted their death or was otherwise unlucky. I cannot but feel that this is unlikely, or at least unusual, since the other accusations for occult practices that we know of are much more obviously magical – e.g. lead curse tablets hidden in walls. The main argument against *maiestas*, however, is that Lepidus will propose a penalty of exile and confiscation *as though* Priscus were liable to a charge under the *lex maiestatis* (*A.* 3.50.3), which (some believe) implies that the charges were something else. *Ac si lege maiestatis teneretur*, however, probably does not mean “as if he were being charged with *maiestas*” but “as if he were *liable* to a charge of *maiestas*”; and in this case the charge could still be *maiestas*. Lepidus' statement would therefore be a pointed criticism: that even though Priscus' deeds did not rise to the level of *maiestas*, the punishment proposed was in fact *harsher* than that prescribed for *maiestas*. Cf. Woodman and Martin (1996) 363, 372. On the legal punishment for *maiestas*, see Chilton (1955) 73-81 and Rogers (1959) 90-94.

472 Haterius Agrippa was not a popular man, and may have been more aligned than most with the interests of the regime: at *A.* 1.77.3 he interposes a veto that is supported by Tiberius, and at 6.4.4 Tacitus says that he *illustribus viris perniciem ... meditabatur*. He was of plebeian origin, and Seneca calls him one of the most celebrated orators of his age, but at the same time a restless character (*Ep.* 40.10) – he had, in other words, the stereotypical traits of a *delator*.

473 *A.* 4.20.2: *Hunc ego Lepidum temporibus illis gravem et sapientem virum fuisse comperior: nam pleraque ab saevis*

Lepidus is given a full speech in direct discourse, in which he urges, not to acquit Priscus (which was impossible), but to lessen his sentence and not to impose any unusually severe penalty.⁴⁷⁴ His arguments, however, are strange at first glance, but in reality well chosen. He speaks thus (*A.* 3.50.1-2):

Si, patres conscripti, unum id spectamus, quam nefaria voce Clutorius Priscus mentem suam et aures hominum polluerit, neque carcer neque laqueus, ne serviles quidem cruciatus in eum suffecerint. Sin flagitia et facinora sine modo sunt, suppliciiis ac remediis principis moderatio maiorumque et vestra exempla temperant et vana a scelestis, dicta a maleficiis differunt. ...⁴⁷⁵

Here, in elegant and polished Latin⁴⁷⁶ befitting one famous for his oratory, Lepidus makes a plea for mercy by attacking the defendant. This is actually an extremely clever *captatio benevolentiae*: rather than aligning himself with the accused, which would accomplish nothing and which might result in his oratory simply being dismissed on the grounds that he was biased and in Priscus' camp, Lepidus distances himself sharply from Priscus; at the same time, he seems to ally himself with the other senators *against* Priscus, taking it for granted that his crimes are worthy of punishment but arguing that, as members of the Roman Senate, they should consult their own dignity and the precedents of their ancestors, and indeed the clemency of the emperor, and make a sentence based on what it was fitting for them to decide, not what the trivial crimes of Priscus deserved. Lepidus therefore distances himself

adulationibus aliorum in melius flexit. Neque tamen temperamenti egebat, cum aequabili auctoritate et gratia apud Tiberium vigerit.

474 For this speech, see Ginsburg (1986) 525-541, who notes its similarities to the speech of Julius Caesar from Sallust's *Bellum Catilinae*, arguing that Tacitus presents the Senate of Lepidus' day as worse than that of Caesar's. Cf. Woodman and Martin (1996) 365-372

475 "If, senators, we only consider this one thing, namely with how nefarious a voice Clutorius Priscus polluted his own mind and the ears of men, neither prison nor the noose, not even the punishments of slaves would suffice for him. But if crimes and wickedness are unbounded, the moderation of our emperor and the precedents of our ancestors and of yourselves are temperate with regard to punishments and remedies, and they distinguish vain from criminal things, and words from evil actions. ..."

476 The speech is highly periodic, and the anticipatory *id* looking forward to an indirect question is characteristic of the grand style; paired nouns occur almost to the total exclusion of single nouns (*mentem et aures, neque carcer neque laqueus, flagitia et facinora, suppliciiis ac remediis, maiorumque et vestra*); there is pointed antithesis (*vana a scelestis, dicta a maleficiis*); and alliteration abounds (*sin flagitia et facinora sine modo sunt, neque carcer neque laqueus*).

from Priscus, while at the same time subtly flattering the Senate and aligning himself with the other senators – who would therefore be encouraged to see him as on their own side and so to take his advice about what was best *for the Senate* more seriously – and suggesting that what was best for the Senate was, in fact, to show moderation. Priscus might deserve a harsh punishment, but the Senate did not deserve having to impose it. This is a powerful and a subtle stance. Lepidus then continues with what is perhaps, in the circumstances, his best argument (50.2-4):

*Saepe audivi principem nostrum conquerentem, si quis sumpta morte misericordiam eius praevenisset. Vita Clutorii in integro est, qui neque servatus in periculum rei publicae neque interfectus in exemplum ibit. Studia illi, ut plena vaecordiae, ita inania et fluxa sunt. ... Cedat tamen urbe et bonis amissis aqua et igni arceatur; quod perinde censeo ac si lege maiestatis teneretur.*⁴⁷⁷

The core of Lepidus' argument here is that he has often heard Tiberius complaining that a defendant has, by a self-inflicted death, cheated him of the opportunity to show clemency. This claim is true, since we have seen Tiberius make it several times so far in the *Annals*. But we have never had any reason to believe that Tiberius meant it, and Tacitus strongly suggests that he did not (e.g. *A.* 2.31.3-32.1; but Tacitus will soon state it much more emphatically). Lepidus, nonetheless, takes the emperor at his word – or wishes to appear to – and urges the Senate not to risk displeasing the emperor by an over-hasty execution. Clutorius Priscus, he claims, was a nobody, of no importance, who would not be dangerous if he were spared and whose punishment would be a warning to none. Lepidus therefore makes his counter-proposal: exile, confiscation, and outlawry – which, if it seems like a harsh penalty for *maiestas* (as indeed it was), nonetheless at least spared the defendant his life. If Priscus were charged with *maiestas*, it was also the statutory penalty; and even if we grant that the Senate had the

⁴⁷⁷ “I have often heard our emperor complaining whenever anyone anticipated his pity by a hasty death. The life of Clutorius is still intact. If he is saved, he will not be a danger to the Republic, nor will he be an example if he is killed. His studies, as they are full of silliness, are empty and impermanent. ... Let him nonetheless leave the city [i.e. be exiled], have his property confiscated, and be outlawed; I give this as my opinion just as if he were liable for *maiestas*.”

discretionary power to increase penalties, this was done only in exceptional cases, and execution was very rarely imposed except for especially heinous offenses. Reciting a poem certainly did not qualify as such for Lepidus.

It is worth pausing for a moment in the narrative to review the situation. An obviously innocent man was set upon by the *delatores* under trumped-up charges, and the consul elect, shockingly, proposed that he be punished with death. Then Marcus Lepidus gives a speech. It is the only speech in this trial from any side, it is in *oratio recta*, and it forms the bulk of the narrative of the trial. It is, moreover, a speech by a man always presented in the very highest light by Tacitus, almost a hero of the Principate. Lepidus' stance in the speech is clever and powerful. The speech itself is carefully constructed and extremely eloquent, contains a high proportion of rhetorical devices (e.g. the *tricolon crescens* in *neque carcer neque laqueus ne serviles quidem cruciatus* – a phrase also alliterative in the frequent q's and c's), and is written in a markedly literary and Sallustian style full of allusion.⁴⁷⁸ One might well expect such a speech, so positioned as the *only* speech of a trial, and constituting the majority of the narrative of that trial, to have some effect on the outcome of the trial.

It does not. There is no answering speech, nor even a hint of one; Lepidus is simply ignored, and Priscus is led away to prison and executed (*A.* 3.51.1). Such is the effect of Lepidus' oratory. In the aftermath of the trial, however, Tiberius (just as Lepidus had said he customarily did) complains about the Senate's haste and severity in punishing a verbal crime. The result is as follows (51.2):

Igitur factum Senatus consultum ne decreta patrum ante diem decimum ad
aerarium deferrentur idque vitae spatium damnatis prorogaretur. Sed non Senatui
libertas ad paenitendum erat, neque Tiberius interiectu temporis mitigabatur.⁴⁷⁹

The Senate, taking (as Lepidus had done) Tiberius at his word, decreed that no one should be executed

⁴⁷⁸ Woodman and Martin (1996) 365.

⁴⁷⁹ “Therefore a *senatus consultum* was passed that the decrees of the senators should not be deposited in the treasury before the tenth day, and that that extension of life should be continued for the condemned. But the Senate did not have the freedom to repent, nor was Tiberius ever softened by an interval of time.”

before the tenth day, thereby giving the emperor time to exercise his clemency. But Tacitus, in a biting epigram, is clear just how little this mattered. “Tiberius was never softened by an interval of time” – and therefore, we are led to conclude, his complaint in the case of Priscus, as it had been in the case of Libo and of so many others, was hypocrisy and dissimulation. The emperor never intended to spare any of the defendants, perhaps even intended to condemn them, and simply wished to avoid the odium of their punishments.⁴⁸⁰ The first part of this sentence is also telling: *non Senatui libertas ad paenitendum erat*. There are many ways that Tacitus could have chosen to say that the Senate could not reverse any of these decisions (technically it could, by another decree), but he opts to say that they did not have the *libertas* to do so. *Libertas*, of course, is a charged word, and not one that Tacitus drops lightly or without significance. In stating that the Senate did not have the liberty to change its mind, and therefore to show mercy, in these cases, Tacitus is making a profound statement about the locus of control over the outcome of these trials, namely that it lay with the emperor and the emperor alone. And by calling attention to Tiberius' cruelty, Tacitus emphasizes how brutal this system could be.

Soon afterwards we have the striking case of Gaius Silanus, particularly worthy of discussion for our purposes (*A.* 3.66.1):

Paulatim dehinc ab indecoris ad infesta transgrediebantur. C. Silanum pro consule Asiae, repetundarum a sociis postulatam, Mamercus Scaurus e consularibus, Iunius Otho praetor, Brutedius Niger aedilis simul corripunt obiectantque violatum Augusti numen, spretam Tiberii maiestatem. ...⁴⁸¹

With the first sentence, Tacitus colors our reading of this affair (perhaps not entirely fairly)⁴⁸² by calling

480 Woodman and Martin (1996) 374 ad loc. note that there were, in fact, occasions when Tiberius was softened by an interval of time and ended up showing clemency.

481 “They then gradually proceeded from indecorous to wicked things. When Gaius Silanus, the proconsul of Asia, was accused by the allies of extortion, Mamercus Scaurus the consular, Junius Otho the praetor, and Brutedius Niger the aedile fastened upon him at the same time and charged him with violating the *numen* of Augustus and disdain the *maiestas* of Tiberius.”

482 Woodman and Martin (1996) 458-459.

it an *infestum*. Silanus was charged with extortion by the provincials, upon which a group of *delatores* at Rome accused him of violating the *maiestas* of both Augustus and Tiberius. Perhaps they scented blood in the water and sensed an opportunity for profit; certainly Tacitus has nothing good to say about any of them, and assigns them all the usual self-interested motives of *delatores* (66.2-4). Two of Silanus' allies likewise defected and joined the prosecution. As for why so many accusers saw an easy target, the narrative of the trial – and most importantly, the actions of the emperor – throw some light on the problem (67.1-3):

Nec dubium habebatur saevitiae captarumque pecuniarum teneri reum: sed multa adgerebantur etiam insontibus periculosa, cum super tot senatores adversos facundissimis totius Asiae eoque ad accusandum delectis responderet solus et orandi nescius, *proprio in metu, qui exercitam quoque eloquentiam debilitat*, non temperante Tiberio quin premeret voce vultu, eo quod ipse creberrime interrogabat, neque refellere aut eludere dabatur, ac saepe etiam confitendum erat, ne frustra quaesivisset. ... Et ne quis necessariorum iuvaret periclitantem, maiestatis crimina subdebantur, vinclum et necessitas silendi.⁴⁸³

This is a very important passage. The intertwined roles of emperor and eloquence are obviously on prominent display here. First, Tacitus admits that the accused was certainly guilty of the charges of extortion and cruelty (which is part of what led the *delatores* to sense easy prey), but then quickly moves on, since this is not the charge that interests him: *maiestas* was, and he says that the dangers stemming from this would have been dangerous even to an innocent man. Rightly so: for the

483 “Nor was there doubt that the defendant was guilty of cruelty and extortion, but many things dangerous even to the innocent were heaped up, since, in addition to so many hostile senators, he had to respond to the most eloquent orators of Asia, and for that purpose chosen to undertake the accusation, alone and unskilled of speaking, and in personal danger, which debilitates even a practiced eloquence. Nor did Tiberius hold back from pressing him with his voice and his expression, nor, because the emperor himself kept plying him with questions too often, was it possible for him to refute or to elude them, and he often had to confess lest the emperor have asked in vain. ... And charges of *maiestas* were added, a chain and a necessity of remaining silent, so that none of the defendant's connections would help him.”

difficulties facing Silanus would indeed have been insurmountable even if he had been innocent. Among these, Tacitus notes that the accusers retained by the provincials to attack him were the most eloquent orators of Asia, a province already justly famous as a training-ground for orators. Our attention has thereby been focused on eloquence and its role in this trial, and so far its role seems powerful. This impression is deepened, albeit negatively, when Tacitus includes among the list of Silanus' difficulties the fact that *he* was not eloquent (*orandi nescius*), which perhaps implies that, had he been a more skilled speaker, his danger would have been less. But the impression is confounded by what comes next: Silanus, we are told, was forced to speak when fearing for his own safety, which fear debilitates even a practiced eloquence (*proprio in metu, qui exercitam quoque eloquentiam debilitat*). In other words, even if Silanus *had* been a skilled speaker, it would have availed him little here, for he was in circumstances – namely personal danger – that rendered the practice of oratory difficult. It is worth emphasizing how shockingly different this sentiment is from the one in the opening quotation of this chapter, that eloquence was most useful in exactly this kind of situation (*D. 5.6*); instead, we are told that the danger in which oratory normally flourished would have rendered even a masterful speech by the defendant moot. But the most important fact of the trial, the one that contributed most to the outcome and that Tacitus consequently relates in the last and chief place, was the behavior of Tiberius. Gone is his supposedly customary reserve, gone his *dissimulatio*: he presses Silanus angrily, keeps on interrogating him, interrupts him as he tries to answer, and generally makes clear his extreme hostility. If we wonder why Tiberius is so hostile and so uncharacteristically open in his enmity, we should first remember that this is neither the first nor the last time that he has openly expressed his hatred, and that in this case, as in the others where his *dissimulatio* broke down, he was personally insulted (*spretam Tiberii maiestatem*) – and taking personal insults very seriously is no less a part of Tiberius' character than hypocrisy.⁴⁸⁴ In addition to the open hostility of the emperor, which on its own must have

484 See Woodman and Martin (1996) 459.

guaranteed the outcome of the trial, we are told that the charges of *maiestas* had been added as a *vinculum et necessitas silendi* so that no one would be able to help the defendant. We are reminded of Libo Drusus' inability to find anyone to act as his advocate because of the fear engendered by his *maiestas* charges (*A.* 2.29.1); here, similarly, the accusation of *maiestas* is itself a dampener of eloquence. This, then, is the real reason why the trial takes the course it does: the emperor was obviously hostile to the defendant, and a *maiestas* accusation shut down any effective role that oratory could have had. One suspects, moreover, that Tacitus intended these later facts to impact our reading of what came before as well, and that the eloquence of the celebrated orators of Asia would not have been nearly so effective otherwise – for it is easy to win a case against a man whom the emperor hates, and it is easy to speak eloquently against an opponent who is silenced.

It is hardly necessary to add the result of the trial: Silanus lost hope as soon as he realized that the emperor was against him (*A.* 3.67.4), which shows that – like Libo Drusus, who understood that he was doomed as soon as the hostility of Tiberius was evident – he judged the situation correctly and knew where the real power lay. There was some debate about the proper penalty, but Silanus was convicted and punished (68.1-69.6).

One final case from Book 3 deserves brief mention. Lucius Ennius was accused of *maiestas* for melting down a silver statue of the emperor (*A.* 3.70.1). Tiberius, however, refused to allow his case even to proceed to trial. Why is unclear: there is the obvious parallel of the very first cases of *maiestas* mentioned in the *Annals* (1.73.1-4), and Tiberius' behavior here may be another example of his *ars*; alternately, there is the fact (albeit unmentioned by Tacitus) that this Ennius was the son-in-law of Tiberius' personal astrologer Thrasyllus,⁴⁸⁵ and so might be considered something of a privileged person whom the emperor would intervene to protect. We know no more. Tacitus seems interested in the case only because Ateius Capito gave a speech that was a show of freedom and independence, but in truth

485 Woodman and Martin (1996) 471.

only flattered the emperor (3.70.2) – although it is remarkable, and not a little ominous as we go into Book 4 and the second half of the Tiberian hexad, that his flattery consisted of demanding punishment.

Now we reach Book 4. There have already been many trials for *maiestas*, some of them very prominent. A large proportion of the cases from the first three books, however, resulted in acquittals, and the behavior of the emperor was often (at least on the surface, Tacitus would say) rigorously fair. Tiberius was sometimes unjust, and it has always been possible to see the deadening effect of *maiestas* delation on eloquence, but so far, Tacitus seems to have been interested in these examples almost as a foreshadowing of a time when the tyranny and cruelty of the emperor could blaze forth, and *maiestas* could become truly fearful. That time is now.

Regardless of the final structure of the *Annals* as a whole, it has long been recognized that the Tiberian books, at least, form a hexad, and that this hexad is neatly divided into two halves. It was part of the historiographical tradition that reached Tacitus that the reign of Tiberius was not so bad in the beginning, but monstrous in the end. Tacitus' approach to this is to divide his coverage of the reign into two three-book segments, the former neatly representing the “better” half of the reign – when the malice of Tiberius, although already present, was at worst a shadow of what it would become – and the latter the shift. Directly at the beginning of the second half, in Book 4, he suggests that the reign of Tiberius was about to undergo a radical change for the worse,⁴⁸⁶ and posits a reason for this change: Lucius Aelius Sejanus.⁴⁸⁷ It would not be amiss, then, briefly to examine how Tacitus frames this radical change in the opening of Book 4, before we look more closely at what this means for eloquence and *maiestas* specifically.

486 Scholars have traditionally found it difficult to reconcile the sharp division between the two halves of Tiberius' reign and the gradual shift implied by 6.51.3: see Martin and Woodman (1989) 27-31 and Woodman (1998) 153-167. The idea of a gradual unmasking of Tiberius' true character, as opposed to a change, is partly due to the mistaken assumption that the ancients believed character to be static and fixed: see Gill (1983) 469-487.

487 On this enigmatic figure, see Bird (1969) 61-98, Martin and Woodman (1989) 80, Woodman (1998) 153-167, Hausmann (2009) 97-112. He was in no small way responsible for the growth of *maiestas* as a tool to gain favor by attacking the enemies of the regime: Heinz (1957) 59, Zäch (1971), Bauman (1974) 113-124, Rutledge (2001) 96, Sailor (2008) 295.

Book 4 begins thus (*A.* 4.1.1):

C. Asinio C. Antistio consulibus nonus Tiberio annus erat compositae rei publicae, florentis domus (nam Germanici mortem inter prospera ducebat), cum repente turbare fortuna coepit, saevire ipse aut saevientibus vires praebere. Initium et causa penes Aelium Sejanum, cohortibus praetoriis praefectum, cuius de potentia supra memoravi: nunc originem mores et quo facinore dominationem raptum ierit, expediam.⁴⁸⁸

Nothing could be more clear from this opening passage than that Tacitus is embarking upon a new subject, about to describe a sudden shift, a pivotal moment. The very first sentence shows this vividly: it is an inverted *cum* clause, the first part of which sets the scene – *nonus annus* expresses the idea of a static state of affairs, and the imperfect *erat* stresses this state's ongoing continuity – and then, in the emphatic subordinate clause, this static picture is suddenly broken by a new beginning: *repente turbare fortuna coepit*. We find then the programmatic mention of Sejanus as the *initium et causa*, and then the very significant *expediam*, used often by poets and Tacitus in the introduction to something important and new.⁴⁸⁹ The programmatic nature of the opening of Book 4 is further emphasized by two digressions on the state of the Empire on the eve of these sudden changes, the first on the distribution of the legions (*A.* 4.4.3-5.4), the second on the state of the civil constitution.⁴⁹⁰ Tacitus explains his reasons for this second digression: *quoniam Tiberio mutati in deterius principatus initium ille annus attulit* (6.1: “Since that year brought to Tiberius the beginning of his principate's change for the worse”). This clearly shows not only that there was to be a change, but that it was to be a deterioration.

488 “In the consulship of C. Asinius and C. Antistius, Tiberius was enjoying his ninth year of an orderly state and a flourishing house (for he counted the death of Germanicus among prosperous events), when fortune suddenly began to throw everything into chaos, and Tiberius began either to rage himself or to grant strength to the raging. The beginning and cause was Aelius Sejanus, the prefect of the praetorian cohorts, about whose power I have told above. Now, his origin and his character, and by what crime he set out to try to seize power, I shall relate.”

489 See Thomas (2009) 62. Cf. *H.* 1.51.1, *initia causasque expediam*.

490 Martin and Woodman (1989) 96.

Indeed, the digression itself emphasizes this: the general state of affairs was positive, the Senate still held some power, the honors of the state were distributed appropriately, the magistrates held their proper functions, and in general everything was well (6.2)⁴⁹¹ – in other words, things could only get worse, and by emphasizing the positive conditions before the change, Tacitus foreshadows its eventual badness all the more clearly. But there is one main exception to this happy scheme: *legesque, si maiestatis quaestio eximeretur, bono in usu* (6.2: “And the laws, if one excepts the court of *maiestas*, were in good use”).⁴⁹² This exception is significant, in that it both emphasizes the occasional injustice of *maiestas* even in this happy period before Sejanus, and anticipates that it will grow even worse in the time of Sejanus' power.

In short, the opening of Book 4 emphasizes very strongly that we are entering upon a new chapter in Tiberius' reign, and that we are facing a sudden and rapid deterioration. Part of this will involve the emperor himself (*saevire ipse*), part will involve his favorites, who will wreak havoc with the power and influence granted them by Tiberius (*aut saevientibus vires praeberere*). The chief of these favorites, who will both abuse the favor of the *princeps* and will himself have an outsized influence on Tiberius and on the nature of his reign, is of course Sejanus. Tacitus hints, moreover, that one of the main areas in which this deterioration will take place is in *maiestas* delation. As will become clear, Sejanus ushers in a new era in the politics of the Principate,⁴⁹³ one in which the emperor and his favorites hold the reins of power still more tightly, and in which they are still more closely aligned with the *delatores*. In the vivid Tacitean phrase, there will be no way to high office except through Sejanus, and no way to secure Sejanus' favor except by some *scelus* (A. 4.68.2) – and in context, it is clear that

491 This is not the impression we have received from the first three books of the *Annals*. Tacitus' goal here is to present a sudden and drastic change, and part of his strategy is to paint the initial condition as favorably as possible.

492 Tacitus' reference to a *quaestio maiestatis* is probably anachronistic, in that *maiestas* cases were no longer dealt with by a *quaestio*, but before the Senate. What he meant, presumably, was *legesque, si lex maiestatis eximeretur*, etc., but such repetition would be very un-Tacitean.

493 Bauman (1974) 113-124 calls it “Sejanism.”

scelus means “delation.”⁴⁹⁴ We will see, therefore, the emergence of a system where accusing the perceived enemies of the regime of *maiestas* is a sure way to obtain the favor of the powerful, and where, in turn, the influence of the powerful aids the *delatores* in securing convictions, and therefore wealth and a share of power themselves.⁴⁹⁵ We have already seen that eloquence has never had any role in the outcome of trials in the *Annals*, nor will it have any more influence now; what is new, however, is the close alliance between the regime and the *delatores*, and their mutual reliance on one another (the emperor or Sejanus on the *delatores*, to destroy his enemies with a show of legitimacy; the *delatores* on the emperor, to use his influence to decide the outcome of the trials in their favor).

One of the main ways in which we see this play out in *Annals* 4 is the continued attack on the remnants of the house of Germanicus. Sejanus, of course, wanted to do away with all possible heirs to the throne to clear the way for himself, and so after murdering Drusus, Tiberius' son, moved on to plotting against the children of Germanicus, the emperor's adopted grandchildren (*A.* 4.12.2). His motives here, however, self-serving as they were, coincided with those of the emperor, who had hated Germanicus (cf. 4.1.1: *nam Germanici mortem inter prospera ducebat*) and now hated his wife and children.⁴⁹⁶ The persecution of the remains of Germanicus' family, then, and the destruction of all their friends and political allies by means of *maiestas* delation, will be an ongoing theme throughout the rest of Book 4 and, indeed, the rest of Tiberius' reign.

This begins quite early on. Sejanus secretly intrigues against Agrippina the Elder, Germanicus' widow, and secures against her the odium of the Augusta and of Livia (i.e. not Livilla, the widow of Drusus, and therefore Tiberius' daughter-in-law, who had been seduced by Sejanus). Agrippina was

494 See Rutledge (2001) 13.

495 Cf. Rudich (1993) xxv-xxvii, 25-26. Even Rutledge, who writes a self-described revisionist history of the *delatores*, cannot but occasionally confess the essential point, that the *delatores* attacked the enemies of the regime for profit and to gain favor with the emperor: Rutledge (2001) 22, 40-46, 56, 176.

496 Cf. Suetonius, *Tiberius* 54.1-2. Of special interest is Suetonius' claim that, having made his feelings towards the offspring of Germanicus clear, Tiberius *omnium criminationibus obnoxios reddidit*. The idea that delation would automatically pursue those whom the emperor disliked seemed as natural as water flowing downhill.

apparently hateful to them on the grounds of her perceived arrogance (*A.* 4.12.3). The Augusta uses her considerable behind-the-scenes influence, which we have seen before, to weaken Agrippina's position. The trio⁴⁹⁷ go further and lay plans for a more open attack, securing the support of several *delatores*, chiefly Julius Postumus, whose loyalty they could count upon for not entirely savory reasons (12.4). But once we learn of the existence of this conspiracy, it submerges, and we hear no more about it for a while.

This hidden persecution of the house of Germanicus appears again in the *maiestas* trial and suicide of Gaius Silius. The way that Tacitus introduces and segues into this trial, however, is worthy of note. On a fairly innocent occasion, the pontifical college, in offering prayers for the emperor's health, also prayed for the safety of Nero and Drusus, the two sons of Germanicus, who, having been adopted into the family of Tiberius, were the presumptive heirs of the Empire (*A.* 4.17.1). Tiberius was unexpectedly enraged by this, since he hated and envied the family of Germanicus (17.2: *haud umquam domui Germanici mitis*), and he accused, with some justification, the pontiffs of being the creatures of Agrippina, and Agrippina (implicitly) of scheming to make her sons emperors. We have seen before how a public hint of Tiberius' true feelings has been sufficient to set in motion the wheels of prosecution, and so it is now: Sejanus, knowing the emperor's mind and who his enemies were, openly spoke against the party of Agrippina as a danger to the state and urged their destruction (17.3). Therefore, we are told, Gaius Silius was attacked, along with Titius Sabinus (18.1-3):

Qua causa C. Silium et Titius Sabinum adgreditur. Amicitia Germanici
perniciosa utrique. ... Credebant plerique auctam offensionem ipsius [Sili]i
intemperantia, immodice iactantis suum militem in obsequio duravisse, cum alii

⁴⁹⁷ The Latin sentence *atque haec callidis criminatibus* is less than crystal-clear, lacking as it does both a subject and a verb. *Haec* is probably the object, so that the sentence means “And this they did by means of skilled accusers,” but it is unclear whether Sejanus alone is meant, or Livia, or all three of the conspirators. Since this sentence is more than usually ambiguous, even for Tacitus, I conclude that it is intentionally unclear, so as to leave in doubt and shadow who exactly was controlling the show from behind the scenes.

ad seditiones prolaberentur; neque mansurum Tiberio imperium, si iis quoque legionibus cupido novandi fuisset. Destruui per haec fortunam suam Caesar imparemque tanto merito rebatur.⁴⁹⁸

The emperor's animosity towards the family of Germanicus leads naturally to outcry against the “party” of Agrippina and treason accusations for her *amici*. The sentence *amicitia Germanici pernicioso utrique* adequately summarizes the situation. It goes without saying that Silius will be condemned, for he was a friend and ally of Germanicus, and the house of Germanicus was hated by the emperor. Silius in particular, moreover, was the target of Tiberius' odium because of his habit of boasting that he and his army had ended mutinies and saved the empire for Tiberius; such boasting may well have been thought to diminish the *maiestas* of the emperor.

Silius was therefore formally brought up on charges by Varro, the consul (the accusation of Sabinus was delayed for a time). Tacitus narrates the course of the trial (*A.* 4.19.2-3):

Precante reo brevem moram, dum accusator consulatu abiret, adversatus est Caesar: solitum quippe magistratibus diem privatis dicere; nec infringendum consulis ius, cuius vigiliis niteretur, ne quod res publica detrimentum caperet. Proprium id Tiberio fuit, scelera nuper reperta priscis verbis obtegere. Igitur multa adseveratione, quasi aut legibus cum Silio ageretur aut Varro consul aut illud res publica esset, coguntur patres, silento reo vel, si defensionem coeptaret, non occultante cuius ira premeretur.⁴⁹⁹

498 “Therefore he attacked C. Silius and Titius Sabinus. The friendship of Germanicus was fatal to both. . . . Many believed that the offense had been increased by Silius' own intemperance, since he boasted immoderately that *his* soldiery had endured in their loyalty when others inclined to sedition, and that the empire would not have remained Tiberius' if they had had the same desire for revolution. The emperor thought that his position was undermined by this and that he was unequal to repay such deserts.”

499 “The defendant asked for a brief delay until his accuser should depart from the consulship, but the emperor opposed this, saying that it was customary for the magistrates to summon private citizens to trial, and that the rights of the consul should not be infringed, whose vigilance it was relied upon that the Republic receive no harm. It was normal for Tiberius to conceal newly found crimes with ancient words. Therefore, with much enthusiasm, as though Silius were on trial according to the laws or Varro were a true consul or it were the Republic, the Senate was gathered. The defendant remained silent or, if he ventured upon a defense, did not conceal by whose wrath he was being oppressed.”

Silius asked for a delay until his accuser was no longer consul, but Tiberius refused this in a short, indirect-discourse speech – the only speech of the trial (if we discount *si defensionem coeptaret*), and therefore positioned by Tacitus as critically important towards the outcome.⁵⁰⁰ Tiberius claims that it would be wrong to deny the consul the ability to prosecute sedition, since it was the consul who protected the state. He invokes (with slightly modified phrasing) the legal formula *ne quid res publica detrimenti capiat*. This venerable expression indicated the *senatus consultum ultimum*, by which, in the days of the Republic, the Senate empowered the consuls to do whatever they thought necessary for the safety of the state. In this particular case, the reference seems to be to the S.C.U. of 63 BC which allowed Cicero to deal with Catiline; *vigiliis* recalls the Catilinarian orations.⁵⁰¹ Tiberius is therefore perverting republican precedents to justify his persecution of Agrippina's allies: Varro was no Cicero, and Silius was guilty of no conspiracy against the state. In addition, however, we should remember that the S.C.U. of Cicero was controversial – indeed the S.C.U. was always controversial, for, although not a law in itself and possessing no actual legal force, it effectively stripped Roman citizens of their usual legal rights if the consuls deemed them a danger to the state. Cicero's actions were not universally admired: it was *without a trial* that he had the conspirators executed, for which egregious breach of Roman law he was eventually exiled. The S.C.U did not protect him; he did, technically, violate the law. That Tiberius recalls this particular precedent, then, is problematic at best; at worst, it seriously undermines the entire trial and calls into question the fundamental legality of the proceedings. It is perhaps this that calls forth Tacitus' indignant *quasi legibus cum Silio ageretur*.

The trial ends, as it had to end, poorly for Silius (*A.* 4.19.4-20.1):

Nec dubie repetundarum criminibus haerebant, sed cuncta quaestione maiestatis
exercita, et Silius imminentem damnationem voluntario fine praevertit. Saevitum

⁵⁰⁰ It is noteworthy that, not for the first time, the only speech mentioned or summarized comes from the emperor, rather than from anyone actually involved in the case. Eloquence only matters when backed up by the imperial power.

⁵⁰¹ Martin and Woodman (1989) 148.

tamen in bona, non ut stipendariis pecuniae redderentur, quorum nemo repetebat, sed liberalitas Augusti avulsa, computatis singillatim quae fisco petebantur.⁵⁰²

As so often, a defendant who faced the obvious hostility of the emperor – for Tiberius' refusal to delay the trial was rightly taken as a signal – anticipated his conviction by means of suicide. *Imminentem damnationem* expresses Tacitus' certainty that Silius would have been convicted had he lived, as does the confiscation of his property, which was unusual in the case of suicides and must have been the result of Tiberius' especial displeasure.⁵⁰³ Again, then, we have a case that began with Tiberius publicly expressing his feelings about the house of Germanicus, which led naturally and irresistibly to the prosecution and death of a key ally of that house. Eloquence had no effect on the outcome of the trial; the main speech mentioned is by the emperor, and was important only insofar as it acted as a signal of his intentions towards the defendant, who was thereby irretrievably doomed.⁵⁰⁴

The trial that we have to discuss next is the aftermath of a previous case, namely when Lucius Calpurnius Piso sued Urgulania, the friend of Livia Augusta, at *A.* 2.34-2-4. The behavior of Tiberius had, at the time, been exemplary; we now see – what will become a common theme in Tacitus' portrayal – that he was simply dissimulating his anger and saving it up for a later day. This might be the first time that we have seen Tiberius postpone the day of his wrath; it will not be the last.⁵⁰⁵ Tacitus, then, describes the case thus (*A.* 4.21.1-2):

502 “Undoubtedly they were liable to the charges of extortion, but everything was treated according to the question of *maiestas*, and Silius prevented his imminent conviction by means of a voluntary death. Nonetheless his property was savaged, not in order to repay the provincials liable to tribute [from whom he had extorted money], none of whom sought restitution, but the generosity of Augustus was wrenched away, the obligations to the treasury being tallied up one by one.”

503 Martin and Woodman (1989) 149.

504 It is after this trial that Marcus Lepidus, mentioned above at pp. 34-37, is introduced and praised by Tacitus. It was proposed that half of the estate of Silius' wife be confiscated; Lepidus moved that only a quarter be given to the accusers and the rest be allowed to pass to her children, as the law required (*A.* 4.20.1-2).

505 Cf. *A.* 6.38.1. It is naturally questionable, in these cases, whether Tiberius in fact plotted to destroy his innocent victims for slight offenses and insults committed perhaps five or ten or even fifteen years in the past, and actually dissimulated his deep-seated anger for so long a time, or if Tacitus simply wants to focus our attention yet again on the emperor's hypocrisy and cruelty. But even if Tacitus is guilty of some exaggeration, he cannot be accused of conscious fraud, for dissimulation and hatred were already long established in the tradition as the chief aspects of Tiberius' character.

Actum dehinc de Calpurnio Pisone, nobili ac feroci viro. Is namque, ut rettuli, cessurum se urbe ob factiones accusatorum in senatu clamitaverat et sprete potentia Augustae trahere in ius Urgulanium domoque principis excire ausus erat. *Quae in praesens Tiberius civiliter habuit; sed in animo revolvente iras, etiam si impetus offensionis languerat, memoria valebat.* Pisonem Q. Veranius secreti sermonis incusavit adversum maiestatem habiti, adiecitque in domo eius venenum esse eumque gladio accinctum introire curiam. Quod ut atrocius verotramissum; ceterorum, quae multa cumulabantur, receptus est reus neque peractus ob mortem oppurtunam.⁵⁰⁶

The italicized sentence is especially important and leaves in no doubt at all what Tacitus considered to be the driving force behind this prosecution. It was the emperor, who hated Piso for his own inscrutable reasons. But the emperor's personal hatred led naturally and necessarily to a *delator* charging Piso with *maiestas*. It is interesting that some of the charges invented by this *delator* were so obviously false that the Senate rejected them out of hand – and yet the rest of the accusation put forward by this manifest liar was admitted, for the Senate was in no position to reject it. It was too clear what Tiberius wanted. Tacitus leaves us expecting the imminent condemnation of Piso, when he happily escaped the danger by dying a timely death – probably suicide.⁵⁰⁷ He seems not even to have attempted a defense, which is

506 “There was then the trial of Calpurnius Piso, a noble and ferocious man. For he, as I have related, had proclaimed in the Senate that he would leave the city because of the factions of the accusers, and, spurning the power of the Augusta, he had dared to sue Urgulania and to summon her from the imperial palace. Tiberius treated this in a citizenly way, for the present; but in a mind that brooded on its anger, even if the impetus of the offense had languished, its memory remained powerful. Q. Veranius accused Piso of secret slander against the *maiestas* [of the emperor], and added that he had poison in his house and oft entered the Senate girt with a sword. This was passed over as too atrocious to be true. He was received as a defendant of the other charges, many of which were heaped up, but was not tried, because of an opportune death.”

507 Tacitus does not explicitly call it suicide, and *mortem oppurtunam* does not necessarily indicate suicide, although there are strong hints of it. Koestermann (1965) 93 ad loc. seems to think that suicide is probable, for he cites as a parallel Livy 6.1.7: *Iudicio eum mors adeo oppurtuna, ut voluntariam magna pars crederet, subtraxit.* The allusion is probable, for the subject in Livy is Quintus Fabius, who was accused of *maiestas* in one of the first such cases ever – cf. Bauman (1967) 11. An opportune death saved Piso from *maiestas* condemnation in Tacitus; in Livy, a death so opportune that it was believed voluntary saved Fabius from the same charge.

itself notable in such an outspoken man known for being *ferox*. Again, then, the power of *maiestas* accusations backed by the emperor's open (or half-concealed) enmity destroys eloquence in exactly that arena where oratory was supposed to be most powerful.

A brief mention of Cassius Severus follows (*A.* 4.21.3). Described as *sordidae originis, maleficae vitae, sed orandi validus* (“of base origin and noxious life, but skilled at speaking”), he had, by excessive hostilities (*per immodicas inimicitias*) – he is probably the same Cassius Severus who had practiced libel under Augustus and provoked the first expansion of *maiestas* to cover verbal offenses (*A.* 1.72.3) – brought about his own exile to Crete. There, we are told, he continued in the same odious practices, and ended up earning the harsher penalty of confiscation, *deportatio*, and outlawry (*interdicto igni atque aqua*).⁵⁰⁸ His case is not especially important here, as evidenced by how little space Tacitus devotes to it, but it can be noted in passing that even one described as *orandi validus* could in no wise defend himself from not one but a whole series of *maiestas* charges.

At *A.* 4.22, we see a brief example of how active a role the emperor could have in a case, as well as the secret power exercised by *amici* of the imperial family. A certain Plautius Silvanus, a praetor, was accused of throwing his wife from their balcony; he asserted that he had been asleep at the time, and that his wife must have killed herself (22.1). Tiberius, with surprising alacrity, leaps up and immediately proceeds to the crime scene himself, examines the evidence with his own eyes, and himself concludes that there were signs of a struggle that proved Silvanus a murderer (22.2). He therefore referred the case to the Senate – and it is unlikely that his referral would have been in vain. Before the trial could commence, however, Urgulania, the omnipresent friend of Livia, reappears: she is the grandmother of Silvanus, to whom she sends a dagger. Silvanus took this as a sign from the emperor (*creditum quasi principis monitu*), since Urgulania was known to stand high in the favor of the imperial family. Without venturing upon a defense, therefore – for how could he have defended himself

508 Martin and Woodman (1989) 153-154.

when the emperor himself had investigated his case and deemed him guilty, and how could he mistake the signal sent by the dagger? – Silvanus ends his own life.

The next case that we have before us is among the most significant in the *Annals*. It vividly portrays the tie between *delatores* and the regime, how they were supported in their accusations of *maiestas* by the imperial power, the consequent uselessness of oratory (and indeed of every manner of defense), the hopeless dread that such accusations could inculcate, and the dissimulation of Tiberius. This is the trial of Vibius Serenus, all the more horrifying to the Romans because he was accused by his own son (also called Vibius Serenus). Tacitus calls the case *miseriarum ac saevitiae exemplum atrox* (*A.* 4.28.1: “an atrocious example of misery and cruelty”), because *reus pater, accusator filius* (“the father a defendant, his son the accuser”). The course of the trial begins thus (28.1-2):

Ab exilio retractus inlucieque ac squalore obsitus et tum catena vinctus peroranti filio pater comparatur. Adulescens multis munditiis, alacri vultu, structas principi insidias ... dicebat, adnectabatque Caecilium Cornutum praetorium ministravisse pecuniam; qui, taedio curarum et quia periculum pro exitio habebatur, mortem in se festinavit.⁵⁰⁹

The beginning is not auspicious. From the very outset, Tacitus is at pains to contrast the father and son, to arouse pity for the former and disgust with the latter. The elder Serenus, not even left alone in exile (to which he had evidently already been condemned), is brought back to face yet more charges; he enters the court in filth and squalor and enchained. His son, by contrast, looked resplendent, even elegant – which, to a Roman, is far from a compliment in such a case as this.⁵¹⁰ The ragged father, moreover, is compared to the *peroranti filio*; this might heighten the contrast, since the peroration

⁵⁰⁹ “Dragged back from exile, covered in filth and dirtiness, and bound even then with a chain, the father was compared to his son as the latter gave his speech. The youth, with much elegant charm, but a harsh expression, claimed that a trap had been laid for the emperor ... and added that Caecilius Cornutus, an ex-praetor, had provided money. He, exhausted by care and because danger was held to be destruction, hastened his own death.”

⁵¹⁰ Cf. Martin and Woodman (1989) 163.

(*peroro* can mean either “to harangue” or, more specifically, “to give a peroration”) was the most polished and typically the highest-register part of a speech, and so we are perhaps to imagine the son, luxuriously clad, spouting a torrent of fine-sounding words as his father sits dirty and forlorn. (It also cannot but be significant that the chief mention of oratory in this trial occurs on the side of the *delator* and the *princeps*: eloquence had been degraded to providing a screen for their cruelty.) Serenus *pater's* alleged accomplice, moreover, commits suicide as soon as he is mentioned, drawing forth Tacitus' revealing comment *quia periculum pro exitio habebatur*, which indicates in the clearest way how delation, backed up as it was by the influence of the emperor, was considered inescapably fatal. Simply to be accused was a sign of Tiberius' disfavor, and Tiberius' disfavor augured destruction; Cornutus is not the first to seek to anticipate what he could not defend against.

The accused is given a chance to speak in answer to his son, but he does not (in Tacitus) give anything that can properly be called a speech. Nonetheless his defense was such as would be powerful to a Roman audience. Rather than try to deny the charges, a denial which would probably have availed nothing, he assumes their falseness and focuses on the wickedness of the accusation itself – for even if the accusation were true, the Romans would have considered it an unpardonable wickedness for a son to bring it against his father (*A.* 4.28.3):

At contra reus nihil infracto animo obversus in filium quatere vincla, vocare ultores deos, ut sibi quidem redderent exilium, ubi procul tali more ageret, filium autem quandoque supplicia sequerentur. Adversabatque innocentem Cornutum et falso exterritum; idque facile intellectu, si proderentur alii: non enim se caedem principis et res novas uno socio cogitasse.⁵¹¹

511 “The defendant, on the other hand, with an unbroken spirit, turned to his son and kept shaking his chains and calling upon the avenging gods, praying that they return him to exile, where he might live far from such a custom; but that vengeance might eventually pursue his son. He asserted that Cornutus was innocent and had been terrified by a falsehood, and that this would be easily understood, if others were betrayed [i.e. if other names of alleged accomplices were suggested by the accuser]: for he had not plotted to murder the emperor and begin a revolution with a single ally.”

Having focused attention on the inherent evil of the accusation, the elder Serenus does actually argue against the charges: Cornutus, his alleged associate, had committed suicide, he says, not because he was guilty, but because even the innocent can be frightened by false charges; the innocence of Cornutus could be proved if the accuser provided more names, presumably because he either could not, or because the names would obviously be false.⁵¹² This, it turns out, is exactly what happens: the younger Serenus accuses two men who were so unlikely to have been involved in such a conspiracy that they were immediately cleared of all suspicion (29.1). As a last attempt at gathering evidence, the slaves of the elder Serenus were examined by torture, as was allowed in cases of *maiestas*; but the examination went against the accuser (*quaestio adversa accusatori fuit*) and found no evidence of crime. The trial was going so badly for Serenus *filius* that he seriously apprehended charges of parricide and fled the city (29.2).

Here the case should have ended. That it did not was due entirely to the intervention of Tiberius. The younger Serenus was dragged back from his flight and positively compelled to go through with the accusation, *non occultante Tiberio vetus odium adversum exulem Serenum* (A. 4.29.2: “without Tiberius concealing his old hatred against the exile Serenus”). Serenus, it seems, had once addressed Tiberius in a letter in terms harsher than was safe with someone arrogant and quite liable to take offense (29.3: *contumacius quam tutum apud aures superbas et offensionis proniores*). This enmity the emperor recalled, to Serenus' destruction, after eight years of dissimulation – an extreme example indeed of Tiberius' saving up his hatred. Here, then, we have the real cause of the trial: Tiberius disliked Serenus and, even though he was already an exile, wanted to humiliate him still further. It is highly revealing (no less than it is shocking) that Tiberius recalled the younger Serenus and compelled him to continue the accusation, even after the accusation had gone so badly. Such an action could have only one meaning. The accuser caught the meaning; the rest of the Senate – which had only just been ready to

512 Cf. Martin and Woodman (1989) 164 ad loc.

pursue the younger Serenus with parricide charges for accusing his own father of *maiestas* – also read the not very subtle signal, and condemned the elder Serenus (29.3-30.1). The intervention of the emperor suddenly and drastically reversed the expected outcome of the trial. Up to then, every phase of the case had gone in favor of the defendant: his defense aroused pity for him and anger at his son, he gave a solid and probable argument against the charges, the accuser was nearly laughed out of court when he named his father's alleged accomplices, and even the examination by torture of the defendant's slaves – an examination wherein it would have been very easy, as we know today, for the tortured to agree to the wildest suggestions – produced no evidence of guilt. Things had gone so poorly for the accuser that he fled to avoid retaliation. Then the emperor made clear by his actions that he wanted the prosecution to continue to its end. At that point there was nothing else to say or do. The eloquent defense of Serenus *pater*, which had very nearly acquitted him, was undone in the face of clear evidence of the emperor's enmity. He was therefore convicted with almost unseemly haste.

The aftermath of Serenus' trial, in addition, is further evidence of another important theme: how Tiberius, whatever he might seem to do, always in fact supported the *delatores* as a class (*A.* 4.30.2-3):

Et quia Cornutus sua manu ceciderat, actum de praemiis accusatorum abolendis, si quis maiestatis postulatus ante perfectum iudicium se ipse vita privavisset. Ibaturque in eam sententiam, ni durius contraque morem suum palam pro accusatoribus Caesar inritas leges, rem publicam in praecipiti conquestus esset: subverterent potius iura quam custodes eorum amoverent. Sic delatores, genus hominum publico exitio repertum, et ne poenis quidem umquam satis coercitum, per praemia eliciebantur.⁵¹³

513 “And because Cornutus had fallen by his own hand, it was moved to abolish the rewards of the accusers, if anyone accused of *maiestas* should deprive himself of life before the trial was completed. The Senate was inclining to that opinion, until harshly and contrary to his usual manner Caesar openly spoke on behalf of the accusers, saying that the laws would be scorned, the state in peril, and that they should subvert the laws rather than remove the laws' guardians. Therefore the *delatores*, a race of men discovered for the public destruction and never sufficiently restrained even by punishments, were drawn forth by rewards.”

There was already a convention – albeit not one always followed by Tiberius, as we have seen – of sparing the property of a defendant if he committed suicide before a verdict was pronounced.⁵¹⁴ The Senate now moved to codify this convention in law. The position seemed to have overwhelming support – the counterfactual indicative in *ibaturque in eam sententiam* is highly vivid. Then the emperor spoke, whose speech has never yet been uttered in vain. In no uncertain terms, he defended the interests of the *delatores*, calling them the guardians of the laws and insisting that, if they were discouraged, the whole legal fabric would be riven. Guardians of the laws they may have been; this does not change the fact that they often abused the laws, or that they might often help a tyrannical emperor cheat justice. The emperor is of course victorious, and Tacitus rightly notes what the result must be: that the *delatores* would be all the more encouraged to ply their trade and make more *maiestas* accusations. Tiberius was either a fool not to realize this, or a villain for intending it; but Tacitus never accuses Tiberius of being a fool. The emperor therefore intended to encourage the *delatores*. This is not very surprising, for, by means of the *ars Tiberii*, he has been encouraging them from behind the scenes throughout the *Annals*; what is new here is how openly and publicly he does so – a further sign, if more were needed, that things are only getting worse in the second half of Tiberius' reign.

At *A.* 4.31.1, Tiberius pardoned a Roman knight, Gaius Cominius, who had been convicted of *maiestas* for slandering him, as a favor to the prayers of Cominius' brother. This happy act is undermined by Tacitus in two ways: first, he introduces it as an exception to the general trend of Tiberius' cruelty, calling it a brief intermission in a train of miseries. Second, he concludes this episode by stating *quo magis mirum habebatur gnarum meliorum, et quae fama clementiam sequeretur, tristiora malle* (31.2: “All the more was it considered strange that, although understanding better things and knowing what fame followed clemency, he yet preferred the more grim course”). So does Tacitus

⁵¹⁴ Martin and Woodman (1989) 166. Koestermann (1965) 107 lays it down as an actual regulation, dating from the Republic and amply supported by precedent, that the accuser in *any* lawsuit only obtained the *praemia* if he were actually victorious. In this case, presumably, the Senate was seeking to reemphasize a preexisting rule that had sometimes been ignored.

make even the exceptions prove the rule of Tiberius' general cruelty. Notably, if there is any aspect of eloquence or oratory in the prayers of Cominius' brother, it is unimportant, overshadowed by Tiberius' arbitrary and unpredictable reaction.

Another example of Tiberius' usual protection and promotion of the *delatores* follows (*A.* 4.31.4). Firmius Catus, the chief participant and *agent provocateur* in the action against Libo Drusus (Tacitus explicitly recalls our attention to the earlier case with *ut rettuli*), for which he had been rewarded by Tiberius, had apparently continued on his bad course and gone to the length of assailing his own sister with treason charges. The accusation failed so badly that Catus found himself liable to an action for bringing false charges. For this he could have been exiled or even outlawed. Tiberius, however, remembering the service previously given him by Catus (*eius operae* [i.e. the accusation against Libo] *memor*), pled against a sentence of exile, allowing only the infliction of the comparatively minor penalty of expulsion from the Senate. Why Tiberius allowed this penalty is unclear: perhaps Catus had gone so far in attacking his own sister that Tiberius felt he deserved *some* punishment, or perhaps the emperor did not want to suffer the popular odium of completely exonerating so manifestly guilty a *delator*. Whatever the reason, in pleading against a sentence of exile, the proper legal penalty for Catus' offense, Tiberius was unquestionably protecting him from far the heavier part of his deserts. Tacitus is equally clear that this was because the emperor was mindful of Catus' previous service as a *delator* and so wanted to protect him in some degree.⁵¹⁵ Tiberius, then, not only encourages the *delatores* by securing them their rewards, but also by protecting them from the brunt of any repercussion.

Among all the trials in the *Annals* and all the examples of eloquence fruitless in the face of *maiestas*, that of Cremutius Cordus deserves a primary place.⁵¹⁶ Tacitus himself clearly regarded it as of

⁵¹⁵ Koestermann (1965) 111.

⁵¹⁶ On this trial, see Rogers (1952) 279-311 and (1965) 351-359, MacMullen (1966) 18-38, Zäch (1971), Kennedy (1972) 437-442, Köhnken (1973) 32-50, Bauman (1974) 100-103, Martin and Woodman (1989) 176-186, Rutledge (2001) 96, Sailor (2008) 250-313, Devillers (2010) 187-197, Whitton (2011) 194-196, Wisse (2013) 299-361.

immense importance. The speech of Cordus, which dominates the narrative, is one of the longest direct-discourse speeches in all of Tacitus. The case is treated as an ἀρχὴ κακῶν.⁵¹⁷ The deleterious power of the emperor and his favorites and their crushing effect on eloquence are shown in an especially vivid fashion. For the speech of Cremutius, although unopposed and unanswered, fails – as, indeed, its speaker knew it must. This trial is therefore worthy of detailed examination.

Tacitus introduces the case thus (*A.* 4.34.1-2):

Cornelio Cosso Asinio Agrippa consulibus Cremutius Cordus postulatur, novo ac tunc primum audito crimine, quod editis annalibus laudatoque M. Bruto C. Cassium Romanorum ultimum dixisset. Accusabant Satrius Secundus et Pinarius Natta, Seiani clientes. Id perniciosum reo et Caesar truci vultu defensionem accipiens, quam Cremutius, relinquendae vitae certus, in hunc modum exorsus est. ...⁵¹⁸

Cremutius Cordus was brought to trial because he had written a republican-flavored history in which he praised Brutus and Cassius. Tacitus is probably right to say that charges on these grounds had never before been known; there had been *maiestas* for speech, but never for history.⁵¹⁹ There had been ample occasion for such accusations, since no small minority of Romans treasured the memory of the republican “martyrs” (without themselves favoring a restoration of the Republic); Brutus, Cassius, and especially Cato had been extolled to the skies, with no harmful results. The basis for the novel charge, and the real reason for Cordus' destruction, comes next: he was accused by the clients of Sejanus. He had incurred the hatred of Sejanus,⁵²⁰ and, accordingly, faced the power of that dangerous favorite

⁵¹⁷ Martin and Woodman (1989) 177.

⁵¹⁸ “In the consulship of Cornelius Cossus and Asinius Agrippa, Cremutius Cordus was accused [of *maiestas*], on the new charge, heard then for the first time, that, having published a history and praised Marcus Brutus, he had called Gaius Cassius the last of the Romans. Satrius Secundus and Pinarius Natta, clients of Sejanus, were his accusers. This was fatal to the defendant, as was the fact that the emperor received his defense with a harsh expression. Cremutius, certain that he was going to leave life behind, began his defense thus. ...”

⁵¹⁹ Martin and Woodman (1989) 177. See also Cramer (1945) 157-196.

⁵²⁰ Rutledge (2001) 96.

ranged against him. This is indisputably the reason for Cordus' being accused and for his eventual destruction. The very fact that his accusers were Sejanus' clients is said by Tacitus to be *perniciabile reo*: a man who was opposed by the power of such an imperial favorite had no power to escape. Neither innocence⁵²¹ nor eloquence could protect him. No less fatal was the reaction of the emperor. Tiberius, probably in support of the injured dignity of his favorite, wore a harsh expression (*truci vultu*) throughout Cordus' speech. We have seen senators destroyed simply because the emperor feigned neutrality; now, however, with Tiberius actively showing his hostility to the defendant, it is impossible for there to be any other result than conviction. Cordus himself recognized this and knew that he was doomed (*relinquendae vitae certus*); he therefore gave his defense speech without an actual hope that it would succeed in exonerating him.⁵²²

This speech Cordus begins thus (*A.* 4.34.2-3):

Verba mea, patres conscripti, arguuntur: adeo factorum innocens sum. Sed neque haec in principem aut principis parentem, quos lex maiestatis amplectitur: Brutum et Cassium laudavisse dicor, quorum res gestas cum plurimi composuerint, nemo sine honore memoravit. Titus Livius, eloquentiae ac fidei praeclarus in primis, Cn. Pompeium tantis laudibus tulit, ut Pompeianum eum Augustus appellaret; neque id amicitiae eorum offecit.⁵²³

521 Rogers (1965) 351-359, however, disputing almost every line of Tacitus, also denies that Cordus was innocent, and suggests that he belonged to a disloyal and possibly seditious opposition. Undoubtedly, Rogers is correct that the speech of Cordus is a Tacitean invention. As for the rest, however, Rogers' arguments here are of a piece with the standard and not very good arguments that he uses to call all ancient historiographers liars. He claims, for instance, that people like Thrasea Paetus *must* have been guilty of actual sedition, because the charges mentioned against them are not sufficient to justify *maiestas* charges – which, of course, is the whole point of the ancient historians who regard their convictions as unjustified. See Rogers (1952) 279-311. Cremutius Cordus was surely guilty of the charges, namely of praising Brutus and Cassius, but there had never before been *maiestas* accusations on such grounds and no reason to think that such an action could be considered treasonous, and the real cause of his destruction is to be found rather in the enmity of Sejanus than in his guilt or innocence.

522 His speech, which is after all Tacitus', is probably at least in part delivered so that the historian might have an occasion of expressing his views about freedom of thought and expression in historiography. Zäch (1971) suggests that Cordus represents *die geistige Freiheit des Historikers*.

523 "My words, senators, are the subject of accusation: I am still innocent as regards my deeds. But not even my words are against the emperor or the emperor's parent, whom the *lex maiestatis* protects. I am said to have praised Brutus and Cassius, whom no one – although many have written their histories – has mentioned without honor. Titus Livy, of

Cordus' very first words call attention to the newness of the charges against him, for they recall an earlier Tacitean statement when he was describing the beginnings of *maiestas*: originally, he says, *facta arguebantur, dicta impune erant* (*A.* 1.72.2). This was, broadly speaking, true.⁵²⁴ Cordus is thus claiming that, in contravention of this old rule, it is not his deeds which are the grounds for accusation, but his words. Even his words, however, were not derogatory to anyone protected by the *lex maiestatis*. He spoke no ill of Tiberius or of Augustus; rather, he is attacked, not for slighting anyone, but for praising Brutus and Cassius. He correctly notes that not even this is without precedent, that Brutus and Cassius have been mentioned favorably by all (or almost all) authors who discussed their age, and that even the other republicans who had fought against Augustus could be praised by a Livy, who did not thereby even lose the emperor's friendship. Nor are these the only examples that he can name, since he goes on to include Asinius Pollio and Messalla Corvinus (4.34.2-3). Everything that Cordus has said thus far therefore tends to emphasize the novelty of his prosecution. It had, after all, he continues, been the practice of Augustus and of earlier Romans to allow a high degree of verbal freedom, and to respond to speech that they disliked only with speech of their own (34.4-35.1):

Marci Ciceronis libro, quo Catonem caelo aequavit, quid aliud dictator Caesar quam rescripta oratione, velut apud iudices, respondit? Antonii epistulae, Bruti contiones falsa quidem in Augustum probra, sed multa cum acerbitate habent; carmina Bibaculi et Catulli referta contumeliis Caesarum leguntur: sed ipse divus Iulius, ipse divus Augustus et tulere ista et reliquere, haud facile dixerim moderatione magis an sapientia. Namque spreta exolescunt: si irascare, adgnita videntur. Non attingo Graecos, quorum non modo libertas, etiam libido impunita; aut si quis advertit, dictis dicta ultus est.⁵²⁵

foremost excellence in eloquence and faithfulness, praised Gnaeus Pompey so greatly that Augustus called him a Pompeian; nor did this stand in the way of their friendship.”

524 See Martin and Woodman (1989) 178.

525 “In response to that book of Marcus Cicero, in which he raised Cato to the heavens, what else did the dictator Caesar do

There had been a time, Cordus says, when words were so far unpunished that even Julius Caesar took no notice of books or pamphlets that he disliked, except to publish his own words in response. Here we see one of the main themes of the speech. The speech of Cremutius Cordus – which, as we shall see, is used in the Tacitean narrative as a vivid example of the uselessness of oratory under the Principate – itself focuses on the role of eloquence. The cases cited here – and they are all famous cases, regarding Cicero and Cato and Antony and Catullus and, yes, Brutus too – all envision a society where, even amidst the dissolution and chaos of the late Republic, speech was guaranteed a high degree of freedom. In all these cases, works published in praise of one's most bitter political enemies, works even including personal attacks of no very subtle nature, were overlooked by those who had the power to persecute; or if they wanted to respond, they responded with speeches and writings of their own. As he says of the Greeks, *dictis dicta ultus est*. The mention of Brutus' *contiones* is very revealing on this front, since it is a direct reference to oratory, and to an oratory that was free and unrestrained. Finally, Cordus points out that this open state of oratory, wherein eloquence was both effective and independent, existed not in spite of Caesar and Augustus, but as the result of their moderation, even their wisdom; for he says (and Tacitus agrees: 4.35.5) that punishing speech of which one disapproves is the best way to give it credence. The speech of Cordus thus envisions a society where, by the good policy of the emperor himself, eloquence in all its forms was free, where the only response to reasoned discourse was more reasoned discourse (*dictis dicta ultus est*). As we know, however, this does not describe the principate of Tiberius, so that Cordus' speech exists as a foil to the very circumstances in which he found himself trapped.

but respond with an answering speech, as though before a jury? The epistles of Antony and the public speeches of Brutus have many insults against Augustus, false indeed, but very harshly spoken, and the poems of Bibaculus and Catullus, crammed with insults of the Caesars, are still read; but the divine Julius himself, and the divine Augustus himself, endured them and ignored them, it is hard to say whether more by moderation or from wisdom. For disdained [insults] grow weak and vanish, but if you become angry, you seem to acknowledge them as true. I do not mention the Greeks, among whom not only freedom but even license went unpunished; or, if anyone took notice, he avenged words with words.”

Cordus makes some additional arguments, pointing out that he was not actually plotting sedition nor praising those who were – for Brutus and Cassius were long dead, and so eulogizing them could in no way be taken as dangerous to the state or as advocating rebellion (*A.* 4.35.1-2). He concludes with a general defense of historiographical memory, that posterity is the best judge of the past, and adds, presciently (albeit really *ex post*), that there would be those who remembered him just as he remembered Brutus and Cassius.

His defense being completed, the result of the trial is told thus: *Egressus dein senatu vitam abstinentia finivit. Libros per aediles cremandos censuere patres* (*A.* 4.35.4: “He then left the Senate and ended his life by abstaining from food. The senators decreed that his books should be burned by the aediles”). This is an especially striking example of the ineffectiveness of eloquence as a defense against *maiestas*, and of the fact that everyone knew it to be so. After the trial of a man accused of nothing except writing a history, and after a long *oratio recta* defense speech that itself dwelt on the role of oratory in a free society – a speech that occupied by far the largest part of the narrative of the entire trial – the result is that the defendant commits suicide. The juxtaposition is stark: we are told that Cordus ended his life *immediately* after the conclusion of his speech. The fact that it would actually have taken several weeks to die of starvation is glossed over: Tacitus wants to emphasize the suddenness. So rapid a narrative shift between speech and result underscores the point that the oratory of Cordus could have had no effect on the outcome of his trial. Sejanus and the emperor, after all, were both hostile to him (*A.* 4.34.1-2). His speech was beside the point. It is answered by no speech, nor countered by any other factor at all. It did not need to be. One of the most powerful speeches of the *Annals*, and one in which Tacitus himself was deeply invested (for the trial of Cremutius Cordus occupies a pivotal place in the pivotal book of Tiberius' reign, and moreover concerns historiographical issues in which Tacitus, too, was interested), does not even merit the response of a servile courtier, nor a cynical Tacitean epigram that influence and hatred were more powerful. Like other speeches, albeit

few so important, it is simply, and completely, ignored. Cordus spoke, and Cordus died.

Acquittals, too, illustrate the arbitrary power of the emperor over trials. At *A.* 4.36.1, a certain Calpurnius Salvianus acted as *delator*. Amid a series of accusations, however, he chose the singularly inopportune time of filing charges on the day of the Latin festival, when Drusus began his tenure as urban prefect. This was taken as inauspicious and therefore disrespectful by Tiberius (even though the emperor himself will demand executions even on the first day of the year: *A.* 4.70.1), who expressed his displeasure publicly. Consequently, Salvianus' case failed and he was himself driven into exile. The merits of the case one way or the other were irrelevant, and indeed Tacitus does not even mention them. A poorly timed accusation earned the disfavor of the emperor, for his own reasons, and the accuser was therefore punished.

Nonetheless, when he does not feel personally affronted, Tiberius still usually protects his creatures from their just penalties. Vibius Serenus, whom we have already met as the *delator* who attacked his own father and was encouraged in so doing by the emperor, filed charges against Fonteius Capito, but Capito was acquitted when it was found that Serenus had beyond any doubt falsified the accusation (*A.* 4.36.3). In contrast to Salvianus, however, who had no prior relationship with Tiberius or claim on his favor, as Serenus did for having already attacked the emperor's enemies, Serenus here suffers no penalty for inventing false charges:

Neque tamen in Sereno noxae fuit, quem odium publicum tutiorem faciebat.

Nam ut quis destrictior accusator, velut sacrosanctus erat: leves ignobiles poenis
adficiebantur.⁵²⁶

Serenus is protected from reprisal by the very fact (according to Tacitus) that he was hated. For he was the sort of tool that Tiberius needed: sharp-tongued and always ready to attack, like a drawn sword

⁵²⁶ “Nor, however, did that harm Serenus, whom the public hatred rendered all the safer. For each *delator* was almost sacrosanct to the degree that they were more dangerous. It was the ineffectual and undistinguished that were liable to punishment.” On this passage, see Martin and Woodman (1989) 186.

(*destrictior*).⁵²⁷ Indeed, the more restless and ready to attack a *delator* was, the closer he was to holding something like the sacrosanct immunity of a tribune. No *delator*, of course, actually rose to that legal dignity, but it is a striking image of the degree of protection granted to them by imperial favor that Tacitus can compare their *de facto* immunity to the *de iure* legal and sacred inviolability of the popular tribunes. The comparison, shocking as it is, is complimentary neither to the recipients of such a non-traditional form of sacrosanctity, nor to the emperor who would grant it as the reward of such base service. At the same time, Tacitus tells us, the protection of the emperor did not extend to the *leves* and *ignobiles* – presumably he means people like Salvianus – who did not render such distinguished service as a Serenus had done. Tiberius, then, used his power to promote and to protect the *delatores* who attacked his enemies or otherwise gained his favor; the *leves* and *ignobiles*, however, were left without his protection.

All the influence of the emperor was likewise exerted for the destruction of those whom he personally hated, and an easy way to earn his hatred was to insult him personally. We have already seen that, despite his reputation for reserve and dissimulation, Tiberius was more than usually susceptible to personal resentment. So it was in the trial of Votienus Montanus. Tacitus focuses on the role of eloquence from the outset, for Montanus is introduced explicitly as a man famous for his oratory (*de Votieno Montano, celebris ingenii viro: A. 4.42.1*).⁵²⁸ This trial, Tacitus tells us, was the occasion for Tiberius finally deciding to leave Rome behind, for he now heard, for the first time, those insults which were commonly bandied about against him, but which had thus far not penetrated the walls of the palace. Hearing what people truly thought of him embodied in the person of Votienus Montanus, moreover, was fatal to the defendant (42.2-3):

527 On the metaphor, see Martin and Woodman (1989) 186. The comparison is not to the actual damage that a drawn sword might inflict, however, as to the fact that it is constantly ready to attack; Martin and Woodman say that “successful accusers were themselves almost technically inviolable,” but in this case, of course, Serenus was *not* a successful accuser. Yet he was still protected.

528 See Bauman (1974) 120-121. Montanus was indeed a well known pleader, mentioned favorably by Seneca: see Martin and Woodman (1989) 200.

Nam postulato Votieno ob contumelias in Caesarem dictas, testis Aemilius, e militaribus viris, dum studio probandi cuncta refert et, quamquam inter obstrepentes, magna adseveratione nititur, audivit Tiberius probra quis per occultum lacerabatur, adeoque percussus est ut se vel statim vel in cognitione purgaturum clamitaret, precibusque proximorum, adulatione omnium aegre componeret animum. Et Votienus quidem maiestatis poenis adfectus est.⁵²⁹

The witness against Montanus apparently went further than normal in trials for defamation and related, very explicitly and forthrightly, the exact insults uttered by the defendant against Tiberius. Hearing the reproaches framed so clearly, rather than simply hinted at, had a strong effect on the emperor, who immediately burst forth and shouted that he would refute the insults as soon as possible. Such an outburst at a trial was, to say the least, irregular, and probably unwise (it might have been better and more politic to treat the reproaches as contemptible and beneath notice, since outrage can lend credence: cf. *A.* 4.34.5 and 35.5). He eventually regained his outward composure, barely, but the damage was done. The emperor had shown beyond any doubt that he considered Montanus' offenses gravely serious, and that he was personally affronted and eager to avenge himself against the slanderer. This alone mattered for the outcome of the trial. Tacitus notes almost in passing that Montanus was punished before he moves on to other matters (namely Tiberius' actions after the trial: 4.42.3), for once the emperor had indicated his will so clearly, it was obvious that there could only be one possible result.

We soon return to the theme of the persecution of the house of Germanicus. This continues when Domitius Afer – now mentioned for the first but by no means the last time – attacked Claudia

529 “For, when Votienus was charged with insults uttered against the emperor, and while the witness Aemilius, a military man, was telling everything in his eagerness to prove the charges and, even though the audience began yelling, was striving on with great asseveration, Tiberius heard those reproaches with which he was often wounded in secret, and was so moved that he shouted that he would clear himself either at once or in a formal inquiry, and hardly restored his composure through the prayers of his friends and the flattery of all. And Votienus was punished with the penalties for *maiestas*.”

Pulchra, a relative and ally of Agrippina, charging her with adultery (often a political charge) and with attempting to poison the emperor (*A.* 4.52.1). Despite Afer's skill as an orator and the fact that even Tacitus, in this very passage, describes him as famously eloquent (52.4),⁵³⁰ he is almost a nullity in the trial. Not only is he not even given the barest summary of a speech (unless we consider *crimen impudicitiae, adulterum Furnium, veneficia in principem et devotiones obiectabat* from 52.1 to be the summary of a speech and not just the list of charges), but he takes no part whatsoever in the course of the trial. He is named as the accuser, and then the action moves elsewhere – namely, to the imperial closet and the private conversation of Agrippina and Tiberius. This is as clear an indication as any where Tacitus considered the real causation to lie. There is, however, a speech: but it is by Agrippina. Enraged by the prosecution of her relative (which she saw as aimed at herself and her children), she goes before Tiberius, finds him in the middle of sacrificing to Augustus, and accosts him thus (52.2):

Non eiusdem ait mactare divo Augusto victimas et posteros eius insectari. Non in effigies mutas divinum spiritum transfusum: se imaginem veram, caelesti sanguine ortam, intellegere discrimen, suscipere sordes. Frustra Pulchram praescribi, cui sola exitii causa sit, quod Agrippinam stulte prorsus ad cultum delegerit, oblita Sosiae ob eadem adflictae.⁵³¹

Agrippina, perhaps in less than humble language, condemns Tiberius for paying lip-service to the memory of Augustus while at the same time persecuting his descendants. Then she cuts to the core of the issue: Pulchra may have been the one on trial, but it was clear to her (and Tiberius' own response will soon confirm) that the attack was truly aimed at Agrippina herself, whose family and whose associates the emperor had always hated. Sosia, after all, along with her husband Silius, had been

⁵³⁰ See also Koestermann (1965) 164.

⁵³¹ “She said that it was not fitting for the same man to sacrifice victims to the Divine Augustus and to persecute his descendants. The divine spirit had not been transferred to these mute statues; she was the true image [of her ancestor Augustus], born of his celestial blood, and she understood her danger and put on mourning. It was in vain that Pulchra's name was written at the top of the accusation, the only cause of whose destruction was that she had stupidly cultivated the friendship of Agrippina, forgetting that Sosia had been ruined for the same reasons.”

destroyed for the same crime of loyalty to the house of Germanicus (see *A.* 4.18.1), nor would they be the last. According to Agrippina, then, the entire reason for the prosecution of Pulchra had nothing to do with Pulchra herself, and everything to do with the hostility of the emperor. Tiberius' reaction does nothing to dispell this impression: *audita haec raram occulti pectoris vocem elicueret, correptamque Graeco versu admonuit non ideo laedi, quia non regnaret* (52.3: "Hearing this drew forth a rare voice of truth from his hidden heart, and, grasping at Agrippina, he admonished her that she was not injured because she did not rule"). Agrippina's accusation disturbed Tiberius so greatly that he momentarily forgot to dissemble and expressed his true feelings: distrust and dislike, and a belief that Agrippina was scheming against him and wanted to rule in his stead. He does not deny that the charges against Pulchra are politically motivated, and indeed all but confirms it. This, certainly, is the impression given by Tacitus: immediately following this exchange, in the very next sentence after Tiberius' quotation, we read that Pulchra and her paramour were condemned (54.4: *Pulchra et Furnius damnantur*). The brevity with which the verdict against them is reported is itself expressive. After Tacitus had recorded the exchange between Agrippina and Tiberius, there was nothing left to say about the trial. Indeed, we hear nothing about the trial itself; all the action takes place behind the scenes, in the private presence of the emperor. And once Tacitus has told us that the prosecution was supported by the emperor as a political attack on his enemies, the verdict could not be doubted. The persecution of Agrippina's allies therefore continues, and no eloquence could possibly save them.

One thing remains to record about the aftermath of Pulchra's trial. Domitius Afer, we are told, was now considered as of the very first rank of orators, and the emperor himself praised his eloquence; even Tacitus tells us that, although his character was never praiseworthy, he enjoyed great fame for his skill at speaking (*A.* 4.52.4). Does this not indicate that the eloquence of Afer must have had an influence on the outcome of the trial? Quite the contrary. It is impossible to read Tacitus' narrative of Pulchra's case and to conclude that oratory had any effect at all; no speech by any participant is

mentioned. The accuser, Afer, is named, and then immediately withdraws from the scene, not to reappear until after the verdict is given. Between accusation and condemnation, the entire course of the trial consists of an exchange between Agrippina and Tiberius, not in court but at the emperor's residence. Pulchra does not speak at all, and Afer is allowed only to recite the charges, but Agrippina and Tiberius are both quoted in indirect discourse, and immediately after Tiberius replies – speaking, again, in private, and not before the Senate or in any official capacity – Pulchra is condemned. It is indisputable that, in Tacitus' account, everything is due to the secret influence of the emperor, nothing to eloquence. And yet Afer is praised for being eloquent. The conclusion must be that, rather than supporting the importance of oratory, this mention of Afer's skill only underscores its irrelevance. Even in a case where the prosecutor was a famous speaker and a man of acknowledged eloquence, his eloquence has no effect; indeed, it is not even mentioned in the course of the narrative. Afer may have been an orator of the first class, but the success of his action against Pulchra is due entirely to the fact that he was attacking an enemy of the emperor, who could not hope to escape. A lesser speaker would have met with the same success. From Afer's point of view, the trial might as well have been an epideictic as a forensic event: he was allowed to show off his verbal dexterity, but nothing more.

This same Domitius Afer is involved in another case soon, but we can unfortunately say little about it. At *A.* 4.66.1, Tacitus says *accusatorum maior in dies et infestior vis sine levamento grassabatur* (“The violence of the accusers was growing daily greater and more destructive, without any alleviation”), as a general comment on the situation of *maiestas* delation. This is by way of introduction to the accusation of Quinctilius Varus by Afer. The case is surprising and would doubtless have been interesting, because Varus (the son of the famous and unfortunate Quinctilius Varus) was closely allied to the house of Tiberius. The Senate, however, decided to wait for Tiberius to return to Rome to deal with the case (66.2), and as far as we know the issue was never raised again.⁵³² It is

532 Martin and Woodman (1989) 241 ad loc.

nonetheless still significant that the Senate was unwilling to deal with the case on its own, in the absence of the emperor.

We then return to the theme of the persecution of the house and allies of Germanicus, with which we will conclude Book 4. Traps were being laid for Agrippina and Nero (not the emperor), her son and the heir apparent. Sejanus had no small role in this, and it seems to have been on his orders that informers were set around the pair to watch their every action and record their every word, and even to act as *agents provocateurs* and suggest treasonous plots (*A.* 4.67.3-4). The emperor himself had already been not so secretly plotting against them (59.3). As yet, however, neither Sejanus nor Tiberius seems to have felt that the opportunity was ripe to move against Agrippina herself, and so more of her party had to be removed. This leads to the sad case of Titius Sabinus, whose fall Tacitus narrates at unusual length, and whose tribulations it is impossible, even now, to read without pity and anger. Sabinus has been mentioned before: he was paired with Gaius Silius at 4.18.1, as two men for whom the friendship of Germanicus was fatal (*amicitia Germanici pernicioosa utrique*); Silius was destroyed at once, but the ruin of Sabinus was delayed to a later time (19.1).

That time is come. Titius Sabinus, Tacitus tells us, was punished for having been the friend of Germanicus (*A.* 4.68.1: *ob amicitiam Germanici*), and for having, even after Germanicus' death, been in the forefront of the supporters of Agrippina and her children, accompanying them in public and acting as a loyal client after the desertion of so many others (*post tot clientes unus*).⁵³³ For that reason he was *apud bonos laudatus et gravis iniquis*. *Agents provocateurs*, who hoped to gain the favor of Sejanus and the emperor by attacking such a person, were therefore suborned against him (68.2):

Hunc Latinius Latiaris, Porcius Cato, Petilius Rufus, M. Opsius praetura functi
adgrediuntur, cupidine consulatus, ad quem non nisi per Seianum aditus, neque

⁵³³ Pliny the Elder, much closer in time to the events than was Tacitus, agrees and relates that Sabinus was destroyed *ex causa Neronis Germanici filii* (*N.H.* 8.145). He also records in the same passage that Sabinus' favorite dog howled over its master's corpse, and that when Sabinus' body was thrown into the Tiber, the dog leapt in after it.

Seiani voluntas nisi scelere quaerebatur. Compositum inter ipsos ut Latiaris, qui modico usu Sabinum contingebat, strueret dolum, ceteri testes adessent, deinde accusationem inciperent.⁵³⁴

A group of men desired only to obtain the consulship. To do this they had to have the favor of Sejanus, who had charge of imperial patronage, and they reasoned that the best way to obtain that favor was by attacking the enemies of the regime (*scelus* is almost a dysphemism for delation).⁵³⁵ Sabinus seemed susceptible. They therefore chose the shocking method of having Latiaris, an acquaintance of Sabinus, seem to befriend him in the hopes of leading him to utter something that, while the others listened secretly, could be construed as disloyal. (There can be little doubt that, having already decided to discover seditious discourse from Sabinus, they would be sure to get their evidence and might not exercise a high degree of scrupulous honesty in reporting it.) Sabinus is successfully tricked (68.3-4):

Igitur Latiaris iacere fortuitos primum sermones, mox laudare constantiam, quod non, ut ceteri, florentis domus amicus adflictam deseruisset; simul honora de Germanico Agrippinam miserans disserebat. Et postquam Sabinus, ut sunt molles in calamitate mortalium animi, effudit lacrimas, iunxit questus, audentius iam onerat Seianum, saevitiam superbiam spes eius; ne in Tiberium quidem convicio abstinet. Iique sermones, tamquam vetita miscuissent, speciem artae amicitiae fecere. Ac iam ultro Sabinus quaerere Latiarem, ventitare domum, dolores suos quasi ad fidissimum deferre.⁵³⁶

534 “He was attacked by Latinius Latiaris, Porcius Cato, Petilius Rufus, and Marcus Opsius, all of whom had obtained the praetorship, out of desire for the consulship, to which there was no access except through Sejanus, nor was the favor of Sejanus sought by any other means than wickedness. It was decided among them that Latiaris, who had a neighborly acquaintance with Sabinus, should lay the trap, that the others should be present as witnesses, and that they should then begin the accusation.”

535 See Rutledge (2001) 13. Bauman (1974) 121 says that, with this case, “Sejanianism comes of age,” referring to the close connection between favor-seeking and delation.

536 “Therefore Latiaris at first let slip some ‘chance’ remarks, and soon praised the constancy [of Sabinus], because he had not, like the rest, been the friend of a flourishing house and deserted it when it was afflicted; at the same time, he spoke the praises of Germanicus and pitied Agrippina. And afterwards, Sabinus – for the hearts of mortals are soft in calamity – poured forth tears and added complaints, and soon more boldly reproached Sejanus, his cruelty and arrogance and

The sad position of Sabinus requires little explication; Tacitus is at pains to make him pitiable, and there is little that could be more pitiable than the image of Sabinus, half-broken by misfortune, frequenting the house of the arch-deceiver and sharing his troubles with one who must have been the most heartless and hypocritical of humankind, as though with the most trustworthy of friends.⁵³⁷ Latiaris and his conspirators, meanwhile, devise a plan whereby Latiaris would invite Sabinus to his house and bait him into imprudent remarks, while the others listened from a hiding place in the attic, between the ceiling and the roof (69.1). The walls were to have ears. The plot succeeds (69.2-3):

Interea Latiaris repertum in publico Sabinum, velut recens cognita narraturus, domum et in cubiculum trahit praeteritaque et instantia, quorum adfatim copia, ac novos terrores cumulat. Eadem ille et diutius, quanto maesta, ubi semel prorupere, difficilium reticentur. Properata inde accusatio, missique ad Caesarem litteris ordinem fraudis suumque ipsi dedecus narravere.⁵³⁸

The accused is caught in the trap, and his remarks are reported to the emperor. Tacitus is carefully reticent to refrain from stating what exactly it was that Lariaris and Sabinus said to one another, which has led scholars like Rogers to suspect that Tacitus is covering up an actual seditious conspiracy plotted by Sabinus.⁵³⁹ This may be the truth (although there is no evidence for it), but it is not the text. According to Tacitus, Sabinus' habitual conversations, which are now being twisted into treason, contained nothing more than laments for the misfortune of Agrippina and her children and some by no means unjustified complaints about Sejanus, and at worst an unfavorable (but unclear) mention of the

ambition; nor did he abstain even from abuse against Tiberius. Those conversations, as though they had shared forbidden secrets, made the appearance of close friendship. Soon Sabinus was even accustomed to seek Latiaris out, to frequent his house, and to carry his troubles to him as to a most trustworthy friend.”

537 One cannot but agree with Tacitus in his eager desire to look forward to the well deserved punishment of Latiaris and the rest of the cabal (4.71.1).

538 “Meanwhile, Latiaris, having found Sabinus in public, acted as though he had some recent discoveries to relate, and drew him to his house and into his room, and there heaped up past and threatening misfortunes – of which there was an abundant supply – and new terrors. Sabinus repeated the same and at greater length, as much as sad things, once they have broken forth, are all the harder to silence. The accusation was then hastened, and the conspirators, sending letters to the emperor, related the course of the fraud and their own dishonor.”

539 Rogers (1952) 279-311.

emperor (68.3). But it was not safe to sympathize with the family of Germanicus, the memory of whose friendship was fatal. It is notable, in this regard, that Latiaris did not submit the information to the proper authorities or the courts, but sent a letter directly to the absent Tiberius.

The revelation of this plot caused a panic in Rome; people mistrusted their dearest friends, let alone strangers, and did not feel safe to speak their true feelings even in the recesses of their own homes (*A.* 4.69.3). Such was the fear of *maiestas* delation.⁵⁴⁰ Their fear, doubtless exaggerated, was yet somewhat justified by the event: for Tiberius wrote back a letter in which he mentioned Sabinus, alleged that there was a plot against him, and demanded vengeance in no uncertain terms (*ultionemque haud obscure poscebat*: 70.1). The reaction of the Senate was what all knew it must be (70.1-2):

Nec mora quin decerneretur, et trahebatur damnatus, quantum obducta veste et adstrictis faucibus niti poterat, clamitans sic inchoari annum, has Seiano victimas cadere. Quo intendisset oculos, quo verba acciderent, fuga vastitas, deseri itinera fora. Et quidam regrediebantur ostentabantque se rursus, id ipsum paventes, quod timuissent.⁵⁴¹

We hear of no trial. Tiberius sent a letter demanding the punishment of Sabinus, and the Senate hurriedly obliged. Sabinus was executed.⁵⁴² Vivid, and revealing, is the image of the condemned man, as he is being dragged to his death, lamenting his fate, and seeing frightened crowds flee wherever he turns his eyes and wherever his words fall. This last is important. The fear of *maiestas* caused by Sabinus' case was extreme (69.3, 70.3). So great was this fear that it perverted his use of language and

540 The fear was not altogether unreasonable. Seneca, *De Beneficiis* 3.26, records the case of a man who, under Tiberius, very narrowly escaped *maiestas* for having touched a chamberpot while wearing a ring engraved with the image of the emperor. For such causes were the *delatores* ready to attack.

541 "Nor was there a delay before [the guilt of Sabinus] was decreed, and the condemned man was dragged off, shouting, as loud as he could with his head covered and throat bound [by the noose], that thus was the year inaugurated, that these were the victims offered to Sejanus. Wherever he turned his eyes, wherever his words fell, there was flight and emptiness; the paths and the forums were deserted. Some returned and showed themselves again, fearing for the very fact that they had been afraid."

542 This fact would be clear to a Roman from Sabinus' being dragged away, and it is proved by *vincla et laqueus* at 4.70.3. See also Koestermann (1965) 206 and Martin and Woodman (1989) 252. Cf. Pliny, *N.H.* 8.145.

turned speech against itself: far from helping him in any way, Sabinus' words only increase the terror of bystanders, who are afraid lest they seem to hear. Sabinus himself, as far as we can tell from the narrative, was given no chance to speak (nor would it have mattered), but *maiestas* does not only silence the tongue of the advocate: it stops the ears of the audience.

After the death of Sabinus, Tiberius sent letters of thanks to the Senate for their punishment of a dangerous public enemy (*A.* 4.70.4). But he also made mention of continued plots against him and traps laid by his enemies. He named no one explicitly, says Tacitus, but it was clear to all that he meant Agrippina and Nero. The close connection between the cases, between thanking the Senate for executing Sabinus and warning them that Agrippina and Nero remained a threat, shows clearly why Sabinus died. He was too close to the house of Germanicus, whom Tiberius hated and by whom he felt threatened. Granted that Latianis and the others perpetuated the *scelus* out of ambition, they also saw that their ambition could only be fulfilled by acting as the tools of the emperor and destroying those whom he wanted to be destroyed. Their success was not due to their own efforts or eloquence, but to the fact that they attacked someone who was already marked out for ruin (see *A.* 4.18.1).

Soon afterwards, we hear of the death of Livia. Her power had been immense, sometimes used for ill (e.g. *A.* 3.15.1), sometimes in opposition to or in restraint of Tiberius (e.g. 2.34.2). While she lived, Tacitus says, there had been a sort of refuge, a *perfugium*, which Tiberius had not trespassed (5.3.1). By what follows, we might naturally conclude that those who enjoyed this *perfugium* most were Agrippina and Nero. They were Livia's direct descendants, as they were not Tiberius', and so seem to have enjoyed a measure of protection during her life. After her death, however, that protection was at an end (5.3.1-2):

Tunc velut frenis exsoluti proruperunt, missaeque in Agrippinam ac Neronem litterae, quas pridem allatas et cohibitas ab Augusta credidit vulgus: haud enim multum post mortem eius recitatae sunt. Verba inerant quaesita asperitate, sed

non arma, non rerum novarum studium, amores iuvenum et impudicitiam nepoti
 obiectabat. In nurum ne id quidem confingere ausus, adrogantiam oris et
 contumacem animum incusavit. ...⁵⁴³

Tiberius sends a letter to the Senate, and as we have already seen with the death of Sabinus, letters from Tiberius seldom bode well. Indeed, the emperor's word-choice here is intentionally chosen to show his displeasure and dislike (*verba inerant quaesita asperitate*) – a fact that, more than any other consideration, might spur the Senate to action. Tiberius does not, however, venture even to accuse Agrippina and Nero of sedition; he simply condemns their personal lives and private characters, as though this and his own intense dislike of them were enough to justify *maiestas* charges. They probably would have been; the Senate hesitates briefly, not out of loyalty towards Germanicus or because they thought the charges against Agrippina unmerited, but because someone wrongly believed to have inside information on Tiberius' intentions spoke against the proposal (5.4.1). While the Senate hesitates, Sejanus does nothing to soothe the emperor (4.3-4). He therefore responds (5.1):

Igitur Caesar repetitis adversum nepotem et nurum probris increpitaque per
 edictum plebe, questus apud patres quod fraude unius senatoris imperatoria
 maiestas elusa publice foret, integra tamen sibi cuncta postulavit. Nec ultra
 deliberatum, quominus non quidem extrema decernerent (id enim vetitum), sed
 paratos ad ultionem vi principis impediri testarentur.⁵⁴⁴

The response of Tiberius is enough. There is no question of debating his proposals, let alone of refusing

543 “Then, as though released from the reins, they [Tiberius and Sejanus] broke forth, and letters were sent [to the Senate] against Agrippina and Nero, which were popularly believed to have been sent a long time before and held back by the Augusta: for they were recited not long after her death. Their vocabulary was carefully chosen for harshness, but the emperor did not accuse them of revolt or revolution; against his grand-nephew he alleged the loves of youth and unchastity. Against his daughter-in-law he did not dare to invent even that, and so reproached her arrogance of expression and obstinate spirit. ...”

544 “Therefore the emperor repeated his reproaches against his grandson- and daughter-in-law and admonished the people through an edict, complaining before the Senate that, by the fraud of one senator, the *maiestas* of the emperor had been publicly flouted; but he demanded that everything be made whole for him. Nor did the Senate deliberate any longer before they – not, indeed, decreed the extreme penalties (for that was forbidden) – but testified that, although prepared for vengeance, they were restrained only by the power of the emperor.”

them – for the original hesitancy of the Senate, we remember, was only because of some confusion about what the emperor truly wanted. Now that his wishes are clear, there are no more speeches and no possibility to disobey. The Senate, with deep irony, proclaims that they had always wanted to avenge the emperor's wrongs but were only *restrained* from acting by his power.

At this point, the text breaks off, but it is not difficult to reconstruct what happened to Agrippina and her children. They were of course not killed, yet – though that will come soon. Agrippina was condemned (on the trumped-up charge of planning to take refuge by a statue of Augustus, whence it would be *maiestas* against Augustus to drag her), outlawed, and exiled. While in exile she was treated with severity, constantly watched, force-fed, and on one occasion flogged. She will eventually starve herself to death, with some question whether it was voluntary (*A.* 6.25.1-2). Her son was taken into close custody and will suffer the same end, albeit certainly on Tiberius' express command (6.23.2-24.3).⁵⁴⁵

The family of Germanicus was by no means destroyed: Gaius (Caligula) and Agrippina the Younger still lived.⁵⁴⁶ But those whom Tiberius most hated and distrusted, Agrippina and her eldest sons, were dead. A long chain of prosecutions had left them almost friendless. No voice, according to Tacitus, had been raised in the Senate in their defense. Nor would it have mattered if there had been. The emperor made it clear by the strongest possible signs of disapprobation that he wanted them dead. Their judicial murders therefore proceeded on inexorably.

In the *lacuna* between the extant parts of *Annals* 5 and 6, Sejanus also met his downfall. The rest of Tiberius' reign will be involved in an ongoing prosecution of his former adherents, in just the same way that Sejanus himself had once set the *delatores* upon the former friends of Germanicus. Eloquence will have as little effect in the trials of the former as it did in those of the latter.

⁵⁴⁵ This was the fate of Drusus; Nero was already dead, perhaps murdered in exile.

⁵⁴⁶ Tiberius' resentment in later life seems to have been diverted from the family of Germanicus to the adherents of the late Sejanus; perhaps, too, as he grew older without an heir, he resigned himself to being succeeded by Gaius.

The first cases that we encounter after the *lacuna*⁵⁴⁷ are those of P. Vitellius and Pomponius Secundus (*A.* 5.8.1).⁵⁴⁸ The former, Tacitus tells us, was charged with sedition for his management of the treasury. The charge against Pomponius is more revealing: *huic a Considio praetura functo obiectabatur Aelii Galli amicitia, qui punito Seiano in hortos Pomponii quasi fidissimum ad subsidium perfugisset* (“Against Pomponius it was alleged by Considius, an ex-praetor, that he was a friend of Aelius Gallus, who, after Sejanus had been punished, had fled into the gardens of Pomponius as though to a most trustworthy refuge”). Pomponius, therefore, was not endangered simply for being allied to an enemy of the emperor, but for being the friend of a friend of an enemy. We know very little about their trials, but no speech seems to have helped either at all; indeed, Tacitus tells us that their only help was the fact that their brothers stood forth as security (8.2). The result was that, to escape imperial displeasure, Vitellius committed suicide. Pomponius, more firm, somehow outlived Tiberius.

The remaining children of Sejanus were then executed (*A.* 5.9.1). We are not explicitly told how this decision was reached, but simply that it was decided that they be punished (*placitum posthac, ut* etc.); whether it was pleasing to the Senate or to the emperor, however, was much the same thing. It is hardly necessary to mention that nothing, and certainly no speech, could have saved them from this inexorable decision, nor is any mentioned. Sejanus' last surviving son and daughter were therefore put to death, the daughter with a cruelty that surprised even Tacitus (9.1-2).

Later, in a letter to the Senate primarily discussing other matters, Tiberius also mentioned his displeasure against Sextilius (wrongly called *Sextus* in the manuscripts) Paconianus (*A.* 6.3.4). This man had been high in Sejanus' favor and had been his tool against Gaius. Even so, simply being mentioned in a letter from the emperor was enough to destroy him. Paconianus, despite being hated,

547 As the *lacuna* is given in the Teubner text edited by Heubner, but see Ando (1997) 285-303.

548 Most of the accusations and trials of *Annals* 6 are very sparingly related by Tacitus, who often tells us no more than that so-and-so was accused and punished. I will not pass over these cases, but there will be much less to say about them than the more famous trials and condemnations of earlier books. Indeed, the very brevity with which Tacitus records the fate of senators and equestrians only supports my thesis, that to be accused was to be convicted, and that eloquence had no role in the outcome.

escaped capital punishment by turning informer against others (3.4). One feels that Tacitus may have missed the chance for a cynical epigram: that the guilty could still escape their deserved condemnation by having others condemned.

The infamous Latiaris, himself the *delator* who had so foully betrayed Titius Sabinus, then met his end, to the great joy of the rest of the Senate (*A.* 6.4.1; cf. 4.68.1-70.4). The charges against him are not mentioned, but must surely have involved his former allegiance to Sejanus: for his action against Sabinus had been motivated entirely by the desire to gain Sejanus' favor (4.68.2: *cupidine consulatus, ad quem non nisi per Seianum aditus, neque Seiani voluntas nisi scelere quaerebatur*). If so, then he now deservedly met his punishment for the same action to which he had owed his advancement – although one cannot but think it indicative of the state of affairs under Tiberius that Latiaris was not punished for bringing false charges, but for having been allied to one who died as the emperor's enemy. Tacitus does not mention his trial or conviction, nor did he need to do so: it was enough to note that he was attacked (6.4.1), which was the same as condemnation.

It has been mentioned that Tiberius, even when seeming to punish the *delatores*, usually contrived to shield them from the full measure of their deserts. It was part of the *ars Tiberii* that the emperor protected his own. So it still proves (*A.* 6.5.1):

Exim Cotta Messalinus, saevissimae cuiusque sententiae auctor eoque inveterata invidia, ubi primum facultas data, arguitur pleraque in C. Caesarem quasi incertae virilitatis, et cum die natali Augustae inter sacerdotes epularetur, novendialem eam cenam dixisse; querensque de potentia M. Lepidi et L. Arruntii, cum quibus ob rem pecuniariam disceptabat, addidisse: 'Illos quidem senatus, me autem tuebitur Tiberiolus meus.'⁵⁴⁹

549 “Then Messalinus Cotta, the author of every especially cruel proposal and therefore the object of inveterate hatred, was charged at the first opportunity with having spoken many things against Gaius Caesar, as though he were of uncertain masculinity; and, when he banqueted with the priests on the Augusta's birthday, with having called it a funeral feast; he had also, when complaining about the power of Marcus Lepidus and Lucius Arruntius, with whom he had a dispute on

Cotta was detested and therefore set upon at the earliest opportunity. Opportunity did not seem lacking, for Cotta had made remarks that would surely have resulted in condemnation for *maiestas* – if someone less favored had said them. The hatred with which he was regarded, however, recalls Vibius Serenus from *A.* 4.36.3, who was all the more inviolable in Tiberius' eyes because of the popular hatred against him. In Cotta's own words, *me tuebitur Tiberiolus meus* – and the diminutive of the emperor's name, while it might be considered disrespectful, intimated the highest degree of confidence between them. So it turned out. For when Cotta was formally charged with a long litany of offenses, the Senate received a letter from the emperor, in which Tiberius emphasized his friendship (*amicitia*) with Cotta and requested that the Senate not consider as treasonous words idly spoken at a banquet (6.5.2). The request of Tiberius was equivalent to a command, and Cotta was cleared on all counts. We have seen, and will see again and again, how a mere letter from the emperor sufficed to destroy. Such letters were also powerful enough to save.⁵⁵⁰

A certain Q. Servaeus and Minucius Thermus were mentioned especially by Tiberius, on the grounds that one had been on moderately friendly terms with Germanicus, the other with Sejanus (*A.* 6.7.2). Tacitus says that they were pitied, but Tiberius spoke against them. Even the foremost members of the Senate acted as *delatores* against them. On being condemned, the two saved themselves by giving further evidence for the prosecution (7.4). The Tacitean narrative contains little more information than I have given in this plain summary, except for an expression of disgust from Tacitus about the extreme climate of fear and mistrust occasioned by the *maiestas* trials (7.3).⁵⁵¹

One of the most interesting treason trials in all of Tacitus follows. This is the case of the

financial matters, added, "The Senate will protect them, but my dear Tiberius will protect me."

550 Morello (2006) 331-354 notes that letters are especially characteristic of Tiberius and are one of his preferred ways of using his power as *princeps*. She also notes how Tiberian letters in the *Annals* invert much of what we normally associate with ancient epistles: whereas we tend to link letters and *amicitia* (e.g. *Ad Atticum*, *Ad Familiares*), Tiberius often uses letters for destructive ends and even makes *amicitia* (with Sejanus or Agrippina) dangerous.

551 At this point, it is tempting to say, with Tacitus (*A.* 6.7.5): *Neque sum ignarus a plerisque scriptoribus omissa multorum pericula et poenas, dum copia fatiscunt aut, quae ipsis nimia et maesta fuerant, ne pari taedio lecturos adficerent verentur: nobis pleraque digna cognitu obvenere, quamquam ab aliis incelebrata.*

equestrian Marcus Terentius, accused before the Senate, like so many, for having been an adherent of Sejanus (*A.* 6.8.1). But the outcome is drastically different from any other that we have seen so far, whether of the allies of Sejanus or of Agrippina, or for any cause whatsoever. Indeed, the case of Terentius is unique in the *Annals*, perhaps unique in all Tacitus. For Terentius, faced with danger, gives a speech. And his speech succeeds. It succeeds so much, in fact, that not only is Terentius acquitted of all the charges against him, but his accusers are even punished for bringing false accusations. One might assume that the success of Terentius' oratory is due to other reasons than its inherent eloquence and persuasiveness alone, and to some degree this seems to be the case; on the whole, however, Tacitus' narrative leaves little doubt that by far the most important fact in Terentius' acquittal is that he gave a bold and powerful speech that persuaded the Senate to acquit him. This is all the more remarkable when we consider that the Senate surely began biased against him, and that, like all accused of *maiestas* for having been friends of Sejanus, he faced a severely uphill battle. But the eloquence of Terentius and the courage (as well as the tactful flattery) of his rhetorical stance overcome all obstacles. It will therefore be worth examining this surprising and unique case in detail.

Terentius owes his acquittal no less to his eloquence than to his forthrightness. For, Tacitus says, when others were eager to distance themselves from Sejanus, Terentius, on being accused, dared to acknowledge the truth (*A.* 6.8.1). He begins his speech thus (8.1-2):

Fortunae quidem meae fortasse minus expediat adgnoscerere crimen quam abnuere; sed utcumque casura res est, fatebor et fuisse me Seiano amicum et ut essem expetisse et postquam adeptus eram laetatum. Videram collegam patris regendis praetoriis cohortibus, mox urbis et militiae munia simul obeuntem. Illius propinqui et adfines honoribus augebantur; ut quisque Seiano intimus, ita ad Caesaris amicitiam validus; contra quibus infensus esset, metu ac sordibus

conflictabantur.⁵⁵²

From the beginning Terentius sets out upon a bold course. He does not deny what was manifestly true to all, that he had been a friend of Sejanus. Instead, he acknowledges the factual basis of the charge, then shifts the goalposts and denies that this was anything bad. This is a standard method of defence taught by all rhetoricians, but is no less effective for that. Had Terentius made an outright denial, he would have been undone. By admitting forthrightly, however, that of course he had sought to gain Sejanus' friendship, and for very sensible and practical reasons, he gains credit with his audience for honesty and plainspokenness (particularly when many of them were conscious of having done exactly the same thing). Sejanus, after all, had been powerful, and had great ability to help his friends. This power, moreover, he had obtained from the emperor, and so reasonable people thought that, in courting Sejanus, they were courting Tiberius (8.3-4):

Non enim Seianum Vulsiniensem, sed Claudiae et Iuliae domus partem, quas adfinitate occupaverat, tuum, Caesar, generum, tui consulatus socium, tua officia in re publica capessentem colebamus. Non est nostrum aestimare, quem supra ceteros et quibus de causis extollas: tibi summum rerum iudicium di dedere, nobis obsequii gloria relicta est. Spectamus porro quae coram habentur, cui ex te opes honores, quis plurima iuvandi nocendive potentia, quae Seiano fuisse nemo negaverit: abditos principis sensus, et si quid occultius parat, exquirere inlicitum, anceps; nec ideo adsequare.⁵⁵³

552 "It may be less conformable to my fortune to acknowledge than to deny the crime; but however the trial will turn out, I will admit that I was a friend of Sejanus, that I sought to be so, and that I rejoiced after I obtained his friendship. I saw him the colleague of his father in ruling the praetorian cohorts, then obtaining at once all the offices of the city and the army. His connections and neighbors were loaded with honors; insofar as a man was the intimate of Sejanus, so did he also have the friendship of the emperor. Those, on the other hand, to whom he was hostile, suffered fear and disgrace."

553 "It was not Sejanus of Vulsinium that we cultivated, but a scion of the Claudian and Julian houses, which position he had taken by marriage; it was your son-in-law, Caesar, your associate in the consulship, your officer in the duties of state. It is not our place to judge the value of him whom you raise above all others, nor for what causes: the gods have given you the chief judgement of things, while to us is left the glory of obedience. We see from afar the things that are held openly: who obtains wealth and honors from you, who has from you the greatest power of helping or harming, which no one would deny were in Sejanus' possession. To search out the hidden opinions of the emperor and if he is

Here, Terentius humbly puts forth that it is not the duty of the subject to question the emperor's judgment in whom he chooses as his ministers, but simply to follow his sovereign's will as it appears in public. Sejanus was openly favored by Tiberius, and therefore it was reasonable to believe that, in honoring Sejanus, one was doing what would please the emperor; it would have been the height of foolishness to concoct conspiracy theories wherein Tiberius actually planned eventually to destroy Sejanus and persecute his followers. Rather, subjects are supposed to trust the decisions of their emperor. Their only claim to glory is in obedience (*nobis obsequii gloria relicta est*). It is not difficult to see that this argument is thinly veiled flattery: the glory of obeying implicitly those whom it pleased the sovereign to honor is not the glory of a republican; *obsequii gloria* is a phrase that could only be used in flattery of a monarch. But this is also a judicious stance for a defendant on trial for treason to take: not only does Terentius emphasize his loyalty to Tiberius, but, far from diminishing the emperor's *maiestas*, he claims that his actions were in fact motivated by *reverence* for Tiberius' superior position and judgment. Terentius is charged with treason against the emperor for having been loyal to Sejanus: on the contrary, he responds, he displayed his loyalty to the emperor most signally in cultivating those whom Tiberius had set in positions of power and responsibility. Terentius' boldness is therefore tempered with well-chosen flattery: he acknowledges the truth of the charges against him, but asserts that, far from evidence of treason, this actually underscores his loyalty to the emperor.

After Terentius speaks, the result of the trial is thus (*A.* 6.9.1):

Constantia orationis, et quia repertus erat qui efferret quae omnes animo
agitabant, eo usque potuere, ut accusatores eius, additis quae ante deliquerant,
exilio aut morte multarentur.⁵⁵⁴

Not only is Terentius acquitted, but he even prevails on the Senate to punish his accusers. Such

planning anything more secret is forbidden and dangerous, nor, for all that, would you reach it.”

554 “The fortitude of his speech, and because someone had been found to say what everyone thought in their hearts, were so powerful that Terentius' accusers, adding their previous crimes to the charges, were punished with exile or death.”

successful oratory is rare in the *Annals*, but Tacitus leaves little doubt that the primary reason for Terentius' success is his oratory. First and chief of the causes, he names the *constantia orationis*, which must refer to the stance taken by Terentius – namely, that he boldly and even proudly acknowledged a charge that he could not truthfully deny. But there are other reasons as well, reasons unconnected to eloquence. Terentius was fortunate enough to be able to say what everyone else was thinking. Few senators had no ties to Sejanus, and many must have watched in alarm as his adherents were prosecuted one after another. What Terentius said could be applied to their cases no less than his own: in hearing his defense, they heard their own justification. The Senate could not but be glad to have found someone to plead the common case of them all in his own person (6.8.2). This circumstance, indispensable to Terentius' success, had nothing to do with his own powers of speech. Likewise, Terentius is not disadvantaged by having been named in a letter from Tiberius; if he had been so particularly marked out for destruction, it is unlikely that he could have saved himself. Fortunately, he was apparently only attacked by regular *delatores* acting without explicit instructions from the emperor, and although this made the odds quite bad enough, he could still overcome them.

At the same time, however, we cannot detract overmuch from the undeniable effect of Terentius' own oratory. Others had been similarly attacked by *delatores* and had fallen. The other adherents of Sejanus had also had the secret thoughts of the Senate on their side, and could just as easily as Terentius have plead the common cause. None did – or at least, none did so eloquently enough. Here, then, we have the one, solitary example from the Tiberian books of the *Annals* of oratory turning the course of a trial. A defendant began his case with grave disadvantages, only for his eloquence to sweep away all obstacles. This is all the more remarkable when we remember that there are very few acquittals of any kind, for any reason, in Book 6: Tacitus portrays the end of the reign of Tiberius as a long series of deaths and convictions. Marcus Terentius stands out not only as one of the few who escaped condemnation in a bleak time, but as the only one to defend himself successfully by means of

nothing but his eloquence. This case represents everything that Marcus Aper, in the *Dialogus*, said oratory could and should accomplish. But it is only this case. We have no other example of a speech so turning the course of a trial – indeed, we have very few mentions of speeches during trials at all. We have no other example of a defendant earning his acquittal by means of his eloquence (and, at the same time, Terentius had several circumstances in his favor). The trial of Marcus Terentius is indeed remarkable for the important role of oratory in its outcome. The fact that it is so remarkable, however, reminds us just how rarely we have seen this sort of thing in the *Annals*. It is the exception that proves the rule.

We rapidly return to the regular course of affairs. A series of *maiestas* condemnations follows, all of the barest possible narration; in none is a speech mentioned. Immediately after Terentius' acquittal, a letter from Tiberius arrives, demanding vengeance against Sextus Vistilius, who had allegedly written disrespectfully of Gaius (*A.* 6.9.2). He dared to write the emperor, but committed suicide on receiving a harsh response – showing clearly how little he thought that the success of Terentius could be duplicated.

At *A.* 6.10.1, Tacitus records that not even innocent women were exempted from danger: *ne feminae quidem exsortes periculi quia occupandae rei publicae argui non poterant, ob lacrimas incusabantur* (“Not even women lacked a share of danger because they could not be accused of attacking the state, but rather, they were set upon because of their tears”). An old woman, Vitia, was executed – by order of the Senate itself, no less (10.2) – because she had mourned for her son's own execution. Nor were Tiberius' own friends and allies, not to say his tools, safe: two of them were executed by his direct command (10.2).

Three equestrians, we soon read, fell to charges of conspiracy (*A.* 6.14.1: *cecidere coniurationis crimine*). One at least had been an associate of Sejanus, but Tacitus is sparing of details; indeed, all that he tells us about their fate is that one of the trio committed suicide in prison. The rest were presumably

either executed or perhaps exiled, either of which could be described by *cecidere*.

Considius Proculus, who was celebrating his birthday without any fear, was suddenly seized and dragged before the Senate on charges of *maiestas* (*A.* 6.18.1). The rapidity with which he is condemned and executed strongly suggests that he was convicted without being allowed to speak in his own defense; certainly he had no time to mount an effective defense (*raptus in curiam pariterque damnatus interfectusque*). His sister was also attacked by a *delator*, Quintus Pomponius, and interdicted from fire and water; the charges are not clear, but presumably involved association in her brother's crime. Pomponius' motivations are straightforward enough, and ostensibly honorable, but revealing: he hoped that this prosecution would earn him the emperor's favor, so that his own brother (apparently under some kind of peril) might be pardoned. Tacitus, however, dismisses this as pretext, and calls Pomponius *moribus iniquis* – one of the standard characteristics of *delatores*. Even so, the pretext is informative: the only way that Pomponius had to defend his brother, far from speaking in his defense, was to play the *delator*; delation might be expected to win Tiberius' favor; and Tiberius' favor was the only thing that could save one imperiled.⁵⁵⁵

A Sextus Marius was executed for committing incest with his daughter, but Tacitus suggests that this was a pretext for confiscating his vast wealth – as, indeed, the emperor set Marius' property aside for himself (*A.* 6.19.1). A most remarkable passage follows, in which Tacitus describes, in horribly vivid terms, the cruelty of Tiberius and the subsequent climate of terror of delation (19.2-3):

Inritatusque suppliciiis cunctos, qui carcere attinebantur accusati societatis cum
Seiano, necari iubet. Iacuit immensa strages, omnis sexus, omnis aetas, inlustres
ignobiles, dispersi aut aggerati. Neque propinquis aut amicis adsistere,
inlacrimare, ne visere quidem diutius dabatur, sed circumiecti custodes et in

⁵⁵⁵ In this same chapter, at 6.18.2, a whole family is destroyed, allegedly because their great-grandfather had allied himself with Pompey against Caesar and, after his death, had been given divine honors by the Greeks – a not uncommon practice in the Republic, but one that could easily furnish a pretext for diminishing the emperor's *maiestas* by ambitiously claiming the same divine honors.

maerorem cuiusque intenti corpora putrefacta adsectabantur, dum in Tiberim traherentur, ubi fluviantia aut ripis adpulsa non cremare quisquam, non contingere. Interciderat sortis humanae commercium vi metus, quantumque saevitia glisceret, miseratio arcebatur.⁵⁵⁶

There is, of course, no question of defense speeches. Tiberius wished to kill, and so he killed many.⁵⁵⁷ Indicative of the position of the *delatores* is that watchers were set to observe the reactions of the populace to seeing the bodies of their kinsmen and friends, and Tacitus has prepared us to see this as a serious threat: there is the case of a woman executed for weeping over her son (6.10.1). As a result, he tells us, as savagery increased, pity diminished, or at least was hidden.

Sejanus, while alive, had been responsible for many deaths and accusations, but his arts did not die with him. His successor as praetorian prefect, Macro, continued in the same practices, and was to Caligula what Sejanus had been to Tiberius.⁵⁵⁸ The first indication of this is the end of Mamercus Scaurus (A. 6.29.3):

Mamercus dein Scaurus rursus postulatur, insignis nobilitate et orandis causis, vita probrosus. Nihil hunc amicitia Seiani, sed labefecit haud minus validum ad exitia Macronis odium, qui easdem artes occultius exercebat detuleratque argumentum tragoediae a Scauro scriptae, additis versibus qui in Tiberium flecterentur.⁵⁵⁹

556 “Gathering rage from the very punishments, [Tiberius] ordered everyone who was held in prison on accusation of association with Sejanus to be executed. An immense heap fell, every sex, every age, illustrious and ignoble, scattered or piled together. Nor was it any longer permitted to relatives or friends to stand near, to weep, not even to gaze at; rather, guards were placed around everywhere, and, intently watching each person's sadness, went on following the rotten corpses until they were dragged into the Tiber, where no one could burn, no one could touch them as they floated or were driven up onto the banks. The interactions of human life ceased because of the power of fear, and the greater grew savagery, the more was pity kept at a distance.”

557 Walker (1952) 82-110, not unreasonably, questions Tacitus' accuracy here and considers his *immensa strages* biased and exaggerated in the extreme.

558 Fuhrmann (2012) 137.

559 “Then, again, Mamercus Scaurus was accused, a man distinguished by his birth and skill at pleading cases, but of shameful life. It was not the friendship of Sejanus that felled him, but the enmity of Macro – hardly less powerful for causing destruction – who exercised the same arts more secretly, and who brought [*detulerat*, of the same root as

The basis of Macro's accusation was that some lines in a tragedy written by Scaurus could be taken as referring to the emperor.⁵⁶⁰ Adultery was also tacked on to the charges by others (29.4). Scaurus, however, did not wait for his fate to play out: at the urging of his wife (who joined him), and in a manner worthy of the dignity of his great ancestors (*ut dignum veteribus Aemiliis*), Scaurus committed suicide. Scaurus had been explicitly introduced as a skilled speaker, but this, of course, could not save him from the odium of the powerful.⁵⁶¹

Soon afterwards, Tacitus relates four *maiestas* cases in quick succession (*A.* 6.38.4-39.1). Two of the accused committed suicide, and two were executed; one of those who were executed had committed no greater offense than writing some *carmina in principem* (39.1). Tacitus lists their names, but otherwise gives us no more information. Nor does he then tell us much more about Lucius Aruseius at the beginning of the next year, except that he was executed (40.1). There are some details, however, about the end of Vibullius Agrippa. Assaulted in the Senate by *delatores*, but not yet condemned, he stood up and calmly drank poison for all to see. He was hurriedly (and, one can imagine, with some panic) convicted and condemned, and his already lifeless body was dragged to prison, where the executioners went through the form of strangling it (40.1). Agrippa's end, although more pathetic and, indeed, more macabrely funny, is not substantively different from that of other suicides: he evidently doubted the fairness of the process or his ability to defend himself, and so attempted to anticipate conviction. Perhaps he hoped to save his estate by dying thus (cf. *A.* 6.29.1), but if so, it will not have worked, thanks to the forms – legal, but not entirely according to the spirit of the law – of condemning and “executing” a corpse.

delator] as evidence a tragedy written by Scaurus, with some verses that could be twisted into attacks on Tiberius.”

560 Rudich (1993) xxxii-xxxiii and (1997) makes the point that, precisely because there were no precise definitions of what constituted literary *maiestas*, unscrupulous *delatores* could use a wide degree of “interpretation” (*interpretatio prava*) to twist any statement from anyone whom they disliked.

561 Several of Scaurus' accusers were soon punished when it was proved that they had taken bribes in another case (6.30.1), but the real reason, Tacitus suggests, was that they were *delatores* and therefore hated, and that the Senate used the bribery as an opportunity to destroy a pair of notorious *delatores*. This is consistent with Tiberius' practice of occasionally allowing the punishment of less important accusers while still on the whole protecting them. Macro, of course, was safe.

There is but one more death worth mentioning in the Tiberian books. It is fitting to close with, for it contains Tacitus' prediction that, although Tiberius invented the *maiestas*-delation system as it then stood, it would not die with him: Tacitus introduces this case by stating that the seeds were being sown for future slaughters (*A.* 6.47.1: *futuris etiam post Tiberium caedibus semina iaciebantur*), and ends it by calling the defendant a prophet, a *vates* (48.3). There is even a speech by the defendant – but it is not a defense speech. The case is, of course, that of the famous death of Lucius Arruntius. His trial began with the accusation of Albucilla for *maiestas* and conspiracy; a number of men were accused at the same time of adultery with her (and, therefore, implicitly of collusion in her treason: adultery could be just as political a charge as *maiestas*), one of them Arruntius (47.2). A number of circumstances, however, made men believe that Arruntius was innocent, and that the evidence against him had been invented, without the knowledge or connivance of the emperor, by Macro, who was known to hate him (47.3). It was this circumstance that caused Tacitus to say *futuris caedis semina iaciebantur*, for it showed that the *maiestas* apparatus could function without Tiberius, indeed possibly against his wishes, and that the locus of its control was already moving from the dying emperor to Gaius, the presumptive heir, and Gaius' tools.

There is one speech connected to the trial of Arruntius. It is Arruntius himself who speaks; but it is no defense speech. While the other defendants were preparing their defenses, Arruntius resolved to die. His speech, the final speech of *Annals* 6, is a private expostulation with his friends when they try to convince him to risk a trial, in which he argues that, for him at least, suicide would be better. He had been hated, he says, by Sejanus, and now by Macro, and he had lived more than long enough suffering such odium (*A.* 6.48.1). He predicts, moreover, that even if he lived, there would be nothing good to look forward to (48.2):

Sane paucos ad suprema principis dies posse vitari: quem ad modum evasurum
imminentis iuventam? An, cum Tiberius post tantam rerum experientiam vi

dominationis convulsus et mutatus sit, C. Caesarem vix finita pueritia, ignarum omnium aut pessimis innutritum, meliora capessiturum Macrone duce, qui ut deterior ad opprimendum Seianum delectus plura per scelera rem publicam conflictavisset? Prospectare iam se acrius servitium, eoque fugere simul acta et instantia.⁵⁶²

Arruntius predicts that the principate of Gaius could hardly be any better than that of Tiberius, and would in all likelihood be worse. He therefore committed suicide to escape having to see the ruin of his country – and, Tacitus says, the event proved that he had predicted correctly and died wisely (48.3). It is revealing that the only speech connected to Arruntius' trial has nothing to do with his trial at all, but occurs entirely in private. It has nothing to say about his guilt or innocence (although his innocence seems assumed). The speech strongly implies, in fact, the uselessness of attempting a defense; and even if a defense could succeed, Arruntius argues that death would be better than prolonging an old age already weary with witnessing the evils of *servitium*. At the end of the reign of Tiberius, this is what eloquence has been reduced to. The final speech of the Tiberian hexad is not a defense, but a meditation on the superiority of suicide. And, Arruntius says, things were only going to get worse.

So ends the reign of Tiberius. We have seen how Tacitus shows that, under Tiberius, *maiestas* delation corrupted the role of forensic oratory that Aper had proposed in the *Dialogus*: *non hercule lorica et gladius in acie firmitus munimentum quam reo et periclitanti eloquentia praesidium simul ac telum* (D. 5.6). This ideal of contemporary eloquence hardly corresponds to the reality of the *Annals*. Whatever might have been the case in lower-profile trials throughout the Empire, a defendant accused of *maiestas* or other political offenses before the Senate by a *delator* allied with Tiberius (who

562 “The death of the emperor could assuredly be put off only for a few days: how would he avoid the youth of the upcoming prince? Or, when Tiberius, after so much experience of affairs, had been convulsed and changed by the power of dominion, would Gaius Caesar, hardly past boyhood, ignorant of everything or brought up in the worst company, would do any better being governed by Macro, who, bad as he was, had been chosen to crush Sejanus, but had now oppressed the state with more crimes? He [Arruntius] could already see in advance a harsher slavery, and therefore he was fleeing at the same time from past and threatening evils.”

implicitly encouraged these *delatores* and usually protected them, albeit often in the secrecy implied by *ars Tiberii*) could not expect his oratory to protect him. In one case, and one case alone – that of Marcus Terentius – does a speech have any significant effect on the outcome of a trial. If we take Terentius as an example of how things are supposed to go, the rest of the *Annals* is all the darker by comparison. No other defendant saves himself by his eloquence (indeed, few are saved at all). In very few cases is a speech even mentioned. In even fewer does Tacitus actually include a speech. When there is a speech, it is usually strikingly and dramatically irrelevant to the outcome: Cremutius Cordus gave an impassioned oration in favor of freedom of expression, then committed suicide without waiting to hear the verdict; Lucius Arruntius, in the final speech of Tiberius' reign, disclaimed the usefulness of making a defense at all and defended his choice of suicide. The suicide of so many defendants is a revealing fact: almost all of them end their lives before being convicted, expecting, however, that they certainly would be convicted. For the emperor's dislike of them was clear; and, if the emperor disliked them, how could they expect to win against his tools in so servile a Senate? Many remained resolute until they saw the face of the emperor set against them. And most of those accused under this system were certain to have the emperor against them: the *modus operandi* begun by Tiberius and Sejanus, and continued by Tiberius alone and then by Gaius and Macro, was to barter favor for accusations, to reward and support those who were willing to attack their enemies (such as the adherents of Agrippina). Whatever his eloquence – and many were assuredly eloquent – a *delator* appearing under such conditions, against a defendant whom everyone knew the emperor wished to see condemned, could hardly fail. Whatever his eloquence, the defendant could hardly succeed. The trial might give both sides a chance to show off their oratory in an almost epideictic display, but their speeches had no forensic value in themselves, and could not shift the outcome either towards acquittal or towards condemnation.

Chapter 6: The *Annals*, Part Two – Claudius and Nero

Libertas Thraseae servitium aliorum rupit.
– *Annals* 14.49.1

Our discussion of the role of eloquence does not end with Tiberius. Many of the same themes that we have been examining continue under Claudius and Nero in the later books of the *Annals*: *delatores* are still the allies and tools of the emperors, and the power of speech to defend one's innocence at trials is, if anything, diminished. But there are differences. In the gap between Books 6 and 11, we have missed the entire reign of Caligula and the better part of that of Claudius, and so what would otherwise have been the gradual development of trends now appears to us as sudden and immediate changes following the death of Tiberius. There are, for instance, many fewer trials, and many fewer forensic speeches before the Senate. This is not, however, because *maiestas* was unimportant or because Tacitus had nothing to say about eloquence, but because the emperors now (usually) judged cases directly and now simply ordered the punishment of the accused without the bother of a trial. Such a change does not, of course, represent a betterment of the position of oratory, but that it was not even allowed the formal and specious place it had been permitted to hold under Tiberius.

These new conditions, however, do offer new opportunities for a certain kind of eloquence. To take one example that we will examine below, speeches *to* the emperor – not simply in his presence, but actually seeking to persuade him – occur very frequently under Claudius and Nero, after being almost unheard of under Tiberius. Historically, of course, such speeches were very natural and had old precedents; Cicero had famously addressed and delivered the *Pro Marcello* to Caesar in person. If the emperor and not the Senate makes decisions, after all, then what matters is not persuading the Senate, but persuading the emperor. But in the *Annals* of Tacitus, speeches to the emperor appear almost for the first time under Claudius, and, as we shall see, they usually represent something new and insidious:

flatterers and evil counsellors, such as Tigellinus, urging the emperor to commit atrocities. In this way, then, and in others that we shall examine below, the Claudian and Neronian books do not simply make the point that eloquence could no longer fulfill its traditional role under the Principate (although they certainly do this as well, in the continued and expected failure of men accused of *maiestas* to defend themselves); they are also about the *perversion* of eloquence, about what happens to oratory when it adjusts to the new realities of power and finds its niche in the imperial regime.⁵⁶³

This chapter will be divided into two main sections. The first will effectively be a running commentary on the relevant passages from *Annals* 11-16. The second will be a more focused look at what we might call case studies: the fates of the “martyrs,” in which the shifting function and meaning of eloquence play a significant role. This second section will itself be divided into two subsections, one dealing with Thræsea Paetus, the anachronistic champion of *libertas*, and his ally Barea Soranus; the other, with Seneca (and his ally Afranius Burrus), the philosopher-orator who tried to accommodate himself, and his eloquence, to the new regime, and who died half a martyr and half a victim of himself.

We first examine the death of Valerius Asiaticus, which encapsulates many of the themes we will be discussing.⁵⁶⁴ The passage, the first from *Annals* 11, unfortunately begins mid-sentence, so that we are unable to tell much of the context: we simply read that someone believed that Asiaticus had committed adultery with someone else (we later learn that this is Poppaea: *A.* 11.2.1), and that this person also lusted after Asiaticus' gardens, which had once belonged to Lucullus, and so suborned Suillius (soon to be of great notoriety for his delations) to destroy him (11.1.1). Fortunately, the surviving epitome of Cassius Dio covers this trial, and we learn thence that the subject of the sentence

⁵⁶³ Oratory could be misused as well as used, if it was turned to improper ends, and the Romans did tend to assume that oratory naturally had its proper function in seeking just and truthful ends. See Quintilian 2.16.1-19. See also Winterbottom (1964) 90-97, who sees Quintilian's emphasis on the need for the orator to be a *vir bonus* as a reaction to the misapplication of oratory by the *delatores*.

⁵⁶⁴ On this trial, see Bauman (1974) 202, Hausmann (2009) 149-163.

is Messalina (Dio 60.29.6).⁵⁶⁵ Already, then, we see that little has changed since the reign of Tiberius: the powerful in the imperial court still scheme in their own interest, and they still use *delatores* to attack their victims, whether they hate them for personal reasons (because Asiaticus had been Poppaea's adulterer) or simply envy their riches (because Messalina wanted his gardens). Immediately, however, something different occurs, something that will be characteristic of both Claudius and Nero, but especially of Claudius. As soon as Suillius is suborned by Messalina, he gains the support of Sosibius, a member of the imperial household, who at once rushes to Claudius and addresses him in a speech (*A.* 1.1.1-2):

Adiungitur Sosibius Britannici educator, qui per speciem benivolentiae moneret Claudium cavere vim atque opes principibus infensas: praecipuum auctorem Asiaticum interficiendi C. Caesaris non extimuisse in contione populi Romani fateri gloriamque facinoris ultro petere; clarum ex eo in urbe, didita per provincias fama parere iter ad Germanicos exercitus, quando genitus Viennae multisque et validis propinquitatibus subnixus turbare gentiles nationes promptum haberet.⁵⁶⁶

Rather than going to the Senate to denounce Asiaticus on behalf of the emperor, the conspirators make their approach to the emperor directly and attempt to persuade him of Asiaticus' malevolence. This is by no means an unnatural course to take, but it is a revealing one: the real power to harm, as all knew, lay with the emperor. It might be thought that this has more to do with the individual character of

⁵⁶⁵ The full passage of Dio (60.29.4-6) is interesting to read beside Tacitus. Dio agrees that the real cause of the prosecution was Messalina's desire for the property of Asiaticus, but we learn from Dio, what Tacitus does not mention, that the charges were conspiracy and *maiestas* – indeed, the “trial” before Claudius (in which, to do him credit, the emperor seems to have tried to be fair, if he had not been so weak and easy to manipulate) centered on the alleged conspiracy. The artifice of Vitellius is the same in both.

⁵⁶⁶ “Sosibius, the pedagogue of Britannicus, was joined to them, so that, under the appearance of well-wishing, he might caution Claudius to beware a force and wealth hostile to emperors: that Asiaticus, who had borne a chief part in killing Caligula, had not been afraid to confess it in a *contio* before the Roman people, nor, further, to claim the glory of the deed; it was clear from his actions in Rome, and there was a rumor throughout the provinces, that he was preparing a journey to the legions in Germany, since, being from Vienne, it would be easy for him to throw the foreign nations into upheaval by relying upon his many and strong connections.”

Claudius than any larger point: Claudius was famously passive, almost a non-entity in his own principate, and so one might well expect him to play a less active role than the more domineering Tiberius. It is true that we will often see Claudius easily manipulated. But this fundamental difference will also carry over into Nero's reign: conspiracies and plots will more often try to persuade the emperor than be used by him to persuade the Senate – for, once the emperors began dealing with *maiestas* cases personally, it was persuading *them* that became important.

Claudius, by his nature, is easily persuaded (indeed, he always seems to take the position of the last person to speak to him). No sooner does Sosibius speak than Claudius, without considering the matter any further (*nihil ultra scrutatus*),⁵⁶⁷ immediately orders the arrest of Asiaticus (*A.* 1.1.3). This is therefore the first time we see a speech urging the emperor to destroy the private enemy of some favorite succeed, but it will set a pattern for the rest of the *Annals*. This is indeed a powerful role for eloquence – but it is hardly a traditional or a praiseworthy one, and certainly not that for which it was honored in the *Dialogus* (e.g. *D.* 5.6); in some ways, then, it represents an abuse of speech.

The trial of Asiaticus, however, will caution us against imagining that eloquence had any role beyond this or that it had regained the functions it once held. Indeed, the course of his trial will show in the most dramatic way how far this is from the truth. Asiaticus is dragged before the emperor and is forced to answer the charges *intra cubiculum* (*A.* 11.2.1). Suillius charges him with a long litany of crimes, including passive homosexuality, but Asiaticus rather gets the better of Suillius in a pointed exchange.⁵⁶⁸ He then delivers his defense speech. Already his position is better than that of many under Tiberius, in whose cases Tacitus rarely mentions any speech (and, if he does, it is hardly ever effective), and better, on the same token, than many will have under the later emperors. The situation only looks better: for Asiaticus evidently speaks with such eloquence that Claudius was deeply moved, and even

567 Cf. Koestermann (1967) 28 ad loc.

568 “*Interroga*” inquit “*Suilli, filios tuos: virum esse me fatebuntur.*”

Messalina herself wept (*Messalinae quoque lacrimas excivit*). Such success is rare indeed in the *Annals*. But the success is like fireworks, splendid and evanescent. Messalina, wiping the tears from her eyes, commands Vitellius (one of her creatures and the father of the later emperor) not to let the defendant escape (2.2). So much was even the most moving oratory worth.

We soon see oratory of a different kind. As Claudius is preparing to pardon Asiaticus,⁵⁶⁹ Vitellius steps in to fulfill Messalina's command (*A.* 11.3.1):

Sed consultantī super absoluteōne Asiaticī flens Vitellius, commemorata vetustate amicitiae utque Antoniam principis matrem pariter observavissent, dein percursis Asiaticī in rem publicam officiis recentique adversus Britanniam militia, quaeque alia conciliandae misericordiae videbantur, liberum mortis arbitrium ei permisit; et secuta sunt Claudii verba in eandem clementiam.⁵⁷⁰

This is among the basest deceptions in all the *Annals*, and goes far to explain why Vitellius was so favored by Messalina. It also says much about the ends to which oratory could be twisted in the new regime. Vitellius speaks seemingly in Asiaticus' defense, mentioning everything that would be likely to win compassion for the accused, and hinting that, since he and Asiaticus had been friends, Claudius would oblige him greatly by showing mercy to Asiaticus – and then concludes by requesting that Asiaticus be allowed to choose the manner of his own death. This is the mercy, the great favor for which he besought Claudius. The trick is, admittedly, clever: by making such a big show of asking for clemency and trying to arouse pity, and then simply asking for a choice of death, Vitellius makes it seem as though Asiaticus was so obviously guilty that it would have been absurd to ask for his acquittal. If the best that Vitellius, Asiaticus' "friend," can beg for is an easy death, then the emperor

⁵⁶⁹ Dio 60.29.4-5 also records that Claudius was about to pardon the obviously innocent Asiaticus, until Vitellius employed his trickery.

⁵⁷⁰ "But, as the emperor was considering the absolution of Asiaticus, Vitellius, weeping, recounted their old friendship and how they had equally paid court to Antonia, the emperor's mother; then, going through Asiaticus' services to the state and his recent military service in Britain, and whatever else seemed for the purpose of winning pity, suggested that Asiaticus be allowed a free choice of death. Similar merciful words by Claudius followed."

would be a fool to pardon him entirely. Claudius is (of course) taken in by this pose and speaks, in Tacitus' bitterly ironic phrasing, *verba in eandem clementiam*.⁵⁷¹ Asiaticus opens his veins and dies with serenity (3.2).

What is noteworthy about this sequence of events is that, although there is a role for eloquence, it is not one that is of any help to the defendant. Rather, a perversion of oratory (one can hardly call Vitellius' speech anything less) makes it all the easier for the imperial favorites to destroy their enemies and enrich themselves with innocent spoils. One must simply use one's oratorical skill on the emperor. All the action takes place, so to speak, *around* the throne. This is natural enough in the reign of the ever manipulable Claudius; indeed, there are three speeches, and each time Claudius is persuaded fully to adopt the view of whoever spoke most recently (and even so, Vitellius follows rather the commands of Messalina, who has a tighter grip on the reins of power). But, as we shall see, it will continue even when an emperor like Nero takes a more active hand in the persecutions.

A comparatively minor case follows, but one which bears comparison with many of the deaths from the end of Tiberius' reign. Suillius, as a follow-up to the condemnation of Asiaticus, proceeded to accuse two equestrian brothers named Petra before the Senate. The cause is as petty and personal as we might expect: their house had been used by Poppaea for her adulteries (*A. 11.4.1*), and therefore they were connected with someone now odious to the imperial circle, especially Messalina. The actual charges seem to have involved magic, however: it was used as a pretext against one of the Petrae that he had dreamt a prophetic dream about the emperor (*A. 11.4.2: verum nocturnae quietis species alteri obiecta, tamquam vidisset Claudium. ...*), and this pretext was used to destroy both brothers (*illud haud ambigitur, qualicumque insomnio ipsi fratrique perniciem adlatam*). Their fate, considering both with whom they were aligned and by whom they were attacked, was assured.

The ultimate power of the emperor over the Senate, and the consequent supremacy of the new

571 See Malloch (2013) 78-79, especially on *arbitrium ei permisit*.

type of eloquence directed at the emperor (by those who already held his favor, whence comes much of their success, we must note) above senatorial oratory, are emphasized by the next passage. Although not itself focusing on an accusation or a trial, this passage involves a debate – and a debate about eloquence itself – that came out of a trial, when the Senate tried to curb the power of Suillius and his ilk but failed. Tacitus himself introduces the scene by discoursing on how the fact that the emperor had drawn all authority into his own hands empowered men like Suillius (*A.* 11.5.1-2):

Continuus inde et saevus accusandis reis Suillius, multique audaciae eius aemuli;
nam cuncta legum et magistratum munia in se trahens princeps materiam
praedandi patefecerat. Nec quicquam publicae mercis tam venale fuit quam
advocatorum perfidia. ...⁵⁷²

Thus Tacitus links the power of the emperor and the wickedness of the *delatores*.⁵⁷³ This general disquisition leads Tacitus to a specific complaint: a certain Samius, who had paid Suillius the immense sum of 400,000 sesterces to support him, learned that Suillius planned to betray him and so committed suicide in despair (5.2). This caused such outrage that the Senate immediately demanded the enforcement of the *lex Cincia*, the long-obsolete and scarcely ever observed, but always praised, law banning advocates from receiving payment or gifts.⁵⁷⁴ There follows a debate, a pair of speeches for and against the proposal, in the traditional manner of historiography. But there is a twist: only the first speech is before the Senate; the next is addressed to the emperor – and it should already be clear in advance which speech is more successful. The very structure of the debate, then, is a commentary on the social dimensions of the role of eloquence.

The first speech is given by a certain Silius, a personal enemy of Suillius, who supported the

⁵⁷² “Suillius was thenceforwards constant and savage in the accusation of defendants, as were the many who emulated his audacity; for the emperor, drawing all the powers of the laws and the magistrates into himself, had supplied opportunity for plunder. Nor was any kind of public merchandise so purchasable as the perfidy of advocates. ...”

⁵⁷³ See Koestermann (1967) 35, Hausmann (2009) 175-176.

⁵⁷⁴ See Koestermann (1967) 36-37.

reestablishment of the *lex Cincia* by appealing to old exempla (*A.* 11.6.1-2):

... Suillio Silius acriter incubuit, veterum oratorum exempla referens, qui famam et posteros praemia eloquentiae cogitavissent. Pulcherrimam alioquin et bonarum artium principem sordidis ministeriis foedari; ne fidem quidem integram manere, ubi magnitudo quaestuum spectetur. Quodsi in nullius mercedem negotia agantur, pauciora fore: nunc inimicitias accusationes, odia et iniurias foveri, ut quo modo vis morborum pretia medentibus, sic fori tabes pecuniam advocatis ferat.⁵⁷⁵

We should not be too quick to dismiss this speech as moralizing. It is certainly that, and it does contain some trite traditional commonplaces. Nonetheless, we must remember that Tacitus introduced this affair by affirming Silius' main point: the advocates were corrupt and venal (5.2: *nec quicquam publicae mercis tam venale fuit quam advocatorum perfidia*). And Silius, however *acriter* he spoke, does make one point that seems reasonable and even modern in its analysis: lawsuits and accusations would be few if no one profited by them, but if they are to the advantage of the very people who bring suits, they will multiply. And we should not discount as moralizing what would have been the main appeal of his argument to a Roman: that he did speak with the voice of tradition, and that almost all writers who mentioned the subject had at least theoretically condemned the receiving of gifts for advocacy (even if the actual practice was almost universal). Silius perhaps overstates the case somewhat, and his analogy to medicine gets away from him (he surely does not intend to imply that physicians spread disease to profit from curing it), but his arguments are not weak.

The Senate, in fact, is entirely convinced. Others seconded the speech, and if there was a

575 "Silius violently attacked Suillius, recalling the exempla of the ancient orators, who had thought that fame with posterity [taking *famam et posteros* as hendiadys] were the rewards of eloquence. But now the most beautiful and the chief of the liberal arts was being debased by sordid services; not even faith remained inviolate, when the magnitude of the reward was regarded. But if cases were tried to no one's benefit, they would be fewer: as it was, hostilities and accusations, hatreds and injuries were cherished, so that, just as the strength of disease brings profit to those who treat it, the quarrels of the forum might likewise bring money to the advocates."

dissident voice, Tacitus does not tell us about it; immediately after Silius speaks, we read that the Senate was in the process of drawing up a formal *sententia* (A. 11.6.3). Suillius and the others were so panicked as to go crowd around the emperor and beg forgiveness (*circumsistunt Caesarem, ante acta deprecantes*). Claudius grants them permission to address him, and they begin the second speech, also far from poorly argued (7.1-3):

Quem illum tanta superbia esse, ut aeternitatem famae spe praesumat? Usui et rebus subsidium praeparari, ne quis inopia advocatorum potentibus obnoxius sit. Neque tamen eloquentiam gratuito contingere. ... Nihil a quoquam expeti, nisi cuius fructus ante providerit. Facile Asinium et Messalam, inter Antonium et Augustum bellorum praemiis refertos, aut ditium familiarum heredes Aeserninos et Arruntios magnum animum induisse. ... Se modicos senatores quieta re publica nulla nisi pacis emolumenta petere. Cogitaret plebem, quae toga enitesceret: sublatis studiorum pretiis etiam studia peritura.⁵⁷⁶

Suillius fully justifies his reputation as a speaker: he finds the best arguments for his position and the best way to frame them, and he delivers them powerfully. His position is not, like that of Silius, one of righteous anger, but of moderate, easy-going reasonableness. Silius had argued, in the tradition of Cicero, that true orators sought only fame as their reward; but Suillius points out that only the most arrogant of men could be so absurd as to hope in all seriousness for *eternal* fame. In all the other arts and activities of life, he continues, it is normal and expected that a man should only work for some benefit to himself; why should the practitioners of eloquence alone work for nothing, especially when

576 “Who was so arrogant as to be confident of eternity in his hope for fame? A defense [eloquence] was prepared for the business of life, lest anyone be answerable to the powerful because of a lack of advocates. Nor, however, could one get eloquence for free. ... Nothing was sought from anyone, unless he expected benefits from it. Asinius and Messala, loaded with the spoils of the wars between Antony and Augustus, or the Aesernini and Arruntii, the heirs of rich families, could easily put on magnanimity. ... They themselves were senators who, since the Republic was quiet, sought no rewards except those of peace. Let him [Claudius] consider the plebeian, who was resplendent in the toga: if the rewards of study were removed, study too would perish.”

their art is not acquired for nothing? It is all very well for the nobility and wealthy heirs to scorn pay, but what of the plebeian? That he is allowed to glory in the toga is due only to the rewards that are the result of his studies. Remove the rewards of eloquence, and eloquence too would perish – and, lacking advocates to defend them from the powerful, innocents would suffer (*ne quis inopia advocatorum potentibus obnoxius sit*).⁵⁷⁷ This is all reasonable enough. But there is an underside to many of Suillius' arguments, and much of what he says, far from refuting the claims of Silius, supports them. According to Suillius, if the rewards of advocacy were smaller, there would be less advocacy – but this is exactly what Silius said as well (11.6.2: *quodsi in nullius mercedem negotia agantur, pauciora fore*). The only difference is that Suillius considers this a bad thing, for two reasons: first, if there are fewer advocates, the powerless will be at the mercy of the powerful; second, because forensic oratory is the one way for plebeians, who are not the heirs of nobility and riches, to advance in society and be splendid in the formal toga. The first is contrary to everything we have read in the *Annals* thus far: oratory has never successfully defended innocence against the hatred or greed of an imperial favorite, and in fact, if anything, the eloquence of the *delatores*, more often aligned with the *potentes* than against them, has caused nothing but harm and loss. The second, which seems reasonable to us, is simply a positive restatement of the common trope about *delatores*, that they were ambitious and restless new men overeager to rise in society and gain wealth and power;⁵⁷⁸ this was by no means seen as a good thing by the Romans.⁵⁷⁹

Claudius finds Suillius' arguments ignoble but not unreasonable: he refused to allow the Senate to bring the *lex Cincia* into full effect, but compromised by setting a limit of 10,000 sesterces as the maximum fee for an advocate (*A.* 11.7.4). To some degree this was a defeat for Suillius, who had

⁵⁷⁷ On this passage, see Malloch (2013) 106-107.

⁵⁷⁸ See Rutledge (2001) 9-13.

⁵⁷⁹ According to Plutarch, *Sulla* 1.2-3, the Romans condemned both the rich wastrel who lost his ancestral wealth and the ambitious climber who forsook his ancestral poverty: it was alleged against Sulla that he could not possibly be honest, since he had inherited nothing and yet was rich.

recently received the reward of 400,000 sesterces (5.2). But it was evidently not regarded as a defeat. There is a simple but often overlooked reason for this: the *lex Cincia* had never been formally repealed, and so if the Senate had been allowed to enforce it, Suillius and the others could retroactively (*de facto* if not *de iure*, since the law was lapsed but still technically in force) have been found guilty and punished, as men caught in the act. Tacitus is explicit that this is what they were afraid of (6.3: *qui non iudicium, quippe in manifestos, sed poenam statui videbant*). But their punishment did not follow, even though Suillius, in receiving 400,000, still violated Claudius' limit of 10,000. Why? Because Suillius had appealed over the Senate directly to Claudius, who rejected the position of the Senate and agreed at least with the principle supported by Suillius, that it was legal to receive pay for advocacy. We should think back to how Tacitus introduced this entire affair: by claiming that the emperor, in drawing all power and authority to himself, strengthened the *delatores* and the advocates (5.1). What mattered was that the emperor had the real power, and the fact that he had supported Suillius on principle, even if he established a pragmatic monetary limit on fees, could be taken as a sign that he supported Suillius more generally. In this case, the Senate might well hesitate to bring the charges they were technically entitled to bring. Suillius had appealed over their heads, and even if he lost on the formal point of fees, he had won his real aim, which was to set himself beyond punishment.

Most interesting for us, however, is the manner in which Tacitus portrays the entire affair: as a debate with two set speeches, one for and one against a proposal. Whereas such a debate would normally be on equal grounds, however – such as in the Mitylenian Debate of Thucydides, where both disputants address the same Athenian populace – Tacitus makes the debate inherently unequal: Silius appeals to an entity that had little real power, Suillius to someone who could annul or override the other's decisions. It is not surprising who wins the more substantial victory.

Next, we have to consider the events surrounding the downfall of Messalina, beginning with her “marriage” to Silius. Messalina was already inclining towards this lustful excess (*A.* 11.26.1) when

Silius, seizing the opportunity, sparks a crisis by addressing a speech to her (26.2):

Quippe non eo ventum, ut senectam principis opperirentur. Insonitibus innoxia consilia, flagitii manifestis subsidium ab audacia petendum. Adesse conscios paria metuentes. Se caelibem, ortum, nuptiis et adoptando Britannico paratum. Mansuram eandem Messalinae potentiam, addita securitate, si praevenirent Claudium, ut insidiis incautum ita irae properum.⁵⁸⁰

Messalina, although she initially responds to the suggestion coldly, fearing that Silius would thus become too powerful, in the end succumbs and agrees, because she desired marriage *ob magnitudinem infamiae, cuius apud prodigos novissima voluptas est* (26.3: “because of the magnitude of the wickedness, the pleasure of which is the last among the depraved”). This is not the most resplendent of successes for a speech, persuading only because its target had reached the extreme of depravity, but it is indicative of the state of affairs.

Claudius, thus far, remains ignorant. But there is panic among his powerful freedmen, and Narcissus resolves to undertake to inform him (*A.* 11.29.2). Narcissus knows well how to manage Claudius, however, and realizes that he cannot simply burst out in accusations before him: he had to effect an opportunity. Therefore he convinces, by bribery and promises, two of the emperor's concubines (*paelices*), to whom Claudius was accustomed and whom he trusted, to stage a scene in which they embraced Claudius' knees and, weeping, told him of Messalina's plans (29.3-30.1). Claudius thus being softened up, they bid him send for Narcissus. Narcissus, having managed the whole scene nicely and realizing that Claudius has now been maneuvered into a position where he is ready to be persuaded to take action, now addresses the emperor directly (30.2):

⁵⁸⁰ “They had not indeed come to a place where they could wait for the emperor to die of old age. The innocent could take harmless counsels; those who were manifestly guilty of a crime had to seek their protection in boldness. There were men present who, conscious of their guilt, feared the same fate. He was single and childless, ready for marriage and to adopt Britannicus. Messalina would have the same power, with added security, if they should anticipate Claudius, a man as hasty to anger as incautious of plots.”

Is veniam in praeteritum petens, quod Titios, Vettios, Plautios dissimulavisset, nec nunc adulteria obiecturum ait, ne domum servitia et ceteros fortunae paratus reposceret: frueretur immo his, sed redderet uxorem rumperetque tabulas nuptiales. 'An discidium' inquit 'tuum nosti? Nam matrimonium Siliii vidit populus et senatus et miles; ac ni propere agis, tenet urbem maritus.'⁵⁸¹

Claudius is cast into such terror that he kept repeatedly asking whether he was, in fact, still the emperor (31.1). Nonetheless he gathers his advisors and gives orders to counter the crisis. The manner in which he was brought to this awareness, however, does him no credit. Narcissus did not dare to approach the emperor without preparing him in advance, and this preparation took a form suitable to the depraved court of a weak emperor: the embraces and pleadings of his (bribed) concubines. Only after taking these measures in advance did Narcissus believe that the emperor was ready to heed the voice of eloquence and attempt a speech. Even after his apparent success, however, he was not confident; knowing that the emperor was ever infirm, he resolved not to let Claudius out of his sight until everything was accomplished (33).

Messalina and Silius were interrupted in the middle of their celebrations when Claudius' soldiers stormed in and began making arrests (*A.* 11.31.2-3). Messalina, knowing her husband, sought to appear before Claudius in person to persuade him of her innocence (32.2). The rest of the affair, in essence, was reduced to a duel for Claudius' attention, Messalina trying to catch it and Narcissus striving to banish her from it; all that mattered was who was best able to manipulate the emperor (34-35). When at last Messalina was gone, Claudius nonetheless began to soften and to pity her, and he gave orders that she should appear the next day and be given the right to plead her innocence (37.1-2).

581 "He, seeking pardon for the past, because he had dissembled knowledge of a Titus, a Vettius, and a Plautius, said that he would not even now allege adultery, lest he demand back the house and slaves and other accoutrements of fortune: let him rather enjoy these, but give back his wife and break the marriage oaths. 'Or,' he said, 'did you not know of your divorce? For the people and Senate and soldiery have seen the marriage of Silius, and unless you act quickly, the husband will hold the city.'"

Narcissus knew the emperor and realized that, if Messalina were given this chance, everything would be undone and he himself would be in grave danger. He thus gave orders, as though at Claudius' behest, for Messalina's immediate execution (37.3). Claudius was not disturbed (38.2).

Speech plays a vital function in the downfall of Messalina, from beginning to end. But it is not its traditional function. More important is the control of speech and the manipulative maneuvers antecedent to the act of speech. The eloquence of Narcissus, even when effective, is effective only because the ground had been cleared, as it were, by Claudius' fondness for his concubines. And Messalina fails, ultimately, because Narcissus outmaneuvered her in establishing the context in which eloquence could (or could not) be practiced. All this is indicative of the ways in which oratory was finding its niche in the imperial court, and how it was in return being altered to fit its new social and political context.

The death of Messalina produced a quarrel over who would be the emperor's next wife. Agrippina the Younger was eventually chosen (though they were not immediately married), and she immediately began to put her ambition to effect by seeking to have her son, Nero, engaged to Claudius' daughter Octavia (4. 12.3.1-2) – which, while it would not displace Claudius' son Britannicus as the heir apparent, was nonetheless a step in that direction. But there was a problem: Octavia was already engaged to Lucius Silanus, the then praetor. Such problems could easily be solved in the Principate. Vitellius, eager to prove as useful to Agrippina as he had been to Messalina, accused Silanus of incest with his sister (4.1-2); it is possible, since he was engaged to a member of the imperial family, that this could have been construed as *maiestas*. Despite the legal language (*ferre crimina*), however, there was no formal accusation, and no trial except before the emperor: Tacitus' use of the formal terminology to describe such an informal case as secret slander in the emperor's ear ironically underscores the upside-down world of Rome under the Caesars. Silanus was entirely unaware of his danger (and thus had no chance to defend himself) until he heard that he had been expelled from the Senate (4.3) – by no means

the harshest punishment possible, but one that lowered his social position dramatically and so rendered him ineligible to marry the daughter of the emperor, thus removing him from all consequence. He will later commit suicide (8.1).

Agrippina had acquired a hatred of the other candidates proposed to succeed Messalina as Claudius' wife, particularly of Lollia Paulina; some time later, therefore, she had charges filed against Lollia for various divinations relating to the marriage – which could possibly count as *maiestas* (*A.* 12.22.1).⁵⁸² Claudius himself, without hearing Lollia's defense (*inaudita rea*), undertook to condemn her before the Senate, going little short of naming her a public enemy; he urged that her power to commit crime, meaning her vast wealth, be taken from her (22.2). It is not clear why Claudius should persecute Lollia, since it was Agrippina who hated her, but the answer might lie in the earlier comment by Tacitus that Claudius had no partiality or hatred except those that were suggested and commanded to him (12.3.2: *cui non iudicium, non odium erat nisi indita et iussa*). Whatever his reason, the fact that the emperor himself spoke for the prosecution (if we can call it that) illustrates well the perversion of oratory – especially in conjunction with the fact that no defense speech was permitted. Lollia, accordingly, was deprived of her property (except for 5,000,000 sesterces, evidently regarded as a pittance) and banished; a tribune was soon sent to see to her death (22.2-3).⁵⁸³

In AD 53 Nero turned sixteen and married Octavia. As he enters public life in his own right, he gives some promising signs of his character and his love of the liberal arts (*A.* 12.58.1):

Utque studiis honestis et eloquentiae gloria enitesceret, causa Iliensium suscepta
 Romanum Troia demissum et Iuliae stirpis auctorem Aeneam aliaque haud
 procul fabulis vetera facunde exsecutus perpetrat, ut Ilienses omni publico
 munere solverentur.⁵⁸⁴

⁵⁸² At *A.* 12.52.1, a Furius Scribonianus will be banished for consulting astrologers about the emperor's death.

⁵⁸³ In this same passage, we are told that Calpurnia, whose beauty Claudius had once praised in passing, was also attacked by the jealousy of Agrippina (*A.* 12.22.3). She was banished, but later returned – see *A.* 14.12.3.

⁵⁸⁴ “And, in order to shine by means of his honorable studies and the glory of his eloquence, he undertook the cause of the

He also made speeches obtaining monetary aid and remission of taxes for disaster-stricken cities, and, perhaps in anticipation of his later restoration of freedom to all Greece, had the *libertas* of the Rhodians restored to them (58.2). This is all very promising, and indeed Nero showed an interest in eloquence and similar studies all his life. Tacitus, however, subtly suggests that this very use of oratory was anachronistic by having Nero declaim on such anachronistic (not to say hackneyed) themes: to give a speech on what must have been commonplaces about the Trojan origin of Rome and Aeneas – which topics Tacitus calls *haud procul fabulis vetera* – was surely both banal and pompous; there is, moreover, a sharp disjunction between the grand themes of the speech and their mundane real-world result, a glorified tax break.⁵⁸⁵ We have, moreover, reason to suspect that Tacitus is being ironic in assigning eloquence to the future emperor. That Nero thought more highly of his own skills than others did is an established part of the historiographical tradition.⁵⁸⁶ Tacitus himself, moreover, famously tells us that Seneca wrote most of Nero's speeches, because Nero was the first of the emperors who had needed another's eloquence (*A.* 13.3.2). The reader may therefore doubt whether Nero obtained these benefits because of his oratory, or because he was the son-in-law and the step-son of the emperor. If the latter, then this fact, and the banality of Nero's themes, go far to show that oratory had become little more than a game.

The end of Claudius' reign approaches. Tacitus introduces the events leading up to his death with a series of prodigies, portending, he says, an imminent change for the worse (*A.* 12.64.1). As the capstone to this list, he mentions the fear and hatred of Agrippina, thus making her into a sort of infernal prodigy herself: she was frightened by some passing remarks of the emperor's, when, while drunk, he said that it was his fate to endure the crimes of his spouses and then at last to punish them,

people of Ilium, and, eloquently going through how the Romans were descended of Troy and Aeneas was the originator of the Julian line, and other ancient things hardly different from fables, he obtained that the people of Ilium should be released from every public obligation.”

585 Similarly, in the episode of the Byzantian envoys at 12.62-63, the grandeur and solemnity of the speech and the historical digression as reported by Tacitus seem all out of proportion to the result, a five-year remission of taxes.

586 See, e.g., Suetonius, *Nero* 23.2.

and so decided to act at once (64.2). Since it was now probable that Nero would succeed Claudius, she moved to secure her position in that eventuality, first moving to destroy Lepida, Nero's great-aunt, whose influence with her son Agrippina feared might challenge her own (64.3). Charges of conspiracy were found, and Lepida was executed (65.1). This, interestingly, happened in direct opposition to the wishes of the powerful freedman Narcissus, who had begun to fear Agrippina's power; but his influence had dimmed and Agrippina's had grown, which was all that mattered.

Soon afterwards, Claudius was poisoned, and Agrippina managed the succession of Nero. Even though Tacitus' account of the reign of Nero is incomplete (the *Annals* break off in the middle of Book 16, of a possible 18), these last books of the *Annals* contain a great deal of material relevant to our themes. Much of this, however – everything touching on the “martyrs” Thrasea (and Barea) and Seneca (and Burrus) – will be left for the next section of this chapter; this section will continue a running commentary on the other trials and relevant speeches of Nero's reign, before ending with the aftermath of the Pisonian conspiracy.

Nero's reign begins with Agrippina organizing the murder of Junius Silanus (*A.* 13.1.1); this of course parallels how Tacitus introduces the reign of Tiberius (1.6.1), and gives us some indication of what to expect, even if Nero had no knowledge of the murder (*ignaro Nerone*).⁵⁸⁷ Silanus was the great-grandson of Augustus, and therefore had a claim by descent (however much that counted for among the Romans) to the empire better than Nero's; Agrippina therefore wanted him out of the way (13.1.2). At the same time, Narcissus was driven to suicide (1.3). Tacitus says that there would have been more murders if not for the restraining influence of Seneca and Burrus (2.1), but this will be left for subsequent discussion.

Nero famously appears to be a good emperor at first. Early on he forbids the prosecution (presumably for *maiestas*) of a certain Carrinas Celer and Julius Denses (*A.* 13.10.2). We should

⁵⁸⁷ Agrippina's management of the ascension of Nero (12.68-69) also parallels that of the Augusta and Tiberius (1.5).

remember, however, that Tiberius also began by seeming to discourage *maiestas* delation.⁵⁸⁸ Indeed, *maiestas* charges were so unpopular that many emperors began by banning them, and most by at least frowning upon them, only to bring them back later or to find substitutes no less tyrannical.⁵⁸⁹ Indeed, successful *maiestas* prosecutions will come later with the case of Antistius at *A.14.48-49*,⁵⁹⁰ but since this is a major event in the career of Thrasea Paetus, we will delay discussion of it for now; suffice it to say that someone was found guilty of *maiestas* for the first time in Nero's reign, but that we will nonetheless encounter other political prosecutions on other charges before then.⁵⁹¹

There is, however, some reason to believe that Nero's good beginning was not entirely hypocritical. There is at least one passage, albeit not concerning a trial, where there is a debate, and where eloquence and humanity seem to win the day – at least at first. This is the senatorial debate on the status of freedmen at *A. 13.26-27*. In Rome, there was a strong expectation that slaves freed by their master would continue to act with loyalty and devotion to their then master, now patron. When it appeared that this was not the case, a number of senators argued that patrons should have a weapon capable of chastizing the ingratitude of such freedmen, namely the revocation of freedom (26.1). A brief note of ill omen intrudes even at the beginning of the debate, when, even though it was clear that a significant number approved, the consuls did not dare to allow a formal motion on the subject, because the mind of the emperor was unknown; instead, they simply recorded the general opinion of the Senate (*nec deerant qui censerent, sed consules, rationem incipere non ausi ignaro principe, perscripsere tamen consensum senatus*). It is clear, even now, that they know the real value of their debating. Nonetheless, they do debate, and a pair of speeches is given, the first supporting and the second

588 Koestermann (1967) 253 cites *A. 3.70.1, recipi Caesar inter reos vetuit*, but I cannot but feel that the cases of Faianius and Rubrius (1.73) would be a better example, as well as the whole tenor of Tiberius' early reign.

589 See Bauman (1974) 191-224. Bauman also notes (141-143) that charges for *maiestas* as such were rare in Nero's reign, but of course that did not prevent the destruction of enemies; the *lex Cornelia* forbidding defamation served just as well, and the Principate had so entrenched itself by this period that the emperor could simply order executions.

590 See Bradley (1973) 172-181.

591 On Nero's persecutions, see Keitel (2009) 127-143.

opposing the power to reenslave. The text, unfortunately, is corrupt and uncertain at the beginning of the first speech, but the supporters of the motion are describing in indirect discourse how bad the situation was before suggesting a remedy (26.2-3):

... quibusdam coalitam libertate inreverentiam eo prorupisse frementibus, ut vine an aequo cum patronis iure agerent consultarent ac verberibus manus ultro intenderent, impudenter vel poenam suam ipsi suadentes. Quid enim aliud laeso patrono concessum, quam ut centesimum ultra lapidem in oram Campaniae libertum releget? Ceteras actiones primiscas et pares esse: tribuendum aliquod telum, quod sperni nequeat. Nec grave manu missis per idem obsequium retinendi libertatem, per quod adsecuti sint: at criminum manifestos merito ad servitatem retrahi, ut metu coerceantur, quos beneficia non mutavissent.⁵⁹²

The sense of their arguments is clear: many former slaves were proving so ungrateful to their former masters as to menace them with blows or even to strike them and dare their patrons to retaliate. As the law then stood, they say, patrons had no specific recourse against their ungracious freedmen except to relegate them to Campania; in all other legal actions and recourses, the patron and freedman would be treated as equals, on the same legal footing – and while this does not seem so bad to us, it must be admitted that it fails to address the fact that, to a Roman, the gross ingratitude of a freed slave to his patron merited a severer punishment than the action itself (just as most Western law codes today punish assault more heavily if the motivation of the attacker makes it a “hate crime”). They therefore suggest that patrons be granted the power to revoke grants of freedom, saying that it would be no hardship to

592 “... Some were shouting that the irreverence nourished by freedom had so far broken forth that freedmen were asking their patrons whether they should deal with one another with force or at law as equals, and that they further laid violent hands upon them, impudently even demanding their own punishment. For what else was left to a wounded patron except to relegate a freedman to the Campanian shore beyond the hundredth milestone? Other legal actions were undistinguished and equal: they should be granted some weapon which it was impossible to spurn. Nor would it be a hard thing for manumitted slaves to retain their freedom by the same obedience by which they had obtained it; but those obviously guilty of crimes would justifiably be dragged back into slavery, so that those whom benefits had not changed might be restrained by fear.”

good freedman, who would after all only have to maintain the same standard of behavior that had earned them their freedom in the first place.

The opponents then speak thus (27.1-2):

Paucorum culpam ipsis exitiosam esse debere, nihil universorum iuri derogandum; quippe late fustum id corpus. ... Et plurimis equitum, plerisque senatoribus non aliunde originem trahi: si separarentur libertini, manifestam fore penuriam ingenuorum. Non frustra maiores, cum dignitatem ordinum dividerent, libertatem in communi posuisse. Quin et manu mittendi duas species institutas, ut relinqueretur paenitentiae aut novo beneficio locus. Quos vindicta patronus non liberaverit, velut vinclo servitutis attineri. Dispiceret quisque merita tardeque concederet quod datum non adimeretur.⁵⁹³

These arguments are more interesting.⁵⁹⁴ The first is straightforward enough, that an ungrateful freedman should of course suffer his just punishment, but there was no reason to attack the rights of the whole order. The second argument, however, seems to go far beyond the point: the opponents point out that a great many Roman citizens, including a large number of the equestrians and even of the senators, were descended from freedmen, and that if all those who were descended from freedmen (so I take *libertini* here, for the statement makes no sense otherwise) were segregated from the others, it would immediately become clear how few Romans were purely freeborn-descended. It is at once clear that this has nothing whatsoever to do with the arguments of the supporters of the motion: the proposal to

593 "The fault of a few should be fatal to themselves; no diminution should be made to the rights of the whole class. But indeed, that body was widely distributed. ... And many of the equites, many senators bore no other origin [than that of freedmen]: if the freedmen should be separated from the rest, the paucity of freeborn would be evident. Not in vain had the ancestors, when they were dividing the dignity of the orders, placed freedom in common. But they had also instituted two forms of manumission, so that there would be a place left for regret or a further benefit. Those whom the patron did not liberate with the staff remained held, as it were, by the chain of servitude. Each should therefore look closely at the merits [of each case] and be slow to concede that which, when given, could not be taken away."

594 We may note in passing that Koestermann (1967) 285 suggests that it was the influence of Seneca that secured the victory of the side advocating the milder and more humane position. Much as I admire both Koestermann and Seneca, I do not see how this position is tenable; there is no indication at all of this in Tacitus.

allow revocation of freedom had no bearing on the status of those whose freedom was *not* revoked, let alone on that of their remote descendents, and nothing else that the supporters said in the extant portion of the text or could reasonably be conjectured to have said in the lacuna can possibly be construed as indicating a wish to disenfranchise everyone descended from freedmen or to mark them as second-class citizens. This contention of the opponents is certainly true, but utterly irrelevant to the question at issue. Likewise, their next argument, that there were two kinds of manumission, one of which could be retracted (which would make the proposal irrelevant), is not entirely accurate. There were indeed two types in this period, one involving touching with the *vindicta* (a staff) by a curule magistrate, the other more private (*inter amicos* or *per epistulam*).⁵⁹⁵ The first automatically made the manumitted a full citizen; the second only granted (in addition to freedom) partial citizenship rights – but, contrary to the implication given by the opponents' speech, there is no indication that these could be revoked. The opponents' speech, in short, contains a large measure of distortion and irrelevance.

Nonetheless, it must have been an effective speech, for it was this position that won the support of the Senate, even though a large portion had formerly been on the other side (*A.* 13.27.3). Yet we have reason to doubt that this was due to the eloquence of the speech: the consuls, we remember, had not allowed a formal motion to be made on the subject, on the grounds that the emperor's mind was unknown; and now we learn the emperor's mind. Nero wrote to the Senate, commanding that each freedman's case be dealt with individually and no general change be made. It is no coincidence that this is the exact position advocated by the second speech. Lest we imagine that this is because the emperor was persuaded by their oratory, however, Tacitus adds one final fact to this episode, perhaps the key to understanding the whole debate: Nero soon afterwards disgraced himself by “stealing” Paris, a freedman, from his great-aunt, in that he secured a judgement that Paris was in fact freeborn – meaning

⁵⁹⁵ See Koestermann (1967) 286-287 and the *lex Iunia Norbana*. A censor, in the course of a census, could also raise a slave to full free status equivalent to being touched with the *vindicta*, but this method was obsolete.

that he did not owe anyone the obedience or gratitude that was the main issue of this debate (27.3). This Paris was one of Nero's favorites (cf. 13.19.4), and when we remember that Nero was notorious in the favor he showed to freedmen (cf. 14.39), the last piece of the puzzle falls into place. Tacitus does not want us to see this as the record of a debate between senators wherein the eloquence of one side won the day and was confirmed by the emperor. Rather, when some of the senators moved to attack the position of freedmen, it was ultimately Nero who, according to the trope of Roman historiography that tyrants and freedmen go together,⁵⁹⁶ defended the position of his favored class. This also explains why so much of the argumentation of the opponents of the motion was utterly irrelevant: when we review it, we see that, whenever their arguments were beside the point or inaccurate, they erred in favor of freedmen. Tacitus therefore uses the form of the debate, as well as the appended episode regarding Paris, to *imply*, without ever actually *saying*, that the secret influence of the emperor lay behind the sense of the Senate, and that those who spoke against the motion were, at least to some degree, parroting points that they thought would be pleasing to their emperor. This whole series of events, therefore, does not (as it seems at first glance) represent the triumph of oratory in championing the cause of justice: it is another example of the perversion of eloquence under the Principate.

Some time later, Tacitus relates that a certain year *plures reos habuit* (A. 13.33.1). He first names Publius Celerius (33.1). This Celerius was the same who had done Agrippina the favor of killing Silanus at 13.1.2, and when he was accused of extortion by the people of Asia, Nero, unable to acquit him (presumably because he was obviously guilty), but still desiring to shield one who had so helped him, simply kept putting off Celerius' trial until he eventually died of old age (33.1: *Celerio interfecto, ut memoravi, Silano pro consule magnitudine sceleris cetera flagitia obtegebat*: "Celerius, having, as I have related, killed Silanus the proconsul, covered over his other crimes by the magnitude of this

⁵⁹⁶ Dunkle (1971) 12-20 argues that it is not Tiberius but Nero who represents the standard and stereotypical tyrant. Regarding freedmen, one could recall any one of Pliny's numerous statements about the freedmen of Domitian; see also Griffin (1999) 139-158. On the immoral and unnatural nature of many of Nero's actions, see Woodman (2012) 315-337.

wickedness”).⁵⁹⁷ This shows Nero's true character and where he really stood with regard to the *delatores*. The condemnation of Cossutianus Capito for extortion, listed next, is not relevant to our inquiry, even though Thrasea Paetus was one of his prosecutors (13.33.2; cf. 16.21.3). The case of Eprius Marcellus, however, the arch-*delator* of the *Histories*, is worth quoting (13.33.3):

Pro Eprio Marcello, a quo Lyciis res repetebant, eo usque ambitus praevaluit, ut quidam accusatorum eius exilio multarentur, tamquam insonti periculum fecissent.⁵⁹⁸

We see, even in the “good” beginning of Nero's reign, how little things have changed for the *delatores* since the time of Tiberius: their influence – whether *ambitus* refers to bribery or to favor – was still such that they could generally escape just retribution.⁵⁹⁹

At *A.* 13.52, there are two prosecutions by provincials, both of which failed. About the first, that of Sulpicius Camerinus, we can say very little, because Tacitus says very little (52.1). It is worth noting, however, that Tacitus says simply *absolvit Caesar*, when in fact he was acquitted in a trial before the Senate: attributing the action directly to the emperor, while technically inaccurate, was a revealing and a common way of stating who really bore the responsibility.⁶⁰⁰ The second case, that of Pompeius Silvanus, says more about the state of imperial society, all the more so because the fault – and it is certainly a fault that he is acquitted, for Tacitus clearly regards him as a guilty wretch – does not primarily lie with the emperor (52.2). Silvanus was beset by a multitude of accusers, who asked only for time to summon witnesses from the province; Silvanus, however, insisted on being tried at once, even in the absence of those witnesses, which would obviously damage the prosecution's case.

⁵⁹⁷ At 13.1.1 Tacitus actually says that the killing was done without the knowledge of Nero. Either Nero has since learned of Celer's role in the murder and approved of it, or the influence of Agrippina is at work, or Tacitus is assigning Nero whatever motives he wishes.

⁵⁹⁸ “When Eprius Marcellus was accused of extortion by the Lycians, corruption was so powerful in his favor that some of his accusers were punished with exile for having endangered an innocent man.”

⁵⁹⁹ Likewise, at *A.* 14.28.2 the other arch-*delator* of the *Histories*, Vibius Crispus, will use his influence to protect his brother from the full measure of his deserts.

⁶⁰⁰ See Koestermann (1967) 337. Cf. Bauman (1974) 114, Brunt (1984) 423-444.

He was successful in this request, Tacitus says, because he was rich, old, and childless – meaning that he had enormous influence among the easily corruptible and the fortune-hunters who hoped for a legacy in his will. It is not surprising that no speeches are mentioned on either side; more interesting is that Tacitus here shows us exactly why the speeches did not matter: not because of any personal fault of the emperor, but because of the nature of contemporary Roman society and the decline in morals.

It is necessary to discuss one of the great senatorial speeches of *Annals* 14: that regarding the execution of the slaves of Pedanius Secundus (14.42-45).⁶⁰¹ This Secundus, the urban prefect, was murdered by one of his own slaves, and so, according to an ancient Roman custom, it was necessary for his entire household of approximately 400 souls to be executed in reprisal (42.2, 43.3). The proposal to put *all* of his slaves to death, however, proved highly unpopular, and so the Senate considered the matter. Gaius Cassius gave a speech, and indeed a powerful speech, urging the execution. Many disagreed, but none dared to speak against him, and Nero had all 400 of Secundus' slaves killed. Now this is a complex and difficult passage, and I cannot pretend either to fully understand it or to be able to say all that can be said about it. Some important points, however, are worth noting. Although we must be careful not to read our own modern feelings about slavery into Tacitus, there are nonetheless deep problems with the text that prevent us from interpreting this as a simple case of the triumph of Cassius' eloquence. The situation, I will argue, is much closer to the others we have already examined, and the speech of Gaius Cassius, far from providing an example of flourishing oratory, will underscore its corruption.

Cassius begins his speech, a set piece in *oratio recta* from beginning to end (somewhat of a rarity in the *Annals*, which calls our attention to its importance), thus (*A.* 14.43.1):

Saepe numero, patres conscripti, in hoc ordine interfui, cum contra instituta et

⁶⁰¹ On this speech, see Syme (1958) 479-533 and 761, Koestermann (1967) 105-113, Epstein (1992) 868-871, Ginsburg (1993) 86-103, Rudich (1993) 50-53.

leges maiorum nova senatus decreta postularentur; neque sum adversatus, non quia dubitarem, super omnibus negotiis melius atque rectius olim provisum et quae converterentur in deterius mutari, sed ne nimio amore antiqui moris studium meum extollere viderer.⁶⁰²

Even from the beginning it is clear that Cassius is a speaker of the first order. The carefully balanced periods, the gradual and smooth unfolding of meaning, the antithesis of his reasoning (*non quia ... sed ne*), the appendix after the main verb *sum adversatus*, the fact that the entire appendix describing his motivation is a single gigantic chiasmus (the subjunctives *dubitarem* and *viderer* occur at the beginning and end of their periods, respectively), even the echo of the Ciceronian quirk of ending a sentence with an infinitive and a passive subjunctive of *video* (and the fact that the colometry of *ex|tōllērē vīdērē* matches that of Cicero's favorite clausula ending, *ēssē vīdēātūr*), all emphasize Cassius' skill. His reasons for not having spoken in the past – that, even though he personally held that the old ways were always better, he did not want to seem to show off or to appear reactionary – likewise have an appealing modesty and moderation. Nonetheless, a closer look at his argumentation reveals problems. It has long been recognized that *saepe numero*, used only here in Tacitus, activates an allusion to Cato's speech in Sallust's *Bellum Catilinae*.⁶⁰³ This allusion creates an intertextual response: Cassius, giving a speech demanding the execution of the slaves, must be read against Cato giving a speech demanding the execution of the conspirators. If we do this, Cassius comes across far less favorably – not entirely by his own fault, for his situation, living in the Principate, is less conducive. Cato, for instance, had often (and famously) taken part in the senatorial debates: Cassius had simply been present and, by his own admission, had never yet bothered speaking up even when radically new and sometimes illegal

602 “Many times, conscript fathers, I have been present in this assembly, when new senatorial decrees were demanded that were contrary to the institutes and laws of our ancestors; nor have I opposed them, not because I doubted that every manner of business had already been considered better and more rightly and that whatever was altered was a change for the worse, but lest I seem, by an excessive love of the ancient way, to be extolling my own study.”

603 Koestermann (1967) 107. Cf. Sallust, *BC* 52.7.

things were being proposed (*contra instituta et leges maiorum*); likewise, whereas Cato demanded the death of conspirators at a real moment of danger for the state, there is no serious danger to be apprehended when Cassius speaks, and many of the slaves to be executed were undoubtedly innocent (cf. 42.2, *tot innoxios*).⁶⁰⁴ There is nothing wrong with alluding to the famously just Cato: but Cassius comes off far worse from the comparison.

Cassius continues (*A.* 14.43.3-4):

Decernite hercule impunitatem: at quem dignitas sua defendet, cum praefecto urbis non profuerit? Quem numerus servorum tuebitur, cum Pedanium Secundum quadringenti non protexerint? Cui familia opem feret, quae ne in metu quidem pericula nostra advertit? An, ut quidam fingere non erubescunt, iniurias suas ultus est interfector, quia de paterna pecunia transegerat aut avitum mancipium detrahebatur? Pronuntiemus ultro dominum iure caesum videri.⁶⁰⁵

Cassius' oratorical skill is again clear in the series of increasingly indignant (and alliterative) rhetorical questions, capped by a deeply ironic proposal that, in fact, goes further than any of the questions, implying that it is their necessary and logical fulfillment. Any one of the senators assembled, Cassius implies, could easily suffer the same fate as Secundus. But is this true? Secundus was by no means in the same position as the rest of the senators. The reason for his killing was not simply that he was a master: he had evidently either promised his killer freedom in exchange for some favor, then refused, or been involved in a homosexual love triangle with him, or possibly both (42.1). Syme rightly says that Tacitus introduces the case in a way that is “highly discreditable to the victim.”⁶⁰⁶ Cassius as much

604 Epstein (1992) 869.

605 “Vote, by Hercules, for impunity: but then who will be defended by his dignity, when it was of no advantage to the prefect of the city? Who will be protected by the number of his slaves, when four hundred did not protect Pedanium Secundus? To whom will his household bring aid, when they do not notice our dangers even in fear [of the law that they must all die if their master is killed by one of his slaves]? Or, as some are not ashamed to imagine, did the killer avenge his injuries, because of an agreement about his father's legacy or because his inherited slave had been taken from it? Let us even proclaim that the master appears to have been slain justly!”

606 Syme (1958) 479.

as admits that there were many who agreed (*an, ut quidam fingere non erubescunt, iniurias suas ultus est interfector*), but then trivializes their claim as if the killer's motive had been about some business contract or property when, of course, slaves had no legal rights to either.⁶⁰⁷ There is a more significant problem, however, to which Tacitus draws our attention by means of an almost verbatim allusion. Cassius says *pronuntiemus ... iure caesum videri*. This is an allusion to Seneca, *Naturales Quaestiones* 1.16.1, *tantum non pronuntiavit iure caesum videri*.⁶⁰⁸ Seneca's context makes the allusion certain: *N.Q.* 1.16.1-9 covers, in some detail,⁶⁰⁹ the various sexual depravities and vices of Hostius Quadra; this Quadra, like Secundus, was killed by one of his slaves, and for similar reasons. The emperor at the time, however, was Augustus, and the precedent that he established is interesting: the rule that the entire household be killed still existed, but Augustus judged that Quadra was not worthy of being avenged, and all but declared⁶¹⁰ that he had been killed justly (*N.Q.* 1.16.1: *divus Augustus indignum vindicata iudicavit ... et tantum non pronuntiavit iure caesum videri*).⁶¹¹ Tacitus therefore makes Cassius allude to a case that undermines his own argument, when the divine Augustus – whose precedents were always at least respected, and could perhaps count as being among the *instituta et leges maiorum* that Cassius claims to admire – had followed exactly the opposite course. The dangers predicted by Cassius if they allowed *any* of Secundus' slaves to be spared had not materialized when Augustus forbade the punishment even of the actual murderer.

Cassius goes on to argue, with some reason, that it was impossible, in a large slave

607 Koestermann (1967) 109.

608 The phrase *iure caesus [esse]*, in several variations, is a legal formula and appears 19 times in Latin, mostly in Livy or Cicero. With *videri*, however, it is much more rare, and *iure caesum videri* appears in conjunction with the verb *pronuntio* in no other place in all Latin literature than in these two passages of Tacitus and Seneca.

609 See, e.g., 16.7: '*Simul*' inquit '*et virum et feminam patior; nihilominus illa quae supervacua mihi parte alicuius contumelia marem exerceo; omnia membra stupris occupata sunt: oculi quoque in partem libidinis veniant et testes eius exactoresque sint; etiam ea, quae a conspectu corporis nostri positio est, arte [i.e. by means of a mirror] visantur; ne quis me putet nescire quid faciam.*'

610 For the idiom *tantum non*, see *OLD tantum* B.11.

611 It is possible, but of course conjectural, that the connection between Quadra and Secundus may not be Tacitus' invention but could go back to Seneca himself (perhaps in one of his lost works), since he not only recorded the case of Quadra but was a contemporary of Secundus and lived through the uproar following his murder; he was, moreover, a senator at the time, still stood high in Nero's favor, and had not yet retired from politics (*A.* 14.52-56). Cf. Rudich (1993) 53-54.

establishment such as that of Secundus, for the killer to have perpetrated the deed without the others knowing – therefore implying that they were actually accomplices, not innocent – and adding some commonplaces about the dangers of slaves (*A.* 14.44.1-3).⁶¹² He sums up his argument by imagining the reply of opponents, and concludes his speech with a *sententia* (44.3-4):

At quidam insontes peribunt. Nam et ex fuso exercitu cum decimus quisque fusti feritur, etiam strenui sortiuntur. Habet aliquid ex iniquo omne magnum exemplum, quod contra singulos utilitate publica rependitur.⁶¹³

This seems to contradict what Cassius had just said: he had implied that the slaves were accomplices, but here admits that many of them must have been innocent. Necessarily so: for Tacitus makes it abundantly clear that the majority of the household, including the women and children, were surely innocent (see *tot innoxios* at 42.2 and *indubiam innocentiam* at 45.1). There is perhaps another unfavorable comparison with Sallust's Cato here, in that Cato only proposes the execution of those who were *certainly* guilty, of those who had either confessed or had been caught in the act.⁶¹⁴ Nonetheless, Cassius justifies their execution by appealing to the practice of decimation, by which brave soldiers as well as cowards might perish. One wonders how convincing this appeal to decimation, by then a half-obsolete practice, would have been: Galba once decimated a legion, but Suetonius mentions this as an example of his well known *saevitia* (*Galba* 12.1-2), and even Tacitus could refer to Galba's *nimia severitas* as being out of place in the present age (*H.* 1.18.3).⁶¹⁵ It is surely strange that Cassius ends his speech by admitting that his position is fundamentally unjust, and he does not entirely justify its injustice by comparing his proposal to the random execution of every tenth man in a legion.

⁶¹² *Quot servi, tot hostes* was a proverb: see Seneca, *Ep.* 47.5.

⁶¹³ “But, it is said, some innocent will perish. Aye, but when in a routed army each tenth man is stricken with the cudgel, the brave, too, are selected by the lot. Something of injustice exists in every great *exemplum*, when the public good is weighed against a few individuals.”

⁶¹⁴ *Bellum Catilinae* 52.36, *de confessis sicuti de manifestis rerum capitalium*. Epstein (1992) 869, surprisingly, makes no mention of this critical difference.

⁶¹⁵ See also Ash (2006) 355-375. Cf. Ginsburg (1993) 99. But Tacitus appears to approve of Corbulo's harshness at *A.* 11.18.2-3; the legionaries there, however, are certainly guilty of falling into bad habits and practices (*legiones operum et laboris ignavas, populationibus laetantes*), and so the comparison does not justify severity towards the innocent.

One more fact is worthy of mention, and again it provides a strong negative contrast with Cato. Cato's speech was part of a proper debate, and his proposal carried the day with overwhelming support from the Senate (*B.C. 53.1: consulares omnes itemque senatus magna pars sententiam eius laudant, virtutem animi ad caelum ferunt*); we know, moreover, that this success was due entirely to his speech, because the Senate had previously supported the proposal of Caesar (52.1). The oratory of Cato, then, carries the day. This may be taken as a model of the way eloquence is supposed to work. Not only is Cassius the sole speaker, however, but his speech is very poorly received by the other senators: no one dared to speak against it, but it was met by a cacophany of dissonant voices (who pointed out, again, the undoubted fact that the large majority of the slaves were innocent: *A. 14.45.1*).⁶¹⁶ The differences are indicative. Cato and Caesar debated in a free Republic; Cassius by no means convinces his audience (even though the slaves will all be executed, it is clear that Cassius' speech persuaded no one), but rather, no other senator *dares* to venture a speech in opposition (45.1: *nemo unus contra ire ausus est*). It is not coincidental that only the brute force wielded by the emperor can bring his proposal to effect: Nero had to call in the army and line the streets with soldiers (45.2). Eloquence depends on freedom of speech, which goes with *libertas*, as we have seen; but the Principate has not been good to the freedom of speech or to the dignity of the Senate.⁶¹⁷ The social context of the time no longer allowed for a Cato to change minds with his voice, nor for other senators freely to respond to proposals that they abhorred. In all these ways, then, the speech of Gaius Cassius does not represent a flourishing of oratory, but is another example of the perversion of eloquence under the Empire.

Soon afterwards, we read that Fabricius Veiento was convicted of *maiestas* for writing libellous *codicilli* (*A. 14.50.1*). Nero himself took up the case and banished Veiento and ordered his books to be burnt (50.2). We hear nothing of a trial. This is the case that calls forth Tacitus' famous claim that

616 See Epstein (1992) 869-870 and Ginsburg (1993) 96-102.

617 Cf. Ginsburg (1993) 102.

Veiento's books were sought after and read while they were banned, but forgotten as soon as the ban was lifted (50.2).

After Seneca had fallen out of favor – about which we will say more in its due place – there was a persecution of his friends and allies, just as there had been against those of Germanicus or Sejanus under Tiberius. Faenius Rufus was thus destroyed, the friendship of Agrippina, too, being alleged against him (*A.* 14.57.1).

Tigellinus then began, by his *malae artes*, to occupy the place that had been Seneca's (*A.* 14.57.1). But the use to which he puts his influence is much worse: Seneca was not (as we will see) always the best of advisors, but Tigellinus immediately proves the worst of flatterers. He is responsible for the destruction of Plautus and Sulla – but his method of proceeding against them is remarkable. Tigellinus, calculating that he would rise the higher in favor the more he associated with Nero in a *societas scelerum*, set out to learn Nero's worst impulses and to search out and exploit his fears (*metus eius rimatur*); and, having learned that Nero feared Plautus and Sulla (*compertoque Plautum et Sullam maxime timeri*), he embarks upon a speech warning the emperor of the dangers posed by that pair (57.1-3). This, incidentally, is the standard procedure of the stereotypical flatterer: to learn a tyrant's impulses (in this case, fear), and then to speak in encouragement of exactly that fear, and perhaps in chastisement of the opposite fault (in this case, complaining that they are careless of their own safety).⁶¹⁸ Tigellinus carefully lays out that he, and he alone, truly cared for the safety of Nero, and that this is why he brings the emperor such news of his danger; he takes pains to exaggerate the dangers posed by Plautus and Sulla, and therefore urges the emperor to act decisively and with haste to protect himself before it is too late (57.2). Plautus, he argues, was a republican and therefore automatically disloyal, and Sulla was a Stoic – surely thereby reminding Nero of the now hated Seneca (57.3). The result was what it must be, and Plautus and Sulla were both killed on Nero's orders. But it was

618 See, for instance, Plutarch's essay *Quomodo adulator ab amico internoscatur*.

Tigellinus who brought about their death when he played the flatterer. His speech to the emperor is therefore another in the series we have seen, when a flatterer or favorite addresses the emperor (Claudius or Nero) directly – not, however, seeking to give them good counsel, but playing upon their preexisting fears and so manipulating them into perpetrating some *scelus*. This is therefore another example of the corruption of oratory.

Similar are the events surrounding the dismissal and murder of Octavia (*A.* 14.60-64). Nero, by the machinations of his mother Agrippina (by now dead), had long ago married Octavia, the daughter of Claudius and Messalina, but was not pleased by her and preferred the charms of Poppaea Sabina. Had Nero left Poppaea as his paramour, there may have been some grumbling but no real resistance; but Poppaea was ambitious and wanted more, and Nero was always ready to reward his favorites, however unpopular. The emperor, therefore, taking heart at the servility of the Senate (*accepto patrum consulto, postquam cuncta scelerum suorum pro egregiis accipi videt*) – and it is remarkable that Tacitus introduces this affair by throwing responsibility in some way on the weakness of an enabling Senate – divorced Octavia and married Poppaea (14.60.1). We need not examine the entire fracas in detail, how Poppaea attempted to suborn false charges against Octavia (60.2-3) or how the popular discontent in Rome induced Nero to restore Octavia (60.5) or how the mobs then tore down Poppaea's statues and crowned those of Octavia with garlands (61.1). It is worth examining Poppaea's response, however, and the means by which she saves herself from the fury and induces Nero to do away with Octavia permanently. For Poppaea delivers a speech to Nero, which we may count as another example of the corrupting speeches by flatterers and favorites. The core of her argument runs thus (61.2-3):

Non eo loci res suas agi, ut de matrimonia certet, quamquam id sibi vita potius, sed vitam ipsam in extremum adductam a clientelis et servitiis Octaviae, quae plebis sibi nomen indiderint, ea in pace ausi, quae vix bello evenirent. Arma illa adversus principem sumpta; ducem tantum defuisse, qui motis rebus facile

reperiretur: omitteret modo Campaniam et in urbem ipsa pergeret, ad cuius
nutum absentis tumultus cicerentur.⁶¹⁹

Poppaea, exaggerating her own danger and claiming that she was no longer concerned with marrying Nero, but simply with escaping alive, claims that the tumult was in fact a sedition, and a sedition that showed clearly how much power Octavia wielded, if she could raise Rome from Campania. Poppaea's is a technique known to the flatterers of every age and dear to a tyranny's inclinations, that of naming all those who disputed the ruler's wishes dissidents, thereby practically obligating him to eliminate, as dangerous enemies of the state, those whom he dislikes or who stand in the way of his pleasure. And she therefore succeeds. As Tacitus says of Poppaea's speech, *varius sermo et ad metum atque iram accommodatus terruit simul audientem et accendit* (62.1: "The mixed speech, accommodated both to his fear and his anger, simultaneously terrified and inflamed him as he heard it"). Poppaea does not truly persuade Nero: she accommodates herself and her argument to the fear and the hatred that she already senses in him, plays upon his worst emotions, and in the end prevails upon him only to go still further on the path that he was already inclined to take. Octavia was killed (64.1-2). So much can eloquence still effect in the Principate.

Meanwhile the tyranny of Nero grows. Soon the case of Torquatus Silanus reminds us irresistibly of the persecutions under Tiberius. This Silanus was a descendant of the Junii and of Augustus, and therefore regarded with a jealous eye by the emperor (*A.* 15.35.1); the *delatores* were positively commanded (*iussi accusatores*) to charge him with sedition and (presumably) *maiestas*, on the grounds that his largesse and benefactions were such that he must have been trying to gain support for a revolution (35.2). When it became clear that he was to be convicted, he opened his veins (35.3:

619 "She was not then pleading her own case, that she might strive for marriage – even though that was dearer to her than life – but rather for her very life, which had been brought into extreme danger by the clients and slaves of Octavia, those who gave themselves the name of the *plebs* and had dared to do in peace what seldom happens in war. Those weapons had been taken up against the emperor; only a leader was lacking, but that could easily be found in such confusion: let her only leave Campania and herself come to Rome, at whose nod, though she was absent, tumults were raised."

cum damnatio instaret, bacchiorum venas Torquatus interscidit). Here Nero echoes Tiberius (35.3): *secutaque Neronis oratio ex more, quamvis sontem et defensionem merito diffisum victurum tamen fuisse, si clementiam iudicis expectasset* (“There followed a speech by Nero, as was the custom, in which he said that, although Silanus had been guilty and had justly distrusted a defense, nonetheless he would have won acquittal, if he had awaited the clemency of the judge”).⁶²⁰ And yet Tacitus is clear that it was by Nero's machinations that Silanus was endangered to begin with. He was right not to trust in a defense speech for his salvation, albeit not for the reason that Nero implies.

Something must be said of the Pisonian conspiracy (*A.* 15.49-74), but little. For there was, indeed, a conspiracy against Nero, and many of those who were executed for complicity were undoubtedly guilty. Their prosecution and death therefore says little about Nero or the role of oratory during his reign (even though few were allowed any real opportunity to defend themselves, and they could not have saved themselves thereby anyway). It is remarkable, however, that when those accused of being part of the conspiracy came before Nero and Tigellinus (of which Tacitus generously and somewhat ironically says *dicendam ad causam*, “to plead their cases”: 15.58.3), not only their actual involvement but even their chance conversations, their accidental meetings, the fact that they had visited parties or *spectacula* with other alleged conspirators, were taken as criminal (*pro crimine accipi*). It is doubtful that Nero and Tigellinus took much care in limiting their search to those actually guilty. For one thing, the emperor took this as an opportunity to rid himself of Seneca, who was probably innocent; but it is inherently unlikely that *all* those who were tangentially or by chance connected in some way to a real conspirator were also conspirators.⁶²¹ Rather, Nero used the conspiracy as a chance to eliminate large numbers of those whom he simply disliked, in much the same way that Tiberius had persecuted the friends of Sejanus. This is confirmed when Tacitus tells us that Nero waited

620 Cf. *A.* 2.31.3-32.1.

621 McAlindon (1956) 113-132, however, argues generally that opposition may have run in families, and therefore that many of the prosecutions that seem unjustified did in fact involve real sedition.

in eager expectation for the consul Vestinus to be named as part of the conspiracy, because he hated Vestinus for some petty personal reasons; when, however, no information was forthcoming (for Tacitus says explicitly that Vestinus knew nothing about the conspiracy and that there was no one who even accused him of complicity), the emperor nonetheless simply dispatched soldiers to ensure his death (68.2-69.3) – an episode that says as much as a longer disquisition could about Nero's methods. The same happened to many more men named by Tacitus, who were innocent but whom the emperor hated: Novius Priscus (killed for having been a friend of Seneca's), Rufrius Crispinus, Verginius Flavus, the famous philosopher Musonius Rufus, Cluvidienus Quietus, Julius Agrippa, Blitius Catulinus, Petronius Priscus, Julius Altinus, Caesonius Maximus, and still others (71.3-5).⁶²² The immense panic in the aftermath of the Pisonian conspiracy, and the dissimulation that it forced upon those who feared to mourn, again recall the reign of Tiberius (15.71.1; cf. 6.19.2-3):

Sed compleri interim urbs funeribus, Capitolium victimis; alius filio, fratre alius
aut propinquo aut amico interfectis, agere grates deis, ornare lauru domum,
genua ipsius advolvi et dextram osculis fatigare.⁶²³

So ended the Pisonian conspiracy. Some *delatores* continued to level accusations (to the horror of the Senate), but did not necessarily meet with success (e.g. 73.3). The Senate voted that sacrifices be made to the gods in thanks (74.1), justifying Tacitus' earlier assertion that, as often as the *princeps* ordered exiles or executions, so often did the Senate offer thanks to the gods (14.64.3).

Nero seems to have grown more paranoid, or less restrained, after the Pisonian conspiracy; *Annals* 16 as extant is little more than a list of prosecutions and punishments.⁶²⁴ By now, the pattern

⁶²² Also named are Gavius Silvanus, Staius Proximus, Cornelius Martialis, Flavius Nepos, Staius Domitius, Glitius Gallus, and Annius Pollio, and a Pompeius; the list, in fact, grew so long that a lacuna intrudes (71.2-3). All these are either said or implied by Tacitus, whether truly or falsely, to have had no part in the conspiracy. Several, according to Tacitus, did not necessarily hate the emperor, but were thought worthy of hating him.

⁶²³ “But Rome meanwhile was filled with funerals, and the Capitol with sacrifices; men thanked the gods, some for the death of a son, others for that of a brother or neighbor or friend, and they decorated their houses with laurel and embraced Nero's knees and exhausted his hand with kisses.”

⁶²⁴ See Haynes (2010) 69-100.

should be clear and expected: there is little to nothing in the way of defense speeches, and no one is acquitted against the emperor's will; rather, either Nero denounces those whom he hates for personal reasons and accuses them of treason, or *delatores* friendly to his regime do so on his behalf; in both cases, the accused, with or without the Senate's connivance, are destroyed. It will not be necessary, therefore, to examine all of these cases in great detail, but it will suffice to give a brief overview of the important points.

The destruction of Gaius Cassius was presaged when Nero barred him from attending the funeral of Poppaea, a *renuntiatio amicitiae* that marked him as an enemy (*A.* 16.7.1); Nero himself then denounced Cassius as a subversive, adding the name of Torquatus Silanus, the nephew of the identically named defendant from 15.35.1 (16.7.2-8.1); both were exiled by order of the Senate, and a centurion was eventually sent to kill Cassius (9.1-2). A certain Lepida, Cassius' wife and Silanus' aunt, was included in the charges, but the Senate left the decision of her fate to the emperor (8.2, 9.1).

Lucius Vetus, along with his mother-in-law Sextia and his daughter Pollutia – all related to the Rubellius Plautus executed on Nero's orders, for which Nero also detested them – then perished when one of Vetus' freedmen embezzled his patron's property and, to secure his gain, turned accuser (*A.* 16.10.1-2). Pollutia tried to plead with the emperor in person, but Nero proved immovable (10.4) – a damning contrast to how easily Tigellinus and Poppaea could persuade him to kill. All three committed suicide rather than wait for their inevitable conviction (11.1-2); nonetheless the Senate condemned them posthumously and even voted for execution, but Nero had the affrontery to veto this proposal (11.3: *ea caedibus peractis ludibria adiciebantur*). Soon afterwards, the equestrian Publius Gallus was interdicted from fire and water for having been friends with Vetus and with Faenius Rufus, another of Nero's victims (12.1; cf. 14.57.1).

Antistius Sosianus, himself exiled for *maiestas* and hoping, perhaps, to gain Nero's pardon by condemning others, laid information against Anteius, whom Nero disliked for having been loyal to

Agrippina, and Ostorius Scapula, apparently a friend of Anteius and a successful general whom Nero accordingly envied and feared (*A.* 16.14.1-2, 15.1). To be accused was to be condemned, and Anteius and Ostorius was considered as convicts rather than defendants (14.3: *inter damnatos magis quam inter reos Anteius Ostoriusque habebantur*). Both committed suicide (14.3, 15.2).

Soon afterwards, whether because they were connected to others among Nero's victims or because the emperor lusted after their wealth, or because they were the enemies of Tigellinus, Annaeus Mela (a relative of Seneca and Lucan), Cerialis Anicius, Rufrius Crispinus, and Petronius fell, most of them by suicide as soon as they learned that they were doomed (*A.* 16.17.1-20.2).

We then read that Nero, having killed so many illustrious men, decided to uproot virtue itself (*virtutem ipsam*) and to attack Thrasea Paetus and Barea Soranus (*A.* 16.21.1). To these two, then, we now turn.

Most of the imperial oratory that we have seen has been either ineffective or perverse. There is, however, one major counter-example to this: Thrasea Paetus. Thrasea was one of the so-called Stoic martyrs and an outspoken champion of the freedom of the Senate, much like his son-in-law Helvidius Priscus, whom we met in the *Histories*.⁶²⁵ Thus when Thrasea's eloquence succeeds, unlike that of almost every other character in the *Annals* (except for the emperor's flatterers), we can reasonably conclude that this is because he represents *libertas*, and that he therefore (like the Batavian chieftain Civilis in the *Histories*) exemplifies the traditional connection between *libertas* and oratory. As Tacitus famously comments after one of his speeches, *libertas Thraseae servitium aliorum rupit* (*A.* 14.49.1:

⁶²⁵ See Rogers (1952) 279-311, Jens (1956) 331-352, Heinz (1957) 70-75, MacMullen (1966) 15-21, Brunt (1975) 7-35, Martin (1981) 177-187, Raaflaub (1987) 1-45, Vielberg (1987) 163-177, Heldmann (1991) 207-231, Devillers (2002) 296-311, Sailor (2008) 11-21, Turpin (2008) 359-404, Liebeschuetz (2012) 73-94. It is sometimes said that Thrasea is presented negatively, because he sought glory; Heldmann (1991) 207-231 points out that only a post-Christian mentality could understand this as being *necessarily* a criticism. As we shall see, Tacitus is far from presenting Thrasea's behavior in a negative light, but even goes out of the way to counter possible criticisms. Other scholars have argued that Thrasea is in fact presented over-positively, because Tacitus may have been a very near relative: see Birley (2000) 230-234.

“the freedom of Thrasea broke the slavishness of the other senators”). And this, as we shall see, is mostly true. But it is only part of the story. Thrasea straddles the ideological boundary between Republic and Principate: he embodies republican liberty enough for it (sometimes) to empower his speeches, and yet it also makes him an anachronistic and an increasingly irrelevant figure. Further, and paradoxically, even though Thrasea represents traditional *libertas*, his oratory is most successful when he adapts it to the conditions of the Principate:⁶²⁶ the more disconnected he becomes from contemporary society, the more like the heroes of the Republic, the less he can actually accomplish with his speeches. This paradox, this tension between the admirable anachronism of *libertas* and the brutally efficient reality of the Empire, lies at the heart of Tacitus' presentation of Thrasea Paetus.

The first time we encounter Thrasea, he in fact loses a senatorial vote – but Tacitus tells us nothing about his speech itself, and mentions the episode only because its aftermath offers a suitable introduction for Thrasea. The Senate passed a motion allowing the city of Syracuse to exceed the normally allowed number of gladiatorial shows; Tacitus says that he would not have bothered relating such a trivial (*vulgarissimum*) decree, except that Thrasea had spoken against the proposal (*A.* 13.49.1). The largest section of this chapter, in fact, is a speech by those *criticizing* Thrasea for involving himself in such unimportant matters, rhetorically asking *cur enim, si rem publicam egere libertate senatoria crederet, tam levia consecraretur* (49.2-3: “For why, if he believed that the Republic needed the liberty of the Senate, was he pursuing such trivialities?”). Thrasea responds – but not to his critics; rather, when his friends in private asked him about his conduct, he says (49.4):

Non praesentium ignarum respondebat eius modi consulta corrigere, sed patrum
honoris dare, ut manifestum fieret magnarum rerum curam non dissimulatos,
qui animum etiam levissimis adverterent.⁶²⁷

⁶²⁶ Koestermann (1967) 332, introducing Thrasea for the first time, emphasizes that he was no blind doctrinaire but a balanced figure, even though he was the embodiment of *libertas* and *virtus ipsa*. Cf. *A.* 16.21.1, *H.* 2.91.3.

⁶²⁷ “He responded that it was not through ignorance of present conditions that he was correcting senatorial decrees of that type, but that he was giving it to the honor of the senators, that it would be clear that those who turn their attention even

Several things are clear from this first appearance of Thrasea. He evidently placed great importance on the Senate and public service, contrary to the later image of him as a retiring ideologue. Again contrary to the standard imagery, although he is outspoken, he is by no means as strident as believed: he does not make his reply publicly, but only in private among friends, because his reasons for speaking out – essentially a negative commentary on the times – were not suitable to be shouted from the rooftops.⁶²⁸ The initial picture that we get of Thrasea from this introduction is that of a dutiful public official, old-fashioned but by no means reactionary, unafraid to speak up but far from inclined to deliberately giving offense.

He is usually believed to act otherwise when we next encounter him. After the murder of Agrippina, when the rest of the senators were decreeing thanksgivings and annual celebrations and naming her birthday a *dies nefastus*, Thrasea walked out of the Senate (*A.* 14.12.1). Since this is a famous, perhaps a notorious episode, it is worth quoting Tacitus' full (and surprisingly short) account: *Thrasea Paetus silentio vel brevi adsensu priores adulationes transmittere solitus exiit tum senatu, ac sibi causam periculi fecit, ceteris libertatis initium non praebuit* (“Thrasea Paetus, accustomed to passing over former flatteries in silence or with brief assent, then left the Senate, and he endangered himself but did not grant the others a beginning of liberty”). This is sometimes considered critical of Thrasea, as though his walking out were an ostentation, an imprudent and also a useless example of his outspokenness.⁶²⁹ But this reading ignores both the larger context and, indeed, the entire first half of the sentence. Agrippina had just been murdered on her son's orders. The official story that she had been

to the lightest matters would not neglect the charge of great things.”

628 Koestermann (1967) 333-334.

629 See e.g. Henry and Walker (1963) 108. It is usually believed that the famous passage of the *Agricola* is meant to describe exactly this exact kind of conduct, and that Tacitus contrasts the noble conduct of Agricola with the useless ostentation of the martyrs: *Ag.* 42.4, *sciant, quibus moris est illicita mirari, posse etiam sub malis principibus magnos viros esse, obsequiumque ac modestiam, si industria ac vigor adsint, eo laudis excedere, quo plerique per abrupta sed in nullum rei publicae usum ambitiosa morte inclaruerunt* (my emphasis). But Tacitus also considers Agricola blessed in having died before being forced, as a senator, to acquiesce in the deaths of innocents like Helvidius (45.1-3); are we to imagine that, if Agricola had lived longer, Tacitus would have respected his father-in-law *more* for voting with the flattering majority? Cf. Rudich (1993) 38.

plotting treason was universally disbelieved; Seneca fell into disrepute simply for suggesting this justification in the speech he wrote for Nero (14.11.2-3). The Romans abhorred parricide above all other crimes; surely we are not supposed to believe that they looked more kindly on matricide? Amid the servility of a Senate offering thanks to the gods for this worst of sins, then, Thrasea quietly walks out. Does Tacitus intend us to think less of Thrasea because he was disgusted with the Senate? No reader can feel anything but disgust for the senators who proposed to make the murdered mother's birthday a *dies nefastus*. Are we to imagine, instead, that Tacitus thought that Thrasea *should have stayed*, should have said nothing in opposition, should perhaps have hidden his abhorrence and voted his approval? But someone who says the things that Thrasea says, and who could nonetheless take part in that session of the Senate, would be the basest of hypocrites.

We therefore cannot wish that Thrasea had not walked out. Nor can his doing so be regarded as a case of ostentation: as far as we know, Thrasea says nothing and does nothing to draw attention to himself; he simply quietly slips away. The idea that he sought an ostentatious or an ambitious death, moreover, is contradicted by the first half of Tacitus' statement: *Thrasea Paetus silentio vel brevi adsensu priores adulationes transmittere solitus*. Far from speaking up in opposition to every piece of flattery or stridently shouting his disapprobation, he had been accustomed, Tacitus says, to pass over previous adulatory decrees either in silence or with brief assent. Being asked to praise matricide, however, went too far. This is not the action of an uncompromising ideologue.

How, then, are we to take *sibi causam periculi fecit, ceteris libertatis initium non praebuit*, if not as a criticism? Certainly it is a criticism – but not of Thrasea. Beyond any doubt, of the two actors in this episode (Thrasea and the rest of the Senate), there is far more to be disgusted at in the actions of the Senate. It is therefore not unreasonable to assume that this attitude of disgust carries through the entire passage, and includes *ceteris libertatis initium non praebuit*. The reader would otherwise feel a jarring contradiction in being asked simultaneously to disapprove of the Senate and to disapprove of

Thrasea disapproving of the Senate. Probably, therefore, this is not a criticism of Thrasea for failing to provide the other senators with *libertas*, but of the other senators for not acting with *libertas* according to his *exemplum*.⁶³⁰ The target of Tacitus' ire is the slavishness of the Senate, and the Principate itself that had created such conditions. The fact that Thrasea endangered himself by refusing to applaud matricide says more about the times than about Thrasea.

The next passage relating to Thrasea is perhaps the most important. This is the trial of Antistius Sosianus,⁶³¹ Thrasea's most splendid success, and the one that most clearly shows how he could succeed. Antistius was accused of *maiestas* by Cossutianus Capito – who owed his position to the influence of Tigellinus and therefore could be considered closely aligned with the regime – for having recited libellous verses about Nero at a dinner party (*A.* 14.48.1). This was the first *maiestas* charge of Nero's reign, Tacitus says, and he relates that there was some suspicion about the motives for having Capito bring it: *credebaturque haud perinde exitium Antistio quam imperatori gloriam quaesitam, ut condemnatum a senatu intercessione tribunicia morti eximeret* (48.2: “And it was believed that it was not Antistius' death so much as the emperor's glory that was being sought, so that he might use the tribunician power to intercede and save from death a man condemned by the Senate”). Although Tacitus does not vouch for the authenticity of this rumor, he does relate it at the beginning of the trial, allowing it to color our reading, and the narrative does seem to lend it credence. And this rumor certainly explains much of the oddness that follows, particularly in Nero's reactions to the events in the Senate.

Ostorius, who was present at the reading of the allegedly treasonous literature, firmly denied

630 See Jens (1956) 331-352, Koestermann (1968) 47, Brunt (1975) 7-35, Martin (1981) 177-187, Heldmann (1991) 207-231, Devillers (2002) 296-311, and Turpin (2008) 359-404. Devillers argued convincingly that Thrasea's behavior is identical to that of Lepidus, Tacitus' hero of the Tiberian books, and Tacitus uses the difference in their fates to emphasize the deterioration of the Principate.

631 This is the same Antistius whom we have already encountered at 16.14.1-3, who, from his exile, begged to be allowed to regain Nero's favor by laying charges against Ostorius Scapula – who appears here as a close friend of Antistius, and who stalwartly refuses to give testimony damaging to his endangered friend.

having heard any such thing, but his testimony was ignored (*A.* 14.48.2). The consul-designate, when asked his opinion, moved that Antistius be put to death. The others agreed; there was evidently no question whether he was guilty. At this point, Thrasea rises to speak (48.3-4):

Paetus Thrasea, multo cum honore Caesaris et acerrime increpito Antistio, non quicquid nocens reus pati mereretur, id egregio sub principe et nulla necessitate obstricto senatui statuendum disseruit. Carnificem et laqueum pridem abolita, et esse poenas legibus constitutas, quibus sine iudicum saevitia et temporum infamia supplicia decernerentur. Quin in insula publicatis bonis, quo longius sontem vitam traxisset, eo privatim miseriorem et publicae clementiae maximum exemplum futurum.⁶³²

Thrasea argues that the Senate, in making its decision, should not consider what punishment the guilt of Antistius merited (and his speech does assume that Antistius is indeed guilty), but what would be more suitable to the reign of such an *egregius princeps* famous for his clemency,⁶³³ and suggests that they only impose a punishment sufficient to serve as a deterrent. We note that this argumentation exactly mirrors that of Marcus Lepidus' speech for Clutorius Priscus at *A.* 3.50.1-2, where Lepidus made what was in effect a plea for mercy by appearing to attack the defendant.⁶³⁴ Presumably something similar occurs here: Thrasea does not attempt to *acquit* Antistius, which was perhaps beyond his power (the rest of the senators seemed to take his guilt as self-evident), but only to perform damage-control. Even

632 "Thrasea Paetus, with much praise of the emperor and sharply condemning Antistius, argued that whatever a guilty malefactor deserved to suffer did not have to be ordered by a Senate bound by no necessity and living under so great an emperor. Executioner and noose had long been abolished, and there were penalties established by law, by which penalties were established apart from the cruelty of the judges or the infamy of the times. Therefore the longer he dragged out his guilty life on an island [in exile], with his estate confiscated, the more wretched would he be privately, and all the greater an example would he be of the public clemency."

633 *Egregio sub principe* and the implication of imperial *clementia* are, however, deeply ironic: we have just seen Thrasea walk out of the Senate because of Nero's matricide.

634 See Ginsburg (1986) 525-541. Ginsburg points out that Thrasea, although his arguments and position are almost identical to Lepidus', only managed to anger Nero and eventually bring death upon himself, while Lepidus had remained high in Tiberius' favor. This is because of a deterioration of the Principate: Thrasea was *not* inherently more radical or strident than Lepidus had been, he simply lived in worse times.

granted that Antistius is guilty, Thrasea says, there is no reason to execute him: exile will be sufficient. Exile was, after all, the legal penalty for *maiestas*, and even though the Senate did technically have the discretionary power to alter statutory penalties, it was somewhat unseemly and hardly necessary here.

Thrasea wins. His speech carries the day, and a large majority of the senators, who had just been in favor of execution, adopted his position instead (*A.* 14.49.1). As Tacitus says, *libertas Thraseae servitium aliorum rupit* – which must be taken to mean that, when the Senate was going to put Antistius to death, this was slavish behavior which, perhaps, most senators did not fully agree with, but which they were either unwilling or afraid to challenge, until Thrasea gave them an example of *libertas* to follow. The consuls, however, did not dare (*non ausi*) to ratify the vote, and instead simply wrote to Nero to inform him of the shared opinion of the senators.⁶³⁵ Thrasea's eloquence had persuaded the Senate – not that it mattered. Now Nero's reaction is interesting: hesitating between shame and anger, he writes back that the Senate had been asked to avenge Antistius' serious libels against the emperor, and that a penalty equal to his crime had been decided upon; he adds that, although he would have held the Senate back from severity, he would not get in the way of mercy; the Senate could decide however they wanted, and even had the power to acquit (49.2). We have encountered such rhetoric from emperors before and should be prepared not to trust it. The Senate does not: to them, it was obvious that Nero was offended by their conduct (49.3). But why? It is unclear whether Nero in fact wanted Antistius to be put to death, or, as the rumor related by Tacitus suggests, he hoped to gain a reputation for clemency by commuting a sentence of death imposed by the Senate (see 48.2); nor does it really matter, since, either way, his wishes will have been thwarted by the Senate's decision for exile. The parting shot in his rescript, that the Senate even had the power to acquit, must then be taken almost as *daring* them to do so. Nero's displeasure was therefore evident to all; by implication, he wanted them to reverse their decision and vote for death. This the senators, following Thrasea's lead, refused to do

635 See Bradley (1973) 172-181, Bauman (1974) 141-145.

(49.3). Antistius was accordingly exiled.

This is perhaps Thrasea's greatest practical victory in the *Annals*. But it is worth considering how great a victory it really was, and by what methods he obtained it, and under what circumstances. Thrasea's success consisted, not of acquitting someone accused of *maiestas*, but simply of having the penalty reduced from immediate execution to exile. Most of those convicted of *maiestas* under Tiberius had been exiled, not put to death, but the reign of Tiberius was hardly a golden age of fairness and clemency; and yet all Thrasea's efforts only ensure that the very first *maiestas* case under Nero was *no worse* than the average under Tiberius. This, in other words, is another sign of how much worse the situation had grown. Even so, Thrasea deserves credit for doing something to stem the tide. But we should also consider how he did so. His eloquence persuades the Senate, true, but how much this was worth is shown by the fact that the consuls did not dare to ratify the Senate's position as a formal *senatus consultum*. Rather, they simply related to the emperor the general feeling of the senators. This shows unmistakably where the real power lay, and it was beyond the reach of Thrasea's eloquence. Even in the most wildly optimistic scenario, where a speech fully and completely convinces the Senate, all that matters is what the emperor allows. Nero did not override them and order the execution of Antistius (which may not be what he wanted anyway), but he could have done so. Moreover, Thrasea obtains this victory, such as it is, by mixing a large dose of flattery into his speech. He assumes not only that Antistius is guilty of defaming the emperor, but that such guilt may deserve death; certainly he spends part of his speech *attacking* Antistius (*A.* 14.48.3). Thrasea was extremely deferential to Nero and even praised him: even in the short summary we have, there are two phrases indicating this flattery (*multo cum honore Caesaris* and *egregio sub principe*); Thrasea also lauds the times as lacking *saevitia* and uses the loaded word *clementia*. This is not the speech of a raving ideologue. It is the speech of a senator accommodating himself to the times as necessary, again much as Lepidus did. And yet this behavior could be called *libertas*! It is a very different *libertas* than that of the Republic; granted that

Thrasea is motivated primarily by freedom, nonetheless it is a freedom limited by and conforming to contemporary exigency. One may doubt what Thrasea's *libertas* would have been worth if it had not been masked by flattery.

Thrasea's next major speech is similar, even if not quite as bleak. A certain Claudius Timarchus, a provincial from Crete, was accused of disrespect towards the Senate because he had said that it was in his power whether the proconsuls governing Crete received votes of thanks (*A.* 15.20.1). Thrasea, says Tacitus, turned the occasion to the public good (20.2). He gives a speech in *oratio recta* urging the Senate to prohibit allied and provincial assemblies from voting thanks to governors, a practice that he argues encourages corrupt practices. He begins by making the point that good laws have always come out of the misconduct of single or few malefactors, because guilt must precede prohibition; the current case, he argues (following Tacitus), is just such a case (20.3-4). He adds that provincials once stood in awe even of the judgment of private persons, and continues (21.1-4):

At nunc colimus externos et adulamur, et quomodo ad nutum alicuius grates, ita promptius accusatio decernitur. Decernaturque et maneat provincialibus potentiam suam tali modo ostentandi: sed laus falsa et precibus expressa perinde cohibeatur quam malitia, quam crudelitas. ... Quaedam immo virtutes odio sunt, severitas obstinata, invictus adversum gratiam animus. Inde initia magistratuum nostrorum meliora ferme et finis inclinatur, dum in modum candidatorum suffragia conquirimus: quae si arceantur, aequabilius atque constantius provinciae regentur. Nam ut metu repetundarum infracta avaritia est, ita vetita gratiarum actione ambitio cohibebitur.⁶³⁶

636 “But now we court and flatter foreigners, and just as votes of thanks are determined at the nod of an individual, so are accusations [of extortion] more readily brought. Let them be brought, and let the provincials retain their right to demonstrate their power in this way: but let praise false and wrung out by pleas be repressed as much as malice and cruelty. ... Some virtues, rather, are always exposed to hatred, such as unyielding severity, and a heart resolute against blandishments. Therefore the beginnings of our governorships are much better, and the end declines, when we court votes in the manner of candidates; but if these practices are prohibited, the provinces will be governed more justly and

Tacitus makes Thrasea an unmistakably skilled speaker. The style is grand and flowing, abundant with rhetorical devices: important words usually appear in pairs (*colimus externos et adulamur, decernaturque et maneat, laus falsa et precibus expressa, quam malitia quam crudelitas, aequabilis atque constantius*); there is frequent coordination of ideas (*quomodo at nutum ... ita; perinde cohibeatur quam malitia, quam crudelitas; ut metu ... infracta avaritia est, ita ... ambitio cohibebitur*); hyperbaton (*invictus adversum gratiam animus*) and coniunctio (*colimus externos et adulamur*) appear both with verbs and noun-adjective pairs. Thrasea's argumentation is also clear and persuasive: some virtues, far from being admired, are hated, and so just as avaricious governors must be restrained by laws against extortion, so must those greedy for popularity be prevented from weakening Rome's interests in their quest to be liked by the provincials; and this would best be managed by forbidding votes of thanks from provincial assemblies altogether.

Once again, Thrasea persuades the Senate: his opinion was received with great acclamation (*A. 15.22.1: magno adsensu celebrata sententia*). Interestingly, the words *agnus* and *adsensus* occur together only one other time in all of Tacitus, and it is when the same phrase is used to describe the effect of the oratory of Julius Civilis on the Batavi at *H. 4.15.1 (magno cum adsensu auditus)*; and since Civilis and Thrasea both represent *libertas* to some degree, the success of both their oratory, amid so much failure, can be attributed to this fact. Once again, however, Thrasea's success is greatly qualified: (and in a way that Civilis' is not): the consuls again refuse to make a formal *senatus consultum* from Thrasea's proposal, on technical procedural grounds (*A. 15.22.1*).⁶³⁷ It is implied that they again write to the emperor, for we are next told that Nero soon made a decision – to do exactly what Thrasea had proposed. This is a surprisingly positive outcome, but it again shows how little even the most successful senatorial oratory could achieve without imperial sanction.⁶³⁸

stalwartly. For just as avarice is broken by the fear of extortion accusations, so will ambition be restrained if votes of thanks are prohibited.”

637 See Koestermann (1968) 22.

638 The fact that Nero put Thrasea's proposal into effect here does nothing to diminish his hatred, as is shown in the next

Now, however, we come to the condemnation and death of Thrasea Paetus. This is the last scene in the *Annals* as extant, and even if Tacitus did not intend it to be the final conclusion, it is nonetheless one of the major events in all Tacitus' corpus. Even mutilated and breaking off before the end, the narrative of Thrasea's trial is longer than that of any other trial in the *Annals* or *Histories*. There are more speeches centering on the destruction of Thrasea than on any other occurrence whatsoever in Tacitus – a very long accusation by Cossutianus Capito, two by Thrasea's friends, one by Thrasea himself, a brief one by Nero, another long accusation by Eprius Marcellus, a short depiction of the thoughts of the senators, and another by Thrasea; and this is exclusive of the speeches dealing with Barea Soranus, and not even counting those speeches that are mentioned as having taken place (e.g. Capito again at *A.* 16.28.1) but are not recorded. Clearly, this was an important event, perhaps even intended to be the climax of the *Annals*.

It begins when Tacitus tells us that Nero, after killing so many others, decided to root up virtue itself by killing Thrasea Paetus and Barea Soranus (*A.* 16.21.1: *trucidatis tot insignibus viris ad postremum Nero virtutem ipsam excindere concupivit interfecto Thrasea Paeto et Barea Sorano*). The reasons why Nero hated them are retold, and they are, as we might expect, mostly personal and private reasons (21.1-2): once again, an emperor will use *maiestas* to destroy those to whom he feels some private enmity. Cossutianus Capito, who had been the *delator* against Antistius Sossianus (14.48.1) and who had been convicted of extortion by none other than Thrasea himself, and who therefore had his own personal reasons for wanting to destroy Thrasea (13.33.2, 16.21.3), made sure to inflame Nero's hatred. The death of Thrasea is therefore precipitated by yet another flatterer's speech of the type we have seen, when a favorite uses a corrupted eloquence to spur the emperor on to crime; and the importance of this is emphasized by the fact that Capito's speech to Nero is the longest of those

chapter, when Seneca, hearing a rumor that Nero and Thrasea had been reconciled and congratulating the emperor on it, only grew in disfavor (*A.* 15.23.4).

connected with the death of Thrasea.

The speech begins in indirect discourse; Capito outlines the main points against Thrasea, centering on his absence from public duties ever since he walked out of the Senate, and implying that Thrasea's retirement could only be the result of an obstinate disapproval of Nero (*A.* 16.22.1).⁶³⁹ He even says that Thrasea had never made sacrifices on behalf of the emperor – or of his divine voice (*numquam pro salute principis aut caelesti voce immolavisse*); this is pure albeit careful flattery, lauding Nero for a quality about which he was notoriously vain. It also anticipates the criticism that, because Thrasea kept aloof from Nero's enjoyments, he must be contemptuous of them and therefore of the emperor himself. Capito claims that, if more acted like Thrasea, it would result in open war (22.2) – an obvious exaggeration, but in line with the rhetoric of flatterers who brand those whom princes dislike as dangerous traitors. The speech now shifts to direct discourse (22.2-3):

Ut quondam C. Caesarem ... et M. Catonem, ita nunc te, Nero, et Thraseam
 avida discordiarum civitas loquitur. Et habet sectatores vel potius satellites, qui
 nondum contumaciam sententiarum, sed habitum vultumque eius sectantur,
 rigidi et tristes, quo tibi lasciviam exprobrant. Huic uni incolumitas tua sine cura,
 artes sine honore. Prospera principis respuit: etiamne luctibus et doloribus non
 satiatur?⁶⁴⁰

The flattery clearly continues in the same vein: Thrasea is compared to Cato as both an over-grave moralist and a seditious enemy, and his followers likewise affect his severity as a reproach to Nero's gaiety. This is a standard trope used by the flatterers of dissolute princes to make them hate those of

639 Such absence from the Senate could, in fact, be construed as *maiestas* – but only because *maiestas* was nebulous, ill-defined, and potentially all-encompassing. See Bauman (1974) 154.

640 “Just as the city, greedy for discord, once spoke of Caesar and Cato, so do they now speak of you, Nero, and Thrasea. And he has followers, or rather attendants, who copy not only the contumaciousness of his sayings but even his deportment and expressions, and are upright and severe, by which they reproach your playfulness. To Thrasea alone your health is not a matter of concern, and your arts lacking in honor. He disdains the prosperity of the emperor: has he not had enough of complaint and grief?”

more severe temperament.⁶⁴¹ We might also note that this description hardly fits the Thrasea we have encountered in the *Annals*, who has been notable neither for his *contumacia* nor for a hypocritical austerity: nonetheless, it is a distortion well calculated to raise Nero's anger. Capito then returns to the theme of Thrasea's absence as disloyal, and argues that the disloyal elements throughout the whole Empire look to Thrasea (again exaggerating his danger): it is even claimed that the *acta diurna* are read attentively throughout the provinces and the armies, so that all might know what was the latest thing that Thrasea had *not* done (22.3: *diurna populi Romani per provincias per exercitus curatius leguntur, ut noscatur, quid Thrasea non fecerit*). Nero, Capito says, should remove the leader of such a seditious sect; he even promises to manage the Senate himself (22.4-5). The speech is successful, as all flatterers' speeches to tyrants have been in the *Annals*, and Nero orders Capito, joined by Eprius Marcellus, to proceed with the delation. At the same time, the action against Barea Soranus for *maiestas* also went forward (23.1-2).

After receiving another mark of Nero's displeasure, Thrasea wrote to the emperor, demanding to know the charges against him and (rather optimistically) to be given an opportunity to defend himself (*A.* 16.24.1). Nero, Tacitus says, read the letter eagerly, hoping that Thrasea had been terrified into uttering cowardly pleas – which Nero seemed to think would redound to his own honor; but upon reading it, grew angry, and indeed feared Thrasea's *libertas* all the more (24.2).⁶⁴² He therefore ordered the Senate to be convened so that the *delatores* could do their work.

Thrasea, meanwhile, holds a consultation of his own. He talks with his close friends, debating whether he should attempt to defend himself in the Senate or spurn a defense (*A.* 16.25.1). An important point, however: it becomes clear that Thrasea is under no illusions that such a speech before the Senate would actually *succeed* in acquitting him; he knew that Nero wanted to be rid of him, and

⁶⁴¹ Cf. Plutarch, *Dion* 7.3-8.1.

⁶⁴² Fear, especially of the virtue of one's subjects, is the most typically tyrannical characteristic in ancient historiography. See Schmidt (1982) 274-287, who argues that Nero, and not Tiberius as is sometimes thought by e.g. Dunkle (1971) 12-20, is the more stereotypical tyrant. Cf. Heinz (1957).

that Nero would get his wish. Rather, his concern is with which course was more in accordance with virtue and his own dignity: would defending himself be brave in that he would stand up to insult and tyranny, or cowardly in that he would seem to crave pardon and life? The issue revolves around Stoic thought, and Stoicism imbues the entire debate. Two speeches are offered, one by a group of friends urging him to go to the Senate, the other to refrain. The scene is therefore a set debate within, but not part of, the larger trial – a mark of the importance that Tacitus placed on Thrasea. The first speech, then, argues that Thrasea should attempt a defense (25.1-1):

Quibus intrari curiam placebat, securos esse de constantia eius disserunt; nihil dicturum, nisi quo gloriam augetet. Segnes et pavidos supremis suis secretum circumdare: adspiceret populus virum morti obvium, audiret senatus voces quasi ex aliquo numine supra humanas: posse ipso miraculo etiam Neronem permoveri; sin crudelitati insisteret, distingui certe apud posteros memoriam honesti exitus ab ignavia per silentium pereuntium.⁶⁴³

These friends allow themselves a brief hope that Nero might be able to be moved, but they acknowledge that such an event was so unlikely as to be little short of miraculous. The rest of their speech is not concerned with the effect that Thrasea defending himself would have on the outcome of his trial, but on what it befit Thrasea as a good man to do. They knew that he would utter nothing shameful, therefore he need have no fear of appearing before the Senate – and this is pure, orthodox Stoicism, implying that, because Thrasea could not be brought to do anything base, nothing else that the hostility of the emperor or his favorites could do could harm him. Therefore he need have no fear on his own account; and since his appearing in the Senate could set a good *exemplum* for others and for

⁶⁴³ “Those who thought that he should enter the Senate-house said that they were confident about his fortitude: he would say nothing except what would increase his glory. Lazy and fearful men surround their ends with secrecy: let the people see a man ready to encounter death, let the Senate hear words greater than human, as though from some god. It was possible that even Nero could be moved by such a miracle; but if he stood by his cruelty, nonetheless posterity might be able to tell a difference between an honorable end and the ignominy of those who perished in silence.”

posterity, it was his duty to go before the Senate and let them hear, once more, his *libertas*.

The arguments of those who urged him to remain home are, if anything, even more aware that Thrasea's defense could accomplish nothing practical (*A.* 16.26.1-3):

Contra qui opperiendum domi censebant, de ipso Thrasea eadem, sed ludibria et contumelias imminere: subtraheret aures conviciis et probris. Non solum Cossutianum aut Eprium ad scelus promptos ... etiam bonos metu sequi. Detraheret potius senatui, quem semper ornavisset, infamiam tanti flagitii, et relinqueret incertum, quid viso Thrasea reo decreturi patres fuerint. Ut Neromen flagitiorum pudor caperet, inrita spe agitari; multoque magis timendum, ne in coniugem, in filiam, in cetera pignora eius saeviret.⁶⁴⁴

Like those who urged Thrasea to go to the Senate, this group of friends is only concerned with what it was Thrasea's moral duty to do. They reject outright even the faint hope that Nero could take pity – rather, they say, it is all the more likely that, enraged by resistance, he would vent his anger on the rest of Thrasea's family. This is not an unreasonable fear. Therefore, they say, it was Thrasea's duty *not* to go before the Senate, lest he endanger his loved ones needlessly. Moreover, since Thrasea could not escape in any case, he should avoid forcing the Senate to condemn him: even otherwise good men could be afraid and might vote against him; and if he respected the dignity of the Senate, he should not stain it by having it said that they had killed Thrasea. This is very similar to what Tacitus himself says at *Ag.* 45.1, that under Domitian they had been forced to be party to the judicial murders of Helvidius Priscus, Arulenus Rusticus, and others, and so this argument might have especial weight. For all these

⁶⁴⁴ “Those, on the other hand, who thought that he should remain at home, said the same things about Thrasea himself, but mentioned the taunts and contumelies that threatened: he should withdraw his ears from their reproaches and shameful sayings. Not only Cossutianus and Eprius were ready to do crime ... but even good men could go along with them through fear. He should rather remove from the Senate, which he had always adorned, the shame of such a crime, and he should leave it uncertain what the senators would have decreed if they had seen Thrasea on trial. It was a vain hope that Nero might be seized by the shame of his crimes; much more was it to be feared that Nero would rage against his wife, his daughter, and the rest of his loved ones.”

reasons, Thrasea's friends thus argued, it was his duty not to try to defend himself before the Senate.

But before Thrasea can make a decision, something else happens: Arulenus Rusticus speaks. This is the same Rusticus mentioned by Tacitus at *Ag.* 45.1, who was put to death by Domitian for, of all things, having written a panegyric of Thrasea (which may have been Tacitus' source for this entire scene). Rusticus, as the tribune of the plebs, offered to veto the entire proceeding (*A.* 16.26.4).⁶⁴⁵ It is in response to this, and not the speeches of his friends, that Thrasea speaks (26.5):

Cohibuit spiritus eius Thrasea: ne vana et reo non profutura, intercessori exitiosa inciperet. Sibi actam aetatem, et tot per annos continuum vitae ordinem non deserendum: illi initium magistratum et integra quae supersint. Multum ante secum expenderet, quod tali in tempore capessendae rei publicae iter ingrederetur.⁶⁴⁶

Thrasea recognizes the obvious fact that such an action could not help him at all, and tries to dissuade the young Rusticus from so eagerly chasing after martyrdom – which is, again, hardly the action of a die-hard radical.⁶⁴⁷ He acknowledges the main point of both arguments of his friends in arguing that he himself should consider what kind of behavior would be consistent with the public character that he had exercised all his life; but Rusticus, being young, could as yet be under no such obligation, and should carefully consider what his own duty was and would be.

Having spoken thus, and having heard the arguments of both sides, Thrasea left to his own

⁶⁴⁵ It is impossible that Rusticus cannot have realized the futility of such a course: while technically still legally valid, there was no chance that a tribunician veto would be respected by Nero. Although Tacitus does not say so, it seems probable to me that Rusticus knew that he would anger the emperor and most likely be killed for this action, and that he was intentionally seeking to die alongside Thrasea as a martyr for the Republic (since being persecuted for exercising the tribunician veto would underscore in the most vivid way possible what Nero thought of republican forms). If so, and Rusticus was trying to provoke martyrdom, it does much to explain Thrasea's response.

⁶⁴⁶ “Thrasea restrained his enthusiasm: let him not [he said] attempt things that would be pointless and of no benefit to the defendant, but fatal to the intercessor. His own time was done, and he could not now abandon the style of life that he had lived continuously for so many years: Rusticus, however, was at the beginning of his career, and his future was still unencumbered; he should carefully consider with himself in advance what path of managing the state he should embark upon in such a time as the present.”

⁶⁴⁷ See Koestermann (1968) 391.

consideration whether it was fitting for him to go into the Senate (*A. 16.26.5: ceterum ipse, an venire in senatum deceret, meditationi suae reliquit*). Tacitus does not explicitly say what he chose to do, but it seems that he opted not to go to the Senate, for Thrasea will be at home when the order to die arrives (16.34.1).

The next day, Nero convenes the Senate – after calling out the praetorian cohorts to make a show of force and to intimidate the senators (*A. 16.27.1*). The emperor himself then gives a short speech to the Senate, complaining about those who, although they stood high in honor and office, preferred to stay at home rather than to see to their public duties; he mentioned no one by name, nor did he need to: the *delatores* Capito and Marcellus already knew whom he had in mind (27.2). But not mentioning Thrasea by name gave Nero plausible deniability that he was not persecuting anyone specifically but simply seeing to an issue of public importance, and that the *delatores* who were about to speak did so of their own volition, not because they were in secret league with the emperor to destroy Thrasea (as they were).

The role that the *delatores* play is indicative of the perversion of eloquence. Capito begins the charges, but his speech is not recorded by Tacitus. Epirus Marcellus then takes over the denunciation, grasping, as was planned, at the opening provided by Nero (*A. 16.28.1-3*):

Marcellus summam rem publicam agi clamitabat; contumacia inferiorum lenitatem imperitantis deminui. Nimium mites ad eam diem patres, qui Thraseam desciscentem ... eludere impune sinerent. Requirere se in senatu consularem, in votis sacerdotem, in iure iurando civem, nisi contra instituta et caerimonias maiorum proditorem palam et hostem Thrasea induisset. Denique agere senatorem et principis obtrectatores protegere solitus veniret, censeret, quid corrigi aut mutari vellet: facilius perluros singula increpantis vocem quam nunc silentium perferrent omnia damnantis. Pacem illi per orbem terrae an victorias

sine damno exercituum displicere?⁶⁴⁸

Marcellus takes the expected line of attack against Thrasea, condemning him for so long being absent from the Senate and from his public duties, and suggesting that he had no real reason to be upset with anything – unless, that is, he was displeased by the prosperity of the empire. Again, then, a *delator* exaggerates the danger posed by one to whom Nero felt private enmity, making him out to be a traitor and an enemy of the public good. And we must remember that the emperor lies behind this accusation: Marcellus is to be successful in the Senate, not because of the power of his eloquence, but because his success was pre-arranged with Nero.

For most of the senators are by no means pleased at hearing Thrasea so attacked. They recognized in it a cruelty beyond what they were accustomed to, and a sign of worse to come; they imagined the venerable form of Thrasea, and predicted, with pity, that Helvidius also was doomed (*A.* 16.29.1-2). So far are they from being persuaded by Marcellus that, when they think of Thrasea, Tacitus has them also remember and reflect upon the other innocent victims of tyranny – albeit only in thought, for it seems that none dared actually speak against Marcellus and Capito. No one will seek to defend Thrasea at all.

Joined in danger with Thrasea was Barea Soranus, who unlike Thrasea was present at the Senate; and so, immediately after denouncing Thrasea, the *delatores* move on to Barea. Barea was charged with friendship to Rubellius Plautus, another of Nero's victims; but now even his daughter, Servilia, was added to the accusation, for having consulted diviners about her father's fate (*A.* 16.30.1-2), any divination touching on the imperial interests potentially being *maiestas*. On being interrogated,

648 “Marcellus began shouting that they were dealing with the entire state; the emperor's gentleness was diminished by the contumacy of his inferiors. Up until that day, the senators had always been too soft, who had allowed Thrasea to get away with schism. He [Marcellus] was searching for a consular in the Senate, for a priest in offerings, for a citizen at the oath-taking – unless Thrasea had put on the character of an open traitor and enemy to the institutes and ceremonies of their ancestors. Finally, since he was accustomed to address the Senate and to protect the emperor's disparagers, let him now come and give his vote to whatever he thinks needs to be corrected or changed: they could more easily put up with his voice if he were complaining about single things than endure his silence as he condemns everything. Was he displeased at the world-wide peace, or the victories without any loss to their armies?”

Servilia is allowed a rare direct-discourse speech (31.1-2):

Nullos impios deos, nullas devotiones, nec aliud infelicibus precibus invocavi, quam ut hunc optimum patrem tu, Caesar, vos, patres, servaretis incolumem. Sic gemmas et vestes et dignitatis insignia dedi, quo modo si sanguinem et vitam poposcissent. Viderint isti, antehac mihi ignoti, quo nomine sint, quas artes exerceant: nulla mihi principis mentio nisi inter numina fuit. Nescit tamen miserimus pater, et si crimen est, sola deliqui.⁶⁴⁹

Although consulting astrologers about the emperor's life, let alone cursing him, could certainly be *maiestas*, nothing that Servilia here claims could under any definition of the law be criminal. Much to the contrary, she seems like a perfect example of *pietas*. Not that it matters: just as Servilia claimed that she alone was guilty and her father should be spared, Barea interrupts her and shouts that he alone deserves to be punished, and his daughter is innocent of everything (32.1). As the father and daughter tried to embrace each other, the lictors forced them apart. Whatever pity was felt for them, and whatever effect their speeches had on the assembled senators, was meaningless: the prosecution continued, relying on perjured evidence from Barea's own clients, and in the end, it was voted that Barea and Servilia be allowed their choice of death (32.2-33.2). The same end was decreed for Thrasea. A total of 11,200,000 sesterces was awarded to the prosecution.

The death of Thrasea is too famous, and has had too much written about it – how his death was patterned on that of Socrates and Cato, and perhaps of Seneca, for instance – to require much explication. The order to die found Thrasea in his garden discussing philosophy; he at once tried to persuade all his weeping friends and guests to leave, since they could not help him and would only

649 “I invoked no impious gods, no curses, nor anything with unfavorable prayers, except that you, Caesar, and you, senators, might preserve this best of fathers unharmed. So did I give my gems and clothing and ensigns of my rank, just as if they had demanded my blood and my life. Those men must have seen this, whose names and what arts they practiced were previously unknown to me. I made no mention of the emperor except among the divinities. Nonetheless, my most miserable father is unknowing, and if it was a crime, I alone am the perpetrator.”

imperil themselves by staying (*A.* 16.34.1-2). His wife, who wanted to die with him, he urged to stay alive for their daughter's sake. He then met the quaestor sent to see to his death with composure – even with joy, when he learned that Helvidius had only been exiled from Italy; then he retired and opened his veins, and, sprinkling his blood, addressed the quaestor with the last quotation of the *Annals* (35.1): *Libamus Iovi liberatori. Specta, iuvenis; et omen quidem dii prohibeant, ceterum in ea tempora natus es, quibus firmare animum expediat* (“We offer a libation to Jupiter the Savior. Look, young man; may the gods avert the omen, but you have been born to times in which it is necessary to fortify the spirit”). Thrasea evidently then said something to his friend Demetrius, but what it was, we do not know; the *Annals* end here mid-sentence.

So died Thrasea Paetus. Famed for his *libertas*, he was yet no radical, nor the seeker of an ostentatious death that he is sometimes believed to be. On the contrary, we have seen that he was usually moderate, and Tacitus claims that, up until the time when he was called upon to applaud the murder of Agrippina, he had been accustomed to go along with the necessary flattery of the emperor. Nonetheless, there was more of *libertas* in his behavior than the other senators had, and it was this, his freedom combined with his eloquence, that sometimes allowed him to break through their servility and either accomplish good things or avert evils. Even so, however, he was only allowed to succeed as much as he did because he limited his freedom and adapted his rhetoric according to the necessities of the age: he flattered the emperor freely, and, to save someone accused of *maiestas* for having written disrespectful poetry, he had to argue, in effect, that death was too good for such a wretch (*A.* 14.48.4). And even when Thrasea persuaded the Senate fully and completely, the Senate itself could accomplish nothing: it was always the emperor who took action. Each of these victories, moreover, such as they were, earned him only an increasingly greater share of Nero's hate, until eventually and inevitably he perished. Tacitus therefore makes Thrasea a symbol of the inherent contradictions and tensions of the Principate, and of the tragedy of being too good for a bad emperor.

Seneca is best known today as a philosopher.⁶⁵⁰ And in this role he does appear in the *Annals*. Even more than that, however, he appears as an orator: the focus is less on his wisdom than his eloquence; he is Nero's speech-writer; many of the pivotal events of Nero's reign revolve around speeches by Seneca. The position and the use of Seneca's eloquence, however, like Thrasea's, are often ambiguous. Seneca does not stand for *libertas* to the degree that Thrasea does, but he is nonetheless mostly admirable and a good influence on the young Nero; yet (for a while) he stands high and unassailable in Nero's favor. There is, moreover, a curious tension between the inner and the outer Seneca, between his actions in private before Nero and his actions in Rome as speech-writer and representative of the regime. A hypocrite is usually someone who is much better in public than on the inside; but Seneca for a while is a kind of reverse-hypocrite, exercising a (relatively) good and restraining influence on Nero in private, while allowing Nero to use his oratory as the public, and disgraceful, face of the regime. The eloquence for which he appears so famous in the *Annals* is therefore perverted. Eventually Seneca can no longer withstand the tension, and semi-voluntarily abandons his position; and when he does so, it becomes evident that his worst deed may have been teaching Nero to speak for himself.⁶⁵¹ Seneca dies a victim of the regime, albeit not entirely an innocent one: his guilt, however, lay not in any actual crimes that he had committed or planned to commit,⁶⁵² but in the fact that he had compromised his character as a philosopher – and, often overlooked but important for us, accommodated his oratory – to the Principate in the attempt to make the Principate

650 For Seneca in Tacitus generally, see Henry and Walker (1963) 98-110, Brunt (1975) 7-35, Rudich (1993) and (1997), Sailor (2008), Schmal (2008) 105-123, Turpin (2008) 359-404, Keitel (2009) 127-143. On Seneca's role during Nero's reign, see Griffin (1976) 67-128 and 389-391.

651 Cf. Woodman (2010) 294-308, an article titled, aptly, "*Aliena Facundia*."

652 Dio 62.2.1 infamously claims that Seneca was responsible for Boudicca's revolt by lending massive sums to the Britons at usurious rates of interest. Tacitus, however, who writes about the Boudiccan revolt twice, in both the *Agricola* and the *Annals*, mentions nothing about this, as he surely would have done had he known about it, considering his interest in both Boudicca and in Seneca. I dismiss the rumor as a fabrication for no other reason than that it only appears in Dio: Dio likewise records it as a known fact that Seneca was the leader of the Pisonian conspiracy (62.24.1), which Tacitus mentions as little more than an unfounded rumor (*A.* 15.65.1). Even Dio, moreover, records that Seneca unequivocally restrained Nero's worst excesses: 61.18.3.

better. But the rest of the *Annals* shows us that this attempt was vain from the beginning, and could only bring tragedy and destruction to whoever attempted it.

Seneca first appears in the extant books of the *Annals* at 12.8.2, when Agrippina has him recalled from the exile imposed on him by Claudius. Even here, his dual role is apparent: she thought that he would be of benefit to the public *ob claritudinem studiorum eius* (where *studia* probably refers to his literary works rather than to his philosophy, i.e. to his eloquence),⁶⁵³ and she wanted him to serve as a tutor and counselor to the young Nero. But we see little more of him until the accession of Nero. Here, we read what is in effect Seneca's (and Burrus') real introduction. After the initial murders perpetrated by Agrippina, we read (*A.* 13.2.1):

Ibaturque in caedes, nisi Afranius Burrus et Annaeus Seneca obviam issent. Hi rectores imperatoriae iuventae et, rarum in societate potentiae, concordēs, diversa arte ex aequo pollebant, Burrus militaribus curis et severitate morum, Seneca praeceptis eloquentiae et comitate honesta, iuvantes in vicem, quo facilius lubricam principis aetatem, si virtutem aspernaretur, voluptatibus concessis retinerent.⁶⁵⁴

Several important things are clear from this introduction. First, whatever may sometimes be thought, Seneca and Burrus were undoubtedly attempting to exercise a good influence on Nero. The remark, moreover, that they were *concordēs*, a rare thing *in societate potentiae*, is unequivocally positive and much to the credit of their honesty and good intentions.⁶⁵⁵ Second, they were often successful in the attempt: Tacitus leaves no possible doubt that, on his view, there would have been more murders if not

⁶⁵³ See Koestermann (1967) 121.

⁶⁵⁴ “There would have been more slaughter, but Afranius Burrus and Annaeus Seneca opposed it. These were the guardians of the emperor's youth, and, a rare thing in powerful society, they were harmonious with one another, and so they were equally influential, albeit because of different skills. Burrus, by his military acumen and the austerity of his character, and Seneca, by the precepts of eloquence and an honorable affability, helped each other in turn, so that, if Nero should spurn virtue, they might restrain the emperor's hazardous youth within the bounds of acceptable pleasures.”

⁶⁵⁵ The so-called *quinquennium Neronis*, the “good” period of rule at the beginning of Nero's reign, is sometimes considered to be the result of the influence of Seneca and Burrus.

for the influence of Seneca and Burrus.⁶⁵⁶ Third, their program in the worst-case scenario is clear: in case Nero should prove (as they evidently already suspected) an unpromising pupil who scorned virtue, they would try to restrain him from excess by keeping him within the bounds of other, less unacceptable pleasures. This, as we shall see, is exactly what they do – and if it seems less than ideal, it is the best they could accomplish. Finally, the method by which Seneca obtains this is noteworthy: *praeceptis eloquentiae* is an odd phrase. In context, we would expect *praeceptis sapientiae* or *philosophiae*; instead, Tacitus says that Seneca's precepts about eloquence helped him to restrain Nero. Probably we are indeed supposed to think of Seneca's philosophy – the substitution is so odd that we could hardly avoid it – while, at the same time, having our attention drawn to Seneca's role as an orator.⁶⁵⁷ His eloquence is thus an indispensable part of his character in the *Annals*.

This is clear in what follows. Nero delivers the funeral speech (written by Seneca – and it is noted that Nero was the first of the emperors to need a speech-writer, which further emphasizes Seneca's role in the *Annals* as an orator as much as a philosopher) for Claudius, which for the most part is received with favor; but (*A.* 13.3.1-2):

Postquam ad providentiam sapientiamque flexit, nemo risui temperare, quamquam oratio a Seneca composita multum cultus praeferret, ut fuit illi viro ingenium amoenum et temporis eius auribus accommodatum. Adnotabant seniores, quibus otiosum est vetera et praesentia contendere, primum ex iis qui rerum potiti essent Neronem alienae facundiae eguisse.⁶⁵⁸

Even Tacitus admits that Seneca had composed a very elegant speech – and all the more so because

⁶⁵⁶ This is an odd place for Tacitus to make this claim, for he has stated that Nero knew nothing of the murders at the beginning of his reign, and therefore Seneca's influence on Nero could not be relevant. It seems that he simply thought this a good place to introduce the pair, and that *ibaturque in caedes nisi ... obviam issent* was a suitable way of describing the general tendency of their influence, even if it may not have been relevant at this particular moment.

⁶⁵⁷ See Koestermann (1967) 236.

⁶⁵⁸ “After he turned to and made mention of Claudius' foresight and wisdom, no one held back from laughter, although the speech, composed by Seneca, was highly polished, since that man had a genius for oratory charming and accommodated to the ears of that time. The old men, whose leisure it is to compare old and present things, noted that Nero was the first of those who had obtained power to need another's eloquence.”

Seneca's particular brand of eloquence was much in vogue at the time.⁶⁵⁹ But even so, when Nero began to praise Claudius' foresight and wisdom, the audience could not help but laugh: the content of the speech evidently struck them as so absurd that no amount of stylistic polish could save it from ridicule. This is a very good example of how Seneca's considerable oratorical skill was misused and perverted by the regime: to assert false claims and (as we will see later) to defend wicked actions, both contrary to the natural purpose of eloquence.⁶⁶⁰

So was Seneca used in public.⁶⁶¹ Tacitus is sometimes more positive about his private influence. On an occasion, for instance, when Agrippina, desiring to appear as what we would call the co-empress regnant – not simply as the emperor's mother nor as a regent in his youth, but as having power in her own right (an abomination to the Roman mind) – attempted to ascend the emperor's tribunal, it was Seneca who defused the situation by encouraging Nero to make an honorable but non-committal gesture of filial piety (*A.* 13.5.2).

Seneca, in fact, will regularly appear as the enemy of what was seen as Agrippina's overweening ambition. Some of his apparently less creditable actions were undertaken with this in mind. For instance, it was Seneca who enabled and encouraged Nero's fascination with the freedwoman Acte – because he thought that, the more Nero fell in love with Acte, the less would Agrippina's influence over him become (*A.* 13.12.1-13.1). But this is in accordance with what was said at 13.2.1, that Burrus and Seneca would restrain the emperor by means of *voluptatibus concessis*,⁶⁶² if other means should fail and he should come to scorn virtue. Thus when, according to Cluvius Rufus, Agrippina sought to retain her

659 Cf. Quintilian 10.125-128.

660 It was a standard critique of oratory that it could make the worse case appear the better, and that it was only useful for committing or excusing injustice. The Romans in general, however, and Quintilian in particular, found this view abhorrent, and insisted that the right and proper use of eloquence was to defend truth and justice. Oratory was commonly compared to a sword: granted that it could be misused by a bandit, yet its proper function was for the soldier to wield it in defense of his country. See Quintilian 2.16.1-19. Cf. Winterbottom (1964) 90-97.

661 Sometimes, admittedly, his speeches were used for good ends; e.g. 13.11.2. But Seneca was not simply Nero's speech-writer, bound to put an elegant turn on whatever Nero wished to say, but also his counselor, and so some of this might be seen as being the consequence of Seneca's own positive influence.

662 Koestermann (1967) 236 says of this phrase, “sc. solchen, die keinen größeren Skandal verursachten,” and compares Horace, *Sat.* 1.4.113, *concessa Venere*.

influence over Nero by an act of incest, Seneca sent in Nero's beloved Acte, successfully using a woman to guard against a woman's charms (14.2.1: *contra muliebres inlecebras subsidium a femina*).⁶⁶³

Similarly, one of the first times Nero considers murdering Agrippina, it is Seneca and Burrus who restrain him. Some *delatores* and freedmen, sensing Nero's dislike of his mother, concocted the story that she was plotting against Nero, and that she planned to marry Rubellius Plautus and to settle the empire on him (*A.* 13.19.3-4). The “charges” were related to Nero by the freedman Paris, and the emperor was so frightened that he immediately desired the deaths of Agrippina and Plautus (20.1). He also ordered the dismissal of Burrus from the praetorian prefecture, since he owed his origin to Agrippina's influence, but Seneca managed to retain the office for Burrus (20.2). This is not insignificant, since it is Burrus who talks Nero down: he forced Burrus to promise that he would kill Agrippina if the charges were proved, but Burrus then argued, in an indirect-discourse speech, that everyone, most of all a mother, deserved a chance to defend themselves from accusations, and even more from anonymous rumors originating in drunken revelry (20.3). Nero's fear was lightened (21.1). The matricide was avoided for now. For the next day, Nero (accompanied by Burrus, who was acting on Seneca's instructions) went to interrogate Agrippina, who so fully cleared herself (in an *oratio recta* speech to Burrus) that her accusers were punished (21.2-6).

Soon afterwards, Seneca is connected to the banishment of Publius Suillius. Suillius was one of the more notorious *delatores* from Claudius' reign; we have already encountered him on several occasions, as the accuser of Valerius Asiaticus and the man whose conduct was so outrageous that the Senate revived the *lex Cincia* against advocates' receiving fees. Tacitus relates that this Suillius, who well deserved the hatred of many, was condemned *haud sine invidia Senecae* (*A.* 13.42.1). Seneca's actual role in the process is hard to discern, since he seems to stay in the background; evidently Tacitus

⁶⁶³ Nero's supposed interest with his mother is notorious. Tacitus records the account of Fabius Rusticus, that it was Nero who sought it rather than Agrippina, but he himself inclines to the version of Cluvius told here, and says that most authors and common opinion were of this mind. See *A.* 14.2.2.

wishes us to see his influence at work indirectly. But this influence, if we can guess rightly what it accomplished, was very beneficially employed. The punishment of someone like Suillius is very different from, say, Sejanus using his influence to ruin Cremutius Cordus (cf. 4.34.1): Suillius never appears in the *Annals* except as a villain. When, then, he sensed that the power of Seneca was somehow aimed at him (it is perhaps hinted at 42.1 that Seneca had a hand in the revival of the *lex Cincia*, but again, Seneca's actions here are very much in the shadows), Suillius broke out into complaints against Seneca – and, somewhat surprisingly, this indirect-discourse speech reproaching Seneca (it is not even clear to whom it is addressed) is the only speech of Suillius' trial (42.2-4). Suillius mostly accuses Seneca of avarice and ambition, which might well be true, and defends his own riches as the result of honorable labor, which is certainly false. Whatever the merit of Suillius' complaints, we read that they were reported to Seneca (43.1) – the only other time that Seneca is directly mentioned, which leaves us to infer what role he played. Suillius was formally accused in the Senate of a long series of crimes; his defense was that he had never *voluntarily* undertaken an accusation (the chief mark of a *delator*) but had only obeyed the commands of the emperor (43.2-3). This is certainly false. Nero stopped him and countered that he had learned from the *commentarii* of Claudius that he had never compelled the accusation of anyone (43.3). This, too, is unlikely, but nonetheless it sets a good precedent: Nero is reinterpreting the reign of Claudius in such a way as to minimize the role of the *delatores* and *maiestas*, thereby indirectly signaling that he also intended to avoid both in his own reign. Here the beneficial influence of Seneca is probably at work. Suillius changed tack and claimed now that he had only followed Messalina's orders (which might be true, but was no excuse), but this, too, was ineffective, and he was condemned and banished (43.4-5). When some accusers tried to bring charges against his sons, Nero forbade them to continue – perhaps also because of Seneca's behind-the-scenes influence.

The power of Seneca and Burrus, however, would not always be effective, nor long-lasting. Nero had Agrippina killed – and despite their opposition to Agrippina, there is nothing at all in the

Annals that suggests that they had any hand in the plot.⁶⁶⁴ They seem to learn of it for the first time when, the initial plot having failed, a distraught Nero summoned them to ask what should be done (*A.* 14.7.2). They by no means lend their full and eager support to the attempt: *igitur longum utriusque silentium, ne inriti dissuaderent, an eo descensum credebant, ut nisi praeveniretur Agrippina pereundum Neroni esset* (7.3: “Therefore they both were long silent, lest they try to dissuade him in vain, or because they believed that things had gone so far that, unless Agrippina were prevented, Nero must perish”). Neither alternative does them discredit: they either wanted to dissuade Nero from the murder (as they had done before), but knew they could not now succeed, or believed that Agrippina really had become a threat to the stability of the empire (in which case it might be their regrettable duty to destroy her). Seneca looked to Burrus, as though to ask him whether the praetorians would take part; he responded that they would not shed Agrippina's blood (7.3-4). Nero therefore, as we know, had to use other methods to finish the murder.

After the matricide, however, it must be admitted that the actions of neither Burrus nor Seneca were creditable. They were finding it difficult, as Nero worsened, to serve the Principate both loyally and honorably; and the more they tried, the worse the tension grew. Burrus, when Nero was plagued with guilt, tried to cheer him and joined the flatterers congratulating him for having escaped from so dangerous a plot (*A.* 14.10.1-2). Seneca, meanwhile, composes for Nero a letter to the Senate, announcing that Agrippina had been detected plotting to assassinate the emperor and had paid with her life, adding, for further exculpation, remembrances of her previous ambitious conduct; he even blamed her for all the evils of Claudius' reign (10.3-11.2). Just as had happened in the funeral speech for Claudius, however, the thing which Seneca was being called upon to argue was so inherently absurd that no one believed it, however eloquently he phrased it – so much so, in fact, that it was Seneca who

⁶⁶⁴ The only indication that they may have had prior knowledge is the five words *incertum an et ante ignaros* (*A.* 14.7.2). But is clear that, even if they had known that a plot was afoot – which Tacitus is by no means certain of – they were not active participants therein, and by their conduct they evidently disapproved of the entire affair.

fell into disrepute for having written such a letter (11.3: *Seneca adverso rumore erat, quod oratione tali confessionem scripsisset*). Again, since he is allied with the Principate, Seneca's eloquence is being put to uses both dishonorable and ineffective.

Nonetheless, Seneca and Burrus continued to try for some time to restrain the emperor to *voluptatibus concessis* as much as possible. Nero famously had two obsessions, driving a chariot in races and singing with a lyre in Greek dress, both of which were scandalous to traditional aristocratic *mores* (*A.* 14.14.1). When it became clear that they could not resist both desires, Seneca and Burrus decided to allow one, and so an area was set up where Nero could race his chariots in private (14.2). But of course the display did not remain private, and in the end their attempt was as ineffective as all their other attempts to restrain Nero.

As Nero grew more and more dissolute, he listened less and less to Seneca and Burrus, and ever more to the flatterers who encouraged his pleasures. The final straw was the death of Burrus, whom Nero replaced with the infamous Tigellinus, whom we have already encountered as a flatterer. The death of Burrus also broke Seneca's power, since he alone could not shoulder the load that the two of them had scarcely managed together (*A.* 14.52.1). Nero therefore began turning to worse advisors (*ad deteriores inclinabat*). The time of Seneca's inevitable retirement is approaching. But the crisis is precipitated by one final example of what we have seen many times before, the corrupted eloquence of the speeches of flatterers, as always ingratiating themselves to the emperor by playing upon his desires and stimulating his hatred of anyone who seems to dislike his pleasures: they condemn Seneca's riches (which Nero himself had given him) and say that he challenged the emperor himself in the splendor of his gardens and houses, and that, as soon as Nero grew interested in literature, Seneca also began making literary compositions out of jealousy; worst of all, perhaps, Seneca criticized Nero's love of driving chariots and mocked his singing voice (52.2-4). So did worse advisors stimulate Nero's hatred.

Seneca was aware of his situation and of the reproaches of him being whispered into the

emperor's ear. He therefore begged an audience of Nero (*A.14.53.1*). Here we have the critical moment of Seneca's career in the *Annals*: his request of Nero to allow him to retire, and Nero's refusal, framed as though it were a set debate, with two opposing speeches in direct discourse – and the rarity of this form in the *Annals* emphasizes the importance that Tacitus wishes us to see in this scene.

Seneca's speech to Nero is a model of necessary flattery aiming at an honorable goal. He begins by describing the vast rewards that Nero had lavished upon him, and by downplaying the importance of what he had done for Nero (*A. 14.53.2-5*):

Quartus decimus annus est, Caesar, ex quo spei tuae admotus sum, octavus, ut imperium obtines: medio temporis tantum honorum atque opum in me cumulasti, ut nihil felicitati meae desit nisi moderatio eius. ... Ego quid aliud munificentiae tuae adhibere potui quam studia, ut sic dixerim, in umbra educata, et quibus clarudito venit, quod iuventae tuae rudimentis adfuisse videor, grande huius rei pretium. At tu gratiam immensam, innumeram pecuniam circumdedisti, adeo ut plerumque intra me ipse volvam: egone, equestri et provinciali loco ortus, proceribus civitatis adnumeror? Inter nobiles et longa decora praeferentes novitas mea enituit? Ubi est animus ille modicis contentus? ... Una defensio occurrit, quod muneribus tuis obniti non debui.⁶⁶⁵

Seneca somewhat playfully alludes to Stoic doctrine when he says that the only thing lacking to his happiness is that it be moderated – as he does again at the end of this quotation, when he asks *ubi est animus ille modicis contentus*. But he heaps praise upon Nero's generosity, which, if anything,

⁶⁶⁵ “It is fourteen years, Caesar, since I was joined to your hope, and eight since you obtained the empire, and in that time you have heaped such wealth and honor upon me that nothing is lacking from my felicity except its moderation. ... As for me, what could I add to your munificence except studies, as I might say, in the shade of retirement, which are become famous because I seem to have been present at the education of your youth – a grand reward for such a thing. But you have surrounded me with immense favor and vast wealth, so much so that I often wonder: Am I, born of equestrian and provincial rank, numbered among the high nobility of Rome? Has my newness [i.e. my being a *novus homo*] shone among the nobles whose families bear a long succession of glories? Where is that soul of mine that was content with moderation? ... The only defense for my behavior that occurs, is that it would not have been right for me to resist your beneficence.”

rewarded him excessively, he says, for the comparatively minor benefits that he had given Nero: simply his *studia*. This is less Stoic – indeed, it runs counter to the entire philosophical tradition derived from Socrates, who would poke fun at the Sophists for offering something as great as wisdom at the price of so trivial a thing as wealth – but it is an argument that Seneca, in the circumstances, could hardly avoid making. It was held more prudent by rhetoricians to remind one's audience, especially tyrants, of the favors they had done than of those they had received. Seneca's final claim here – that it would have been wrong of him not to accept Nero's gifts – is in this vein: it is the sort of thing one says to an emperor. Seneca continues (54.1-3):

Sed uterque mensuram implevimus, et tu, quantum princeps tribuere amico posset, et ego, quantum amicus a principe accipere: cetera invidiam augent. ... Quo modo in militia aut via fessus adminiculum orarem, ita in hoc itinere vitae senex et levissimis quoque curis impar, cum opes meas ultra sustinere non possim, praesidium peto. Iube rem per procuratores tuos administrari, in tuam fortunam recipi. Nec me in paupertatem ipse detrudam, sed traditis quorum fulgore praestringor, quod temporis hortorum aut villarum curae seponitur, in animum revocabo.⁶⁶⁶

The somewhat playful tone seems to continue when Seneca suggests that, just as if he were exhausted by military service, he would be allowed to retire, so should Nero relieve him of the burden of his own wealth, which is now unable to sustain. But there is no reason not to believe that Seneca means the comparison seriously: the idea that wealth could be a burden and a hindrance is standard Stoicism, and

⁶⁶⁶ “But we have each filled up the measure, you of how much a prince can bestow upon a friend, and I, of how much a friend can accept from his prince. Everything else increases envy. ... Just as, if I were exhausted by military service or on the road, I would ask for relief, so now, in this journey of life, since I am an old man and unequal even to the lightest cares, and since I can no longer bear my wealth, I beg for aid. Command that my property be administered by your stewards, that it be received into your fortune. Nor will I drive myself into poverty: handing over to you those things by the splendor of which I am bound, I will recall to my soul that time which is now spent on managing gardens and villas.”

Seneca's own letters often use the image of a man who can no longer bear his riches.⁶⁶⁷ Therefore he suggests that Nero resume his gifts, and argues that he would not really be poor or unhappy, but free to dedicate to his soul the care and time that he had been forced to spend on his properties. Seneca's speech is thus composed mostly of genuine philosophy, masked in flattery (albeit a flattery very different from that of Tigellinus or the bad counselors of 14.52.2-4).

Nero's speech is very much the opposite. Tacitus says after this speech that it was Nero's nature and habit to hide his hatred with deceptive flattery (*A.* 14.56.3: *factus natura et consuetudine exercitus velare odium fallacibus blanditiis*), and that is precisely what we see here, beneath a cloak of fair words and pseudo-Stoicism. The main argument is the reverse of Seneca's, namely that Nero's gifts were paltry compared to what Seneca had given him (55.1-4):

Quod meditatae orationi tuae statim occurram, id primum tui muneris habeo, qui me non tantum praevisa, sed subita expedire docuisti. ... Nec mihi tela et manus tuae defuissent in armis agentis: sed quod praesens condicio posebat, ratione consilio praeceptis pueritiam, dein iuventam meam fovisti. Et tua quidem erga me munera, dum vita suppetet, aeterna erunt: quae a me habes, horti et faenus et villae, casibus obnoxia sunt.⁶⁶⁸

Nero begins by referring to the fact that it had been Seneca who had, after all, taught him eloquence. This is somewhat surprising, since, as we have seen, Nero was famously unable to speak for himself (the first of the emperors to be so unable) and was forced to rely on Seneca to compose his public speeches and even his letters to the Senate. Apparently, however, he has improved – thanks to Seneca. But it is doubtful whether Seneca would take much pride in his pupil's advances: Nero's speech consists

⁶⁶⁷ E.g. *Ep.* 5.6, 56.14.

⁶⁶⁸ “The fact that I can respond instantly to your prepared speech, I have first and foremost as your gift, since you taught me not only to expound upon prepared themes, but on sudden ones. ... Nor would your weapons and hands fail me if I needed you in war: but – what the present condition demanded – you nourished my boyhood, and then my youth, with reason, counsel, and precepts. And your gifts to me will be eternal, as long as I have life: but what you have from me, gardens and wealth and estates, are subject to chance.”

mostly of hypocrisy, his eloquence of flattery. The tone of gratitude and respect throughout the speech is affected, since we already know from the narrative that Nero hates Seneca and wants to be rid of him. He cares nothing for Seneca's *consilium* and *praecepta*. The last sentence of the quotation, moreover, is a brilliantly sarcastic reformulation of Stoic doctrine: Nero argues that what he received from Seneca, namely philosophy and eloquence, are truly his and so will last forever, while the wealth that he has bestowed on Seneca is a paltry thing dependent on chance and subject to misfortune. Any Stoic would say the same, that external goods are subject to chance and therefore never truly ours, whereas wisdom is part of us and therefore truly valuable; Seneca often does say the same. But Nero, of course, does not mean it. Nero goes on to deny Seneca's claim that he was too tired to see to affairs, claiming that he was still of *valida aetas*, and suggests that Seneca should rather stay on and continue to act as his teacher and counselor, in case his youthful weakness should waver (56.1: *quin, si qua in parte lubricum adolescentiae nostrae declinat, revocas ornatumque robur subsidio impensius regis*), in language that echoes Tacitus' own earlier statement of Seneca's intentions (13.2.1: *lubricam principis aetatem*) – and we know how well that worked that first time. Nero then embraced and kissed Seneca, meriting Tacitus' comment on his hypocrisy (56.3: *velare odium fallacibus blanditiis*); Seneca thanked him and retired.

Nero's speech, then, is in many ways the opposite of Seneca's. Each flatters the other insincerely, it is true, but whereas Seneca hides honorable and philosophical sentiments under praise of the emperor and self-deprecation, Nero uses hypocritical protestations of philosophy and Stoicism to cloak his hatred. One cannot but think that Seneca was wise to try to distance himself from such an emperor. But if it was Seneca himself who taught Nero to speak in this way (as it must be, for many of Seneca's compositions on Nero's behalf were thought shameful), he deserves some of the blame for such a perversion of oratory.⁶⁶⁹

669 Woodman (2010) 294-308 points out a subtle and interesting technique used by Tacitus: whereas Seneca, in his death

Seneca nonetheless stopped coming to court, and, when Nero stripped the gold from temples, feigned illness and refused to leave his chamber at all, in order to avoid sacrilege (*A.* 15.45.3: *quo invidiam sacrilegii a semet averteret*). Tacitus reports a common rumor that Nero tried to have Seneca poisoned, but Seneca escaped, either because the freedman hired to perform the poisoning confessed or because he only ate wild fruits and only drank water from running streams (which simple diet either was difficult to poison or so improved his constitution that he could resist poison).

When the Pisonian conspiracy is discovered, and Natalis began naming his accomplices (some truly, some falsely), he included Seneca. Tacitus is unclear whether Natalis did so because he had been a messenger to Seneca, who was actually involved in the conspiracy, or if he simply wanted to save himself by gratifying Nero, who hated Seneca and was known to be searching for an opportunity to destroy him (*A.* 15.56.2). The loaded alternative strongly suggests the latter (as does the fact that Tacitus never suggests in his own voice that Seneca was involved), and Tacitus has clearly told us elsewhere that Nero hated Seneca (see 14.56.3).

Whichever alternative is true, Seneca is finished. In the aftermath of the conspiracy, when Nero is settling old scores, we read (*A.* 15.60.2):

Sequitur caedes Annaei Senecae, laetissima principi, non quia coniurationis
manifestum compererat, sed ut ferro grassaretur, quando venenum non
processerat.⁶⁷⁰

This passage assumes what Tacitus only suggested earlier, namely that Nero had attempted to poison Seneca, and that Seneca was indeed innocent – or at least that Seneca's innocence or guilt was a matter

scene, speaks in a style highly reminiscent of Seneca's own works, the Tacitean Seneca's speech here has no stylistic similarity whatsoever to the real Seneca; Nero's speech, on the other hand, is full of Senecan quirks and phrases. Says Woodman, p. 305: "I suggest that Tacitus intends us to infer from this that over the years of their close association Seneca has turned himself into a cipher: he has developed a form of speech which is alien to himself but which he has placed specially at the disposal of the *princeps*. When Nero speaks, he speaks like Seneca's other self. And Seneca is now so used to this procedure that, when he speaks to Nero, he speaks like the speaker that Nero has become."

670 "The murder of Annaeus Seneca followed, most pleasing to the emperor, not because he had found that Seneca was guilty of conspiracy, but so that he might accomplish with the sword what poison had not brought about."

of indifference to an emperor who wanted him dead. Tacitus adds that no one but the previously mentioned Natalis had divulged Seneca's name in connection with the plot; his evidence was that Seneca had refused to see Piso (presumably to avoid the suggestion that they spent a suspicious amount of time together), and yet had said that his safety and Piso's were linked (60.3). A tribune was sent to ask about the exchange (60.4); Seneca acknowledged that he had refused to see Piso, but on the grounds of ill health (which also excused his absence from court); that he had no grounds for preferring the safety of any other private citizen to his own; and that he was not enough of a flatterer to suggest otherwise – as Nero himself could attest, who had more often endured Seneca's *libertas* than his *servitium* (61.1). This last could only be deliberately provocative. The tribune reported that Seneca spoke with firmness, with no fear or sadness (61.2). It is somewhat unexpected to find Seneca speaking like Thræsea; perhaps, being in retirement, he no longer had reason or ability to accommodate himself to the regime, or, knowing that his death approached in any case, he preferred to make a noble end. For Nero immediately sent soldiers to order Seneca to die (61.2-4).

Seneca's death is famous, and need only be described briefly.⁶⁷¹ It is sometimes considered to consist of empty theatricality and bombast, because Seneca intentionally modeled his end on that of Socrates;⁶⁷² but it is far from clear that modeling one's death on that of a famous *exemplum*, or having a care for how it appeared to posterity, would be considered a bad thing by the Romans. This when Seneca asked for tablets to make his will, and this was refused by the centurion, he turned to his friends and said that he left them the only possession that he could, the pattern of his life (*A.* 15.62.1). Tacitus

671 It is also *very* similar to that of Thræsea Paetus. Their ends are sometimes contrasted, to Seneca's disfavor, on the grounds that Seneca finds it difficult to die, Thræsea easy; but it is unclear why the fact that death comes with difficulty to Seneca can possibly be a criticism, and moreover there are indications that Thræsea's own death, although cut short by the sudden end of the *Annals*, was no easier or quicker (16.35.2: *lenitudine exitus graves cruciatus adferente*).

672 E.g. Henry and Walker (1963) 98-110, Schmal (2008) 105-123. Henry and Walker 106 have a typical quotation: "In the event the attitude of Seneca to his coming death is so priggish and his commonplaces so devastatingly banal that the reader may feel that Seneca almost deserved death for his loquacity and dullness." This sentiment could only be expressed by a modern; the dread of the commonplace that it embodies is wholly atypical of the ancients. See Koestermann (1968) 305: "Wer gegen ihn den Vorwurf der Theatralik erhebt, weiß nichts von der seelischen Verfassung eines Menschen, der im Sterben liegt. Mag Seneca während seines Lebens im Zwiespalt zwischen Politik und Gewissen auch bisweilen gerirrt haben, *sein beispielhafter Tod* löscht die Erinnerung daran aus" (emphasis added).

gives him a brief speech in indirect discourse addressed to his friends, reminding them of their *praecepta sapientiae* and that his death was inevitable, for Nero's cruelty was known to all, and after the murder of his (adopted) brother and his mother it was only natural that he should kill his tutor (62.2). He tries to persuade his wife to live, but when she insists on dying with him, addresses her briefly in *oratio recta* (63.2):

'Vitae' inquit 'delenimenta monstraveram tibi, tu mortis decus mavis: non invidebo exemplo. Sit huius tam fortis exitus constantia penes utrosque par, claritudinis plus in tuo fine.'⁶⁷³

So saying, they cut their arteries together with the same stroke. Seneca famously has difficulty dying, and, worrying both lest his wife might be stricken on seeing him in pain and lest his own resolve weaken on seeing her suffering, he persuades (*suadet*) her to go into another room (63.3). This strikes us as heartless – but, compared to Socrates commanding his wife to be removed because her tears annoyed him, Seneca's concern is almost touching (although his wife actually survives). It is also important that he *persuades* her to retire: he is an orator, as well as a philosopher, to the last. Indeed, Tacitus explicitly draws our attention to Seneca's eloquence, saying that it remained abundant until the end (*suppeditante eloquentia*), so that he dictated his last thoughts to scribes as he died (63.3). Tacitus does not paraphrase Seneca's last words, he says, only because they were already famous (63.3).⁶⁷⁴

Seneca's constitution was weak, and the blood flowed slowly, and so he drank hemlock, naturally in imitation of Socrates (*A.* 15.64.3). When this too failed – perhaps for the same reasons that Nero's alleged poisoning attempt had also failed – he was carried to a bath, the water of which he sprinkled as a libation to Jupiter the Liberator (cf. 16.35.1), and was finally suffocated by the steam. His body was burnt in a simple ceremony without any solemn rites, according to the will that he had

673 “I have shown you the allurements of life, but you prefer the glory of death. I will not begrudge you the example. May the constancy of so brave an end be equal for us both, but may there be more fame in your end.”

674 Miller (1973) 116 takes Tacitus' reticence as evidence of disapproval.

written at the height of his wealth and power (15.64.4).

Thus we see how Tacitus makes Seneca's eloquence, possibly even more than his philosophy,⁶⁷⁵ the linchpin of his portrayal throughout the *Annals*, from his first appearance to his death. Seneca first rose to prominence because of his literary talents, and for a time composed all Nero's speeches for him, and his eloquence did not desert him even at the end: famously, he continued dictating up until the moment of his death. But Seneca's speeches, whether his own or in Nero's mouth, were neither always successful nor always honorable. The public role that he was called upon to perform as the emperor's speech-writer often went contrary to what he tried to do in private as Nero's tutor and counselor. The tension was an inherent part of life under the Principate and especially accompanied oratory. Seneca is someone who tried to accommodate himself and his eloquence to the times while still remaining true to his principles. In the end, under an emperor like Nero, he could accomplish neither. His oratory was perverted by the use put to it by the regime, and Seneca himself could not always escape the contamination,⁶⁷⁶ and yet this was not enough, and, despite his accommodation, he still ended as the victim of an emperor whom he could never appease. His story is the story of eloquence under the Principate.

We have thus seen again how the functional role of oratory is a major theme running through the Claudian and Neronian books of the *Annals*. Eloquence is as useless to those accused of *maiestas* as it ever was. Those closer to the regime, however – the *delatores* and flatterers of the emperor – are beginning to find new uses for oratory better suited to the Principate; but these uses can hardly be called anything other than perversions. They certainly do not constitute a flourishing or a healthy role. A partial exception occurs in the person of Thrasea Paetus, whose *libertas* empowers his speeches; but

⁶⁷⁵ We are accustomed to see philosophy and oratory as distinct, but in fact the Romans may have them almost as twins: see Quintilian 2.15.1-16.19.

⁶⁷⁶ Cf. Woodman (2010) 305.

he must accommodate himself to the Principate, and even so his success is extremely limited, and in the end he accomplishes little except to lose his own life. Seneca, closer to Nero's regime, has more success in guiding imperial policy, at least for a while; but his role as Nero's speech-writer compels him to put his eloquence to shameful and ridiculous uses, in another example of the corruption of oratory; even Seneca, moreover, could not debase himself enough to please Nero, and died trying. Thrasea and Seneca come closer than any others to finding a niche for themselves by means of their eloquence, but temporary prominence only makes their eventual failure all the more conspicuous. Thrasea's death (whether or not it originally ended the *Annals*) is a fitting capstone to the Tacitean corpus, which has often explored the socio-political function of oratory: if someone like Thrasea could not attempt to live up to the traditional role of the orator without losing his life, then no one else stood a chance.

Epilogue: The *Dialogus* Revisited

We have now completed our examination of Tacitus' historical works. This finally puts us in a position to be able to return to and to understand the *Dialogus*. It may be objected that this procedure is illegitimate: the *Histories* and *Annals* were written perhaps a decade after the *Dialogus*, and thus can not have been intended to be used to “decode” the earlier work in the sense that the *Dialogus* draws part of its meaning from them. And this is true. But there are three reasons why this approach is still valid and fruitful. First, Tacitus' general views of the Principate are unlikely to have changed drastically over a comparatively short time, when he had already been consul and had already by any definition matured as a thinker: and the simple fact that the *Dialogus* and *Annals* fit together so neatly is proof that there is no sharp dissonance between them, and thus that the viewpoint of the one can elucidate the other. Second, while Tacitus cannot have intended the *Dialogus* to be read alongside the *Annals* (or the *Histories*), he can certainly have intended the *Annals* to be read alongside the *Dialogus*: if the later work alludes to the earlier, as it clearly does, it is not impossible that the relationship is meant to be intertextual rather than one-directional – particularly given the first point, the inherent probability of their sharing a general viewpoint. Just as Tacitus' proven interest in oratory helps explain aspects of the *Annals*, the ideological worldview of the historian can cast light on the *Dialogus*. Third, none of Tacitus' works was written in a vacuum, and all may be supposed to share something of the atmosphere of the time. To what degree the “senatorial opposition” existed or had a coherent ideology is unclear, but certainly a number of senators in Tacitus' day held a common worldview, made up in part of the beliefs that, even if the Principate were a necessary evil, certain previous emperors were tyrants, that they sought to crush senatorial freedom, and that one of their tools for doing this was the *delatores*.⁶⁷⁷

⁶⁷⁷ See MacMullen (1966) 20-21, 32, 53-80; Malitz (1985) 231-246; Rudich (1993) xxiv, 62, 89, 180; Rutledge (2001) 9-12, 85-86. Beutel (2000) 57, 116-120, 196, 231-233 considers this worldview as a given and argues that Pliny presented himself as having always belonged to such an intellectual opposition. Sailor (2008) similarly shows how Tacitus consciously tried to tie himself to opposition circles and the “martyrs.” Rogers (1951) 114-115 sees such an opposition as engaging in propaganda to paint the emperors as tyrants as early as the reign of Tiberius, and McAlindon (1956) 113-

Pliny certainly expresses these views in the *Panegyricus*, to which the *Dialogus* and probably the *Annals* allude.⁶⁷⁸ This ideology of the opposition – if we may simplify a complicated issue – is found in the *Histories* and *Annals*, but there would be no need for a contemporary reader of the *Dialogus* to wait for the publication of Tacitus' historical works to learn that Domitian was a tyrant or that delation was an evil. He will have found such ideas already in the air.⁶⁷⁹ Thus, even though Tacitus did not write these perceptions down until a decade or more after the *Dialogus* was begun, they can still be used to illustrate the intellectual atmosphere in which the *Dialogus* was published and which would have been assumed by its first readers.

What, then, do the *Histories* and the *Annals* tell us about the role of eloquence? As we have seen, the position of oratory in Tacitus' presentation is not strong, to say the least. The position of deliberative oratory in the *Annals* can be dealt with very briefly. It is known that the advent of the Principate removed most of the occasion for such speeches in the Senate, and Tacitus so portrays it. The actions of the Senate in the *Annals* are almost always beside the point: they often debate, but it is the emperor who deals with all important matters. Commonly there is some fierce debate, but the emperor or someone with his ear decides the issue entirely for his own reasons (e.g. *A.* 1.77.1-4, 2.33, 3.33-34, 13.26-27), or a single eloquent speech is at once utterly disregarded (2.37-38, 11.6-7). It is not surprising that deliberative oratory can have little value in a figurehead Senate, as Tacitus shows it. But it is in the trials of the *Annals* that eloquence fails most conspicuously. For our purposes, this is also where it fails most relevantly: the *Dialogus* is after all concerned exclusively with forensic oratory, and all the practical advantages and benefits accruing to the orator, as mentioned by both Aper and Messalla, go specifically to the speaker successful in court. But the *maiestas* trials in particular are

132 sees such opposition as running in families. Percival (1980) 119-133 discusses the sentimental “republicanism” of some imperial senators.

678 E.g. *Panegyricus* 33.3-36.2, 42.1-4, 45.1-3, 76.3-4. It is a common view: Beutel (2000) 57.

679 Sailor (2008) is in fact an attempt to show that Tacitus' portrayal of the Principate in his histories is by no means original, but a conscious attempt to link himself to those who already held such a worldview – that is, that Tacitus, like Pliny one who had prospered under the Flavians, tries to make himself out to be a member of the opposition.

decided without reference to oratory. Kennedy, in arguing that the Senate acting as a judicial body continued as a viable arena for the practice of eloquence, cites the case of Marcus Terentius at *Annals* 6.8.1-9.1, who was accused of being tied to Sejanus but defended himself successfully.⁶⁸⁰ This case is cited because there is no other like it in Tacitus. On this occasion, and this occasion alone, is the outcome of a trial decided or even influenced by the speeches of either defendant or prosecution – and even here Tacitus adds secret and perhaps cynical reasons for the success of the speech besides its own eloquence.⁶⁸¹ On all other occasions, speeches may be given, but they do not decide; more commonly they are not mentioned at all. Usually Tacitus simply says that the emperor punished or the emperor acquitted the defendant; if reasons are given, they are the personal reasons of the emperor.

These reasons, whether Tacitus explicitly says so or merely implies it, are typically the enmity of the *princeps* or one of his favorites, and the means by which this enmity is pursued is the *delatores*. The actual historical role of delation, as we have seen, is much debated, and many scholars argue that it served a much more legitimate function than Tacitus allows; but what matters for our current purposes is Tacitus' presentation, which is without exception negative: the *delatores* are unscrupulous speakers who seek to gain the emperor's favor by attacking his enemies, and in this are usually encouraged and protected by imperial power (see e.g. *A.* 4.30.2-3).⁶⁸² Thus in the *Annals* a perceived enemy of the *princeps* will be brought up on charges (usually *maiestas*, perhaps adultery or magic) by a *delator* with ties to the regime; the case will either be tried in the Senate or before the emperor's private council, and in any event it is the emperor who will ultimately judge the guilt or innocence of the defendant. Someone who has incurred the hostility of the *princeps* is certain of conviction (e.g. 3.49-51, 3.66-67, 4.15.3-4, 4.18-19, 4.28-30, 4.68-70, 5.3-5, etc), and the *delator* will be rewarded with a portion of the accused's estate; in some cases one of the more hypocritical emperors will make a show of mercy while

680 Kennedy (1972) 434.

681 Zäch (1971) 64-66. In Dio, who also mentions the case, Terentius' speech is left to speak for itself.

682 Rudich (1993) xxvi, 180.

still secretly encouraging the *delatores*.⁶⁸³ If by some accident a friend of the *princeps* finds himself accused, he can count on imperial protection (6.5.2). Thus Tacitus shows us an intimate connection between the tyrannical emperor and the *delator*: a *delator* seeking imperial favor formally charges those who he knows have incurred the emperor's displeasure, and the emperor naturally finds them guilty, disposing of personal enemies with a show of justice. At no point does eloquence matter.

This, in brief, is the role of oratory under the Principate as portrayed by Tacitus: there is none to speak of, at least at the level of Senators and powerful equestrians. In no case mentioned by Tacitus save one is the oratory of the participants in any way relevant to the outcome: in all others, deliberative but especially forensic speeches may be given but are meaningless, and do not affect the result either of a debate or of a trial in any way. The emperor judges in all cases, and for his own reasons.

Such is the attitude of the historical works of Tacitus towards oratory. What does this tell us about the *Dialogus*?

Take Aper I. In this speech Aper defended the value of the active life of an orator by listing the practical benefits of eloquence. These center primarily around the successful practice of courtroom oratory, the gaining of clients and attacking of enemies, and the means of defending oneself if attacked; remember the important passage at *D.* 5.5-6:

[Est eloquentia] qua semper armatus praesidium amicis, opem alienis, salutem periclitantibus, invidis vero et inimicus metum et terrorem ultro feras, ipse securus et velut quadam perpetua potentia ac potestate munitus. ... [si] proprium periculum increpuit, non hercule lorica et gladius in acie firmius munimentum quam reo et periclitanti eloquentia praesidium simul ac telum ...⁶⁸⁴

683 See Köstermann (1955) 53-85 on the *ars Tiberii* of *A.* 1.73.

684 “[It is eloquence] always armed with which one might bear protection to one's friends, aid to strangers, salvation to men under judicial danger, and moreover fear and terror to one's opponents and enemies, being oneself secure and protected by everlasting power and authority. ... [If] personal danger threatens, then surely mail and sword are no more solid protection in the battle-line than eloquence is at once a shield and a weapon for a defendant in court. ...”

Here Aper claims that there is no better means than eloquence both to protect oneself and if necessary to attack others in court; if danger of accusation threatens, there is nothing but eloquence that can act as an insuperable defense. But, as we have seen, that is not how things work in Tacitus' historical works. In the *Annals*, Tacitus shows us a world that could not be more different: a world where forensic speeches, far from being decisive, never seem to affect the outcome of a case at all; where the enmity of the powerful translates directly to condemnation in court; where even successful speaking does not come from one's own eloquence, but from choosing as the targets of one's delation those victims who, being on terms of hostility with the *princeps* or his favorites, are already sure of condemnation. Simply put, the world Aper describes does not exist any longer: the rewards he describes are no longer available, or at least not to oratory *per se*.

On the other hand, Maternus I, which responds to Aper, comes off somewhat better, but only slightly. Some of its criticisms of Aper are confirmed by the *Histories* and *Annals*; others are shown to be hopelessly naïve and at variance with the contemporary real world. Confirmed are most of his points about the *delatores*: Maternus had criticized Aper's concept of the successful orator because it really amounted to delation and thus was morally disgusting. Insofar as there are speakers who attain any degree of power or influence, they are unfailingly *delatores* like Eprius Marcellus and Vibius Crispus, whose careers were held to be wicked by most of the senatorial order. Moreover, Maternus denies that they owed their position to their oratory at all: *Quae haec summa eorum potentia est? Tantum posse liberti solent* (D. 13.4), “What is the extent of this power of theirs? The emperor's freedmen are accustomed to be so powerful!” This squares exactly with the Principate as described by Tacitus: besides mentions by name of Marcellus and Crispus in the *Histories*, where they are treated as notorious, the *Annals* shows us a world where the only successful oratory is indeed delation – but it is *not* successful by means of the eloquence of the accusers, but from the favor granted them by the emperor. Thus Maternus compares the *delatores* to the imperial freedmen (who do indeed figure

prominently and powerfully in the reigns of several of the emperors): both have their power in the same source. Aper is therefore wrong to claim that oratory brings success and influence.

Maternus, we remember, also criticizes the life of an orator for its danger. He proclaims that he has no wish to attract the negative attention of the powerful, nor to amass such a fortune that naming the emperor as a legate would be the only way to preserve his will as valid. Both of these are frequent perils familiar to a reader of Tacitus (e.g. *H.* 1.48.4, *A.* 6.19.1).

On one critical part of Maternus' first speech, however, a most cursory glance at the *Annals* would show him to be utterly ignorant of the situation of his own times. The speech is not only a criticism of Aper, but a positive defense of the life of poetry as a valid alternative to that of oratory: poetry, Maternus says, is above all a safe calling, and one that allows for all the free and open criticism of the powerful once (but no longer) available to the orator. But Tacitus never mentions poets or poetry playing any such high-profile role as Maternus envisions, and more importantly, despite their obscurity, poets often encounter danger and death from official persecution. Clutorius Priscus, to name just one, was charged with *maiestas* for a poem that was not even critical of the regime but was nonetheless deemed offensive (*A.* 3.49-51). Literary figures *often* ran great risk, at least as portrayed in the *Annals*, and are *often* charged and even executed for verbal treason.⁶⁸⁵ Such a one may have been Curvatus Maternus himself: and it is inconceivable, if Maternus were well-known as such a figure, that Tacitus cannot have intended the irony of having him declaim on his own peace and security while polishing the very plays that would be brought forth at his trial as evidence of his disloyalty.⁶⁸⁶ Maternus' praise of poetry as a serious and safe alternative to oratory is sadly contradicted by the reality of the world of the *Annals*.

Maternus I is thus partly supported and partly contradicted by juxtaposing it with Tacitus'

685 Bauman (1974) 14, 100, 148; Rudich (1993) xxxii-xxxiii, 174-178.

686 Barnes (1986) 240-244.

historical works. Critically, the criticisms of Aper are supported: the world as Aper describes it no longer exists, and his much-vaunted life of oratory is really the life of delation and slavish *adulatio*; the only eloquence that can now be practiced is morally contemptible, and its practitioners, the *delatores*, are not even successful by their speaking at all, but by the favor of the emperor, whose enemies they are let loose upon. At the same time, Maternus is wrong in his defense of poetry, and tragically wrong: it is neither a free nor a safe alternative, as he was to learn at his own cost, and as a Roman reader knowledgeable of the political trials of the early empire – or a modern student of Tacitus' *Annals* – would already know.

Aper II, an at times confusing speech that spent many pages arguing that the “ancients” were not really all that ancient and that oratorical style was dependent on circumstances, is clarified and has its meaning amplified when set alongside Tacitus' historiographical works. The larger part of this speech had centered on the need for oratory, which is after all a practical art aimed at practical ends, to change so as best to suit the times: thus the different circumstances facing the modern orator demand a type of eloquence different from the ancient – by no means inferior, but simply different, more adapted to its own age. A feeling for the atmosphere of the *Histories* and *Annals*, however, shows that the different circumstances mentioned by Aper himself, such as cases being decided *non iure aut legibus sed vi et potestate* (*D.* 19.5), far from simply demanding a different form of oratory to suit them, actually make any effective oratory impossible. Aper himself, we recall, describes how arbitrary and hasty contemporary judges could be, how they would interrupt a speech or turn hostile for the most trivial reasons; for Aper this only necessitates a new style, but a critical reader will wonder how *any* style could be successful in such an environment;⁶⁸⁷ and of course the emperor, the supreme and most important judge, as we see in the *Annals*, could be utterly arbitrary and in fact did usually decide cases

⁶⁸⁷ Pliny, *Ep.* 6.2, makes similar complaints about the conditions of his own day, saying that this shows how impossible it had become to practice real oratory.

for his own private reasons, and before him no manner of speaking would be effective. Thus Aper claims that the new circumstances demand a new oratory: in fact they render all oratory useless.

The other main part of Aper's speech, and the part often overlooked because it has often seemed so trivial an argument, is that those praised by Messalla and his ilk as "ancient" are no such thing, in fact are within the possible bounds of living memory. Much more space is spent on this topic than seems necessary to make a rather unimportant point about proper word usage. In fact, if we are familiar with Tacitus' historical works, we will understand that Aper is actually making a more subtle claim between the lines of his explicit argument:⁶⁸⁸ if we grant that there is indeed a great difference between the orators of Cicero's day and of Aper's, but that the reason for the sudden drastic change cannot simply be the natural passing of time (for not much time has passed), then the actual reason must be some event that caused a tremendous upheaval of the social order. The event is not far to seek. It is the shift from Republic to Principate, the growth of the power of the emperors; and every page of Tacitus' history of the early Principate describes how conditions had been altered so radically as to produce the vast gulf between the seeming ancients and the moderns.

The *Histories* and the *Annals*, read alongside the *Dialogus*, thus elucidate Aper's second speech: he is right that oratory must change with the times, but the new circumstances were such that an effective oratory was no longer possible. Moreover his contorted point about the "ancients" calls attention, by the very fact that it is not so explicit, to just what those new circumstances were: the end of the Republic and the advent of the Principate.

Messalla's speech focuses on education and moral decline as the reasons for the decline in oratory; he accepts Aper's points that oratory will change to fit the situation but denies that this makes the change any less regrettable: modern oratory is still inferior to the ancient. What the historical works

⁶⁸⁸ Ahl (1984) 174-208 is a most important work on "the art of safe criticism," or how Greek and Roman authors of the imperial period especially often made their "real" points just beneath the surface, and one must read between the lines to see what they meant. This is worth keeping in mind for the entirety of the *Dialogus*.

can tell us about this speech is that Messalla probably has the reasoning backwards, and that he is certainly too optimistic. Tacitus stresses in the *Annals* that the Principate was something radically different that had enormous effects on society (whatever attempts there were to disguise it), and the influence that he shows it as having on oratory would be impossible to exaggerate. Messalla overlooks the elephant in the room. He does not even consider the tremendous political changes that had deep and lasting effects on contemporary eloquence and its social function, but instead focuses on the decline of morals and education. Moreover, if his speech is at all optimistic and embodies any kind of program for a revival of oratory, we see that the attempt is hopelessly misguided for the same reasons. If a change in education had caused the new oratory, it could well be changed back; but of course the real cause was the Principate, and from the Principate there was no returning. Even considering such an attempt seems naïve if we try to imagine it happening in the dark and gloomy world of the *Annals*. Thus a reading of Tacitus' historiographical works allows us to see how Messalla, sympathetic though he may be, is out-of-touch with the times – even how his speech may be read as a foil, as setting the stage for the more accurately historical final speech of Maternus.

The importance of Maternus II corresponds to its place concluding the work. This speech especially is illuminated by reading it alongside the *Histories* and *Annals*, and it in turn reflects on all the other speeches in the *Dialogus*. Its possible meanings, how it may be taken as ironic and how not, whether it means that there is no *need* or no *use* for oratory, have been discussed very thoroughly in the first chapter, and there is little need to summarize them here. Maternus is ironic at least in part, though perhaps sincere with reference to the time of Trajan. But when the speech reflects back on the Principate – that is, on the period covered by the *Annals* and the *Histories* – these later works of Tacitus confirm that it must indeed be taken as ironic, and entirely ironic.

The chief question in the interpretation of this speech is whether Maternus means what he says, that there is no longer any need of eloquence under a generous and merciful *princeps*, or if there is no

longer any usefulness in eloquence under an arbitrary and tyrannical emperor. A knowledge of Tacitus' historical works prevents any but the latter reading. We have seen in the *Annals* how the outcome of trials never depends on the eloquence either of prosecutor or defendant; how, even where Tacitus records a speech (and he usually does not), it is irrelevant to the result; and how emperors could unleash the *delatores* on their perceived enemies, whom no oratory could ever protect. Maternus states that there is no need for defense speeches when *clementia* came to the aid of defendants (*D.* 41.4). The *Annals* show that this can only have been deeply and bitterly ironic.

This reading of Maternus II reveals that one of the prime considerations of the *Dialogus* is the interdependence of liberty and eloquence and the loss of the one with the other.⁶⁸⁹ His is the first and the only speech that discusses political change; in this it corrects the naïve historical explanations of Aper II and Messalla, both of whom focused on causation extremely trivial in comparison. But here Maternus traces, albeit in coded or figured language, how the loss of the *libertas* of the Republic (whatever one takes that to mean) and the concentration of power in the hands of one individual necessarily and inevitably resulted in the loss of any functional role for oratory. Eloquence was of no use in the Principate.⁶⁹⁰

This understanding of Maternus' final speech in turn helps guide us to how the other speeches should be taken. Aper I praises the benefits of oratory, but since the advent of the Principate, those benefits no longer exist. Maternus I is confirmed in its criticisms of *delatores*, but its defense of poetry as a safe but effective alternative to oratory becomes laughable, both of these again because of the new political conditions. Aper II rightly argues that eloquence changes its form to fit the times, but does not

689 Jens (1956) 338-341. There can of course be no pretense that such a point is original, but it is true nonetheless and must be noted in any interpretation of the *Dialogus*.

690 See the introduction to Rudich (1993). It is true, of course, that eloquence continued to be praised and practiced, and the Orator remained an ideal to strive for, and undoubtably in the many small court actions and the many provincial senates of the Roman world oratory remained important. But it no longer had any useful function in high affairs of state or among the senatorial aristocracy, which is the only level of society or politics most of the ancients (including Tacitus) condescended to notice, whether in history or literature.

see that the Principate had so altered the conditions as to make such eloquence obsolete; and what optimism Messalla has is entirely misplaced. Thus a knowledge of Tacitus' historical works is illuminative of each speech, but especially and above all shows us how to take Maternus II, which in turn helps us more fully to understand the other speeches and finally the *Dialogus* as a whole.

We have thus seen how reading the *Dialogus* alongside Tacitus' other works can explain many points of confusion and clarify the intended meaning. The *Dialogus* is, unsurprisingly, deeply pessimistic, but not in the way implied by the opening question: Tacitus sets out to respond to a friend's enquiry why oratory had so declined from the golden-age standard. Such a decline in the *quality* of contemporary oratory is never admitted by Tacitus himself in his own person; in fact, Aper, whom Tacitus counts as one of his teachers (*D.* 2.1), is given very persuasive arguments that, although eloquence may change to suit the times, the change is not in itself bad: the fact that modern eloquence differs from that of Cicero does not mean it is inferior, and in some ways may even have been improved. Instead, Tacitus turns the tables on the original question. Why oratory had declined is fundamentally the wrong question to ask; instead, one should be asking what effects the new social and political conditions of the Principate had on the public role or function of oratory. Tacitus' argument, it should now be clear, is that their effect was to bring completely to an end any practical importance of eloquence. The teachers still taught and students still learned, and perhaps they attained no little skill at speaking; perhaps too eloquence was still of importance in minor and trivial affairs; but Tacitus, from the first speech of Aper on, situates the discussion in terms of high concerns of state and the summits of power and influence. What other level could matter to the inherent ambition of elite Romans, who still looked to Cicero for inspiration and whose education trained them to aspire to the highest reaches of fame? And it is on precisely this level that eloquence no longer had any useful role to play.

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