

The inter-relation of State Religion and
Politics in Roman Public Life from the end
of the Second Punic War to the time of Sulla

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1. Introduction

The political life of Rome was deeply affected by religious requirements of various kinds. The magistrates had religious duties to perform and indeed their movements were to some extent limited by religious obligations. The senate had responsibility for certain religious affairs, which had to be dealt with annually, and also took the major decisions of religious policy. Leading politicians held priesthoods. Public acts had to be preceded by the consultation of the gods, and could always be disrupted either by a failure to fulfil the appropriate ceremonies or by the intervention of signs, real or pretended, supposed to indicate the god's disapproval or rather, perhaps, his advice not to proceed.

During the second century, our evidence allows us to study various aspects of the relationship between religion and politics. First, we have some evidence that the senate, at least in the early years of the century, was pursuing a definite policy in the religious decisions which it took: this evidence is considered in part 1. Secondly, we know of some actions taken by the priests and we sometimes know who the priests were who took them; it is therefore possible to estimate, to some extent, why they acted as they did and, in general, what the significance of the colleges was in the life of the city; this evidence is examined in part 2. Thirdly, from the beginning of the century, individual Roman leaders begin to establish

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special religious reputations of their own, which gives us the opportunity to study the development of cults emphasizing the individual, and of the attitude towards state religion of these leaders themselves; this is the central subject of part 3.

These three aspects are distinct enough to be treated separately, but they have obvious connections with one another; of course, the priests were members of the senate, and so, indeed, were the individual generals. Through all three sections of the argument, there run certain basic questions about the nature of Roman religion and its place in Roman society, and about the motives and beliefs of Roman aristocrats, whether as senators, priests or generals. Still more ill-defined, but in a sense more important, is the problem of how the Roman people reacted to the State cult and the State's religious policy. It would not be true to say that we know nothing about such matters, or that it is senseless to discuss them, but it must be emphasized here and throughout the discussion how very unsatisfactory is our record in this respect: but if we cannot say much about beliefs, we can say something about behaviour and about the changing, or unchanging, standards which determined what a Roman politician could, or could not do, where a religious issue was concerned. Perhaps this in itself implies something about beliefs, unless

one is prepared to regard the whole system as a hypocritical charade. Some attempt at a choice must be made between different pictures of Roman religion in politics; was it no more than a political convenience? Or was it a conspiracy to deceive and cozen the plebs? Or was it in any sense a system with its own values and its own dignity? The first topic to be examined is the nature of our information and the extent to which it allows of any attempt to answer such questions.

The sources for the history and development of Roman politics and religion during this period are too diverse to be analysed in detail here and individual problems are considered as they arise in later chapters; but it will be useful to examine some general questions which affect our understanding of the problems outlined above. First, it is important to emphasize the deficiency of our record from the point of view of a religious historian; until the lifetime of Marius and Sulla, we have only the most indirect access to the thoughts and ideas of Roman statesmen and all theories about their beliefs or lack of beliefs are based on the flimsiest of indications. Even for Marius and Sulla, we have to rely on small, isolated scraps of information; but here we at least know that our information goes back to contemporary writing, in Sulla's case his own memoirs. It is not until Cicero that we have the considered views of a Roman on the gods and the State cult. Still less are we in a position to make assertions about the religious beliefs of the citizens of Rome in general, though, indeed, in this respect first-century sources are little better than second-century ones.

The gap can be filled in certain limited respects by use of the Roman comedians and especially Plautus; but here again there are serious difficulties. We know that Plautus translated or at least adapted Greek originals and can never be sure that his evidence is to be applied to a

Roman context unless we already have evidence that a particular institution or concept is Roman and not Greek.¹ Thus we can be sure that the pastiche of Roman religious procedure in war-time, to be found in the opening scenes of the *Amphitruo*,² would not come from a Greek original; it is of value to have a Roman contemporary view of institutions otherwise only known to us from dry annalistic records; but this can be done only because we already know the basic facts about Roman war-procedures. The difficulty can be circumvented in some cases by ignoring the distinction between Greek and Roman and arguing that, wherever the material came from, we can assume that a comedian must write so that his audience will be able to understand him and see his jokes; therefore anything to which Plautus alludes must be familiar to his contemporaries.³ The conclusion is not compelling; Plautus may sometimes have

1. cf. Ed. Fraenkel, Plautinisches in Plautus (1922); Italian tr. 1960 - Elementi plautini in Plauto, with addenda 399ff.
2. cf. *Amph.* 192 ('imperio atque auspicio'); 196; 206ff. (fetial demands); 229f (taking of vows) etc.
3. For discussion on the contribution of Plautus to our knowledge of Roman religion (a subject on which Fraenkel has not a great deal to say) cf. G.B. Gulick, H.S.C.P. 7(1896), 235ff. (on omens and augury); P.R. Coleman-Norton, C.P. 31(1936), 320ff (on philosophical views, but rather uncritically); V. Niebergall, Griechische Rel. u. Myth. in der alt. lit. der Römer (1937) 21ff; Riess, C.Q. 35(1941), 150ff; J.A. Hansen, T.A.P.A. 90(1959), 48ff.

misjudged his audience or aimed certain allusions only at the most sophisticated of his hearers. Nevertheless, it seems safe enough to conclude from Plautus' references that his audiences understood jokes about the Bacchic cult:⁴ that they were familiar with the idea that the gods might be held to be quite uninterested in human affairs and deaf to human prayers;⁵ and, perhaps most important of all, that a human being might survive death and pass to another existence, at least in Hell. The distracted lover, Charinus, in the Mercator asks his friend Eutyochus where he is:

ubi ego sum? hicine en apud mortuos?

Eu. neque apud mortuos neque hic es. Ch. salvos sum,
immortalitas
 mihi data est: (602ff.)

It is impossible to know what this would have meant to a Roman audience, but it must have meant something. Charinus can conceive that he could be dead and yet conscious; immortality is the third possibility.⁶

For Ennius, the same arguments do not apply. He may

4. cf. infra 108 n.177

5. cf. especially Poen. 449-62; Cas. 346ff; Curc. 260ff; cf. Amph. 1051; cf. also Ennius, Telamo 316-7 (V³).

6. For the idea of hell cf. Cant. 998-9; Trin. 548ff; for immortality on earth, Poen. 275ff; for denial of immortality, Bacch. 1193ff; Cant. 741: cf. also Pacuvius, Chryses. 93.

well have been writing specifically for an aristocratic and educated audience; moreover, he seems to have a didactic purpose in some of what he writes; we have no way of telling how far, for instance, his Euhemerus was read and understood by his contemporaries.⁷ Scholars have traced in his work and in other fragments of contemporary writing some knowledge of Pythagorean works of the period and possibly even acceptance of Pythagorean views;⁸ there is some reason to think that there was a tradition of Pythagoreanism at Rome and at least that the system could claim very respectable ancestry there, but again the evidence is far from being reliable.⁹

In this context, archaeological evidence can offer little help. There is no Roman art of the period to offer guidance. Coin-types, which ought in theory to be a valuable source and which are in fact of vital importance to the interpretation of individual problems, can give only the most elusive information about contemporary religious life. For one thing, they only become a rich and varied source at the end of the century, when other kinds of evidence are also becoming more valuable; secondly, they are of most value to us when they bear the moneyer's name

7. For the Euhemerus cf. *infra*, 777

8. *infra*, 719ff.

9. For Numa as a Pythagorean cf. *infra*, 779 n. 40.

and can hence be associated with the activities of particular individuals, but again it is only at the end of the second century that moneyers begin to identify themselves. We can derive from earlier coins some indication of the gods most important to the Romans; but even here the results are in some ways odd, for it is difficult to believe, for instance, that the obscure, archaic Janus was of central importance in the third and second centuries, let alone his youthful version, called Fontus in the hand-books, but really quite unknown to our tradition.¹⁰

Inscriptions have a great deal to offer, both dedications from Rome, Italy and the East and the great Baccanalia inscription from Bruttium. A group of early dedications from the Roman colony at Pisaurum¹¹ is particularly valuable as an indication of the cults important to Romans of this period and occasional dedications by Romans, ^{and} magistrates ~~a~~ privati, to Hercules, Quirinus, Aesculapius,

10. For Janus, Wissowa, R.u.K.², 103ff; 222f; Latte, RRG, 132ff; Otto, RE Suppl. 3.1175ff; Radke, Die Götter Altitaliens, 147f; Schilling, MEFR 72 (1960), 89ff. Fontus as Janus' son is only known from Arn., 3.29; elsewhere, he is called 'Fons' and has nothing to do with Janus. cf. Boehm in RE 6.2838ff; Wissowa, R.u.K.², 221 and n.10.; but cf. L. Holland, Janus and the Bridge (1961) for possible connections of Janus and water. The coins: Syd., 64 - 70; cf. 71; 78; 89; 101; 143; etc.
11. Now in Degraffi ILLRP 1; cf. especially 13 (to Apollo); 14 (to Fides); 15 and 23 (to Iuno); 18 (to Salus); 20 (to the Di Novensides); 21 (to Diana); 22 (to Feronia); 26 (to Liber).

Verminius or Vediovis¹² and the lack of such republican dedications to other deities¹³ provide important contemporary evidence. But, again, it is the limitations rather than the contribution of this material which must be emphasized in assessing the value of our whole tradition. The dedications are scattered and there can be no possibility of valid statistical analysis; even the silences may be accidental and recent discoveries of archaic Latin inscriptions have shown how dangerous it is to build on the absence of evidence.¹⁴ Once again, the material is of value in relation to particular problems and the history of particular cults rather than in arriving at any picture of religious life in the period. The exception here is, of course, the Bacchanalia inscription, the one coherent text we have, and

12. Hercules ILLRP; 119; 123; 126: cf. 127 ('Hercoli Celeri'); 122 ('aedes et signum Herculis Victoris'); Quirinus, 251 (the only example); Aesculapius, 35 - 8; Verminius 281 cf. 121 (otherwise unknown); Veiovis, 270 (the Julian altar at Bovillae).
13. e.g. to Pietas or Virtus; to Dis Pater; to Janus; to Bacchus; to Attis; to Neptune (except on Delos).
14. ILLRP 1271 (apparently proving a cult to Aeneas in the fourth century, cf. M. Guarducci, Bull. Com. 76(1956 - 58), App. p. 3ff.; S. Weinstock, JRS 50(1960), 114ff.); ILLRP 10 - 12 (apparently the Fates in the fourth or third century cf. Guarducci, Bull. Com. 72 (1946-8); S. Weinstock, Festschr. Rumpf, 151, Latte, RRG, 53 n.1.).

an invaluable source of information and control of our literary tradition.¹⁵

It is, however, on the literary tradition that the historian must depend. For the earlier years of the second century down to the end of the Third Macedonian War, we have Livy's History, more or less complete; from there on we have summaries of Livy as the only continuous thread, occasional references to events in Rome in Polybius' history and scattered pieces of information from Cicero and other later writers. In 133, however, the picture begins to change radically; sources of information are still far from steady and the tradition is in many ways distorted by political bias and later misinterpretation, but we do begin to have first-hand contact with the ambitions, plans and intrigues of politicians and generals, to have some grasp of the characters of individuals, their triumphs and failures; finally, for the first century we have first-class information and, relatively speaking, a wealth of biographical and personal details about individual Romans. The fundamental problem for the historian of the second century is the sharp division between the sources for the beginning and end of the century; he has to judge how far the Rome of the 190's was a different society from the Rome of the 120's, and how far it only seems different

15. cf. *infra* ch.2

because its history is written from a different point of view and from a different order of historical records. It is not simply that our information is better for the later years of the century, though in many ways it is; what Livy gives us in his accounts of the events of any year at Rome is of great value and this is particularly true from the point of view of religious history, because he includes such routine religious business as the co-opting of new priests, the year's prodigies and the expiations ordered for them, any matters referred to the priestly colleges for an opinion, the founding of temples and the holding of special games. The problem is not only that Livy fails to give us, for much of the time, the political intrigue which lies behind the official information, but also that we never again get the steady flow of basic information which he does give us for the years covered by his fourth and fifth decades.

The basic structure of Livy's work has been thoroughly examined since Nissen's fundamental work¹⁶ and it is certain that for his history of Eastern affairs he translates, abridges and remoulds the history of Polybius; for events in Rome itself he draws on the annalistic tradition going

16. Kritische Untersuchungen über d. Quellen der viert. u. fünft. Dekade des Livius (1863)

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back to the writers of the second century Piso¹⁷ and Cassius Hemina¹⁸ and perhaps even earlier than this, but his immediate sources are generally agreed to be Valerius Antias and Claudius Quadrigarius writing in the first century B.C.¹⁹ Agreement, however, goes little further; in one sense, the identity of his sources matters relatively little when we know so little about these writers themselves; but it would be of value to know how Livy used his sources and what information the original annalists had been able to find for the early second century; here scholars have not agreed so easily. Moreover, the annalistic tradition has received severe criticism in the area where it can be

17. Peter, HRR 1².120ff (fragments), CLXXXIff (discussion) cf. Latte, Sitzungsb. d. D. Akad. d. Wiss. zu Berlin 1960 no. 7; he regards Piso as responsible for the invention of some religious antiquities, but rightly emphasizing the prominence of religious matters in our fragments cf. 7: 9: 10: 11: 13: 14: 25: 37: 39: 41: 42: 44: 45. (Peter).
18. Hemina: HRR, 1².98ff. (fragments); CLXVff (discussion).
19. Antias: HRR 1².238ff (fragments); CCCVff (discussion); cf. Münzer, de Gent. Val., 54ff.; Volkmann, RE s.v. Valerius Antias; Ogilvie, Commentary on Livy, 12ff: Quadrigarius, HRR 1².205ff. (fragments); CCLXXXVI (discussion). cf. A. Zimmerer Q. Claudius Quadrigarius (1937). The whole question of the nature of the annalistic tradition was put in question by Gelzer, Hermes 68 (1933), 129ff = Kl. Schr. 57ff; Hermes 69(1934) 46ff = Kl. Schr. 3.93ff: Hermes 82 (1954) 342ff = Kl. Schr. 104ff. who argued that the historians before Cato did not write in an annalistic form, so that the annalistic tradition will have begun only with the late second century historians. contra F.W. Walbank CQ 39(1945) 15ff.: Bömer, Historia 2(1953), 189ff; Balsdon, CQ NS 3(1953) 159ff: the question is deeply involved with the question of the *Annales Maximi* cf. below, 23f.

checked against Polybius' account of the same events.

How then does Livy use his sources? where did the sources themselves find their information? How reliable is the information when we have it?

Kahrstedt²⁰ argued that Livy's Roman passages were riddled with doublets; he deduced that Livy constantly used more than one annalist, frequently changed from one source to another and therefore reproduced more than one account of the same series of events; Klotz,²¹ in 1951, attacked this view and was able to disprove almost entirely the major doublets alleged by Kahrstedt. There are a few occasions when Livy apparently reports the same event twice,²² but these can no longer be taken seriously as a method for analysing his sources. Some are so minor that they could perfectly well result from Livy's simply forgetting that he had already reported an event; thus, if Livy tells us twice in the same year that nothing happened

20. Die Annalistik von Livius B. XXI - XLV (1913).

21. Hermes 50(1915).

22. e.g. 36.21, 10-11 = 39, 1-2 (the oratio cf. M. Fulvius Nobilior is repeated; 32.9, 4-5 = 26.1 (Sex. Aelius in Gaul and the arrangement of his troops.).

in Gaul, there is no need to suppose that the two sentences come from different sources; other doublets are quite likely to go back to the annalist whom Livy was himself following, for Antias and Quadrigarius had a tradition behind them too. In this respect, the prodigy lists provide

23. 32.9,5: 'neque memorabilis rei quicquam gessit'; 26.1: 'in Gallia nihil sane memorabile ab Sex. Aelio consule gestum'. The doublets are still given great emphasis by Walsh, Livy, 148, who quotes (148n.3) the examples he regards as blatant. These include Fulvius' oratio quoted n.23, which I accept, but he adds:

1. 34.53,7 = 35.41,8 (the Veiovis temples, cf. infra 203, 205; there is certainly some confusion and a doublet is just possible, but the notices are very different. 34, loc.cit., mentions 1 temple; 35, loc.cit., 2 temples and could well derive from the same source).
 2. 35.10,12 = 41,10 (dedications by successive colleges of curule aediles, from fines; dedications similar but not the same - why should the dedications not in fact have been similar?)
 3. 41.12 = 16,7-9 (Claudius defeats two invasions; Walsh has missed 14,1-3; Claudius returns to Rome to triumph after defeating the first invasion; news of the second invasion reaches him; so he returns north and fights the campaign again).
 4. 39.29,8 = 41,6 (These are reports of the activities of Postumius in 185 and 184 respectively; they are similar - he is fighting the same revolt - but distinct (cf. infra)).
 5. 34.21,8 = 42,1 (Supplicatio reported twice, but once in the context of the campaign and again when the letters reach Rome).
 6. 32.29,3 = 34.45,1 (first passage the voting of the colonies; 2nd passage the actual foundation).
 7. 42.3,1 = 10,5 (first passage the building of a temple; second passage its dedication).
- 1-2 are possible, but very unlikely doublets; 4-7 most unlikely; 3 a terrible warning to doublet-hunters.

a valuable tool; for they consist of lists of minor incidents, which might very well be accidentally repeated in a second year; Livy comes well out of this test, for the number of repeated prodigies is small.²⁴ More subtle methods of distinguishing sources have been suggested; for instance, some passages refer to the Roman commander in a province as praetor, some as proconsul and this small point might represent different traditions;²⁵ but although this variation is certainly to be found, no clear pattern emerges from the distinction of praetor and proconsul sources and it could always be the result of confusion or random variation. In his book, Livius und seine Vorgänger, Klotz developed his theory that Livy in annalistic as in Polybian passages used a single source, referring to alternatives only at special points and concluded that a turning-point came at the end of Book 38, when Livy became disillusioned with Valerius Antias whom he had followed in the main from Book 31, and turned instead to Quadrigarius. The hypothesis is attractive, though Klotz certainly could not altogether prove his points;²⁶ and it is perhaps odd

24. cf. *infra* 481 n. 15

25. So Kahrstedt, *op.cit.* 1ff; 55ff.; and *passim.* cf. A.H. McDonald, *JRS* 43(1953), 143f.; ~~7~~ contra Klotz, Hermes, art. cit. 487ff. Kahrstedt is probably right that the magistrates were in fact praetor (propraetor with consular imperium: but it does not follow that we can distinguish a praetor-source from a proconsul source.

26. M.L.W. Laistner, The Greater Roman Historians, 84f, objected vigorously to Klotz's view: Walsh is inclined to compromise (*op.cit.*, 134). Klotz bases himself largely on the order of the names 'Claudius' and 'Valerius' in the citations, the first-named being the first, the second named the supporting source.

that books 39 and 41 should contain passages which seem to contain marked hostility to the Claudii Pulchri.²⁷

The religious notices seem to vary in their general form very little throughout the fourth and fifth decades; Livy nearly always has a list of prodigies, though they vary in length (as, no doubt, did the number of prodigies reported) and the details of how they were expiated vary from time to time, though not according to any apparent pattern.²⁸ In one respect, however, the religious record does seem to co-incide with Klotz's theory to a surprising extent. Between the years 195 and 184, corresponding to books 34 - 38 of Livy, there is no record of the co-optation of a priest.²⁹ For the pontifices, this makes no difference, for all the college whom we know in 196 were still alive in 184; but one augural co-optation has been omitted, which we know belongs to the year 192, that of L. Aemilius Paullus³⁰ and it is possible that the ninth place in the augural college whose occupant we never hear of from 218 to 167 also changed during this period of silence. But the effects are most remarkable in the decemviri sacris faciundis; the places in the college can be reconstructed from the notices we have as follows:³¹

27. Livy, 39.32,5ff: 41.10,5-13; cf. *infra* 270 n. 135; 405 ff

28. cf. *infra* 4.4.

29. There is no recorded co-optation between augur no. 8 and augur no. 10. For list of priests (to which the numbers after their names refer) cf. *infra* 625 ff

30. no. 9

31. *infra* 642 ff.

1. C. Maso (to 213) - L. Lentulus (no. 1 ; to 173) -
A. Albinus (no. 12)
2. M'. Aemilius Numida (to 211) - M. Aemilius Lepidus (no. 2)
3. L. Aemilius Papus (no. 7 ; to 172) - M. Valerius
Messalla (no. 13)
4. Ti. Longus (to 210) - Ti. Longus (no. 3 ; to 175) -
C. Longus (no. 11)
5. Q. Mucius Scaevola (to 209) - C. Laetorius (no. 4)
6. M. Matho (to 204) - M. Cotta no 5 ; to 200) -
M'. Glabrio (no. 6)
7. C. Servilius Geminus (no. 8 ; to 180) - Q. Marcius
Philippus (no. 10)
8. M. Claudius Marcellus (no. 9 ; to 169) - Cn. Octavius
(no. 14).

At first sight, these might seem simply to be fragments of eight places in the college; but in fact there is again no co-optation at all recorded for many years, this time from 200 - 180. Places 1 and 4 seem to give a continuous record throughout the period; but it is hard to believe that places 2, 5 and 6 never changed after the year 200 and it is, in fact, very probable that Glabrio (place 6) died during the 180's;³² but equally, it is hard to believe that places 3, 7 and 8 remained unchanged ^{from} since 218. The simple solution is to suppose that three notices of co-optation

32. infra s. Xvii no. 10.

have dropped out in the 190's and 180's and hence that place 3 represents the later history of place 2 and places 7 and 8 of places 5 and 6; 2 - 3 is a patrician place, the others plebeian. This has two consequences; first, that Livy is only recording half the decemviral places; secondly, that there were three decemviral co-optations in the places which he is recording which have dropped out. Finally, the same process seems to apply to the list of flamines Martiales, for again we have never been told of the inauguration of the flamen whose death is recorded in 169; he had evidently succeeded to the flamen whose inauguration was in 204;³³ the missing notice is very likely to come somewhere between 195 and 184.

From the point of view of Livy's sources, this opens the possibility that books 34-8, as opposed to books 21 - 33 and 39 - 45, were based on a source which did not give the co-optations of priests. This seems to confirm Klotz's general position that Livy used the same source over long periods, but does not necessarily correspond with the detail of his analysis except in so far as Book 39 again emerges as the turning-point. One might wonder whether the process was carried any further; thus, for instance, Livy in a famous passage³⁴ criticizes some anonymous historians for

33. Livy, 44.18,7 (death of P. Quinctilius Varus in 169);
29.38,6 (inauguration in 204 of Ti. Veturius Philo).

34. 43.13,1ff.

omitting the prodigy-lists from their history; this could be explained neatly if Livy found all his lists in one of his two sources and not the other. In the case of prodigy-lists, it would be easy for him to turn every year to the same source; almost always the prodigy-list comes at the beginning of the year and all he would have to do if the source he happened to be using failed to offer a list would be to find the list in the other one. It would be much more difficult to do this for priestly co-optations, which come at unpredictable intervals and to which, in any case, we have no particular reason to believe that Livy attached so much importance. In any case, the differentiation seems to be limited to these routine aspects of religious life and on more important topics such as the consultation of colleges books 34 - 38 do not seem to be in any way deficient.

The question of how Livy's sources came by their religious information can again be illustrated to some extent from the lists of priests and prodigies. We know of various kinds of religious records which must have been kept at Rome during the period. First, the colleges themselves, as well as possessing ritual books, lists of gods and ceremonies, evidently preserved the decrees they themselves passed and perhaps as much detail of the cases

as was needed to make their decision comprehensible.³⁵ Cicero's de domo³⁶ preserves some 'responsa' of the pontifices from the second century, which must give the form in which such records were kept. Secondly, we know that the colleges kept and, at least later, inscribed on stone, records which preserved the names and dates of co-optation of the priests in the college.³⁷ Thirdly, and very importantly, the middle of the second century seems to be the time when books were first written about the institutions of the State religion; Fabius Pictor, apparently the same man as the author of Latini Annales, wrote a book on the pontifical law of which some fragments survive, enough to show that he described contemporary practice.³⁸ Earlier authors had included religious material

35. For the libri pontificales, P. Preibisch, Quaestiones Librorum pontificiorum (diss. 1874); Fragmenta librorum pontificiorum (1878); R. Peter, Quaestionum pont. specimen (1886); W. Rowaldt, librorum Pontificiorum Rom. de Caerimoniis sacrificiorum reliquiae (1906). But above all, G. Rohde, Kultsatzungen d. römischen Pontifices (1936). For the augural books, P. Regell, De augurium publicorum libris (1871), Fragmenta auguralia (1882). It was Regell op.cit. (1878) 30ff. who established that the priestly books were not sharply divided into 'libri' and 'commentarii' (so e.g. Schwegler Röm. Geschichte, I. 31ff. Peter HRR I².1Vff). But they evidently contained very diverse material.
36. de domo 130; 136; for the incident, cf. infra Cicero (loc.cit. 136) here makes it quite explicit that the information came 'ex commentariis vestris' i.e. of the pontifices.
37. We have some inscribed priestly fasti, e.g. ILS 9338, on which cf. below 27
38. For his fragments, Peter, HRR I².115ff.; Bremer, Iur. Antehadr., 9ff. For his identity with the author of the 'Latini Annales' cf. fgt. 6 (P) = fgt 6 (B) and fgt. 3 (P) of the Latini Annales - both coming from Nonius s.v. picumnus (p.518). For his being different from Fabius Pictor, the first Roman historian cf. Peter, HRR I².CLXXIVf; (continued on next page)

or described the introduction of elements in the cult in their histories³⁹ and, of course, Ennius is a rich store of religious lore, with reference to Romulus, Numa and perhaps elsewhere;⁴⁰ but it is quite a different matter to write a book specifically on religious matters describing, for instance, the taboos on the flamen Dialis, by which the flamen was still bound in Fabius' own day; this is not history nor could it serve a practical purpose like Cato's descriptions of rituals for use on the farm.⁴¹ Finally, the priests apparently kept some kind of historical record in the Regia itself; our sources are somewhat confused,⁴²

38. cont'd. . . .

Münzer, *s.v.* Fabius no. 128 (6.1843ff); Gelzer, *Hermes* 82(1954), 344 = *Kl. Schr.*, 106.

39. Cf. e.g. *Cic.*, *de div.* 1.55; Dion Hal., *A.R.* 7.68; 71ff. = Fabius Pictor *fgts.* 15, 16 (Peter) for Fabius' account of the 'ludi votivi maximi' of 490 B.C.; for a detailed, though controversial, study cf. Piganiol, *Recherches sur les jeux romains*, 15ff.; it should be noticed that Fabius' account of the games is cast in the form of a comparison of Greek and Roman antiquities and, to judge by the extant fragments, Fabius was more interested in legends than in cults.

40. *Annals*. *fgts.* 62 - 3; 77 - 96; 120 - 21 122 - 24 (Vahlen³).

41. *de ag.* 132; 134; 139; 141.

42. The primary sources are *Cic.*, *de or.* 2.52; *Serv.* (auctus), *ad Aen.* 1.373 - and they are by no means saying the same things. cf. G.I. Hüllemann, *Disputatio critica de Annalibus* (1855); Bouché-Leclercq, *Les pontifes de l'ancienne Rome*, 250ff.; E. Kornemann, *Klio* 11(1911), 245ff.; C. Cichorius *RE s.v. Annales*, 1.2248ff.; C.W. Westrup, *Det. Kgl. Danske Videnskabernes Selskab, Hist. phil. Medd.* 16 no.3 (1929), 31ff.; M. Gelzer, *Hermes* 69(1934), 46ff. = *Kl. Schr.* 3.93ff.; J.E.A. Crake, *C.P.* 35(1940), 375ff.; F. Jacoby, *Atthis*, 60ff. The basic facts are few and simple and a good deal of discussion has concerned the possibilities of there having been earlier recensions than the final one cf. most elaborately, Kornemann, *loc.cit.*; contra, most effectively, Jacoby, *op.cit.*, 61 and n.64 (p.283).

but they regard it as a compilation from boards which were posted in the forum and which displayed notices of current events, according to Cato giving the dryest of details, eclipses and the price of corn.⁴³ Considering the size of the Regia building and the number of holy places it contained,⁴⁴ we must assume that these records were transferred from the boards on to materials more easily stored and perhaps this was sometimes erratically done by the pontifices. But we know that such a record was kept until the pontifex maximus P. Scaevola put an end to it some time after 130 B.C.⁴⁵ and the resulting chronicle was published probably before Cicero⁴⁶ and certainly before Verrius Flaccus⁴⁷ in eighty books. It is clearly a possibility that this material was

43. Fgt. 77 (Peter)²

44. Wissowa, R.u.K.², 502 nn.3-5.

45. Cic., de or. 2.52; it is often assumed that Scaevola was also responsible for the publication, but Cicero only says that he discontinued the displaying of the 'tabula'; it would be tidy if he then published the complete series, but we have no reason to think he did.

46. Cicero, de or. loc.cit., is already calling them 'annales maximi', though elsewhere (de leg. 1.6) he uses a longer phrase ('....annalis pontificum maximorum'); whereas Cato (fgt. 77 P) and Polybius (ap. Dion Hal., A.R. 1.34,3) refer to the 'tabula' and 'ἱερά' respectively, implying that the documents have no special name as yet.

47. Cf. fgt.4 (Peter) = Gell., N.A. 4.5; Gellius quotes from book 11 of the annales and from Verrius Flaccus - which is, no doubt, what he had actually read: Servius (loc. cit. n. 43) speaks of eighty books.

available to the later annalists, Antias and Quadrigarius, and indeed even earlier it was apparently available for consultation.⁴⁸ At some stage the chronicle acquires the name 'annales maximi' and presumably this implies that it was available in published form, though our authorities connect the name with the pontifex maximus.⁴⁹

Other material will have been available to the historian; family records and perhaps letters; speeches, which evidently began to be preserved quite early;⁵⁰ it should not be forgotten either that after 200 we are in the period when history was already being written at Rome and the reminiscences of contemporaries are always a possible source, though it should be noticed that according to Polybius it was precisely this information which historians of Scipio Africanus had ignored.⁵¹ Klotz⁵² has emphasized that a great deal of the narrative, particularly in the early books of the fourth decade of Livy, is consistently written from the point of view of the senate and its proceedings; incidents abroad are very often reported not

48. Cf. Cato and Polybius, loci cit. n.47.

49. So, Mac., 3.2,17; Festus (ep.) 113 L = 126 M; Serv., loc.cit. n.43.

50. For a survey, cf. Scullard, RP, 251ff.

51. Pol., 10.9,2-3.

52. Livius u. seine Vorgänger, passim

by direct narration, but rather in the form of a letter describing what has happened, sent by the official or magistrate on the spot and read out in the senate, which proceeds to act on its contents.⁵³ This could be the result of a literary convention which chose to arrange material in this way; but it is more likely to reflect the original material and indeed large parts of Livy's narrative could perfectly well come direct from senatorial minutes; it is easy enough to believe that SCC were preserved, though we do not know where or by whom; but minutes, at least on the scale which Livy's narrative would presuppose are more difficult to postulate, when no mention of them survives in our tradition, but clearly the possibility is a serious one.

Can we then tell from which, if any, of these sources our lists of priests and prodigies, records of temple foundations, consultations of colleges and so on originally came? It is again the list of decemvirs which seems to offer clues. As we have seen,⁵⁴ it is likely that the lists only contain half the college's members for the relevant period; but this situation could only come about in certain well-defined ways. The first possibility would be that there were only five priests in the college at this date, that

53. Cf. e.g., Livy, 31.5,5; 11,1; 12,1 - all reporting letters read in the senate in the early weeks of 200 B.C.

54. cf. above 18 ff.

Livy's calling them decemviri is an anachronism and that their number was subsequently increased to ten some time before Sulla;⁵⁵ but, if so, the misunderstanding runs deep because Livy tells us specifically under 387 B.C. that the number was increased from two to ten⁵⁶ i.e. from two patricians to five patricians and five plebeians; moreover for the year 212 we know of a sixth decemvir, not recorded in the extant lists, P. Cornelius Sulla (pr. 212).⁵⁷ If this possibility be rejected, as it must be, the only alternative seems to be that the list was preserved in such a way that complete places in the college could have been lost. The surviving fasti of the augurs do in fact take the form of lists of the successive members of each place, called on the inscription a 'decuria'; decuria II of the augurs goes back to the beginning of the republic;⁵⁸ another begins only with the lex Ogulnia in 300;⁵⁹ the inscriptions we have are late and we do not know in what form the lists were kept in republican times nor when they were first inscribed. But it is obviously a possibility

55. For Sulla's increasing the college to fifteen, cf. Cael. ap. Cic., ad. fam. 8.4,1; the return must almost certainly go back to Sulla, though Livy, per. 89 only speaks of his increasing the pontifices and augures.

56. Livy, 6.37,12; 42,2.

57. Mac., 1.17,27; cf. MRR 1.271.

58. ILS 9338: cf. Huelsen, Klio 2(1902), 275f.; Münzer, Hermes 52(1917), 152ff.; L.R. Taylor, A.J.P. 63(1942), 386 n.2. The fasti of the Augustales (ILS 5025) are organized in the same way, but the Salii (ILS 5024; 9339) do not preserve the decuriae, but list members in order of their co-optation. For decuria II, of which we have the beginning cf. ILS 9338 no.3.

59. ILS 9338, no.1.

that part of the decemviral records had been lost or destroyed and that only half the decuriae were available for this period. The important point here is that nothing of this kind could have happened had the co-optations been derived from the annual lists of the *annales maximi*, because in that form the original decuriae could not have been preserved except conceivably as a note after the name; from the point of view of the physical loss or damage of records, the names would be irretrievably intermingled. The only way to avoid this conclusion is to argue that the *annales maximi* might regularly have included decemviri from five of their decuriae but not those from the other five; but this implies the unpleasant consequence that three patrician and two plebeian decuriae were in some way inferior to the others. Since Livy only notes the increase from two to ten,⁶⁰ one cannot easily think of five decuriae being older than the others; had there been a time when the plebeians controlled the college by holding three of five places (as they held five of nine in the second-century pontifices and augures)⁶¹ it is hard to imagine how they would ever have lost their control. Far the easiest conclusion is that priestly lists were collated by the annalists from the *fasti* of the colleges themselves.

60. loci cit. n.56.

61. As shown by C. Bardt, Die Priester der vier grossen Collegien.

The conclusion is more important than it might seem. Priestly co-optations are surely an item which must have occurred in the *annales maximi* and, if they did, then it would be from those records that the annalists would have taken their information about them, if they were using the *annales maximi* at all. If, as it seems, the annalists went to the trouble of collecting the co-optations from the separate college archives and then elaborately placing them under the appropriate consular year of their annals, the implication must be that they were not using the *annales maximi* at all. The conclusion is not, of course, a necessary one; but the indication is as good as any we have.

The other material is far more difficult to place. Prodigies were handled in the first place by the senate;⁶² the senate referred some but not all of them to priestly colleges, which recommended appropriate ceremonies for the removal of the danger which threatened.⁶³ College records could hardly come into the matter here; some prodigies might occur in the records of the pontifices, some in those of the decemviri and some in the libri of the Etruscan haruspices, though they seem not to have had a special organization at Rome at this date;⁶⁴ but to collate from all these

62. cf. *infra* 480ff.

63. cf. *infra* 483ff.

64. cf. *infra* 548ff.

sources would be a formidable task and would still only produce a small percentage of the prodigies recorded in Livy. On the other hand, on one occasion the senate actually rejects some prodigies reported to it on technical grounds;⁶⁵ this information would hardly be likely to be kept anywhere but in the senate's own records, since the prodigies are declared not to be prodigies, from Rome's point of view. But the prodigy lists do not only know the senate's proceedings but also the replies which the priests gave (*responsa*) and even details of the sacrifices performed though these could perhaps be inferred from the text of the *responsum* which would specify the gods and the victims for the sacrifice. There seem here two alternatives: either the senate kept a record of its own decree and the priests' reply, or the whole proceedings were recorded in the *annales maximi*.

Priestly consultations on subjects other than prodigies raise less difficulty, for these were less frequent, more important and liable to be needed as precedents in the future, by ^{the} senate or the college itself. In such matters the senate would not necessarily be involved, unless the college chose to make a recommendation to it; magistrates at least, as well as the senate, had the right to bring

65. Livy, 43.13,6: 'duo non suscepta prodigia sunt...'

matters forward and the college to give its judgement on the point of law involved.⁶⁶ All important decisions would, however, come before the senate and the senate does seem to take part in all the consultations which Livy records;⁶⁷ perhaps, this reflects use of senatorial rather than priestly records, but not necessarily so. Again, the *annales maximi* are a possible alternative. Finally, Livy has notices of a fairly wide range of other religious business, some of it having no apparent connection with the senate at all. Thus there seems to be no reason why the senate should be concerned with the dedication of temples,⁶⁸ the rectification of mistakes in ritual or the celebration of special games.⁶⁹ Livy is, in some cases, able to give quite detailed material about temples - who vowed them, when and where; who placed the contracts and when; who performed the dedication, when and in what capacity.⁷⁰ Such details must have been recorded somewhere at the time; perhaps in the temple itself, perhaps in the *annales*.

It is only in the case of the priestly *fasti* that definite conclusions can be justified; but the general picture which emerges is far from being a simple one. It

66. Cf. ~~infra~~ e.g. Cic., *de domo* 136.

67. This fact is not mentioned in connection with the consultation of the *fetiales* in 200 (Livy, 31.8,3ff), but, no doubt, the procedure was the same as in 191, cf. Livy, 36.3,7.

68. Cf. *infra* 203 ff., for list of dedications recorded.

69. e.g. 31.50,2-5; 32.7,13-14; 27,8; 33.25,2; 42,8-10; 44,6 etc. etc.

70. e.g. 34.53,3-7 - though there is confusion here between P. Sempronius Sophus and P. Sempronius Tuditanus (cos.204, cf. MRR 1.305) to whom Livy is in fact referring.

seems impossible to reduce the sources used by the early annalists to any simple formula, which would offer us any enlightenment about the nature of the distortions likely to be at work. The great advantage of postulating the *annales maximi* as a source for all or most of the annalists' information, is that the activity of the historians is reduced to manageable proportions; they will have had a basic narrative providing them with innumerable snippets of fact on which they could build by research, by introducing new materials or by pure invention; from our point of view, its advantage is that it guarantees the reliability of the tradition at least in outline. It would however also suggest that the religious items are very liable to be cast^f in the form which the priests themselves found acceptable. The danger should not be exaggerated; the priests at Rome were not a caste and would have had a weak interest, if any, in protecting one another's reputations. There is no need to think that the pontifices would have troubled to obscure the facts, if the augurs abused their powers of interference in political processes and, for instance, we are given details of an incident in which the pontifex maximus was over-ruled by his colleagues on a point of public law, on which he had committed himself in the senate.⁷¹

71. cf. *infra* 223 ff.

If this convenient view must be re-considered, the possibility arises that the religious materials in Livy have been gathered from various different sources - some from senatus consulta, some from priestly records, some perhaps from temple inscriptions; the origins of each notice will have to be considered separately. The one central conclusion which one can draw is that all these items can only have come from official records of one kind or another.

Finally, the question of the reliability of the annalistic tradition must be considered briefly. The main area on which the attack has been concentrated is hardly relevant to this particular discussion; it has been held, perhaps more strongly in the past than now, that the annalistic tradition used unscrupulous methods - distortion, misrepresentation and fiction - to establish the propriety of Rome's conduct in relation to the various Eastern powers with whom she came in contact.⁷² If the charges are

72. The great book of Holleaux, Rome, la Grèce et les monarchies Hellénistiques, (1921) mounted a formidable assault on the annalistic notices concerning the relations of Rome with the Hellenistic powers, especially before the outbreak of the second Macedonian War; the same attitude is to be found, e.g. in K.E. Petzold, Die Eröffnung des zweiten römisch-makedonischen Krieges (1940): E. Badian, FC, 57ff.; but recently there have been attempts at a defence of. J.P.V.D. Balsdon, JRS 44 (1954), 30ff.; (though he fails to offer a consistent chronology); and B. Ferro, Le origini della 11 guerra macedonica, Atti Acc. Pal. ser. 4 vol. 19 (1958/9), 5ff; 121ff; 130ff.

justified, it does perhaps create a certain doubt about the whole content of the tradition; but the doubt is a remote one, where one is dealing with a subject so different and where patriotic motives have no apparent place. More damaging, at first sight, is the attempt to show that the material apparently based on SCC is not reliable either. One aspect of this is Gelzer's contention⁷³ that the Bacchanalia inscription gives us information which is irreconcilable with the narrative of Livy, book 39; this problem is discussed in chapter 2, where I have tried to show that Livy and the inscription are perfectly consistent and that Livy gives an extremely accurate summary of the decree; his interpretation of some points can be questioned, but there can be no question that it was substantially the regulations we have which Livy or his sources were trying to interpret.

Gelzer was able to demonstrate far more conclusively⁷⁴ that there are hopeless confusions in the SCC which allot troops to different commanders year by year, particularly in the period of the second Punic War; of course, Livy himself noticed that his sources were both wild and conflicting in their estimates of casualties in battle.⁷⁵

73. Hermes 71(1936), 275ff. = Kl. Schr. 256ff.

74. Hermes 70(1935), 269ff. = Kl. Schr., 220ff.

75. Cf. Livy, 33.10,8; 36.19,10f; 38.23,6.

Gelzer himself attributed the variations to the late annalists and used his conclusions to refute Klotz's view that there were senatorial acta which provide the basis of the annalistic sections of Livy.⁷⁶ For this specific purpose, perhaps he was right; but it would again be dangerous to generalize from this specific case. The criticism is based on variation in the figures for the troops in particular armies and it can often be shown that generals turn out to have armies of different sizes from those ordered by the senate. But, surely, troop figures must be a most difficult area of the tradition for an annalistic historian to control; figures are notoriously vulnerable; the numbers of troops in any area would change during the course of the year and the number of soldiers in the field might for various reasons bear no relation to the senate's original dispositions. If, indeed, the tradition was built up by collecting materials from different sources, it would be astonishing if inconsistencies did not constantly occur; they might very well go back, not to the late annalists, but to the original documents.

The substantial problem is not really knowing whether or not to trust the sources; I can see no serious reason to doubt the bulk of the information with which I shall be

76. art.cit. n.74, especially 269f. = 220f.; 299f. = 254f.

dealing. The real problem is one of interpretation, of knowing how far we are justified in reading between the lines and what we are justified in reading there; this will come up acutely in relation to two special but related problems. First, scholars have tended to assume that the religious institutions of Rome worked in substantially the same way in the second and third as they did in the first century B.C. If so, then Livy when he reports priestly decisions is only giving part, a formal part, of the story; we can assume that the real objectives of the participants, like the real objectives of Bibulus and Caesar in 59, were not religious at all but political. In other words, Livy is writing official history and not telling us what really happened.

Secondly, very much the same considerations apply to the political history of the period in general, though here the opposite assumption has often been made, that political life in the second century was fundamentally different from that we know in the first. Münzer⁷⁷ based his very influential account of Roman political life on a series of assumptions which are certainly not true of the first century. First, that the gens was a valid group which would act together for political purposes; thus

77. Römische Adelsparteien und Adelsfamilien (1920).

the Cornelii or the Aemilii can be taken as forming, in effect, a single political party. Secondly, ^{that} ~~as~~ between these gentes alliances were formed which remained stable from generation to generation, if not from century to century; for the period with which this ^thesis deals the main groups were the Fabian group (strongest during the lifetime of Fabius Cunctator, but surviving well into the second century), the Cornelio-Aemilian group (led for many years by Scipio Africanus and suffering a severe set-back through his condemnation) and a rather less settled middle group based on the Claudii and Fulvii. With very rare exceptions, therefore, the individual politician can be taken to have fixed attachments which persisted throughout his career and his actions can be taken as representative of his group; also, any evidence for one part of his career can be taken as valid for any other period as well. Finally, and perhaps most importantly, Münzer devised techniques for establishing, by the use of the fasti of consuls and praetors, which families were in alliance with one another; he discovered patterns in the praetorian and consular lists which recurred over long periods and deduced that these men were consistently helping one another into office; in particular, the consul who held the elections was in a good position to influence the result and this would explain how it happened that friends were found grouped together in particular years.

For the purpose of this study, the question is of immediate importance in relation to the political character of the priestly colleges; we know their members for the early years of the century from the lists which Livy provides. In some cases, the name is all we do know; very often we have some indication of a man's political position for one or two occasions in his life; almost never have we the direct evidence to build up a picture of an individual career even in outline. Münzer and those who have followed his method⁷⁸ offer predictions of all politicians' allegiances on the basis of their names alone; if this can be trusted it becomes possible to write the history of group control in the college. For this purpose, it seems to me that evidence based on the gentes and the fasti must be rejected, whether or not Münzer's general method is acceptable. The very highest which can reasonably be claimed for the method is that it gives a general picture of groupings with a good chance of being right; it cannot claim to give reliable information about any individual. In studying co-optations made by eight particular men, unreliable information is worse than useless; to allow evidence from the fasti here would be no more than piling hypothesis on hypothesis.

78. e.g. W. Schur, Scipio Africanus, (1927); H.H. Scullard, Roman Politics 220 - 150 B.C. (1951) cf. B.I.C.S. 2(1955), 15ff.; D.C. Earl, Tiberius Gracchus (1962).

Münzer's book has, of course, been criticized from its first appearance⁷⁹ and recently Cassola⁸⁰ has restated the objections with great clarity; for myself, I find none of Münzer's assumptions convincing and find it easy to believe that Roman politicians were, if anything, more flexible and more unreliable in the second century than in the first.

79. Gelzer, N.J. 23(1920), 438ff.; (de Sanctis, St. d. R., 4.1.605 n.296; A. Momigliano, JRS 30(1940), 77f.

80. I gruppi politici romani nel III secolo, 5ff.; especially 13ff. For an attempt at compromise cf. the review of Cassola by J. Briscoe, C.R. NS13 (1963), 321ff: JRS 54(1964), 73ff.; he argues that even though we cannot rely on the unsupported evidence of the fasti, such evidence can be used to supplement other data, when it harmonizes with it; but the basic situation is that some colleagues are friends and some not; some consuls succeed in electing their friends and some do not; without specific evidence we cannot tell who are friends and who enemies, so evidence from the fasti alone is without evidential value.

2

PART I. The Senate

2. Bacchanalia

In 186 BC the senate took violent and apparently very effective action against the devotees of Bacchus both in Rome itself and throughout Italy. We have elaborate accounts of the events of this crisis from two main sources - Livy's book 39 and the SC passed at the time and preserved in a letter from the consuls to local magistrates in Bruttium.¹ To this record we can add, with some reserve, what we know of the Bacchic cult, its history, development and beliefs; but it should be said immediately that we have virtually no knowledge of the cult at exactly this period and in the last resort here too we must depend on an assessment of the value of Livy's record. Our starting-point then must be Livy and his relations with the SC.

Livy's account starts with a short introduction in which he says that the cult arrived at Rome from Etruria where it had been spread by a Greek 'sacrificulus et vates'; from small beginnings the cult soon led to mass orgies of drunkenness and licence not to mention an impressive list of other

1. Livy, 39.8,3 - 19.7. SC de Bacchanalibus, CIL I.196 = ILS 18 = Bruns, 36 = ILLRP 2.511. Cf. also: Cic., de leg. 2.15,37. Aug., de C.D. 6.9; 18.13. Val. Max., 1.3,1; 6.3,7 Tert., Apol. 6.7-10; ad Nat. 1.10. Scholiast on Juv., 2.3. The subject has a considerable bibliography; on the SC see especially E. Fraenkel, Hermes 67 (1932), 369ff = Kleine Beiträge, 447ff; J. Keil, Hermes 68 (1933), 306ff; W. Krause Hermes 71 (1936), 214ff; M. Gelzer, Hermes 71 (1936), 275ff = Kleine Schriften, 3.256ff; S. Accame, Riv. Fil. A. D'ihle, Hermes 90 (1962), 376ff. N.S. 16 (1938) 225ff; J.J. Tierne, Proc. R. Irish Acad. 61 (1947), 89ff. On Livy's account: D.W.L. Van Son, Livius' Behandeling van de Bacchanalia (Amsterdam, 1960); and on the Bacchanalia of 186 in general T. Frank, C.Q. 21 (1927), 128ff; G. Méautis, REA 42 (1940) Mélanges Radet, 476ff; Y. Béquignon, R.A. VI, 17, (1941), 184ff; G. Tarditi, PP 37 (1954), 265ff; A.J. Festugière, MEFR 66 (1934) 79ff.

offences.² Livy then plunges into his story of how the existence of this secret cult was first discovered at Rome: a wicked step-father tried to ruin his stepson by having him initiated into the mysteries of Bacchus: the boy, however, was forewarned by his mistress, Hispala Faecenia, and refused to go through the rite, whereupon his mother and step-father threw him out of the house and he fled to Aebutia his aunt: on her advice he reported all this to the consul, who, after a somewhat ponderous investigation, eventually interviewed Hispala: she had in fact been an initiate herself and gave him enough information to allow him to present the results of his investigation to the senate.³

Here there is a complete change of tone and we hear no more of Aebutius and Hispala until their rewards are mentioned at the end of the account.⁴ Livy then gives the decrees the senate passed to deal with the crisis⁵ and at some length the speech which the consul made to the people when announcing these senatus consulta.⁶ There is then a short description of the quaestio and the principles on which it was held; finally, there is a second series of senatus consulta, this

2. Livy 39.8,3-8.

3. id. ib. 9,1ff.

4. id. ib. 19,3ff.

5. id. ib. 14,4ff.

6. id. ib. 15ff.

time making a permanent settlement of the matter and fixing rewards for the informers.⁷

The narrative readily divides into sections:

1. Introduction - 8,3-8
2. The story of the discovery of the rites - 9,1 - 14,3.
3. First decrees of the senate - 14,4-10.
4. The contio - 15 - 17,3.
5. The quaestio - 17,4 - 18,6.
6. Second decrees of the senate. - 18,7 - 19,7.

Of these sections 3, 5 and 6 are written in the clipped and semi-official language typical of Livy's direct borrowing from his annalistic predecessors: they deal exclusively with the activities of the authorities at Rome. 1, 2 and 4 are in a more generously worked style, 1 and 4 being apparently Livy's own elaborations and 2 being a charming short story in Livy's best manner but of doubtful origin and historicity: on it, controversy has tended to centre - is it a complete fabrication on the model of a New Comedy plot or a sound story rhetorically elaborated?⁸ First, however, I want to examine the relations between this narrative in general and

7. *id. ib.* 18,7ff.

8. For the suggestion of a new Comedy plot cf. Fraenkel, *art. cit.* 388 n.2 = *Kleine Beiträge*, 466n.2; Méautis, *art. cit.* 477; Tarditi, *art. cit.* 272; A. Bruhl, *Liber Pater* (Paris, 1953), 98; Van Son, *op. cit.*, 118.

the decree of the senate preserved on the bronze tablet from Calabria. Can the decree be fitted into Livy's narrative or does it as Gelzer⁹ thought show that even Livy's account of the senate's meetings is an annalistic conflation from inadequate evidence?

Livy reports three meetings of the senate; first, the original meeting which was called by the consul Postumius after his investigations and at which the senate decreed that all Bacchic rites should cease and that the quaestio should take place: secondly, there is a meeting at which a general regulation of the cult was passed: to this a rider was added: "aliud deinde huc coniunctum referente Q.Marcio consule senatus consultum factum est, ut de iis, quos pro indicibus consules habuissent, integra res ad senatum referretur, cum Sp.Postumius quaestionibus perfectis Romam redisset."¹⁰ This meeting is duly held when Postumius returns.¹¹

Now, the bronze tablet begins: "[Q.] Marcus L.f., S.Postumius L.f. cos. senatum consoluerunt n(ohis) Octob(ribus) apud aedem / Duelonai."¹² Thus, the SC which follows was passed in the presence of both consuls and in the temple of

9. art. cit., 275ff.

10. First meeting, Livy, 39. 14,4-10; second meeting, 18,7-9; rider to the second decree, 19,1.

11. Third meeting, Livy, 39,19,3.

12. SC, 11. 1ff.

Bellona: since the temple of Bellona was outside the pomerium the decree must be subsequent to the departure of the consuls from Rome.¹³ These simple data exclude both Livy's first meeting, when the consuls were still in Rome and the second meeting when Postumius was not at Rome. It could either be the third meeting - though Livy mentions only the rewards for the informers - or another meeting at about the same time which Livy does not mention at all. It can hardly be much later than this because Marcius soon leaves for Liguria and returns only after his consular year;¹⁴ nor can it be between Livy's second and third decrees because the rider to the decree passed at the second meeting provides for the third meeting as soon as Postumius returns;¹⁵ the only other possibility is that Postumius visited Rome at some time before Livy's second meeting, but I shall argue below that it is very unlikely that the SC of the tablet should be earlier than the SC of Livy's second meeting.¹⁶ Is it then possible for the decree of the tablet to have been passed at or near Livy's third meeting? For, if it is not, the whole structure of Livy's narrative will be

13. Wissowa, R.u.K.², 152 nn. 1-2; Mommsen, Staatsr., 3.930.

14. Marcius' departure after the third meeting, Livy, 39.20,1; his absence at the end of the consular year, 23,1.

15. Livy, 39.19,1: 'res ad senatum referretur, cum Sp. Postumius quaestionibus perfectis Romam redisset.'

16. cf. below pp. 56 ff.

demonstrably incompatible with the only contemporary evidence we have.

At first sight this seems most unlikely because the decree of the tablet appears to be summarized by Livy at his second meeting and we must start from a comparison of these two documents. Livy's version is as follows:

'In reliquum deinde senatus consulto cautum est, ne qua Bacchanalia Romae neve in Italia essent. si quis tale sacrum sollemne et necessarium duceret, nec sine religione et piaculo se id omittere posse, apud praetorem urbanum profiteretur, praetor senatum consuleret. si ei permissum esset, cum in senatu centum non minus esset, ita id sacrum faceret, dum ne plus quinque sacrificio interessent, neu qua pecunia communis neu quis magister sacrorum aut sacerdos esset.'¹⁷ This seems perfectly clear and straightforward; the SC itself is far less so and it will be necessary to examine it clause by clause to establish its meaning as well as its relation to the above passage.

The introductory formula quoted above (p 44) is followed by the text of the SC until 1.22 where the sequence is abruptly broken by the words 'Haice utei in coventionid exdeicatis ne minus trinum noundinum, senatuosque sententiam utei scientes esetis, eorum sententia ita fuit:' It is not

17. Livy, 39.18,7-9.

at all clear who is addressing whom or to what the various formulae which follow refer. It does, however, seem certain that whoever it is asserts that the senate at Rome had decreed, whether at the meeting referred to in the heading or at some other meeting, a. that the main body of the decree (11.1-22) is to be published; b. that offences against them are to be capital; c. that Bacchic shrines are to be destroyed. a. and b. are not mentioned by Livy; c. occurs immediately before the passage quoted above: 'datum deinde consulibus negotium est, ut omnia Bacchanalia ...diruerent.'¹⁸ it is to be noticed that both Livy and the tablet add that exception is to be made if the Bacchanal contains anything sacred - 'extrad quam sei quid ibei sacri est',¹⁹ 'extra quam si qua ibi vetusta ara aut signum consecratum esset'.²⁰ Livy adds that this applied 'Romae primum, deinde per totam Italiam';²¹ not surprisingly, nothing in the tablet corresponds to this. Both Livy and the decree separate this clause from the main text and it is of course distinguished from it by the fact that it is a regulation for the immediate future ordering a particular action whereas the main text

18. id., ib. 18,7.

19. SC, l. 28.

20. Livy, 39.18,7.

21. id., ib.

gives a permanent settlement.

The difficulties of this last section have often been discussed but it is less often noticed that the main text itself is also far from easy to interpret.²² The text divides into four sections,²³ each of which ends with a provision for exceptions to be made if proper application has been made to the authorities at Rome. These regulations precisely correspond to those given by Livy. He, however, only gives the provision for exceptions once i.e. 'si quis tale sacrum sollemne et necessarium duceret'. As we shall see this makes a considerable difference.

Section A of the tablet forbids anyone of the foederati 'Bacanal habuisse' without permission. Section B forbids Roman citizens Latins or allies 'Bacas...adiese', again without permission. Section C is longer and contains details of what is or is not permitted to a Bacchic group; this section too ends with the provision for appeal, but here it is not clear to what the clause refers - it might either cover the whole set of regulations or only the last provision viz. 'Sacra in oquoltod ne quisquam fecise velet, neve in poplicod neve in preivatod neve extrad urbem sacra quisquam fecise velet,' Section D is, if anything even more problematic: 'Homines plous V oinversi virei atque mulieres sacra

22. The best discussion of the main text of the decree is that by J.J. Tierney, art. cit. n. 1. Since Fraenkel, art. cit., n.1 noted the distinction between the coherent body of the decree and the last few lines (22ff.) a great deal has been written on whether the text was issued by local magistrates in Bruttium (so, Fraenkel, art. cit.) or in an official version from Rome. But the recent researches of M.W. Frederiksen (JRS 55(1965), 183ff.) on later republican documents must greatly increase the chances that the decree as we have it represents a selection made and published by the local authorities.

23. Section A, ll. 3-6; B, ll. 7-9; C, ll. 10-18; D, ll. 19-22.

ne quisquam fecise velet, neve inter ibei virei plous
 duobus, mulieribus plous tribus arfuise velent, nisei de
 pr. urbani senatuosque sententiad, utei suprad scriptum
 est.' Again there is ambiguity as to whether the provision
 for appeal applies to the whole clause or only to the last
 part of it i.e. to the limit of five or to the division
 into three women and two men.

The interpretation of this text gives three main problems: first, the extent of the provisions for appeal: secondly, the meaning of the phrases in sections A and B: thirdly, the inter-relations of the four sections. This last difficulty can be seen in its most acute form in the relation between sections C and D: C forbids anyone 'sacra fecise' in secret, private, public or outside the city²⁴ and this must be intended as an exclusive list i.e. it is intended to forbid anyone 'sacra fecise' anywhere at all. But D forbids anyone 'sacra fecise' with more than five people present, three women and two men, unless permission is given. Thus, either D is weakening C by making it inapplicable to groups of five or less i.e. it is saying if the group is five or less, permission to hold sacra will not

24. 'extrad urbem' seems pleonastic unless the alternative public/private should be understood as applicable only to towns. 'urbem' might well refer to Rome itself, in which case it would be comprehensible as an illogical survival from the version which applied to Rome itself; but this would make no difference to the problem of the pleonasm.

be required, despite anything in C to the contrary; or else it is strengthening C i.e. saying that permission granted under C will only allow sacra with five people present and that further premission will be needed if more than five are to attend.

Prima facie, the trouble would seem to be still worse, for there could apparently be further such conflicts between these clauses (C and D) and the earlier ones A and B. These conflicts will not arise, however, unless the phrases used 'Bacas adiese' and 'Bacanal habere' are either equivalent to or at least include the sense of 'sacra fecise' and to this question we come next.

In the case of 'Bacas adiese' it seems clear that there is such a conflict, for it is difficult to see how this phrase can mean anything but to attend Bacchic rites; thus for instance a Roman citizen wanting to attend Bacchic rites presumably needed to apply under B and also under C, D, or perhaps both; and more importantly although B seems to imply that those who were not Roman citizens, Latins or allies did not need permission to attend the rites nevertheless subsequent clauses show that they did. This is simply a question of a cross-reference and although it might be confusing does not lead to actual ambiguity.

'Bacanal habere' must be different from 'Bacas adiese', because otherwise B would simply be repeating A as far as

socii were concerned. But it could be different in one of two ways: either 'Bacanal habere' could mean to hold Bacchic rites as opposed to merely attending them or it could mean to have a Bacchic shrine and not refer at all to the holding of rites. The point turns, obviously, on the meaning of 'Bacanal' and on this there is evidence to be collected. In first century Latin the only form of word which is found is the plural Bacchanalia which is used to mean a festival of Bacchus.²⁵ In the second century, however, we find as here the singular Bacchanal. Now it has been remarked that the plural meaning a festival is an odd form;²⁶ we should expect 'Bacchalia' on the analogy of Vestalia, Opalia, Liberalia;²⁷ it is said that Bacchanalia has been formed in imitation of such words as Volcanalia or Saturnalia where the n is derived from the proper name after which the festival is called.²⁸ On the other hand, there are a number of words - Volcanal,²⁹ Frutinal,³⁰ Fagutal,³¹ Lupercal,³² - which are

25. e.g. Cic., de leg. 2.15, 37; Tac., Hist. 2.68; Juv., 2.3.

26. On the form Bacchanalia, Wölfflin, Sitz. Bayr. Akad., phil. hist. kl. 1896, 185; Latte, RRG, 271 & n.5.

27. From Vesta, Ops and Liber or Libera respectively.

28. So, e.g. Ernout-Meillet⁴, 63; Walde-Hofmann³, 91f.

29. Festus, 370 L = 290 M. Cf. Gellius, N.A. 4.5; Pliny, N.H. 16.236; Platner - Ashby, 583f.

30. Festus, 80 L = 90 M: defined as 'templum Veneris Fruti.'

31. id., 77 L = 87 M: the shrine of Iuppiter in the lucus Fagutalis on the Esquiline.

32. Cic., ad Fam. 7.20, 1; Virg., Aen. 8.342 (and cf. Servius ad loc.); Ovid, Fasti 2.381: the shrine of Pan on the Palatine.

used in the singular to mean a shrine, temple or geographical area. If Bacchanal was originally formed on the analogy of these words, then the n would presumably have been introduced, ^{making} ~~to make~~ the word like them trisyllabic; a parallel would be Frutinal from Frutis. Thus a perfectly possible history of the word would be that it was originally a shrine like Frutinal; then, on the analogy of Volcanal and Volcanalia the plural came to mean a festival: finally, the sense of 'shrine' was dropped and the singular ceased to be used.

In our decree, the word occurs twice apart from the phrase we are discussing, once in the heading, which is quite indecisive - de Bacanalibus - and once in the final lines of the tablet where it can only mean a shrine for they are to be 'dismota' unless they contain anything sacred.³³ Plautus provides the only other second century evidence; he uses the word four times,³⁴ and in all four cases the word could mean either shrine or festival for at Aul. 408-411a the sense of shrine can only be excluded by a most awkward punctuation: 'aperit, Bacchanal adest, sequitur' rather than 'aperit Bacchanal, adest sequitur';³⁵ while at Bacch. 53, when the

33. SC, ll. 28-30.

34. Aul. 408; 411a. Mil. 857. Bac. 53.

35. At l. 408 the cook commenting on the ravings of Euclio says 'ad Bacchas in Bacchanal veni coquinatum', where it seems most natural to take Bacchae as describing the people and Bacchanal the house in which they live; 'aperit Bacchanal' then picks up his own joke in l. 411, when the door opens and Euclio comes out. For the alternative punctuation cf. Latte, RRG, 271 n.5 and in general Nilsson, The Dionysiac Mysteries of the Hellenistic and Roman Age (Lund, 1957), 13.

man has said 'I fear your Bacchanal' the girl's reply is to look round the room 'quid est? quid metuis? ne tibi lectus malitiam apud me suadeat.' She settles, not unreasonably, on the bed as the cause of his fear. In any case she seems to take Bacchanal as a place. To sum up, then, there is no example of Bacchanal in the singular ever meaning a festival and no second century case of the plural doing so: on the other hand we have one certain case of the plural meaning shrines in this very document and two very probable cases of the singular meaning shrine in Plautus. It seems highly probable that 'Bacanal habere' should be understood as to own or keep a shrine of Bacchus.

This interpretation has two further advantages; first, it means that there will be no confusion between this clause and the later ones dealing with the performance of sacra by Bacchic groups.³⁶ Secondly, it means that we have a provision within the decree to which the latter part of the tablet refers when it provides for the destruction of the shrines; we need no longer wonder whether this was provided for in some other decree.³⁷

We can now offer at least a sketch of the SC. It provides 1) that keeping a shrine is to be illegal for socii;

36. i.e. ll. 15ff.

37. Though other elements in the last lines of the decree must still refer to regulations outside the body of the decree as we have it, e.g. the provision for capital punishment (ll. 24-5) cf. below p 90

2) that certain people may not attend rites; 3) that the Bacchic group is to obey certain regulations specified. The possibility of appeal is offered in some cases. Finally, we must examine the details of these regulations.

No man is to be a priest; women by inference may be. There is to be no 'magister' and no magistracies; no common fund and no swearing of oaths. No rites are to be held except by permission of the senate, unless perhaps by groups of less than five. Was there to be appeal against the regulations on priests, magistri, oaths and money? It seems a priori quite probable that there was not and this is confirmed by the way the sentence reads; the appeal clause seems only to refer to the latter part even of the sentence in which it occurs, for, after all, one cannot apply for permission to hold rites 'in oquoltod'.

How, then does this compare with Livy's version? He has what corresponds to three of our sections: A seems to be represented by 'ne qua Bacchanalia Romae neve in Italia essent' and it is to this section alone that Livy attaches the appeal clause. B is completely omitted. C and D are summarized briefly, as regulations about the manner in which the sacrum is to be held if permission has been obtained for it: 'ita id sacrum faceret, dum neu plus quinque sacrificio interessent, (= D) neu qua pecunia communis neu quis magister sacrorum aut sacerdos esset.' Thus, of section C, there is a mention of priests, magistri and money but none of the taking

of oaths and none of the regulations on the holding of sacra.

Now, this version takes a definite line on three of the questions discussed above. First, Livy evidently takes Bacchanalia as a festival and in fact equates it with 'tale sacrum'. Secondly, he adopts the strengthened sense of section D - i.e. he takes it that even if permission has been granted no more than five people may take part. Thirdly, he does not allow the possibility of female priests.

This presents us with a considerable difficulty. Is Livy looking at a different document from ours? Or is he misinterpreting our document? or are we? The possibility that Livy is misinterpreting, unattractive though it is, cannot be ruled out: in the case of the priests he is certainly wrong unless he is looking at a different document; in the case of section D he has adopted one interpretation and might have his reasons for having done so; the crucial point is again the meaning of Bacchanal. If the view given above is right, it would have been only too easy by the date of the Sullan annalists for a casual reader to assume that Bacchanal habere had to mean the holding of a festival; if so, then the regulations which follow must be drawn up on the assumption that permission to hold the festival has been given, for otherwise they will have no application; this is the fundamental assumption behind Livy's version but it is

not an adequate explanation as a whole; there is no indication in the tablet that the regulations under C are applicable only if permission has been given under A; and Livy offers no interpretation at all of the regulations on sacra under C, which, on his view, can only be an otiose repetition of A.

But, despite these reasons for thinking that Livy has our document and misunderstands it, the document cannot, in fact, be the same as the one we have: Livy's is a general settlement addressed, as far as we can see, to the inhabitants of Italy in general; but sections A and B of our document are addressed to limited classes - A to the foederati, B to Roman citizens, Latins and allies; at first sight, this might seem to be a minor alteration for distribution to a different area, but there may be more behind it than this. The extension of these regulations to the allied cities by the senate is a step of major political innovation;³⁸ it is therefore perfectly possible that when the senate first introduced its permanent settlement it restricted it to Romans and perhaps Latins and that it was only after further thought and investigation that the campaign was extended to allied areas of Italy.

On this assumption, we can readily fit together Livy

38. See especially A.H. McDonald, JRS 34 (1944), 11ff.

and our document: after the first meeting of the senate, the quaestio begins and Postumius leaves for the ager Romanus: during his absence the senate passes permanent regulations for the cult and these are given by Livy at his second meeting of the senate; Postumius then returns to Rome for Livy's third meeting of the senate, when besides the SCC which Livy reports, the decree we have will have been passed extending the suppression of the Bacchanalia to the allies. In this case, sections A and B will be new or at least different from the decree passed at the second meeting, but C and D will simply repeat the provisions of the earlier SC.

This position might be strengthened still further; it seems quite conceivable that Livy's 'ne qua Bacchanalia Romae neve in Italia essent' is not after all a summary of section A but rather of the last clause of section C i.e. that in the version he or his source had the phrase 'Bacanal habere' did not occur and that he therefore offers no interpretation of it. On the other hand, even if the 'Bacanal habere' clause in the form we have it did not occur in the document seen by Livy or his source, it still seems very likely that something very like it did; that is to say there must have been some regulation to forbid the keeping of a shrine in the territory of Rome, unless we are to think that

this was permitted except in allied cities and this would seem unlikely even if we did not have evidence that shrines were destroyed throughout Italy.³⁹

The position outlined above is, however, open to one major objection. Livy says in the summary quoted above that there were to be no 'Bacchanalia Romae neve in Italia' and this occurs in his version of the SC at the first meeting. But on the view put forward the allies were not at this time included in the arrangements. Moreover, in the preceding sentence, Livy has said that Bacchanalia in the sense of shrines were to be destroyed 'Romae primum, deinde per totam Italiam' and this too ought not to have been decided until later.⁴¹ This might indeed be a significant detail, but it cannot be taken seriously as evidence; what Livy is doing (on this view) is to conflate two separate stages in the senate's proceedings and if this is so it is inevitable that he should slip in 'in Italia', for he knew very well that the legislation did apply to Italy eventually.

To sum up this part of the argument, it seems that the main structure of Livy's narrative is in no way incompatible with the data provided by the SC we have though it does need slight correction in the light of the document. Livy gives a summary of the SC which shows conclusively that he or his

39. Livy, 39. 18,7.

40. id., ib. 18,8 cf. 7; 14,7.

41. id., ib. 18,7. Gelzer, Kl Schr., 263ff., especially 265, placed great emphasis on these phrases as showing the impossibility of reconciling Livy's tradition with the
(cont'd following page)

sources had some excellent material available even though they seem in some respects to have misunderstood it. It has also been argued that the tablet from Calabria contains the SC by which the quaestio was extended to the allied area of Italy and only repeated the permanent settlement represented by sections C and D from the previous SC. Various problems in the interpretation of the document have been left open and to these we shall return.

41. cont'd.....

information from the SC; but it seems unreasonable to reject Livy's tradition by insisting on the historicity of this one detail from his own account.

We have then every reason to put faith in Livy's accounts of senatorial proceedings and this brings us to the next main topic. Amongst these proceedings at Livy's third meeting of the senate we find SCC dealing with rewards to be voted to the informers Aebutius and Hispala;⁴² it is certain therefore that people of these names did provide information of great value and for this reason one cannot reject the account of the discovery of the Bacchanalia which Livy offers without very good reason. On the other hand, it could be that it was precisely this SC which inspired the composition of the story, that is to say, that the annalists had no more to go on originally than can be deduced from Livy, 39.19,3-7, which is that a man and a freedwoman provided evidence of critical importance to the enquiry.

To this story we turn next. The crux of the question from more than one point of view is the deposition of Hispala, its reliability and its function in the story. Put as briefly as possible, Livy's account amounts to an allegation that the Bacchic cult and the coniuratio connected with it were discovered quite suddenly, accidentally and to everybody's astonishment at the beginning of 186 BC. When Aebutius brings his story to the consul, Postumius goes to great lengths to assure himself of Aebutius' veracity;⁴³ only when satisfied

42. Livy, 39.19,3.

43. Livy, 39.11,4-7.

of this does he interview Hispala.⁴⁴ Hispala in turn is very reluctant to speak - she fears the vengeance of god and man if she reveals what she learned under oath of

secrecy as an initiate.⁴⁵ When given elaborate guarantees against the latter menace, she does eventually give her evidence.⁴⁶

The consul then takes steps to secure the safety of the witnesses; "Ita cum indices ambo in potestate essent, rem ad senatum Postumius defert, omnibus ordine expositis, quae delata primo, quae deinde inquisita forent."⁴⁷

Immediately on receiving this news the senate votes that there shall be a quaestio on these Bacchanalia and sacra nocturna.⁴⁸ Thus neither senate nor consul knew of the menace until Aebutius came forward; Postumius is reluctant to act without a guaranteed deposition and the senate acts vigorously as soon as it hears the deposition.

What did Hispala say which had such startling consequences? She starts by giving the recent history of the cult in Italy. Originally, it had been limited to women, but a Campanian priestess 'tanquam deum monitu', had reformed it, introduced men increased the number of meetings and held

44. Livy, 39.12ff.

45. Livy, 39.12,5ff; especially 13,5.

46. Livy, 39.13,6-7.

47. Livy, 39.14,4.

48. Livy, 39.14,6ff.

them at night; this had led to various forms of flagitia. She then gives a résumé of the undesirable religious practices of the cult - ecstatic vaticination, pseudo-miracles, the abduction of dissidents under cover of divine punishment, the initiation of minors. She adds 'multitudinem ingentem, alterum prope populum esse; in his nobiles quosdam viros feminasque.' That is all.

Now, what information or evidence did the authorities need before they could act? There seem to be three possibilities - that they did not know that there were Bacchic groups in Italy: that they did not know that the cult had arrived in Rome, though they did know of its existence in Italy: that they knew of its existence in both Rome and Italy, but did not know that it had been reformed or deteriorated or expanded its numbers or in some other way become more dangerous than previously.

Hispala's evidence could only have offered the third kind of information. Nothing that she says refers to the arrival of the cult in Italy or in Rome; she presupposes its existence and concentrates on the reforms introduced by Paculla Annia and the sexual consequences of these reforms. Furthermore, she seems to limit herself to the history of the cult at Rome; for, the consul has asked her what she knows of the thiasos in the grove of Stimula on the *Aventine*

and in her reply she refers in passing to the Tiber and is evidently describing practices on its banks.⁵⁰ Is it, then, the reforms in which the authorities were so interested? It may well be that it was.

But this itself introduces more difficulty: the clear impression one gets from Livy is that a plot against the State was dramatically uncovered. Can he mean no more than that a cult already known to the government was found to have developed in certain undesirable ways? The problem is very clearly seen in the speech which Livy gives to Postumius:

"Bacchanalia tota iam pridem Italia et nunc per urbem etiam multis locis esse, non fama solum accepisse vos sed crepitibus etiam ululatibusque nocturnis, qui personant tota urbe, certum habeo, ceterum quae ea res sit, ignorare." ⁵¹

He goes on to claim that what is new about the report he is announcing is not the fact of the existence of the Bacchic groups but the scale of their operations - the multitudo which Hispala mentioned.⁵² Even here he is cautious.

"nullas adhuc vires coniuratio, ceterum incrementum ingens virium habet, quod in dies plures fiunt."⁵³ This is worse still, for by Hispala's own account she has not been near a Bacchic group for years;⁵⁴ and even if one is expected to

50. Livy, 39.13,12.

51. Livy, 39.15,6.

52. Livy, 39.13,14.

53. Livy, 39.15,10.

54. Livy, 39.12,6.

regard this as a lie to cover herself, had the authorities no better way of finding out how many people attended the meetings of a group they knew to meet on the Aventine than to ask a freedwoman of dubious character?

So far all we have done is to point out an apparent inconsistency in Livy's story. It is not, of course, the only inconsistency as scholars have been at pains to show. Livy's introduction attributes the origin of the cult to a wandering Greek in Etruria:⁵⁵ Hispala's story to a Campanian priestess.⁵⁶ Of course both accounts may be right, probably are right, but that is not the point; Livy gives us no indication what he thought was the relationship between these stories - or are we again to think that Hispala is lying? Again, the emphasis on different aspects of the matter varies: the introduction emphasizes the crimes committed:⁵⁷ Hispala barely mentions these but brings up the subject of sex and morals:⁵⁸ Postumius mentions the flagitia but

55. Livy, 39.8,3.

56. Livy, 39.13,9.

57. Livy, 39.8,6-8.

58. Livy, 39.13,10 cf. 13; she does, however, mention that the 'summa religio' amongst the Bacchantes is 'nihil nefas ducere'. (13,11).

emphasizes a quite different aspect of the affair, the political dangers inherent in the organization and the taking of oaths associated with the cult and the moral danger of religious innovations.⁵⁹ There is no question here either of actual contradictions, different speakers emphasize different points as their interest takes them. The point I wish to make is that the story is loosely worked by Livy; he has incorporated different elements in his narrative without attempting to explain how he thinks they relate to one another; this is in fact typical of the methods he uses, but it is particularly striking that where one expects him to pull the threads together, i.e. in his introduction, he offers material which hardly relates to the rest of his story.⁶⁰

It is all the more impressive therefore that when it comes to the inconsistency over what exactly the consul discovered Livy himself seems to be puzzled. This emerges very clearly from the passages quoted above (p 63). It is evident that it has occurred to Livy that if the story he is giving is true - crimes, violence, mid=night orgies,

59. He mentions the alleged crimes at 39.16,2, but lays far greater emphasis on other aspects of the affair - the oath and its interference with the military duties of young men (15,13-14), on the growing power of this 'nocturna contio' (16,3-4) and on the moral value of the conservatism of the State cult (16,7-10).

60. above n.55.

60

spectacular miracles, mysterious disappearances, the banging of cymbals and the shrieking of matrons - then it is quite inconceivable that no-one except those bound by oath of secrecy suspected what was going on. This is why the consul hedges his bets: you have heard rumours and shrieking, but you do not know what it all means.⁶¹

Why then should Livy have found this contradiction in the accounts he received from the tradition? There are many possibilities. Perhaps, one should reject all those elements of the tradition which are inconsistent with secrecy. Or, perhaps, accept that the authorities had known all along that there were orgies in progress but hesitated to act. Again, the whole story of Hispala could be an elaborate blind put up by the authorities to panic people into believing that a plot had been uncovered, when there was no plot at all. It would not be difficult either to find literary parallels which might well have affected the development of the tradition in either of these directions. Thus the details of the orgiastic cult could well be derived from Euripides *Bacchae* and plays with a like theme well known at Rome.⁶²

61. Livy, 39.15,6.

62. Many of the details would correspond at least superficially to material from the *Bacchae*; e.g. for nocturnal rites Eur., *Bacch.* 485;862; miraculous events, 704ff; vaticination, 298ff; wailing and beating of cymbals, 55ff. For knowledge of plays of this type already in the early second century cf. below n. 182.

Or the discovery of the plot might be influenced by the strikingly similar story of Cicero and the Catalinarians,⁶³ where we find the same emphasis on the role of the consul,⁶⁴ the same mysterious plot against the State,⁶⁵ the same fear of arson,⁶⁶ the same charges of homosexuality and licence⁶⁷ and, perhaps, the same connection with a revolt in Italy.⁶⁸

63. On which, see Th. Zielinski, La Sibylle (1924), 97ff.

64. Naturally enough, in all Cicero's comments on the conspiracy e.g. in Cat. 1-3, passim; Sallust, Cat., 29; 31; 41-8.

65. Sallust op. cit., 18-22.

66. id. ib. 43, 2ff.

67. id. ib. 14.

68. id. ib. 27ff; 56ff.

In order to place the senate's action against the Bacchanalia in its right context we must try to answer a number of questions about the particular cult with which they were dealing; the fundamental evidence must come from Livy's own account, which he gives in the deposition made by the freedwoman Hispala; but first there is a good deal of evidence to be considered about the general history of the Bacchic cult in the Hellenistic World, which may help to supply much needed background information. We need to know whether the cult was really a new arrival in Italy; if it was, where it came from and, more importantly, whether it was in a phase of missionary activity in the Graeco-Roman world, which might explain the concern shown by the Roman authorities.

It is easy enough to show that the cult taken in a very wide sense had already a long history in Italy before the second century.⁶⁹ We know of Dionysiac cults in Magna Graecia⁷⁰ and Campania⁷¹ from an early date; from Cumae⁷²

69. In general, Bruhl, Liber Pater, 58ff.; Nilsson, Dionysiac Mysteries, 12ff.; Jeanmaire, Dionysos, 453ff.; Van Son, op.cit., 53ff.

70. E.g., at Tarentum by the fourth century, Plato, Laws 1.637b; cf. the numerous deposits of terra-cottas, G. Gianelli, Culti e Miti della Magna Grecia (1963), 33ff. We also have the evidence of coins from Metapontum (Head, H.N.², p.77; 79; 80; cf. Gianelli, op.cit., 76), from Paestum (Head, H.N.², p.82; cf. Gianelli, op.cit., 129) and Laus (Head, H.N.², p.74; Gianelli, op.cit., 118). A fourth century tablet from Heraclea (IG 14.645) mentions an area sacred to Dionysus (Gianelli, op.cit., 48) and the god is depicted on 'pinakes' from Locri and its colony Medma (Gianelli, op.cit., 192; 194; cf. Quagliati, Rilievi votivi arcaici in terra cotta, Ausonia 3(1908), 136ff.; for interpretation, Rohde, Psyche, 2.447ff.

71. see next page

72. " " "

comes a very important inscription, which suggests that by the fifth century the practice of initiation was established and that initiates into the mysteries were buried in ground closed to non-initiates; perhaps, this already implies some expectation of life after death. South Italian vases show the continuity of a tradition using Bacchic motifs and also the familiarity of some notion of the underworld.⁷³ In Etruria, too, vases display the symbols

71. For the cult of Hebon in Naples, cf. Peterson, Cults of Campania, 194ff.; Lenormant in D.S., 1.620; the identification with Dionysus seems clear from Mac., 1.18,9 and the cult later involved some form of initiation, cf. IG 14.717; cf. 716.
72. 'ὁ δὲ θεὸς ἐν τοῖς αἰῶσι καὶ μὴ τὸν βασιλεύοντα'; a text first published by Sogliano, Not. Scav., ser. 5, 2(1905), 377ff.; improved by Comparetti, Ausonia 1(1906), 13f.; cf. Peterson, op.cit., 70f. For later Bacchic belief in the afterworld: Cumont, Symbolisme funéraire, 284.; R.O., 203; Nilsson, Dionysiac Mysteries, 131ff.
73. Albizzati, Diss. Pont. Acc., ser. 2, 14(1920); Bruhl, op.cit., 64ff.; Nilsson, GGR, 1².824f. For Bacchic scenes cf. especially vases from the Lecce Museum: CVA Italy VI. pls. 12.1A; 13.3; 15.4; 19.5; 21.2; 21.6 (from Ruge); 28.1 (from Valesio); 32.1; 2; 3 (from Egnazia). For references to Dionysus on Paestan vases, cf. Trendall, Paestan Pottery, 70ff.

of the cult; but it is striking that in this area there is virtually no evidence for the practice of any Bacchic cult.⁷⁴

In Rome the worship of Liber Pater, in a triad with Libera and Ceres, goes back to the fifth century;⁷⁵ but it is far from certain that the triad is immediately identified with Dionysus, Demeter and Persephone, while for clear indications that Liber had been identified with Dionysus we have to wait till the time of Naevius and Plautus;⁷⁶ the tradition that Liber was not identical with the son of Semele survives until Cicero's day.⁷⁷ Perhaps the similarities

74. Dionysiac themes are common on Etruscan vases; cf. e.g. the Faliscan Calyx-crater by the Mazzano painter, Beazley, Etr. Vase-painting, 92f. (no.3), pl. 21.2; or the cups, 109, pl.22.3. For mirrors, cf. Gerhard-Körte, Etr. Spiegel, vol. 4, taf. CCXCVIII-IX. But evidence of cult is almost entirely lacking, apart from the present occasion (Livy, 39.8,3; cf. Van Son, op.cit., 24ff.); an Etruscan god Fufluns was identified with Dionysus (cf. Gerhard-Körte, op.cit., vol. 5. p.35; cf. Beazley, JHS 69, 14; Bayet, Herclé, 195.) and there may be a solitary reference to Bacchus in a vase-inscription (cf. Weinstock, Glotta 1954, 306).
75. Livy, 2.34,3; Dion. Hal., A.R. 6.17,94.; cf. Pliny, N.H. 35.154; Latte, RRG 162 and n.1; Bruhl, op.cit., 30ff.
76. For the evidence of Naevius, cf. below n.182; for Plautus use of Liber as the god of wine, cf. Cu. 98; 114; St. 699f.; Cas. 640; Capt. 578. But there is no doubt that Liber was the god of wine from early times, cf. the Faliscan inscription: 'Ceres far me[]tom: louf[i]r vinom.' (Vetter, no. 241). For discussion of the earlier significance of the triad, Schur, RE 13.2.71ff.; E.Pais, Italia Antica, 2.103ff.; Beloch, Römische Geschichte, 323; W. Hoffmann, Phil. Suppl. 27.1(1934), 98ff.; F.Altheim, Terra Mater, 36ff.; Röm. Rel., 2.30ff.; Bruhl, op.cit., 32ff. Latte, RRG 59f.
77. Cic., de N.D. 3.23; Altheim, Terra Mater, 36ff., counters this point with the observation that Dionysus is not always the son of Semele either (cf. Ampelius, 9; Arr., Alex. 2.17; Diod., 3.64) and regards Liber as originally Greek.

between Dionysus and Liber, both gods of wine and both honoured by rites laying emphasis on the phallus, will have led to a very early association, but we do not know exactly when. More remarkable are the direct traces of Dionysiac influence at Rome, which have never been satisfactorily explained. Both the triumph and the 'ovatio', the lesser triumph, seem to be named from cries of triumph with a distinctly Dionysiac background.⁷⁸ The triumphal fasti assure the antiquity of the triumph and the cry 'triumpe' even occurs in the carmen Arvale; thus, even if it be true that the triumph in its late republican form had been heavily influenced by Hellenistic practice, the names at least seem certainly to ante-date this influence.⁷⁹

78. Triumphus, cf. Walde-Hofmann, 2³.707; Ernout-Meillet³, 1243; RE s.v. triumphus (Ehlers), 7A.1.493f.; Kretschmer, in Gercke-Norden, Einleitung, 1³.6.112. It comes from the Greek 'θρίαμβος', perhaps via Etruscan; cf. also, E. Fiesel, Namen d. gr. Mythos in Etr., 63; 85; Kornemann, Die Antike 8, 109. Ovatio, Walde-Hofmann, 2³.239f.; Ernout-Meillet³, 837; RE s.v. ovatio (Rohde), 18.2.1891f. Originally from the Greek 'ἐὐάγω' (*e u ā i ō), which comes from the cries 'ἐὐά' or 'ἐὐοί', etc.
79. A Bruhl, M.E.F.R. 46(1929), 84ff., for the view that the triumph was influenced by the use made by Alexander and his successors of the Dionysiac triumphal progress through the East.

It would be wrong to fit the evidence briefly surveyed here into any kind of specific pattern and still more wrong to use it to refute Livy's account of the entry of Bacchanalia into Italy. Livy's story (or perhaps one should say stories) is in no way committed to the view that Dionysus and his cult were a new arrival to Italy at the date of the crisis; the cult which he in fact describes, complete with thiasoi, priests and orgies, could perfectly well have arrived in that form quite recently, or else have existed without our hearing of it. We simply have no way of telling. What the evidence does show, and this is by no means unimportant, is that in various parts of Italy there was a basis of established cult and established belief, or at least knowledge, to which the cult in the form Livy describes it could be attached and which would in turn offer it a respectable facade.⁸⁰ This helps to show how embarrassing the whole situation must have been to the senate.

Another possible approach to the question is through the discussion of the origins of the cult. Several solutions have offered to show where the cult really came from. Cumont⁸¹ thought it an oriental cult; others have suggested that it was brought from Tarentum by slaves captured in the Hannibalic

80. cf. below 109

81. R.O.², 195ff.

War⁸² or that it was brought by the soldiers of Manlius who had returned in the previous year from their war in the East;⁸³ others have associated with the action taken at Rome the celebrated decree of Ptolemy Philopator regulating the Bacchic mysteries in Egypt.⁸⁴ There are several different questions here; first, where the cult came from, in the sense of where did the missionaries who actually brought it to Rome find it being practised; secondly, can we judge from the nature of the cult as eventually practised at Rome whether it was derived from a Greek or Oriental cult; thirdly, can we trace any expansion of the cult through the Mediterranean world¹ which will help to explain its eventual arrival at Rome.

The first question is perhaps the least productive of the three. Livy's inconsistent notice obviously bedevils the matter from the beginning.⁸⁵ It is doubtful whether we should be very much the wiser if we had an answer to the problem and, indeed, far from clear that we know exactly what the problem is. It is worth noticing that the answers offered by scholars (and by Livy) certainly presuppose different kinds

82. Frank, C.Q. 21(1927), 128ff.; he was followed by Méautis, art.cit., and Bequignon, art.cit.

83. Bloch-Carcopino, Histoire romaine, 2.52.

84. Cichorius, Röm. Stud., 21ff.; Reitzenstein, H.M.R., 102ff.

85. i.e. the contradiction between 39.8,3 and 39.13,9; cf. above and Van Son, op.cit., 23ff.; 37ff.

of processes; an answer in terms of Manlius' troops presupposes a sudden and dramatic arrival in Italy;⁸⁶ in terms of the Campanian priestess presupposes an established cult in central Italy;⁸⁷ in terms of the Greek missionary in Etruria presupposes a new but not very new cult;⁸⁸ while Frank's suggestion of the expansion of a Tarentine cult to the north under the influence of slaves taken in the Hannibalic War presupposes an established S.Italian cult and no N.Italian cult.⁸⁹ There seems no way of choosing except that if we can prove that the cult was established long before 186, the suggestion of a dramatic arrival will be excluded.

The answer to the second question at least now seems quite clear. Nilsson⁹⁰ has shown that all the features of the cult eventually established at Rome can be connected with the cults we know in Greece and that there is no need to postulate that it came from the East.

The third question while potentially more interesting is far less easy to answer. It is no doubt true that over the years the ecstatic cult of Bacchus was tending to travel

86. cf. n. 83 above.

87. As Livy, 39.13,9.

88. As Livy, 39.8.3.

89. cf. n. 82 above.

90. H.T.R. 46(1953), 175ff.; Dionysiac Mysteries, passim.

but it seems very doubtful whether we can establish the stages or date of this process. In classical Greece, the orgies were regarded as a foreign introduction, whether from Lydia or the North.⁹¹ Then during the Hellenistic Age, the cult of Dionysus appears in a rather more naturalized and civilized form in various parts of the Greek world - at Magnesia ad M. where there were three thiasi,⁹² at Miletus in the third century where an inscription mentions the sale of a priesthood,⁹³ in various parts

91. For the origins of the cult: Nilsson, GGR 1².532ff.; 545ff.; Jeanmaire, Dionysos, 97ff.; Bruhl, Liber Pater, 2ff. The Lydian connection is especially emphasized in Euripides, Bacch. 13ff; 85ff.; cf. Nock, JHS 48(1928), 21ff.
92. Inscr. Mag. 215; Quandt, De Baccho ab Alexandri aetate in Asia Minore cultu, Diss. phil. Halens. 21.2, 162ff. The thiasi were founded on the advice of Delphi, when consulted about a prodigy; what we have is a Hadrianic copy of an original which might be a third century forgery, but would be evidence for third century practice none the less; cf. Pomtow, J. für Phil. 1896, 755.
93. Quandt, op.cit., 171. The document provides an interesting commentary on the increasing regularization of the cult; the priesthood is saleable and the priest receives fees appointed by the State from those who take part in rites or initiations, whereas the old savage custom of eating raw flesh is also under strict control.

of the Aegean, Lesbos, Rhodes, Cos and Thera.⁹⁴ At Pergamum there was a flourishing and official cult in which the participants and priests were apparently exclusively men.⁹⁵ In the Egypt of the Ptolemies, Dionysus was especially emphasized and as mentioned above we have a decree of Ptolemy dealing with the cult.⁹⁶

It is only this last item which lends any real colour to the suggestion that the Bacchic cult was at the date of the Bacchanalia at Rome in a dynamic phase of missionary activity which might help to enlighten us as to the Roman government's difficulties. The other evidence is too scattered or too imprecisely dated to be of any help, but it would be enlightening if it could be shown that Ptolemy was taking the same kind of regulatory action as the senate did later. The decree ordered those who performed initiations

94. Lesbos: IG 12.2; 499; provides for a night orgy; it was a female thiasos except for one ' ἱκονόμος', on whom see Nilsson, Gr. Fests, 282 n.4, suggesting ' ἱκονοδία' - i.e. a man to keep order at the meetings. Rhodes: IG 12.1.155; cf. ll. 49ff; a trieteric festival. Cos: SIG, 1012 - regulations for the sale of a priesthood. Thera: OGIS 735; honours from a Bacchic group to an official from Egypt, his wife and descendants (cf. Nilsson, Dionysiac Mysteries, 9 n.17).
95. Quandt, op.cit., 120ff.; Inscr. Perg. 248; cf. Ath. Mitt. 27(1902), 94.
96. Nilsson, Dionysiac Mysteries, 11f.; Bruhl, op.cit., 54ff.; Jeanmaire, Dionysos, 447ff.; Tondriau, Aegyptus 26(1946), 84ff.

into the mysteries in Egypt to present themselves to a certain official, deliver up the 'sacred book' and report from whom they themselves had received the holy rites back to the third generation.⁹⁷

There are clear analogies between the action being taken here and the action taken at Rome in so far as both involve some kind of registration or control of the cult by the authorities. Furthermore there are resemblances on points of detail - the insistence on knowing the teachers to the third generation seems parallel to the Roman insistence on the presence of some antiquity in the shrines which are to survive.⁹⁸ Again, we can find a parallel to the 'sacred book' of the papyrus in the *carmen sacrum* to which Livy refers in describing the oath of initiation.⁹⁹ But the document has given rise to a great variety of quite different interpretations¹⁰⁰ and certainly what we have

97. B.G.U. 6.1211 verso = Lenger, Corp. Ord. Ptol. no. 29, pp.68ff. For the enormous bibliography, cf. Lenger, *op. cit.*, 69f. and for a full discussion of views up to 1946, Tondriau, Aegyptus, 26(1946), 84ff. Cf. especially, Rostovtzeff, CAH 7.145; Reitzenstein, A.R.W. 19,191ff.; Cichorius, Röm. Stud., 13; Nock, C.R. 1924, 105ff.; Eitrem, S.O. 17(1937), 196ff.; Zuntz, Hermes (1963), 228ff.

98. cf. above 47.

99. cf. above Livy, 34.18.3.

100. Rostovtzeff (*op.cit.*) thought in terms of the establishment of monotheism as an essentially political manoeuvre; Reitzenstein and others of an attempt to control the documents submitted and to combat the growth of occultism. Eitrem (and cf. Sokolowski, Journ. Jur. Pap. 3(1943), 139ff.) in terms of nothing more mysterious than financial controls.

would be consistent with various quite opposed kinds of action - the encouragement or suppression of the cult, or its unification, or merely the study or administration of it. Eitrem¹⁰¹ has argued that the objective was neither political nor religious but merely financial control and the simple fact that his view cannot be refuted shows how limited is our control of the situation.

Nevertheless, the provision that each priest should place his name on the sealed copy of his sacred book, combined with his deposition of the names of his predecessors, strongly suggests that the contents of the sacred book are to be assessed with reference to the credentials of the priest and the authority of his instructors. In combination with this, it should be remembered that Philopator, who is almost certainly the 'βασιλεὺς' of the document, was himself firmly committed to Dionysiac religion though not necessarily that form of it with which we are here dealing.¹⁰² It thus becomes far the most natural interpretation of the decree that Ptolemy is dealing with some situation in which he is reluctant to act openly against the cult but finds it unavoidable to try to eliminate some of its practices. In

101. art. cit. n. 97.
102. cf. Tondreau, art. cit. n. 97; Aegyptus 28(1948), 176f.; Chronique d'Égypte 4(1946), 149ff. Of course, Ptolemy was concerned with an official State cult, whereas the cult of the papyrus decree may be an unofficial or undesirable form of the cult.

other words, he is either tactfully looking for innovations which may sully the cult or at least representing himself as doing so.

If this is right the affair is to some extent like the Roman one; it is at least fair to go on to ask whether both actions might not be produced by a common process. For instance, it could be that the new developments in the cult alleged by Hispala and considered above as a possible influence on the senate's action, though attributed by Livy to the special activity of Annia Paculla of Campania were in fact part of a reform of the cult which found echoes in various parts of the Graeco-Roman world. On the other hand, there seems once again to be no real sign that the mystery-cult in Egypt was a new arrival; in so far as the Ptolemaic decree throws any light on this question at all, it suggests rather that the mysteries had been established for at least three generations. Once again we are brought back to the possibility of a dramatic reform in the cult.

The Egyptian decree then provides an interesting parallel to the Roman situation of 186; but neither this document, nor any of the other evidence considered in this section adds very much colour to the suggestion that Bacchism could be regarded as a missionary cult sweeping through the Mediterranean world, which successive governments were obliged to deal with. The picture which has emerged so far is rather

of a cult in some respects well established in Italy,
but perhaps in forms very different from that which the
senate now tried to destroy. We must turn to the key
evidence - the deposition of Hispala.

Hispalas deposition divides into two kinds of statement; alleged facts and more or less tendentious comments on the facts. In some cases, it is easy enough to distinguish; thus, 'demissasque in aquam faces ...integra flamma efferre' is evidently the Bacchic view of the event while 'quia vivum sulphur cum calce insit' is, as evidently, a rationalizing interpolation of Hispala's or Livy's:¹⁰³ or 'institutum esse ne quis maior viginti annis initiaretur:' might be accepted by the devotee, whereas 'captari aetates et erroris et stupri patientes' clearly would not.¹⁰⁴ But at other points it is less clear; when Paculla is said to have reformed the cult 'tamquam deum monitu',¹⁰⁵ is that to be taken as a claim of the priestess or a criticism of her arrogance in daring to suggest changes? Again, 'nihil nefas ducere hanc summam inter eos religionem esse!'; is this simply a slanderous allegation which a Bacchist would deny or does it reflect an oath of absolute devotion to the deity? Worse still, 'raptos a diis homines dici, quos machinae illigatos ex conspectu in abditos specus abripiant: eos esse, qui aut coniurare aut sociari facinoribus aut stuprum pati noluerint.'¹⁰⁷ The Bacchant evidently believed that certain

103. Livy, 39.13,12.

104. id., ib. 13,14.

105. id., ib. 13,9.

106. id., ib. 13,11.

107. id., ib. 13,13.

people had been snatched by the gods. But did he also believe that they were being snatched by machines and hidden in caves? or are the machines a rationalizing addition like the sulphur on the torches? and did he believe that the men who disappeared were being punished, whether by gods or men, or would he have regarded it as a religious rite and perhaps an honour bestowed by the god? in this case the allegation that it was a device to get rid of backsliders may again be a critical insertion.

The certain facts of the deposition, i.e. those which we can be certain are intended by Hispala as facts, are as follows:

a) that owing to the reforms of Paculla *Annia* the number of meetings had been increased, the rites had been changed from day to night and men had been introduced into the mysteries.

b) that certain ecstatic and mystical rites were practised - vaticination, the torch-rite, the vanishing rite, human sacrifice.

c) that initiation of minors was practised and that for two years initiation of those over twenty forbidden.

Scholars have sought and found parallels for almost all these aspects of the Roman cult.¹⁰⁸ From this point of view

108. On section a), cf. especially, Bruhl, *Liber Pater*, 92ff.; on section b), Méautis, R.E.A. 1942, 476ff.; Festugière, M.E.F.R. 1954, 79ff.; Tierney, P.R.I.A. 1947, Part III, passim; Van Son, op.cit., 123ff. on c), Festugière, loc. cit.; Tierney, loc.cit.

the most significant section would seem to be b), but the matter is in fact complicated by methodological as well as other doubts. For even if we know that a particular rite was part of the later Bacchic ritual, it is quite impossible to prove that it is not an annalistic insertion in view of that later ritual and the annalists' knowledge of it; even if it is true that there were no Bacchanalia in Italy at the date of the annalist's writing,¹⁰⁹ that is far from showing that they were ignorant of foreign developments or, at least, that one particular historian with a knowledge of later Bacchism has not touched up the story at some stage. For example, the mention of the machina and the cave in the sentence discussed above has led to a great deal of speculation as to whether the Bacchants were practising one or another of the mystical and symbolic rites which we know of from imperial texts and painting.¹¹⁰ As we have seen, the text itself leaves room for doubt how much of Livy's story is a fair account at all and how much simply slander. Again, the credibility of the story is in doubt; were the

109. We only know, after all, that they were illegal, not that they did not happen; for Caesar's revival cf. Servius, ad Virg. Ecl. 5.29.

110. e.g. Méautis, art.cit. 481, thought of a 'plongeon rituel' (for which, cf. Hubaux, Musée Belge 27(1933), 5ff.); Festugière, art.cit. 94ff., of a descent to Hades (cf. Nilsson, H.T.R. 46(1953), 194); in general, Van Son, op.cit., 125.

devotees really in a position to mount elaborate machinery on the Aventine?¹¹¹ But even if these doubts be removed, how can we set about proving that the machines were not later accretions to the story?

It seems best to concentrate on the points where there seems to be hope of building up a definite picture of the development. Thus, the cult in the form known to Euripides seems definitely to have been exclusively feminine.¹¹² Now, it is characteristic of what we know of Hellenistic groups that this hard and fast division is at least beginning to break down. On the other hand, we do not know of a mixed thiasos; there seem to be exclusively male and female ones but that is all. In the principate, however, the great Bacchic inscription from Torre Nova is a clear example of a mixed thiasos.¹¹³ Now we cannot doubt that the Roman thiasoi of the second century were mixed, because we have the explicit testimony of the SG on this point.¹¹⁴

111. Bruhl, Liber Pater, 98.

112. As is proved by Bacch. 820, where Dionysus tells Pentheus that the women will kill him if they should recognize him as a man; cf. further v. 730.

113. cf. Nilsson, Dionysiac Mysteries, 10. The only exception seems to be the Thera inscription (cf. n. above), where an official and his wife are both admitted to a thiasos. But cf. Anth. Pal. 7.485, a reference by the Alexandrian epigramatist Dioscurides to a male leader at an otherwise female orgy; Nilsson, *op.cit.*, 7f.

114. above. 48f.

It seems therefore that Livy's account of a recent reform of this kind is very likely to be right. His report is confirmed in a crucial particular.

What of the other innovations? The frequency of the meetings we cannot test. Bruhl¹¹⁵ has argued that the allegation that Paculla introduced nocturnal orgies must be wrong because we find Bacchic meetings at night in Euripides and Sophocles. It is also in fact true that night festivals are found in other parts of the Hellenistic World.¹¹⁶ But it is a long step from this evidence to showing that Paculla did not do as Livy says i.e. introduce or perhaps re-introduce night orgies into the Italian version of cult; we certainly cannot show she did so, but nor can we show that she did not.

Another recent innovation mentioned, though not this time attributed to Paculla, is the discontinuing of adult initiation.¹¹⁷ Whether this actual rule was maintained we do not know though depictions of the initiation of an adult into the Bacchic mystery are rare and even then the initiate

115. Liber Pater, 93.

116. Soph., Antigone 1151; Eur., Bacch. 485; the pannychis from Lesbos (above n. 44); and one for Dionysus Phleus from Erythrae (Quandt, op.cit. n. 42, 150).

117. Livy, 39.13,14.

could as well be under twenty.¹¹⁸ What we do know very well is that the child holds a central place in the cult in later times and in particular that child-initiation is shown on a series of Bacchic works of art.¹¹⁹ This emphasis on children does not seem to be characteristic of other mysteries either in Greece or the East.¹²⁰ Here once again we have testimony that Livy's sources were strikingly well informed about later Dionysiac practice. Can this detail be relied upon? It should be noticed that this is not only a question of one casual sentence; Hispala had been initiated when very young;¹²¹ Aebutius was also an adolescent;¹²² the consul refers to iuvenes as initiates;¹²³ it seems likely that the initiation of the young was an integral part of the story.

If this is right, the consequences could be far-reaching.

In later Bacchic belief it is clear that the point of child

118. Two examples are quoted by Nilsson, Dionysiac Mysteries, Fig. 18, p.89, a Campana relief; Fig. 19, p.90, a sarcophagus from the Villa Medici; another possibility is Fig. 16, p.85, where the figure of the initiate is small and could be intended to be a child, but in any case our knowledge of the painting (from the domus Aurea) is based on a drawing from the codex Escorialensis.

119. For child initiation, cf. Nilsson, Dionysiac Mysteries, 78ff.; 106ff. Such scenes are also represented in reliefs from the Villa Farnesina, Rizzo, Dionysos Lystes, Figs. 8 & 9, pp.48ff. = Nilsson, op.cit., Figs. 11 & 12, pp.79ff.; cf. also, Himerius, Or. 23.7; 8; 18; and IG 2².11674, 11. 9ff., where a boy has been initiated into several different cults.

120. Nilsson, Dionysiac Mysteries, 110 & n.8.

121. Livy, 39.12,6.

122. id., 39.9,2.

123. id., 39.15,13.

initiation is to ensure that the child if it died would attain to the bliss reserved for the initiate in the future life. Cumont and Nilsson¹²⁴ have studied this Bacchic concept, and shown that the heaven they conceived rose no higher than a prolonged banquet. Our problem is how early this idea developed. The earliest specific reference to a connection between initiation and a future life is in Plutarch.¹²⁵ There is, however, the evidence of a fragmentary papyrus from Egypt¹²⁶ that already in Hellenistic times there was some connection between Orphism and Bacchism; on the other hand, during the years of the suppression of the Bacchanalia the senate also had Pythagorean documents destroyed, though we do not know why.¹²⁷ It seems at least a possibility that Bacchic groups in Italy should have been influenced by Orphism at least to the extent of adopting the idea of a future life. At any rate, this is the neatest available explanation for the practice of child initiation. We do at least know from Plautus that the idea of the personal survival of death had reached Rome by this date.¹²⁸

124. Cumont, Lux Perpetua, 250ff.; Nilsson, H.T.R. 46(1953), 115ff.; Dionysiac Mysteries, 130ff.; cf. Festugière, M.E.F.R. 66(1954); Bruhl, Liber Pater, 309ff.

125. Moralia 611 E = cons. ad ux. 10,40.

126. Kern, Orph. Fgt. 31 = Smyly, P.R.I.A. 12(1921), n.1 ; Nilsson, GGR 22.232 & n.2.

127. cf. infra 58ff.

128. cf. infra 8

To sum up this long discussion based on Hispala's deposition, we have found no reason to think that the arrival of the cult in new areas of the Mediterranean will help us to explain the senate's action. The evidence suggests rather that the clue may lie in the kind of reform or development which Hispala's deposition suggested and it seems conceivable that some such development lies behind the papyrus decree from Egypt as well. It remains to examine the senate's action in more detail to see if it fits in with this picture.

What did the senate do? First, they set up the quaestio: "sacerdotes eorum sacrorum, seu viri seu feminae essent, non Romae modo sed per omnia fora et conciliabula conquiri, ut in consulum potestate essent; edici praeterea in urbe Roma et per totam Italiam edicta mitti, ne quis qui Bacchis initiatus esset, coisse aut convenisse sacrorum causa velit, neu quid talis rei divinae fecisse. ante omnia ut quaestio de iis habeatur, qui coierint coniuraverintve, quo stuprum flagitiumve inferretur."¹²⁹ As we have seen Livy here makes a clear distinction between the ager Romanus proper to which the clause ordering the arrest of priests is limited - i.e. the city, fora and conciliabula - and the rest of Italy, which is only affected by the ban on Bacchic meetings. It is not quite clear whether the last sentence is supposed to have been part of the SC or whether it only summarizes the intention of the document; its meaning is presumably that crimes committed or encouraged rather than simple adherence to the Bacchic sect are to be the cause of investigation. The consuls make arrangements in Rome for the enforcement of this decree and for general security measures.¹³⁰

This decree and the consuls' edict produced 'terror magnus' in the city, the 'fines Romani' and 'per totam

129. 39.14,7-8

130. ib. 9-10.

Italian;¹³¹ Livy again distinguishes the three. There is then a great exodus of Bacchic supporters from the city and this forces the consuls to go 'circa fora' in search of the offenders.¹³² At this point Livy¹³³ notes a distinction in the treatment of the criminals which, if reliable, is of considerable importance. Those who had made the prayers in which were contained the 'coniuratio in omne facinus ac libidinem' but had not actually fulfilled their oath, were left in chains; but they executed those who were guilty of 'stupra', murder, false witness or various forms of fraud. More, says Livy grimly, were executed than imprisoned. Then, after the return of Marcius but before the return of Postumius, the senate ordered the destruction of the Bacchanalia and regulated the cult for the future;¹³⁴ I have argued above that these regulations were limited to the ager Romanus. After Postumius' return, the regulations were extended to the whole of Italy and rewards were appointed for the informers.

To this narrative we can add one or two more incidents. Under the year 184, Livy reports that the propraetor in charge of the province of Tarentum had a large conspiracy of the pastores to deal with and was also concerned with

131. ib. 17,4.

132. ib. 18,2.

133. ib. 18,3.

134. ib. 18,7.

putting down the remnants of the Bacchanalia. Livy does not apparently think that there is any connection between the two tasks and regards this group of Bacchic supporters as isolated fugitives from Justice.¹³⁵ The revolt of the¹³⁶ pastores had already been mentioned by Livy under 185. In 181 he mentions an outbreak of Bacchanalia in Apulia which had started the previous year.¹³⁷ He makes no reference here to the earlier trouble; but the 185 notice makes it clear that the revolt of the pastores was in Apulia and it seems therefore probable enough that there was continuous trouble in the area from 185 - 181 and that the revolt of the pastores was provoked by the enforcement of the Bacchanalia regulations; at least we know that there was trouble in Apulia under three successive praetors - L. Postumius (185 - 184), L. Pupius (183 - 182) and L. Duronius (181)¹³⁸ - and that all three dealt with Bacchanalia.

Even in this account of the basic facts it is evident that there are considerable gaps. For instance, we have

135. ib. 41,6.

136. ib. 29,8.

137. 40.19,9-10.

138. Postumius, Livy, 39.29,8-9; 41,6-7; MRR 1.372;376. Pupius, Livy, 40.19,10; MRR 1.379. Duronius, Livy, 40.19,9-10; MRR 1.384.

no mention of the activities of the consuls after their respective returns to Rome from the initial enquiry.

Marcus leaves for his province after he has finished the enquiry in his 'regio' and is still away at the end of the year.¹³⁹ Postumius is in Rome for the elections and apparently never had a province apart from the quaestio;¹⁴⁰ but where was he during the latter part of the year? was there a full-scale quaestio throughout Italy or only in the area of Rome? Livy gives a figure for those involved - over seven thousand¹⁴¹ - but does this mean in the whole of Italy or in the ager Romanus or in the Roman thiasos itself? what happened eventually to those who were imprisoned but not executed? after all, if all initiates in Italy were killed or imprisoned to whom did the regulations of the cult apply?

It is from our text of the decree that we have most hope of real enlightenment; what exactly did it allow and forbid? We have already seen that it is not a straightforward document to interpret, but some points are certain.

1) Shrines were to be abolished with the exception of old-established ones. This was subject to appeal.¹⁴²

139. Livy, 39.20,1ff.; 23,1. On the 'regiones', cf. Van Son, op.cit., 147ff.; but there is virtually no evidence of what the regiones were or even if they were formally allotted.

140. Livy, 39.23,1: 'quaestionibus cum summa fide curaue perfectis comitia habuit.'

141. Livy, 39.17,6.

142. SC 3ff.; 28ff.; cf. above 48; cf 50ff.

2) Romans, Latins and socii were forbidden to attend meetings. This, too, was subject to appeal.¹⁴³

3) Bacchic groups are allowed to continue in existence provided that there are priestesses but not priests: that there are no officials, common funds and taking of oaths. All this is apparently not subject to appeal.¹⁴⁴

4) Finally, and most obscurely, there are some regulations for the holding of sacra; permission seems to be required for them, but it is possible, though not more than possible that such permission was not required unless there were more than five people present.¹⁴⁵

The legislation limits itself to two main topics: the organisation and property of the Bacchic group is one topic; the other, the number and kind of people who attend Bacchic rites. Other topics might have been expected: the kind of rites to be allowed or forbidden; the age of initiation; the frequency, time and place of meetings. There might seem to be significance in the absence of reference to the alleged crimes; but, of course, the concern of the decree is with legislating on points where there had previously been no law; murder, rape and fraud and conspiracy to commit

143. SC 7ff.; cf. above 48ff.

144. SC 10ff.; cf. above 48f.; 54.

145. SC 19ff.; cf. above 48f.; 53f.

them were crimes already and called for no new legislation. Nor is it perhaps significant that there is no test of adherence to the State gods such as were employed against the early Christians,¹⁴⁶ for no doubt Bacchants would have been willing enough to perform a symbolic sacrifice and there is no sign that they were charged with apostasy.¹⁴⁷

It is important to try to form an assessment of the senate's real intentions for the future of the Bacchic movement. It is clear that they had no intention of trying to enforce its absolute suppression and that they had no overt objection to individuals maintaining their devotion to the God. They certainly provide machinery whereby it would be possible for any existing thiasos to apply to continue its existence; but it is here that we meet the complete inadequacy of our record. Did thiasoi really apply to the senate for such permission? if they did apply, did they ever receive such permission? It must have been an expensive and even, in the circumstances, dangerous business to go to Rome, apply to the praetor and have a special decree passed through the senate. Indeed, one could argue that the whole procedure was designed precisely to make it impossible for any form of Bacchic worship to continue, while maintaining a pretence that anybody could so worship if they chose to ask for permission.

146. e.g. the oath by the genius of the Emperor (Tert., Apol. 32.2); or the opportunity to make a symbolic sacrifice (Pliny, Ep. ad Traj. 96 (97).3).

147. Though on this see Last, JRS 27(1937), 80ff.; cf. below

Whether or not one takes this cynical view about the senate's ultimate intentions, one can be certain about the forms which the senate intended that the cult should not take, provided one accepts that the various regulations for the conduct of a group are not subject to appeal. Male priests are banned: male and female officials other than the priestess are banned: it is forbidden for the group to have a common treasury and it is forbidden for them to take any oath or vow. This tells us a) that collegia organized on these lines had been part of the cult before this date and b) that the senate objected to such collegia. That the cult should have been organized in these groups or thiasoi is exactly what we should expect to find from other Bacchic cults.¹⁴⁸ In imperial times, thiasoi were divided into numberless and varying grades but this seems to be characteristic of the later development of the cult and we have no evidence for such an hierarchic system by the second

148. The old 'orgia' were apparently divided into thiasoi as at Eur., Bacch. 680ff. - 'ὅρῳ δὲ θιάσους τρεῖς γυναικῶν χορῶν'; and the word is quite common in reference to Hellenistic Bacchic groups, e.g. the cult regulations from Miletus (276/5 B.C.), cf. Quandt, op.cit., 171; Leg. sac. As. Min. 48: 'μη ἐξέσθαι δὲ μηδὲ συνάγειν τὸν θιάσον μηθὲν πρότερον τοῦ δημόσιου'; or the inscription from Magnesia apud M. (Inscr. Mag. 215; Quandt, op.cit., 162ff.), where three thiasoi are organized; cf. also, IG 12.3, suppl. 129 = OGIS 735 (from Thera); B.C.H. 51(1927), 375 (from Cyme, second century B.C.). Under the Empire group organization remains strong, notably in the great Bacchic inscription from Torre Nova; cf. Vogliano and Cumont, A.J.A. 37(1933), 215ff.; Nilsson, St. e Mat. 10(1934), 1ff. = Opusc. sel. 2.524ff.; for a survey of the hierarchic organization of this later form of the cult, cf. Nilsson, Dionysiac Mysteries, 45ff.

century BC;¹⁴⁹ when there are such hierarchies, however, they do offer interesting parallels to the secular officials whom the Romans banned; thus, the Iobacchi at Athens had a 'προστάτης' whose function is unknown, a bursar (τράμης), a secretary (γραφμματεὺς) and a kind of policeman to keep order at meetings (ἐν' κ' οσμος).¹⁵⁰

It is clearly a relevant and important fact that the senate should be so interested in controlling the external form and the cult-centre of the Bacchic thiasos. On the other hand, this fact is consistent with almost any explanation of the senate's original objections to the cult; that is to say, whether what the senate disliked was the demoralising effects of the views the Bacchants held, or the crimes which they organized, or the political power which was placed in the hands of the leaders of the cult, whether their motives were religious, administrative or political, it would still be necessary and wise to destroy the form of the units on which Bacchic organization was based. It is therefore not right to argue that their interest in external organization shows that they did not care about the religion and the rites themselves. Indeed,

149. cf. previous note and especially Nilsson, Dionysiac Mysteries, 56.

150. IG 2².1368; cf. Ath. Mitt. 19(1894), 248ff.; E. Maass, Orpheus (1895), 14ff.; Nilsson, Dionysiac Mysteries, 46; 52; 55ff.

perhaps, the fact that they seek to control the holding of rites as well as the group organization, shows that they had more in mind than just political or administrative convenience.

Two other of the provisions look to be significant politically. The special emphasis on the oath taken by the group and the special provisions for Roman citizens, Latins and allies as opposed to slaves and foreigners. The oath is one of the few points in the decree which Livy does not mention and he only emphasizes its importance in the consul's speech: 'hoc sacramento initiatos iuvenes milites faciendos censetis, Quirites? his ex obsceno sacrario eductis arma committenda? hi cooperti stupris suis alienisque pro pudicitia coniugum ac liberorum vestrorum ferro decernent?'¹⁵¹ It is certainly true that the Romans at this period put great emphasis on the oath as a religious institution and on the reliance which ought to be placed upon it. Polybius specifically testifies to its importance and attributes to ^{its} ~~their~~ scrupulousness the superiority of Roman over Greek public life¹⁵² and we know of cases at this period where the senate asked a magistrate who was making a submission to take an oath that it was substantially true and then simply took

151. Livy, 39.15, 13-14.

152. Pol., 6.56, 13ff.

his word for it without further investigation.¹⁵³ Oaths had to be taken not only by the soldier, but by magistrates on taking office and on other occasions in public life.¹⁵⁴ So there is nothing in the least implausible in the view that some inconsistency between the Bacchic oath and the duties of a citizen and soldier worried and frightened the authorities.

But Livy's version has been thought to go farther than this. By putting together two or three references - 18,3 '...precationes fecerant, in quibus nefanda coniuratio in omne facinus ac libidinem continebatur,...'; 16,5 'in omne flagitium et facinus coniuravit'; 13,11 'nihil nefas ducere, hanc summam inter eos religionem esse'. - and connecting them with the alleged crime wave, we can reach the conclusion

153. At Livy, 40.29,13, the senate do not even have the oath pronounced but accept the praetor's word on his saying that he is willing to take the oath. At Livy, 41.15,9ff., both the praetors to whom the Spanish provinces had been allotted (P. Licinius Crassus and M. Cornelius) take oaths that there are private religious reasons for their not leaving Rome; they duly swear and their excuses are accepted; for later, somewhat disreputable repercussions cf. Livy, 42,32,5.

154. For the sacramentum militiae, cf. Mommsen, Staatsr. 1³. 622ff.; RE s.v. dielectus (Liebenam); s.v. sacramentum (Klingmüller); A. von Premerstein, Vom Werden und Wesen des Principats, 73; for the magistrates oath, Mommsen, Staatsr. 1³. 620ff.; for that of a candidate, Mommsen, op. cit., 619 and n. 4; that taken on retiring from office, id., op. cit., 625.

that the oath which the Bacchanals swore actually committed them to performing criminal acts and that it was for this reason that the cult led to the crimes.¹⁵⁵ It is perhaps important to note that Livy never quite says this in so many words; the second two of our three passages are quite general in their apparent range and even the first which is most nearly precise, uses a rather odd working^a - prayers in which the coniuratio was contained rather than the oath itself. It seems at least a possibility that this lack of an explicit statement means that the connexion at which Livy hints was his own idea rather than something which the sources definitely stated.

There are two separate questions here. One is whether it is possible or plausible that the Bacchanals should have taken an oath committing them to a life of crime; the other whether the various crimes of which they are accused are to be taken seriously, a point on which scholars have seriously differed in the past.¹⁵⁶ The taking of oaths is a familiar

155. cf. A.H. McDonald, JRS 34(1944), 27.

156. G. de Sanctis, St. dei R., 4.2.367; Last, JRS 27(1937), 80ff.; both took the scelera seriously and made them the explanation of the authorities' action which they hence regard as essentially police action. On the other hand, others have tried variously to explain the scelera away: Méautis, R.E.A. 42(1940), 476ff.; Van Son, op.cit., 120ff.; Gelzer, Kl. Schr. 3.266ff.

feature of the mystery cult in general and of course it is precisely the oath of keeping secret the revelation of the mystery that makes it a 'mystery' at all.¹⁵⁷ There is no question that the Bacchic initiation ceremony did involve the revelation of a mystery in this sense; initiation scenes which are quite frequent invariably show the neophyte about to be shown a hidden object, generally the phallus projecting from a basket of fruit;¹⁵⁸ on the mystery murals from the Villa Item at Pompeii this theme of revelation recurs twice - once in the revelation of the phallus to a winged figure¹⁵⁹ and also in the scene where a Silenus shows a bowl into which two Satyrisci gaze, while the Silenus glares at a woman, presumably a non-initiate, who is excluded from whatever revelation is taking place.¹⁶⁰ The occurrence of

157. On the mystery oath, Reitzenstein, HMR³, 185f.

158. Cf. e.g. the stucco relief from the Villa Farnesina: Rizzo, Dionysos Mystes, Fig. 9, p.49; a marble relief in the Louvre, Rizzo, op.cit., Fig. 13, p.59; gladiator's helmet from Pompeii, Nilsson, Dionysiac Mysteries, Fig. 17a, p.86; cf. Rostovtzeff, Mystic Italy, 94ff.; (the relevant part is the central scene on the right-hand side); a Campana relief, Rizzo, op.cit., Fig. 12, p.58; sarcophagus from the Villa Medici, Nilsson, Dionysiac Mysteries, Fig. 19, p.90.

159. The identification of the winged figure is still highly controversial: she bears a whip and turns her head away from the phallus and towards the girl on the opposite wall, whom, it has often been thought she is about to strike with the whip. To mention only the most recent attempts at interpretation, Karl Lehmann (JRS 52(1962), 62ff.) saw the winged figure as Agnoia - Ignorance whipping the uninitiated girl; but Ignorance depicted with wings is extremely hard to believe in. Hardly more persuasive is Professor Zuntz' interpretation of the whole scene as a warning against pre-marital sexual intercourse (P.B.A. 49, 177ff.) It seems far from certain in fact that the Fury is intending to strike the girl at all; both girl and Fury seem rather to be reacting to the revelation, the Fury with horror, the girl with ecstasy.

160. Please see following page.

books in Bacchic art perhaps suggests the same theme of 'the search for knowledge'.¹⁶¹ There is no explicit evidence for a Bacchic oath except in Livy, but the revelation to initiates evidently implies non-revelation to non-initiates and there is no reason to doubt that there was a Bacchic oath of secrecy analogous to the mystery oaths which have survived.¹⁶²

160. For the interpretation of this scene, cf. Zuntz, *art.cit.*, 184ff., who argues very ingeniously that the Satyr is gazing in expectation that wine will miraculously appear there owing to the presence of the god; wine and the phallus balance one another on opposite sides of the god's own 'ἑρὸς γάμος'. For the murals in general cf. the luxurious publication with excellent plates by A. Maiuri, La villa dei Misteri (1931); further - G.E. Rizzo, Dionysos Mystes, (1913), 39ff.; M. Rostovtzeff, Mystic Italy, 40ff.; M. Bieber, Der Mysteriensaal der Villa Item, Arch. Jahrb. 43(1928), 298f.; Nilsson, Dionysiac Mysteries, 66ff.; 128ff.; R. Herbig, Neue Beobachtungen am Fries der Mysterienvilla in Pompeii (1958).
161. Nilsson, Dionysiac Mysteries, 116ff.; 126.
162. Though note that there was such an oath in the Attic cult of Dionysus, cf. Foucart, Le culte de Dionysos en Attique, 126. For known oaths in mystery-cults: Pap. della Soc. it. 10.1162; (cf. Wilcken, Arch. für Pap. 10(1932), 257ff.; Momigliano, Aegyptus 13(1933), 179ff.); O. Schitz, Arch. für Pap. 13(1939), 210ff.; (cf. Cumont, H.T.R. 1933, 151ff.; Nilsson, GGR 2², 667 n.3. For the rest of the evidence, Reitzenstein, HMR³, 192ff.; especially Hippolytus, adv. haer. 1.1.2p.2 (Wendland); Apuleius, Met. 11.23 (255.8ff. H); 11.15 (277.26 H).

This does not get us very far; an oath to keep a secret is not an oath to do anything, let alone commit crime. Reitzenstein¹⁶³ argued that the initiation oath went further than this; he regarded it as the counterpart of the soldier's oath in which the soldier swore to obey his officers, the difference being that the initiate swore obedience to the god and his priests. This will offer a very precise interpretation of the reference to the military oath by Livy quoted above¹⁶⁴ and there are also references in Apuleius and other imperial writers¹⁶⁵ which suggest that the initiate felt himself to be enslaved to the god which presumably implies, absolutely bound to obey his orders.

Such an oath as this would obviously have placed the priest

163. HMR³, 195f.

164. above p. 97.

165. Apul., Met. 11.15: 'eos quorum sibi vitas in servitium deae nostrae maiestas vindicavit,.....'. For other passages, Reitzenstein, op.cit., 192ff.; but they do little more than prove that metaphors such as 'servitus' or 'Militia' were felt appropriate for the initiate in the mysteries and tell us nothing about the actual contents of the oath. Even if the oath itself only enjoined secrecy about the mystery, there would be nothing surprising about the language of absolute subjection to the goddess' will.

in a strong, even politically dangerous position, as the interpreter of the divine will. Incidentally the Campanian priestess Annia Paculla seems to have made precisely such a claim to interpret Bacchus' will.¹⁶⁶

The argument is, however, a fragile one. There is no clear evidence for any cult to suggest connection between servitude to the god and the taking of an oath;¹⁶⁷ there is certainly no evidence that Bacchants took such an oath. All the Livy speech says is that the taking of a Bacchic oath made a man unsuitable for the military one and it does not follow from that that the Bacchic oath was necessarily in any way like the military one. Finally, the texts of the two mystery oaths we possess deal with nothing but the preservation of the secrets of the cult.¹⁶⁸ Of course, it may well be that the priest obtained great influence over the behaviour of the devotee by one means or another but there is no evidence that the oath gave him such influence directly.

The next problem is the interpretation of the various crimes with which the Bacchanals are charged. Last has¹⁶⁹ shown that in the series of prosecutions we know about

166. 'tamquam deum monitu', Livy, 39.13,9. One might compare the standing of Alexander of Abonouteichos vis-a-vis the serpent god Glycon; cf. A.D. Nock, C.Q. 22(1928), 160ff.

167. cf. above 98ff.

168. cf. above 101f.

169. JRS 27(1937), 80ff.

under the Republic and Empire there is always a charge of criminal activities against the devotees of whatever religion it may be; but he showed further that there is no evidence to support Mommsen's view that there was a specific charge used on these occasions of apostasy from the Roman gods. There is, however, another implication of this; if the Roman government decided that it was necessary that a cult should be suppressed and its devotees brought before the courts there was no charge which could be brought against them unless they could be shown to have committed some crime; the devotion to their cult could not be a crime in itself. If this is right, therefore, when we find charges brought in connection with what is in fact a religious persecution it is necessary to regard them with a good deal of scepticism, because the government would have had to bring such charges whether crimes had been committed or not; in the case of the Bacchanalia as we have seen, those who were found guilty of crimes were executed, those devotees who were not so found guilty were not executed.¹⁷¹ To this one should add the propaganda value of charging religious deviants with crimes and the familiarity in Roman courts of heaping vituperation

170. Ges. Schr., 3.389ff.

171. cf. above 90.

on any defendant and one can hardly do less than suspend judgement on the matter.

It seems certain at least that the charges, whether fictitious or not, were genuinely made at the time of the quaestio. This is guaranteed by the charges of fraud and false witness, which seem so odd that they could hardly be later inventions.¹⁷² It is natural enough to invent charges of murder and rape (you will not sleep safe in your bed) but fraud is by no means such a natural choice. What does the charge in fact mean? Why should adherence to the Bacchic cult cause anybody to indulge in fraud or why should this have been a plausible charge to bring against them? Certainly, one possible answer here is that they had taken an oath which obliged them specifically to commit any crime they were told to, but we have seen that this is not altogether a satisfactory solution. The alternatives are to suppose that the charge grew out of a misunderstanding of some Bacchic practice or that belonging to a Bacchic group tended in some way to drive them into crime of one sort or another. The first alternative might be an attractive explanation of the charge of forging wills, for there is evidence for some cults of a sort of symbolic adoption, which could well be misinterpreted as an attempt to get hold of somebody's money¹⁷³ but it is much more difficult

172. Livy, 39.8,7; 16,2; 18,4.

173. cf. J.J. Tierney, P.R.I.A. 51(1947), 113f.

to explain the charge of bearing false witness, which implies the giving of false evidence in actual litigation, as any sort of a misunderstanding of a rite. In favour of the second is the obvious possibility of blackmail; once a man had been initiated into a secret or semi-secret cult and had taken an oath that he would keep the secrets of the cult he might well not wish to have this brought to the attention of his family or friends let alone the city authorities. This point lies behind the story of Aebutius, for his step-father wanted to have him initiated in order to conceal his own misdemeanours in the administration of his step-son's estate - '*...obnoxium sibi vinculo aliquo fieri cupiebat.*'¹⁷⁴ This may be an important link but it does not altogether resolve our problem; for why should blackmail have led to fraud and false witness rather than, say, robbery?

There is another, broader, difficulty about the alleged scelera. If the scelera were committed or alleged to have been committed in the secrecy of a Bacchic orgy, this will serve to explain why they remained unknown to the authorities; if the stupra and caedes were interpretations or misinterpretations of ritual acts they can reasonably have been discovered at the same time as the cult itself; but what of the frauds? had these been unknown to the authorities as well? Perhaps, all the charges arose from information

brought by delatores who had previously been restrained by fear of reprisals just as Hispala was in fear of gods and men.

How, then, did the cult come to light? As we have seen Livy's story is that nothing was known of the cult until it came to the consul's attention as the result of a quite accidental sequence of events. Livy himself is uneasy about the reconciliation of this with the facts of a wild orgiastic cult;¹⁷⁵ moreover, Hispala's own story on which the senate based its action does not refer to the arrival of a quite new cult but to the reform of an old-established one. It is tempting at this point to reject the whole of Livy's story; what interested the senate was the crime-wave and it was from the crime-wave that they discovered the cult; Livy's whole story of a sudden revelation at the beginning of 186 is then an unnecessary and confusing fiction. The mystery of the crime's only coming to light after the investigation began thus becomes a further confusion made essential by the first.

There is, however, a fatal objection to this. The story of Aebutius and Hispala is confirmed by the SC which Livy quotes¹⁷⁶ and we have every possible reason to regard

175. 39.15,6; see pp. 63ff. above.

176. 39.19,3.

this as one of the best parts of our record. The SC not only mentions the two informers but appoints extraordinary rewards for their services. We may reject the detail of their story but there can be no reasonable doubt that they supplied information which the senate felt itself bound to reward in a most emphatic way. Yet we can be almost as certain that the senate did know of the existence of the cult long before 186. Plautus¹⁷⁷ refers to Bacchae and Bacchanalia as familiar and connected with a secret and violent cult. Livy's account implies that it was well established and widely disseminated in Italy:¹⁷⁸ and ^{the} SC itself shows that it was connected with a number of shrines and with a group organization which can hardly be kept secret over a number of years.¹⁷⁹ Finally, not only does Livy's story of the sudden discovery break down, but itself contains hints that the discovery did not come as a surprise to everybody.¹⁸⁰ There is surely a strong case for thinking that the

177. Amph. 703ff.; Bacch. 53; 371; Aul. 408ff.; Cas. 978ff.; Miles 1016f. For the Bacchantes as wild women cf. especially Bacch. loc.cit., Amph. loc.cit.; for the reputation of Bacchism as a secret cult, cf. Miles loc.cit.: 'cedo signum si harunc Baccharum es'; where the mention of the Bacchae is evidently suggested by the word 'signum', meaning 'password', for the Bacchae have no other apparent relevance to the context. Nilsson, Dionysiac Mysteries, 14, discusses this point, but I am not able to understand his argument.
178. cf. above 84 ff.; cf. below 111 ff.
179. cf. above 46 ff.
180. For the story's breaking down, above 63 ff.; for Livy's hint, 39.14,4, 'patres pavor ingens cepit, cum publico nomine.... tum privatim suorum cuiusque vicem, ne quis adfinis ei noxae esset.' They must clearly have known more about what had been going on than Livy is openly asserting.

reason for the senate's action in 186 was quite simply that this was the first convenient opportunity for taking an action they had long contemplated and perhaps delayed. 186 was the first year since 218 when Rome was not either involved or liable to be involved in a crucial war.¹⁸¹

It is important to recognize the delicacy of the position in which the senate placed itself. It was proposing to attack a cult which evidently had wide support throughout Italy; which could claim the protection of cults of great antiquity in Magna Graecia and elsewhere; it was also intending to intervene in the affairs of Latin and allied Italy in a way which had little or no precedent and which might well have provoked violent reactions. It could hardly have afforded to take these risks until there were no foreign distractions. The senate had to reckon with the hostility of god and men; it had cast itself in the role of Pentheus.¹⁸²

181. The only exception might be 194, when the wars in Greece were over and trouble with Antiochus may not have been in immediate prospect; but the Aetolians were hostile and active by 193 (Livy, 35.12ff.), so that the intermission, if it was one was of the briefest. Cf. also Badian, Studies, 112ff.

182. For knowledge of this legend, cf. Plautus, Merc. 469: 'Pentheum diripuisse aiunt Bacchas'. Naevius must have handled a similar theme of the god's revenge in his Lycurgus, which to judge by the number of extant fragments must have been one of his major plays; cf. Marmorale, Naevio Poeta, 191ff.; cf. 150; Fgta. 19ff. (Klotz), especially 36: 'cave sis tuam contendas iram contra cum ira Liberi.'

If this is right, the story of Hispala's revelations must be seen essentially as an attempt to strengthen the government's position and to silence possible opposition by announcing the sudden discovery of a dreadful conspiracy. All that had in fact happened was that the policy of tolerating the cult without recognizing its existence was abandoned and a decision taken to destroy it; both the earlier toleration and the sudden change of front could be concealed by the sudden announcement of the discovery of danger and the simultaneous excitement of panic; the consul's contio, the rumours of crime and vice, the elaborate precautions against arson can all be seen as deliberate attempts to create a crisis.

This reading of the facts creates new problems. If there was no sudden discovery and the scelera were not the reason for the senate's action, what was it which made the senate do what it did? why, that is to say, could the policy of tolerance not have continued indefinitely? what was it in the cult to which the senate objected? Three aspects of it are perhaps relevant; first, the cult is on any view foreign to Rome and involves unfamiliar practices and beliefs which imposed duties and demands on the devotee which the senate might have regarded as undesirable; secondly, the cult is not based on any city or area but seems to occur all over Italy; thirdly, the cult does not seem to restrict itself to any particular class or type of citizen. In other

words, the senate saw the cult as a threat to the existing moral, social and political order - not perhaps an immediate threat but in the long run. Can all this be substantiated?

We have already discussed some of the characteristic Bacchic practices which the government might have found undesirable - nocturnal meetings at which alcoholic and sexual orgies were alleged to take place, the oath of secrecy taken by the devotee, the initiation of minors and in general the emphasis on personal experience in the religion and perhaps even on personal immortality - but some scholars have argued that the senate was not in fact interested at all in the religious side of the question since a) no priestly college was consulted before action was taken against the cult b) the SC allowed the continuance of the faith if only in a limited form. Neither of these points can be taken very seriously.¹⁸³ On the other hand there is clear evidence that at this time the senate regarded foreign cults as a dangerous influence and were prepared to protect Rome against them. There is no reasonable doubt that the senate objected to the cult as such.

Secondly, the distribution of the cult: we have evidence for its occurrence in Rome itself¹⁸⁴ and the ager Romanus,¹⁸⁵

183. De Sanctis, *St. d. R.*, 4.2.367. On a), even if it be granted that Livy's silence about the colleges proves that none was consulted, this does not suggest that no religious question was involved, but only that no theoretical question of religious law arose on which the senate felt it necessary to consult the specialist priests. Cf. *infra*, Part 2, *passim*. On point b), cf. above, 94.

184. Livy, 39.9ff.

185. *id.*, 39.14,7.

in the allied cities of Bruttium,¹⁸⁶ in Apulia,¹⁸⁷ Campania¹⁸⁸ and finally Etruria.¹⁸⁹ What we do not know is how far there was any sort of contact between different thiasoi in different parts of the country; but clearly the organization of the individual groups, with secular as well as religious officials meant that at least potentially there could be a great deal of such contact. The third aspect is connected with this; the SC makes it quite clear that thiasoi could include Roman citizens and allies as well as slaves or foreigners;¹⁹⁰ Livy reports that there were some nobles amongst the members of the Roman thiasos and mentions that when the senate heard the news of Postumius' discoveries it was shocked not only because of the public dangers but also because they feared that their own adfines might be involved in the conspiracy.¹⁹¹ Now, it is a characteristic feature of the thiasos we know best from imperial times, that it includes not only lower-class members with Greek names but also members of an illustrious Roman family, who held the

186. This is presumably the inference to be drawn from the place of origin of our copy of the inscription; and especially so if the latter part is in fact a selection from SCC made by local magistrates for the benefit of the local population; cf. above n. 22.

187. cf. nn. 135-6, above.

188. Livy, 39.13, 8.

189. id., 39.8, 3.

190. ll. 7ff.

191. 39.13, 14; 14, 4.

senior posts in the thiasos.¹⁹² That the structure of the second-century thiasoi might have been parallel to this is confirmed by the names which Livy gives of the leaders of the cult: the Cerrinii are known from inscriptions;¹⁹³ the 'Atinii de plebe Romana' come from a family attested in various parts of Italy¹⁹⁴ and also at Rome, whither according to Cicero they came from Aricia;¹⁹⁵ in fact, they have a remarkable and perhaps significant career in Roman politics. They do not seem to be heard of before 211 when an Atinius holds a minor post;¹⁹⁶ but between 195 and 189 no less than three of them attain the praetorship, though none the consulate;¹⁹⁷ in 186 the two Atinii are arrested¹⁹⁸ and

192. cf. Vogliano, A.J.A. 37(1933), 219ff.

193. RE 3.2.1985f. (Münzer), who suggests an Oscan origin; cf. Schulze, Z.G.L.E., 467-8; the name is frequent e.g. in inscriptions from Pompeii, including one of republican date - ILLRP 763 - in which M. Cerrinius M.f. is listed amongst 'mag(istri) vici et compiti' for the year 47 B.C. For the later material, cf. CIL 4, indices, 230; cf. 251; suppl.1.744; cf. 770.

194. Cf. in general, RE 2.2105; Schulze, Z.G.L.E., 69; CIE 3498; 3499; CIL 11.2970; 3409 (all from Etruria); CIL 14.106; 1805; 630 (all from Ostia); 2850 (from Praeneste).

195. Cic., Phil. 3.16.

196. M. Atinius (RE no. 4); Livy, 25.15, 7ff.; he was in command of the garrison at Tarentum, cf. MRR 1.270.

197. C. Atinius Labeo (RE no. 8) was praetor peregrinus in 195 (MRR 1.340); C. Atinius Labeo (RE no. 9) was praetor in Sicily, 190 (MRR 1.356); and C. Atinius (RE no. 1,2) was praetor in Further Spain for 188 (MRR 1.365) and was in fact still there during the Bacchanalia affair (Propraetor 187-6, MRR 1.369;371); his death in battle was announced to the senate later in the year (Livy, 39.21,4).

198. Livy, 39.17,6.

thereafter no Atinius is known to have held public office until 131.¹⁹⁹ Of course, this could be a coincidence and new men seem to have prospered better in the first decade of the second century than they were to ^{prosper} for a long time; but it seems a strong possibility that the Bacchic Atinii were connected with the praetorian ones and that their family found their activities a severe electoral handicap in the years which followed.

At least then we can sketch in the outlines of what the senate may have found dangerous in the cult. It offered considerable power to the officials of the thiasoi in terms of control over the devotees; it was found attractive in so far as it offered the devotees a kind of personal revelation which no other religion in Italy could offer at the time;

199. When C. Atinius Labeo Macerio was tribunus plebis (RE no.10) cf. MRR 1.500f.; he made himself notorious by his attacks on the censor Metellus Macedonicus (Cic., dom. 123). We also know of two leges Atiniae: Gell., N.A. 14.8,2 (on the tribune's membership of the senate); and Cic., Verr. 2.1.109; Phil. 3.16; Gell., N.A. 17.7,1; Ulp. in Dig. 41.3.4.6; Ps.-Asc., 248 St. (Lex Atinia de usucapione); Niccolini, Fasti, 129 (cf. MRR 1.458f.) accepted Rossbach's suggestion for Livy, Oxy. Per. 50, 1. 109 (149 B.C.): '...de tribunis pl.] lat[~~a~~ est] l [ex] At[~~i~~ inia.' and placed both leges in 149, postulating a tribune of that name. But the reading is far from certain and the whole construction only as secure as the reading - l [ex] At[~~i~~ lia (cf. infra 461f.) is a distinct possibility.

and in terms of its organization it lent itself to the building of a pan-Italian religion. If men of social influence were in fact holding senior positions in the cult, they might well be regarded as a potential threat to the system of clientelae by which Roman nobiles established their influence throughout Italy.

One more clue may be added. Bacchus is never shown in any recognizable form on early Roman coins;²⁰⁰ but he does appear immediately on the coins of the rebels in the social war.²⁰¹ One may well wonder whether this is a deliberate reference to the brutal Roman suppression of the cult.

200. The only coin earlier than the Social War on which a representation of Bacchus has been recognized is Sydenham no. 504, a Bes issued by C. Cassius.

201. For the allied issue: Sydenham, 628 (Pl. 19), Anon.; 641 (pl. 19) C. Papius C.f. Mutilus; 643, Minius Ieiuf. Minii(f.) (an unique gold coin in the French National Collection). For subsequent representations of the god, cf. Sydenham, 692 (Q. Titius); 776 (M. Volteius); 779 (L. Cassius Q.f.) (all in the years after the Social War); 945 (C. Vibius Pansa; 1138 (C. Vibius Varus); 1198 (M. Antonius) (all in the 40's).

3. Magna Mater

The Magna Mater cult has a special claim to attention at Rome as the first of the Oriental cults which we know to have reached the city¹ and the only Oriental cult deliberately introduced by the authorities under the Republic;² it is also the last of a series of foreign cults brought to Rome under the inspiration of the Sibylline books.³ The late imperial cult which we know from literary and artistic evidence and also from the ritual programme preserved in the fourth-century calendar⁴ was devoted to a pair of deities - the Magna Mater herself and Attis. In their ritual Attis holds the dominant role: his worshippers celebrated his death and rebirth and he can fairly be compared to the other resurrection cults - Adonis, Osiris, Dionysus.⁵ The sequence of rites which show him in this character at

1. For accounts of the introduction of the cult: H.R. Goehler, De Matris Magnae apud Romanos cultu (Diss. Lips. 1886), 7ff.; E. Schmidt, Kultübertragungen (R.G.V.V. 8.2 (1910)) 1ff.; W. Warde Fowler, R.E.R.P., 370f.; Wissowa, R.u.K.², 317ff.; H. Graillot, Le culte de Cybèle, 25ff.; Schwenn, s.v. Cybele, RE 11.2.2250ff.; Cumont, R.O.⁴, 43ff.; de Sanctis, St. d. R., 4.2.1.268f.; Bayet, Histoire pol. et psychol. de la religion romaine, 151ff.; Latte, RRG, 258ff.
2. Though they were tolerated, with quite rare exceptions, cf. *infra* and we have some second century evidence from Delos (cf. esp. Inscr. de Délos 2123; 2124; 2248; Latte, RRG. 274) of dedications by Italians to Egyptian and Syrian deities.
3. *infra* 503 ff.
4. The sequence of rites is preserved only to the fourth-century calendar of Philocalus, Degrassi, F.a.N., 242f., covering the period 15th to 28th March; cf. in general, Cumont, R.O.⁴, 53ff.; H. Hepding, Attis (R.G.V.V. 1 (1903)), 144ff.; Graillot, Le culte de Cybèle, 108ff.; Nilsson, GGR, 2².644f.; cf. below n.6.
5. The spring festival (above n.4) clearly implies the death and rebirth of Attis and cf. Sir J. Frazer, Golden Bough, 43.1.263ff.

Rome do not seem to have developed fully until the second century AD nor to have begun to penetrate the State calendar before the time of Claudius.⁶ The question which therefore faces us is whether any of this late construction can be assumed to belong to the Magna Mater cult when it was introduced to Rome in the second century BC.

There is no question that both Cybele and Attis have long histories in the East;⁷ they also arrive fairly early in Greece.⁸ They are at home in various parts of Anatolia - Attis' legends seem to place him either in Phrygia or Lydia,⁹ Cybele has special associations with mountains - Ida, Dindymon and others.¹⁰ She is an earth-goddess and has affinities with

6. The chronology is a matter for dispute: J. Carcopino, Aspects mystiques³, 49ff., believes that the whole sequence of rites in the calendar of Philocalus was introduced by the Emperor Claudius; cf. Lydus, de mens. 4.59; but P. Lambrechts, Bull. de l'institut belge de Rome 27(1952), 141ff.; Attis, van herdersknaap tot god, (1962), 8f.; 26f., has argued strongly that Claudius only introduced the first part of the cycle, the 'dendrophoria' at which the death of Attis was mourned and that the second half, the 'Hilaria', where the resurrection of Attis was celebrated was added about 100 years later; cf. also, Latte, RRG, 342 n.2. For an ingenious, but highly improbable solution, identifying the Claudius of Lydus, loc.cit., as Claudius Gothicus, cf. von Domaszewski, JRS 1(1911), 56.
7. For the early history of Cybele, cf. Graillet, op.cit.², 11ff.; Schwenn, RE art.cit., 2251ff.; Nilsson, GGR, 1².640ff.; for Attis cf. below 120ff.
8. Nilsson, GGR, 1².725 ff.; Graillet, op.cit., 21ff; cf. below n.13. Attis makes what is apparently his first appearance as Atys, the Lydian prince in Hdt., 1.34-45; cf. below. 121ff.
9. Hepding, Attis, 100ff.
10. Cumont, R.O.⁴, 45ff.; Schwenn, RE art.cit., 2252. cf. below 133; 137.

Ma of Cappadocia and perhaps others;¹¹ her associations are particularly with animals (lions and fawns) and with caverns.¹² At first, she is known in Greece as Cybele¹³ and is associated from the beginning with the tympanum and hence presumably with ecstatic dancing.¹⁴ Others of the elements familiar from later times appear early - the itinerant beggars 'μητράγυρας' devoted to the goddess, for instance;¹⁵ but there seems to be no early evidence of the mysteries with which she has later connections and none of the rite of self-castration.¹⁶ In Hellenistic times one of the great centres of the cult was at Pessinus, where there was a hierarchy of priests led by the Attis and the Battaces.¹⁷ There was also a lower grade of priests known as Galli, familiar from various places later and perhaps

11. Graillot, *op.cit.*, 13f.; Schwenn, *RE* art.cit., 2270f.; cf. below 146 n. 116.

12. Graillot, *op.cit.*, 4ff.

13. Anacreonta, fgt. 11.1; Hdt., 5.102; cf. Hesychius, s.v. *μητράγυρας* (ed. Latte, P.540).

14. Hdt., 4.76; Eur., *Bacch.* 58f.; cf. Hepding, *Attis*, 127f.

15. The word was already used with pejorative associations by the fourth century; cf. Arist., *Rhet.* 3.1405a, 19ff.; Iphicrates called Callias 'μητράγυρας' instead of 'Δαδούχος', which he in fact was, as a rude way of saying the same thing.

16. Nilsson, *GGR*, 2².642f., who takes the absence of castration from the earlier cult to be a mark of the separation of the later mystery-rites from the earlier tradition; but the castration of Attis himself is certainly central to one version of his ancient myth; cf. below

17. Hepding, *Attis*, 126f.

identical with the 'μητρογύρις';¹⁸ these priests already seem to be known at Rome by the second-century BC under the name of harioli.¹⁹

The standing of Attis in the cult is far more arguable. As we have seen by the second century A.D. Attis is comparable in importance to the Magna Mater herself; this was certainly not always so. Even at Rome there is no literary evidence of knowledge of Attis before Catullus' poem about him and even there he appears not as a divinity but rather as a devotee who castrates himself.²⁰ On these grounds it used to be held that when the cult was introduced to Rome Attis, having intimate association with the aspects of the Cybele cult which the senate had no desire to encourage, was deliberately excluded.²¹ In fact, however, the peculiarities of the evidence do not end here and the surprising reticences about Attis are not confined to Rome.²²

18. For an early description of the Galatian priests cf. Pol., 21.37,4ff.; for the Galli in general, Graillet, op.cit., 287ff. They were apparently so called after the River Gallus (cf. Gallimachus, fgt. 411 (Pfeiffer); Ovid, Fasti, 4.364). For the Archigallus of Roman times, A. Momigliano, Riv. Fil. 60(1930), 226ff.; at Ostia, where a good deal is known about the organization of the cult, M.F. Squarciapino, I culti orientali ad Ostia, 10; 12; 13ff.
19. Naevius wrote a play 'Hariolus' (fgt. 20ff. R³), which might be a translation of 'μητρογύρις'; the identification is clearer from Plautus, Truc. 602: 'hariolus qui ipsus se verberat'; cf. 611: 'Tympanotriba'; cf. Lucil., fgt. 288 Marx; Auct. ad Her., 4.6,2.
20. cf. Showerman, T.A.P.A. 31(1900), 56ff.; note especially 1.90: 'ibi semper omne vitae spatium famula fuit.'
21. So, Showerman, art.cit.; contra, Hepding, Attis, 142ff.
22. cf. below 141 ff. for new evidence.

In the early mythological traditions about him, Attis is quite consistently human; he dies and stays dead.²³ He is frequently connected with Cybele as a beautiful youth who loves her or whom she loves; in some versions he castrates himself, in others he simply dies;²⁴ But nowhere does he survive death and nowhere is he a god. Thus though he must have been early associated with Cybele in myth and perhaps ritual he is nothing like a partner in her divinity. The artistic tradition is similarly elusive. Representations of Cybele and Attis together are almost unknown in Greek art:²⁵

23. For survey and analysis of the various different mythical traditions, Hepding, Attis, 98ff.; Nilsson, GGR, 2².642ff.; Lambrechts, Attis, 11f.
24. Paus., 1.4,5, knows of the tomb of Attis at Pessinus, though he mentions another version in which the body escaped putrefaction at the request of Agdistis (Cybele); for this idea, cf. Arnobius, 5.7,15. In all the three main versions of the myth (Diod. Sic., 3.58-9; Paus., 7.17,9-12; Arn., 5.4-7), there seems to be no question that Attis died suddenly and did not return. The most important version is Arnobius' which represents the Pessinuntine myth and which Arnobius says he derived from Timotheus, presumably the contemporary of Ptolemy I, and inventor of the Sarapis-cult; cf. Nilsson, GGR, 2².94; 156; 622. Cf. further, Tac., Hist. 4.83; Plut., de Is. 362A.
25. Lambrechts, Attis, 5ff.; 36ff.; though note the important series of Cypriot representations of Cybele from the Archaeological Museum, Istanbul (Lambrechts, Attis, 45ff.; Pls. 8 - 11), which seem to show Attis as Cybele's child; this tradition was already known from the literary tradition; cf. Diod. Sic., 3.58,3; Lucian, Iupp.Trag. 8 (p.60. 13 R); Schol. ad Lucian, loc.cit.; Hippolytus, Ref. omn. haer. 5.9.

there is a third century grave-relief from Attica which shows Cybele giving a flower to a youth wearing a Phrygian cap - later the normal head-gear for Attis - who is normally and reasonably taken to be Attis.²⁶ Also from Attica there is an inscription of the orgeones which mentions 'Attideia' at which a 'κλίβη' is to be strewn and at which there is apparently to be a 'θρονώσις'.²⁷ This may imply a sequence of ritual like that of second century Rome; but it may not.²⁸ There is almost no other reference to Attis as god or consort of a god in pre-imperial times.²⁹

Lambrechts³⁰ has drawn what looks to be the logical conclusion from this series of silences - that Attis starts as a comparatively obscure retainer of Cybele and only very slowly rises to godhead, which he attains only in Rome in the second century AD. There is no doubt that this is a tempting way of looking at it; but it is not the only possibility and resting as it does on the absence of evidence rather than on anybody's assertion it is not only open to refutation by the appearance of evidence but also

26. H. Leipoldt, Bilderatl. zur Rexlig., 9-11, fig. 142 = Nilsson, GGR, 2².Pl. 10.3.

27. CIG 2².1315; 1328.

28. Nilsson, CGR, 2².642; cf. Hepding, Attis, 136; Lambrechts, Attis, 53ff; Scott Ferguson, H.T.R. 1944, 101ff.

29. Of course, the terra-cottas from the Palatine are relevant here cf. below 141ff.

30. Lambrechts, Attis, passim; cf. id., Melanges Smets, 461ff.

liable to be untrue for any specific branch of the cult, even if it is true of the cult as a whole; thus, for instance, it might be that the particular branch of the cult which was introduced to Rome already gave more not less prominence to Attis than cults in other parts of the Near East or Greece.

The excavation of the temple of the Magna Mater on the Palatine has added what looks like important evidence to this story; to this we shall return later.³¹ But neither this evidence nor any other gives any clear indication whether Attis was part of the cult originally introduced. We are left, therefore, with very little direct information as to the nature of the cult in 200 BC. We can say that its reputation in Greece places it close to the Bacchic cult as ecstatic and demoralizing, but we cannot be sure whether this reputation reached Rome before the cult itself.³² The rite of self-castration, like the Attis-ritual, later the central and characteristic parts of the cult, is not attested by this date.³³

31. below, 141ff.

32. Cf. e.g. Eur., *Bacch.* 78f.: 'τὰ τε μητρὸς μεγάλης ὄργια κοβέλης θεμετεῖον','; cf. 59; 128f., where the Magna Mater is invoked in close association with Dionysiac rites.

33. Though, perhaps, the silence of Hdt., 4.76, on this point should not be pressed too far; there is a single mysterious example of ritual self-castration in fifth century Greece, Plut., *Nicias* 13.3; on which cf. Graillet, *op.cit.*, 290ff.; but the incident is isolated, Plutarch makes no mention of the deity, if there was one, for whom the castration was performed and he implies a connection with the altar of the twelve gods.

How and why was the cult first introduced? Livy³⁴ and Ovid³⁵ tell us that towards the end of the Hannibalic War the decemviri sacris faciundis produced an oracle from the Sibylline books which led to the importation from Asia of a sacred symbol, the Black Stone, and to the building of a temple to the Magna Mater on the Palatine. It would not be true to say that they agree on the details of the story, for they distribute the material differently as between the original oracle and a consultation of Delphi which both attest.³⁶ That there was a Sibylline oracle is

34. 29.10f.; 14; cf. 36.36,3; infra 507ff.

35. Fasti, 4.255ff.

36. Livy's Sibylline oracle was: 'quando hostis alienigena terrae Italiae bellum intulisset, sum pelli Italia vincique posse, si Mater Idaea a Pessinunte Romam advecta foret.' cf. infra 507ff. To this the Delphic oracle added the injunctions (a) to go to Attalus of Pergamum for assistance, (b) to select the 'vir optimus Romae' to receive the goddess. Ovid's oracle is quite different: 'Mater abest, Matrem iubeo, Romane, requiras / cum veniet casta est accipienda manu.'; the Romans, not unnaturally fail to understand this and consult Delphi for enlightenment: 'Consulitur Paeon. Divumque arcessite Matrem / inquit in Idaeo est invenienda iugo.' (Fasti 4.259f.; 263f.). The versions are quite beyond reconciliation as they stand, though exactly the same points emerge from the combination of the two oracles in each version. It is tempting to suppose that Ovid has himself re-organized the material for dramatic reasons; but, on the other hand, Livy is and Ovid is not committed to the connection with Pessinus, which there is reason to suspect, cf. below 125f.

confirmed by testimony earlier than Livy's - it is mentioned by Cicero,³⁷ Varro³⁸ and others.³⁹ Thus, at this level there is agreement and there is no adequate reason to question either the fact or the date of the oracle.

From this point, however, romance creeps into the story. First Attalus of Pergamum is said to have forwarded the Roman envoys to Pessinus from where they collected the Black Stone;⁴⁰ but Pessinus was in fact within the sphere of influence of the Galatians and the Galatians in the late third century hostile to Pergamum;⁴¹

37. de H.R. 27f.

38. de L.L. 6.15.

39. Diod., 34.33,2; cf. Strabo, 12.5,3 = 567.

40. Livy, 29. 10, 5; for a description of the black stone itself, at least as it was in imperial times, cf. Arnobius, 7.49: 'Lapis non magnus, ferri manu hominis sine ulla impressione qui posset, angellis prominentibus inaequalis,...'; Prud., peristeph. 10.156: 'lapis nigellusmuliebris ore clausus argento'; i.e. by this time at least a silver female face had been impressed on the stone cf. Latte, RRG, 258 n.2.; it may have been a later addition, but not necessarily so.

41. For this point, cf. L. Bloch, Philologus 52(1893), 580; J. Kuiper, Mnemosyne 30(1902), 283f.; cf. F. Stähelin, Geschichte der kleinas. Galater, 39 n.1; cf. Wissowa, R.u.K. 2, 318 n.2; de Sanctis, St. d. R., 4.2.1. 270; Graillot, op.cit., 46ff.; Latte, RRG, 259 n.1; but others have been tempted to reject the whole story as a fabrication on the basis of this evidence, cf. Schmidt, Kultübertragungen, 23ff.; Niese, Geschichte d. griech. u. maked. Staaten, 3.69, n.3; Schmidt (97ff.) also evoked similar stories as proof that we are dealing with legendary material, but cf. Latte, RRG, 258 n.1.

this element in the story ought to belong later than the mid-second century when there was contact between Galatia and Pergamum.⁴² On the arrival of the stone at Rome, it was received by Scipio Nasica specially appointed by the senate as 'bonorum optimus' and at this time very young - 'nondum quaestorius';⁴³ but a series of stories of increasing complexity⁴⁴ attribute a major if not miraculous role to a woman Claudia or Valeria: in the developed version of her story she is a Vestal Virgin who establishes her chastity by saving the ship in which the Black Stone was arriving.⁴⁵

42. F. Stahelin, *op.cit.*, 75ff.; cf. especially, Strabo, 12.5,3 = 567, who reports the Attalid building of a temple to Agdistis.
43. For the reception by P. Cornelius Scipio Nasica (cos. 191; cf. RE sv. Cornelius no. 350): Cic., de H.R. 27f.; de fin. 5.64; Diod., 34.33,2; Livy, 29.14; Pliny, N.H. 7.120; Val. Max., 7.5,2; 8.15,3; Vell., 2.3,1; Juv., 3.137f., with Schol.; Sil. Ital., 17.1ff.; Dio Cass., fgt. 57.61; App., Hann. 56; Ampelius, 24; Amm. Marc., 22.9,5; Augustine, C.D., 2.4
44. Cic., de H.R. 27f.; Cael. 34; Livy, 29.14; Ovid, Fasti 4.255ff.; Seneca, fgt. 80; Statius, silvae 1.2,245f.; Suet., Tib. 2; App., Hann. 56; Auctor de vir., ill., 46; Julian, or. 5.159c; Aug., C.D. 2.5; Claudian, Laus Ser. 17ff.; 28ff.; Ap. Sidon., 24.41ff. (carmina); cf. Diod., 34.33,2, who alone calls her Valeria not Claudia.
45. By Seneca, *loc.cit.*, Claudia had become a Vestal virgin rather than, as in earlier sources, a matron; by Claudian, *loc.cit.*, she is using her own hair rather than a rope to drag the ship to land, thus avoiding disaster. Cf. Leipoldt, *op.cit.* n.26, 157, for the relief of Claudia's feat, with the inscription (CIL 6.492): 'Matri deum et Navi Salviae voto suscepto Claudia Synthyche D.D.'; for other similar dedications, one by the name Claudia, CIL 6.493-4; the ship 'Salvia' is presumably the ship depicted in the relief i.e. the ship which brought the black stone; we know nothing else about the ship (for the name, cf. Schulze, Z.G.L.E., 471) and it seems an odd recipient of a vow.

Cicero⁴⁶ already knows of a Claudia, whom he regards as a matron who established her virtue by some act which he does not describe, but which he does connect with the arrival of the Magna Mater. Perhaps, the variant in the name of the woman - Claudia/Valeria⁴⁷ - might suggest that the story was handled by Claudius and Valerius the annalists, though it should be noticed that Livy is more than a little sceptical and not very interested by the story: 'Matronae..., inter quas unius Claudiae Quintae insigne est nomen, accepere: cui dubia ut traditur antea fama clariorem ad posterios tam religioso ministerio pudicitiam fecit';⁴⁸ this suggests that Livy himself did not understand what Claudia did as one of a group which won her undying fame.

Claudia, unimportant herself, shows how a story could rapidly grow up round the introduction of the cult. Ought more of Livy's narrative^{to} be suspect? We have seen that there seems to be something wrong with the role attributed to Attalus of Perganum^m; if so, perhaps the whole story of an introduction in 204 is fictitious.⁴⁹ The gap between the arrival of the Black Stone in 204 and the dedication

46. H.R. 27f.

47. cf. n. 44 above.

48. Livy, 29.14.

49. cf. above n. 41.

of the temple, which is firmly fixed in 191, has been thought to be suspicious;⁵⁰ but the gap is neither unparalleled nor inexplicable.⁵¹ Support for the re-dating might be sought in the very confused dating of the first Megalesia, the games connected with the Magna Mater; under the year 191 in connection with the dedication of the temple, Livy⁵² notes that 'ludique ob dedicationem eius facti, quos primos scenicos fuisse Antias Valerius est auctor, Megalesia had not happened before and that the series of these games dated

50. so, Schmidt, Kultübertragungen, 23ff.

51. An immediate parallel is the temple of Iuventus, which was vowed and dedicated in the same years as the Magna Mater temple (cf. *infra* pp. 203 ff.; temple no. 8); so we should either have to postulate a double confusion or the gap loses its significance. (There is, however, some confusion over Iuventus; cf. Cic., Brut. 73, for the 'ludi quos Salinator voverat' dated to 193, though they ought to be identical with the dedication-games of the temple in 191). Still more relevantly, there seems to have been a complete cessation of temple-building between the last few years of the Hannibalic War (the last was in 205, Honos and Virtus ante portam Capenam: Wissowa, R.u.K.², 150) and 194; this was followed by a rush of temples in 194-1 (cf. *infra* 176f.). It is true that during this three-year period temples were dedicated before Magna Mater which had been vowed later (e.g. Iuno Sospita, vowed 197, dedicated 193: *infra*, temple no. 2); but since the delay to be explained is on this basis only two or three years, clearly not much significance can be attached to it. Perhaps the accommodation of the strange practices of the Phrygians caused difficulty; perhaps, the Magna Mater temple was more ambitious than some of the others; the most attractive possibility is that the dedication was deliberately held up in order to make it co-incide with the beginning of Rome's first Asiatic War; the Trojans return to claim their inheritance. For other temples which took some time to complete cf. Pietas (*infra*, temple no. 10), about ten years; Lares Permarini (*infra*, temple no. 13) eleven years; for details of the other temples of the 190's *infra*, 203 ff.

52. 36.36,4.

back to these dedication games. There are, however, two earlier references; first, in 204 after the arrival of the Black Stone '...ludi fuere Megalesia appellata':⁵³ secondly, in 194 'Megalesia ludos scenicos A.Atilius Serranus, L.Scribonius Libo aediles curules primi fecerunt.'. ⁵⁴ Of these notices only the 204 one is unambiguous; the 194 notice could mean either that these were the first Megalesia or that they were the first Megalesia which were scenic or that they were the first to be given by the curule aediles; in the 191 notice the words 'Megalesia appellatos' might and might not belong to the quotation from Antias. There are various possible combinations.⁵⁵ The important question for us is whether any tradition denied that there were Megalesia earlier than 191; in other words did Antias deny that there were Megalesia before 191 or just that there were scenic Megalesia? It is at least arguable that he did deny the Megalesia before 191; but obviously we are now far removed from any clear argument against the story of 204.

Two other details confirm that something had happened by 204. First Livy⁵⁶ mentions that the censors of 204 placed the contracts for the Magna Mater temple; in fact, he says

53. 29.14,14.

54. 34.54,3.

55. Thus, 204 might be the first games; 194, the first scenic games; 191, the first annual scenic games; or 191/4 might be a variant tradition for the first scenic or annual scenic games etc. etc.

56. 29.37,2; 36.36,4.

this twice - first, under the year of the censorship, secondly, in connection with the dedication. Again, Cicero⁵⁷ mentions another fact which he attributes to this year: 'sodalitates autem me (i.e. Cato) quaestore (i.e. 205 or 4) constitutae sunt, sacris Idaeis Magnae Matris acceptis.' Neither of these details proves anything because either could be faked to fit in with the false tradition of the introduction of 204; but in neither case does this seem probable.

We must then admit that the Black Stone could have been brought to Rome in the 190's and the story have been subsequently projected back into the period of the Hannibalic War by a historian who thought fit to connect the arrival of the Magna Mater with the final defeat of the Carthaginians. But this is little more than a logical possibility and there is nothing in the evidence which calls for so radical a solution. Indeed, the only serious difficulty which we have met is the alleged importation from Pessinus to which we next turn. But it must be noticed that this particular difficulty will not be eased by bringing the incident down into the 190's when the relations between Pergamum and Galatia were unchanged.⁵⁸

Two possible solutions suggest themselves: either the Black Stone came from Pessinus but not through the agency of Attalus or it did not come from Pessinus at all but rather

57. de sen. 45.

58. cf. n.41 above.

from the area of Pergamene influence. Varro⁵⁹ discussing the etymology of the word Megalesia seems to preserve an alternative tradition of the origins of the Black Stone: 'Megalesia dicta a Graecis quod ex libris Sibyllinis arcessita ab Attalo rege Pergama; ibi prope murum Megalesion id est templum eius deae unde advecta Romam.' This is not altogether a very satisfactory notice, because the name could perfectly well come from the Greek for Magna Mater - *μεγάλη μήτηρ* - and it seems improbable that the name of the Pergamene temple would have had much to do with it, even if it was the original home of the image. The value of the notice, however, is not tied to the value of the etymology. Moreover, Varro is the earliest source to mention the origin of the image and neither Polybius⁶⁰ nor Cicero,⁶¹ who mention Pessinus in connection with Rome, refer to it as the home of the Roman cult-image; Cicero, in particular, is actually talking about the special religious significance of Pessinus in this passage and although he refers to the incident of 205/4 and calls Pessinus the 'sedes' and 'domicilium' of the Mater deorum he does not connect the two: Clodius, he says has disgraced his ancestress Claudia who received the Magna Mater when it arrived from Phrygia nor is this surprising in a man who actually

59. de L.L. 6.15; cf. E. Ohlemutz, Die Kulte u. Heiligtümer der Götter in Pergamon, 183ff.

60. Pol., 22.20,5.

61. de H.R. 27.

misbehaved at Pessinus the 'sedem domiciliumque Matris deorum': thus the events of 204 and Pessinus are introduced to the argument separately and not specifically connected: finally, at the end of the passage where Cicero is seeking to prove the extraordinary sanctity of Pessinus, which is where a mention of the stone is most to be expected, all Cicero talks about is the fact that Roman generals sometimes took vows by the Magna Mater and went on a pilgrimage to Pessinus to fulfil them.⁶² Cicero shows that Pessinus was a great centre of the Magna Mater cult; but his silence is almost conclusive that he did not regard it as the place of origin of the Black Stone.

If it be once admitted that the earliest tradition we have is that the Black Stone did not come from Pessinus, it seems safest to accept this tradition; for it is easy enough to see why Pessinus, the centre of the powerful hierarchy of the Cybele cult should replace an obscure Megalesion at Pergamum, thus enhancing the dignity of Pessinus, Rome and the cult itself;⁶³ it is much more difficult to see how the

62. For an example cf. *infra*, 150. It is impossible to say what Cicero had in mind when he wrote 'e Phrygia', let alone to prove that he thought the stone came from Pergamum; but Phrygia obviously suits Pergamum better than Pessinus and the confusion between Trojans and Phrygians is already noticed by Dion. Hal., 1.29.

63. For the first contact of Romans with Pessinus cf. Livy, 38.18,9; for contacts later in the century, cf. below, 147ff.

reverse process could have happened. There is also a more general point to be noticed: the goddess at Rome is regularly known as the Mater Idaea,⁶⁴ a name far more likely to derive from Pergamum and the Troad than from the Pessinus cult where she was known as Agdistis.⁶⁵

We are now in a position to say how the cult arrived: it was recommended by the Sibylline books in 205 and introduced possibly under Delphic influence from a cult in Pergamum; from this source the symbol of the goddess - the Black Stone - was brought to Rome and received in 204 by Scipio Nasica the 'bonorum optimus'. In 204 the stone was taken directly on to the Palatine and placed in the temple of Victoria where it stayed until the temple of the Magna Mater was dedicated in 191.⁶⁶ In 204 the first banquet of the sodales was held in connection with the Megalesia which celebrated the arrival of the goddess.⁶⁷ Thereafter, the games and banquets happened annually and it seems impossible to trace any relationship between them and the Phrygian cult

64. Officially, Mater Deum Magna Idaea; thus under April 11th. Fasti Ant. Maj. give M.D.M.I.; for the later material, cf. Goehler, De Magnae Matris apud Romanos cultu, 73ff. Of particular interest is the Massiliot inscription (CIL 12.405) 'Mater deum magna Idaea Palatina', clearly a specific reference to the goddess at Rome.

65. Strabo, 12.5,3 = 567; she was so called from Mount Agdos (Paus., 1.4,5) cf. Nilsson, GGR, 2^d.463; for Cybele's names from mountains cf. above n.10.

66. Livy, 29.14,13.

67. Cic., sen. 45.

itself.⁶⁸ The worship received by the goddess at Rome falls in two distinct groups: the Roman magistrates offered a sacrifice⁶⁹ and the people made offerings of moretum or meal,⁷⁰ all this apparently 'more Romano':⁷¹ but there was also a Phrygian priesthood attached to the temple which maintained foreign rites in the heart of Rome.⁷² There seems to have been detailed and complicated regulation by the senate of the way in which these ceremonies were to be held. Roman citizens were not allowed to be priests of the Magna Mater⁷³ and nor were slaves;⁷⁴ the only priests permitted were one Phrygian man and one woman and these were

68. cf. Graillot, op.cit., 81f.; de Sanctis, St. d. R., 4.2.1.333, for somewhat thin suggestions about the relationship between the celebration of ludi and the Asiatic cult. Varro, de L.L. 6.15 says that the games were called after the temple at Pergamum and, if he is right (cf. above 131), it would be easier to understand why this name should be applied to games at Rome if there were also games of that ~~known~~^{name} at Pergamum. Cic., de H.R. 11ff. has been thought to suggest that games were part of the Asiatic cult introduced; cf. Graillot, loc.cit.; Boyancé, Latomus 13(1954), 337ff.; for possible parallels to the banquets of sodales, cf. Ziebarth, Griech. Vereinswesen, 50; Graillot, op.cit., 89f.
69. Dion. Hal., A.R. 2.19,4: 'Θυσίαι μὲν γὰρ αὐτῇ καὶ ἄγωνα, ἄγουσιν ἐν αὐτῇ πᾶν ἔτος οἱ στρατηγοί'.
70. Ovid, Fasti 4.367; cf. Graillot, op.cit., 80; Wissowa, R.u.K.², 318; F. Bömer's edition, ad loc.
71. Dion. Hal., A.R. loc.cit.: '... κατὰ τοὺς Ῥωμαίων νόμους.'
72. id., ib.: 'λέγονται δὲ αὐτῇ ἡνὶ Φρυγίᾳ καὶ γυνὴ Φρυγία...'
73. id., ib. 5.
74. According to Graillot, op.cit., 76; but the inference from Obs., 44a, is hardly a certain one.

only allowed to sacrifice within the temple precincts and on certain fixed days to collect a stipend in their sacerdotal robes;⁷⁵ Romans were forbidden to take part in this procession.⁷⁶ It would be most valuable to know when this legislation was passed but our evidence for it is Augustan and Dionysius is simply giving us the situation in his own day; but it seems likely enough that the basis of the settlement goes back to the date of the first introduction of the cult.⁷⁷

The most significant single fact is the bringing of the cult into the middle of the city.⁷⁸ It seems to imply that Cybele was regarded not as a foreign goddess being imported but as a national goddess returning home.⁷⁹ The natural explanation of this is that she was regarded as a goddess of the Trojans whom the Romans, the Aeneads, were simply re-adopting as actually stated by Herodian. She

75. Dion. Hal., loc.cit. 4; cf. Cic., de leg. 2.40; Ovid, Fasti 4.350.

76. id., ib. 5.

77. At least some arrangements must have been made at once and Dion. Hal., loc.cit. 4, speaks of 'νόμον καὶ ψήφισμα βουλῆς', which sounds as if there was a single settlement of the whole topic, unless he is intending to distinguish a specific 'lex' from a specific 'SC'.

78. Livy, 29.14,13.

79. Cf. especially, P. Lambrecht, Bull. de la société royale belge d'anthropologie et de préhistoire 62(1951), 44ff.

80. Graillot, op.cit., 41f.; Diels, Sibyllinische Blätter, 94; 101f.; Kornemann, Gnomon 9, 286; de Sanctis, St. d. R. 4.2.1.270; Bartoli, Mem. Pont. Acc. Ser. 3,6(1947), 229ff.; cf. Schmidt, Kultübertragungen, 27; contra, F. Bömer, Rom u. Troia, 13ff.; Latte, RRG, 260 n.3. For the explicit statement of this motive, Herodian, 1.11.

certainly appears in this role in the Aeneid,⁸¹ but we have no earlier literary evidence; 'In Verbindung mit der Troialegende wird die Magna Mater erst von Vergil gebracht';⁸² so, Latte takes a further step and asserts the silence's significance. But is this a reliable silence? Servius might have mentioned somewhere that Virgil was following Ennius or Naevius in his description of the Magna Mater's role; or the Trojan legend might have been mentioned by the annalistic tradition whom Livy follows in his narrative of the introduction of the cult; otherwise, there is hardly anywhere in Latin literature before Virgil whose silence can be given weight.⁸³ Moreover, one must ask where Virgil's material comes from: e.g., the story that the pines for Aeneas ships came from Ida and were sacred to the Magna Mater, who eventually recalled them when they were threatened with burning by Turnus; this might be subsequent to the Magna Mater's arrival at Rome but it is very difficult to believe that Virgil simply invented the story and perfectly possible that it goes back to Naevius

81. Virgil, *Aen.* 9.77ff.

82. Latte, *RRG*, 260 n.3.

83. The best survey of the Aeneas legend in Latin literature before Virgil is still Fr. Cauer, *Die römische Aeneassage*, *Jahrb. für Phil.*, Supplbd. 15(1880); the tradition is so fragmentary that silences concerning even major themes can hardly be trusted, let alone a less central theme such as the Magna Mater's interest in the Aeneas story.

who at least had the story that Aeneas' ship was sacred.⁸⁴

There is no doubt at all that Ida was connected with Troy, Anchises and Aeneas⁸⁵ in legend before the Magna Mater came to Rome; nor is there doubt that, when she arrived, she was regularly known as the Mater Idaea. Once again this connection could be subsequent to the arrival of the cult at Rome for although she is called Idaea in the Livy oracle, we have seen that this is not a verbally trustworthy document; but Mater Idaea is (at least later) an official name.⁸⁶ A precise parallel is offered by the temple of Venus Erycina, where the Trojan connection is very difficult to deny and where again a foreign cult was brought inside the pomerium only a few years earlier.⁸⁷ We have too the evidence of Naevius' epic that the story of Aeneas' contact with Carthage, was being brought into some kind of relation with the contemporary bitter Carthaginian Wars.⁸⁸

84. Though he only knew of one ship and connected the building of it with Mercury (fgt, "Morel"); this does not exclude help from Cybele with the timber. It should be noticed that Virgil does not mention the Magna Mater only once; apart from the incident of her recovering the ships made from her sacred pines (Aen. loc.cit. n.81), she saves Creusa (2.788), follows the Trojans from Crete (3.104f.), is invoked twice by Aeneas in Latium (7.139; 10.252) and the last of her priests accompanies Aeneas (11.768ff.). Cf. in general, Graillot, op.cit., 101ff.

85. In one version of the legend Aeneas spends time on Ida before setting out by sea (cf. RE 1.1012) and a tradition in Dionysius (A.R. 1.61; cf. Graillot, 42ff.) ascribes the foundation of the orgies of the Magna Mater to Idaeos son of Dardanos; for these connections in general cf. Malten, A.R.W. 29(1931), 33ff.; Bömer, Rom u. Troia, 26ff.

86. cf. above n.64.

87. Livy, 22.9,7; 10,10; 23.30,13; 31,9; cf. Wissowa, R.u.K.², 290; de Sanctis, St. d. R., 1.194ff; 4.2.1. 156 & n.116; D. Kienast, Hermes 93(1965), 478ff.

88. Please see following page.

The goddess was then introduced not as a desperate remedy to a hunger for foreign novelties, but as a deliberate reference to the Roman connection with the Trojans. The Trojan connection might help too with a second problem. Is there some association between Roman aristocrats and the Trojan legend? It is certainly true that many noble families laid claim to Trojan descent⁸⁹ and that Juvenal⁹⁰ for instance can use Trojan-born as an alternative for noble; on the other hand, it does not seem ever to be true

88. Bell. Poen., 2.fgt.6 Morel = Serv. (auct.), ad Aen. 4.9; cf. ad Aen. 1.621; the passage tells us no more than that Naevius mentioned Dido and her sister Anna, but clearly in the context of an epic on the Punic War, it is overwhelmingly likely that Naevius exploited the visit of Aeneas to Carthage with some reference to contemporary events. It would hardly be safe, however, to see the story of Aeneas and Dido as the focal point of the whole excursus on Aeneas and the founding of Rome; Book 1 seems to have begun with the events of the Punic War and then digressed at some point, but there is no reason to connect Dido with this; cf. for the structural problem: H. Fränkel, Hermes 70(1935), 59-61; L. Strzelecki, De Naeviano Carmine quaest. sel. (1935), 11ff.; Ed. Fraenkel, JRS 44(1954), 14ff. = Kl. Beiträge, 25ff.; M. Barchiesi, Nevio Epico, 271ff. *For the Trojan legend in general. cf. below, 153ff.*
89. For the *familiae Troianae*, cf. Weinstock, RE 19.446.
90. 1.100; cf. 8.181; 11.95.

that the patricians as a group, or later, the nobiles as a group claimed Trojan descent in contra-distinction to the plebs. The 'familiae Troianae' seem to remain as a specialized group within the aristocracy having nothing in common except their claim to Trojan descent. This leaves two possibilities - first, that the sodales were drawn from the 'familiae Troianae' (but what of Cato?) secondly, that without any very logical or precise reason the aristocrats claimed the Trojan cult as their special preserve; it may, in the circumstances, be a mistake to look for logic in their claims.

Certainly, the sodalitates are a unique feature; we know from Cicero that they were set up in the year of the cult's introduction and that in that year Cato dined with his sodales.⁹¹ These great banquets took place every year after the Megalesia; they were called 'mutitationes' apparently because the members of the sodalitas dined one another in turn.⁹² The sodales were evidently leading men of the State and the fact that Cicero uses the word in the plural has suggested⁹³ that all senators were allotted to one or other of the sodalitates, but nothing in fact shows

91. Cic., sen. 45.

92. So, Gell., N.A. 2.24,2; cf. Fasti Praen. sub April 14th.; Ovid, Fasti 4.355, rather fancifully connects the name with the goddess' own change of domicile.

93. Graillot, op.cit., 70.

that there were more than two or three of them. Our sources offer three descriptions of the men who were sodales - 'principes civitatis',⁹⁴ 'patricii',⁹⁵ and 'nobiles'.⁹⁶ The last two are both excluded by the fact that Cato, in no sense either patricius or nobilis, was one of the original sodales;⁹⁷ it is, of course, possible that such qualifications were introduced later than Cato's appointment. The first phrase is used by Gellius in quoting an SC which regulated the expenses allowable at these mutitationes - 'senatus decretum... in quo iubentur principes civitatis, qui ludis Megalensibus antiquo ritu mutitarent, id est mutua inter se dominia agitarent, iurare apud consules verbis conceptis non amplius in singulas cenas sumptus esse facturos, quam ...'. Gellius is interested here by the amounts to which expenditure is limited - he is giving a series of sumptuary regulations to illustrate how standards went up over the years. This example is taken from the middle of the second century and the point is that the banquet in question, though humble by later standards, was a sumptuous affair in its day; 'principes civitatis' makes the point that these are important people and does not intend to define them.

94. Gell., N.A. 2.24,2 - quoting Ateius Capito, quoting a SC of the second century.

95. id., 18,2.

96. Fasti Praen. sub April 14th.

97. Cic., sen. 45.

No doubt, the sodales were in fact drawn from the same few families which provided the priests and the greater part of the magistrates; perhaps like the priests they co-opted new members themselves. It is idle to speculate how the class of those eligible was defined, if it was. But are we justified in saying that the cult shows an especially aristocratic bias? Our sources contrast the banquets after the Megalesia with those held by the plebeians at the Cerealea, and even if the banquets were not exclusively patrician there may be something in this contrast. The games themselves were held by curule not plebeian aediles;⁹⁸ it is also possible that the first scenic Megalesia and the first occasion on which the senators and people were separated in the theatre belong to the same year.⁹⁹ It must be said that none of these points is altogether convincing, but there are hints enough to suggest that the cult was the special preserve in some sense of the senatorial order.

Important new evidence for the assessment of the early cult has come from the excavation of the Magna Mater temple on the Palatine. The remains have been identified by

98. Livy, 34.54,3.

99. i.e., in 194: for the Megalesia of that year, Livy, 34.54,3 cf. above¹²⁴ for the separation of people^e and senate, Livy, 34.44,5 cf. 54,5ff.

Professor Romanelli¹⁰⁰ as belonging entirely to the successive reconstructions of the temple and not at all to the original temple of 191. We know that the temple was destroyed by fire in 111 and rebuilt by a Metellus and it is to this early first century reconstruction that the earliest remains apparently belong; it is perhaps surprising that nothing at all survives of the major temple which preceded this reconstruction, but there seems no doubt that this is the fact.¹⁰¹ Below the floor-level of the existing building the excavation has revealed a group of cheap terracotta statuettes representing a shepherd with Phrygian cap, syrinx and pedum.¹⁰² There are fragments from quite a large number of the figures and they show some signs of scorching.¹⁰³ The position of the figures does not give any clear indication of their date, and Romanelli only dates them to the second or first centuries;¹⁰⁴ the scorching and the position is consistent with their being a group of votive offerings from

100. Mon. Ant. 46(1963), 221ff.

101. For Metellus, Ovid, Fasti 4.347ff.; from the burning of the original temple in 111, cf. Obs., 39; Val. Max., 1.8,11. For events possibly associated with these events, cf. below 147ff. The likeliest Metelli are perhaps the censors of 102, Numidicus and X Caprarius, MRR 1.567.

102. Fasti Archaeologici 5(1950), no. 4100; Fr. Bömer, on Ovid, 2.227; G. Carettoni, JRS 50(1960), 200f.; Romanelli, art. cit. n.100 (the definitive publication); id., Hommages à J. Bayet, 619ff.; Th. Koves, Historia 12(1963), 321ff.

103. For photographs, Mon. Ant., art.cit, figs. 32-6. There is more than one type; the clearest is Mus. no. 9188; cf. 9202: a standing figure on a base. No.9213, is a seated figure, with a dog (?); most of the rest, unless too broken to tell, are simple waist-length or full-length standing figures, though there is great variety in the treatment of the details and in the standard of workmanship (very crude, e.g. 9240; better, 9188; quite sophisticated, 9243).

104. Romanelli, Mon. Ant. 46(1963), 261f.

the 191 temple, burned with it and buried at the time of the re-dedication.

The figures seem to represent Attis; this cannot be shown with certainty from the representations themselves because we have virtually no certainly identified Attis of this date, except perhaps some coins of Cyzicus¹⁰⁵ which do not show him in shepherd's dress; but it is hard to see who else would have a place in the cult of the Magna Mater and the Phrygian shepherd's attire is certainly that in which Attis is later shown. It could, in theory, be another Phrygian shepherd - Ganymede¹⁰⁶ Anchises,¹⁰⁷ Paris;¹⁰⁸ and the fact that this dress is later certainly the special

105. Coins of Cyzicus, cf. H. Fritze, Nomisma 4(1909), 33ff. The identification of the Palatine votives themselves, many being too crude or too broken to prove anything, rests on the figures which show the characteristic iconography of Phrygian shepherd-boys - the crook or pedom, the syrinx and the pointed Phrygian cap. 9188 shows the syrinx clearly, possibly the handle of the pedom and also the dog or other animal, which is clearer in the related, but very broken, no. 9202. 9165 and 9185, have both the syrinx and the Phrygian cap reasonably clear; 9243 and 9310, the cap but no apparent syrinx; 9240, 9242, 9211, 9186, 9241, 9209, 9266 the syrinx or clear traces of it; 9213, the dog again. There is enough evidence here to make the general identification of the figures and it is certain that many of the fragments belong to similar types.
106. For representations of Ganymede, Roscher, 1.2.1595f.; H. Sichtermann, Ganymed, (1953); e.g., from a Roman tomb, Enc. dell'arte ant. 3.791. fig. 980.
107. Roscher, 1.1.337f. For a probable example, cf. L. Matzul-ewitsch, Byzantinische Antike, (Arch. Mitt. aus russ. Sammlungen 2(1929)), 25ff.; 39ff.; Taf. 3-5.
108. Roscher, 3.1.1583, cf. 1623 & fig. 96; cf. Eur., Iph. Aul. 573-8.

preserve of Attis¹⁰⁹ by no means proves this for an earlier date. Anchises might even be a serious possibility, if it be true that the Magna Mater is from an early date connected with the legend of Troy, but no surviving tradition seems to connect him with Cybele.¹¹⁰ By this process of elimination Attis seems fairly certain.

There are terra-cottas of this kind from other parts of the ancient world, but the best parallel for a group of such representations of poor quality seems to be those from Amphipolis published by Perdrizet¹¹¹ and dated variously within the Hellenistic period;¹¹² these were found in graves and elsewhere, among a number of other types. This does seem to be a better parallel to the Palatine group than isolated representations from e.g. other parts of Italy, but it is far from clear what light it throws or ought to throw. Again, it seems most likely that the figures represent Attis and perhaps they represent a similar development in his cult; but there are other possibilities.

109. For Attis in his developed form, cf. the famous dish from Parabiago (Lambrechts, Attis, Pl. 18); for the use of pedom and syrinx, cf. Leipoldt, op.cit., figs. 151 (= Zoega, Li bassirilievi, Pls. 13/14); 153.

110. For speculation along these lines, cf. Koves, Historia 12(1963), 321ff. and below 146 ff.

111. B.C.H. 21(1897), 517ff. and Pls. V - VIIIbis.

112. For bibliography, Romanelli, Mon. Ant. art.cit., 283.

The fundamental problem is to fit this evidence into the story of the cult at Rome, and of the cult of Attis himself. It is certain that there were those at Rome in the second/first century who gave greater emphasis to Attis than any other kind of evidence has suggested they might. The poor quality of the terra-cottas suggests that these were not official offerings but those of individual devotees at Rome. Moreover, this is the earliest evidence for such devotees, with the sole exception of the Amhipolis offerings, assuming that they are earlier. Clearly this in turn suggests that the cult at Rome developed in its own way, for it is difficult to think it accidental that it is from Rome that we hear so much of the increasing emphasis on Attis within the cult. It must be asked whether there were special conditions at Rome which favoured the growth of Attis.¹¹³

The point which comes into relief here is the privileged status of the Magna Mater cult in Rome. Where other foreign cults are persecuted or ignored by the State the Magna Mater cult by virtue of its acceptance in 205 has the official blessing. Thus while Dionysus¹¹⁴ and Sabazius¹¹⁵ are banned from the city and Italy, Attis develops in its very heart.

113. Cf. in general, Romanelli, Hommages à J. Bayet, 619ff.

114. infra, ch. 2.

115. infra 165 ff.

This process can be clearly illustrated from a later period when cults elsewhere unconnected with Magna Mater appear under her aegis at Rome.¹¹⁶ But it should be noticed finally that there is another side to the development of Attis: by the date of the Battaces' visit the Pessinus version has come to be accepted as the home of the cult; but we have argued that this was not always so and if this is right it may be relevant to notice how close is the parallelism between the myths of Attis and Anchises, both Phrygian shepherds beloved of a goddess and punished for their love.¹¹⁷ Malten pointed out in a well-known article¹¹⁸ the legends connecting Aeneas with Ida ought to be taken together with the story of Anchises and the goddess he met on Ida; she is surely identical with the Mater Idaea and hence with the goddess who lent her sacred pines to the Dardanius iuuenis who asked her help.¹¹⁹ It

116. Cumont, R.O.⁴, 43ff.; cf. especially the evidence for Bellona-Ma in her role as 'dea pedisequa' (CIL 6.30851; ILS 3804) cf. Aust, RE 3.1.255f; Wissowa, R.u.K.², 350; Latte, RRG, 281.

117. For Attis, Hepding, Attis, 100ff.; for Anchises, Wörner, RE s.v. Anchises. It is interesting that Anchises, to judge from the surviving fragments received great prominence in the Annals of Ennius; cf. vv. 30f. Vahlen³, where it is Anchises who has the adjective 'pius'; 18f. Vahlen³, where he is 'doctus' and blessed by Venus with the gift of prophecy; 20 Vahlen³, where Aeneas is apparently advised to follow his wishes (cf. E.M. Stuart, The Annals of Quintus Ennius, 104f.).

118. A.R.W. 29 (1931), 35f.

119. cf. Virg., Aen. 9.88.

is not possible to say whether such a myth as this was ever current at Rome, but it seems very probable that it does lie somewhere at the back of Attis' rise to prominence at Rome. The crucial information which we need and do not have is some characterization of the Magna Mater's cult in Pergamum; but it now seems that the character of the Roman cult may very well have been determined by the special myths and ritual of that area rather than those of more important cult centres such as Pessinus. It is perhaps important to emphasize that the figures were found buried together in a group and this in itself implies that the Attis cult had some degree of official recognition by the authorities of the temple; it is thus not possible to argue from the cheapness of the figures themselves that we are dealing with an entirely unofficial or underground aspect of the temple's worship.

The terra-cottas do, however, suggest another line of thought. They show as we have seen, that before the burning of the temple, Attis had his devotees at Rome, whether native or foreign. But there is also other evidence of an unexpected development in the importance of the cult later in the second century. Here we are much less concerned with the actions of the senate: the questions which arise are how the cult had developed and how far this was the result of the senate's earlier actions. The senate does, however, take one decision which we hear about. In 103 or 2 the Battaces, the second

priest of the cult at Pessinus, arrived in Rome and the reception he received marks a very significant point in the history of the cult.¹²⁰ We have two accounts¹²¹ of the incident which agree in general if not in detail.

Plutarch and Diodorus agree that the Battaces was received in the senate with honour; that he subsequently tried to address the assembly but was impeded by a tribune A. Pompeius who perished shortly afterwards. Roman superstition attributed his death to the power of the priest and the goddess he served. 'σφόδρα γὰρ Ῥωμαῖοι δεισιδαίμονες, 122 The priest departed amidst universal acclamation.

It seems impossible to date these events at all accurately. The order of the excerpts of Diodorus suggests that the date he gave was 101 but it is not clear how reliable his evidence would be, even if it were demonstrable that he reported the event in what he thought to be its appropriate chronological place. Plutarch on the other hand connects the visit with Marius' defeat of the Cimbri and Teutones; moreover, the Battaces predicts the victory of Roman arms and the senate vows a temple in the event of the prophecy being fulfilled. Diodorus has neither of these

120. cf. Graillot, op.cit., 95ff.; Cumont, R.O.⁴, 50f.

121. Plut., Mar. 17; Diod. 36.13.

122. Diod. loc.cit.

points; but he does say that the priest had come to complain 'τὸ ἱερὸν τῆς θεοῦ μεμινῆσθαι'. This has been taken¹²³ as a reference to the advance of Mithridates into Galatia which probably happened in about 104.¹²⁴ But it seems by no means certain that the Battaces is referring to the temple at Pessinus for he goes on to demand that the Romans should expiate their sacrilege. Perhaps, we ought to connect the Battaces' complaint in Diodorus with the senate's promise to build a temple in Plutarch and that in turn with the rebuilding of the temple on the Palatine undertaken by Metellus;¹²⁵ in other words we may suppose that by the date of the Battaces' visit the Roman temple had not been rebuilt and that it was to this that he referred in the senate. The real reason for his visit might well be connected with Mithridates' advance.

The most striking aspect of the whole incident is the enthusiasm which the Battaces evidently aroused among the plebs, which is directly attested by our sources and indirectly by the use which the senate evidently makes of the Battaces and the prophecy he offers them. This can

123. cf. Graillot, *op.cit.*, 96.

124. For the advance of Mithridates, Justin, 37.4,3; for the chronology cf. Diod., 36.3 (cf. *infra*, 443); Magie, *R.R.A.M.*, 1093; cf. 204ff.

125. above n. 101.

well be contrasted with the treatment offered to the Syrian priestess Martha a short while earlier;¹²⁶ it is also interesting to notice that the form of the Battaces' prophecy is precisely parallel to the war-prophecies of the haruspices at an earlier date.¹²⁷ Another illustration of the popularity of the cult by this date is the fact that Marius, probably during the course of the Cimbric Wars took a vow to the Magna Mater and in the early nineties went on a pilgrimage to Pessinus to fulfil it;¹²⁸ the incident is discussed later from Marius' own point of view,¹²⁹ but it may be noted here that it is a sign of the times that a Roman general is evidently concerned to emphasize not the national and Roman aspects of the Magna Mater but her character as an Oriental deity. Presumably, too, we must deduce that Marius had an eye on the evident popularity of the cult illustrated by the visit to Rome of the Battaces; the goddess of Pessinus had become a valuable ally. Finally, we have an isolated notice that in the year 101 a slave of Servilius Caepio castrated himself in honour of the Magna Mater and was rapidly transported;¹³⁰ it is interesting

126. *infra*, 715 f.

127. Livy, 31.5,7; 36.1,3; 42.20,4; 42.30,9; cf. *infra*, 570 ff. . It also seems to be reflected in the formula at Pol. 22.20,5 = Livy, 38.18,9, the prophecy of the Galli who first met Manlius Vulso in Galatia. But 'νίκη καὶ κράτος' can also be found in Greek literature, cf. Soph., *El.* 85; Plat., *leg.* 362A.

128. Plut., *Mar.* 31.

129. cf. *infra*, 717 ff.

130. Obs., 44a.

that the senate seems to have treated the incident as a prodigy and the exiling of the slave is reminiscent of the haruspices handling of more natural 'monstra'.¹³¹ The senate may have been willing to make use of some aspects of the cults popularity but they remained deeply suspicious of others.

How far then are we in a position to assess the senate's action in accepting and then controlling the cult? It is clear that it was, as it originally arrived, in various respects unwelcome and perhaps unexpected at Rome; the senate reacted by regulations which enforced severe controls on the activities of the Phrygian priests and, in particular, excluded Roman citizens from contact with the cult.¹³² We may now say that at least some aspects of the worship of Attis may have been among the unwelcome elements. The senate's reason for accepting the cult at all was probably that they saw it as a Romans native cult returning home and as symbolizing the ultimate victory of the new Trojans over their enemies in Carthage,¹³³ and perhaps they were already coming to regret their decision once the war was over. Certainly, developments later in the century would

131. cf. *infra*, 488 ff.

132. above, 134 f.

133. above, 135 ff.

have been very far from the intentions or conceptions of the men who originally brought the goddess to Rome.

The regulation of the cult provides a valuable parallel to the regulation of Bacchanalia; the formula adopted is basically similar, given the very different circumstances in which it was applied: the cult is allowed to continue under strict surveillance, but Roman citizens are excluded from it, apart from seeing the processions pass. Tolerance in this case is imposed on the senate by its own earlier actions. Their motive for imposing strict control can only be fear of the possible impact of foreign, ecstatic cults offering a quite new conception of the relation of the worshipper to his deity; thus, it is probable that, even before 186, the senate had shown its nervousness about the effects of such cults, and it was perhaps already apparent that it could only be a matter of time before they acted against the Bacchanalia as well. Thus we can add weighty evidence that the suppression of the Bacchanalia cannot be seen simply as political action or a police question. For better or worse, the senate saw itself as protecting the traditions of Roman religious life.

Appendix: The Trojan Legend.

There can now be no serious question that the Trojan legend was an ancient and well-established Italian legend (contra, J. Perret, Les origines de la légende troyenne de Rome, (1939); but his thesis that the Trojan legend came to Rome in the third century, was effectively refuted already by J. Boyancé, R.E.A. 45(1943), 275ff.; A. Momigliano, JRS 35(1945), 99ff.; F. Bömer, Rom und Troia, (1951), 13ff. collected some archaeological evidence of the legend in archaic Italy, but K. Schauenburg, Gymnasium 67(1960), 178ff. produced fifty-eight vases as against Bömer's eleven showing the scene of Aeneas carrying Anchises from burning Troy; for the statuettes of the same subject from Veii, cf. Bendinelli, Riv. fil. 12(1948), 88ff.) perhaps even with some basis in historical fact (so, Malten, A.R.W. 29(1931), 44ff., who tried to trace the progress of the Aeneads through the Mediterranean world by the evidence of cults, legends and place-names and with some success; cf. Weinstock, RE 19.431ff.); it even seems that there was an early cult of Aeneas (ILLRP 1271; 'Lare Aineia' cf. Weinstock, JRS 50(1960), 114ff.; this is a fourth-century cippus from Tor Tignosa and confirms the tradition of Livy, 1.6ff. cf. Fabius Pictor fgt. 4 P that there was a cult of Aeneas at Lavinium) though estimates of the date at which the Romans appropriated the legend vary (cf. Alföldi, Early Rome and the Latins, 250ff.; 278ff.). Alföldi has suggested that evidence for the legend in the

third and second centuries can be found in the coin-type on the early denarii known as the 'Roma-head' (Syd. 163 etc.) which he identifies as the Phrygian *Ῥώμη* who in Greek versions of the legend comes to Italy with Aeneas (Die trojanischen Urahnen der Römer, 9ff.); but it is surely fatal to this view that the name Roma is never found in the Roman tradition, where her place is taken by Ilia or Rhea Silvia.

There is good evidence to establish the importance of the legend in diplomatic exchanges in the second century, cf. SIG³591 (Lampsacus) Strabo, 10.2,25 = 462 (the Acharnanians) Pol., 22.5,3 (Lycians cf. Beloch, Gr. Ges., 1.1².184; 187; 2.67) for successive and apparently extremely thin attempts by Greeks to appropriate some semblance of a Trojan connection so as to establish a special relationship; meanwhile the oracles applied the name Aeneads to the Romans in general (Plut., Pyth. Or. 11; Flam. 12 cf. Livy, 25.12,2) and soon Roman generals were advertising their association with Ilium (Livy, 37.37,1-3; 38.39,10). Holleaux, Rome la Grece et les monarchies hellenistiques, 53ff. argued that the Lampsacus document refers to the Trojan legend so apologetically, that it must imply that the Romans had not yet adopted their policy of supporting Ilium and that the political significance of the legend only dated from later in the

second century; for these and other reasons he rejected earlier stories of an appeal to the legend e.g. Suet., Claudius 25, which refers to Roman support for Ilium at the court of Seleucus, presumably in the 230's (Holleaux, op.cit., 46f.) but his arguments have largely been removed by the work of Heuss (Die völkerrechtlichen Grundlagen der römischen Aussenpolitik etc. Klio, Beiheft 31), who showed that the relationship of 'amicitia' did not imply a formal binding agreement and hence that the absence of later evidence could not prove that there was no amicitia between Rome and Seleucus, as Holleaux thought. Meanwhile, the reticence of the Lampsacenes can well be explained by the thinness of their claim to kinship with Rome; the natural conclusion is that the Romans were very much aware of their Trojan origins and that they had political relevance from the third century onwards. For third-century use of the legend in Sicily, cf. D. Kienast, Hermes 93(1965), 478ff.

4. The Senate and foreign influences

So far, we have examined the senate's handling of two major problems, the crisis over the Bacchanalia and the acceptance and naturalization of the Magna Mater. In both these cases we have found good reason to believe that at least a contributory factor in the senate's decision was fear of the potential influence of foreign religions; there is a great deal more we should like to know - did this mistrust of foreign religion persist throughout the century? was it purely a negative reaction or did it involve any positive belief in the value of local cults? is it fair to speak of the senate as having a religious policy or fixed principles and, if so, what? These are questions which can only be answered within severe limits but there is a little evidence not considered so far which deserves some attention.

First, there is evidence from later in the century about the senate's general attitude to new ideas and rites; secondly, we have a more or less complete list of temple foundations for the first thirty years of the period and a more selective one for the rest of it; thirdly, we have an annual list of prodigies and the way in which they were dealt with; finally, there may be something to be learned from the way in which Rome and the Romans were honoured by the Eastern cities with whom they came into contact. It is clear that in all these spheres of action the senate must have had general control of what happened; in each specific case, we shall try to establish how far the senate can be held responsible for a particular

kind of action being taken, but even where this cannot be done, the ideas of the governing class must be reflected in what actually happened.

Apart from the action taken in 186-1, there are two occasions recorded when the senate acted to suppress foreign rites; first, during the Hannibalic War they took mild action against an outbreak of religious enthusiasm whose origins Livy does not record;¹ then, in 139 the praetor peregrinus expelled Chaldaei and Judaei from Rome and Italy.² The Chaldaei were accused of making easy money by a fallacious 'siderum interpretatio' and the Judaei of spreading their 'mores' amongst the Romans. To this rather scanty record of persecution, we can add a series of efforts which the senate made to prevent the expression of what they regarded as undesirable views.³

The first such effort was made in 181, while the latter stages of the Bacchanalian quaestio were still in progress.⁴ The senate gave orders for the burning of certain books which, they were told, had just been dug up from a field in association with a grave identified as that of King Numa. The praetor who handled the matter took an oath before the

1. Livy, 25.1,6-12 cf. 12,3. MRR 1.266 and nn.1 & 2 (p.266).

2. Val. Max., 1.3,2 cf. Oxy. per., 54.

3. For discussion of the issues raised by the views themselves cf. Ch. 14 infra.

4. Livy, 40.19,9-10.

senate that the books contained dangerous matters.⁵ Our sources⁶ are far from agreeing on the precise nature of the writings or the senate's reasons for having them destroyed and indeed, if Livy's version is reliable they can only ever have been read by the finder and his friends for the praetor only read the chapter headings and the senate took his word for the contents; the books were then destroyed.⁷ The earlier annalists regarded the books as

5. Livy, 40.29,3.

6. Our main sources are Livy, 40.29,3-14; Pliny, N.H. 13.84-7. Also, Plut., Numa 22,5; Val. Max., 1.1,12; Lact., Div. inst. 1.22; Aug., C.D. 7.34; Acut. vir. ill., 3.2; Festus, 178 (L = 173M). In Peter, H.R.R. cf. Cassius Hemina, fgt. 37; Piso, fgt 11; Tuditanus, fgt. 3; Valerius Antias, fgt. 8; (all from Pliny, loc.cit.) Valerius Antias, fgt. 9 (from Livy loc.cit.). On the analysis of this very interesting tradition see the acute study by Fr. Münzer, s.v. Q.Petillius Spurius in R.E. 19.1.1150ff. But the criterion he offers (older and later annalistic traditions distinguished by the name they give to the 'scriba' who actually made the discovery - Terentius in Cassius, loc.cit. and Varro, ap. Aug., loc.cit., Cassius in Livy, loc.cit.) by no means explains all the variations in our tradition; for instance, within Münzer's older group Hemina seems to discuss whether the books are forgeries or not, while Varro seems to assume their genuineness. We have, too, contradictory reports of what some of the key annalists actually said: thus, Livy, loc.cit., reports Antias as citing fourteen books, but Pliny reports him as citing twenty-four; Livy attacks Antias for calling the books Pythagorean, though Pliny says he did not and Plutarch, loc.cit., agrees with Pliny. Only two points of real value emerge from the study of the tradition: first, that the accounts were already diverging in the second century; secondly, that the early tradition held that the books were Pythagorean, a notion which was later dropped. cf. n. 8 below.

7. Livy, loc.cit.9: 'primo ab amicis, qui in re praesenti fuerunt, libri lecti; mox pluribus legentibus cum vulgarentur, Q. Petilius praetor urbanus studiosus legendi libros eos a L. Petilio sumpsit;...'. Of course, we cannot exclude the possibility that copies had been taken before the praetor intervened and that they subsequently survived illegally; or perhaps other copies existed before Petilius' discovery was made. But these are remote possibilities and the early fragmentation of the tradition confirms that no text was available.

Pythagorean.⁸ and no doubt this view was influenced by the belief which Cicero and Livy were at pains to contradict that Numa was himself a Pythagorean.⁹ We are also told that they contained discussions of the *ius pontificii*¹⁰ and of the origins of various rites; according to Varro¹¹ they contained the '*causae...cur quidque in sacris fuerit institutum*' and the senate agreed with Numa's view that they would be best left unpublished. It is not even possible to establish whether the senate regarded them as genuine survivals or not; Varro¹² seems to have assumed that they were so regarded whereas Livy¹³ seems to think them a contemptible fraud.

8. Cassius Hemina, loc.cit.; Piso, loc.cit.; Antias, fgt. 9 - though cf. note 7 for the variations in our reports of Antias on this subject and Unger, Phil. Suppl. 3,158ff., for an ingenious resolution of them.
9. Livy, 1.18,2; 40.29,8; Cic., de rep. 2.28; cf. Dion. Hal, 2.59; Diod., 8.14; Plut., Numa 8. see Ferrero, Storia del pitagorismo, 142ff.; Glaser in R.E. 12.1245; Gigon in Gnomon 31(1959), 58n.2. *J. d'Ep. 119 n.40.*
10. Piso, loc.cit.; Livy, 40.29,7; Pliny, loc.cit; Plutarch, loc.cit.
11. ap. Aug., loc.cit.
12. This is implied by the phrase '*Numae mortuo senatus adsensus est*' Numa had wanted the books buried with him so that they could do no harm; the senate concurred.
13. cf. loc.cit. 6: '*non integros modo, sed recentissima specie*'.

The likeliest interpretation of the whole incident seems to be that the books were deliberately foisted upon Numa by men who wished to gain a respectable authority for their own views on the origins of the Roman cults; whether it is fair to take a further step and call these men Pythagoreans seems much more doubtful. On the other hand, there seems little doubt that the senate is here again acting in defence of the traditional Roman religion against what they regard as criticism of it.

The action was, however, as far as we know, quite isolated. It was not until twenty years later that we first hear of philosophers being expelled from Rome; similar reports come twice in the next few years and then the attempt seems to have been abandoned. By simply listing this series of incidents, it is possible to create the impression that the Roman aristocracy had a consistent and considered policy of preventing the entrance of philosophy to Rome and it is therefore necessary to emphasize first the inconsistent and erratic nature of the Roman attitude to philosophy at this period. The official opposition to Greek philosophy lasts just a few years, the last few years of the life of Cato, who is certainly connected with one of the incidents and is often said to have inspired the policy; yet, it is clear that this decade does not represent the first contacts between Rome and Greek philosophy. Plautus

translates allusions to the views of the Hellenistic schools without compunction;¹⁴ Ennius shows knowledge of Epicharmus, Euhemerus, perhaps Empedocles and certainly Pythagoreanism in some form (15); a case can be made out¹⁶ for a knowledge, though not necessarily first hand knowledge, of Plato's Timaeus by the early 170's. There is no clear evidence that all this aroused any opposition; some¹⁷ have tried to establish a connection between Ennius and the books burnt in 181, but without solid reason. Most strikingly, Aemilius Paullus had his sons educated in Greek philosophy;¹⁸ there is no reason to think Paullus unusually progressive; he was in many ways a reactionary figure¹⁹ lamenting the slightest departure from the rigid ways of the past.²⁰ Cato, too, who stood so near Paullus in many ways is said to have relented and learned Greek in his old age.²¹

- 14. e.g. Poen, 449ff.; Merc. 3-7; Capt. 313-5; Cas 345ff. cf. ~~infra~~, 81 Plautus almost never (though cf. Rud. 1ff.) gives any exposition of a religious or philosophical view, but he does casually allude to such questions as to whether the gods are interested in human affairs.
- 15. cf. Ch. 14 for the evidence. Ennius emerges rather as a didactic poet than as one presupposing any knowledge of philosophy, but he too sometimes alludes casually to theological questions in his plays and also to the doctrine of metempsychosis at the beginning of the Annals; ~~infra~~, 781 n. 44
- 16. P. Boyance, Rev. Phil. 29(1955), 172 - 92 and cf. ~~infra~~, 780 n. 43.
- 17. L. Hermann, Latomus 5(1946), 87ff.
- 18. Plut., Aem. 4.
- 19. For his character in general cf. Pol., 18.35, 4-6; 32.8, 1ff. cf. Plut., Aem. 39; Diod. 21.36; Dio. fgt. 67; Livy, Per. 46; Klebs in RE 1.579f.
- 20. On discipline cf. the dispute over his triumph, Livy 45.35ff. On religious matters Plut., Aem. 3; Pol., 30.14.
- 21. Plut., Cato 21.25.

The senate's repeated action in the 160's and 150's was caused not so much by the arrival of an entirely new phenomenon, as by the earliest attempts by Greek philosophers of standing to teach in the city itself; the discreet publication of philosophical poetry or the discreet education of young nobles is one thing, open lecturing in the city quite another. Two points seem clear: first, the senate is not preoccupied with the suppression of any specific view, for all the leading schools are involved in the various incidents;²² secondly, that the context in which the incidents should be seen is not that of religious crisis as in 187, but rather that of mid-century concern at the rising extravagance of the ruling classes and in particular of the young nobles;²³ in attacking higher education as in attacking excessive prosperity in general, the senate no doubt saw itself as the defender of the *mos maiorum* and of the old religion.

22. For the evidence cf. de Sanctis, St. Stor. 4.2.1.368, nn. 1079-1082. Those expelled included Epicureans, Stoics, Academics and Eclectics; the only man whose arguments we have in any detail is Carneades on whom cf. Cic., de rep. III and Capelle in Klio 25 (1932); von Arnim, RE 10.2.1978ff: Strasburger, JRS 55(1965), 45 n.50.
23. The *lex Fannia*, which had as its object the limitation of expensive meals was carried in 161. cf. Pliny, 10.139; Mac., 3.17,3; Gellius, N.A. 2.24,3; Athenaeus, 6.108 (274). For the line of thought which led to this kind of legislation cf. the speech of Titius (ORF², no. 51);² Fraccaro, St. Stor. N.S. 1.123ff and for the date ORF², 201. For Polybius' views cf. 6.18; 51,3-8;57. For Cato, cf. the speech on the Rhodians, speech 42 in ORF²; Piso the historian (fgt. 38) dated the decline of *pudicitia* from 154. For other examples see Walbank on Polybius, 6.18, and in JRS 55 (1965), 7ff.

But this is far from showing that they would, or we should, regard such action as a continuation of the policy laid down in 187; the situation and the people involved were completely different.

It seems, therefore, that the only action we know of which does carry on the tradition of the decrees on the Bacchanalia, is the expulsion order against Chaldeans and Jews, to which we must now turn. Our record of the incident is miserably inadequate; it consists of two brief epitomes of a passage from Valerius Maximus²⁴ confirmed by a sentence of the Oxyrhincus epitome of Livy.²⁵ But it is clear that both classes of foreigners were expelled both from Rome and Italy; Valerius evidently went on to give the reasons advanced for taking such a step - the Chaldaei were accused of making money from a bogus science, the Jews, who are called by one epitomator the worshippers of Iuppiter Sabazius, were accused of infecting the Romans with their mores. Both these points deserve discussion.

Suspensions of Chaldaei are not surprising; both Plautus and Ennius²⁶ attack worthless prophets, Ennius in particular

24. Val. Max., 1.3,2.

25. Oxy. Per., 54.

26. Plautus, Asin. 259ff.; Most. 571; Cas 353; cf. Terence, Phormio 708. Ennius ap. Cic., de div. 1.132. cf. Pacuvius, Chryses 104-6; Accius, Astyanax 134f. Latte, RRG, 265.

specifying astrologers, and Cato²⁷ warned his vilicus against consulting the Chaldaei. The senate acts in this tradition and one is reminded of the SC encouraging haruspicy in Etruria, where the motive for acting is to prevent the cheapening of the art of divination by pedlars on the street.²⁸ Ironically enough, the senate acts in accordance with the views of some of the philosophers they had themselves expelled ten years before, for Carneades was the man who formulated the classical objections to astrology.²⁹ Whether or not the senate was sensitive to the theoretical objections, the combination of foreign rites and the sale of prophecies was evidently too much for them; we may safely deduce that the Chaldaeans were acquiring an unhealthy influence in the city and it is once again intriguing to find the senate taking repressive action against a belief soon to be adopted in the highest circles at Rome - for Sulla, Marius and Octavius were all influenced by Chaldaeans.³⁰

The case of the Iudaei is less clear. There are two main explanations which have been offered for the text in Valerius' epitomator. First, that the word Sabazius is the result of some confusion or textual corruption and in fact

27. Cato, de ag. 5.4.

28. cf. below n.145.

29. cf. F.H.Cramer, Astrology in Roman Law and Politics (1954), 55ff.

30. cf. infra Ch. 696f; 711.

conceals some term which identified the Jewish God; secondly, that Sabazius is correctly transmitted and that what Valerius found in his source was a reference to a particular group of Jews who had combined their ancestral religion with the cult of Sabazius.³¹ Cumont³² has pointed out that we do know of such a group of worshippers, Jews living in exile in Phrygia who adopted the local god Sabazius into their cult. The choice is far from an easy one, perhaps an impossible one; but the words Juppiter Sabazius do stand in our texts and since Sabazius is an unusual deity to associate with Jews at any date, it is hardly likely that this is a later guess or correction, particularly if what originally stood in the text was some term defining the Jewish God - which would be precisely the 'facilior lectio' in this context. We must then examine the possibility that there was an attempt to introduce the cult of Juppiter Sabazius at Rome in the early 130's.

We first hear of Sabazius in Greece in the very closest connection with Dionysus³³ whom he resembles, at least at

31. For discussion cf. Cumont, CRAI 1906, 75ff.; A. Jamar, Musée belge, 13 (1909), 227ff.; Cumont's reply, Musée belge 14 (1910), 55ff.; cf. also id. RO 60ff. and n.60 on p.228; Reitzenstein, WMR, 151ff; Nilsson, GGR 2². 662; 665.

32. CRAI, loc.cit.

33. cf. von Schaefer, RE s.v. Sabazius, col. 1542.

first sight; both have an ecstatic mystery cult and strong associations with Asia Minor and with Thrace; moreover, the connection between Sabazius and Dionysus is evidently persistent for both are later identified with Jahwe.³⁴

Sabazius has connections, too, with the Magna Mater and Attis,³⁵ though indeed it is not difficult to find such cross-connections between all the various cults which find favour in Asia Minor and it is therefore difficult to judge how seriously to take them; the literally dozens of different symbols with which Sabazius is shown in depictions of him, must reflect the extent to which his cult was the result of a syncretistic process.³⁶ Of course, we cannot tell how much the senate or the praetor would have known or wanted to know about Sabazius, but it seems extremely likely that at least part of their objection would have been based on the resemblance to Dionysus who was still presumably regarded with grave suspicion in Italy;³⁷ Sabazius, of course, offered an even more suspicious and sinister cult, with his much stronger Oriental and Jewish flavour; but there can be no

34. e.g. Tac., Hist. 5.5; Lydus, de mens. 4.53 (= p.111 Wunsch).

35. Nilsson, GGR 2², 660 and n.2.

36. For general discussions of Sabazius; Nilsson, GGR 2², 658ff.; Cumont, RO, 60ff.; W.O.E. Oesterley in S.H.Hooke's 'The Labyrinth' (1935), 115ff.

37. We have, for instance, no reason to think that the 186 regulations had been cancelled (cf. infra Ch 2).

question of the general situation in 139 having any resemblance to the emergency of the 180's.

If it is true that the senate of 139 was taking the same attitude to Bacchanalia as had its predecessors this has interesting consequences in various ways. First, the fact that Dionysus and like deities remained unpopular with the authorities could throw light on the rise of Attis; for the Magna Mater and Attis represent the one Eastern which was not only tolerated but actually protected at Rome and Attis could obviously have attracted devotees from similar but more dangerous cults; it would be only natural that his importance within the Magna Mater cult should increase accordingly and there is some reason to regard this increase in his importance as a characteristically Roman development.³⁸ Secondly, it is interesting that this renewed action against a mystery-cult should more or less co-incide with the renewal of slave-revolts in an international form, for during the 130's there were notoriously revolts in widely different parts of the Graeco-Roman world - Sicily, Italy and Pergamum;³⁹ for the rising in Sicily at least, there is this time a clearly attested religious aspect to the affair, and it is again an Eastern cult which is emphasized by the leader Eunus, that of Atargatis, the Syrian Goddess of Eunus' own homeland.⁴⁰

38. cf. *infra* ch. 3.

39. for a survey cf. e.g. Vavrinek, La Révolte d' Aristonicus (Prague, 1957).

40. Diod., 34 fgt. 2,5; Florus, 2.7 (3.9).: though Bömer, Untersuchungen, 3.96ff. has recently questioned the story.

Again, this is a clue to be used with the utmost caution. But evidently the authorities were afraid of the influence being exercised over somebody by these foreign priests and it is by no means impossible that it was slaves they had in mind.

If these thoughts are on the right lines at all, the point which must be emphasised is that the various occasions on which the senate acted against particular cults or beliefs, philosophers or prophets though they may derive ultimately from the same xenophobic impulse and the same desire to maintain the *mos maiorum*, cannot simply be lumped together as expressions of the same policy. They deal in each case with a specific problem for a specific reason, and it is far from certain that they made any general effort e.g. to keep philosophy out of Rome or to keep oriental cults out of Italy. It is time to see if there is other evidence bearing on their religious policy and its development during the century.

One of the main fields in which the senate must have exercised some control is the foundation of temples; but it is not easy to see where the responsibility of the senate begins and that of the individual magistrate ends, for it is normally he who initiates the whole process. If we can establish first the procedure which was followed it should be possible to decide whether the particular temples which

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were built can or cannot be used as evidence of the senate's general religious policy.

Temples are recommended in three ways; by decree of the senate, by recommendation of the Sibylline Books or as the outcome of a vow taken by a magistrate usually while serving in the field. In the second century, the first method is recorded only once; the second twice; almost all the others were either certainly or probably the outcome of a vow. In the case of a vowed temple the procedure is in three stages - the vow itself, the *locatio* i.e. the placing of contracts for the building and finally, when the building is finished, the dedication.⁴¹ As far as we know the vower himself was solely responsible for the decision to take a vow at all and for the choice of the deity for whom the temple was to be built, though, of course, he might be influenced in his choice by his knowledge of which vows were likely to be popular or otherwise with the authorities at Rome. It is, however, clear that the vow was not simply taken by the magistrate on his own behalf but was at least partly binding on the State for

41. For the details of second century temple foundations see appendix 1; in what follows the numbers refer to the numbers in this appendix. The temples recommended by the books were Nos. 7 and 23. That recommended by decree of the senate was Concordia (no. 21 - if indeed this was a new foundation) No. 4 is also exceptional.

the result was a temple dedicated on the State's behalf and though the vower might play some part in the work of building and evidently had a considerable interest in having the work completed for his own glory, the responsibility for the task is the State's and not his; if he does play his part, it is either as a magistrate or with special public authority.⁴²

The placing of the contracts for a temple can be done either by a consul⁴³ or by a censor⁴⁴ or by duoviri aedi locandae⁴⁵ specially elected for this purpose or on one occasion by the vower himself ex SC.⁴⁶ We are not by any means given this particular detail in every case but the facts we have suggest two points: first, on every occasion when a consul or censor places the contracts for a vowed temple, it is for a temple vowed by himself;⁴⁷ secondly, when the consul of 179, Q. Fulvius Flaccus, wanted to fulfil certain vows and applied to the senate about the matter, they replied by asking that duumviri and aedem locandam should be appointed i.e. Fulvius was not to place the contracts himself although as consul he ought to have been

42. cf. nos. 2; 11; 12; 14; 20.

43. e.g. nos. 1; 2.

44. e.g. nos. 3; 7; 8.

45. no. 14.

46. no. 10.

47. Nos. 1; 2; 3; 8. cf. 10.

in a position to do so.⁴⁸ If it is fair to generalize from this slender evidence, then (a) the only way in which a vow could normally reach fulfilment would be if the vower subsequently held the consulship or censorship (b) even if he did, it was apparently by no means a foregone conclusion that he would be able to place his contracts for Fulvius still has to make his special application to the senate. It is of course far from clear why the senate should on this occasion have chosen to have duumviri appointed rather than let Fulvius place his own contracts. There could be various quite innocent explanations of this but it is worth noticing that when Fulvius was eventually censor in 173, he is apparently in charge of the building operations himself for he is then accused of desecrating the temple of Iuno Lacinia in Bruttium to help in the building of his own;⁴⁹ it seems strange that work put in hand in 179 was still uncompleted six years later and it seems at least a possibility that the appointment of the duumviri was intended by the senate to hinder rather than help Fulvius in his plans and that the duumviri when appointed, if they ever were, did little or nothing about it.

48. No.14; for these officials cf. also Livy, 22.33,7f.

49. Livy 42.31ff.

At the dedicatio stage, too, the vower can perform the ceremony himself but only if he is holding the appropriate office. On one occasion, a senatus consultum was passed which recommended that the vower of a temple should be appointed duumvir aedi dedicandae for the dedication of his own temple;⁵⁰ but this was done on an occasion when the vow had been taken not on the vower's initiative but by special instruction of the Sibylline Books which had laid it down that the temple should be vowed and that the vower should be the magistrate of the highest imperium. The other duumviri we know of were apparently relatively obscure men, though in two instances and perhaps a third, they were the sons of the original vowers.⁵¹ Clearly, the method which a vower would have preferred would be to perform his own dedication for himself in his own censorship, but also clearly he can only do this if he happens to be elected censor at the right moment. Thus it would be possible, if rarely, for a man to vow, contract for and

50. This had reference to the foundation of the temple of Venus Erycina at the beginning of the Hannibalic War; cf. Livy, 22.9,7ff.; 10,10; 23.30,13: 31,9.

51. For a list of the known duumviri cf. appendix 2. For sons of the original vowers cf. both members of the college of 181; Livy, 29.11,13 offers a third case of a son dedicating his father's temple, in this case M. Claudius Marcellus, but Livy does not call him a duumvir in this passage. For duumviri aed. ded. in general cf. Wissowa, RE s.v. duoviri; RuK.², 403; Mommsen, Staatsr., 2.601ff.

dedicate a temple in the normal run of his own cursus -
vowing as praetor, placing the contracts as consul and
dedicating as censor - though this would happen relatively
rarely and never in the case of a consular vow.

The question of finance is obviously relevant here;
occasionally we are given direct information as to where
the money for a particular building came from; the temple
to Faunus was built on money from fines⁵² and various
temples are said to have been built on the spoils of war.⁵³
No doubt, this last was usually true in effect; the great
temples are built after the great campaigns and hence
presumably on the spoils of those campaigns. But did the
money come direct from spoils i.e. did the vower reserve a
special fund on his own authority from his share of the
booty or was the money paid into the aerarium and subse-
quently made over to temple building by the senate? We
know that the senate maintained persistent and stringent
control in this period over the funds to be kept for
votive and dedication games and that expenditure for State
purposes was directly authorized by the senate;⁵⁴ the fact

52. cf. on no. 4.

53. e.g. nos. 22 and 24 and cf. Pliny N.H. 11.174: Plut.,
Mar. 26.3.

54. cf. infra ch. 223ff.; 236f.

that we hear of no similar senatus consulta controlling expenditure on temples might suggest at first sight that the senate did not interest itself in temple finance. But this argument is in fact based on Livy's silence which may be quite fortuitous; on the other hand, perhaps the fact that the placing of contracts is always performed by a magistrate,⁵⁵ suggests that he was handling State money from the aerarium rather than a private donation by the victorious general and that his activity was probably authorized by senatus consultum. Of course, generals could and did spend their own profits on temples and dedicate their own spoils in them,⁵⁶ but it seems most likely that the actual building-fund was provided by the senate itself.

One more point should be noticed here; we know from cases quoted by Cicero that it was not within the powers of a censor or of a Vestal Virgin to make a dedication without a iussum populi.⁵⁷ It is not clear exactly what the procedure was in these cases; presumably, duoviri who were specially elected to perform this function would not need special authorization to do it. But the censor, even if dedicating his own temple, must have had to apply to senate

55. Except for Acilius Glabrio's no.10, where the locatio was 'ex SC'.

56. cf. e.g. Metellus' equestrian statues in no. 18.

57. Cic., de domo 136 and Nisbet, ad.loc.; *infra* 273 ff.

and concilium for a special law. Moreover, the priests too could raise objections to the fulfilling of vows which they regarded as improper in terms of the *ius divinum*; an example is the temple of Honos and Virtus, where the pontifices insisted that each divinity must be given a separate building, on the grounds that if the temple were struck by lightning it would be impossible to work out which deity ought to receive the appropriate *piacula*.⁵⁸

However obscure, therefore, some of the details may be, it is in general quite clear that the process of fulfilling a vow was a complex and difficult business which could be hindered if not altogether prevented by the authorities at various stages. In particular, it seems that the co-operation of the senate would be needed and that hence the senate would be able to influence, at least indirectly, the choice of deities who received temples at Rome. Again, it is clear that there are pontifical rules which have to be respected; after the attempt by Claudius Marcellus there seems to have been no further attempt to introduce shared temples until at least the very end of the second century.⁵⁹ It might just have been possible for an individual, highly successful and popular general, who held the right magistracies at the right times,

58. Livy, 27.25,7.

59. The first exception was presumably no. 25.

to force through the building of a temple of which his colleagues disapproved; but this could only rarely have happened and it is clear that it will in general be quite safe to take the foundations actually made as indicating the policy of the authorities as a whole.

Our record of temple foundations is detailed and apparently complete for the period for which Livy is extant i.e. down to 167. For the rest of our period we have only the occasional notice to go on and it is far more difficult to determine how incomplete our knowledge is; it is tempting to argue that since we know of fifteen or so temples built in the first thirty years of the century and only another dozen in the next ninety years, there ought to be another thirty or forty of which all trace has disappeared. This conclusion is to some extent supported (a) by the fact that some of the known foundations from the period 170 - 80 are known from the most casual of references⁶⁰ (b) by the fact that there are a number of temples whose existence is known to us but whose foundation date is not.⁶¹ But, in fact, this case is less strong than

60. e.g. nos. 16; 22; 24; 26; 27.

61. Iuppiter Propugnator (Wissowa, R.v.K.², 123; Latte, RRG, 154)
 Nymphae in campo " " 223: " " 78,2
 Luna in Palatio " " 315: " " 232,2
 Mefitis in Esquilino " " 246: " " 190
 Minerva " " 252: " " 330
 Sol Indiges " " 317: " " 231
 Felicitas in Capitolio " " 266,6: " " 322
 Bonus Eventus in campo " " 267.

it looks. The dateless temples may belong anywhere in the republican period and it is unsafe to postulate large numbers of quite unrecorded temples. On the other hand, the point where Livy breaks off, even if selected by chance, happens to be a significant turning point too, for Pydna marks the end of an extraordinary series of victories for Rome, of extraordinary profits drawn from the humiliation of the Hellenistic World and extraordinary reasons for acts of gratitude to the gods who had first saved Rome from destruction and then strewn kingdoms at her feet. After 167, both reasons for gratitude and opportunities for quick profits diminished.

The temples we know of do tend to fall into groups around the great victories. Thus seven temples were built in the late 190's, presumably as the outcome of the victory over Macedon in 197;⁶² there is then a gap until the end of the 180's, when there are another five or six in three years, the outcome of the war in Asia which ended in 187.⁶³ There are then isolated foundations in 173 and 168 before Livy's narrative fails.⁶⁴ On this basis, there ought to be a further group in the late 160's and if so we miss it, for we only know of one temple resulting from Pydna - and that by a slender hint.⁶⁵ The fourth group of foundations

62. Nos. 1-4; 6-8; cf. 5.
63. Nos. 9-13 and cf. below pp. 188 ff. on Hercules Musarum.
64. Nos. 14-15.
65. Nos. 16.

follows the Corinthian and Carthaginian Wars of the 140's and we hear of four or five temples at about this time. If this analysis is right, then it is proper to ask whether there are similar occasions after the 140's when one would expect to find a burst of temple building; the only such occasion which suggests itself is the period after Sulla's victories in the East.⁶⁷ If this be accepted, our list of late second century foundations may not be so incomplete after all.

We may examine these groups of foundations in turn. The first group includes two temples which had been vowed during the Hannibalic War; the temple to the Magna Mater, which has already been discussed at length and which resulted from a Sibylline oracle, and the temple to *Iuventus* which had been vowed by M. Livius Salinator in 207.⁶⁸ It has been suggested that *Iuventus* by this date had been assimilated to the Greek Hebe, because she is mentioned in connection with Hercules (Hebe's husband) at a lectisternium in 218,⁶⁹

66. Nos. 17-20; the fifth possibility would be the alleged foundation by Aemilianus (Aust, No. 70) if Plut., de fort Rom., 5 is, in fact referring to a state temple.

67. The only other great victory in this period was that over the Cimbri and Teutones (cf. temples 24 and 25) which can hardly have been very profitable. Towards the end of the century, a number of temples were restored and these should perhaps also be taken into account: e.g. Mens and Fides (by Scaurus cf. Cic., de N.D. 2.61); Iuno Sospita (Cic., de div. 1.99; Obs., 115; Ovid, Fasti 2.55); Castor (by a Metellus, App., B.C. 1.25; Cic., Scaur. 46 and Asc., ad loc.; Iuppiter O.M. (started by Sulla, cf. Jordan, 1.2.20a 16-19; 27a26-9); for other possibilities cf. temples nos. 21, 22, 23.

68. cf. nos. 7 and 8 and Ch. 3 *infra*

69. lectisternium - Livy, 21.62,9; suggestion - Wissowa, R.u.K. 2 136; Latte, RRG, 256; de Sanctis, 304; Lippold, Consules, 339; Radke, Die Götter, 162f.

but all Livy says is that there was a lectisternium for Iuventas and a supplicatio at the temple of Hercules at the same time, which is hardly evidence of any association between them. Little or nothing is really known about Iuventas, except that the cult has ancient ties with Iuppiter;⁷⁰ it should perhaps be seen rather in the context of the many abstractions to whom temples were built in the third century and specially connected with the youth of Rome which fought and won the Hannibalic War. What is perhaps interesting is that both these cults, Magna Mater and Iuventas, show connections with the Sibylline oracles, which demonstrates clearly that the books were still taking an innovating line at the very end of the third century.

The temples of this group which were decided on in the second century were those to Vediovis⁷¹, Iuno Sospita,⁷² Fortuna Primigenia,⁷³ and Faunus,⁷⁴ together with an aedicula to Victoria Virgo,⁷⁵ perhaps annexed to the existing temple of Victoria on the Palatine. The first four form a definite

70. Wissowa, R.u.K.,² 135ff.; Latte, RRG, 256n.1; de Sanctis, 304; RE s.v. Juventas, 1360 (Kroll); the crucial evidence is for a chapel of Iuventas in the cella of Minerva on the Capitol said to be older than the Capitoline temple itself (cf. Dion. Hal., 3.69,5; Livy, 5.54,7; Flor., 1.7,8f.; Pliny, N.H. 35.10'). For criticism see Latte loc.cit.

71. Nos. 1 and 6.

72. Nos. 2.

73. Nos. 3.

74. No. 4.

75. No. 5.

and recognizable unity; all four are apparently to deities now so honoured at Rome for the first time; all four are Italian in origin; two of the four have special connections with specific places in Latium. Thus Iuno Sospita is the patron goddess of Lanuvium;⁷⁶ after the fourth century settlement of Latium, her cult was made a common cult of Rome and Lanuvium and until late in the republic the Roman magistrates regularly performed sacrifices to her in Lanuvium.⁷⁷ This custom was not affected by the foundation of the new temple. Fortuna Primigenia is the special cult of Praeneste and has a far less respectable ancestry at Rome; for we know that a third-century consul who wanted

76. cf. Wissowa, R.u.K.², 188; Latte, RRG, 168; de Sanctis, 140. A.E. Gordon, The Cults of Lanuvium, (Berkeley, 1938), 23ff; E.M. Douglas, JRS 3 (1913) 61ff. Thulin in RE 10.1120-1. Radke, Die Götter Altitaliens, 287ff. For the incorporation of Lanuvium and the establishment of the common cult cf. Livy, 8.14,2; the significance of the name Sospita or Sospes is uncertain (cf. Walde-Hoffmann, 23.564) but it presumably has reference to the war-like aspect of the goddess, for which see Cic., de N.D., 1.82 and Pease, ad loc. and the type shown on republican coins e.g. Sydenham nos. 772, 773, 915, 964, 1057, 1352-5, 598. Douglas, art.cit. identified this type as Etruscan. Apart from this foundation there is no apparent connection between either Lanuvium or Iuno Sospita and the Cornelii Cethegi; but two of the gentes who came from Lanuvium (Roscii, cf. Cic., de N.D. 1.79; Thorii cf. id., de fin. 2 use Iuno Sospita on their coins - Sydenham nos. 598; 915.
77. Livy, 8.14,2; for the consular sacrifice, Cic., pro Mur. 90.

to consult the oracle at the Praeneste temple was forbidden to do so by the senate;⁷⁸ this oracle seems to have been the central feature of the Praenestine cult in the second century;⁷⁹ Prusias made an offering there during his visit to Italy⁸⁰ and Carneades made a famous wry comment.⁸¹ Again here, there seems to have been no question of transferring the cult to Rome, simply of building another temple to the same goddess. Vediovis and Faunus have no such special location at least known to us; but Faunus, whether he be originally an agricultural deity or have early associations with prophecy evidently belongs particularly to the farmers of Latium;⁸² Vediovis is even more obscure and equivocal - it used to be held that his name was of Etruscan origin, but this is doubtful⁸³ and we can be sure of little more than that the word is composed of Iovis with the prefix ve- meaning apparently the anti-Iuppiter, though it is far from

78. Wissowa, R.u.K.,² 261; Latte, RRG, 176ff.; de Sanctis, 290. For the great temple at Praeneste cf. F. Fasolo and G. Gullini, Il santuario della Fortuna Primigenia a Palestrina (Rome, 1953); cf. Lugli, Rend. Acc. Nap., 29 (1954), 51. Inscriptions, Fasolo-Gullini, op.cit., 275ff.; Degraasi, ILLRP 101ff.

79. Val. Max., (ep.) 1.3,2 cf. de Sanctis, loc.cit.

80. Livy, 45.44,8.

81. Cic., de div. 2.87: 'nusquam se fortunatiorem quam Praenestevindisse Fortunam'.

82. Wissowa, R.u.K.,² 208ff.; Latte, RRG 83ff.; de Sanctis, 220ff. Latte, loc.cit., and RE s.v. Orakel 855ff. has taken up a minimizing line on the prophetic or warning activities of Faunus and, in particular, on the alleged prophetic verses. cf. also Otto, RE 6.2054ff: Radke, Die Götter, 119ff.

83. C. Koch, Die römische Iuppiter (1937), 67ff. cf. Latte, RRG, 81ff.

certain in what sense.⁸⁴ The gens Iulia worshipped Veiovis at Bovillae in Latium, but we have no way of telling whether the god had special associations there or anywhere else.⁸⁵

84. The view that Veiovis was anti-Iuppiter in the sense of being the lord of the underworld is already found in antiquity - Gell., N.A. 5.12; Myth. Vat., 3.6.1. cf. Wissowa, R.u.K.², 236ff.; de Sanctis, 225. But Latte, RRG, 81n.3 has pointed out that analysis of the ve- prefix can lead to more than one place - "Danach kann Ve(d)iovis nur ein Iuppiter sein, der die von diesem erwartete Funktion, günstiges Wetter zu senden, schlecht erfüllt, also ungünstiges sendet". He rejects the idea that Veiovis was the lord of the underworld on the grounds a) that Rome had no such deity as a god of the underworld b) that a temple on the Capitol would be inappropriate for such a deity c) that the depiction of Veiovis related as it is to Iuppiter and Apollo also ill fits this notion (cf. RRG, 82 and n.3). But Latte has not in fact shown adequate reason for thinking that the evocatio formula at Macrobius, 3.9.10, was not pronounced at Carthage in the 140's (cf. infra ch. 7 § 9.7) and in that formula Veiovis appears together with the Manes and Dis Pater; if so, then the temples of forty years earlier could also reflect an underworld deity whether or not this was Veiovis' original significance. For representations as a youthful Iuppiter cf. Sydenham nos. 564 (Caesius); 732 (Licinius Macer); 721 (Gargilius, Ogulnius, Vergilius) but the identifications are hardly certain. For a statue cf. Latte, RRG, Pl. 19; A.M. Colini Bull. comun. 70 (1942), 5ff.: 41ff, which gives the dedication by C. Fannius (probably the consul of 122) ex S.C. - CIL 22.658 = ILLRP 269. For the Julian altar cf. n.85 below.
85. CIL 1.2², 1439 = ILLRP 270. Bovillae was, in historical times, the home of various cults coming from Alba Longa (cf. Hülsen, RE 3.1.798f: 1.1.130lf.; especially, Asc., 40 C, for the Virgines Albanae at Bovillae); from Alba Longa too came the gens Julia (and others cf. Münzer, APF, 133f); the Furii are not, however, amongst these gentes and seem to have no connection with Veiovis apart from the present temple. If Veiovis had special connections with Alba Longa, this would be a third cult from a particular Latin city to be introduced at Rome in this decade but there is no other evidence and the great cult of the Latins at Alba was that of Iuppiter Latiaris (R.u.K.², 124ff.); if Latte is right that Veiovis was conceived in close association with Iuppiter it would be interesting to know about relations between him and Iuppiter Latiaris.

The fifth foundation is Cato's dedication to Victoria Virgo: this stands apart from the others for various reasons; first, it is described by Livy as an 'aedicula' rather than a full temple; secondly, Livy fails to tell us in what capacity Cato carried out the dedication,⁸⁶ for he certainly held no major magistracy⁸⁷ and as we have seen it is not usual for a senior man to hold a duovirate to dedicate his own temple; thirdly, although the vow was made in Spain and although Cato was the leading anti-Hellenist of this generation,⁸⁸ the obvious interpretation of Victoria Virgo is to take her as a Roman version of Athena Nicephoros; this is all the more attractive since we know that the cult was greatly emphasized by the rulers of Pergamum, in celebration of Attalus' great victory over the Gauls⁸⁹ and that Pergamum

86. Cf. *infra* on no.5; yet it is curious that this is one of the few foundations to which specific reference is made on the coins of the dedicator's descendants cf. the denarii of M. Cato in the 90's (Syd., 596-7) and of his namesake in 47/6 (Syd. 1052-4); the Victory is shown seated, which she never is elsewhere on Roman coins, holding patera (or wreath) and palm branch. This very characteristic type must be the cult-statue of Cato's aedicula cf. Weinstock *R.E. s.v. Victoria*, 2512.

87. He had triumphed in 194 as proconsul (*MRR* I.344).

88. cf. above, 161f.

89. Most of our evidence about the Pergamene Nikephoria comes from the 180's (cf. Welles *Royal Correspondence in the Hellenistic Period*, nos. 49 and 50;); the earlier history of the festival is the subject of some controversy, but there is no question that they had been founded in the third century. cf. M. Holleaux, *REA* 18 (1916), 170ff. = *Etudes* 2.61ff.; Ziehen, *RE s.v. Nikephoria*, 301ff.; Kolbe, *Hermes* 68(1933), 445ff.; and, above all, M. Segre in L. Robert's *Hellenica* 5 (1947), 114ff.

was established by the time of Cato's vow as Rome's leading ally in the East.⁹⁰ But the objections are obviously considerable - why should the vower be Cato and why the vow taken in Spain? - and this question must be left open. What does seem fairly certain is that this was not an official State temple but rather ~~a private one~~ or perhaps some kind of annex to the existing temple of Victoria.

The century, therefore, starts with what seems to be a completely new direction in policy - viz. (a) foreign cults both Greek and Oriental seem to be avoided, with a single questionable exception; (b) Italian cults are emphasized, including important cults with specific local associations in Latium, now introduced into Rome for the first time.

To what extent was this policy maintained after the 190's? The policy of concentrating Italian cults in Rome (if that is what it was) does not continue; but the second group of foundations is still markedly lacking in any foreign influence. Iuno Regina and Diana, both vowed and dedicated by the pontifex maximus M. Aemilius Lepidus, are well-established and unexceptionable;⁹¹ Pietas, though a new cult is in the strong tradition of deified abstractions and relates to a characteristically Roman notion.⁹² Venus

90. cf. most recently, McShane, The foreign policy of the Attalids of Pergamum, passim.

91. cf. nos. 11 and 12.

92. cf. no. 10 and *cf. especially*, for the notion and the significance of the foundation, Wissowa, R.v.K², 331f.; C. Koch, RE s.v. Pietas.

Erycina, originally a cult imported from Sicily at the beginning of the Hannibalic War, already had this first temple within the pomerium and was evidently regarded as a national cult because of the connection between Eryx and Aeneas.⁹³ The two remaining temples of which we hear are that to the Lares Permarini, vowed by L. Aemilius Regillus, and that to Hercules Musarum introduced by Fulvius Nobilior; here scholars have made confident identifications⁹⁴ with foreign cults and the evidence must therefore be examined more carefully.

The temple to the Lares Permarini was vowed by Regillus at the battle of Myonnesus, where he defeated the Great King's fleet under Antiochus' own eye, and Livy⁹⁵ (in a corrupt passage) offers us the text of the inscription which was put up by Lepidus when he dedicated the temple. Chapouthier⁹⁶ has noted that an unpublished inscription from Samothrace echoes this Roman dedication and has therefore suggested that Regillus made a dedication to the Cabiri under a thin Roman disguise. We do know that the Samothracian

93. No.9; for the earlier temple cf. Livy, 22.9,7; 10,10; 23.30,13ff; 31,9. Wissowa, *R.u.K.*², 290.

94. No. 13 (Lares); Aust no. 55 (Hercules) cf. below

95. Livy, 40.52,4; cf. Mac., 1.10,10.

96. F. Chapouthier, Les Diocures au service d'une déesse (Paris 1935), 315.

Cabiri are often identified with the Dioscuri⁹⁷ and it has been pointed out by Mattingley and Robinson that the Dioscuri from the 190's onwards return to a certain prominence at Rome, leading to their celebrated epiphany at the battle of Pydna;⁹⁸ one might add that Regillus' own interest might have been stimulated by the fact that the only scene of such an epiphany down to this own day was at the lake of his own name.⁹⁹ Finally, the Lares (not specifically the Lares Permarini) are sometimes depicted as two youths in Greek hunting dress.¹⁰⁰ The case is, however, more ingenious than convincing. The resemblance between the two dedications is not strict enough to prove them the work of the same dedicant nor directed to the same deities. In any case, there is no real problem about the identity of the Lares Permarini; the Lares Viales are Lares who assist those who are travelling by road;¹⁰¹ the Lares Permarini ought therefore to be Lares who help travellers

97. Chapouthier, op. cit. 223ff.

98. Mattingley and Robinson, PBA 98 (1932) 1ff. especially 37ff.; for the epiphany at Pydna cf. Cic., de N.D. 2.6.

99. Livy, 2.20,12; cf. Dion. Hal., 6.13.

100. Ovid, Fasti 5.129; Plut., QR 276f.; Sydenham no. 564 (Caesius).

101. For the Lares Viales, Weinstock, RE s.v. Viales (8A2. 1922ff). who identified them as the guardians of the roads in the immediate vicinity of Rome, but it seems clear that their province was extended later on cf. e.g. Fronto, ad M. Caes 3.9,2 (Naber) = 3.10,2 (Van Hout), and, in general, Latte, RRG, 93n.4.

on the sea and hence appropriate enough recipients of a naval commander's trust; nor is there any direct evidence of a connection between these Lares and either the Dioscuri or the Cabiri.

The temple of Hercules Musarum is a rather different case. Here there is no doubt that if such a temple was founded it does represent the introduction of a new and strange association of deities, though it is less clear where exactly Fulvius found them or what exactly they meant to him.¹⁰² His claim to have founded such a temple is, however, not beyond question. Livy makes no mention of such a foundation; the only evidence is from the late orator Eumenius,¹⁰³ who declares that 'Aedem Herculis Musarum in circo Flaminio Fulvius ille Nobilior ex pecunia censoria fecit'. Now, there is no doubt that there was eventually a temple of Hercules Musarum in the circus Flaminius,¹⁰⁴ but all our other references to it would suggest that it was built in the principate by L. Marcius Philippus,¹⁰⁵ this in itself is not conclusive because we have other cases where the restorer seems to get the credit for an older building.¹⁰⁶ Again, there is no entry in the

102. On this subject cf. *infra* ch. 14

103. *pro rest. schol.*, *BPL* XII. p.121.

104. *Aust*, no.55; *Degrassi Fasti a.N.*, 475; cf. *Ovid, Fasti* 6.797, dies natalis 30th June.

105. *Ovid*, loc. cit.; *Suet.*, *Aug.* 29.5; *Pliny*, 35.66; *Mac.*, 1.12,16; *Plut.*, *QR* 59.

106. e.g. *Ovid, Fasti* 6.212 for Sulla as founder of Hercules Magnus Custos cf. *Wissowa, R.u.K.*², 276.

republican calendar corresponding to that on June 30th in the later calendars,¹⁰⁷ but this may show no more than that there was a change of dies natalis at the time of the restoration. But the suspicious silences pile up: how reliable is Eumenius' unsupported notice? He is usually thought to have made at least one mistake, for it seems likely that the temple would have been vowed during Fulvius' campaigns in Greece and financed from spoils not 'ex pecunia censoria'; on the other hand, the re-dating from 179, when Fulvius was censor, to 189,¹⁰⁸ must be wrong for Fulvius did not triumph until January 186 and if the contracts were placed thereafter, there is nothing surprising about his dedicating the temple himself in his own censorship, i.e. in 179. But in this case it becomes still odder that Livy does not mention the dedication for he gives a full account of the censorship of Fulvius and Aemilius and in particular knows in some detail the proceedings of Aemilius with relation to his dedication of no less than three temples.¹¹⁰

107. June has only 29 days in the republican calendar.

108. Boyancé, Rev. Phil. 29 (1955) 184 ff. argued in favour of 179. For the date 189, cf. Wissowa, R.u.K.² 596; Latte, RRG, 417.

109. MRRT.369.

110. Cf. nos. 11; 12; 13.

It is, however, in Livy's account of this censorship that the vital clue is to be found, as Castagnoli¹¹¹ has recently noticed; for one of Fulvius' acts as censor was to have porticoes built on to three temples including that of Hercules.¹¹² Now, if this was all that Fulvius did with respect to the cult of Hercules, we can explain on an economical hypothesis both the information we are given and the information we are not given; there was already a temple of Hercules in the circus Flaminius viz. the temple of Hercules Magnus Custos.¹¹³ We can therefore refer the notices about his activity to a portico built on to this existing temple. Thus he dedicated statues of the Muses which he had brought home from Ambracia¹¹⁴ and perhaps other of his spoils from that war;¹¹⁵ perhaps, introduced a bronze aedícula associated with King Numa and which had previously been in the temple of Honos or Virtus;¹¹⁶ finally, he set up here his Fasti, of which we have two or three mentions.¹¹⁷ It is possible that the temple then became informally known as Hercules Musarum, and clearly,

111. Gnomon 1961, 608.

112. 38.35,4.

113. Wissowa, R.u.K.², 276.

114. Cic., pro Arch. 27; Pliny, 35.66; Eumenius, loc.cit.

115. Cic., loc.cit. - though the remark is suspiciously generalized.

116. Servius, ad Aen. 1.8: '...aedículam...Fulvius Nobilior in aedem Herculis transtulit, unde aedes Herculis et Musarum appellatur.' cf. Gagé, Apollon romain, 335ff.

117. Mac., 1.12,16; cf. Boyancé, art.cit. *in* AN 779.40

the collocation remains interesting from the point of view of Fulvius' own ideas; all that concerns us in this context is that there remains no reason to believe in a foundation at this date to Hercules Musarum, except for the single notice in Eumenius; but it would seem only too easy for Eumenius to be confused about the details and hard to resist the conclusion that Fulvius did not build any temple.

Thus we can say that down to the year 179, the policy of avoiding foreign gods continues; the only exceptions being highly speculative. For the rest of the century the choice of deities becomes ever more conservative. Iuppiter, Iuno, Hercules and well-tried abstractions - Concordia, Virtus, Fortuna - account for almost all the foundations of which we know.¹¹⁸ The next cult which was clearly under Greek or Oriental influence is the somewhat mysterious foundation by Sulla to Bellona Pulvinensis.¹¹⁹ This is not to say we cannot trace development in the religious attitudes of leading Romans and the influence on them of ideas which reached them from the East; in particular, we shall examine elsewhere the spectacular influence of the notions of Fortuna and Felicitas,¹²⁰ which is clearly reflected in temple foundations and which is clearly related to Hellenistic

118. cf. nox. 14, 15, 16, 18, 20, 21, 24, 25.

119. No. 26.

120. cf. nox. 16, 24 and especially 17; infra ch. 13.

thought on the subject. But it can now be clearly established that after the end of the Hannibalic War there was a marked change in the policy of the Roman authorities as a result of which the introduction of foreign cults to the city ceased, the Sibylline books stopped recommending the building of temples at all, and generals in the field first vowed temples only to the Latin deities and then gradually restricted themselves almost entirely to cults already established at Rome.

Again in the case of temple foundations, it would be wrong to think in terms of a definite policy decision taken at a definite time and forbidding experiments in this field. Rather it is a question of a growing awareness of the possible dangers which could result from having an official centre in Rome for such cults as that of the Magna Mater. It is worth remembering here the emphasis which is placed in the Bacchanalia decree on the destruction of cult-centres as well as the regulations which the senate passed to isolate the Magna Mater temple from the worship of any Roman devotees.¹²¹ The temple foundations are evidently influenced by the same line of thought; what is most valuable about them is that they show a change of policy earlier in the nineties than one would have been able to prove from their attitude to the Bacchanalia scandal; almost ten years

121. cf. *infra* ch. 3.

before the Bacchanalia affair the Roman attitude to foreign religion was already hardening. There is, however, another aspect to the matter; during the course of the century we first meet the idea that the success of Rome as an imperial power is to be attributed to its religion and that the maintenance of the power depends on the scrupulousness with which religious traditions are preserved.¹²² We have no way of telling how these ideas developed or how widely they were shared but it is at least a possibility that they were current at Rome and contributed something to the growing religious conservatism. Of course, the rapid transformation of Rome's standing between 200 and 190 had in any case had the effect of converting the areas from which cults might have come into dependencies and subject states; the victor may see little point in adopting the cults of the vanquished. The final victory of Oriental cults was to be a long slow process.

There are two other aspects to be considered, where the same kind of ideas might be at work, though the evidence is even more incomplete and can be treated very briefly. First, an area over which the senate evidently had an extensive control is the handling of the procuration of prodigies.¹²³ The procedure was for all prodigies to

122. cf. *infra*, ch. 790.

123. For detailed discussion and bibliography cf. *infra*, 476ff.

be reported to the senate;¹²⁴ for the most part this seems to have happened at one particular sitting of the senate early in the consular year,¹²⁵ though they could be reported and dealt with at other times even to the extent of holding up normal business.¹²⁶ The senate conducted a preliminary examination; they could reject some prodigies on technical grounds,¹²⁷ deal with others direct by instructing the consuls to undertake particular sacrifices, or they could refer some or all of the prodigies to a college of priests, pontifices, decemviri s.f. or haruspices, or to more than one of these colleges. The college then made recommendations back to the senate, without it seems taking any action themselves, and the senate passed a second decree authorizing whatever action the college had suggested.¹²⁸ Now, we can by no means trace the action taken by the senate in every case. Very often, Livy gives only the place and nature of the prodigy and the action eventually taken to procure it without specifying the process by which this particular action was

124. cf. *infra* pp. 480ff ; cf. Wülker, Prodigenwesen, 27f.

125. cf. Livy, 32.29; 33.26,6 etc. *infra* pp. 480f.

126. Livy, 39.22; 43.13; 41.21; esp. 34.55,1ff.; *infra* pp. 481.

127. *id.*, 43.13,6.

128. For this procedure cf. *infra*, pp. 483f.; Wülker, o.c., 29ff

decided on,¹²⁹ and it would be rash to conclude that in all these cases the senate reached its decision without consulting any college at all. Nevertheless, it is worth examining whether the record of consultations shows any significant development during the century.

The precise details of this evidence are discussed elsewhere. Here, we need only notice the general trends. First, after being consulted occasionally in the early years of the century, the pontifices seem to lose their association with prodigies altogether.¹³⁰ Secondly, although the regular consultation of the decemviri continues throughout the century there is an increasing tendency for the Etruscan haruspices to play the major role.¹³¹ The

129. e.g. 32.9,4.

130. The last known consultation of the pontifices over a prodigy was in 176 - Livy, 41.16,6: ~~of. i. 2. 2~~

131. For the details see ch. 4 ; statistically (for what it is worth) we may break the century into four periods of thirty years and obtain the following relative figures:-

	<u>Haruspices</u>	<u>Xviri s.f.</u>
Period 1 (200-171)	8	16
" 2 (170-141)	- 3	4
" 3 (140-111)	6	4
" 4 (110- 81)	7	4

reasons for this are not difficult to find. Throughout the century the part played by the Sibylline books is extremely limited¹³² and for the most part the college seems to have limited itself to the recommending of appropriate ceremonies and hardly addressed themselves at all to the interpretation of prodigies or to the prophesying of future events. At the same time, there was evidently a considerable growth in the popularity of various prophetic systems¹³³ and this is reflected in our record by a tendency for the histories to produce prodigies which have a direct and apparent connection with leading events of the day.¹³⁴ In these circumstances, the senate evidently found it very useful to have on call a team of prophets who were prepared to try the interpretation of prodigies and were yet well under the senate's control and in some sympathy with them. The comments which the Emperor Claudius¹³⁵ later made on them perhaps reflects the thinking of earlier generations too; here was a native

132. *infra* ch. 9 ; 503ff.

133. Well illustrated e.g. by the rise of astrology (*infra* pp. 164f.) and the use of prophets by late second century commanders (*infra* pp. 698ff; 715ff.)

134. e.g. the prodigy which precedes the Vestal trials in which a girl riding a horse is struck by lightning; she and the horse both die and she is found with her clothes pulled up to the waist. This is interpreted to mean that the Vestals and Equites are facing a disaster (*infra* pp. 336ff.).

135. Tac. *Ann.* 11.15.

Italian discipline of great antiquity and it was far better to rely on it than to turn to foreign diviners. The senate thus rejected the Syrian prophetess Martha, on whom Marius was to rely so much;¹³⁶ but they were prepared to listen to the haruspices expounding their doctrine of the saecula.¹³⁷ Perhaps, too, we should mention here the S.C. encouraging the study of haruspicy in Etruria which is for us dateless, but is likely enough to belong to this period.¹³⁸

Finally, and even more tentatively, we should notice that there seems to be some kind of parallel to the exclusion of foreign cults after 200, in the Roman reaction to ruler-cult in the East itself. At the end of the third century and in the first decade of the second, we have several reports of Roman magistrates abroad receiving the same kind of honours and adulation that a conqueror in the Hellenistic world would expect as his due; Marcellus received special honours in Syracuse and games were founded in his honour there;¹³⁹ Flamininus was hailed as saviour of Greece and both inscriptions and Plutarch's life of him bear witness

136. Plut., Mar. 26.

137. in 88; Plut., Sulla 7.

138. Cic., de div. 1.92; cf. Val. Max., 1.1,3; Cic., de leg. 2.21; cf. Thulin, RE 7.2441. Cicero only indicates the date by the words 'tum cum florebat imperium' and 'apud maiores'; it seems difficult to apply 'tum...' to anything earlier than the 190's and a mid-century date seems plausible enough (cf. infra pp. 541ff.).

139. Plut., Marc. 23; Cic., Verr. 4.151 cf. 251; Plut., Marc. 30;42.

to the extravagant honours he received.¹⁴⁰ But after this we have no record at all of a Roman receiving heroic honours until the last quarter of the second century¹⁴¹ whence the pattern develops until in Cicero's ^s ^d day it is the normal thing for a Roman governor to receive divine or near-divine honours. To a considerable extent, this gap in our record could be explained in terms of our erratic record or of the Roman's own reluctance to take up permanent responsibilities in the East; until 146, there are no permanent Roman officials holding appointments in the East because there are no Roman provinces there to be governed, but it is not quite so simple as this.

During the whole of the period, Roman officials are in fact active in the East on missions which deeply affect the lives of the cities and communities with which they have dealings. Moreover, in another respect, there is evidence of a consistent desire among the Greeks, both cities and kingdoms, to show their respect for their Roman visitors. All over the Greek world we have evidence of the striking growth of the cult of the goddess Roma;¹⁴²

140. Plut., Flam. 12; 15-16; cf. 13; IG 12.9, 931; SIG³ 592,1. 11; IG 5.1, 1165. cf. L. Homo, Rev. Hist. 121 (1916) 241-79; Nilsson, GGR 22.169 n.2.

141. For the evidence, cf. infra. 74 ff.

142. cf. appendix, below, 215 ff.

it is she who receives temples, games and sacrifices;¹⁴³
 it is to her that visiting Kings and envoys bring their
 gifts at Rome.¹⁴⁴ The cult starts from the Greek world
 itself rather than being imposed by the Romans;¹⁴⁵ but,
 clearly, the senate and the Roman authorities knew perfectly well what was happening and were in a position to
 make their wishes known immediately. It is wrong, too, to

143. for temples, cf. nos. 1,11; priests and sacrifices, nos. 2, 3, 4, 5, 6; altar, no. 14; festivals and games, 4, 7, 8, 9, 11, 15, 16, 18 - 21.

144. Pol., 31.32,3; 32.2,1; 10,4; cf. 31.4,4.

145. For discussion, Hirschfeld, Kl. Schr. 474ff; Pfister, RE s.v. Romaea; Habicht, Ath. Mitt. 72(1957), 243ff.; Latte, RRG, 312ff.; Weinstock, Ath. Mitt. 77(1962), 311ff; Larsen, Mélanges Piganiol, 3.1635ff. Larsen argues that the cults in each case go back to the moment when the State first came over to Rome; this is clear in the case of Smyrna (no. 1) and the fact that Roma is described as 'θεὸς ἑν. φωνῆς' in one case (no. 7) adds colour to the suggestion that Rome had recently intervened in the area. But the Rhodian statue (Pol., 31.4,4) erected at a moment when Rhodes was anxious for Roman good-will, surely illustrates that there were a variety of circumstances in which a State might want to make this gesture of obeisance, and the dates cannot be predicted a priori. The evidence clearly shows that there was great local variation in the form the cult took (cf. especially nos. 8 and 9) and suggests that it was far stronger in Asia Minor than in Greece and the islands (though perhaps no. 15 should give pause here); but, though it may have been local initiative rather than Roman direction which produced the cult, the whole point would surely have been to see that Rome knew all about it.

argue that the absence of a cult of Roma at Rome itself shows any reluctance to accept the idea, because, of course, this implies a quite different notion; the whole point of the cult, at least to start with, is that it was worship offered to Rome by other communities; worship from Rome to Roma, is another matter.

It seems fair to suggest that encouragement of the cult of Roma went hand in hand with the implicit or explicit discouragement of the offering of cults to individual officers. Once again it would be wrong to think of an open and definite decision by the senate; perhaps, we should think rather of the prejudices and opinions of individual nobiles rather than any distinct policy of the senate. But, here again, the implication is that the senate recognized in this matter those elements in the Hellenistic world which were fundamentally opposed to the republican system.

Clearly, this chapter has told an incomplete and sketchy story. At every stage we are hampered by lack of contemporary records and discussions which alone would make it possible to write coherent religious history. But there does seem to be enough to make it clear that Roman aristocrats were well aware of the problem they faced in dealing with the far more exciting religious customs of the countries with which they were now progressively more concerned and that their reaction to them falls into two

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distinct stages; the first, 250 - 200, sees the reception of a large number of strange and unexpected innovations - secular games, human sacrifice, the ver sacrum, ludi Apollinares, Magna Mater - and a relatively tolerant attitude in dealing with the private reception of foreign rites. In the 190's and 180's, however, we find evidence of change in all aspects of this policy; the Phrygian cult is severely limited; Bacchanalia are savagely suppressed; no more foreign cults receive temples at Rome; the Sibylline books are silent; Roman generals cease from accepting divine honours. Perhaps, too, there was a positive side, in the encouragement of the Italian haruspices and the acceptance of Latin cults to the city; but this must be even more tentative.

If, however, it is clear that the senate had a more or less conscious policy at the beginning of the century, it is far more difficult to see how that policy developed as time went by. There are some incidents which suggest continuity of thought - perhaps the action against the Chaldaeans and Jews in 139, perhaps the signs of hostility towards oriental cults, which pass into the sphere of individual generals and their propaganda. On the other hand, there is no evidence the other way either, no evidence that the senate lost any sense that Roman religion had a value and was to be defended as part of the mos maiorum. What happened perhaps was that the problems

themselves changed in a way which undermined any positive policy; just as the senate progressively lost control of aberrant proconsuls and riotous tribunes, so it no longer tried to control the development of individual religion. It was, then, the society which changed, not the policy; perhaps, later chapters can add something to the discussion.

Temple foundations. 200 - 80.

R.u.K.² = G. Wissowa, R.u.K.²

RRG = K. Latte, RRG.

F.a.N. = A. Degrassi, F.a.N.

Aust. = E. Aust. De aedibus sacris populi Romani
(Diss. Marpurgi, 1889)

1. Vediovis in insula. Aust, no. 47. cf. R.u.K.², 237: RRG, 82n.1: F.a.N., 388. Dies natalis - 1st. Jan. Vowed by L. Furius Purpureo, 200 (Livy, 31.21,12) contracts 196 (34.53,7). Dedicated 193 by C. Servilius as duumvir (34.53,7), i.e. at the end of consular year 194/3, as indicated by Livy, loc. cit. and the dies nat.. cf. also Ovid, Fasti 1.293; Vitruvius, 3.2,3. Livy's manuscripts read Iovis not Vediovis in both places but the corrections seem certain. For bibliography of the whole problem of Vediovis temples cf. below on no. 6.

2. Iuno Sospita ad forum holitorium. Aust, no. 50. cf. R.u.K.², 188: RRG, 168: F.a.N. 405f. Dies nat. - 1st Feb. Vowed by Cornelius Cethegus 197 (32.30,10). Contracts 197 (Livy, 34.53,3). Dedicated by Cethegus himself as censor 193 (i.e. end of 194/3, as before). cf. also Ovid, Fasti 2.55; Obs., 55(115); Cic., de div. 1.99 and Pease, ad loc. Livy in reporting the dedication calls the goddess Iuno Matuta, but the emendation is again certain. (RRG, 168n5) The temple was restored in the first century by L. Julius Caesar (Cic., l.c.). For identification of the site cf. R. Delbruck, Die drei Tempel am Forum Holitorium (Rome, 2nd ed. 1903); Lugli, 545ff; 556ff.

3. Fortuna p.p.R.Q. Primigenia in colle. Aust, no. 49. cf. R.u.K.², 261; RRG, 178; F.a.N. Dies natalis - uncertain. Vowed by P. Sempronius Tuditanus in 204 (Livy, 29.36,8, but he is called Sempronius Sophus at 34.53,5). Contracts placed by the vower as censor according to 34.53,5 i.e. by Sempronius Sophus; since Tuditanus had been censor in 209 (MRR 1.285) there must be some deep confusion here. Dedicated by Q. Marcius Ralla as duumvir (34.53,5). Livy reports the dedication in the same group as 1, 2 and 4 in a position which suggests a date at the beginning of 193 or, at any rate, late in the consular year 194/3; but the Fasti do not give a dies natalis in Jan. or Feb. as they do for the other three. There are two possibilities a) to identify our temple with

the temple of Fortuna Publica on the Quirinal, with a dies nat. of May 25th. b) to identify it with the temple of Fortuna Primigenia whose dies nat. was November 13th. For a), it can be said that the Fasti Venus. call this temple on the Quirinal (which is where Livy places our temple) Prim(igenia), which, if it is right will meet all requirements; on the other hand, b) though certainly Primigenia is said by Plutarch to have been on the Capitoline (Fort. Rom. 322f) while the Fasti Arv. read in C(apit(olio)) or in c(colle). If Plutarch were mistaken and the latter reading of the Fasti correct, this might be another temple of Fortuna on the Quirinal. It is to be noted, that there is yet a third which is called (by Fasti Praen.) 'Fortuna publica citerior in colle;' 'citerior' might suggest that there was a need for distinction amongst temples on the Quirinal which would hardly have arisen if there were only two temples one called Prinigenia, the other not. In any case, neither dedication date suits Livy very well. Nov. 13th would be 194 and make our temple the earliest of the series. May 25th should be 194 in which case Livy has misplaced it within the year; or could be 193, in which case it belongs more closely with the other three but is given under the wrong consuls. For discussion cf. RRG, 178f nn.3,4 & 1.; F.a.N., loc.cit. Hulsén-Jordan, 1.3,413; M. Santangelo, Il Quirinale nell'antichità classica, 136ff.

4. Faunus in insula. Aust, no. 48. cf. R.u.K.², 212; RRG, 84; F.a.N., 409. Dies natalis - 13th Feb. Built 'ex multatitia pecunia' by Cn. Domitius Ahenobarbus and C. Scribonius Curio as plebeian aediles. (Livy, 33.42,10) Dedicated by Domitius as praetor (34.53,3) cf. Vitruvius, 3.2,3. M. Besnier, L'île tiberine dans l'antiquité (Paris 1902), 249ff.; 291ff.

? 5. Victoria Virgo in Palatio. Aust, no. 51. R.u.K.², 140; RRG, 235,3; F.a.N., 489. Vowed by M. Porcius Cato in Spain in 195 and dedicated by him in 193 it is not clear in what capacity (Livy, 35.9,5). Livy calls it an 'aedicula' and it would be tempting to think it a private foundation except that it does seem to be recognized in the Fasti (F.a.N., loc. cit.); but it shares a dies natalis (1st Aug.) with the temple of Victoria on the Palatine founded in 294 and was therefore presumably attached to it or at least closely associated.

6. Vediovis inter duos lucos. Aust, no. 52. cf. R.u.K.², 237; RRG, 81; F.a.N., 241. Dies natalis, 7th March. Vowed by L. Furius Purpureo, probably as consul in 196. Dedicated by Q. Marcius Ralla as duumvir (Livy, 35.41,8) apparently at the beginning of 191. Again in this notice, the Livy MSS, read Iovis not Vediovis. cf. also Ovid, Fasti 3.429; Vitr., 4.8,4. Livy in fact reports in the dedication of two temples vowed by Furius in this year, one vowed as praetor, one as consul and both on the Capitol. Livy does not mention the description 'inter duos lucos,' which derives from Vitr., l.c. and specified an area of the Capitoline. The simplest reconstruction is to assume that the second temple of Livy's notice is simply a confused recollection of the one dedicated already in 193, temple 1. The Fasti give 7th March as the dies natalis of the Capitoline temple and Vitr. l.c. shows that it was no inconsiderable building. But it is impossible to be altogether happy with this reconstruction or any other; Livy never, or rather his Mss. never, gives the name Vediovis: no other source mentions Furius: even if the connection be right in one case, it has been thought that one temple might be a doublet of the other, for if Livy can double temples once, he can do it twice, and the same man vowing a temple twice to the same god in the same province is a little unusual. But, on balance, the solution given above seems reasonable; there is no doubt that there were eventually two temples to Vediovis at Rome; nor is there anything unreasonable about Furius' turning a second time to the god who had answered his prayer before. For the remains of this temple see A.M. Colini, Bull. comm. 70 (1942), 5ff. Lugli, 39ff. For the problem of the dedications, cf. Radke, Die Götter Altitaliens, 306ff.

7. Magna Mater in Palatio. Aust, no. 53. cf. R.u.K.², 318; RRG, 259ff.; F.a.N., 438. Dies natalis - 10th April. Built to house the image of the Magna Mater brought from the East in 204. Contracts placed by the censors of 204 M. Livius Salinator and C. Claudius Nero (36.36,4). Dedicated by M. Junius Brutus praetor urbanus and peregrinus in 191 (ib. cf. Ovid, Fasti 4.347) Destroyed by fire in 111 (Val. Max., 1.8,11; Obs., 99; Ovid, loc. cit. 348). Rebuilt soon after probably by Metellus Numidicus the consul of 109 (Ovid, loc. cit.). For excavations which have conclusively identified the site on the Palatine cf. Romanelli in Mon. Ant. 46. It is interesting that Livy in this case places the dedication early in the consular year 191/o, which again fits the dies natalis of the temple in the fasti.

8. Iuventus ad circum maximum. Aust, no. 54. cf. R.u.K.², 136; RRG, 256; F.a.N., 541. Dies natalis not known; Degrassi suggests Dec. 19th where the Fasti Ost. read IO[]; but Livy closely associates the dedication with that of the Magna Mater at the beginning of the year and indeed insists that the dedication games preceded the beginning of the war with Antiochus (36.36,6) so Dec. 19th could hardly be the original date, as Degrassi notices. Vowed by M. Livius Salinator in 207 (36.36,5). Contracts in his own censorship in 204 (ib.). Dedication by the duumvir C. Licinius Lucullus (ib.). For the temple and cult in general cf. M. Della Corte, Iuventus (Arpino, 1924).

9. Venus Erucina ad Portam Collinam. Aust, no. 58. cf. R.u.K.², 290; RRG, 186; F.a.N., 447. Dies natalis - 24th October. Vowed by L. Porcius Licinus in his consulship (184) and dedicated in 181 by L. Porcius Licinus the duumvir; to judge from Livy's wording (40.34,4), this was not the vower himself but his son. cf. also Livy, 30.38,10; App., BC 1.93; Strabo, 6.272. On the dies natalis see below on no. 10.

10. Pietas in foro holitorio. Aust, no. 59. cf. R.u.K.², RRG, 238; F.a.N., 530. Dies natalis - Nov. 13th(?). cf. Degrassi loc.cit.; the Fasti Ant. have only []tati but the restoration is attractive. Livy places this temple dedication together with that of Venus Erucina towards the end of the consular year, after the campaigning season but not apparently immediately before the consular elections; Oct./Nov. therefore fits quite well. Vowed by M'. Acilius Glabrio before the battle of Thermopylae (191) and dedicated by his son in 181 (Livy, 40.34,4) Livy adds that he placed the contracts himself 'ex senatus consulto' but gives no date. cf. Val. Max., 2.5,1.; Dio Cass., 43.49,3; Cic., de leg. 2.28.

11. Diana ad circum Flaminium. Aust, no. 61. cf. R.u.K.², 251; F.a.N., 544. Dies natalis - 23rd Dec. Vowed by M. Aemilius Lepidus as consul in 187 while fighting the Ligures (Livy, 39.2,8). Dedicated by the same Aemilius Lepidus in his censorship in 179 (Livy, 40.52,1).

12. Iuno Regina ad circum Flaminium. Aust, no. 60. cf. R.u.K.², 190; F.a.N., 544. Dies natalis - 23rd Dec. Exactly as 11: Aemilius vowed as consul (Livy, 39.2,11) dedicated as censor (40.52,1).

13. Lares Permarini in porticu Minucia. Aust, no. 62. R.u.K.², 170; RRG, 93n4; F.a.N., 543. Vowed by L. Aemilius Regillus in 190 before the sea battle at Myonnesus (Mac., 1.10,10). Dedicated by M.Aemilius Lepidus as censor in 179 (Livy, 40.52,4). The Porticus Minucia was added in 110 by M.Minucius Rufus cf. RE no. 54. The dies natalis of this temple is given by Fasti Ant., Praen. and Ost. as Dec. 22nd. Some confusion has been caused by Livy's notice of the dedication of these three temples (11, 12 and 13) because Aemilius held dedication games for his own two temples (11 and 12) '...ludosque scaenicos triduum post dedicationem templi Iunonis, ~~bidaun~~ post Dianae, et singulos dies fecit in ^{civitate} ~~ire~~'. It has been assumed that this indicates one day of scenic games which fell on the third day after Iuno's dedication and the second after Diana's, in which case the two temples were dedicated on successive days not on the same one; the meaning however, seems to be that there were separate days of scenic games for Iuno and Diana, Diana's two and Iuno's three days after their joint dedication day. If so, there is no conflict between Livy and the Fasti. It is valuable evidence that once again a group of dedications associated by Livy have dies natales in the Fasti also close together. The date in December also fits Livy's chronological indications perfectly well; though it should be said that Livy reports the dedications at the end of his account of the censorship of Aemilius and Fulvius Nobilior and we cannot tell from him whether the dedications are in their chronological place or whether he is grouping together the events of the whole censorship.

14. Fortuna Equestris ad theatrum lapideum. Aust, no. 63. R.u.K.², 262; RRG, 179; cf. 278; F.a.N., 495. Dies natalis - 13th August. Vowed by Q.Fulvius Flaccus in 180 (Livy, 40.40,10; 44,9) as proconsul in Spain. The contracts were apparently placed by duumviri ad aedem locandam in 179 (40.44,9). After some strife (42.3) Fulvius succeeded in dedicating his temple in his own censorship (42.10,5). cf. Obs, 53; Vitruv., 3.3,2. Tac., Ann. 3.71 seems to imply that it no longer stood by 22AD. The dies natalis here raises no problem; Fulvius became censor some time shortly after March 174 and therefore might have dedicated the temple either in August 174 or 173 if he was still holding office by then; but Livy actually mentions the dedication in a second notice which reports the closing of the lustrum in 173; thus, if the censors held office for about eighteen months as was usual, August 173 is again about right. 173 is further confirmed by the difficulties which Fulvius experienced which must have held up the completion of his temple in 174 (42.3).

15. Iuno Moneta in monte Albano. R.u.K.², 190.

Not strictly speaking a State temple; we have no dies natalis for it, the dedicant apparently held no special office and it lay not in the city but on the Alban Mount. Vowed in battle against the Corsicans by the praetor C. Cicerius (Livy, 42.7,1) in the year 173. Dedicated by himself in 168 (Livy, 45.15,10).

16. Fortuna huiusce diei (in Palatio?) Aust, no. 65. R.u.K.², 262; cf. F.a.N., 488. Dies natalis unknown. Built by L. Aemilius Paullus apparently after the battle of Pydna (Pliny, N.H. 34.54) cf. Plut., Aem. 17.10. It may have been on the Palatine since there was in that area a vicus Huiusce diei cf. CIL VI.975 = ILS 6073, but cf. also Lugli, 8 (1962) 75. Pliny, loc.cit., suggests that Catulus stored his Pheidias statues in Aemilius' temple while his own was being built; it is a possibility that Catulus' temple was no more than a rebuilding of Aemilius' but a) this is not reconcilable with Pliny's story; b) the dies natalis of Catulus' temple was the anniversary of Campi Raudii c) Catulus' temple was 'in Campo' and the 'Vicus Huiusce Diei' would have to be explained otherwise. None of these arguments is absolutely decisive but on the whole a separate foundation seems most likely. cf. below no. 24.

17. Felicitas in Velabro. Aust, no. 65. R.u.K.², 266; RRG, 417n.9; F.a.N. 475. Built by L. Licinius Lucullus not long after 146 and perhaps as a result of a vow taken on his Spanish campaigns. (Strabo, 8.381; Cic., Verr. 2.4,4. cf. also Dio Cass., fgt. 75.2; Cic., loc.cit. 57 and 126; Plin. 34.69; 36.39; Suet., Caes. 37; Dio. Cass., 43.21. This was apparently the temple renewed by Aemilius Lepidus in 44 (Dio Cass 44.5,2). There are various references in the Fasti to Felicitas but none of them can be referred to this temple, whose dies natalis is therefore unknown.

18. Iuppiter Stator (and Iuno Regina) in circo Flaminio. Cf. Aust, no. 60. R.u.K.², 123, 190; RRG 152; F.a.N. 508. There is no doubt about the origin of the temple of Iuppiter Stator in circo Flaminio: it was built some time after 146 by Q. Caecilius Metellus Macedonicus, the conqueror of the Macedonians and Andriscus. This was a considerable building, according to Velleius, the first temple in Rome to be constructed of marble; it was the work of a Greek architect, Hermodorus of Salamis, but apparently bore neither Hermodorus' nor Metellus' name; it was surrounded by a large porticus, in which stood a 'turma statuarum equestrium', brought home from Greece by Metellus. cf. Vel., 1.11,3-5; Vitruv., 3.2,5;

Pliny, N.H. 36.40; Mac., 3.4,2; Varro, ap. Servius Auct. ad Aen 2.225. For its location Lugli, 562ff.; Pianta marmorea di Roma Antica (1960), 91ff. Fasti Ant. mai. have a note Iovi Statori under the 5th Sept and it is very likely that this is the republican dies natalis, and, presumably, the date of the dedication in the 140's; Metellus, who had won his victories as praetor was consul in 143 and this would be a fair guess for the dedication date, except that it is highly unlikely that he would have been in Rome in September of his consular year (cf. MRR 1.471f.). Velleius tells us that there were two temples inside Metellus porticus, which was subsequently restored by Augustus and then known as the porticus Octavia. It does not seem possible to decide a priori whether this should be another temple built by Metellus at the same time or a temple adjacent to Metellus and already in existence when he built his, or even a temple built subsequently to the building of the porticus and within its area. A fragment of the Fasti, apparently coming from an otherwise lost version, and certainly later than 13 BC, gives:

Apollini, Laton(ae)
ad theatr(um) Marc(elli)
Feli(c)itati in Cam(po)
Mart(io), Iovi Stator(i)
Iun(oni) Reg(inae) ad cir(cum) Flam(inium).

This list belongs to Sept. 23rd. (cf. F.a.N. 63); this was the day of a number of dedications by Augustus, intended to co-incide with his birthday. F.a.N. 508; cf. RE 16.2 (1935) 2530 (Weinstock). It seems therefore not unlikely that the Iuppiter Stator here mentioned is the temple of Metellus, restored by Augustus at the same time as the porticus and rededicated on Sept. 23rd. It then becomes tempting to identify the temple of Iuno Regina as the second temple within the porticus Octavia also rededicated by Augustus. It is then possible (as Wissowa thought) that Metellus built two temples, one to Iuppiter and one to Iuno; one might compare the activities of Aemilius Lepidus and suspect that the whole building programme - two temples and the porticus - will have taken a considerable time and perhaps reached completion only in the 130's; one might think of Metellus' censorship as the dedication date i.e. as late as 131. But all this is highly speculative; moreover, if Metellus, like Aemilius, dedicated his two temples together we ought to find Iuno in association with Iuppiter under the dies natalis of the Fasti Ant. Mai.; enough survives of the entry for Sept. 5th to show that this was not so.

The only reason for believing that Metellus built a temple of Iuno is the fact that what was probably a temple of Iuno stood within his porticus; but as we have seen this by itself proves nothing. The only temple of Iuno Regina which does occur in the Fasti Ant. mai. is that built by Aemilius Lepidus (No. 12 above). It seems perfectly possible that it should have been this temple which Metellus included in his porticus, since the imperial fasti have no mention of a dies natalis either for Diana or for Iuno Regina either in Campo or in Circo; thus the Fasti Praen. which survive for Dec. 22 and 23, retain the Lares Permarini on 22nd. but not Iuno or Diana on 23rd. It would be idle to pretend that anything can be proved. I have assumed here and under nos. 11 and 12, that the location 'in Campo' can be assumed to be interchangeable with 'in circo'; this has been questioned by Castagnoli in his study of the Campus Martius, Mem. Acc. Linc., ser.8, 1(1947) 112ff.; if this is to be taken literally then the dies natales under Dec. 23rd (temples in Campo) cannot be referred to Aemilius' foundations in circo; but even though the two areas may have been strictly speaking distinct, it seems quite clear that they are often confused in our sources. G. Marchetti-Longhi (Bull. comun. 76(1956-8), 77ff.) has argued that Aemilius' two temples should be identified with temples A and B in the Largo Argentina, but there is no clear evidence and it remains on the whole more likely that the old identification of temple B should stand. (cf. below no. 24).

19. Mars in Campo. Aust, no. 68. R.u.K.², 146; F.a.N., 512. Dies natalis unknown, though Fasti entries under Sept. 23rd (F.a.N., l.c.) are probably to be referred to it, after re-dedication by Augustus, cf. on no. 18. Built by D. Iunius Brutus Callaicus the consul of 138, presumably in connection with his campaigns against the Callaici in Spain, which earned him his triumph and his agnomen (for the date cf. Degraasi in I.I. 13.1, p.558; Münzer, s.v. Junius 57 in RE; MRR 1.488n.5.). Here again, the architect was Hermodorus (cf. 18) and the temple was decorated with verses of Accius. cf. Nepos, ap. Priscian, 8.17; schol. Bob. on Cic., Arch. 27 (p.179 St.); Val. Max., 8.14;2; Pliny N.A. 36.26. Platner-Ashby, 328. (On the suggested dies natales cf. F.a.N. 459, who is rightly sceptical).

20. Hercules Victor. Aust, 67. F.a.N.494.

Dies natalis unknown. Location unknown. Degrassi, ILLRP 122; Plut., praec.rei pub. ger. 20. Built by L.Mummius after the sack of Corinth as the result of a vow taken on that campaign; dedicated, very probably as censor in 142, though the inscription only says 'imperator dedicat'. A.M.Colini, Storia e topografia del Celio (1944), 41ff. has argued that the temple was on the Caelian where the inscription itself and other material relating to the cult of Hercules was found, but we are told by Mac., 3.6,10 quoting Varro (cf. Plut., Q.R. 90; Serv. auct. ad Aen. 8.363) that there were only two temples of Hercules Victor within the city. (cf. Lugli, 588ff., F.a.N. loc.cit.).

21. Concordia. RRG, 237 n.8; F.a.N.486; 399.

Our sources tell us quite specifically that a temple to Concordia was built by L.Opimius in 121 after the suppression of C.Gracchus and his associates. (Plut., C.G.17; Appian, B.C.1.120; Aug., C.D. 3.25). There seems to be no good reason to doubt this notice, though the history of the cult at Rome is full of problems. The temple stood apparently in the Forum; also, in the Forum was the temple of Concordia whose dedication was attributed to Camillus. Some have thought that Opimius did no more than rebuild Camillus' temple. (So, De Sanctis, 4.2. 298 n. 781). Others have denied that there was a temple to Concordia in the Forum at all before 121, and this seems to be supported by the absence of remains earlier than the second century on the site of the temple as rebuilt in the early principate. (for the remains cf. Lugli, 111; Momigliano, C.Q. 1936, 115ff. = Sec. cont. (1960) 95ff; F.a.N. 399 for discussion and further bibliography). De Sanctis, loc.cit., argues that there certainly was a temple because of references to the area Concordiae in 183, 181 and perhaps 211 (Livy, 26.23,4; 39.56,6; 40.19,2) but there was in any case a temple to Concordia on the Capitol to which these passages could refer. We have only one reference in the pre-Caesarian fasti which could belong to Concordia in foro (F.a.N.,486 - July 22) and one in later fasti for 16th Jan. (F.a.N.,399) which is the date of the restored temple. It seems as certain as such things can be that Opimius built a new temple dedicated it on July 22nd of an unknown year; Tiberius rebuilt this temple and re-dedicated it on a new day. Whether there was an older temple which had disappeared by 121 or which was destroyed in 121 or which continued to exist after 121 or whether there was no older temple at all remains uncertain. Ovid at least seems to have thought that Opimius' temple was Camillus' (Fasti 1.637).

22. Ops (Opsifera ?) ad forum. Aust, 57. R.u.K.², 203; RRG, 72 n.2; F.a.N., 501. Dies natalis - August 23rd. It was built by L. Caecilius Metellus Delmaticus (Pliny N.H. 11.174 cf. Cic., ad Att. 6.1,17) cf. Münzer, RE s.v. Caecilius no. 91. The date is quite uncertain, but probably follows his triumph over the Dalmatians in 117 (MRR 1.529) and can hardly be much later than 105, for Metellus was dead by 103, when succeeded as pontifex maximus. The whereabouts of the temple are also uncertain; cf. F.a.N., loc.cit.
23. Venus Verticordia. Aust, 72. R.u.K.², 290; RRG, 185; F.a.N., 434. Dies natalis - April 1st. Place unknown. Ovid, Fasti 4.157ff.; Obs., 37; Oros., 5.15,22. The temple was recommended by the Sibylline books, which were consulted after the Vestal trials in 114. cf. infra cf. also, Serv., ad Aen. 8.636; and on the incident involving this goddess about 100 years earlier Val. Max., 8.15,12; Pliny. N.H. 7.120.
24. Fortuna huiusce diei in campo Martio. cf. Aust, 26. R.u.K.², 262; RRG, 179; F.a.N., 488. Dies natalis - July 30th. The temple was vowed by Q. Lutatius Catulus in 101 at the battle of Campi Raudii and dedicated, apparently, on the anniversary of the battle (Plut., Mar. 26.3). cf. Plin. N.H. 34.54 and above no. 16 for the statues which decorated it. Refs. Cic., Verr. 4.126 de dom. 102; 104; 137; Cael. 78; ad Att. 4.2,3. Boyancé (M.E.F.R. 57 (1940) 64ff) identified this temple as temple B of the Largo Argentina; this has been questioned by G. Marchetti Longhi (Bull. comun. 76 (1956/8), 77ff.) cf. on no. 18.
25. Honos et Virtus. Aust, 74. R.u.K.², 150; RRG, 236 n.2; F.a.N. 484. Dies natalis unknown. Place unknown. Vowed by Marius in his campaigns against the Cimbri and Teutones. CIL 1² pl95 elog. 18 = CIL 11.1831; often referred to by Cicero and others cf. Platner-Ashby, 259ff. and infra, 724f.
- ? 26. Bellona Pulvinensis. Aust, 77. But extremely questionable: cf. Plut., Sulla 9. The earliest evidence for a temple is third century AD (CIL 6.490; 2232-3); the significance of Pulvinensis is obscure (cf. RRG, 282 n.1); and the connection with Sulla speculative.
- ? 27. Pietas ad circum Flaminium. Aust, 75. R.u.K.², 331; RRG, 239; F.a.N., 533. Dies natalis - Dec. 1st. Mentioned by Obsequens, 54; cf. Cic. de div. 1.98. Castagnoli (Gnomon 1961, 607) has suggested that this temple is in fact identical with no. 10; but though Obsequens could be referring to no. 10,

the Fasti cannot be because Pliny, N.H. 7.121 and Dio Cass., 43.49,3 make it clear that no. 10 was destroyed by Caesar in 44 (so, F.a.N. l.c.). Pliny, l.c., puts the dedication of no. 10 in 150, which might be a confusion with this temple; but more likely, this is just a slip. A possibility is that the temple noted in the Fasti was built in the early principate to replace the one which Caesar destroyed.

Duumviri aed. ded.

216. M.Atilius and C.Atilius elected to dedicate the temple of Concordia vowed by L.Manlius. Livy, 23.21,7. cf. 22.33,7-8. (MRR 1.252 cf. 245 for IIviri aed. loc.)

215. (for the date cf. MRR 1.258 n.10). Q.Fabius Maximus Verrucosus (cos. 233 etc.) and T.Otacilius Crassus (pr. 217, 214) elected to dedicate the temples of Venus Erycina and Mens respectively. Livy 23.31,9 cf. 30.13-14 for the SC recommending the election of Fabius to this post. Each dedicated the temple which he had himself vowed in 217 Fabius as dictator, Otacilius as praetor, both ex libris Sibyllinis; cf. Livy, 22.9,7ff.; 10,10. (MRR 1.257)

193. Q. Marcius Ralla and C.Servilius elected to dedicate nos.3 and 1 respectively. Livy, 34.53,5 and 7. MRR 1.346. Servilius might be Servilius Geminus cos. 203 but Livy does not say so nor call him Geminus.

191. Q.Marcius Ralla elected to dedicate no. 6. Livy, 35.41,8. MRR 1.352. Colleague not known. This seems to be the same man as the duumvir of 193; perhaps Servilius was still his colleague; but cf. next college. MRR has the date of this college and the preceding one a year too high cf. Appendix 1 under the relevant temples.

191. C.Licinius Lucullus elected to dedicate the temple no. 8. Livy, 36.36,5. MRR 1.355. Colleague not known unless, indeed, Ralla served the same term cf. previous college. It seems most likely that a new college would be elected for a new consular year but there is no evidence.

181. L.Porcius L.f. Licinus and M'.Acilius Glabrio elected to dedicate the temples nos. 9 and 10 respectively. Livy, 40.34,4-6. MRR 1.386. Both men seem to be the sons of the vowers of the temples cf under nos. 9 and 10. Glabrio was cos. suff. 154.

Two inscriptions ILLRP 121 and 281, give us the information that A.Postumius A.f.A.n. Albinus (perhaps the consul of 180, censor 174) dedicated (perhaps in 175 cf. Munzer, Bull. comun. 67 (1939), 29ff.) two altars one to Verminus (281) the other perhaps to Hercules (cf. Degraffi, Doxa 2 (1949), 67) as duumvir lege Plaetoria; the lex Plaetoria is otherwise unknown and may be a special authorizing law for these dedications. Since we only have evidence of Postumius' dedicating altars, it is impossible to say whether he would be duumvir aed. ded. or not.

Appendix: Dea Roma, 200 - 80

1. Smyrna. Tac., Ann. 4.56,1; cf. Livy, 33.38,3ff.; Pol., 18.52. This is said to have been the first cult of all in 195 B.C.; at least, Tacitus reports the claim of Smyrna to have been the first to build a temple to Roma; for discussion of the circumstances and significance cf. Larsen, Mélanges Piganiol, 3.1635ff., who regards the foundation of a cult as a substitute for 'deditio in fidem'; i.e. it assured allegiance without amounting to formal submission.
2. Miletus. cf. Miletus, 1.7 no. 203 = Sokolowski, Lois sacrées d'Asie Mineure 49 (sale of priesthood, c. 120).
3. Erythrae. IGRR 4.1539 = Sokolowski 26 = v. Wilamowitz-Jacobstahl, Nordion. Steine, (Abh. Berl. Akad. 1909), 48. Calendar of sacrifices, for Ionian League ? 189-33).
4. Ephesus. IGRR 4.1262; cf. Robert, Hellenica 9.77 (Ῥώμειά); IGRR 4.297 = OGIS 437, 89ff; cf. Ephesos, 2 n.30 and pp. 199ff.; Hellenica, 6.40-42; 9.77 (Priests of Roma from 94 B.C.).
5. Pergamum/Elaea. SIG³.694 = Sokolowski 15 = IGRR 4.1692; cf. Ath. Mitt. 38(1913), 37ff. (sacrifice to Roma, 129 B.C.).
6. Sardis. IGRR 4.297 = OGIS 437, 92 (Eponymous priest of Roma, 90's B.C.; for the exact date, cf. Badian, Athenaeum 34(1956), 104ff.)
7. Lycian League. Araxa inscription: JHS 58(1948), 48ff. = SEG 18.570 (Five-yearly panegyric festival) cf. the

dedication on the Capitoline ILLRP 174 = CIL 1².725 = 6.372
 cf. IGRR 1.61 (for the dating of which, Degrassi, Bull. Com.
 74(1951/2), 19ff.; cf. Larsen, C.P. 51(1951), 151ff.; but
 Degrassi is probably right in placing them in the eighties).
 For the date of foundation of the festival in Lycia cf.
 Bean in JHS, loc.cit. J. and L. Robert, REG 63(1950), 185ff.;
 65(1952), 174 no. 147; 71(1958), 319 no. 462; Larsen, C.P.
 51(1951), 151ff.; Representative Government, 122f.; Mélanges
Piganiol, 1640, n. 1.; Moretti, Riv. Fil. NS 28(1950), 326ff.
 8. Caunus. JHS 63(1953), 10ff.; SEG 12.466; cf. J. and L.
 Robert, REG 67(1954), 169ff. n.229. (Festival of Leto and
 Roma, second century; the association with Leto is somewhat
 puzzling; but for parallel links between ^{ῥωμαία} and
 prominent local cults, cf. the Roberts, loc.cit. especially
OGIS 441 1.45, for the association with Hekate at Stratonicea;
 cf. below no.9).

9. Stratonicea/Lagina. (a) from Stratonicea, IGRR 4.247,
 1.25f. = SEG 4.658 (a musical contest in honour of Roma,
 cf. Laumonier, Cultes indigenes de Carie, 358 & nn. 1-2);
 (b) OGIS 441 1.133; 145 (presumably referring to the festival
 of Hekate at Lagina, known from Strabo, 14.p.660 (cf. SIG³
 1066), which was apparently now associated with Roma; cf.
 D. Magie, RRAM, 131 and nn. 34-5); (c) For lists of priests
 cf. Laumonier, B.C.H. 62(1938), 252f. (d) for the friezes
 of the Hekateion at Lagina, which have been interpreted as
 representing Roma and Caria, cf. L. Robert, Études anatol-
iennes, 427 and n.2.

10. Antiocheia on the Maeander. cf. inscription from Samos, dated c. 165, Ath. Mitt. 72(1957), 243 l.6; cf. 247; 250. For commentary, Habicht, art.cit., 243ff.
11. Alabanda. Livy, 43.6,5 (templum and ludi, by 170 - the date to which Livy refers - but the foundation will perhaps be earlier, cf. Larsen, Mélanges Pignaniol, 1640ff.
12. Magnesia on the Maeander. Inscr. Mag. 48 = SIG³ 1079; (Ῥώμιδι ; mid-second century?)
13. Cibyra. OGIS 762 (reference to the inscribing of a treaty 'ἐνὶ τοῖς βασιλεῦσι τοῖς Ῥώμιαις'; dated 189-67, cf. Dittenberger ad loc.).
14. Astypalaea. IG 12.3.173 = IGRR 4.1028 b. 1.25f. (implies an altar, though apparently no temple to Roma; 105 B.C.).
15. Chios. Cf. N.M. Kontoleon, Akte IV Congresses, 1962 (1964), 192-7 for a very important inscription (cf. also Πρακτ. Αρχ. Ετ. ., 153 (1956), 270f. J. and L. Robert, REG 66(1953), no.277; 71(1958), no.384; SEG (1959), 486.)) which has unfortunately not yet been published in full; it is apparently fairly early second century and refers to an offering to Roma (l. 25), probably to a precession in her honour (ll. 4f.) and most interesting of all, to a version written by the man who is being honoured of the legend of Romulus and Remus and the foundation of Rome.
16. Rhodes. IG 12.1.730 = SIG³ 724 = IGRR 1140; cf. IGRR 1131; reference to Ῥώμιδι , probably before 100 B.C.;

cf. Pol., 31.4,4, for a colossal statue of the demos of Rome erected in 164/3; the fact that this is placed in the temple of Athena perhaps shows that there was no temple of Roma, at least not one big enough to accommodate a thirty cubit statue.

17. Berytus. Inscr. Délos 1778 = OGIS 591 (a dedication by the Poseidoniasts of Berytus to Roma on Delos, early first century).

18. Delphi. SIG³ 611 (letter of the consuls mentions the foundation of an ' ἱεῖον ' and ' θυσία ', 189 BC.)

19. Athens. IG 2.953 = Michel 1539 (Ῥώμη , mid second century, for the date cf. W.S. Ferguson, Klio 9(1909), 337ff.).

20. Megara. IG 4.1136 (Second century B.C.; Ῥώμη)

21. Oropus. SIG³ 1064 1.5; 11; cf. 747 n.43 (second century B.C.; Ῥώμη)

PART II. The Priestly Colleges

5. Pontifices

Cicero lists the main duties of the college of pontifices in the de legibus: 'de sacris, de votis, de feriis et de sepulchris et siquid eiusmodi est.'¹ They seem to have had a general responsibility for and oversight over matters of cult which do not fall within the province of one of the other important colleges; what this amounts to, is that it was they who were consulted by the senate when doubt arose over such various matters as the correct wording of vows taken on behalf of the State, the validity of dedications, the proper expenditure on games and other points concerning the correct performance of rites.² These are the duties of the college which most nearly touch upon political issues and it is far from obvious that they possessed any considerable opportunity for interfering in political life, particularly when compared with the undoubted opportunities of the augurs;³ but the matter can only be judged on the evidence we have for particular periods.

Their special authority over the rex sacrorum and the major

1. 2.47.

2. For vows, cf. below, 223ff.; for dedications, Cic., de domo passim; for games, below, 248ff.; they are also consulted, e.g., over prodigies (infra 483f.), the correct performance of a 'ver sacrum' (infra, 240ff.), or of the 'feriae Latinae' (Livy, 41.16, 1-2; infra 393). For the pontifices and their duties in general, cf. A. Bouché-Leclercq, Les Pontifes de l'ancienne Rome (1871); Wissowa, R.u.K.², 501ff.; de Sanctis, St. d. R., 4.2.353ff.; Latte, RRG, 195ff.; 400ff.

3. Infra ch. 8.

flamines and over the Vestal virgins is discussed in subsequent chapters.⁴

For the first twenty years of the second century, we have relatively full information about the pontifices; we know first all the members for this period and have almost complete knowledge of the dates at which they all joined and died; secondly, we know of a certain number of occasions on which they were consulted on matters of importance and, in substance, the decisions they made on these matters. There are two main, inter-related questions which we can hope to answer in the light of this information: a) did the members or a majority of them belong to a particular political group and, if so, to which? b) how far were their decisions favourable to the interests of their own group? It has in the past been assumed that the political importance of the pontifices and of other priestly colleges lay in their preparedness to use the opportunities which the State cult offered to gain political advantage for their own purposes and those of their friends and that, with this in mind, these political groups tried to maintain control of the colleges by seeing to it that reliable members of their group were co-opted into the college whenever a colleague died. This is a coherent thesis and we can try to find

4. *Infra* chs. 6 & 7.

evidence for or against it.

One point needs to be emphasized here about the theoretical or logical situation; in relation to question a), we can be quite certain given the nature of Roman, or any other politics that the existing members of the college will have tried to co-opt men to whom they were friendly, with whom they were allied or whom they admired and tried to prevent the co-optation of their enemies and political opponents; if we find, that a college at a particular time co-opts members of groups believed to be hostile to the majority of the members, the implication must be that our understanding of the political situation at the time is inadequate or, at least, that the co-optations were the result of complicated intrigues now lost; as a matter of fact, our reconstructions of groups for this period are extremely thinly proved and successive co-optations provide a valuable control for modern theories. On the other hand, there can be no such theoretical certainty about the answers to question b); it is possible that Roman priests made religious decisions on narrow party political grounds, but it is also possible that they decided either on strictly legal grounds or on the basis of the Republic's best interests or by a more or less logical mixture of all three. There is, then, no necessary connection between the answers to the two questions. If it is true that decisions taken

on ostensibly religious grounds were in fact aimed at party advantage, this would certainly explain why political groups tried to keep their members in the colleges; but it would be perfectly possible to explain their anxiety on other grounds as well. Sooner or later, it will be helpful to ask the question why certain colleges in the late republic seem to be of far greater importance than others, but the answer need not necessarily be that these colleges offered the best opportunities for political chicanery.

The first decision taken by the pontifices in this period was in 200 during the preparations for the war against Macedon. The consul to whom the province had fallen by lot, P. Sulpicius Galba Maximus, received instructions from the senate to take a vow promising special games to Iuppiter in return for preserving the State in safety for five years;⁵

5. Sulpicius' vow, Livy, 31.9,7ff. For ludi votivi, Wissowa, R.u.K.², 452f.; Marquardt, Röm. Staatsv., 33.497f.; Habel, RE suppl. 5.618. For Mommsen's brilliant, though not secure, explanation of the early votive games, R.F., 2.45ff.; contra, Piganiol, Recherches sur les Jeux romains, 75ff. Piganiol, op.cit., 79ff., regarded the third and second century games (cf. Livy, 21.62,10; 22.9,7-10,10; 27.33,8; 30.27,11; 34.44,2; cf. 31.9,7) as constituting two regular series with the simultaneous celebration of the old vow and taking of a new one (solutio et nuncupatio); but the evidence is inadequate to prove this and the second century examples at least seem to be vowed at the beginning of wars and isolated from one another.

this was a regular proceeding at the beginning of a war, but in this case it was proposed to change the wording of the vow in one particular. Instead of vowing that a certain specified sum of money should be set aside for the fulfilment of the vow, Sulpicius' vow was to be taken 'ex incerta pecunia'; the senate itself was to be given discretionary powers to decide on the amount which should be spent on the games whenever it should be decided that the time for honouring the vow had arrived. The pontifex maximus, P. Licinius Crassus, raised an objection to this procedure on the grounds that the vow could never be rightly discharged unless a special fund, quite separate from the war-fund and in no circumstances to be mixed with it, was laid aside and kept to be spent on the games.⁶ It seems fairly clear what

6. Livy, 31.9,7. The general sense of the sentence seems quite clear though the text is doubtful; most MSS read: 'Moram voto publico Licinius pontifex maximus attulit, qui negavit ex incerta pecunia vovere debere si ea pecunia non posset in bellum usui esse seponique statim deberet nec cum alia pecunia misceri: quod si factum esset, votum rite solvi non posse.' 'vovere debere quia pecunia' Bambergensis: corr. voveri Crévier; suppl. ea Bekker; whence McDonald in *O.C.T.* reads 'voveri debere quia <ea> pecunia.' The alternative which has been proposed (Madvig, *Emend.*, 464; Mommsen, *Staatsr.*, 3³.1137 n.1; Weissenborn-Müller, ad loc.) is 'vovere [licere; ex certa voveri] debere quia [ea] pecunia' (or 'quae pecunia', Mommsen loc.cit.). Dr. McDonald (*O.C.T.* of Livy, 5.p.10 n.) notes that '[ea] pecunia', which cannot be used for war and ought to be set aside, should be 'incerta pecunia'; for the 'certa pecunia' would have been set aside already. But this pecunia ought surely to be neither the 'certa' nor the 'incerta', but rather whatever pecunia is eventually used for the games. Moreover, 'ea' comes from the MSS 'si ea', which, as McDonald observes, seems to be a correction of the Bambergensis' 'quia'. I would suggest 'vovere [licere; ex certa voveri] debere pecunia quia non posset...'.

the senate's interest in the matter was; these long-term vows gave an opportunity for elaborate and expensive State games; but at this particular date they had little or no money to play with and what they did have was badly needed for the conduct of the war with Philip.⁷ They no doubt hoped, as it finally proved, that the war would be a profitable one in the long run and that they would in six or seven years time be able to afford lavish games in celebration of their victory; so, to set aside a fund at once would only hamper the war-fund at present and restrict the celebrations later.

Crassus raised his objections in the senate and, according to Livy,⁸ received a respectful hearing - 'et res et auctor movebat'. Despite this, they referred the point at issue to the college of pontifices, who took the opposite point of view to the pontifex maximus; asked whether a vow could rightly be undertaken 'incertae pecuniae', they decreed 'posse rectiusque etiam esse'. The vow was accordingly taken by the consul in the form which the senate had originally wanted and the wording made specific mention of the senate's right to appoint the sum to be spent on the games when they

7. For the financial difficulties at this date cf. Livy, 31.13,2-9; the system of *trientabulum* was set up to avoid the necessity of repaying the State's debts to private individuals.

8. 31.9,8.

were eventually celebrated.⁹ We know enough about the point at issue to be able to place this decision of the pontifices in at least a rough context. It seems clear that Crassus was simply maintaining the previous state of the law against a proposal to change it;¹⁰ we know that it had been the previous custom for a special fund to be set aside and Crassus was defending this traditional separation of secular and sacred funds. On the other hand, the decision taken here was a precedent which we know to have been followed later in the century and which probably became the standard form.¹¹

A political interpretation of these events has been offered; Crassus was, we know, a political supporter of Scipio Africanus,¹² at this time at the height of his influence at Rome; but Sulpicius was a member of a rival group and so were a majority of the pontifices.¹³ Crassus' action

9. *ib.* 9,9-10; the formula is actually quoted by Livy on a later occasion (36.2,2-5); the relevant part reads '... pecunia, quantam senatus decreverit.'
10. The traditional figure quoted for expenditure on games is 200,000 sesterces: *Ps. Asc.*, p.142 (Orelli); *Dion. Hal.*, *A.R.* 7.21. We have an actual figure for the *ludi votivi* vowed in 217 - 333,333 $\frac{1}{3}$ sesterces - cf. Livy, 21.10,7; *Plut.*, *Fab.* 4; *Piganiol*, *op.cit.*, 16f.
11. In 191, above n.9; and in 171, Livy, 42.28,9, which also specifies a quorum of 150 when the amount is decided.
12. The best evidence of this political association is *Plutarch*, *Fab.* 25,3-4 - the narrative of his support for Scipio against Fabius in 205, when he and Scipio were colleagues in the consulship; the point is generally agreed: cf. *Münzer*, *APF*, 190f.; *RE* s.v. *Licinius* no.69; *W. Schur*, *Scipio*, 15; *Scullard*, *RP*, 33; 36; 76f.; 82; *Cassola*, *I gruppi*, 410.
13. This is Professor Scullard's view of the incident, *RP* 87f.; for the members of the college, below, 228; for Sulpicius below, 231ff.

was to be understood as an attempt to delay Sulpicius, whose tenure of this important command he bitterly resented; he failed in his attempt because the rest of the college did not share his political principles. This is weak at almost every point; it is far from certain that Africanus or Crassus did oppose Sulpicius' command in Macedon, but even if they did Crassus' action could not have delayed Sulpicius in any serious way; he raised the point a considerable time before the consul was due to leave for his province¹⁴ and evidently, whichever way the point had been decided by the college, the vow could still have been taken without more delay than the time the pontifices took to make their decision; to create a fixed fund might have been inconvenient but hardly impossible. In fact, all that happens on this view of events is that Crassus for obscure motives and with no clear advantage in view deliberately invited the snub which he duly received.

There are, however, more serious points here. First, the whole incident gives us valuable information about the standing of the pontifex maximus in relation to the college. Clearly, it is he who can take the initiative and raise a

14. as is clear from Livy's narrative, 31.5-14. At 9,6 he dates the intervention of the pontifex maximus during the period of preparation for the war; the incident is followed by reports of various items of business handled by the senate (10-12,5), by the year's prodigies (10,6-10) and by the protests of the State's creditors (13) before Sulpicius finally leaves Rome (14,1).

point in the senate on his own initiative which would otherwise have gone by default; perhaps, he hoped that he would be able to carry his point through by weight of auctoritas, but what follows shows that in the taking of the decision he is in no sense the final authority; he presumably had a vote on the issue as a member of the college, but that was all.

Secondly, it is reasonable to ask how much we know about political relations between Crassus and the rest of the college. The members of the college at this date are almost all known and several had been politically prominent in the controversies of the later years of the Hannibalic War. The members were:-

Patricians:	M. Cornelius Cethegus
	Cn. Servilius Caepio
	Ser. Sulpicius Galba
	C. Sulpicius Galba
Plebeians:	P. Licinius Crassus Dives
	Q. Caecilius Metellus
	C. Serfilius Geminus
	C. Livius Salinator
Either	Q. Fulvius Flaccus or
	C. Sempronius Tuditanus.

The senior members are the two plebeians Crassus and Metellus, unless Flaccus was still alive at this date, which is somewhat

unlikely.¹⁵ All the others had been co-opted in or after 213, the most recent dateable co-optations being those of two Sulpicii in 203 and 202.¹⁶

Scullard's¹⁷ view of this college is that only two men - Metellus and Cornelius Cethegus - belonged to family groups allied to Crassus. There is in fact ample evidence that both Metellus and Crassus were supporters of Scipio Africanus during the war, Metellus in particular acting as his spokesman in the senate.¹⁸ The case of Cethegus is, however, very much more doubtful; we have no specific evidence of an association with Scipio and his gens name alone cannot form a secure basis. Cassola¹⁹ has recently noticed that in 210 and 209, there is evidence for direct co-operation between Cethegus and T. Manlius Torquatus;²⁰ there is no way of telling how permanent their association was, however, and

15. Q. Fulvius Flaccus (cos. I, 233) is last heard of in 205 (Livy, 28.45, 2ff.); his successor must have been C. Sempronius Tuditanus, who himself died in 197/6 (Livy, 33.25, 8f.; 42, 5; the news of his death reached Rome early in the consular year 196/5). Livy, or his sources, evidently omitted the notice of Fulvius' death. Bardt, Priester, 9f., argued that he must have died very soon after 205, or we should have heard of his activities in 205-1 as 'einer der namhaftesten Helden' of the war; but, obviously, he could have been alive but incapacitated.

16. cf. infra 625 ff., passim 1-4.

17. RP 87.

18. For Crassus, above n.12; for Metellus, Livy, 29.20, 1-8; 22, 1-6; 23, 3-4; 27, 2. Münzer, RE s.v. Caecilius no.81; Schur, Scipio, 15; Scullard, RP 76f.; Cassola, I gruppi, 408ff.

19. I gruppi, 421ff.

20. In 209, Cethegus advanced Torquatus' name as princeps senatus (Livy, 27.11, 9-12); in 210, they had co-operated (Livy, 26.32, 2; 26, 8) over the attack on M. Claudius Marcellus' behaviour in Spain.

Torquatus is himself a controversial figure, though unlikely to be closely associated with Scipio.²¹

On the other hand, for one or two members of the college there are clear indications of hostility to the group represented by Crassus and Metellus; thus Servilius Caepio was the consul of 203, who made overt and persistent attempts to compete with Scipio for the African command;²² and Fulvius Flaccus, if he was still alive in 200, was deeply committed to the opposition to Scipio.²³ C. Servilius Geminus, on the other hand, had played a far more ambiguous role in the events of 203; when Caepio (a fairly distant relation) made his attempt to cross to Africa, Geminus who was his colleague in the consulship, appointed as dictator

21. For discussion of Torquatus' politics cf. Münzer, APF 24f.; 98f.; 187; Schur, Scipio, 107f.; 123ff.; Scullard, RP, 58; 70; all of whom connect him with the Fabian group. M.L. Patterson, T.A.P.A. 73(1942), 319ff.; T.A. Dorey, A.J.P. 80(1959), 291; are both more hesitant; L.R. Taylor, A.J.P. 73(1952), 302f. argues that he was a supporter of Scipio. cf. also, Cassola, I gruppi, 423.
22. Livy, 30.1,8; 3,1; 19,10-12; Cassola, I gruppi, 415f.
23. This is quite clear from Livy, 28.45,2-7 for the year 205; Flaccus' politics are a crucial problem for the analysis of third century groupings cf. Münzer, APF, 208ff.; Scullard, RP, 37f.; who regard Flaccus as having broken with his traditional friendship with Fabius after an incident in the late 230's (on which cf. *infra*, 422ff.); contra, Cassola, I gruppi, 339ff.

P. Sulpicius Galba Maximus, the very consul of 200 whose vow we are discussing²⁴ who recalled Caepio from Scily; he in turn nominated as 'magister equitum' Geminus' brother Marcus.²⁵ In the same year, M. Livius Salinator was also co-operating with Geminus, but again in a context which does not make it clear in whose interest they were working together.²⁶ Scullard's²⁷ view of all this is that a number of gentes which had previously been amici of the Scipios, abandoned them and joined the middle group; these gentes were the Livii, Servilii Caepiones and Servilii Gemini. It will be seen that this conclusion is of the first importance for the political complexion of the pontifices in 200, for on this analysis over half the college - two Servilii, two Sulpicii and one Livius - apparently belonged to this new anti-Scipionic group. Add to these the doubtful Cethegus and the hostile Fulvius Flaccus and Crassus' attempt to hinder the consul begins to look incomprehensibly futile.

The two Sulpicii are particularly important in this context because they were both co-opted after the events

24. Livy, 30.24,3-4; MRR 1.311.

25. id., 30.24,4; MRR 1.311.

26. Livy, 30.23,1.

27. RP, 78ff.; 277f. cf. Schur, Scipio, 129ff.

described above, successors to Fabius Maximus, who died in 203 and Manlius Torquatus, who died in 202.²⁸ The second of these co-optations is particularly interesting since the presence of two members of the same gens is unusual though not, I believe, illegal.²⁹ One could presumably say that it was at this date that the Scipionic faction lost control of the college; before this, Crassus and Metellus would have counted on the support of the Servilii and Livius to give them a majority of the nine members; after the revolt of the Servilii and the death of Fabius they found themselves controlling only two of the eight effective votes for his successor. This is an attractive hypothesis; nor should it be forgotten that Scipio Africanus himself might well have wanted to become a pontifex for, as far as we know he never held a major priesthood.³⁰

This whole construction is, however, fragile. It depends on proving that the activities of the two Gemini, of Livius and of Sulpicius Galba in 203 were intended to help Caepio in his rivalry with Scipio; but this depends on the purpose for which the dictator was appointed, on

28. cf. *infra*, 626, *ponts.* 8 & 9.

29. cf. *infra*, 658ff.

30. He was a Salius, cf. *infra*, 291

which matter we have two traditions, both given by Livy.³¹ If he was appointed simply to hold elections, it remains possible that Scullard's view is right; but the alternative version is that the dictator was appointed to procure the recall of Caepio 'pro iure maioris imperii'. Livy,³² in fact, states quite specifically that Caepio was in fact so recalled by Galba, and this is a notice which we have no solid reason to question. Scullard's case really rests in this case on the assumption that the two families of Servilii must have been co-operating and this is once again an unacceptable assumption.

31. Livy specifically states at 30.24,3 that Sulpicius was appointed dictator in order to recall Caepio ('Dictator ad id ipsum creatus P. Sulpicius pro iure maioris imperii consulem in Italiam revocavit'). The Fasti Cap., however, (Degrassi, 46f.; 120f.; 450f.) and some of the sources reported by Livy, 30.26,12, regarded him as dictator to hold the elections in the absence of both consuls; but there seems to be no solid reason to doubt Livy's explicit statement that the dictator did, in fact, recall Caepio; dictators could be appointed for more than one function (Livy, 27.33,6) or carry out different functions from those originally specified (Livy, 23.24,1; 30.39,8) So Cassola, I gruppi, 412ff. Other scholars have generally regarded the Servilii as a united gens: Münzer, APF 132ff.; Haywood, Studies, 56f.; Scullard, RP, 78ff.; 277f.
32. 30.24,3.

We must therefore look again at the attitude of the college in 200. There seem to be at least four members whom one would expect to be favourably inclined to the Scipios - Crassus, Metellus, Geminus and Salinator - one and perhaps a second clearly hostile - Caepio and Flaccus, if he was still alive - the rest doubtful. It might seem that we could at least assume that the Sulpicii would support their kinsman and oppose Crassus, but this too is, I think, an arbitrary assumption. Galba the consul was after all not operating in this case on his own initiative; it was not so far as we know his own idea that the vow should be rewritten in this respect and we have therefore no reason to think that he or his family would be committed to a particular view of the case.

At this point, the attempt to explain these events in strictly political terms seems to me to have broken down completely. We can explain in this way neither why Crassus took the action he did nor why the college opposed his line. But it is possible to go further than this; the assumption behind our discussion has been that the college would have voted according to its group allegiances and that if we knew enough about these we could predict how each member would have voted on this issue. But in fact there does not in this case seem to be anything at issue which is relevant to any group conflicts there may have been; certainly there

is nothing in the ancient sources to suggest so. What is at issue is quite simply the correct procedure for taking a State vow; that is to say there is a conflict over the state of the pontifical law on this point. Crassus took one view in the senate; the college then examined the matter and arrived at the opposite conclusion. They had at their disposal a body of traditions and precedents recorded in the college books and the decision they gave was a decision on a point of law. The modern analysis of this incident and others like it rests on the assumption that such decisions were made with reference solely to current political advantage; in this case at least the assumption is completely arbitrary.

Perhaps, too, we can illuminate the attitudes of both sides by parallel material. In the case of Crassus, we know over the course of his long tenure of the office of a number of occasions when he insisted on the maintenance in precise detail of ancient traditions and his reputation in the sources is as a conservative; in 211, he insisted on the resignation of the flamen Dialis for careless performance of his duties;³³ in 209, he exercised his right to insist on the inauguration of an unwilling flamen;³⁴ in 206, he whipped a Vestal who had allowed the sacred flame to go

33. Livy, 26.23,8; cf. *infra*, 288 and n. 30

34. *id.*, 27.8,4ff.; cf. *infra*, 310ff.

out;³⁵ in 205, as consul he refused to leave Italy for religious reasons;³⁶ in 194, he insisted on the repetition of the *ver sacrum* as we shall see below;³⁷ in 189, he prevented the flamen Quirinalis from leaving Rome;³⁸ some of these incidents have been interpreted in political terms though none convincingly; in any case, taken together they offer ample evidence that Crassus took it upon himself to be the strict guardian of religious tradition and it is in precisely on this tradition that he seems to act in 200.

The rest or rather the majority of the college are apparently thinking in rather different terms. We can again produce evidence which shows similar attitudes to theirs at this time; several times in the course of these years, the senate exercises its discretion over the expenditure to be allowed for games;³⁹ we shall consider below a case where the college seems to follow its precedent of 200.⁴⁰ We do not know how the college justified its decision in legal terms; but as far as we can judge, Crassus was right in his interpretation of the existing law and what the college

35. *id.*, 28.11,6.

36. *id.*, 28.28,12; cf. *infra*, 280.

37. *below* pp. 240 ff.

38. Livy, 37.51,1ff.; cf. *infra* 246 ff.

39. cf. *below* n. 77.

40. cf. *below* pp. 251 ff.

in substance does is to allow an innovation on practical grounds. The real conflict here is between rigidity and adaptability.

During the course of the next few years, four members of the college died and were replaced: the two Sulpicii by M. Aemilius Lepidus (cos. 187) and Cn. Cornelius Scipio⁴¹ (cos. 176); M. Cornelius Cethegus by L. Valerius Flaccus⁴² and C. Sempronius Tuditanus by M. Claudius Marcellus.⁴³ These latter co-optations were made in 196, Marcellus being the consul of that and Flaccus of the following year.⁴⁴ These four co-optations are of key importance to the political history of the pontifices and in fact of group politics for this period. The apparent explanation is that the election of Aemilius and Scipio in 199 represents the consolidation of the Scipionic control of the college, which hereafter persists at any rate until the end of the 180's when Aemilius is in a position to bargain away a place in the college in return for political support. At first sight, this interpretation of the events of 199 seems inescapable; we have seen that the Scipionic support in 200

41. Livy, 32.7,15; cf. *infra*, nos. 10 and 11. p. 626.

42. *id.*, 33.42,5; cf. *infra*, no 12. p 626.

43. *id.*, *ib.*; cf. *infra*, no 13, p. 626. This is the only notice we have of Tuditanus' pontificate cf. above 229.4.16.

44. MRR 1.335 (Marcellus); *ib.*, 339 (Flaccus).

is apparently perfectly well established and that the decision of 200 does not seriously suggest otherwise; the election of a Scipio and an Aemilius is therefore exactly what one would expect.

The difficulty begins with the co-optations of 196. M. Claudius Marcellus is a comprehensible, though hardly the expected, choice; his own career gives us only the slenderest indications of his politics, but he seems to be co-operating with Q. Caecilius Metellus in 193⁴⁵ and was perhaps attacked by Cato in consequence of his censorship of 189;⁴⁶ on the other hand, it seems certain that his famous father was an associate of Q. Fabius Maximus⁴⁷ and it is therefore difficult to regard him as a reliable friend of the Scipios. It is the second co-optation of 196 which

45. Marcellus wrote to the senate to oppose the request of the consul Cornelius Merula for a triumph; Metellus moved an adjournment of the senate to allow Marcellus to come and substantiate his charges. For the politics of Marcellus, cf. Scullard, RP, 122, but below 257ff. for criticism. But if Marcellus was an ally of the Scipios, Merula provides an interesting example of a Cornelius not supported by the Cornelian group.
46. Cato refers to censors in fgt. 50 (ORF²) from his speech 'Dierum dictarum de consulatu suo'; Fraccaro, Stud. stor. 1910, 152f. (cf. Kienast, Cato der Zensor, 154ff.) identified these censors as those of 189 (Marcellus and T. Quinctius Flaminius); but cf. Malcovati, ORF², p.20; Scullard, RP, 258; A.H. McDonald, JRS 28(1938), 162; for the arguments for a somewhat earlier date.
47. There is fairly general agreement about the friendship between Fabius Cunctator and Claudius Marcellus, Cassola, I gruppi, 315ff.; contra, L.R. Taylor, A.J.P. 73(1952), 304.

is really quite contrary to expectation; L. Valerius Flaccus was Cato's patron at Rome and universally regarded as his close friend;⁴⁸ they were colleagues in the censorship of 184⁴⁹ and apparently co-operated throughout the very controversial measures of their joint magistracy. They are often regarded as the heirs of the Fabian group of the Hannibalic Wars. but this point is more doubtful.⁵⁰ Thus we have to face the dilemma that a college whose Scipionic element seemed strong in 200 and stronger still in 199 was prepared in 196 to elect one of Scipio Africanus' leading enemies to a place which even Africanus himself might well have liked to hold. Before considering how this dilemma might be resolved, it will be helpful to examine the political activities of the college in the following years. The membership remains unchanged from 196 until the death of Licinius in 183; the members were:

Patricians: Cn. Servilius Caepio.

M. Aemilius Lepidus.

Cn. Cornelius Scipio.

L. Valerius Flaccus.

48. Nepos, Cato 1.1; Plut., Cat. Mai. 3.1-4; Auct. de vir ill., 47.1.

49. Cic., sen. 19; Nepos, Cato 2.3; Livy, 39.42,5-44,9; Plut., Cat. Mai. 17-19; Flam. 18.3-19.4; Scullard, RP, 153ff.; Kienast, op.cit., 65ff.

50. cf. e.g., Fraccaro, Opuscula 1. 118-19; F.della Corte, Cato censore, 105; 145; Scullard, RP, 110f.; Cassola, I gruppi, 347f.

Plebeians: P. Licinius Crassus Dives.
 Q. Caecilius Metellus.
 C. Servilius Geminus.
 C. Livius Salinator.
 M. Claudius Marcellus.

In 194, Licinius tried his hand at direct intervention once again; this time he was more cautious in his approach than he had been six years earlier, for he consulted his colleagues first and brought his case to the senate with their approval.⁵¹ The consuls of 195, Cato and Valerius Flaccus, had celebrated a *ver sacrum* on the instructions of the senate and in fulfilment of a vow taken during the Hannibalic War; Licinius objected that the ceremony had not been rightly carried out. The senate were forced to agree and the *ver sacrum* was duly repeated in the following year, 194, when the consuls were Scipio Africanus and Ti. Sempronius Longus.⁵² Our knowledge of these two incidents in the 190's is derived solely from short notices in Livy; but he gives us rather more detail in reporting the taking of the vow and, indeed, there quotes the text of the vow taken.⁵³ We know, too, something of the mythical background of the story.⁵⁴

51. Livy, 34.44,1-3.

52. First celebration, 33.44,1-2; second celebration, 34.44,2-3.

53. Livy, 22.9,10ff.

54. cf. in general, Marquardt, *Staatsv.*, 3³.370; Wissowa, *R.u.K.*, 145; Roscher, *Myth. Lex.*, 2.2.204ff.; Schwegler, *R.G.*, 1.240; de Sanctis, *St. d. R.*, 4.2.1.318; J. Heurgon, *Trois études sur le 'ver sacrum'* (1959).

This is the only occasion in Roman history, or even in history, when we hear of a *ver sacrum* actually carried out; but it is well known that certain Italian tribes particularly the Sabelli had resort according to myth to the device of dedicating the whole of a year's increase both of beasts and children to the gods.⁵⁵ Sometimes, all the offering was simply sacrificed while the children were simply led away from the tribe unharmed but exiled; they might found a new home for themselves and to this end were sometimes said to have been led by the sacred animal of the god. In this form, the story appears as an aetiological myth explaining the dispersion of Sabellian tribes in various parts of Italy. The myth does not seem to have been confined to the Sabellians⁵⁶ nor, indeed, entirely confined to Italy,⁵⁷ but we have no indication that it was ever practiced at Rome before or after 195 and 4 and certainly none that it was a traditional Roman ceremony. It might presumably have reached Rome via the Sabines in the archaic period. There is nothing in Livy's account of the taking of the vow to suggest that such a thing had ever

55. Festus (ep.) 519 L = 379 M; Strabo, 5.4,12; Dion. Hal., A.R. 1.16,4; 2.42,2ff.; Pliny, N.H. 3.109; cf. also Festus (ep) 235 L = 212 M; and, for the Mamertini, Festus 150 L = 158 M; Heurgon, op.cit., 20ff.

56. For a case among the Etruscans, Heurgon, op.cit., 11ff.

57. Though the non-Italian cases are all somewhat speculative cf. e.g. Borgeaud, Les Illyriens en Grèce et en Italie, 97ff.

happened before at Rome; he simply reports that the Sibylline books recommended this course and that the pontifices being consulted about the procedure for the vow ruled that the vow could only be taken with the support of the comitia 'iniussu populi voveri non posse'.⁵⁸ It would clearly be unfair to infer from this that the pontifices could cite precedents for this particular ceremony, they may simply be applying some general rule. It seems safest to regard the ceremony as an innovation, brought in to meet the unprecedented crisis after Cannae.

If this is so, the text of the vow gives us valuable evidence of the religious authorities' desire to humanise a barbarous institution. In the first place, children are excluded altogether from the sacrifice, which refers only to 'quod ver attulerit ex suillo ovillo caprino bovillo grege'.⁵⁹ Secondly, the senate and people reserve the right to appoint the period during which the sacrifices are to be carried out.⁶⁰ Thirdly, there is a series of regulations to avoid the possibility of having to repeat the ceremony as a result of ritual errors; thus, the

58. Livy, 22.10,1.

59. id., ib. 3.

60. id., ib. ; cf. below, 243f.

ceremony need not be repeated as the result of the accidental killing or maiming of a beast which ought to have been sacrificed⁶¹ and there was to be no limitation on how, when or by whom the sacrifices were carried out.⁶² Finally, the very fact that all this was to be incorporated into a vow and carried out conditionally on the gods' help in the war, gives the incident a quite different character from that of the mythical context we know from elsewhere, for the sacrifice is not an appeasement in time of trouble, but a reward offered in return for their help.

The notice which Livy gives us under the year 194, when he reports the second celebration of the *ver sacrum*, offers a little more light '*ver sacrum videri pecus quod natum esset inter kal. Martias et pridie kal. Maias P. Cornelio et Ti. Sempronio consulibus.*' This adds the valuable information that the senate appointed not only the day on which the sacrifice was to start but also the day from which the spring was deemed to start and to finish; it seems reasonable to suppose that the last day of the appointed spring was also the first day of the sacrifice, in which case this point is covered by the text of the vow - '*fieri, ex qua die senatus populusque iusserit*'. The

61. *id.*, *ib.* 5.

62. *id.*, *ib.* 4; 6.

appointment of the starting day is more problematic and there is a difficulty in Livy's notice quoted above; for the consular year at this date began on the Ides of March⁶³ and it follows that kal. Martias ... P. Cornelio et Ti. Sempronio consulibus' would fall not in 194 but 193. McDonald⁶⁴ reports that the manuscripts with the exception of the Moguntinus read id. or idus' Maias for pridie kal. Maias; and it would be tempting to suggest that the text originally read 'inter id. Martias et pridie kal. Maias'. If so, the beginning of spring will simply have been presumed to co-incide with the beginning of the consular year.

The details of this are not unimportant, for as Professor Heurgon⁶⁵ has recently observed, these dates of

63. For Livy's notice, 34.44,3; for the date of the consular year, cf. Livy, 33.43,1; Heurgon, Trois études, 46f., has read great significance into the date Kal. Mart., for this was the date of the great Mars festival (feriae Marti, cf. Wissowa, R.u.K.², 144) and the ver sacrum in its Italian version was always connected with Mars not with Iuppiter as at Rome or Apollo as in the case of the Mamertini (Heurgon, op.cit., 20ff. = M.E.F.R. 68(1956), 63ff. For the role of Mars, cf. Strabo, 5.4,12; but for scepticism about it, Wissowa, R.u.K.², 145 n.7; cf. G. Hermansen, Studien über den Ital. u. den Röm. Mars (1940), 98ff. But Heurgon, op.cit., did not notice the difficulty here discussed; moreover, the final date of the ver sacrum seems to have no particular significance, which supports the suggestion that the dates are convenient rather than of religious significance.

64. O.C.T., ad loc.

65. Trois études, 48.

the Roman calendar are known to be four months in advance of the Julian calendar; thus March and April correspond to November and December and if we are to rely on the dates which Italian agriculturalists recommend, this is earlier than the season in which the bulk of the year's lambs, calves, piglets and kids will have been born;⁶⁶ so, by the device of appointing a limited spring of this kind the senate apparently avoided the destruction of the year's increase of beasts and left the ceremony as a large-scale but not destructive sacrifice.

From these data, we can to some extent reconstruct the procedure followed. The senate appointed that the animals born between two specified dates were to be regarded as 'ver sacrum'. The duty of conducting the actual sacrifice fell evidently not on the authorities but on the individual owner or his slave;⁶⁷ presumably, the ceremony only applied on the farms of Romans since the vow was taken specifically by the Roman people. The formula of the vow covered the Roman people against the possibility of formal or religious errors by the sacrificers, though not apparently against the deliberate refusal of farmers and we do not hear of any effort being made to enforce compliance. Whether there was any corresponding ceremony by magistrates or

66. op.cit., 49f.

67. cf. 22.10,6: '...si servus sive liber faxit...'

priests in the city we are not told.

It might seem problematic that after such elaborate precautions to prevent the necessity of repeating the ver sacrum, precisely that situation should nevertheless have arisen; it would obviously be very valuable for us to know exactly what objection Crassus made to the first performance. At first sight, Livy's second notice, which gives the precise dates whereas the first notice gives none, seems to suggest that it was the dates or absence of dates for the first ver sacrum which contained the mistake; but, as always, it is probable that the annalists recorded or failed to record such things more or less at random and arguments based on such points are therefore unreliable. In fact, however, the whole question is unprofitable; religious observances at Rome had to be repeated if there was even a minimal departure from the correct procedure and it is useless to speculate. Heurgon's study of the dates has at least established that the second ver sacrum will not have led to the total destruction of the flocks of the ager Romanus and one can add that it is highly probable that the dates for the first were similar if not the same for Livy reports that the ceremony happened before

the consuls of 195 had left for their provinces.⁶⁸ Further we cannot go.

Again, a political interpretation has been offered.⁶⁹ The consuls responsible for the first celebration were Cato and Valerius Flaccus; for the second Scipio Africanus and Ti. Sempronius Longus (whose political affiliations are uncertain, but family connections, perhaps with the Scipios).⁷⁰ Thus the effect of Crassus' intervention was to remove the credit for the *ver sacrum* and its conduct from Cato, his and Scipio's enemy, and give it to Scipio himself. This explanation seems not unattractive; honour was derived from the successful performance of ceremony and Cato would no doubt be slighted by the repetition; again, one need not think of a deliberate falsification by Crassus, but rather

68. cf. Livy, 33.44,1: 'Provinciis ita distributis consules, priusquam ab urbe proficiscerentur, *ver sacrum* ex decreto pontificum iussi facere,...'. Heurgon, op.cit., 45f., seems to assume without argument that the objection to the previous ceremony must have lain in the fact that the '*ver*' was vaguely or differently defined on that occasion; but the fact that Livy happens to mention the dates for the second celebration and not for the first, does not prove that there were no dates fixed for the first celebration nor even that the dates were in any way different.

69. Scullard, RP, 118.

70. cf. Scullard, RP, 43. Longus and Africanus co-operated on campaigns in N. Italy in this year (MRR 1.343), but nothing politically relevant emerges from our accounts.

of his deliberately searching for possible mistakes to discredit Cato if possible. Two points, however, seem to me to weigh heavily against this thesis; first, the parallel evidence already quoted about Crassus' record for the scrupulous maintenance of the religious law;⁷¹ secondly, the so recent election of Valerius Flaccus, the very consul who is alleged to be the victim of Crassus' machinations, to the college of pontifices itself.⁷² No doubt, Crassus' motives may have been complex; in the circumstances, his contemporaries as well as modern scholars might have been inclined to wonder about the reasons behind his intervention. But if the college contained, as it must have done, an element, if not a majority, of Valerius' friends, the conclusion is irresistible that Crassus must have had a strong point to make in terms of the *ius divinum*. We do not know what it was and can follow the argument no further.

The next series of incidents in which the college is involved was concerned with the affairs of Fulvius Nobilior and here the political implications are overt. At the beginning of 187, M. Aemilius Lepidus, consul and pontifex

71. cf. above 235f.

72. cf. above 238ff ; below, 257ff.

was engaged in a comprehensive attack on Fulvius Nobilior, at this time still in Greece, where he had been campaigning since his consulship in 189;⁷³ amongst the allegations which Lepidus made, one was that he had been responsible for the plundering of temples in Ambracia, whose capture had been one of his achievements.⁷⁴ In the decree which the senate eventually passed against Fulvius, they included, according to Livy, the following provision: 'signa aliaque ornamenta, quae quererentur ex aedibus sacris sublata esse, de iis, cum M. Fulvius Romam revertisset, placere ad collegium pontificum referri, et quod ii censuissent, fieri.' This decree is of interest for several reasons; first, it is clear from Livy's narrative at this point that Lepidus was in a commanding position in the senate during this debate and therefore extremely probable that he engineered this senatus consultum to suit his own interests; if so, he must have felt that the college was likely to share his hostility for Fulvius. Secondly, in a wider sense, the decree seems to involve an astonishing increase in the political range of the college of pontifices; for they are being asked to deal with a

73. For Lepidus' attacks, cf. Livy, 38.42,8ff.; 43-44,6; 39.4-5; Scullard, RP, 141f. For Fulvius' campaigns in Aetolia, Livy, 38.3-10; 28, 5ff.; Pol. 21.25-32; MRR 1.360; at the end of his consular year his imperium was prorogued (Livy, 38.35,3) and he was active in various parts of Greece during 188/7; Livy, 38.29ff.; Pol. 21.32; MRR 1.366; cf. 369. For the chronology of his activities, Holleaux, BCH 54(1930), 1ff. F.W. Walbank, Philip V of Macedon, 333.

74. 44.43,5; 44,5.

question which apparently involves the rights of temples outside Italy not to say points of foreign policy and international law. Thirdly, the question dealt with is one which causes recurrent trouble during the second and first centuries, that is the ability or inability of the senate to control its aberrant proconsuls; one might suspect that Lepidus and the senate were here considering the use of the religious machinery at Rome to control at least one aspect of their behaviour.

For all these reasons it is therefore of the greatest interest to this study to establish what did happen when 'M. Fulvius Romam revertisset.' Here, however, our sources completely fail and it is necessary to reconstruct events from the flimsiest of clues. Livy never reports that the pontifices were consulted as the senate had decreed. In his narrative of Fulvius' actions in Rome when he returned there, he does mention the pontifices twice. First,⁷⁵ in the speech which he reports Fulvius to have made to the senate, he gives the following: 'iam de deorum immortalium templis spoliatis in capta urbe qualem calumniam * * * ad pontifices attulerit? nisi Syracusarum ceterarumque captarum civitatum ornamentis urbem exornari fas fuerit, in Ambracia una capta non valuerit belli ius.' The lacuna after 'calumniam', inserted by the editors, seems likely to have been of some

75. 39.4, 11ff.

length, unless indeed the words are deeply corrupt; but the sentence which follows makes it clear enough that Fulvius' argument was that it had been the normal custom for Roman generals to pillage conquered cities and that the reference of the matter to the pontifices was therefore irrelevant and impertinent. In the present state of the text it is evidently impossible to decide whether Livy was implying that the college had actually discussed the matter; in any case, in a speech of this kind such a detail would not necessarily be reliable.

The second reference to the pontifices is simpler and less problematic.⁷⁶ Fulvius, when eventually granted his triumph, told the senate that he had vowed special games on the day he conquered Ambracia, and that for this purpose he had reserved a special fund; he asked permission to keep this fund back from the money which he would be carrying in his triumph and then placing in the aerarium. 'senatus pontificum collegium consuli iussit, num omne id aurum in ludos consumi necesse esset. cum pontifices negassent ad religionem pertinere, quanta impensa in ludos fieret, senatus Fulvio quantum impenderet permisit, dum ne summam octoginta milium excederet'. It is clear that the issue being dealt with here falls within the normal range of the pontifices' interests

76. 39.5,9f.

both vota and ludi being their special responsibilities; to a certain extent, it would seem that their responsum is hostile to Fulvius, who clearly would have liked them to have declared that the whole of his fund could only have been used on his ludi votivi. Even here, however, it is hardly fair to see direct hostility as the pontifices' only reason for their decision, for there does seem to be at least some degree of consistency in the attitudes they take towards the question of expenditure on the games;⁷⁷

77. Thus, in 200 (above 223⁴), they decided that there need be no special fund to finance State ludi votivi; here they decide that a commander's own fund for the ludi, need not be used for that purpose alone; in both cases, they leave the ultimate decision to the senate's discretion. The problem of Fulvius' fund was in a sense the senate's own fault, for when P. Cornelius Scipio asked for a grant from the aerarium to pay for his ludi votivi, in 191 the senate decreed: '...quos ludos inconsulto senatu ex sua unius sententia vovisset, eos vel de manubiis, si quam pecuniam ad id reservasset, vel sua ipse impensa faceret.' (Livy, 36.36,1-2). This amounted to an invitation to commanders to collect money for this purpose, and their reference of the present point to the pontifices represents their first attempt to control the possible abuses implicit in the system. These abuses later become controversial nevertheless, cf. Livy, 39.22,8-10 (Valerius Antias' allegations about the behaviour of L. Scipio); Livy, 40.44,8-12 (the ludi votivi of Q. Fulvius Flaccus in 179, when the senate referred back to the decree of 187, but also to an otherwise unknown decree of 182, passed to restrain Ti. Sempronius Gracchus' collection of money for the games he celebrated as curule aedile). It emerges clearly that the fixing of limits for games, State votive, private votive and regular, was the senate's business not the pontifices', a situation which the pontifices themselves supported.

moreover, the effect of their decision is only to leave discretion to the senate, who themselves set the limit to Fulvius' expenditure.

This second incident, then, throws little light on the outcome of the issue of Fulvius' spoliation of the temples even if it to a limited extent supports the view that the majority of the priests were, at least, not warm supporters of Fulvius himself. There are other indications which make it generally probable that the college either never discussed the issue of Fulvius' spoils or, if they did, made no positive recommendation about them. It would seem that the case which Lepidus had tried to build up against Fulvius' behaviour in Ambracia, must have collapsed at least in effect as soon as the senate had allowed his claim to a triumph.⁷⁸ Aemilius had tried to arrange that this issue should be delayed until he himself had returned to Rome from his province, but the tribune who was representing him was persuaded to withdraw his veto and Fulvius brought the date of his triumph forward to anticipate further opposition to its celebration.⁷⁹ Livy's report of the debate makes it clear that the opposition to Fulvius' triumph was specifically based on the allegations which

78. cf. Livy, 39.4-5,6 for the debate, in which the intervention of Ti. Sempronius Gracchus was decisive; cf. below, 263 ff.

79. Livy, 39.5,11f.

had earlier caused it to pass decrees condemning Fulvius' behaviour in Ambracia and therefore their voting of his triumph must by implication have shown that they had changed their minds; we do not know whether the previous SCC were withdrawn and Fulvius could still presumably have been attacked in the courts, but he was not, so far as we know. But the case against the spoliation of the temples must have been dependent on the larger question of the legality of the war. That is to say, Lepidus had argued that the whole war was illegal as far as the Ambracian campaign was concerned; Fulvius denied this. Aemilius further asserted that the spoliation of the temples was illegal and we must assume that this claim was based in law on the argument that if Ambracia was not legally a conquered country, then Fulvius could not legally treat it as such. For, as Fulvius in Livy argued, it was the universal Roman practice to pillage the temples of a conquered country,⁸⁰ and it is difficult to believe that Lepidus was questioning this. Thus if the senate by granting a triumph was withdrawing its criticism of the campaign on a whole, it must *a fortiori* have withdrawn its criticism of the spoliation of the temples as well. But in fact we have more direct evidence than this, for we

80. id., 39.4,12. We know of examples of Romans showing respect for foreign gods and temples (Aemilius' Paullus before Pheidias' Zeus, Pol. 30.10,6; dedications at Delos, Inscr. de Délos, 1850-53; M. Guarducci, Atti Pont. Acc. Rendiconti 13(1937), 41ff.) or protests at pillaging at least in friendly territory (cf. below 255ff.; Cic., Verr. Actio 2, passim); but it is clear enough that Rome was stocked with Greek works of art, pillaged from temples in the East by the end of the second century (cf. e.g. Livy, 45.28,3; Plut., Sulla 12,3) and Fulvius was therefore presumably doing nothing very unusual; cf. in general, Latte, RRG, 280f.

know of spoils which Fulvius brought back from Spain and which he proceeded to dedicate in the temple of Hercules at Rome;⁸¹ if he was able to do this, the pontifices must have recognized, whether formally or by default, his right to bring them back in the first place. The most probable explanation, therefore, of the silence in Livy as to the decree of the pontifices as to Fulvius' spoils, is that there never was such a decree.

It would seem then, that this aspect too of Aemilius' attacks on Fulvius was in the end a complete failure. It is nevertheless important to try to assess what exactly the implications of the decree were and how this matter was held, even if briefly, to fall within the pontifices' province. An incident occurred rather more than ten years later which forms in some ways an illuminating parallel. The magistrate involved was in this case another Fulvius, Q. Flaccus during his censorship in 174. He was engaged in building a temple in Rome and to enhance its glory he gave orders for the roof of the temple of Iuno Lacinia in Bruttium to be removed and brought by sea to Rome.⁸²

According to Livy's story the work was actually in progress

81. cf. *infra*, 190.

82. Livy, 42.3, 1-11; Val. Max. 1.1, 20.

before news of the censor's sacrilege was heard in the senate; they protested vigorously, passed a senatus consultum and ordered that the roof should be returned to its original state. The interesting point for our purposes is that the senate orders the restitution and also orders piacularia for the sacrilege without any consultation of the priests. The difference between the two cases, is that while Fulvius was acting against Greeks who were either enemies or, on Aemilius' view neutrals, Flaccus was acting indisputably against Roman socii.

A comparison of the two incidents suggests that the pontifices were only involved in the matter at all in 187, because there was some doubt as to the legal points in the matter; this brings the incident more into line with the kind of topic on which the pontifices are normally consulted. They were in other words asked to decide whether for the purposes of religious law the Ambraciots counted as a conquered people or not. If this is right, it is perhaps surprising that it was the pontifices and not the fetiales who were consulted on the issue and this is a point to which we shall return elsewhere.⁸³

It is now time to return to the study of the members of the college and the successive co-optations of the 190's.

83. cf. *infra*, 757 n. 72.

Is there adequate reason to regard the college at this period as being dominated by friends of Scipio Africanus? We have seen that neither their action over the *ver sacrum* nor their decree on Fulvius Nobilior's special fund shows any particular political attitude;⁸⁴ Lepidus may have thought that he could sway the college on the Ambracian spoils but we do not know either why he thought so, nor whether he was right. Can we demonstrate conclusively that the members were in fact members of the Scipionic faction? The men who have been regarded as such amongst the membership from 196 - 183 were: Patricians - M. Aemilius Lepidus and Cn. Cornelius Scipio; Plebeians - Crassus the pontifex maximus, Q. Caecilius Metellus, C. Livius Salinator and we might add C. Servilius Geminus on the basis of the arguments adduced above. We have already seen that the co-optation of Lepidus and Scipio in 199 appears to establish the control of the Scipionic faction, which had previously been in doubt.

Cn. Cornelius Scipio Hispallus was probably the son of the consul in 222, Cn. Cornelius Scipio Calvus, who was Scipio Africanus' father's brother, so that Hispallus and Africanus were first cousins;⁸⁵ perhaps another possibility

84. above 240 ff.; 248 ff.

85. Münzer, RE 4.1.1492f.

would be that Hispallus was grandson of Calvus, and therefore first cousin once removed of Africanus;⁸⁶ there is no doubt that they were closely related. His career offers little clue as to his politics; he was consul in 176⁸⁷ and his colleague was one of the Petillii who played a leading role in the fall of his cousin Africanus,⁸⁸ but we have no indication as to whether the consuls of 176 were amici or not. M. Aemilius Lepidus is a very much better known figure; he first came to prominence as a very young man when he was the junior member of the delegation to Philip of Macedon and conducted negotiations with him by himself;⁸⁹ he became pontifex in 199,⁹⁰ curule aedile in 193⁹¹ and praetor in 191;⁹² at this point, his career became far less

86. The gap between the consulship of Cn. Cornelius Scipio Calvus (222; MRR 1.232f.) and that of Hispallus (176; MRR 1.400) seems extraordinarily, though not impossibly, long, if Hispallus was Calvus' eldest son; but, his ~~relation~~ praenomen appears in Fasti Cap. (Degrassi, 48f.; 122; 458f.) as Cn. f. L. n., which would be wrong for Calvus' grandson.

87. MRR 1.400.

88. For Petillius' notorious tribunate, cf. Antias, fgt. 45 P; Livy, 38.50-55; 58,1; 39.56,3-4; Gell., N.A. 4.18,7-12; MRR 1.368.

89. Livy, 31.2,1-4; 18,1; Pol., 16.27; 34,1-7; cf. Tac., Ann. 2.67; App., Mac. 4; Val. Max., 6.6,1; Justin, 30.3-4; 31.1-2. For Aemilius' bearing of Romés' ultimatum, Pol. 16.34,1ff.; Livy, 31.18,1-7; Diod., 28.6; Justin, 31.3,3-4. For the mission and its work, MRR 1. 321; 322 n.4; Holleaux, R.E.A. 25(1923), 355f.; Walbank and McDonald, JRS 27(1937), 189ff.; Balsdon, JRS 44(1954), 36; but the whole question is still hampered by the lack of a chronology relating events at Rome to those in the East.

90. Livy, 32.7,15; cf. infra. 626, no. 10.

91. Livy, 35.10,11-12; MRR 1.347.

92. Livy, 35.24,6; cf. 36.2,10-12; MRR 1.352.

distinguished for he suffered two repulsae when standing for the consulship⁹³ and only succeeded in 188 in being elected at his last attempt;⁹⁴ as consul for 187, he was responsible for the attacks on Fulvius Nobilior which we have already discussed and was opposed by his colleague C. Flaminius.⁹⁵ During this phase of his career, his dominant interest according to our sources is the pursuit of his quarrel with Fulvius, whom he held responsible for his two repulsae.⁹⁶ So far, there had been little to mark him out as a consular of the first importance but during the 170's he became successively pontifex maximus,⁹⁷ censor⁹⁸ and princeps senatus,⁹⁹ held a second consulship¹⁰⁰ and celebrated a Ligurian triumph;¹⁰¹ Münzer¹⁰² sought to explain this spectacular rise as the outcome of an agreement between Fulvius and Lepidus and their groups reached in 180; we shall have to examine this question later,¹⁰³ since our present enquiry concerns Aemilius' political associations in the 180's.

93. Livy, 37.47,7; 38.35,1; 43,1.

94. id., 38.42,2; MRR 1.367f.

95. above n. 73; for Flaminius' opposition, Livy, 38.43,7ff.

96. Livy, 37.43,1. For the conflict with Nobilior, below, 266ff.

97. Livy, 40.42,12; MRR 1.390.

98. Livy, 40.45,6-46,16; Cic., de prov. cons. 20; Val. Max., 4.2,1; Gell., N.A. 12.8,5-6; Fasti Cap. (Degrassi, 48f.; 122; 456f.); MRR 1.392.

100. in 175, MRR 1.401f.

101. Act. Tr. Cap. and Urbisalv. (Degrassi, 80f.; 338f.; 555).

102. APF, 200ff.

103. below, 266ff.

Here we must touch on the central political questions of the 180's, the relationship or lack of it between Aemilius' attack on Fulvius and Cato's attack on the Scipios. It has been generally assumed that Aemilius Lepidus and L. Aemilius Paullus belonged to what is called the Aemilian group which was throughout the second century closely allied by amicitia and marriage to the Cornelian group which centred on the Scipiones. L. Aemilius Paullus was engaged at this time in attacking Fulvius' colleague in the consulship, Cn. Manlius Vulso, who had commanded in the East in succession to the Scipios;¹⁰⁴ again, there was opposition to the holding of a triumph by the returning proconsul and again the senate after some wavering, eventually voted the triumph. Now, there is little doubt that Manlius and Fulvius were close political allies¹⁰⁵ and that the actions of Lepidus and Paullus at this date show them to be working in concert ~~at this date~~, though it is more doubtful whether one can reasonably assume that Paullus will have followed the line taken by Lepidus in the 170's.¹⁰⁶ It was apparently shortly after this that Cato began to launch his attacks on the Scipios.¹⁰⁷ The normal explanation of this

104. Livy, 38.44,9-50,3; especially, 44,11.

105. cf. Scullard, RP, 178ff.; 184f.

106. cf. below, 266ff.

107. The date has been much discussed: cf., e.g., Mommsen, R.F., 481 n.135; Fraccaro, Processi, 389 n.2; Niccolini, Fasti, 111;115; Scullard, RP, 297f.

is that an initiative is being taken by the conservatives in reaction to the vigorous action of the progressive Cornelian-Aemilian group, in the persons of Paullus and Lepidus. One side of this construction at least is extremely shaky; there is no evidence whatsoever that Cato would have approved of the activities of Fulvius and Manlius and it is indeed highly probable that he would have supported the actions of both Aemilii.¹⁰⁸ It can still be supposed that even if all three attacks alleging misbehaviour by proconsuls in the East sprang from the same motives, nevertheless the Aemilii would not have approved the attacks on the Scipios for reasons of group allegiance.

How serious is the evidence for an alliance of the Aemilii and the Cornelii at this date? It rests essentially on our knowledge of marriages and adoptions which over a longish period united the Scipiones and the Aemilii Paulli. L. Aemilius Paullus himself was Scipio Africanus' brother-in-law;¹⁰⁹ his son, the great Aemilianus, was adopted by his cousin, the son of Africanus;¹¹⁰ the family connection

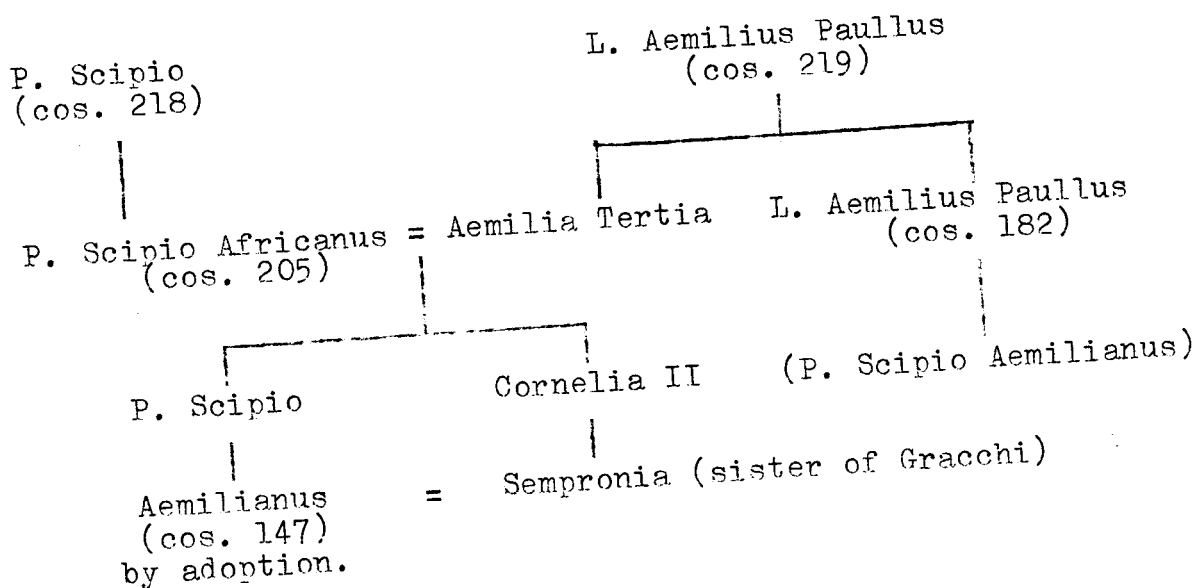
108. For the view that Cato actually attacked Fulvius at the same time as Aemilius Lepidus, cf. H. Meyer, ORF (1842), 52; 95; H. Jordan, Catonis...quae extant (1860), lxxvi; lxxxiv; contra, Fraccaro, Stud. Stor. 1910, 272-80; Scullard, RP, 266f.

109. For Africanus' wife, Paullus' sister, Aemilia, Pol., 31.26, lff.

110. For Aemilianus' adoption, and his various relationships mentioned in the sources: Pol., 31.23,5; 25,9-10; 26,1; 27, lff.; 28,1-2 etc.; Livy, 44.44,1-3; Diod., 30.22; Plut., Aem. 5,4; Münzer, RE Cornelius no. 335, especially 1449ff.

was further enforced when Aemilianus married his adoptive aunt's daughter, Sempronia.¹¹¹ This is not negligible evidence, but there are various important qualifications to it which must be made. First, it is only by a very indirect argument that one can determine Paullus' relationship to Africanus in the 180's; there is nothing impossible about his having opposed his brother-in-law Africanus at this period; all one can say, is that if he did it would be surprising to find him on such good terms with Africanus' son as would seem to be implied by an adoption between the two families, some time after

111. Plut., T.G. 4.2; cf. 1.3; 8.4; Val. Max., 3.8,6; 6.2,3; Oros. 5.10,10.



Africanus' death.¹¹² Secondly, nothing at all in this evidence directly informs us about the political standing of the Aemilii Lepidi; here, one can only say that Lepidus' attack on Fulvius Nobilior and Paullus' attack on Manlius Vulso seem to be the work of men in political alliance; but, by the same token, so does Cato's attack on the Scipiones.

On the other hand, there is one connecting link between the attack of Aemilius Lepidus on Fulvius Nobilior in 187 and the attack of Cato on the Scipios, whether it be dated to 187 or 184.¹¹³ In both cases, Ti. Sempronius Gracchus (cos. 177), was active in defending the commander under attack.¹¹⁴ In both cases, our sources suggest that his motive was not group allegiance but simply a disinterested desire for the good of the State¹¹⁵ and we certainly have

112. We have no real indication of the date of the adoption, but Aemilianus was born in about 185/4 (Münzer, loc.cit.) and apparently stayed in his father's house for some years: '... καλὴν μὲν ἐποδοχὴν εἶχε τῇ μετὰ τοῦ κατὰ φύσιν πατρὸς συμβίωσιν, - - -' (Pol., 31. 25, 10)
113. cf. above, n. 107.
114. For his defence of Fulvius against Lepidus' tribune, 39.5, 1ff.; defence of L. Scipio, Livy 38.52, 9ff. For the date of Gracchus tribunate cf. below n. 117 and literature cited n. 107 above; MRR 1.378.
115. On the subject of L. Scipio, Livy (38.52, 9ff.) indicates that he was actually an enemy of Scipio, but that he subordinated his own opinions to the good of the State; cf. especially, 53, 6: 'Ibi gratiae ingentes ab universo ordine, praecipue a consulibus senioribusque, Ti. Graccho actae sunt, quod rem publicam privatis simultatibus potiolem habuisset, ...'. At 39.5, 1ff., he is reported to have criticized M. Aburius for acting on Lepidus' instructions, his tribunate was: '...mandatum pro auxilio ac libertate privatorum, non pro consulari regno.'

no reason to think him an ardent partisan of any particular group.¹¹⁶ Nevertheless, it is suggestive that there should be this link between the two cases and it would obviously be greatly strengthened if the two trials belong to the same year.¹¹⁷ For this study, the important point which emerges is that there is no strong reason for regarding Aemilius Lepidus as a supporter of the Scipios at any date.

116. For his politics, Fraccaro, Processi, 260-4; Carcopino, Autour des Gracques, 47ff.; Scullard, RP, 295f.; D.C. Earl, Tiberius Gracchus, 4³ ff.; R.M. Geer, T.A.P.A. 1939, 381ff.
117. which would be certain if one could be sure that the attack on Aburius implied that Ti. Gracchus was tribune in that year; for he was certainly tribune when he defended L. Scipio. According to Livy, 39.5,1, he was, in fact, colleague to Aburius, but his actions could as well be those of a privatus and there is a chronological difficulty: M. Aburius threatened that he would veto the senate's decree and was persuaded against doing so by Ti. Gracchus; but Fulvius had originally intended to triumph in January of 186, but when he heard of Aemilius' coming he brought the date forward to 21st December 187 (39.5,13); the tribunician year ended on December 10th, but if Aburius' term ended on December 10th 187, it is hard to see how Lepidus was planning to prevent the triumph. His return is only decided when Aburius withdraws his veto; but the veto would in any case have lapsed long before Lepidus would have returned in the ordinary course of events (Feb. ? 186; he was due to hold the elections (Livy, 39.6,1)). On the other hand, the senatorial proceedings which Aburius threatened to veto and did not, can hardly belong to a date after Dec. 10th 187, if Fulvius actually triumphed on Dec. 21st. The difficulty really refers to Lepidus' plans and there is no difficulty in dating Gracchus' tribunate to either 187 or 186; nor is there very serious reason to doubt Livy's word that Gracchus and Aburius were colleagues.

For the plebeian members of the college, the problems are different and there is little decisive progress to be made. We have seen¹¹⁸ that the four supposedly Scipionic members (Crassus, Metellus, Geminus and Livius Salinator) are all men who supported the Scipionic group in the period of the Hannibalic War. In none of their cases is there any serious evidence later than that period to show that they were maintaining their support; it is, of course, the assumption of Münzer's analysis of Roman political life that the policy of family groups can be regarded as static over generations and even centuries let along a mere ten years; but for those who do not accept this general picture, the dramatic events of the ten years after 201 must seem likely to have radically affected the views of politicians and hence to have led to the re-organization of party groupings. The co-optations of the 190's seem to me to provide conclusive evidence that such radical changes had already taken place by 196, when as we have seen¹¹⁹ a college consisting entirely of old supporters of Africanus, one of his relations and an Aemilius supposedly belonging to his group co-opted the son of Marcellus and the colleague of Cato.

118. above, 229ff.

119. above 237ff.

There is a little more information which bears on the relations of Fulvius Nobilior and the pontifices; it is provided by the co-optations of 183 and 180. In 183, the old pontifex maximus Licinius Crassus died and was succeeded by M. Sempronius Tuditanus who had been consul in 185;¹²⁰ two more pontifices died in the plague of 180 - L. Valerius Flaccus and the man who had so briefly taken Licinius' place as pontifex maximus, C. Servilius Geminus; the two new pontifices were Q. Fabius Labeo (cos. 183) and the consul of the following year, Q. Fulvius Flaccus.¹²¹

Münzer¹²² and Scullard¹²³ placed great emphasis on the co-optation of Fulvius Flaccus, which they regarded as against the interests or apparent interests of the controlling group, led by Aemilius Lepidus. It led them to suggest that the famous reconciliation between Lepidus and Fulvius, firmly dated by our sources to the early days of their joint censorship in 179,¹²⁴ had in fact already taken place before their election; in the course of 180 the two men, so long notorious inimici will have struck a bargain to pool their voting resources secretly and then stage a grand reconciliation

120. Livy, 39.46,1; cf. *infra*, 626, no. 14.

121. Livy, 40.42,6; 11-12; cf. *infra*, 627, nos. 15 & 16.

122. Münzer, *APF*, 200ff.

123. Scullard, *RP*, 180ff.

124. Livy, 40.45,6 - 46,16; Cic., *de prov. cos.* 20; Gell., *N.A.* 12.8,5-6; Val. Max., 4.2,1.

once safely elected censors. The bargain is perhaps not altogether convincing; very little in the politics of the 170's is explained by the supposed alliance of Aemilii and Fulvii;¹²⁵ Aemilius himself seems to do astonishingly well out of the bargain, becoming in rapid succession censor, pontifex maximus and princeps senatus,¹²⁶ compared to Nobilior,¹²⁷ who has to be content with the censorship himself and the pontificate for Fulvius Flaccus; but the crucial issue is undoubtedly the co-optation, for it is only Münzer's assumption that it would have been impossible for Flaccus to be co-opted against the opposition of Lepidus, which justifies the re-dating of the reconciliation between Lepidus and Nobilior. Was Lepidus really in so strong a position in the college?

125. We hear nothing more of co-operation between Aemilii and Fulvii; Scullard, RP, 184ff., traces the success of M. Iunius Brutus (cos. 178, with a Manlius Vulso) and of the Mucii Scaevolae (coss. 175 and 4, MRR 1. 401f.; 403f.) to the influence of Lepidus; this was the first Junius to reach the consulship for fifty years and the first Scaevola ever to do so; so it is a reasonable guess that they were assisted by political allies interested in supporting less established families; their allies could well be Fulvii and Manlii, but there is no reason to connect the Aemilii with either Iunii or Mucii, except for the joint praetorship of Lepidus with M. Iunius (191) and his joint consulship with P. Scaevola in 175 (MRR 1.352f.; 401f.), neither of which provides satisfactory evidence.

126. cf. above. 159.

127. Livy, 40.45,6 ff.; MRR 1.392.

We have already seen that the balance of group allegiances in the college of the 180's is a great deal more complex than has generally been allowed;¹²⁸ but if, as suggested above, the co-optation of Valerius Flaccus indicates that Cato's attitude found supporters amongst the pontifices, then the co-optation of Fulvius is certainly unexpected. It is as clear, as anything can be at this period, that Fulvii and Manlii are in close co-operation and this is confirmed by the adoption into the Manlii of Fulvius Flaccus' colleague and natural brother, L. Manlius Acidinus Fulvianus;¹²⁹ this grouping was the height of its strength in the late 180's and early 170's, and there is considerable evidence of the hostility which

128. cf. above 124ff.; 237ff.

129. For the Fulvii/Manlii as a group from the early 180's onwards, cf. Scullard, RP, 133ff.; 177ff.; J. Briscoe, JRS 54(1964), 73ff. The information that the consuls of 179 were natural brothers comes from the Fasti Cap. which note: 'Hei fratres germani fuerunt.' Another Q. Fulvius Flaccus was consul suffectus in 180 (MRR 1.387); A. Manlius Vulso, consul in 178 (MRR 1.395); Nobilior himself censor in 179/8 (n.128); and the consul suffectus of 176, C. Valerius Laevinus, was Nobilior's half-brother (Pol. 21.29,11 = Livy (P), 38.9,8). This is an impressive show of family strength: but it is much more doubtful how far one can extend the group to other senior magistrates of the same period: Scullard, as we have seen (above n. 126) argues for the adherence of Iunii and Mucii; Briscoe, art.cit., 73-4 for the Postumii, though he is more successful in demolishing the arguments against such a link than in finding positive ones on its behalf; but cf. next n.

the group aroused amongst the traditionalists.¹³⁰ Flaccus himself was responsible for the pillaging of the temple of Iuno Lacinia, when he was censor in 174, an action severely condemned by the senate at the time.¹³¹

The men who co-opted Fulvius were: Cn. Servilius Caepio, M. Aemilius Lepidus, Cn. Cornelius Scipio Hispallus (patricians); Q. Caecilius Metellus, C. Livius Salinator, M. Claudius Marcellus, M. Sempronius Tuditanus (plebeians);¹³² to these should perhaps be added Q. Fabius Labeo (patrician) since Livy¹³³ specifically separates his co-optation from

130. For this cf. Briscoe, art.cit., 74ff.; especially, the attacks on Fulvius and Manlius (infra, 260ff.); Fulvius Flaccus (cf. next n.); but it seems to me that Briscoe goes too far in trying to distinguish a coherent political group on the basis of misbehaviour in the provinces, though he is on safer ground in identifying as such a group the traditionalists who condemned the outrages; we must at least differentiate between defiance of senatorial authority, harsh treatment of allies and Machiavellian diplomacy; no doubt, all these practices appalled the traditionalists, but this does not make those responsible for them a political party.

131. Livy, 42.3,1-11; Val. Max., 1.1,20; cf. infra. 255f

132. infra 625ff: nos. 4, 10, 11; 2, 5, 13, 14.

133. Livy, 40.42,6ff. gives a list of co-optations and the selection of a new rex sacrorum; then, at 42,11: 'exitu anni et C. Servilius Geminus pontifex maximus decessit;'; this is followed by a second list. These indications are quite specific and must presumably be respected, though it is not very clear where the annalists would have found this kind of detailed chronological indication, if the lists were in fact made up from priestly fasti which simply listed co-optations under consular years (cf. infra p. 27 and n. 58.).

that of Flaccus and places it earlier in the year. In the case of the older members of the college (apart from Lepidus), there is little or nothing to be added to the discussions above on their politics;¹³⁴ in most cases we are in an even worse position to assess their attitudes to the events of 180 than to those of 187. Tuditanus may possibly be associated with the Claudii Pulchri, since he may have presided at the consular elections in which his colleague, Appius Claudius Pulcher pushed through the election of his brother Publius, for 184;¹³⁵ if we could rely on the alleged Claudian-Fulvian group, this might be a valuable clue; but,

134. cf. above, ²³⁰ (Caepio); ²³⁷ (Hispanus); ²²⁹ (Metellus; in 179, he is reported by Livy (40.45,8 - 46,13) to have been the mediator between Lepidus and Nobilior, which perhaps suggests neutrality); ²³¹ (Salinator); ²³⁸ (Marcellus).
135. Tuditanus and App. Claudius were consuls in 185 (MRR 1.372); for the elections, Livy, 39.32,5ff.; Münzer, APF, 192f.; Scullard, RP, 148f. They assume that Sempronius Tuditanus actually did preside at the elections, but it is doubtful if this is what Livy means: 'prior tamen Claudius quam Sempronius, cui sors comitia habendi obtigerat, Romam venit, quia P. Claudius frater eius consulatum petebat.', which seems to imply that Claudius rushed to Rome in order to prevent Tuditanus, who should have held the elections from doing so; but Livy goes on to describe Claudius' actions in Rome, which consist in vigorous canvassing, held by some improperly enthusiastic; they tell him what he ought to be doing but their advice leaves the question open: '...aut arbitrum aut tacitum spectatorem comitiorum'. One may, in any case suspect the hand of the annalist hostile to Claudii; cf. infra 405ff.

at any rate by 169, the third brother, Caius Claudius, has emerged as a strong traditionalist and the construction is most fragile.¹³⁶ For Fabius Labeo we have no clear information at all.¹³⁷

We are forced to speculation in terms of generalities. The answer perhaps lies not so much in the new members, as in the ones who died in 183 and 180; for they seem to be precisely the men most likely to have been Catonian sympathisers - Valerius Flaccus, his close associate,¹³⁸ Licinius Crassus, whose conservatism has been discussed already,¹³⁹ and Servilius Geminus, who, as pontifex maximus, adopts the role of defender of the religious law where Crassus left it.¹⁴⁰ If this is right, and if Lepidus had in fact been sympathetic to such men as these, then the reasonable explanation of Fulvius' co-optation lies not in Lepidus' use of his power in the college, but rather in a gradual erosion of the men who would have supported him. 180, then, will mark a major shift in the political alignment of the college. It is, of course, still possible that Aemilius joined the Fulvian group, though I can see no solid reason to believe so; but it must be very doubtful whether he will have carried many pontifical votes with him.

136. For his stern censorship with Tiberius Gracchus, MRR 1.423f.; Briscoe, art.cit., 76f. For the Claudio-Fulvians, *infra* 615-614. For Claudius' politics, *infra* 404f.
137. Though the speech which Livy attributes to Cn. Manlius Vulso in 187, defending his right to a triumph (38.47,1ff.) does contain a savage cut at Labeo's triumph (for which, Livy, 37.60,6 = Antias fgt. 43 P; cf. Münzer, RE 6.1773ff.); 'triumphavit, quem non bellum iniustum gessisse, sed hostem omnino non vidisse inimici iactabant;' (Livy, 38.47,5).

138. cf. above, 239f.

139. cf. above, 235f.

140. cf. *infra*, 305ff.; 314ff.

It is time to summarize this section of the discussion. In answer to the two questions asked at the beginning;¹⁴¹ a) it seems that the supposed Scipionic control of the college must be seriously in question after 196, though we have no serious reason to place the majority of the college in any other particular group; it might, however, be plausible to guess that a number of them will have been generally sympathetic to Cato; b) explanations in terms of politics have seemed both unrealistic and unhelpful for the decisions taken in 200 and 194; on the other hand, it does seem clear that Aemilius Lepidus thought at one stage in 187 that he could assist his attack on Fulvius Nobilior by having his affairs referred to the college and this suggests, though it does not prove, that a majority of the college would be opposed to Fulvius and allied with Lepidus in terms of political groups. But Lepidus' position may well have been *eroded* later in the 180's.

In general, however, the evidence we have found does little to support the thesis we examined at the beginning that the college was controlled by a particular group which exploited the *ius divinum* for its own political advantage. The striking point, surely, is that the work of the pontifices offered little if any opportunity for serious political exploitation and only the ingenuity of scholars has been able

141. above, 221.

to discover oblique political significances which remain highly speculative. The decisions they took in 200 and 194, even that of 187, are important decisions from the point of view of the religious law and as far as we can see were taken in the light of that law, tempered in at least one case by consideration for the convenience of the State.¹⁴² In this sense, political as well as legal or religious considerations evidently influenced them. That their activities were intended to benefit any political group at the expense of any other cannot be shown on the evidence we have considered so far.

We know almost nothing of the activities of the pontifices from this date onwards, apart from the incidents discussed in the next two chapters. Cicero in the de domo, however, quotes two decisions made by the college later in the century, which add something to our picture of their work. In 154, the censor C. Cassius applied for permission to dedicate a statue of Concordia which he had moved into the curia and which had been originally set up by Q. Marcius Philippus; the reply was given by the pontifex maximus, M. Aemilius Lepidus 'pro collegio' and the censor's application was rejected on the grounds that dedications required the specific authorization of the *populus Romanus*.¹⁴³ In

142. above 223 ff; 236f.

143. Cic., de domo 130; 136.

123, a very similar decision was given with respect to a dedication of the Vestal Licinia on the Aventine, again on the grounds that authorization by the comitia was necessary for a valid dedication. In this case, Licinia did not herself apply for permission, for the matter was referred to the college for an opinion by Sext. Julius Caesar, the praetor urbanus.¹⁴⁴

It is hard to believe in this case that the college was not simply interpreting the religious law as they understood it; certainly, they are perfectly consistent as between the two cases. We cannot even think that the raising of the question was in either case the result of pontifical malice, since Cassius raised the matter himself and in 123 the praetor urbanus was responsible for taking the initiative. It is, however, suggestive that Cassius, who had certainly been a controversial figure earlier in his career,¹⁴⁵ was in conflict in this same year with one

144. Cic., ib. 136.

145. As consul in 171 B.C., he had had to be prevented from attacking Macedonia through Illyria (Livy, 43.1,4-12); thus, frustrated he turned instead on the local tribes and the following year the senate heard complaints from Gauls, Carni, Histri and Iapydes about Cassius' outrageous behaviour the previous year; the senate refused to act against Cassius because he was on active service in Macedonia, but promised satisfaction when he got back (Livy, 43.5,5 lff.; the senate's reply, id., ib. 5); they also sent pacificatory legations, including M. Aemilius Lepidus (id., ib. 10); Cassius seems to have remained discreetly out of the way for he was still abroad in 168 (Livy, 44.31,15).

of the few pontifices we know at this date, Scipio Nasica Corculum;¹⁴⁶ the censors attempted to build the first stone theatre at Rome, but were forced to abandon the attempt by opposition led by Scipio.¹⁴⁷ Perhaps, one should suspect a political background to the case of Licinia too; she may have been related to the Licinius who brought forward a bill to abolish co-optatio in 145, but the connection is very tenuous. Once again, it seems safest to regard the incident from the point of view of the legal system for which the college was responsible; it might, after all, have suited them better in 154 to declare themselves competent to authorize dedications, rather than insisting on the rights of the comitia.

146. His pontificate, *infra*, 628f., no.25.

147. Livy, Per. 48; Val. Max., 3.4,2; Vell., 1.15,3.

6. The rex and the major flamines

In this section, I am intending to discuss a series of conflicts (Livy calls them certamina) which arose between the pontifex maximus and those priests belonging to the pontifical college who were subject to restrictions on their political careers and activities. Sometimes, the pontifex maximus prevented magistrates who were also priests from going to their provinces; sometimes, he prevented or tried to prevent them from taking magistracies at all. I propose to discuss first the nature and significance of these restrictive rules (278 ff.) then ^{to} outline the stages by which they declined during the last three centuries of the republic (295 ff.) and finally to examine the individual certamina and their interpretation (300 ff.) It has been observed that this series of incidents has considerable significance in helping us to understand the history of Roman religion in the late republican period, but the incidents themselves have, I think, been to some extent misunderstood and misinterpreted; the subject is important because only rarely have we the information as we do here to trace the fortunes of a set of religious rules over a long period.

As a general rule, a priesthood at Rome was no bar to holding political office and fulfilling the normal duties of such office. Priests regularly held consulates and censorships, commanded in the field and governed provinces. As priests, they were at least temporarily dispensable and it is with surprise that Cicero¹ comments on an almost full meeting of the pontifices in his day. Indeed, in the late republic it seems to have been almost a principle of the constitution that the men in charge of religion should be the politicians;² it may not always have been so, for there are hints at the end of the regal period of at least a partial attempt to separate political

1. Cic., H.R. 6.12f; of course, he is concerned to enhance the dignity of the meeting at which his own case was considered and is therefore exaggerating the rarity of such full meetings.
2. Cic., de domo 1.1ff; again, Cicero is far from disinterested in emphasizing the point - he is asking the pontifices to behave as politicians as well as interpreters of the religious law in making up their minds on the issue of his house (cf. ib. 2-3). But the principle is explicitly stated: 'Cum multa divinitus, pontifices, a maioribus nostris inventa atque instituta sunt, tum nihil praeclarius quam quod eosdem et religionibus deorum immortalium et summae reipublicae praeesse voluerunt, ut amplissimi et clarissimi cives rem publicam bene gerendo religiones, religiones sapienter interpretando rem publicam conservarent.'
(ib 1)

and religious office.³

However that may be, the situation by the middle of the third century is that a set of rules exists which restricts severely the political activities which are permitted in the case of certain priests. These are the rex sacrorum, the three senior flamines (Dialis, Martialis and Quirinalis) and the pontifex maximus. By the end of

3. Cf. below n.7 for the regulation forbidding the rex sacrorum to hold any political office. It is arguable whether such regulations originally applied to other priests as well; the various disputes over whether a flamen could take a province perhaps, though not necessarily, imply that flamines had only recently begun to hold magistracies which carried provinces with them. When the flamen Dialis is allowed his seat in the senate, this is done ostensibly as the revival of an archaic practice since lapsed, but it is not clear that this also applied to his subsequent tenure of magistracies and Livy seems rather to doubt the doctrine anyway (below 301 ff and nn.86ff). As for pontifices, augures and duo-/decem-viri s.f., we have no information earlier than about 300 except for the occasional name which occurs both in the magisterial fasti and the priestly ones (such as they are); thus, e.g., the augural fasti give [Postu] mius A.F. P. nepos Albus as co-opted in 462; he is identified (cf, MRR I, 36) with one of the two consulars who would fit chronologically, but could obviously be a third otherwise unknown, non-magistrate. All such identifications must be somewhat speculative and the possibility can hardly be ruled out that originally, in the days when priests were far fewer in number, they were all excluded from political office.

the republican period almost but not quite all these restrictions have disappeared. Before examining the conflict over this issue which arose in the second century, it will be helpful to survey briefly the situation as we know it in 250 B.C. and 50 B.C. For the pontifex maximus, the rule in the third century is straightforward and rather curious; he is allowed to leave Rome and take a province in Italy but not to go abroad. For this reason, Licinius Crassus the pontifex maximus during the latter years of the Hannibalic War resigned the province of Sicily to his colleague and commanded in Bruttium instead.⁴ In the first century, this rule is quite forgotten and the pontifex maximus between 80 B.C. and 12 B.C. is far more often out of Italy than in it.⁵ The other four priests, although

4. Livy, 28.38,12: '... Sicilia Scipioni extra sortem, concedente collega quia cura sacrorum pontificem maximum in Italia retinebat, ...' It is, of course, a possible interpretation that Crassus only meant that the 'cura sacrorum' would not allow him to leave Italy in the particular year 205; but it is hard to see why not.
5. Metellus Pius in Spain, 79-71 (MRR II, 83f; 86; 89; 93; 98; 104; 111; 117; 123). Caesar in Spain, 61-60 (MRR II, 180; 184f); in Gaul, 58-49 (MRR II, 197f etc.); in Greece, Egypt and the East 48-47 (MRR II, 272; 286); in Africa, 46 (MRR II, 293f); in Spain, 45 (MRR II, 305). Lepidus in Gaul and Spain, 43 (MRR II, 341f); in Africa, 40-36 (MRR II, 380; 387; 391; 396; 400); from 35 onwards he lived in seclusion at Circeii for the remaining twenty years of his life and apparently did not carry out his priestly duties at all.

the restrictions on them differ from time to time, form in some respects a coherent group. They are the patrician priests who ranked for some ceremonial purposes above the pontifex maximus in the pontifical college, the rex highest of all.⁶ The rex was debarred from holding any political office, even a minor magistracy, and this rule was, as far as we know, never relaxed even in the last

6. Festus, 185 M = 198 L: 'Ordo sacerdotum aestimatur deorum [ordine, ut deus] maximus quisque. Maximus videtur rex, dein Dialis, post hunc Martialis, quarto loco Quirinalis, quinto pontifex maximus. Itaque in soliis (Lindsay: solus codd.; conviviis solus ed. princ.; conviviis Wissowa) rex supra omnis accumbat licet; Dialis supra Martialem et Quirinalem; Martialis supra proximum; omnes item supra pontificem.' cf. also Serv., ad Aen. 2.2; Gell., N.A. 10.15, 21. 'Soliis' is perhaps a surprising word in the context; 'conviviis' is supplied from the parallel context in Gellius, L.c., and the use of the word 'accumbere' seems to confirm that it was the seating at pontifical banquets which was in question here too. Mac., 3.13, 11, gives a list of the members of the pontifical college present at such a banquet, including rex and flamines; his order does not apparently respect the order given here by Festus for they seem to have sat rather in an official order based on their dates of co-optation, as Professor Taylor has shown (cf. infra. 662). Perhaps, Festus' order applied to some banquets and not to others; but the details are problematic. For general survey of the evidence on rex and flamines see best Wissowa, R.u.K.², 503ff; also, R. Peter, Quaestionum pontificalium specimen (Strasburg, 1886), 42ff; Marquardt, Röm. Staatsv., 3.326ff; Samter in RE 6.2484; Roscher, 2.697ff; D.S., 2.1156ff. For lists of the known republican priests, A. Klose, Römische Priesterfasten (Breslau, 1910).

years of the republic.⁷ The flamen Dialis was also ineligible for magistracies in the third century⁸ and was also forbidden ever to leave Rome except perhaps for two or three days;⁹ after the eighties, this priesthood was no longer filled under the republic, but by that time the priest had established his right to a political career though not apparently his right to leave Rome.¹⁰ The flamen Martialis and the flamen Quirinalis were not apparently debarred from holding magistracies including the consulship, but it was at least arguable how far from

7. Dion. Hal., 4.74,4; Plut., Q.R.63; cf. Livy, 40.42,8ff and below 305 ff. There are imperial examples of magistracy combined with the kingship, cf. Wissowa, Ru.K., 505 n.2.

8. This is implied by the difficulties reported by Livy, 31.50, 7-10; cf. below nn.63 and 64 and in general p. 297f.

9. According to Livy, 5.52,13 he was not allowed to leave Rome for even one night, but this rule was apparently later relaxed; Plut., Q.R.40 speaks of his being allowed three nights away, but Gellius, N.A.10.15,14, says that he was not allowed to spend three successive nights out of his special bed and this is confirmed by the most probable interpretation of the obscure decree quoted by Tac., Ann. 3.71; this is of Augustan date and gives the flamen the right to be away 'plus quam binoctium' in certain defined circumstances, which seems to imply that 'binoctium' was the normal period.

10. cf. below, 285f.

Rome they were allowed to go and very probable that they were not allowed to leave Rome for long periods.¹¹ By the end of the republic, these rules also had disappeared and their right to govern overseas provinces had been conceded.¹²

The first question which must be asked is to what extent we are able to explain these various rules or whether we must accept them as rules which simply existed like the regulations for the disposal of the flamen Dialis' nail-parings, for which, presumably, nobody in the second century could have given any explanation except that this was the tradition. In other words, we must ask, even if we cannot answer, the question whether the priestly establishment in opposing the relaxation of these particular rules was fighting for some definite principle or quite simply arguing that it would be wrong to change any rules whatsoever. In the case of the pontifex maximus, it is hard to believe that the rule which Crassus quoted - that this priest could leave Rome but could not leave Italy - represents any kind of archaic religious tradition; it is surely most likely that the situation

11. cf. below 286ff.

12. According to Tac., Ann. 3.58.

which Crassus inherited was that precedents could be found for the pontifex maximus having left Rome, but none (not surprisingly) for his having been overseas; once he had given his ruling of course we must assume that subsequent pontifices maximi had to reckon either to respect or break the ruling. The other rules fall into two classes a) that the priest may not hold a magistracy b) that he may not take his province. In the three specific cases where conflict arises over rule b), the province in question is an overseas one, so there can be no direct deduction as to whether the prohibition would have applied equally to a province in Italy. But, in fact, the phrases used to describe the prohibition leave little or no doubt as to the point at issue: 'in urbe tenuit nec passus est a sacris recedere';¹³ 'ne a sacris discederet multa dicta urben egredi passus non est';¹⁴ 'multam dixit, si a sacris discessisset'.¹⁵ The flamen is being asked to stay in the city and perform his duties and not simply to remain withⁱⁿ the peninsula; and this is confirmed by an incident of 215, when Fabius Cunctator, presiding at the consular elections, objected to Aemilius

13. Livy, Per. 19.

14. Val. Max., 1.1,2.

15. Cic., Phil. 11.8,18.

Regillus on the grounds that he was flamen Martialis and therefore unsuitable as a candidate;¹⁶ but it would have been easy enough for Aemilius to have commanded in Italy¹⁷ and the objection is apparently to his leaving Rome at all. Again, in 189 when the praetor and Flamen Quirinalis was forbidden to take the province of Sardinia, he is given an urban provincia instead.¹⁸

The application of rule a) to the rex sacrorum is presumably a special case. The rex, after all, is the rex; the whole point of his position is to ensure that the man who performs the sacred duties proper to the king, should not also have political power and there is a sense in which this is not so much a religious as a constitutional principle. On the other hand, rule a) does not apply to the flamines in the second century, though in the case of the flamen Dialis we know that it had only just been relaxed.¹⁹ It is rule b) which raises the serious issues. The flamen Dialis, it is quite clear,

16. Livy, 24.7,10 - 9,6, especially 8,10: 'M.Aemilius Regillus flamen est Quirinalis, quem neque mittere a sacris neque retinere possumus ut non deorum aut belli deseramus curam.' On the complicated manoeuvres at these elections see Scullard, R.P.59; Cassola, Gruppi,318; Lippold, Consules, 171f.

17. Those eventually elected were Fabius Cunctator and Claudius Marcellus of whom Marcellus went to Syracuse but Fabius remained in Italy (Pol., 8.3,1-7; Livy, 24.21,1: 27-31; MRR 1.258f.)

18. Livy, 31.57,6.

19. cf. below, 297f

could not have left Rome without violating several of his 'caerimoniae';²⁰ he was in the first place specifically forbidden to leave Rome for more than a short period;²¹ he had ritual duties to carry out regularly and was cotidie feriatus;²² detailed prohibitions affected every aspect of his private life and it is, for instance, very hard to see how he could successfully take a province when he was forbidden to ride a horse,²³ see an army²⁴ or take an oath.²⁵ As a matter of fact, the suggestion that the flamen Dialis might command or take a province seems never to have been made under the republic. On the other hand, in the case of the flamen Quirinalis and the flamin^e Martialis it was made repeatedly and eventually successfully. We have, however, no such detailed information for these two lesser flamines as to tell us which

20. The fullest list of these is given by Gellius, N.A. 10.15; the other sources collected by R.Peter, O.C. n.6 above, 42ff.

21. Cf, above n.9.

22. Gellius, N.A. 10.15,16 - i.e. 'seine Zeit ist also vollständig der Gottheit und ihrem Dienst gewidmet.' (Wissowa, R.u.K.², 432 n.7.).

23. Gellius, N.A. 10.15,4; cf Festus 81 M = 71 L; Plut., Q.R. 40; Pliny, N.H. 28.146.

24. Gellius, ib.; Festus 249 M = 294 L.

25. Gellius, N.A. 10.15,31 cf. Plut., Q.R. 44; Livy, 31.50,7; Dio Cass., 59.13,1. At Livy, l.c., the problem is overcome by his brother's taking the oath on the flamen's behalf; but his brother could hardly have accompanied him regularly for this purpose.

of the caerimoniae of the flamen Dialis applied to them, if any.²⁶ Even if originally they had been subject to regulations similar to his, these had quite possibly been relaxed by the third century.

There is, however, a fundamental difference between these four senior patrician priests and the ordinary priests of the pontifices, augures and the other colleges; when these ordinary priests had religious duties to perform, it was only necessary that some of them should attend, not that they all should nor that any particular one should; in the case of the flamines or the rex, however, there was only one appropriate man to perform a particular sacrifice and he had to be there to do it. The question

26. Our information on this point comes from Servius, ad Aen 8.552: 'Veteri sacrorum ritu neque Martialis neque Quirinalis flamen omnibus caerimoniis tenebatur, quibus flamen Dialis: neque diurnis sacrificiis destinabantur et abesse a finibus Italiae licebat neque semper praetextam neque apicem nisi tempore sacrificii gestare soliti erant.' The problem is to know how much of this would be true from early times and how much (like the legality of leaving Italy) reflects only the customs of the principate. Tac., Ann. 3.58 ('... neque aliud ius suum quam Martialium Quirinaliumque flaminum.') is clearly to be understood as a very contentious statement of the case which the flamen Dialis was putting forward. There is no mention of the other two flamines in our lists of the 'caerimoniae' and the implication must be that they can only be relied on as applying to the Flamen Dialis.

relevant for this enquiry is whether there were arrangements for a substitute to perform the sacrifice in case of necessity; in the early principate the duties of the flamen Dialis could be performed by the pontifices, as we are told by Tacitus;²⁷ but this is, of course, after the period, and perhaps refers to the period, when no flamen Dialis existed.²⁸ Were there such arrangements earlier? At first sight, it might seem that there would have to be. The flamen might die or be taken ill or go mad shortly before a sacrifice was due to be performed and in that case he would have to be replaced somehow.²⁹ But, although this is no doubt true, it is not perhaps quite the point. In such cases, the flamen would presumably be replaced by his successor as soon as this was seen to be necessary; the pontifex maximus, had, for instance, the power to force a flamen to abdicate if he performed his duties inadequately.³⁰ In the cases with

27. Ann. 3.58: 'saepe pontifices Dialia sacra fecisse, si flamen valetudine aut munere publico impediretur.' A fragmentary passage of Festus, 258 M = 310 L, perhaps refers to somebody (a pontifex?) acting 'pro rege'.
28. Tacitus passes straight from the passage quoted above n.27 to the point that there had been no flamen Dialis at all for years after 87; he does not actually say that at that time the pontifices acted for the flamen, but it is difficult not to think that he had this in mind and it must surely be what happened.
29. Cf. Tacitus, l.c., 'si...valetudine...impediretur'.
30. Livy, 26.23,8; Val.Max., 1.1,4f; Plut., Marc. 5. These passages quote altogether four instances of Flamines forced to resign, all from the late third century.

which we are here concerned, however, the proposal was that the flamen should leave Rome at his own volition for a period of months at least; what he was therefore asking was that a system which had previously only applied in cases where an emergency arose should be extended to cases where there was no question of emergency at all.

It would be valuable at this point to survey the duties of the flamen Martialis and the flamen Quirinalis for each year so as to assess the nature of the issues at stake; but this is not possible on the evidence we have. Georg Rohde³¹ rightly emphasized the curiously elusive nature of our information about the sacral duties of individual priests in the calendar of the State religion; our information about such matters is both sparse and in some respects inconsistent; even for that best documented of priests, the flamen Dialis, we can collect only a handful of annual sacrifices at which he officiated and this can be only a fragment of his full list of duties.³² In the case of the flamen Martialis we only have clear evidence of his sacrificing for 15th

31. Kultsatzungen, 112.

32. Rohde, loc. cit.

October, in connection with the October equus.³³ The flamen Quirinalis had sacrificial duties on 25th April in connection with Robigo³⁴ and 21st August with Consus.³⁵ These are perhaps the only dated annual sacrifices of which we can be certain, but obviously there must have been a great deal more, including quite possibly some monthly obligation corresponding to the ovis Idulis of the flamen Dialis.³⁶ In any case, the sacrifices referred

33. Dio Cass., 43.24; cf. Degrassi, Fasti a. N., 521
 34. Ovid, Fasti 4.910; cf. Degrassi, Fasti a. N., 448.
 35. Tert., de spect. 5; cf. Degrassi, Fasti a. N., 499f.
 36. For the ovis Idulis cf. Mac., 1.15,16. We know of other sacrifices but none of which we can be certain dated to a particular day; e.g. all three flamines sacrificed together to Fides (Livy 1.91,4) but we do not know when. The stone calendars rarely tell us who performed a sacrifice and our other sources are not very reliable; for example, the offering to Acca Larentia was performed according to Varro, L.L. 6.23, by 'sacerdotes', according to Cicero, ad Brut 1.15,8, by 'pontifices', according to Mac., 1.10,15, by a flamen, according to Gellius, N.A. 7.7,7, by the 'flamen Quirinalis and according to Plut., Rom. 4, by 'ὁ τοῦ Ἀρεως ἱερεὺς'. It is perhaps likeliest here that the flamen Quirinalis (Gellius and Macrobius) assisted by, or on behalf of, the pontifices (Varro and Cicero) performed the sacrifice: then, only Plutarch is actually wrong. But the imprecision remains impressive.

to do show that these priests had obligations which fell in the middle of the campaigning season. An interesting parallel is provided by the case of the Salii and their dances; these took place on March 19th and October 19th³⁷ and these dates are taken to represent the beginning and end of the campaigning season in archaic times; but in the third and particularly the second centuries they must have fallen within the periods when magistrates will have been away from Rome. So far as we know, the Salii were not prevented from taking commands which would keep them away from Rome at this period; but we do happen to know that when Scipio Africanus was away in the East in 190, he had to be left behind at the Hellespont during the period of the Salian dances while the rest of the army marched on;³⁸ we have no way of telling how far this was a commonly adopted solution and how far it is simply another example of Africanus' personal emphasis on his religious duties and his special religious position.³⁹ It is clear that the position of the Salii differs from that of the flamines whom we are discussing in two ways:

37. Degrassi, Fasti a. N., 426ff (Quinquatrus, March 19th); 523ff (Armilustrum, October 19th).

38. Pol., 21.13, 10-12; Livy, 37.33, 6.

39. cf. *infra*, 753ff.

first, if one Salius was away, there were others of his college who could perform the dances in the Comitium, while this was not true of a flamen; secondly, there is no sign that the sacrifices of the flamines were originally intended to avoid the actual period of campaigns, as were the dances of the Salii.

Thus, it seems highly probable that the flamines were in a totally different position from the other priests in the performing of their religious duties and we can say with some confidence that there was more at stake in the disputes we are about to examine than the existence of a pointless rule which the pontifex maximus blindly maintained. The only priest who seems to be in a parallel position is the pontifex maximus himself; would not he also have duties at Rome which he and he alone could perform? ought he not therefore to be subject to the same rules? Once again the evidence is elusive. We have a great deal of evidence of one kind or another about the activities of the pontifex ~~maximus~~; but none of it seems to imply that he had an obligation to be present at certain ceremonies at specific times, as did the flamines; the only hint that he had religious obligations qua

pontifex maximus is given by Servius:⁴⁰ "'vigilasne deum gens' verba sunt, quibus pontifex maximus utitur in pulvinaribus". It is possible that this refers to an archaic formula⁴¹ but ~~is~~^t is far from clear whether Servius is referring to a regular ceremony at which the pontifex maximus was always present and, if he is, it seems impossible to identify the ceremony.⁴² The rest of the evidence either involves the pontifex

40. ad Aen. 2.148.

41. The actual words are, of course, from Virgil (Aen. 10.228) - 'vigilasne deum gens Aenea'. Servius presumably means that Virgil is there echoing a pontifical formula including the word 'vigilare'; on this line itself he refers not to the pontifex maximus but to the words used by the Vestal Virgins on a certain day when they went to wake the rex sacrorum - 'vigilasne, rex? vigila'. Another similar formula is quoted at Servius, ad Aen. 8.3 - 'Mars, vigila'. Unless Servius is simply confused, he presumably had a third such formula in his mind when he wrote the note on Aen. 2.148. For the context to which this might belong, see next note.

42. If 'in pulvinaribus' is a true reading, the reference is presumably to some prayer used by the pontifex maximus in connection with the supplication when offerings were made at all the 'pulvinaria'; this would then be a question of an occasional, not a regular annual event. For pulvinar and supplicatio see Wissowa, R.u.K.², 422ff esp. 424. However, the expression would be very compressed and obscure, and the form of the sentence - 'verba...quibus utitur in pulvinaribus' - rather suggests that 'pulvinaria' should be or represent a collection of prayers or formulae, such as the 'indigitamenta', for which cf. Gellius, N.A. 13.23,1.

maximus acting 'pro collegio'⁴³ or else exercising special rights such as that of electing priests,⁴⁴ holding assemblies,⁴⁵ imposing a multa⁴⁶ and the like, which could presumably either be delayed until he returned or even performed by him with the army in the field.⁴⁷ Recent work⁴⁸ on the position of the pontifex maximus has shown his position at Rome to be less peculiar than was once thought; it no longer seems probable that he held any kind of magisterial or quasi-magisterial position and it is necessary for the evidence about him to be re-examined with this in mind. He is in the last resort one of the pontifices and can be over-ruled by them;⁴⁹ it seems quite likely that they could act on his behalf when he was away, to an extent which they could not for the flamines.

43. For examples, cf. *infra*, 273f.

44. Cf. *infra*, 305ff.

45. If he ever did; cf. *infra* n.48.

46. *infra* 301f.

47. In the case of holding comitia, if he did; for a parallel, cf. the archaic forms of testamentum which could be made either 'in comitiis calatis' or 'in procintu' i.e. before the army in the field; cf. Cic., *de N.D.* 2.9; Schol. Ver., *ad Aen.* 10.241; but it is, in fact clear from the passages that the meeting was held by the consul in such cases.

48. In particular, work on two aspects of the pontifex maximus' position: first, his supposed quasi-imperium, on which see J. Bleicken, *Hermes* 85(1957), 345ff esp. 349ff; Künkel, *Untersuchungen zur Entwicklung der römischen Kriminalverfahren in vorsullanischer Zeit*, (Munich 1962), 22f. secondly, on his supposed right to preside over certain comitia, for which cf. P. Catalano, *Contributi allo studio del divitto augurale*, 361ff.

49. Cf. *infra*, 225.

So far, then, we have surveyed the rules and looked for the reasons for them. We must now trace the process of their decline. The first certamen on this issue comes in 242;⁵⁰ the flamen Martialis had been elected consul for that year and was allotted the war in Sicily as his province. The pontifex maximus, L. Caecilius Metellus, forbade him to take up this command; the consul eventually had to yield and stayed in the city. Precisely the same pattern of events recurred in 131,⁵¹ except that on this latter occasion, the consular colleague who profited by the flamen's inability to take the province was himself the pontifex maximus. In between these two incidents, however, the point had to all appearances been conceded; for the flamen Martialis and consul of 154, Postumius Albinus, left Rome for his province;⁵² admittedly, he had received the worst of omens before he set out and never actually reached his province - his wife was accused of poisoning him.⁵³ One can see that this was not a precedent which the consul of 131 would have wished to cite. After

50. Livy, Per. 19; cf. 37.51, lff; Val. Max., 1.1, 2.

51. Cic., Phil. 11.8, 18.

52. Obs. 17; Val. Max., 6.3, 8; cf. Fasti Cap., Fasti Ant. MRR I.449.

53. Val Max., 6.3, 8.

131, we cannot follow the history of the rule and have only the word of Tacitus that by the end of the republic the flamen Martialis had won his freedom in this respect.⁵⁴

In the case of the flamen Quirinalis, we know of only one occasion when there was conflict; in 189, the flamen was elected praetor and allotted the province of Sardinia;⁵⁵ he was, as we have seen,⁵⁶ forbidden to go and forced to take a city province. Here we can provide even less background as to the way in which the principle was abandoned. All one can say is that if the Sext. Julius Caesar who died in Syria in 46⁵⁷ was identical with the flamen Quirinalis of 57,⁵⁸ then the rule had been abandoned by this time. Once again we have Tacitus' word for it that the flamen Quirinalis had been allowed to leave Rome before 22 AD. It seems worth noticing that it would not be surprising for these concessions to have been made during the period when the pontifices were in any case performing the ceremonies of the flamen Dialis.

54. Tac., Ann. 3.58.

55. Livy, 37.50,8; 51, 1-6.

56. Cf. above ~~n.~~ 286

57. He was killed by the Pompeian Caecilius Bassus, MRR II.297; cf. 274; 285 n.5; 289; 304.

58. A Sext. Julius Caesar is listed as fl. Quirinalis in the college quoted by Cicero, H.R. 12. The identification is maintained by L.R. Taylor, A.J.P. 63(1942), 397; held probable by Broughton (MRR II.304) contra, Münzer, RE s.v. Julius nos. 152 and 3.

In these two cases, we have no evidence that concessions had been made before the Sullan period, except for the unfortunate incident of 154; on three occasions the priestly authorities had successfully resisted attempts to change the rules. They were similarly successful in the case of the rex sacrorum, as we have seen already;⁵⁹ on this occasion, the rule was challenged by the rex sacrorum elect in 180,⁶⁰ and again the principle which the pontifex maximus sought to establish (viz. that the rex sacrorum could not hold a magistracy) was accepted by the people. This situation seems to have outlasted the republic.⁶¹

Meanwhile, the flamen Dialis had succeeded in making more progress. In 208, the new flamen had established his right to a seat in the senate;⁶² it is important to notice that this was not conceded to him as an innovation but rather on the grounds that this was a lapsed but ancient privilege of his priesthood. He followed this up in 200 by seeking election as an aedile;⁶³ once again there were

59. Cf. above n.7.

60. Livy 40.42, 8-11.

61. For the known reges of the late republic cf. Klose, op.cit., 12 ff. The list and our knowledge of their careers is incomplete, but we know of no exception and hear of no further attempt to break the rule.

62. Livy, 27.8, 5ff.

63. Livy, 31.50, 7-10; cf. 32.7, 14; MRR 1.327.

difficulties to be overcome - one of his taboos prevented his taking the oath of office - but a compromise was eventually found.⁶⁴ At this point, his career seems to have been checked but he did finally attain the praetorship in 183 and this was the highest magistracy he attained.⁶⁵ In this case, the problems raised by his inability to leave Rome were recognized in advance and, when the lots for provinces were drawn, his name was restricted to the two urban provinces. We know little more about the careers of the flamines Diales in this century. By 87, however, a flamen Dialis had reached the consulship,⁶⁶ though he died before the problem of his taking a province had come up, as far as we know. His successor was C. Julius Caesar, who seems to have lost his flamine before the end of the 80's, we do not know exactly how; to him no successor was appointed.⁶⁷

Finally, we should notice the later history of the rule which prevented the pontifex maximus from leaving Italy. The first certain infringement of it was in 133, when Scipio Nasica Serapio was sent as legate to Pergamum

64. Livy, 31.50,

65. Livy, 39.45, 1-2; 45,4; cf. 54,5; MRR I.379.

66. Cf. below, 322.

67. Cf. below, 322 ff

after the death of Tiberius Gracchus.⁶⁸ Plutarch⁶⁹

suggests that this was recognized to be an innovation:

ὁ ὅτι μὲν ὑπεξήλθε τῆς Ἰταλίας, ὁ Νάκιος, καίπερ
ἐνδεσμένους ταῖς μεγίσταις ἱερουργίαις· ἣν γὰρ ὁ μέγιστος, ἰ. τῶν ἱερῶν

Scipio's successor Mucianus immediately followed the precedent and Livy's epitomator⁷⁰ seems to regard him as the innovator, presumably forgetting Serapio: 'Adversus eum P.Licinius Crassus consul, cum idem pontifex Maximus esset, quod nunquam ante factum erat, extra Italiam profectus...' Even Aemilius Lepidus had perhaps extended the rule a little for, as consul in 175, he fought against the Ligurians;⁷¹ it was simply a matter of definition whether Liguria would be included in Italy for this religious purpose or not.⁷²

68. Val. Max., 5.3,2; Plut., Ti. G. 21; MRR 1.499.

69. loc.cit.

70. Book 59.

71. He triumphed over the Ligurians in that year (Act. Tr. Cap. and Urbisalv. Degrassi, 80f.; 338f; 555; MRR 1.402.

72. It has been argued that Lepidus' connection with Egypt and in particular his guardianship of the King date from late in his life; for the connection see Cichorius, RS, 22f. and for the late date, Otto, Geschichte d. Zeit d. VI Ptol., 118ff; Schullard, RP, 237 n.3; Badian, FC, 107 n.2; 110 n.3, however, regards him as patronus of the Ptolemies from early in the century; in any case, the guardianship need not imply that he himself went to the East.

The history of these rules is interesting for various reasons. First, the various incidents supply us with valuable information about the legal and religious standing of the various priests and officials involved; secondly, we are in this series of cases in a position to examine in some detail the precise issues which are decided and to trace the various ways in which these issues were handled on different occasions; thirdly, the evidence to be derived from this question has been used by modern historians to throw light on the process by which the traditional religion of Rome deteriorated throughout the late republic: in this connection various allegations are made whose relationships are often left rather obscure, but the main points are:- A) that these rules are exploited by successive pontifices maximi to their own political advantage B) that the gradual abandonment of the rules demonstrates the decline of religious authority; one might, I suppose, combine these points by saying that the rules are effectively a dead letter by the end of the third century (or even earlier) but that pontifices maximi revive them occasionally to their own advantage. We must examine the various certamina in detail.

The first in my period is in 189: 'priusquam in provincias praetores irent, certamen inter P. Licinium

et Q. Fabium Pictorem, flaminem Quirinalem, quale patrum memoria inter L. Metellum et A. Postumium Albinum fuerat. Consulem illum cum C. Lutatio collega in Sicilia ad Classem proficiscentem ad sacra retinuerat Metellus, pontifex maximus; praetorem hunc, ne in Sardiniam proficisceretur, P. Licinius tenuit. et in senatu et ad populum magnis contentionibus certatum, et imperia adhibita ultro citroque, et pignera capta et multae dictae, et tribuni appellati, et provocatum ad populum est. religio ad postremum vicit; ut dicto audiens esset flamen pontifici iussus, et multa iassu populi ei remissa.' (Livy 37.51,1ff.). Livy's account of the proceedings is lively rather than technical but parallel cases make it fairly clear that the basic stages of the legal procedure were a) the imposition of a fine by the pontifex maximus as a coercive measure to prevent the praetor leaving Rome; b) an appeal by the praetor against this fine; c) a hearing of the issue before the tribal assembly, which in this case ordered the praetor to obey the pontifex and the fine to be repaid conditionally on his obedience.⁷³ Thus it is clear that the initiative comes in the first place from the pontifex maximus, who could presumably, had he so wished, have let the point go by default; the instrument which he has at his disposal

73. For detailed analysis cf. Bleicken, Hermes 85(1957), 457ff.

is the imposition of a fine (multa). An interesting and important point which emerges here is that the pontifex maximus does not seem to be in any different a position with relation to the flamines than he is with an augur or even a magistrate, for we know of cases involving such where the same procedure is followed;⁷⁴ that is to say, the right to impose a multa, whatever it may mean does not apparently derive from the special authority of the pontifex maximus over the pontifical college.

It is worth considering more precisely how the situation was built up. According to Livy, 37.47,8, Fabius had become flamen Quirinalis some time during the course of 190 earlier than the praetorian elections; Livy does not, however, actually report the inauguration of Fabius nor the name of his predecessor. This is, however, the only occasion on which he does tell us the name of the flamen Quirinalis and there is thus no serious reason to question his story that Fabius had only just been inaugurated in 190. Some time, then, after the inauguration, Fabius must have decided (or perhaps he already intended) to stand for the praetorship and was duly elected. At the

74. The augur - Festus, 343 M = 342/4 L, as restored by Mommsen, Staatsr., 2.35 n.1; the date of the incident is quite uncertain. Magistrates - Livy, Per. 47 and infra, 305 ff.

beginning of the following year his name was included in the lots drawn for the praetorian provinces and he duly received the province of Sardinia;⁷⁵ now, at this point an alternative procedure could clearly have been adopted, viz. that which was subsequently used for the case of the flamen Dialis in 183 and which was in fact eventually used in this case after the litigation had been completed, namely the procedure of limiting Fabius' name to the city provinciae. In fact, it is only after the allotting of the provinces that Crassus is reported to have made his protest.

It is interesting to notice that the precedent which Livy evokes in this passage is that of the corresponding incident of 242, involving the flamen Martialis, which, as we know from the periochae, he reported in Book 19; it is, of course, possible that this parallel is Livy's own idea, but it does suggest that the certamen of 242 was the only earlier case he knew of and in particular that 189 was the first occasion known to Livy on which this particular issue had come up with respect to the flamen Quirinalis. It was therefore perhaps not a foregone conclusion that the flamen Quirinalis would be forbidden

75. Livy, 37.50,8.

to take his province, for what applied to the flamen Martialis would not necessarily apply to him as well. All the same, the situation remains problematic. Why did Fabius become flamen in 190 if he had political ambitions which were liable to be frustrated?

The hypothesis on which these facts (or some of them) have been explained in the past is one of political opportunism.⁷⁶ Crassus, as we have seen, is understood to be maintaining his allegiance to the Scipios⁷⁷ and is here striking a blow for his group by disabling one of the Fabii, old adherents of his enemies of the Public War period and at this very moment engaged in forming a new grouping the so-called middle bloc.⁷⁸ This is hardly a very compelling analysis. All the same, the hypothesis must be examined that Crassus and Fabius were inimici. If so, can we explain the fact that Crassus had just inaugurated Fabius as flamen Quirinalis? It is, in fact, usually said that the pontifex maximus had the right to force a man to become rex or flamen, even

76. Scullard, RP, 136

77. cf. infra, 241f.

78. Scullard, RP, 135ff. ~~cf. infra~~

against his will.⁷⁹ If this is true then we have here a very serious example of political operations by the pontifices. All the difficulties we have noticed disappear if we suppose that Crassus forced Fabius to become flamen Quirinalis against his will, precisely in order to wreck his political career by subsequently preventing his leaving Rome.

We must investigate how far the pontifex maximus was able to dictate who became flamen or rex and how far he had powers to force an individual to be inaugurated against his will. The next in the sequence of second century certamina provides us with vital information on both these points. Once again, we have only Livy's account of the incident: 'de rege sacrificulo (MSS. sacrifico) subficiendo in locum Cn. Cornelii Dolabellae contentio inter C. Servilium pontificem maximum et L. Cornelium Dolabellam duumvirum navalem, quem ut inauguraret pontifex maximus sese abdicare iubebat. recusantique id facere ob eam rem multa duumviro dicta a pontifice; deque ea, cum provocasset, certatum ad populum. cum plures iam tribus intro vocatae dicto esse audientem pontifici duumvirum iuberent, multamque remitti, si magistratu se abdicasset vitium de caelo quod comitia turbaret intervenit. religio

79. e.g. by Wissowa, R.u.K.², 510.

inde pontificibus inaugurandi Dolabellae. P.Cloelium inaugurarunt, qui secundo loco nominatus (MSS. inauguratus) erat.⁸⁰

C. Servilius is the C. Servilius Geminus who succeeded Licinius Crassus as pontifex maximus when he died in 183.⁸¹ It is clear that in many respects the situation and the issues at stake are parallel to those of 189, but there are significant differences; the man against whom the multa is imposed is not in this case a priest as yet - the point at dispute is precisely his becoming one;⁸² again, the pontifex maximus is not in this case simply interfering with the activities of the magistrate but actually ordering him to resign his magistracy. The procedure on the other hand is precisely the same as before - order from the pontifex, refusal by the priest, multa from the pontifex, appeal from the priest, verdict from the people.

80. Livy 40.42, 8-11.

81. Livy, 39.46,1; MRR 1.381.

82. Klose, o.c., Rex no. 6; he argued that Dolabella was already Rex as having been selected by the appropriate procedure, but it is hard to see in what sense a man who has not yet completed the formalities can be described as holding the priesthood. There were, after all, three men on the list. Bleicken, art.cit., argues that the incident must be placed between the nomination and election of the Rex and his inauguration; i.e. that he was at this stage the duly elected rex and therefore came under the pontifex maximus' jurisdiction as such. But this view is not justified by our sources and is in any case unnecessary, since we know from the case of 159 that the multa could be used against a magistrate. Bleicken, art.cit., 453f apparently assumes that in this latter case too Tremellius the praetor was some kind of priest; but nothing in Livy's epitome suggests this; this is simply multiplying assumptions to fit a preconceived pattern.

Two questions must be asked immediately; a) is it certain that the duumvir is unwilling to become rex? b) is it certain that it was the decision of the pontifex maximus that he should become so? The answer to a) must, I think, be no; it is clear that he wished to continue as duumvir after his inauguration as rex and that the assembly was asked to say whether he could do this; but we have no way of telling whether, had he been offered the choice, he would have resigned the duumvirate and become rex or refused the office of rex and remained duumvir. Modern accounts⁸³ of the incident take the vitium de caelo as being an example of obnuntiatio with a purely political intent i.e. they assume that some friend of Dolabella and enemy of Licinius Crassus intervened with a fictitious signum and thereby saved him from being forced to accept a priesthood he did not want. This is pure speculation and is simply presupposing the conclusion we are here trying to reach viz. that Servilius had the right to coerce Dolabella into accepting the priesthood. Our conclusion must be that there is no explicit evidence that the pontifex had the right to coerce anybody to become Rex. Moreover, the balance of probabilities is heavily against this interpretation for

83. So Scullard, RP, 179 n.4; Warde Fowler, RERP, 342.

two reasons: first, it is very hard to see how and when the pontifex maximus would have acquired this extraordinary power over the kingship; secondly, it is surely astonishing that he should actually have exercised such power at so late a date even if he ever had it; we shall return to this point in relation to the flamines.⁸⁴

The second question was whether the pontifex maximus is clearly the man responsible for the choice of Dolabella. The procedure is only indicated by the very last sentence, where the manuscripts read: 'P. Cloelium inaugurarunt, qui secundo loco inauguratus erat'. It seems clear that inauguratus is simply repeated from inaugurarunt and the normal correction 'nominatus' must surely give the sense.⁸⁵ In any case, 'qui secundo loco [] erat' seems enough for us to be certain that the name of Cloelius stood second on some kind of list, which already existed at the time of the previous incidents. The only passage which can be compared with this one is Tac. Ann. 4.16: 'nam patricios confarreatis parentibus genitos tres simul nominari, ex quis unus legeretur, vetusto more'. Tacitus is discussing the difficulty in Tiberius' day of finding enough candidates qualified to stand for the priesthood and it is for this

84. cf. below, 301ff.

85. cf. below, 309

reason that he emphasizes the necessity to have so many candidates nominated for a single priesthood. It seems as clear as one could wish that Tacitus' procedure is the one which Livy is implying and the Livy passage seems to add two facts to our knowledge of the procedure in these cases; first, that it applied to the rex sacrorum as well as to the flamen Dialis; secondly, that the three candidates 'ex quis unus legeretur' were, in fact, not simply listed but actually placed in a definite order; thus, Cloelius was 'secundo loco.' The critical question now becomes who produced the list. This is something we simply do not know, but the likeliest guess would be that the list was drawn up by the college of pontifices. Finally, then we are not able to answer the question of the degree of the pontifex maximus' responsibility for the choice of rex, but unless we are to suppose that he drew up the list solely on his own authority, which seems very unlikely, he can hardly have had a decisive say.

We must consider here another incident which might throw some light on the matters under discussion. 'Et flaminem Dialem invitum inaugurari coegit P. Licinius pontifex maximus C. Valerium Flaccum; Ob adulescentiam neglegentem luxuriosamque C. Flaccus flamen captus a P. Licinio pontifice maximo erat, L. Flacco fratri germano cognatisque aliis ob eadem vitia invisus.'⁸⁶

86. Livy, 27.8, 4-10; Val. Max., 6.9,3; MRR.1.289.

Now, in the case of the flamines as in the case of the Vestals we know that the pontifex maximus was technically said to have taken or captured them (*captus flamen*) and this presumably implies that he could make them priests against their will.⁸⁷ In the case of the Vestals, however, we also know that in later periods the pontifex maximus did not in fact at least normally use the powers of coercion which he theoretically possessed and the *captio* became simply a ceremony.⁸⁸ In the case of Flaccus it is clear that the powers were actually used; but it is clearly much more doubtful whether we would be justified in arguing from this single case, which in the last resort is a peculiar business.

The point which Livy emphasizes about the inauguration of Flaccus is that he was of extremely bad character and that the purpose of making him flamen *Dialis* was to keep him out of further trouble. He notes that even Flaccus' brother (who was presumably Cato's friend and colleague) and his other *cognati* hated him for his evil ways. But the moral of the story and, as Livy explicitly says, the reason for its being told (*'libens reticuissem, nisi ex mala fama in bonam vertisset'*)⁸⁹ - words no critic of Livy

87. On '*captio*', Gellius, *N.A.*1.12, 13-4; Wissowa, *R.u.K.*², 510.

88. For the difficulties which were experienced in finding suitable candidates from amongst the nobles in the early principate cf. Suet., *D.A.*31.3; the problem was solved by lowering the qualifications Dio Cass., 55.22,5; Gellius, *N.A.*1.12,12; there is no suggestion that anyone was coerced. See also, Tac., *Ann.*2.86; Seneca, *Contr.*1.1,3. Wissowa, *R.u.k.*², 510 nn. 7 & 8.

89. Livy, 27,8,5.

should forget) is that the cura sacrorum so transformed Flaccus' character in the course of the next few months that when he applied to become a member of the senate qua flamen Dialis, this request was agreed to by the senate, against a certain show of resistance by Crassus, and all believed that the flamen won his case not so much by his arguments as 'sanctitate vitae'.⁹⁰ Here, if anywhere, one is surely justified in seeing the not too delicate touch of Valerius Antias or at least of an annalist concerned to point a strong religious moral; it is therefore difficult to know exactly what elements in the story can be relied upon as strictly historical. But even if one accepts the outline of the story as true, one striking element in it is that Flaccus evidently received no help at all from his family; indeed, Warde Fowler⁹¹ suggested that it must have been they who took the initiative and used the flamine as a neat device for tethering the black sheep of the family; at least, one must wonder if pressure by the family was not a strong element in the situation.

After all, what would Crassus have done if Flaccus had still refused to be inaugurated? Presumably, on the analogy of the other cases he could have imposed a multa

90. id. ib. 10.

91. RERP, 342; cf. C.R.7(1893), 193ff.

against which Flaccus could have appealed to the people and the case would have been argued out in the assembly. Thus, Crassus must have been prepared to defend his action in certain circumstances; even if in theory he had powers of coercion it is very hard to see him using them in practice indiscriminately. It is one thing to coerce a boy whose family is supporting the action you are taking and quite another to coerce a politician about to stand for the praetorship against the wishes of his family, friends and supporters as well as himself. To sum up, therefore, even if the case of Flaccus shows that the pontifex maximus had the theoretical power to make anybody a flamen, we only know of this power being used in one very special case; it seems extremely hazardous to suggest that a pontifex maximus ever used this power against a political rival unless we have specific evidence, which we never do.

One final point should be noticed here, before we return to the question of the political interpretation of the certamina of 189 and 180; even if it be true that the pontifex maximus could coerce an unwilling candidate for the flamine, it is very questionable whether this evidence could safely be transferred to the case of the rex sacrorum, for the origins of this office are so different that it is far from clear that the same arguments would apply. All four priests are the same in that they

have to be inaugurated and it is no doubt for this reason that three candidates had to be found, for there was always the possibility that the first candidate would be rejected by the auguries. On the other hand, the precise manner of their creation may well have been different for the actual proceedings in the comitia curiata must have included some kind of election in the case of the king, though no doubt an abortive one,⁹² but there is no reason to think this true of the flamines; on the other hand, it is difficult to think of the king as captus by the pontifex maximus and this the flamines certainly were. It is possible that the two procedures had at some date been assimilated but this would be no more than a guess.

We must return to politics. In the case of the 189 incident, we have not made very much progress towards elucidating the situation. It seems that Crassus cannot himself have been directly responsible for the selection and inauguration of Fabius and almost certain that Fabius must at this stage have agreed.⁹³ He must therefore either not have expected that his flamine would hinder his taking a province or else definitely have wanted the flamine enough to take the risk of losing his province. Crassus' hostility towards him (if it be hostility) is only shown

92. For this cf. *infra* P. Catalano, *op. cit.* n. 48, 223 ff.

93. Above, 307 ff.

in 189 when he forbids him to leave Rome; as we have seen, he probably had very sound religious reasons for taking his stand⁹⁴ and he was in fact supported by the vote of the assembly. Fabius is reported to have been angry and to have tried to resign his praetorship, but the senate persuaded him to become praetor peregrinus.⁹⁵ So far, an explanation in terms of group conflict seems to say the least unprovable; but, of course, on a more devious level there are infinite possibilities of intrigue. Crassus, for instance, may have let it be thought that he would not interfere with Fabius' province in order to persuade him into taking the flamine and performed a volte-face once he was safely inaugurated. No doubt, there is often intrigue behind the impersonal phrases of annalistic history; no doubt, too, Crassus' motives were questioned then as well as now. All we can say is that his overt attitude was evidently a scrupulous regard for the niceties of the *ius divinum*.

Much the same considerations apply to the certamen of 180. Here the political interpretation which has been offered is thinner still. The case for regarding Servilius Geminus and Cornelius Dolabella as *inimici* depends on the

94. Above. 281ff.

95. Livy 37.51,6.

assumption that Dolabella as a Cornelius was automatically a member of the Aemilio-Cornelian group, while Servilius Geminus is assumed to be dourly maintaining his supposed attitude of the Punic War period. In fact, we know nothing about either of them. We have seen that the choice of Dolabella as rex sacrorum was not necessarily made by Servilius and that Dolabella is quite likely to have agreed to accept the priesthood.⁹⁶ Again, Dolabella presumably hoped that he would be allowed to keep his magistracy and, like the three flamines, pursue a political career; again, the pontifex maximus takes his stand on the rules of the ius divinum. Again, the event can be described as political exploitation of religion only at a subtle and devious level.

One more point can be made applying to both incidents. I have tried to show⁹⁷ that the prevalent view that the pontifex maximus simply coerced patricians of his choice to accept priesthods they did not want, is both unproved by our evidence and in itself unlikely. The situations we have been discussing would, however, make a great deal better sense if we assumed that Fabius and Dolabella were under a certain amount of pressure to accept their respective priesthods. Roman religion is rather remarkable

96. above, 307.

97. above, 307ff

for not imposing legally enforced obligations and therefore not allowing very much room for trials for impiety;⁹⁸ nevertheless, the Roman had religious obligations, *sacra privata* of various kinds, which he evidently accepted as binding, even though not enforced by legal penalties for negligence.⁹⁹ In a parallel way, when Fabius was chosen to become flamen Quirinalis he may for social reasons have found it quite impossible to refuse. Perhaps, indeed, one should go further still; we are discussing some of the senior and most ancient priesthoods of Rome, on whose successful maintenance the safety of the State depended; it would surely be both an honour and a duty for a Roman aristocrat to accept the priesthood.

The next, and last, of the second century certamina is a very different case. 'Cum Aristonico bellum gerendum fuit P. Licinio L. Valerio consulibus, rogatus est populus quem id bellum gerere placeret. Crassus consul pontifex maximus Flacco collegae flameni Martiali multam dixit, si a sacris discessisset; quam multam populus remisit; pontifici tamen flaminem parere iussit.' (Cic., Phil.

98. *Infra*, 684.

99. Though negligence might be criticized cf. Cato, ORF², F₃r. 12.

11.8,18).¹⁰⁰ Two votes of the Assembly are implied here; first, a vote on the issue of who was to command in the war against Aristonicus, which is referred to in the first sentence and to which Cicero returns immediately after the passage quoted; secondly, a vote corresponding to the others which we have been examining in which the people is asked to decide whether or not the flamen Martialis is legally prevented from leaving Rome. It is not clear how these two votes were chronologically related; Cicero seems to be placing the multa, appeal and vote ('flaminem parere iussit') during the actual course of the proceedings which determined the commander in the eastern war, but we may perhaps suspect that he is simply compressing the events to heighten the dramatic effect of the passage. The easiest reconstruction would be to assume that the vote on the multa came first and resulted in the elimination of Valerius Flaccus as a commander in the war; the second vote then took place, to decide between Crassus himself and Scipio Aemilianus, resulting in the appointment of

100. The passage continues: 'sed ne tum quidem populus Romanus ad privatum detulit bellum, quamquam erat Africanus, qui anno ante de Numantinis triumpharat; qui cum longe onnes belli gloria et virtute superaret, duas tamen tribus solas tulit. ita populus Romanus consuli potius Crasso quam privato Africano bellum gerendum dedit.' Cicero is solely concerned with the granting or not granting of commands to privati and is not at all interested in the political implications if, indeed, he understood them.

Crassus. But it will be noticed that this is not quite the order of events which one would expect from the other cases. Both in 242¹⁰¹ and in 189,¹⁰² the pontifex maximus seems to have intervened only when the destination of the magistrate-priest was known; he then takes action to prevent him from leaving the city. There seem to be two main possibilities; either Flaccus had been appointed to the province previously to the events Cicero records or Crassus intervened as soon as it was decided that there should be a popular vote on the command, feeling, no doubt, that once the assembly had conferred the command he would hardly be able to persuade it to reverse the decision. On the whole, Cicero's account seems to fit better with this second possibility.¹⁰³

At first sight, it seems that here for the first time we have a case where the pontifex maximus directly profits

101. Above, 295.

102. Above, 296.

103. The fact that Cicero places his reference to the 'multa' assembly between two references to the assembly which voted the command, suggests that the two assemblies were closely related in time and purpose and not that the necessity of the one arose from the decision taken at the other. But this is hardly a reliable argument.

by his own interpretation of the sacred law; after all, Flaccus was eliminated from the competition and Crassus did get the command; again, this interpretation in terms of political opportunism has been generally accepted. Once again, however, there are complications. First, it would seem on balance that Crassus must have been right on his point of religious law. The case of 242 forms a precise precedent and the only question can have been whether it still held; we have already seen¹⁰⁴ that in 154 the flamen Martialis had in fact left Rome on his way to a province; we do not know how this came about, whether through the failure of the pontifex maximus of the day (he was quite an old man)¹⁰⁵ or by his deliberate decision or by an actual vote in the comitia; what we do know is that the consequences for the flamen himself were disastrous and it seems possible that the prodigies which are reported before his departure represent a campaign to prevent his going.¹⁰⁶ On the other hand, it is clear that there were precedents for the pontifex maximus' leaving Italy without disaster; Aemilius Lepidus

104. Above 295

105. M. Aemilius Lepidus; he had been^{consul} 32 years earlier and died a year or so later (Livy, Per. 48)

106. Obs., 17.

commanded in Liguria;¹⁰⁷ even Scipio Serapio, his immediate predecessor, had been abroad,¹⁰⁸ though admittedly he had died there. Clearly, Crassus might have argued that the rule was defunct and not have intervened, but we cannot prove any more here than earlier that he was suiting his religious law to his own convenience.¹⁰⁹

But did it suit his convenience? The point depends on which of the two procedures described above actually happened. If Flaccus was actually allotted the province or given it by an earlier vote of the assembly, then we can be sure that Crassus succeeded in getting the command as a direct result of his intervention. If on the other hand, Crassus merely eliminated Flaccus from the vote taken by the assembly, the whole incident bears a very different stamp. Crassus himself was a prominent supporter of the recently dead Ti. Gracchus¹¹⁰ and had, in fact, succeeded to his place on the agrarian commission;¹¹¹ he had also been elected pontifex maximus in succession to and patent reaction against Gracchus' murderer or executioner, Scipio

107. Above n.71.

108. Above n.68.

109. Plut., Ti.G. 21. certainly suggests that the question of this rule had been brought up in connection with Scipio Nasica; see above

110. cf. *infra*, 611.

111. Plut., Ti.G. 21.1; MRR 1.495.

Serapio.¹¹² Aemilianus on the other hand even if he had not yet acted on behalf of the Italian opponents of the land commission¹¹³ had already shown himself no admirer of the activities of Gracchus, his cousin.¹¹⁴ It is clear that in their competition for the command Crassus relied on his popularis connections, Aemilianus on his earlier popularity and his military reputation in general. About Flaccus we know little or nothing but it is extremely difficult to think that he was a serious contender for the popular vote.¹¹⁵ To know, therefore, whether Crassus will have profited by his withdrawal or not we should need to know his political alignment; for if he was an optimate or a moderate it is hard to see that his standing for selection could have had any effect but to split Aemilianus' vote. Perhaps, Crassus actually stood to lose by eliminating the flamen Martialis from consideration.

This is the last of the specific certamina of which we hear; but there is a further sequence of events which we should consider here before attempting a general analysis of these various conflicts and decisions. Sometime during the eighties of the last century B.C., there ceased to be a flamen Dialis and during the latter years of the republic

112. Cic., Phil. 11.18, makes it certain that Mucianus was Scipio's immediate successor for he was evidently already acting as pontifex maximus at the beginning of 131, while Scipio died some time during 132; see further infra, 624f.

113. His initiative on their behalf is dated to 129, App., B.C. 1.19, 78.

114. Plut., Ti.G. 21.7-8; Moralia 201 E; cf. App., B.C. 1.19, 81 and Gabba ad loc.

115. On him see Münzer, RE no. 176; Gent.Val., 41 no. 23.

the priesthood was never filled. Can we reconstruct how this came about? In the year 87, after Cornelius Cinna had left Rome, his colleague as consul, Cn. Octavius, held elections for a suffect consul;¹¹⁶ the man elected was the flamen Dialis L. Cornelius Merula.¹¹⁷ This is the first time we hear of a flamen Dialis reaching the consulship, though in fact we do not know the names of any of the flamines Diales of the second half of the second century and it is therefore possible that Merula was not the first to have held the consulate. It has been suggested, perhaps rightly, that Octavius engineered the election of Merula precisely in order to ensure that he would be left free to command in Italy against the Marians since his new colleague would be debarred from leaving the city by his religious obligations. When the Marians eventually took Rome, Merula was placed on trial abdicated his flamine and committed suicide.¹¹⁸

Two historians tell us, more or less unequivocally, that a successor to his flamine was appointed - C. Julius Caesar. '... cum paene puer a Mario Cinnaque flamen Dialis creatus, victoria Sullae, qui omnia ab

116. Diod., 38.3; Val. Max., 9.12,5; Vell., 2.20, 3; 22,2; App., B.C. 1.65,296 MRR 2.47.

117. For Merula as flamen Dialis: App., B.C. 1.65, 296-7; 74,341-2; Vell., 2.20,3; Tac., Ann. 3.58; Aug., C.D. 3.29.

118. App. B.C. 1.74,342; Val. Max., 9.12,5; Vell., 2.22,2; Dio Cass., fgt. 102.11a.

iis acta fecerat irrita, amisisset id sacerdotium.¹¹⁹

'Annum agens sextum decimum patrem amisit; sequentibusque consulibus flamen Dialis destinatus dimissa Cossutia, quae familia equestri sed admodum dives praetextato desponsata fuerat, Corneliam Cinnae quater consulis filiam duxit uxorem, ex qua illi mox Iulia nata est; neque ut repudiaret compelli a dictatore Sulla ullo modo potuit. Quare et sacer otio etmultatus diversarum partium habebatur,....'.¹²⁰

Basically, these two accounts are fairly consistent; Caesar becomes flamen Dialis as 'paene puer' but subsequently loses his priesthood as a result of action taken on political grounds by Sulla the dictator. The accounts agree in implying that during the middle eighties Caesar actually was flamen Dialis. Tacitus,¹²¹ however, regards Cornelius Merula as the last of the republican flamines Diales and dates the extinction of the priesthood from 87. Modern theories have tended to compromise by suggesting that Caesar was nominated but never inaugurated.¹²² We should first perhaps consider

119. Vell. 2.43,1.

120. Suet., D.J. 1.1ff.

121. Ann. 3.58.

122. L.R.Taylor, C.Ph. 36(1941), 121.

the likely chronology of the incident.

Velleius describes the appointment of Caesar as made by Marius and Cinna, which has led some to suppose that Caesar's flaminiate must date before Marius' death in January of 86.¹²³ But a) this is in itself highly improbable since Merula will have abdicated in the last weeks of 87 and the appointment of a new flamen Dialis can hardly have been an urgent matter in the revolutionary situation of December 87 and January 86; b) Velleius' supposed chronology is contradicted by Suetonius;¹²⁴ c) it is far from clear exactly what Velleius means by 'a Mario Cinnaque flamen dialis creatus'; the appointment of the flamen was as we have seen the business of the pontifex maximus, the pontifical college and the comitia calata at which his inauguration was carried out;¹²⁵ Velleius might mean that Marius and Cinna exercised influence on the choice (in which case the inauguration could still be long after Marius' death) or else the phrase could be simply a loose way of saying that it was under the anti-Sullan regime of the middle eighties that

123. MRR 2.52.
 124. Cf. below, 325
 125. Cf. above, 305 ff.

Caesar received his flamine, and this seems most probable.¹²⁶

Suetonius, on the other hand, dates the appointment to the year following the death of Caesar's father; this event he puts in Caesar's sixteenth year i.e. 85 or 84; his date would then be either 84 or 83 for the granting of the flamine. In this case, it becomes easier to see how Caesar might have been nominated but not inaugurated; for if the nomination took place at the end of 83, the inauguration might well have been delayed by the invasion of Sulla; early in 82, the younger Marius ordered the execution of Scaevola the pontifex maximus, which would perhaps make the inauguration impossible.¹²⁷ But this, too, does not seem the likeliest answer; our sources do seem perfectly clear that Caesar was actually flamen *Dialis* and we have no substantial reason to doubt their opinion. Again, a delay of four years in the appointing of a new flamen, in the relatively peaceful conditions of the Cinna regime, is not something which we should assume lightly. Even a date early in 84 seems rather a long

126. This is perhaps supported by the general balance of the sentence, for 'a Mario Cinnae...creatus' is balanced by 'victoria Sullae... amisisset id sacerdotium.'

127. Cf. below 328 and nn.134-6. For Scaevola's murder, early in 82, Cic., *Rosc. Am.* 33; *do or.* 3.10; Brutus 311; App., *B.C.* 1.88,403; *MRR* 2.73.

delay, though not an unexampled one.¹²⁸

The theory that Caesar was nominated but not inaugurated was an attempt to explain how he could have been called flamen Dialis in the eighties and yet evidently have lost his flamine by the seventies. This is not, however, a real problem. We know of various circumstances in which the flamen could be forced to abdicate;¹²⁹ in certain circumstances, he even abdicates without being told to.¹³⁰ According to our sources it was action by the Sullan regime which lost him the flamine; Velleius seems to think of an unintended side-

128. e.g. there was a two year delay between the death of the rex sacrorum in 210 (Livy, 27.6,16) and the appointment of his successor in 208 (Livy 27.36,5.). Of course, this need only imply a wait from the end of 210 to the beginning of 208. For doubts about the rex sacrorum reported to have died in 210 - M. Marcius - on the grounds that the rex was necessarily a patrician (Cic., de domo 38) while Marcii were all as far as we know plebeian, cf. Mommsen, R.F., 1.84 n.25; 104f. n.73; contra, Münzer, RE s.v. Marcius no.20; APF 81;409.

129. Cf. above n.30.

130. As, for instance, Merula before his suicide App., B.C. 1.74,342. It is worth noting that the flamen Dialis also had to resign if his wife died and was not allowed to divorce (Gellius, N.A. 10.15, 22-3; Wissowa, R.u.K.², 506 n.4); thus, Caesar would presumably have had to abdicate even if he had acceded to Sulla's demand that he should divorce Cornelia (Suet., D.J.Lif)

effect of the general repeal of Marian acta by Sulla; Suetonius thinks in terms of a deliberate punishment for Caesar's refusal to divorce Cornelia. It is perhaps more important to remember that at this date Caesar fled from Rome, a clear violation of his caerimoniae¹³¹ and a perfectly good excuse for forcing him to resign.

The interesting question is not surely how or why Caesar lost his flamine, but rather how and why it happened that no successor was appointed to him. During the period when Sulla was reconstructing Roman political life and reforming the priestly colleges, Metellus Pius was elected pontifex maximus. The election can hardly have been held earlier than 81 and perhaps not till 80,¹³² but Pius must surely have had plenty of time before leaving for Spain to take some action on the matter. The flamen Dialis is after all one of the most important and prominent priests at Rome and Merula had even added to the dignity of his office by the anti-Marian gesture of his dramatic suicide by the altar of Iuppiter.¹³³

131. Above, p. 285 ff.

132. Cf. infra, 680 ff.

133. Cf. especially Val. Max., 9.12,15; Vell., 2.22,2: 'superfusoque altaribus sanguine, quos saepe pro salute reipublicae flamen Dialis precatus est deos, eos in execrationem etc. etc.'

Was the failure the result of negligence by the pontifices or the outcome of a definite decision? Neither possibility is easy to conceive. It is often assumed that it was simply impossible to find a willing and qualified candidate, but this too would be astonishing in a matter of such religious importance.

We can perhaps make a little progress. It seems that the flamines were the particular responsibility of the pontifex maximus, who can force them to resign and is responsible for their inauguration.¹³⁴ It seems a reasonable hypothesis therefore that a new flamen could not be created in the absence of the pontifex maximus and it would in this case be no problem to explain why no flamen Dialis was created between 79, when Metellus Pius left Rome,¹³⁵ and 70 when he returned.¹³⁶ The problem is to know why he had not acted before the end of 80. But as far as we have been able to reconstruct it, the situation in 82 was that Caesar was flamen Dialis;¹³⁷ it seems therefore a distinct possibility that at the time when Metellus Pius became pontifex maximus there was considerable doubt as to whether Caesar was still flamen Dialis or not.

134. Forcing the flamen to resign, above n.30.

135. App., B.C. 1.97, 450; MRR 2.83.

136. Vell., 2.30,2; App., B.C. 1.121,561; MRR 2.123.

137. Cf. above, 312ff.

In other words, Metellus Pius, before he was able to appoint a new flamen Dialis may very well have had to solve the legal problem of the standing of the old one. If it is true that there was some delay for this reason, the rest of the story becomes quite comprehensible. Metellus left Rome in 79 having failed to solve the problem of the succession though he had made it clear that Caesar was not flamen Dialis. By the time he returned in 71, there had not been a flamen Dialis for twelve years and the whole problem had been transformed. It was not so much a simple question of appointing a successor as of reviving an archaic, defunct priesthood. One can see that there must have been considerable temptation simply to do nothing and to allow whatever temporary arrangements had been worked out over the twelve years to become permanent arrangements.¹³⁸

The material which I have been examining in this section represents a body of information over the attitude which the Roman religious authorities took to a particular set of religious rules over the course of a century and a half. What general conclusions can be reached? First, it can be said that we have never

138. Cf. above nn.27 & 8.

found clear evidence of the priestly college or the pontifex maximus exploiting the ^{ius}divinum for simple political ends; for the most part, this kind of analysis of the various incidents was based on a superficial examination of the evidence and involved an unjustified exaggeration of the powers of the pontifex maximus in affairs of this kind. Secondly, I have tried to show that the rules on which the successive pontifices maximi insisted were perfectly consistent and were apparently necessary to the maintenance in due form of the sacra for which the flamens were responsible; during the second century, no concessions at all seem to have been made - the flamines are allowed to hold office at Rome, but not to leave it, the rex is not allowed to hold office at all. The crucial break-down of the system comes with the failure, which we have just examined, to appoint a new flamen Dialis after Caesar's abdication, for this must have under-mined the logic of forbidding the other flamines to leave the city. If the pontifices could act for one flamen, they could act for the others too.

What does this tell us about the so-called decline of Roman religion? Obviously, there is no question of our finding evidence of any decline in the authority

of the pontifices; rather the opposite; they succeeded in maintaining a principle against repeated powerful attack and they maintained it consistently and successfully.¹³⁹ Perhaps more significant is the attitude taken up by the successive flamines and reges who attempt to break out of the restrictions of their priesthoods. It should be noticed that there is no real evidence of difficulty in finding patricians to hold these priesthoods¹⁴⁰ and I have argued against the supposition that men were simply forced into them against their will.¹⁴¹ It is obviously impossible to tell whether the flamines were regarded, as modern accounts assume, as an unbearable nuisance to be avoided at any price,

139. Thus, up to 87, we know of no single exception to the rules except the departure of the flamen Dialis in 154.

140. The only direct evidence of difficulty in finding flamines is the famous remarks of Tacitus, 4.16, which of course dates from the reign of Tiberius and does not necessarily apply to the republican period. Otherwise, we may argue a priori that the supply of patricians born of confarreate marriages must have been diminishing, which is no doubt true, and cite a handful of cases when there was delay (cf. e.g. n.128) but where we do not know the reasons for the delay; for the possibility of a plebeian rex sacrorum in the third century see above n.128; but the transfer of priesthoods from patricians to plebeians obviously had political implications quite apart from the question of available candidates. The case does not seem to amount to much.

141. Above, 307 ff.

or as honourable and necessary, but inconvenient; but, as far as our evidence goes, what the priests tried to do was to rid their priesthoods of the inconvenient restrictions.

In the fifth and fourth centuries, it had apparently been possible to find individuals who had been willing to give up all individual ambitions for military glory or political eminence for the sake of the dutiful performance of the State's sacra. By the third and second centuries both Roman society and its standards of behaviour have changed to the point where the State religion can no longer find such self-abnegation in its servants. On the successful tenure of magistracies and military commands there now depended not only a man's standing with his fellow aristocrats but his personal opportunities for glory and wealth. It should be no surprise that we find in the sphere of religion the same desire of the individual to free himself from the restrictions of the centralized State as we do in the long-drawn out and finally unsuccessful attempts of the senate to control individual magistrates. What is surprising is the uncompromising nature of the pontifices' resistance to the process and its success for so long a period.

7. The Vestals and human sacrifice

At the very end of 114, a year, so far as our rather scanty evidence goes, in which little of great importance had happened¹, three of the Vestal Virgins were accused of incestum and tried according to the traditional procedure before the college of pontifices. One of them, Aemilia, was found guilty; two others, Licinia and Marcia were acquitted². This verdict did not appease the outcry which the scandal had produced and as a result of a lex proposed by the tribune Peducaeus the case was reheard before a special quaesitor, L. Cassius Longinus Ravilla,

1. The consul C. Porcius M. f. M. n. Cato campaigned unsuccessfully against the Scordisci in Macedonia (Livy, Per. 63; Dio Cass., 26 fgt. 88; cf. MRR 1.533) and was fined for extortion when he got back, though perhaps not within his consular year (Cic., Verr. 2.3, 184: 4, 22: Balb. 28).
2. The distinction between the first, pontifical, stage and the hearings under the lex Peducaea (see below n.3) is not clear in all our sources, but results inescapably from Asconius p. 45C: 'Quo tempore Sex. Peducaeus tribunus plebis criminatus est L. Metellum pontificem maximum totumque collegium pontificum male iudicasse de incesto virginum Vestalium, quod unam modo Aemiliam damnaverat, absolverat autem duas, Marciam et Liciniam. Populus ... Cassium creavit qui de eisdem virginibus quaereret.' For the date, cf. Macrobius, quoted below p. 339. An eques Romanus condemned as Aemilia's lover (i.e. at the first hearing) is called L. Veturius at Or. 5.15, Barrus at Porph., ad Hor. Sat. 1.6, 30, Ῥέτρυρος; and then Ῥέτρυρος at Plut., Q. R. 83 (corr. Ihne, in both places to Ῥέτρυρος). L. Veturius Barrus seems a sensible guess; cf. also Dio Cass., 26 fgt. 87.

who duly found both Licinia and Marcia guilty as charged³.
 There had not been such a Vestal-trial since the year of
 the crisis after Cannae just over a century before⁴.

3. Asc., loc.cit. n.2; Cic., de N.D. 3.74; Brut.160; Livy, Per. 63; Val. Max., 3.7,9; 6.8,1; Plut., Q.R. 83; Dio Cass., 26 fgt.87; Obs., 37; Zon., 7.8. For coins of the Cassii, cf. Sydenham nos. 917 and perhaps 502; Grueber, C.R.R.B.M., 1.482; Cesano, Studi Num.1(1942), 219. We know of two speeches which certainly belong to these proceedings;
- 1) M.Antonius, Pro se de incestu (ORF², No.65, speech 1, fgts. 13 and 14).
 - 2) L.Licinius Crassus, Pro Licinia virgine Vestali (ORF², No.66 speech 3, fgts. 18 and 19; cf. also Auct. ad Her., 4.47).
- A third speech almost certainly belongs here:
- 3) C.Scribonius Curio, Pro Ser. Fulvio de incestu (ORF², No.47, speech 1, fgts. 6-8). For this cf. Fraccaro, Studi storici 6(1913), 65f.; Malcovati, ORF², 173f.; cf. also Münzer in RE 2A.861.

The coins raise their own problems; Sydenham 917 undoubtedly shows Vesta on the obverse, but the reverse shows a voting urn, a tablet marked 'AC' and a round building surmounted by a statue and containing a curule chair. The voting urn and tablet could refer to the lex Cassia of 137 (MRR 1.485); the temple could well be Vesta's; the curule chair, temple and voting urn together might suggest the Vestal-trials, except that Cassius was only a 'quaesitor' and held no curule office; perhaps, however, Cassius the moneyer, like Val. Max., 3.7,9, assumed that Cassius was a praetor.

4. Livy, 22.57, 2-3. cf. Plut., Fab.18.3; Cassius Hemina, fgt.32 (Peter); against the rather improbable suggestion that Cato spoke at the trial cf. Scullard, RP, 261; ORF², 86.

On the other hand, the precedent of 114 was destined to be followed, for twice in the following half-century prominent politicians were to find themselves facing charges of incestum; in 73, again incestum involving the Vestals⁵; in 61, a special charge arising out of the violation of secret rites⁶. It is clear that in 61 and no doubt also in 73 the charges were exploited, even perhaps engineered, for the advantage of rival political groups. The question must obviously arise how far the 114/3 trial was similarly political in its character and, if so, whether it was the earliest such political Vestal-trial.

The first signs of the trouble came apparently in the September of 114; 'P. Elvius eques Romanus a ludis Romanis cum in Apuliam reverteretur, in agro Stellati filia eius virgo equo insidens fulmine icta exanimataque, vestamento deducto in inguinibus, exerta lingua, per inferiores locos ut ignis ad os emicuerit. responsum infamiam virginibus et equestri ordini portendi quia equi ornamenta dispersa erant'⁷. So Obsequens, drawing from Livy's list of prodigies. Plutarch in the

5. In 73, Catiline and perhaps Crassus - cf. MRR 2.114.

6. In 61, Clodius - cf. Cic., ad Att. 1.13,3; 14, 5-6; 16,1; 8 and 12; Suet., D.J. 6.2; 74.2; Plut., Caes. 9-10; Dio Cass., 37.45,2; Schol. Bob., p.85 st.

7. Obs., 37.

Quaestiones Romanae⁸ gives a very similar story, corresponding even down to details but adding the detail that the responsum in question was given by the 'μῦντες'. By this he must mean the haruspices for the word 'μῦντες' is not used as a Greek translation of decemviri sacris faciundis but only for haruspices or augures⁹; while the augures have nothing to do with prodigies¹⁰. Both in Obsequens and Plutarch, the story of Elvia and the prediction which it inspires precede the whole sequence of Vestal-trials. Here we run into a chronological difficulty. As has been shown elsewhere¹¹, the normal procedure for the handling of prodigies in the second century was for the senate to hear them and the consuls or priests deal with them in the first few months of the year; if therefore the death of Elvia was reported at the normal time of year, the consultation of the haruspices could hardly have taken place until January of 113 i.e. after the first trial, though presumably before the second one. On the other hand, if the incident happened not in September 114, where Obsequens seems

8. Q.R. 83

9. Cf. infra 433 : cf. Plut., Sulla 7.9 : T.E. 1.

10. Cf. infra ch. 8.

11. Cf. infra 480ff.

to date it,¹² but September 115, the responsum must have preceded the trial by almost a year, which is hardly the impression our sources give us of the sequence of events. If the prediction was given during the actual course of the trials, this would certainly explain its uncanny accuracy; but, of course, it would be more natural for the prediction to have been made at a period when no overt charges had been brought but when there were rumours current of queer happenings in the Vestals' house. Again, it would be astonishing if such a prediction was made by the haruspices after the first trial, for it would amount to a criticism of the pontifices in support of the case which Peducaeus was at that very moment arguing - a most unlikely position for the haruspices to have taken up¹³.

Our conclusion must be that in all probability the prodigy was referred to the senate very soon after its occurrence and out of the normal procedural pattern. There are precedents for this¹⁴; but the implication is that the possible significance of the death of Elvia was seen and deliberately exploited, for the death of a girl on a horse

12. That is to say, he reports the incident and its outcome under the consulship of Acilius and Cato; but a great deal of the material in these annual lists must in fact belong to the events of the previous year.

13. Cf. *infra*, § 87ff.

14. Cf. *infra*, § 81.

hardly seems an important enough event for the senate to consider immediately in the usual course of events. The first stage of the drama, then, belongs to September 114; there must already have been rumours and expectation that there was scandal in the offing, and obviously the haruspices' responsum must have played an important role in determining the pontifices to take action. The second stage - the trial before the pontifices - is dated very accurately for us by a quotation from Fenestella, preserved for us by Macrobius¹⁵: '...''Aemiliam virginem XV Kalendarum Ianuariarum esse damnatam''... Deinde adicit ''sequebantur eum diem Saturnalia.'' Mox ait ''postero autem die qui fuit XIII Kalendarum Ianuariarum Liciniam virginem ut causam diceret iussam.'' ...' This gives us two precisely fixed points: the last day of Aemilia's case was 16th December 114; the first day of Licinia's followed on the 18th. We have no way of telling whether Marcia's hearing followed or preceded these two; nor have we any way of telling whether the trials were likely to have lasted for longer than a single day, though if some of the scandal which has reached us accurately reflects the charges, it may well be that there was fairly complicated evidence to be heard¹⁶.

15. Sat. 1.10,5.

16. Cf. Dio Cass., 26 fgt.87.

The re-trial took place in 113. Since the tribune Peducaeus will have taken office on December 10th¹⁷ - earlier than the trial before the pontifices - he might have brought his bill forward almost immediately, so that it could have been passed in the first fortnight of January 113¹⁸. Our only indication of date is that Antonius, a quaestor in this year, had reached Brundisium on his way to his province when he heard the news that charges had been brought against him¹⁹; but a quaestor who was to serve his year in Asia would presumably leave Rome almost immediately; and the charges against him might have been brought up in the course of hearings about other matters by the quaesitor. The proceedings evidently belong to the early months of 113, but we cannot fix them more precisely than that.

Two more events are reported as connected with the trials, though it is far from being obvious how they relate chronologically. First:

17. Mommsen, Röm. Staatsr., 1³.604; cf. especially Livy, 39.52.
18. For the evidence about the earliest date by which a tribunician law could be passed cf. A.W.Lintott, C.Q. N.S.15(1965), 281f.
19. Val. Max., 3.7,9; cf. 6.8,1. On the mysterious lex Memmia, on which Valerius' story turns, cf. Rotondi, leges, 321f.; MRR 1.537 n.4.

'Roma pudicitia proavorum tempore lapsa est;

Cymaeam, veteres, consuluistis anum.

Templa iubet fieri Veneri quibus ordine factis

Inde Venus verso nomina corde tenet.'

(Ovid, Fasti 4.157-60)

The temple of Venus Verticordia is mentioned in this context by both Orosius²⁰ and Obsequens²¹, and there is no reason to doubt Ovid's unsupported word that the foundation was recommended by the Sibylline books.

Plutarch, in the passage of the Quaestiones Romanae already referred to²², also mentions the books, but in a very different context, for he reports a human sacrifice in the forum Boarium, the entombment of two Greeks and two Gauls. The historicity and significance of this sacrifice are discussed below²³; here, I am only concerned with the question of when the decemviri are likely to have been consulted. Plutarch²⁴ directly connects the human sacrifice with the consultation of the books on the issue of the Vestal scandal as, indeed,

20. 5.15,22.

21. 37.

22. Q.R. 83

23. Cf. below pp. 358ff.

24. loc.cit. n.22.

does Ovid in the passage quoted²⁵. This fits exactly with the parallel of the events of 216, which we shall examine in more detail later²⁶; here Livy²⁷ specifically states that the condemnation and punishment of the Vestals was 'in prodigium versum' and, in the consultation of the books which followed, the recommendation to hold a human sacrifice was found, or at least reported, by the decemviri. In the 114/3 case, it should be noticed that the death by entombment of the convicted Vestal Aemilia will have co-incided more or less with the normal senatorial examination of the prodigies for the year and it is therefore natural to suppose that the consultation of the decemviri to which both Plutarch and Ovid seem to refer took place in January 114. The important conclusion which depends on this point, is that these very extreme measures which the decemviri are reported to have taken will have co-incided also with the agitation by Peducaeus and even perhaps with the second trial itself.

So far, I have only tried to establish the chronological outline of the events we are examining; the whole sequence seems to belong to the winter of 114/3

25. ~~see~~ p. 341.

26. Cf. below, 356f.

27. 22.57,6.

and apparently involves three of the priestly colleges - the haruspices in their responsum of September/November, the pontifices in the trial of December, the decemviri in the responsa of January. To this outline we can add a little more information from reliable sources. Thus we know that the famous orator Antonius was charged with incestum before the quaesitor Cassius, defended himself and was acquitted²⁸. The Vestal Licinia was defended, unsuccessfully, by the equally famous orator Licinius Crassus²⁹. Probably, too, a Ser. Fulvius was at this time defended by C. Scribonius Curio, with unknown outcome³⁰. Our sources contain two kinds of comment on the whole issue; first, particularly in Dio³¹, we hear a great deal of the scandal which evidently surrounded the whole affair; secondly, we find criticism of Cassius for the savagery with which he carried out the task assigned to him³². According to Dio, sexual orgies had been in progress at the Vestals' house for some considerable time; at first, it had all been done with discretion and circumspection, but gradually the circle of those in the

28. Cf. n.3 above - speech no.1.

29. n.3 above - speech no.2.

30. n.3 above - speech no.3.

31. 26 fgt.87.

32. Cf. Asc., 45C; Val. Max., 3.7,9.

secret grew; those involved included other Vestals than the three actually condemned, the brothers of the Vestals and an unspecified number of others. To some extent, Dio must represent here the popularis tradition of a monstrous scandal which the authorities had tried to hushup, as against the optimate tradition, which held that the original trial was adequate and that Cassius was unnecessarily savage. It would, however, be unsafe as well as humourless to place too much emphasis on this division; the activities of the Vestals represent an invitation to gossip and speculation irrespective of political bias. The best one can say is that some of the gossip may be contemporary with the events, if not actually quoted as evidence in court.

From this material, good and bad, we must try to extract the reasons for the whole distasteful sequence of events. I want to consider first the feasibility of a straightforwardly political interpretation, assuming simply that different groups are manoeuvring to involve one another in the scandal.

The families which we can identify in the affair are first, the Aemilii, Marcii and Licinii through the three Vestals; secondly, the Caecilii Metelli through the pontifex maximus who originally heard the case

(L. Metellus³³) and the Cassii through the special quaesitor who re-heard it; thirdly, the Antonii and perhaps Fulvii as the accused lovers. Münzer³⁴ formulated a theory which sought to analyse the political interests of the different parties in terms of their activities in the 130's and 140's; thus, he identified Cassius as a supporter of the Aemilianus group on the strength of Aemilianus' co-operation with him in the legislation of 137³⁵; while all three of the virgins, on his view, came from families opposed to Aemilianus and his friends - Marcii and Aemilii, on the strength of their supposed co-operation in 143 over the aqua Marcia³⁶, Licinii in 145 over the ill-fated lex de collegiis³⁷; the details of this are very questionable but need not detain us here³⁸. Münzer's very ingenious analysis does, however, illustrate some of the difficulties of the situation. First, Münzer's view depends on an assumption about the identities of the three Vestals; it may be reasonable to assume that Licinia

33. So called by Asconius, loc.cit.; for his identification cf. *infra* 629f. He can only quite recently have become pontifex maximus, but the precise date is not known.

34. *APF*, 243 ff. and *RE* s.v. Marcia no.114.

35. *Cic.*, *Brut.* 97; cf. Scullard, *JRS* 50(1960), 71.

36. Cf. Frontinus, *de aq.* 1.7; *infra* 525ff.

37. *Cic.*, *Brut.* 83; *de N.D.* 3.5; *de rep.* 6.2; *Cat.* 96. cf. *MRR* 1.469; Malcovati, *ORF*², no.20, speech 1. fgts. 12-16; *infra* 648.

38. The Marcii and Aemilii do not seem to have been co-operating in 143, cf. *infra* 525f.

was a member of the Licinii Crassi, but we have no way at all of telling whether Aemilia belonged to the Scauri or the Lepidi, nor whether Marcia's father was Rex or Philippus, Censorinus or Figulus, and therefore the association of either of them with any particular political interest must be in doubt unless one believes that whole gentes were at this time politically unified³⁹. But there is a second objection to the structure of Münzer's analysis and that is that it does not explain enough; his thesis that Cassius is here representing the interests of the Aemilianus group quite overlooks the fact that he is also deeply implicated in a vehement attack on the privileges and traditions of the Roman State cult and its traditional priesthoods; all we know of Aemilianus shows him to have been a leading traditionalist on the question of religion⁴⁰ and it is very difficult to believe that he would countenance the sort of initiative which Peducaeus and Cassius evidently took.

A better starting point would perhaps be a study of the relations between the leading politicians involved - Cassius, L. Metellus, Antonius and Licinius Crassus; we can say something about the politics of all these men and,

39. *Infra* 36f

40. Witness his enthusiastic defence of the co-optation system in 145; *infra* pp. 648 ; or his attitude to the question of jury-service for the augurs: Cic., Brut. 117.

at least, define the possibilities of the situation.

L. Cassius Longinus Ravilla had made his most striking contribution to Roman politics over twenty years earlier, when, as tribune in 137, he had carried a bill introducing the use of the ballot for almost all popular trials⁴¹; together with the lex Gabinia of 139⁴², this was one of the earliest popularis measures and was carried against bitter opposition from the consul M. Aemilius Lepidus Porcina though with the support of the great Aemilianus⁴³. We know nothing about his activities in his consulship of 127⁴⁴; he was censor in 125 and seems then to have succeeded in revenging himself on the consul Aemilius who had opposed him in 137⁴⁵. Thus the only documented attitude in his later career is his hostility to this Aemilius, which is little help to us in the present case since even if the Vestal Aemilia was related to the consul of 137, she had already been condemned before Cassius was involved. To call him a supporter of

41. Cic., Brut. 97;106; de leg. 3. 35-7; Sest.103; Lael. 41; Corn.1 fgt. 50 and Asc., 78C; Schol. Bob.,135; Ps.-Asc., p.216 St.; cf. Grueber, C.R.R.B.M., 1.494f.; Cesano, Studi Num. 1(1942), 213f. and above n.3.

42. Cic., de leg. 3.35; Lael. 41; MRR 1.482.

43. Cf. n.35 above.

44. MRR 1.507.

45. Vell., 2.10,1; Val. Max., 8.1. damn.7. Both censors seem to have been enemies of Porcina and they fined him for paying an excessive rent.

Aemilianus is no better; Aemilianus' support for the lex Cassia is one of the puzzling episodes of his career and may well be untypical⁴⁶; moreover, there is no way of telling how Cassius reacted to the events of 133, which evidently alienated Aemilianus from what we call the populares⁴⁷. The best one can say is that the mere fact that he agreed to act and was selected to act as quaesitor on the present occasion suggests that he was still after twenty years known as sympathetic to popular criticism of the established authorities.

L. Caecilius Metellus Delmaticus was consul in 119⁴⁸ and fought against the Dalmatians until 117⁴⁹; we know nothing of his politics unless we assume that the Metelli, at this time at the height of their influence, stood for particular political beliefs⁵⁰; he was the father-in-law of Aemilius Scaurus, consul of the previous year⁵¹, and it would be a fair guess - though no more than a guess - that he was a firm

46. Cf. Scullard, art.cit. n.35, for discussion.

47. Plut., T.G. 2.14; cf. Scullard, art.cit., 73 and cf. *infra* pp. 621

48. MRR 1.525.

49. He triumphed in 117; Act.Tr., Degrassi 82f.; 560; Livy, Per. 62; App., Illyr. 11; Eutrop., 4.23,2. For his temple-building cf. *infra*, 212, no. 22.

50. Cf. *infra*

51. Asc., p.270; G.Bloch. M.Aemilius Scaurus (1909), 21f.

supporter of the boni; we have no reason to regard him as an extremist. The crucial problem turns on the politics in 113 of Licinius Crassus and Antonius. All we know of Crassus before this date shows him acting as a popularis; he had been prosecutor in the attack on Papirius Carbo, who had seceded from the Gracchan party, a prosecution which Crassus later 'regretted'⁵²; in the following year he was associated with the colony of Narbo, again in the popularis interest⁵³. However, we also know that by 106 Crassus had performed a complete and violent change of front for by that time he was a supporter of the optimate lex de repetundis of Servilius Caepio⁵⁴; moreover, it is probable that this change belongs earlier than 111, for we know of attacks which he made on C. Memmius, whose important activity belongs to his popularis tribunate of that year⁵⁵. Thus Crassus' change of front belongs probably between 118 and 111; it

52. ORF², No.66, speech 1. For Crassus' regrets, Cic., Verr.2.3,3.

53. ORF², No.66, speech 2.

54. Cic., Brut. 161; 164; de or. 1.225. ORF², No.66, speech 5.

55. Cic., de or. 2.240; 267; ORF², No.66, speech 4. For Memmius' activities in 111 cf. Sall., Jug. 32-3; MRR 1.541; RE s.v. Memmius no.5 cf. Cichorius, Stud. zu Lucil., 283 on Lucilius vv.242 and 257 ff. The result of Memmius' activities was the sending to Africa of another L. Cassius, later Marius' colleague in the consulship of 107.

is in itself an important event because Crassus came of a family with very strong Gracchan associations⁵⁶ and he is one of the earliest of the Roman aristocrats who toyed with popularis activity in his earlier years but abandoned it later in his career⁵⁷.

56. For the most recent analysis of families favourable to Ti. Gracchus, cf. D.C. Earl, Tiberius Gracchus, 1 ff.

57. A precedent shortly to be followed by, e.g., Cn. Domitius Ahenobarbus of infra pp. 684 ff. Earlier in the century, men such as App. Claudius Pulcher, Licinius Crassus Mucianus, Q. Fulvius Flaccus, had remained life-long supporters of the populares. Appius (cos. 143, MRR 1.471), Tiberius' father-in-law, mentioned by Plutarch, T.G. 9, as one of his advisers, was one of the first land-commissioners under Tiberius' bill (MRR 1.495). He died before 129 (cf. Cic., de rep. 1.31). For Mucianus cf. infra pp. 316 ff. He was also one of Gracchus' earliest advisers (Plut., T.G. 9; Cic., Acad. Pr. 2.13) and succeeded him as a land-commissioner (MRR 1.495). Fulvius seems to have been the senior figure among the Gracchani from joining the land-commission in 130 (MRR 1.503) till his death with Gracchus in 121; cos. 125 (MRR 1.510), he was the first to offer rights to the Italians (App., B.C. 1.21, 86f; 34, 152 ff; Val. Max. 9.5, 1). He was elected tribune for 122 (MRR 1.517) and was closely associated with Gracchus (though there is disagreement between App., B.C. 1.24, 102ff and Plut., C.G. 10.13; 11.2, as to whether he went to Junonia with him or not). He is often mentioned in the accounts of Caius' death; cf. Orsinius, 5.12; Plut., C.G. 13-14; App., B.C. 1.26, 118f; Livy, Per. 61; Sall., Jug. 42.1; Cic., Phil. 8.14; in Cat. 1.4.

Antonius presents rather different problems. Cicero presents a picture of him as close to Crassus both socially and politically⁵⁸; though of course Crassus was a born aristocrat while Antonius, the novus homo, had his way to make in Roman politics⁵⁹. Badian, in a series of articles⁶⁰, has tried to establish a very different picture of Antonius, by showing that he was one of the most persistent of Marius' followers, being faithful to him until late in the nineties. The case has not, however, been convincingly made out⁶¹ and there is, I think, no

58. de or. 1.24; '... summa cum Crasso familiaritate coniunctus'.

59. That is to say, none of his ancestors is known to have reached higher than the tribunate; cf. Drumann-Groebe, 1.43f.

60. Historia 6(1957), 331ff; Foreign Clientelae, 200f; 212f; followed by Carney, Biography of Marius, 47 n.218.

61. For criticism, C.Bulst, Historia 13(1964), 317 n.67; E.S.Gruen, JRS 55(1965), 67f; Historia 15(1966), 47ff. The critical passage is perhaps Cic., de or 2.196, which Badian (Historia, loc.cit.) took as indicating that Antonius was co-operating with Marius over the defence of Aquillius (ORF², No.65, speech 5). But, in fact, all Cicero says is that Marius 'helped Antonius with his tears', which only means that Antonius succeeded in making Marius cry, not that they were in political alliance. The less they were allied, the more helpful would the tears have been, and the greater the orator's achievement in provoking them. The words used of Marius - 'praesens ac sedens' do suggest that he might have been there in some official capacity, perhaps advising the judge; for the semi-technical sense of 'sedeo' cf. Cic., de or 1.168; Rosc.Com. 12; Tac., Ann. 11.11.

serious reason to question Cicero's opinion of Antonius' attitude in the nineties and it remains a distinct possibility that his political association with Crassus dates back well into the second century. It is thus consistent with what we know Metellus, Crassus and Antonius that they should have belonged roughly to the same moderate optimate group, centering on the Metelli; if so, then we can make sense of at least part of the group manoeuvring which lay behind the second Vestal trials. Part of Peducaeus' case in insisting on the re-trial was the allegation that Metellus and the pontifices had been protecting his political allies, Antonius and the Licinii Crassi; there followed a direct attack on Antonius and indirect one on Crassus, both brilliant young men now attached to the optimates and in particular the Metellan group. This is, of course, no more than a hypothesis and the fact that we know only one member of the college of pontifices who judged the issue in the first trial is only one of the respects in which our evidence is inadequate to a full analysis of the situation⁶².

62. i.e. L. Metellus, then pontifex maximus. Q. Mucius Scaevola, later pontifex maximus, may possibly have succeeded as pontifex to P. Mucius Scaevola, Metellus' predecessor as pontifex maximus; but there is no evidence of this; cf. Bardt, no. 57 and infra, 630, no. 30.

This brings us to the next aspect of the matter. So far, the suggestions we have considered have been confined to certain restricted aspects of the affair. Crassus and Antonius might have had the support of Metellus and the hatred of Peducaeus and Cassius; but there is more to the story than this. Why were proceedings brought in the first place? Why was Aemilia condemned, while Licinia and Marcia were acquitted? What issues were raised by the re-trial? Finally, why did the authorities and in particular the decemviri recommend what they did? The facts which have been adduced so far have little tendency to show that political motives were foremost in causing the sequence of events. For whatever the original source of the trouble was, we should certainly expect to find amici supporting their amici and inimici attacking their inimici; this inevitable process could be quite secondary to the really important events of the time.

At one level, it is easy enough to see what is happening. The implication of the lex Peducaea is that the pontifices have been corrupt or incompetent or both in dealing with a matter falling within their competence. In this respect, Peducaeus himself may well not have cared very much who exactly would be involved in actions

resulting from his law. What he was concerned to discredit was the pontifex maximus and the college of pontifices. But Peducaeus must, in fact, have taken his arguments a stage further than this; he would hardly have argued simply that this was a good opportunity to snub the pontifices. He could have said that the guilty Vestals were being protected by their friends and relations and that the true extent of their guilt had never been revealed; but he must also have argued that it was necessary for them to be punished, which is to say that he must have been working on the strictly religious fears of the consequences which would follow if they were not duly punished.. It is to the religious side of the question that we must look next.

The Vestal found guilty of unchastity, was placed in a tomb with a certain amount of food and drink; her lover was flogged to death⁶³. It is clear that this entombment of the Vestal cannot be regarded as a punishment in the ordinary sense of the word. The original purpose of the ritual had⁶⁴ been discussed; Wissowa thought that the defilement of the Vestal was regarded as a special kind of prodigy and that her entombment was

63. Dion. Hal., A.R. 12.67,4; Plut., Q.R. 96; Numa 10.

64. G.Wissowa, Arch. für Rel. 22(1924) 203ff.

ordered as a piaculum for this prodigy, so that the purpose of the entombment was not punishment but propitiation. He admitted, however, that the Romans had themselves come to regard it as a mere form of punishment by the late Republic⁶⁵ and the rest of the thesis has also been brought in question⁶⁶. Thus/^{at} Livy 22.57, 2-3 we find the whole incident including the punishment regarded as a prodigy and special remedia applied - 'Hoc nefas cum in prodigium versum esset ...'. This seems to tell against Wissowa's theory, for if the entombment is itself a piaculum, the further remedia seem unnecessary. Whatever the niceties of the situation, two points seem clear; a) the evil of the Vestals behaviour lay in her failure to fulfil her religious duties and she can hardly be seen as on trial for a crime; b) her defilement evidently created a dangerous situation and one which needed to be handled with care if the wrath of the gods was to be averted.

It is not difficult to see why this should be so. The Vestal flame which the Virgins tended in the temple of Vesta was one of the symbols of the permanence of Rome⁶⁷;

65. id. ib.; cf. C.Koch, Religio, 2f.

66. Cf. Koch in RE, s.v. Vesta (8A2, 1747ff) and Religio, 1ff.

67. Cic., pro Font 47-8; de H.R. 37; cf. Virgil, Georgics 1.498.

the idea in this form may have developed later than the period we are discussing, though it is perfectly familiar to Cicero⁶⁸; but there is no reason at all to doubt that there was an intimate connection from early times between the successful performance of the Vestals' duties and the 'salus publica populi Romani'⁶⁹. Thus, a failure on their part directly threatened the safety of the State. The parallel of 216, which was the last year in which a Vestal-trial had happened, clearly confirms the general connection between danger for the State and unchastity in the Vestals. It is immediately after the terrible defeats of 217 and 216 that the trials were staged and a further series of remedia ordered to avert the danger which the affair indicated⁷⁰; the message was evidently that the defeats were not the result of the incompetence of soldier or general, but rather of the alienation of the gods whose support can be restored by the proper remedies.

At first sight, however, the parallel of 216 seems to raise a worse problem than it helps to solve. If it is right to interpret the 216 trial in the light of the crisis which Rome faced at the time, the implication would seem to be either that the accusations were

68. Liegle, in Hermes 77(1942), 271ff argued that the idea could be traced back into the second century, but cf. Koch, Religio, loc.cit. ~~and cf. infra~~

69. Cf. infra, 684f; Cic., pro Font 47f.

70. Cf. above n.4.

deliberately faked or more probably that ambiguous behaviour by the Vestals which would in normal times simply be ignored might in time of crisis be exploited in the interests of finding a scapegoat. This is hardly surprising; the proceedings were barbaric and reflected badly on the State cult, the punishment was horrifying and all the Vestals, at this date, were highly connected and rich; a Vestal-trial was not something which the pontifices would provoke if it could be avoided. The problem which must be faced is that in 114 the State faced no such crisis as in 216. There is another aspect to the parallel with 216, for in that year as in 114/3 the decemviri were consulted after the Virgin-trial:

'Interim, ex fatalibus libris sacrificia aliquot extraordinaria facta, inter quae Gallus et Galla, Graecus et Graeca in foro boario sub terram vivi demissi sunt in locum saxo consaeptum, iam ante hostiis humanis, minime Romano sacro, imbutum.'⁷¹ As has already been mentioned⁷², Plutarch⁷³ appears to refer to a precisely similar human sacrifice in connection with the 114/3 trial. If this is true, then the whole situation of the trials becomes even more problematic, and an

71. Livy, 22.57, 2-3.

72. p. 342 above.

73. Q.R. 83

explanation in terms of simple political manoeuvring even less adequate.

There can, I think, be little doubt that Plutarch is referring to the events of 113. The question he is asking is how it happened that the Romans criticized a tribe whom he calls 'βλετωνήσια' for practicing human sacrifice when they had done so themselves only a few years earlier. In his answer he gives a narrative of the prodigy of Elvia, discussed above⁷⁴, of the trial of the three Vestals Aemilia, Licinia and Marcia, whom he names, and then goes on: 'ἐκείναι μὲν οὖν ἐκολάσθησαν ἐξελεγχθεῖσαι τῆς δὲ πράξεως δεινῆς φαιείσης, ἔδοξεν ἀνερᾶσθαι τὰ ξιβύλλειά τῶν ἱερῶν. εὐρεθῆναι δὲ φάσι χρησμούς τὰυτὰ τε προδηλοῦντας ὥς ἐπὶ κακῷ γενησόμενα, καὶ προστάττοντας ἀλλοκότοις τισι δαίμοσι καὶ ξένοις ἀποτροπῆς ἐνεκα τοῦ ἐπιόντος προέσθαι δέο μὲν Ἑλλήνων δύο δὲ Γάλατ' ὕμνους ἀύτοθι καταρυγέμεντας.'

This evidence is not without its difficulties; particularly, it is uncertain what tribe Plutarch means by the 'βλετωνήσιοι',⁷⁵ and it seems too that Plutarch's

74. pp. 33⁶ ff. above.

75. Cichorius, Röm. Stud. (1922), 9f, for the suggestion that they could be Spaniards from the town of Bletisa, in Latin the 'Bletonenses'.

source was anti-Roman, at least in the sense that he is not failing to observe a Roman inconsistency though the tone is on the whole sympathetic to Rome and concerned to emphasize that they acted as they did only on divine injunction. But neither of these points makes it probable that the story of the sacrifice is a simple invention, at least by Plutarch or his immediate source and the only serious possibility which can be considered is that at some stage there has been a confusion between the incidents of 216 and 114 and that the sacrifice has been wrongly transferred from one to the other; if so, the confusion is very deep because the entire point of Plutarch's question is the proximity in time of the rebuke to the 'Βλεπώμενον' and the sacrifice at Rome; but evidently in Plutarch's view and no doubt also in reality the rebuke must belong to the last century of the republic⁷⁶.

We can hardly, then, reject Plutarch's story without having solid reasons for doing so. The silence of other sources is quite inconclusive for a period so erratically recorded; Obsequens, who mentions the dedication to Venus Verticordia⁷⁷, might have included this incident too, but his failure to do so does not even prove that

76. For the real date of the rebuke cf. Cichorius, op. cit., 94.

77. Obs., 37.

it was not in Livy⁷⁸, let alone that it did not happen. An argument based on the general improbability of such barbarity is even less to be trusted; Caesar was responsible in the forties for an even more barbarous performance⁷⁹ and we have Pliny's word that the sacrifice of Greeks and Gauls had happened in his lifetime too - 'etiam nostra aetas vidit'.⁸⁰ Nor is there anything very unusual in the revival of an archaic ritual, which one might have thought obsolete; one might compare the ver sacrum of 195 and 194,⁸¹ the surrender of Mancinus in 137⁸² or the evocatio at Carthage in 146⁸³. Moreover, the incident is strongly

78. Obsequens ~~tells us that he extracted his material from Livy's history~~ (cf. infra pp. 565) but even if the prodigies can be taken as fairly reliable, the silences cannot.

79. Dio Cass., 43.24,4 (47 B.C.). After a mutiny, two soldiers were sacrificed by the pontifices and the flamen Martialis and their heads displayed on the Regia. The custom of displaying heads is known to be Celtic (Diod., 5.29,5; Strabo, 4.4,15 - the information, apparently from Posidonius). For discussion of the place of this ceremony in Roman religion, Wissowa, R.u.K.², 144f; F.Schwenn, Die Menschopfer bei den Griechen u Römern, R.G.V.V. 15.3, (1915), 166 ff.

80. Pliny, N.H. 28.212

81. Cf. infra. 240ff.

82. Cf. infra, 189, n. 15.

83. Cf. infra, 189, n. 16.

defended by a passage of Pliny in which he reports a senatus consultum of 97 BC which forbade human sacrifice: 'DCLVII demum anno urbis Cn. Cornelio Lentulo P. Licinio Crasso coss. senatusconsultum factum est, ne homo immolaretur, palamque in tempus illud sacra prodigiosa celebrata'.⁸⁴ Pliny obviously understood the SC as referring to Rome itself and it is difficult to imagine that the senate was legislating against a ceremony which had not taken place for over a century. It is never altogether satisfactory to have only one account of a happening, but with this reservation there seems no good reason to reject Plutarch's story.

A human sacrifice of this kind is recorded altogether three times under the republic - first in about 228,⁸⁵ secondly in 216,⁸⁶ thirdly in 113, the occasion we are discussing. Our sources for the first incident seem to be clear that this sacrifice was some kind of new introduction into Rome at this date⁸⁷ and scholars have tended to treat it as an essentially foreign ceremony brought to

84. Pliny, N.H. 30.12.

85. Dio Cass., fgt. 47 = Boissevain I p.183 = Zon., 819 and Tzetzes on Lycophron, 603; Plut., Marc. 3.4; Or. 4.13,3.

86. Livy, 22.57,4.

87. Cf. especially Plut., loc.cit.; Or., loc.cit.; "... consuetudinem priscae superstitionis egressi."

Rome by the agency of the Sibylline books;⁸⁸ it certainly seems to be true that Roman religion had in general avoided or perhaps eliminated the whole concept of human sacrifice, for if there had ever been such sacrifices at Rome they had already disappeared so thoroughly by the date of the earliest calendar we can reconstruct, that the ingenuity of scholars can hardly extract convincing survivals.⁸⁹ But to describe the ritual as a foreign importation to Rome does not begin to solve the problem; in the first place, there are elements about the ritual which look quite characteristically Roman;⁹⁰ again, if one accepts that it was all of foreign origin and first known at Rome in 228, it is all the more difficult to explain why a people who had always avoided human sacrifice should suddenly and inexplicably adopt it.

88. Cf. Cichorius, *loc.cit.*; R.Bloch, in Mélanges Ernout (1940) 20 ff. for the view that the ceremony was of Etruscan origin. Further bibliography: RE 7.683 ff (Goehm); A.Piganiol, Essai sur les origines de Rome (1916), 149; F.Schwenn, *op.cit.* 152 ff; V.Groh, Sacrifici umani nell' antica religione romana, Athenaeum 1933, 240ff; F.Fabre, REA 42 (1940) 419ff.; J.Gagé, Apollon remain (1955), 249f; P.Arnold, Ogam 9(1957), 27ff; C.Bémont, MEFR 72 (1960), 133 ff; Lippold Consules, 255f; (Latte, R.R.G., 256f.).
89. Cf. Wissowa, R.u.K.², 420f; Warde Fowler, R.E.R.P., 32ff and nn.28ff. on p.44f.
90. Cf. e.g. the method of sacrifice, below nn.95 and 96.

There are two main explanations of its significance current. According to Pliny,⁹¹ the victims to be executed were either Greeks or 'aliarum gentium cum quibus tum res esset', that is to say, the ritual was always to be connected with whatever war was current. Now, as it stands, all we know about the particular occasions when the sacrifices were made under the republic is in direct contradiction to Pliny's account; on all three occasions the victims were a male and female Greek and a male and female Gaul, but on none of the three occasions was Rome at war with the Greeks and only in 216 were they at war with the Gauls, and then only as auxiliaries in Hannibal's army.⁹² The two possible explanations are, therefore, either to accept Pliny's thought that the ceremony was some kind of war magic, but maintain that the actual choice of victims was fixed by some kind of convention established either earlier than 228 or elsewhere than at Rome or both; or to reject the idea of war magic altogether and connect the sacrifices with some other cause altogether.

91. N.H. 28.2,12.

92. Though it is worth noticing the official definition of the war in the 'ver sacrum' vow, Livy, 22.10,2: '... quod duellum populo Romano cum Carthaginiensi est, quaeque duella cum Gallis sunt qui cis Alpes Sunt ...' cf. infra. 142f.

Cichorius⁹³ found the connecting link between the three human sacrifices in that all of them followed upon Vestal-trials and therefore proposed to treat them as simply piacula for the defilement of the Vestals. We must start from an examination of this view.

We have seen that on two of our three occasions there was a direct and close connection between the Vestal-trial and the human sacrifice; for the third occasion, none of the authorities who mention the human sacrifice bring it into any connection with a Vestal-trial at all, and indeed none mentions a Vestal-trial at this date; however, Livy's epitomator⁹⁴ does know of such a trial and places it between the Sardinian war of the late 230's and the Illyrian war of 229; Cichorius therefore put the Vestal-trial in 229 or 8, the human sacrifice in 228 and argued that their conjunction on this third and last occasion could scarcely be a co-incidence. His case is greatly strengthened by the fact that the form in which the Greeks and Gauls were sacrificed was an apparent echo of the entombment of the Vestal, for they were placed alive in an underground tomb;⁹⁵ though at least in 216 this tomb

93. loc.cit. 12ff; cf. infra .358f.

94. Livy, Per. 20.

95. Best defined by Livy, 22.57,4: '... sub terra vivi demissi sunt in locum saxo consaeptum ...', on which cf. Mlle. Bémont, MEFR 1960, 135f.

was apparently already stained with the blood of other human victims - 'minime Romano sacro', says Livy.⁹⁶

This is all very ingenious, but not ultimately very convincing. First, there does seem to be at least a year's interval between the Vestal's death and the human sacrifice; for the epitomator normally reflects Livy's order of events and the events which follow the Vestal-trial

96. On this passage, cf. P.Fabre, FEA 1940, 419 ff (misunderstood, I think, by de Sanctis, St. dei R., 4.2.319 n.865). Fabre argues that the tomb was literally stained with blood ('imbutum') and that the minime Romano sacro' refers not to the whole interrment of victims, but the bloody sacrifices of other human victims, which preceded the central sacrifice of the Galli and Graeci. Others have taken 'iam ante' to refer to an earlier interrment i.e. to the incident of 226. But it seems quite incredible that the phrase 'minime Romano sacro' should be intended as a comment on the whole ceremony, because, if so, why should it be placed in a subordinate clause referring to a previous occasion and not used to qualify the actual event under discussion? There is, in any case, nothing alien to Rome about the actual interrment, which was the regular fate of the unchaste Vestal.

certainly belong to 229;⁹⁷ March of 229 is therefore the terminus ante quem for the Vestal-trial. But the very earliest date possible for the human sacrifice is 228; Zonaras⁹⁸ and Plutarch⁹⁹ suggest a later date; the

97. Viz. the opening of the Illyrian War; for sources MRR 1.228. The problems of the Virgin-trial and its date are complicated by the story of the Vestal Tuccia, who, according to Dion.Hal.2.69, 1-3; Val. Max., 8.1.5; Pliny, N.H. 28.12 (cf. Tert., Apol. 22; Aug., C.D. 10.16), proved her innocence by carrying water in a sieve. The MSS. of Livy's Epitomator give the name of the Vestal of 229 as either Lucia (N) or Luccia (P); the ed. princ. has Tucia. It is certainly striking that the only fact we know about Livy's Lucia is that she was condemned, while the important fact about Tuccia is that she established her innocence; but clearly the story of Tuccia could be a variant tradition, not mentioned by the epitomator, while the similarity of Lucia/Luccia to Tuccia is hard to ignore. Pliny, loc.cit., offers a date for Tuccia's trial for which the MSS. give DXVIII (E) or DCVIII (VR) a.u.c.; the former would be 235, the latter 145 B.C.; Ernout, Mayhoff and Jahn all read DXVIII; Münzer (in Philologus 92(1937), 206f) would emend to DXVIII = 230 B.C., which would fit with the apparent dating of Livy's epitomator. But, obviously amidst such multifarious uncertainty, the only evidence which can be relied on is the order of events as given by Livy.

98. 8.19 (Boissevain's Dio, 1.183).

99. Q.R. 83

scholiast to Lycophron in a very muddled notice gives 228;¹⁰⁰ Orosius may be indicating 228 by the phrase 'tertio deinceps anno', but it is far from clear what his starting point is intended to be - 230, 229 or perhaps even later;¹⁰¹ the sacrifice belongs to the period 228 - 226, but we cannot be more precise. Secondly, it should be remembered that the sacrifice is recommended by the decemviri who produced an oracle

100. Dio Cass., fgt.47 = Boissevain, l.183. He muddles the details of the sacrifice, but dates it to the consulship of Fabius Maximus Verrucosus, who was consul II in 228; he might, of course, be thinking either of 233 or one of the years of the Hannibalic War in which Fabius held the consulship. But Zon., loc.cit., shows that Dio did place the human sacrifice roughly in the early 220's.
101. For discussion, Cichorius, op.cit.15f. Orosius (4.13.1ff) dates the death of Hamilcar (anno ab urbe condita DXVII = 235) as a starting point: then 'sequenti anno' he reports the Illyrian War and the surrender of the Illyrians to Fulvius and Postumius, consuls in 229; then, - 'tertio deinceps anno' - he puts the human sacrifice. 'Tertio anno', is presumably what we would call two years later, i.e. 228 if he is starting from 230. But I cannot see any way of telling whether he is referring to the third year after 230 (his first date, assuming that a.u.c. DXVII is simply wrong); or after 229 (the year of the beginning of the Illyrian War) or 228 (the end of the Illyrian War).

from the books; now, we know little or nothing about the methods they used to find the appropriate oracle to a particular occasion, but the oracles seem to have begun with a statement of the dangers which would face the State and continued with remedies appropriate to avert those dangers.¹⁰² We have no text of the oracle produced in 216 and 113, so we do not know whether it specified that the remedies suggested applied only in the case of a Vestal's defilement; nor do we know whether the decemviri treated the texts with such respect that they would necessarily honour such injunctions if they existed. Thus it is, for instance, quite possible that the misbehaviour of the Vestals was only one of a number of disasters specified in the oracle; the oracle might have said e.g. when the State is in peril and (a), (b) and (c) have happened and the Vestals have taken lovers. In this case, the oracle might only be produced after a Vestal-trial - though not necessarily immediately after one - but nevertheless the remedies suggested would not necessarily be specifically tied to the prodigy of the Vestal's defilement. In other words, Cichorius' view is not necessarily inconsistent with the view that the central function of the ceremony was to avert external dangers.

102. Cf. *infra*, 496ff.

There is a further point; it has already been mentioned that our sources do not connect the human sacrifice of 228 - 226 with a Vestal-trial; but, in fact, they do offer us explanations of it. Plutarch says that it was the terrible fear of Gallic invasion which drove the Romans to depart from their normal moderation in matters of religion and perform the sacrifice;¹⁰³ Dio reports an oracle which said that Greeks and Gauls were the peoples who would capture the city and explains the burial of the victims as an attempt to make the oracle come true since they would possess some part of the city - their graves;¹⁰⁴ Orosius, after reporting the sacrifice goes on: 'Sed obligamentum hoc magicum in contrarium continuo versum est.' and he then reports the Gallic invasion of 225 and the disasters which ensued.¹⁰⁵ Dio's explanation sounds suspiciously rationalistic; but all three accounts are at one in regarding the sacrifice as an attempt to avert an attack by the Gauls and in reporting it shortly before the Gallic invasion. Cichorius sought to reject their testimony on the grounds that the year

103. Marc. 3.3

104. Fgt. 47 (Boissevain 1.183)

105. 4.13, 4ff.

of the sacrifice was 228 and not 226; but even if he was right in this, this is surely not conclusive, for the ceremony could be carried out at any time when there was fear that the Gauls might be going to invade and this may have been true of 228 as well as 226. The conclusive point here and the most important one for the present study is that in 113 the Gauls were again threatening to invade; it was actually in the course of 113 that news of the invasion of Italy reached Rome¹⁰⁶ but they must have been aware of the possibility some time before. The case of 216 is then slightly different but hardly surprising; this time the invaders were actually in Italy and the Gauls were not a major part of the army;¹⁰⁷ but the threat of Rome's being captured was more real than ever and the senate was trying a series of desperate remedies.

The clue about the sacrifice which has invited most speculation is the identity of the victims and in terms of the interpretation which I have been suggesting this is a difficulty. It might make sense to sacrifice a pair of Gauls, symbolizing the Gallic nation, but why a pair of Greeks? Some have seen the choice of victims as a clue to the local origins of the ceremony; for

106. Tac., Germ. 37: Eutrop., 4.25

107. though cf. above n.92.

Greeks and Gauls are the traditional enemies of the Etruscans from North and South of their homeland.¹⁰⁸ Gagé,¹⁰⁹ solving one problem to create a dozen, has suggested that the victims symbolized the Galatians - the Gallo-Graeci. Again, our sources contain some kind of clue; Dio¹¹⁰ quotes the oracle as saying that the Greeks and the Gauls would take the city, but as matter of fact in terms of legend and history they were the two peoples who had already taken the city - the Greeks Troy, the Gauls Rome. Again, a full text of the oracle would no doubt be illuminating, but if the sacrifice was a new one in 228 or was being revived after a long interval there is obviously a possibility that it was to some extent concocted by the decemviri at the time. We do at least know that there were Sibylline oracles which referred to Greeks and Gauls and even Trojans;¹¹¹ moreover in 143, the decemviri had actually made recommendations appropriate for the successful fighting of a war against the Gauls.¹¹²

108. So Cichorius, op.cit., 19f.

109. Apollon romain, 249f.

110. fgt.47

111. For the Gauls cf. Obs., 21: 'quotiens Bellum Galli illaturi essent, sacrificari in eorum finibus oportere'. cf. Gagé, op.cit., 247f.

112. Obs.21.

The conclusion of this long discussion is then that the involvement of the Vestal-trial with the human sacrifice is only secondary, but that the fundamental function of the sacrifice was to avert a threatened invasion of Italy by the Gauls. How much light does this throw on the events of 114/3 as a whole? If it is conceded that there were rumours current of the activities of the Cimbri for some time before they actually invaded (and it would be difficult to believe that there were not), it enables us to see the whole developing crisis against a background of religious terror and as a coherent whole. With these rumours there co-incided rumours of scandal in the Vestals' house. The pontifices may well have been reluctant to act and perhaps they eventually did so at least in part to clear the good name of the Vestals. The prodigy of Elvia's death and the gossip in Dio add some colour to the suggestion that the pontifices may have found themselves under some considerable pressure to act. We can hardly hope to establish the reasons for the condemnation of Aemilia; perhaps, a scapegoat was needed; perhaps, in her case the charges were true; perhaps, she was obviously pregnant.

This, then, was the material which Peducaeus had to work on in January of 113; clearly, if the defilement of the Vestals indicated danger of Gallic invasion,

the failure to offer adequate piacula in the form of condemned Vestals must imperil the whole Roman State. In this year too, Obsequens notices, the Ara Salutis was broken apart, presumably by lightning.¹¹³ Dio bears witness to the panic at Rome at this stage.¹¹⁴ At exactly this moment, as has been suggested above,¹¹⁵ the decemviri consulted the books; both the moves they suggested indicate very clearly that the religious authorities felt that desperate measures were necessary to restore their control of the situation. This was the first time for over a century that the books had recommended the building of a temple;¹¹⁶ their second recommendation was the human sacrifice. If this is to be understood as an attempt to divert the general outcry and prevent the lex Peducaea from passing the assembly it evidently did not work. The details of all this are to some extent speculative but it seems impossible to understand the astonishing sequence of events unless one postulates some degree of popular panic and pressure accordingly on the religious authorities. It is comprehensible only in the shadow of the Gallicus tumultus.

We are now in a position to analyse the relations between political and religious elements in the crisis

113. Obs.38

114. 26 fgt.87.

115. pp. 341 ff.

116. Infra, 504.

and they are in some ways very characteristic of the way in which religious life impinged on political life in the second century as a whole. The origins of the crisis do not seem in any sense to have been political or engineered by politicians for their own ends, but the situation which was soon created was one which could be turned to the advantage of politicians or at least political considerations very rapidly came into the picture. In particular, popular feelings on the subject were apparently exploited by the populares to launch an attack both on the pontifices and the pontifex maximus and also on individual politicians; there may have been a great deal more such inter-party conflict than we can now reconstruct and it is at least certain that the families of the individual Vestals will have been deeply implicated in the affair.

The long-term consequences of the lex Peducaea are also of considerable importance and their full significance becomes apparent in the events of ten years later - the tribunate of Domitius Ahenobarbus. First, the attack on the privileges of the pontifices and on the efficiency with which they had carried out their duties comes to its logical conclusion when they lose the privilege of co-opting their own membership and are thereby brought within the scope of the democratic electoral system, albeit in a special form.¹¹⁷

117. *Infra* ch. 12.

Secondly, the re-trial of the Vestals and the attack on Antonius at this time represents the first occasion we know of on which a leading politician has to face a strictly religious trial at Rome; for the most part the Roman system does not provide opportunities for any kind of action corresponding to the Greek 'δοκιμασία' procedures; a Roman can be criticized by a censor for failing to carry out his religious duties¹¹⁸ or religious lapses on his part may lead to his actions as a magistrate being held illegal by the senate;¹¹⁹ but, in the normal course of events he cannot be directly charged with irreligion - 'deorum iniuriae dis curae'.¹²⁰ It may be that the fourth and third century Vestal-trials, of which we have the barest accounts and in which the names of the individual Vestals are extremely suspect and unreliable,¹²¹ may have represented at the time attacks on the families from which the Vestals came; but we have no indication that leading aristocrats were actually involved in the trials. Thus in this respect too the events of 113 form a precedent for Domitius activity ten years later and

118. *Infra*, 316 n. 99.

119. *Infra*, 16. 8.

120. *Infra*, 684f.

121. So, Münzer, Philologus 92 (1937), 47ff: 199ff.

particularly the action which he brought against Aemilius Scaurus for some kind of religious offence. As we have already noticed,¹²² Catiline, Crassus and Clodius were all to be victims of similar charges in the course of the first century. In these cases, it is at least clearer than in the case we have examined that political motives lay behind the initiation of proceedings, though in such matters one can never be quite sure.

¹²². Above, 336.

8. Augures

Cicero lays great emphasis on the importance of the augural college in the political life of Rome and on the scope of the powers of intervention which they had held.¹

Of course, he is speaking of his own college and a certain partisanship is evident; but we can collect ample first century evidence to support his remarks and, indeed, in the late republican period the augures seem to have

1. De leg. 1.31. For the college, Mommsen, Staatsr., 1³.73ff. Wissowa, R.u.K.², 523ff.; RE s.v. augures. Their books, P. Regell, De augurum publicorum libris, Pt. 1 (1878). On points of augural law, the acute but chaotic articles of Valetton are still fundamental (Mnemosyne 17(1889), 275.; 418ff.; 18(1890), 208ff.; 406ff.; 19(1891), 75ff.; 229ff.; 405ff.; P. Catalano, Contributi allo studio del diritto augurale, Vol 1 (1960), is also providing a full-scale study of this material, but only the first volume has so far appeared; he deals mostly with the distinction between 'auspicia' and 'auguria' (on which he rejects, op.cit. 96ff., the very attractive hypothesis of E. Flinck, Auguralia und Verwandtes, in Ann. Acad. Sc. Fennicae Ser. B. 11.10 (1921), who regarded the augurs as originally priests of sacrifice rather than divination), with 'inauguratio' and with the regal period. In what follows, a certain number of technical terms are used; they are discussed most clearly by S. Winstock, RE s.v. obnuntiatio: JRS 27(1937), 215ff. 'obnuntiatio' is used for the announcing of bad omens by magistrates or priests: 'auspicia' for signs, good or bad, given to priests or magistrates: 'auspicia oblativa' for signs given unsought during the comitia: 'auspicia impetrativa' for signs given to the magistrate or priest, as he was specifically engaged in taking the auspices; 'spectio' for the magistrate's right to look for 'auspicia impetrativa' and to announce his findings.

jurisdiction over any matter within the field of what we should call constitutional law, even when there is no apparent connection with the taking of auspices.² Moreover, Cicero also tells us that the college had sadly declined since the good old days.³ Once, the taking of auspices had preceded all acts at Rome and, in particular, the commander had invariably taken the auspices on campaign with the consequence that the augurs had an interest in and jurisdiction over the military aspect of Rome's life as well as the political.⁴ By the first century, the commander is no longer the consul of the current year and he is therefore no longer fighting under his own auspices. In the meantime, the college had to a great extent lost its special knowledge of techniques of augury⁵ and in Cicero's own day there was a published dispute between two augurs as to whether their own art was a genuine one at all or rather simply a political convenience.⁶ Cicero himself

2. For the involvement of the augurs in political life in the first century B.C., cf. e.g. Cic., de domo 40; Phil. 2.80ff. (MRR 2.317, for other sources); below nn. 23 and 4.
3. For their jurisdiction over constitutional points, Cic., ad Att. 9.9,3; Gell., N.A. 13.15. It was the augurs business to adjudicate on whether a praetor could or could not hold the consular elections; the matter is expressed in terms of the relative strength of 'auspicia' and this is, no doubt, why it falls within the augurs' province.
4. De N.D. 2.9; de div. 1.25; 28; 2.71; de leg. 2.33.
5. Cic., de div. 2.77; for some examples cf. below, 343ff.
6. loci cit. n.3.
6. Cic., de leg. 2.32.

in the *de Divinatione* is inclined to the view that there can be no foretelling of the future.⁷

It has therefore been a natural assumption that if the augures were politically important in the first century they must have been far more so in the second when their powers were still undimmed. But clearly this is a matter which must be decided on the evidence not on any a priori assumption. The importance of the college in the first century was intimately connected with the revolutionary politics of that period; at a time when there were no anti-senatorial legislators and no turbulent electioneering, there will have been far less opportunity for intervention by the augures. We must examine first the nature of augural intervention in matters affecting politics in some detail to test the validity of this argument.

The politically relevant part of the augurs' powers

7. cf. 2.148ff.; here, Cicero gives an apparently decisive summing up against the possibility of divination, but his last word (*ib.* 150) is a formal suspension of judgement.

lay in adjudicating on the legality of proceedings in the various comitia; thus whatever election was made, whatever law carried the augurs had the power to declare that there had been a fault (vitium) in the procedure and that the law or election should therefore be cancelled.⁸ In the case of an election, the senate thereupon called on the magistrate to resign and he was expected, though not apparently legally obliged, to do so;⁹ we do not know what the exact juridical situation was in the case of a refusal, but the magistrate generally acquiesced.¹⁰ It is even less clear exactly

8. The technical phrase was 'vitio creatus' in the case of an election (Livy, 8.15,6; 23.31,13 etc.); 'vitio diem dictam' (Livy, 45.12,10; cf. below, 402 ff.); in the case of an appointed day; 'vitio tabernaculum captum' in the case of a particular mistake in the taking of the auspices (Cic., de N.D. 2.11; cf. below, 404 ff.); and 'lex vitio lata' in the case of a law held to be vitiated (Cic., de H.R. 48). For the augurs' powers in general, cf. Cic., de leg. 1.31; Wissowa, R.u.K.², 530ff.; de Sanctis, St. d. R., 4.2.348ff.
9. For the procedure, Cic., de N.D. 2.11; Wissowa, R.u.K.², 531 n.3. Cic., de leg. 2.31 - '...posse decernere ut magistratu se abdicent consules.' - is clearly an exaggeration of the augurs' functions; cf. below. Incidentally, there seems to have been no question of the acts which the consuls had performed before their abdication being nullified; see Mommsen, Staatsr., 13.364; based on Varro, de L.L. 6.30.
10. The consuls of 223 (C. Flaminius and P. Furius Philus) were asked by the senate to resign for religious reasons (Livy, 21.63,7; Plut., Marc. 4.1-5) but the request seems to have been refused; MRR 1.232; Cassola, I gruppi, 223f.

what happened when a law was declared invalid; in this case, there would be no question of resistance by the magistrate, but it is still uncertain whether the decree of the college alone would have the effect of cancelling a law or whether it would be necessary for the senate to incorporate the augural decree in a decree of its own pronouncing the law invalid; this point will be relevant later.¹¹

So far, I have spoken of the augurs and assumed that all these actions will have been taken by the college as a college. Recently, however, Cassola¹² has argued that action of this kind was not taken by the college at all, but by the individual augur acting alone. He is not saying that the augurs never sat as a college, but rather that they only did so when a point of general importance was raised and when the matter was specially referred to them. In the ordinary way, a single augur was competent to take any decision and against this there was no appeal. Cassola does not argue this important thesis in detail but he quotes cases¹³ which

11. cf. below, 347ff.

12. op.cit., 338.

13. op.cit., 338n.92.

suggest that his view is based on a confusion and it is important for this study to establish this. There is no question that the college could be consulted in the same way as the pontifices or decemviri or that they could, like the pontifices, bring forward points on their own initiative.¹⁴ The question is how wide a range of decisions could be taken by the individual. Cassola draws attention to three types of case: 1) an individual augur might be invited by the presiding magistrate of the comitia to attend in his official capacity;¹⁵ 2) if the augur during the actual course of the comitia announced publicly that he had seen or heard an unfavourable omen, he could adjourn the meeting

14. For consultations, Livy, 8.23,14; 23.31,13; 45.12,10; Cic., Phil. 2.83; for their own initiative, cf. below,⁴¹⁴.
15. Varro, de R.R. 3.3,2; cf. 3.7,1; de L.L. 6.95. The consulting augur was called 'in auspicio..... consuli'; Cic., ad Att. 2.12,1; Messala ap. Gell., N.A. 13.15,4. These passages used to be connected with Cic., de div. 2.72 (and cf. Livy, 10.40,4), where Cicero laments that magistrates no longer summon a 'peritus' to help them with the auspices, but Valeton (Mnemosyne 18(1890), 406ff.) proved that 'peritus' in this context could never have meant an augur. The actual taking of the auspices involved a long wait once the 'templum' had been set up and this boring job was handed over to an attendant. This has nothing to do with the advising augur at the comitia.

by simply standing up and saying 'alio die';¹⁶ 3) most augurs at any particular time would also be members of the senate, and as such they might speak in the senate on a particular issue which depended on the augural law in which case their influence would be considerable.¹⁷ Now these three cases are all important instances of the potential power of the augurs but they are very different cases and deserve individual attention.

Case 1) probably represents the function of the augur which was most important in the conduct of day-to-day business. Every item of public affairs had to be conducted with a scrupulous regard to the appropriate ceremonies or it might subsequently be challenged on procedural grounds. In this situation it would be only natural that, at least on important occasions, the magistrate should wish to have a specialist on such matters both as an adviser on the right thing to do and as an expert witness should any challenge be made later on. As a matter of fact, there might well be other, hostile, augurs present at the comitia who would

16. Cic., de leg. 2.31; Phil. 2.83.

17. For the seniority of the augurs cf. below §97K.

be only too pleased to look for mistakes in his actions and to exploit them. Now, despite the presence of augurs, there might still be occasional questions about the validity of the proceedings; the augurs present might disagree, or they might deliberately give the magistrate wrong advice, or do so accidentally, or be misunderstood; Cassola's view is apparently that in such a case, the word of the augur invited to be officially present would be final without reference to the college itself, that he was a sort of official umpire for the day. For this view, there is, as far as I know, no evidence whatever; Cassola only quotes evidence falling under my cases 2) and 3), which, as we shall see, are quite different; the functions of the augur invited to attend comitia were, as far as we know, purely advisory and it seems quite certain that in cases of subsequent doubt the matter would be referred to the college for a decision.

Case 2) is different in so far as we are dealing here with a legally recognized privilege of the augur, which he could exercise at will and over which the college had no jurisdiction. It was a rule of the augural law that any lightning or thunder which occurred

during comitia made it nefas to continue the proceedings;¹⁸ it is an interesting fact that this is a quite different ruling from those which normally applied to the assessment of signs from the heavens, because the quality of the sign normally depended on its spatial relation to the observer - good signs from the left, bad from the right.¹⁹ If an augur officially announced that he had heard thunder or seen lightning, it was mandatory for the presiding magistrate to close the meeting. In this particular instance, Cassola's thesis is clearly right and it is largely on such cases that he bases himself; but this specific power of the individual augur only applied to a narrow range of instances (viz. where the announcement was made during the actual progress of the comitia, neither before nor afterwards)²⁰ and it had a specific result (viz. that the comitia were discontinued).²¹ Now, it is quite

18. Cic., de div. 2.42; Phil. 5.7; cf. de div. 2.74; Vat. 20; Valetton, Mnemosyne 19(1891), 77ff.

19. Cic., loci cit. n.18; Valetton, Mnemosyne 18(1890), 292ff.; Wissowa, R.u.K. 2, 524ff.

20. This is clear from the wording of the passages cited n.18 above; it was 'nefas' to hold comitia 'Iove tonante' - not if Iuppiter thundered before or after the holding of the comitia. For the application of this cf. especially, Cic., Phil. 2.83ff.; Valetton, Mnemosyne 18(1890), 446ff.

21. Cic., de leg. 2.31; 'quid gravius quam rem susceptam dirimi si unus augur 'alio die' dixerit?' The meeting could not be resumed until the following day; cf. Livy, 9.38,15; cf. 39,1.

unfair to generalize from this case to other augural activities. There is, in the case of obnuntiatio, no question of the augur having a juridical function to perform; he is there specifically in order to see signs from heaven and if he sees them or says he sees them, the proceedings have to stop. It should be noted that the announcing of signs is not limited to the augurs, indeed any citizen can announce them,²² but it is only an augural obnuntiatio which the presiding magistrate is obliged to listen to.

This power of the augurs is often given great prominence in modern accounts of augural activities, but, as a matter of fact, we know of no example of the use of this procedure earlier than 63²³ and only a handful of cases in the late republic.²⁴ Two features of the obnuntiatio have attracted attention: first, that there was no appeal and it did not matter whether thunder

22. cf. e.g. Appian, B.C. 1.30,133; for other examples, Valeton, Mnemosyne 19(1891), 98ff.

23. The incident of 63, Dio Cass., 37.27,3; for other examples, Valeton, Mnemosyne 19(1891), 94ff.

24. cf. Cic., Sest. 78 (57 B.C.); Plut., Cat. Min. 42 (55 B.C.); Cic., Phil. 2.82ff. (44 B.C.).

or lightning had actually occurred if the augur said it had;²⁵ secondly, that the magistrate was obliged to accept the omen. But as a matter of fact the obnuntiatio as a political weapon suffered from severe disadvantages; occasionally, no doubt, thunder would co-incide with a bill of which an augur disapproved and here the augur would no doubt perform his duty with the feeling that he was supported by the gods in his disapproval; sometimes, he would perhaps induce a belief in celestial phenomena which he desperately wanted to see; modern accounts assume that such signs were from an early date faked whenever it suited an augur to do so.²⁶ Of this, we have no evidence and it must, in fact, have taken great moral courage and a hard-bitten scepticism to stand publicly robed in sacerdotal dignity and solemnly announce that celestial phenomena had occurred which had not occurred. More to the point, the advantage which was

25. This is clearly the implication of the passages cited above n.16, concerning the right of the augur to adjourn a meeting on his own authority; he was the State's expert on the seeing of signs and there was no appeal against his judgement.

26. This view is perhaps most highly developed in the article by Dorey in Rh. Mus. 102(1959), 249ff., who assumes that the augurs in the third century simply invented whatever they found politically convenient. But similar attitudes are to be found in, e.g., W.Schur, Scipio, 111ff.; Scullard, RP, 37f.; 57. Cassola, I gruppi, 336ff. argues that religious scepticism was so established by this date that religious techniques were being openly used for political ends, but denies that Fabius Cunctator in particular was able to use the augurs as an instrument of policy. Ilse Müller-Seidl (Rh. Mus. 96(1953), 241ff., tried to prove that Fabius was guided by religious rather than secular motives. For discussion, cf. below, 426ff.

obtained by this device was only a delay in the election or legislation concerned; the same man might be elected or the same law passed on the next comitial day. In the first century, a delay of this kind might be very helpful; thus in 55, Pompey procured just such a delay when it looked as if Cato might be successful at the praetorian elections, but, when the elections were resumed, he brought a gang to deter Cato's supporters by force;²⁷ in the situation of the 50's this kind of manoeuvre might make sense, but in the second century such a delay would rarely if ever be very helpful.

There is a further point which has an important bearing on Cassola's argument. When an augur exercised his obnuntiatio, the normal result would be that the comitia would end and later a quite separate assembly would complete the business.²⁸ The particular occasions with which Cassola was dealing are ones where we hear that magistrates after election were declared 'vitio creati', that is to say the augurs announced that there was a fault in the method of their election.²⁹ We can be sure

27. Cato min. 42.

28. cf. above n.21.

29. cf. below, 422ff.

that this situation did not arise out of the normal use of *obnuntiatio*, for, had there been an *obnuntiatio*, the magistrates in question would never have been elected at all and their magistracy could not have been subsequently cancelled. It would only be possible for a case of '*vitio creatus*' to arise from an *obnuntiatio* if the presiding magistrate refused to respect an augur's intervention; such flagrant rejections of the augural rules did happen in the first century; but we have no right to postulate them for earlier periods without evidence. In any case, where our sources simply tell us that a magistrate resigned as '*vitio creatus*' there are literally dozens of possible irregularities which could have caused this;³⁰ a cause involving *obnuntiatio* is one of the more remote of these possibilities.

Case 3) involves the action of members of the augural college in their capacity as senators. Here the situation is very much as in case 1). There is no doubt that in cases where the senate was debating the validity of a law, they would be inclined to pay great attention to the opinion of the augurs amongst their own number. But we have no reason to think that they had any legal authority in such matters; they acted in an advisory capacity. If

30. for an example cf. below, 411ff.

the senate felt that it needed an official decision by those expert in such matters it could always consult the college as such. Again, this procedure seems to have nothing to do with the augurs's right to intervene directly in the proceedings of the various comitia.

To sum up this introductory discussion: it seems very clear that the politically important part of the augurs' powers in the second century lay (a) in their right as a college to adjudicate on the validity of laws, elections and other proceedings which involved the taking of auspices; (b) in their advisory functions as individuals in assisting the senate or the magistrate on the correct performing of their duties. On the other hand, their power of direct intervention in comitia was never, so far as our information goes, used before the first century. I have suggested that the reason we never hear of it, may lie partly in its unsuitability as a normal political weapon, but also in the fact that when it did happen the consequences would not be sufficiently important to leave their traces in our tradition, except where we have an extremely detailed narrative of events. This point illustrates very clearly the connection, which I suggested earlier, between the importance of the augurs in Cicero's day and the revolutionary politics of that period; in the

relatively stable politics of the second century, the right to delay the comitia for a few days can hardly have mattered; in the first, such a delay might be critical, or you might tempt your enemy into refusing to recognize your veto, in which case the validity of the comitia could be challenged later.³¹

Nevertheless, the powers the augurs held in the third and second centuries remain extremely impressive. We know that these powers were used quite frequently in the last thirty years of the third century;³² we know they were used, though far more discussed than used, in the first century.³³ We know that the members of the college in the second century were men of the highest distinction.³⁴ Yet, in our sources for the first half of the second century the augurs are mentioned barely half a dozen times, except where Livy records the deaths and co-optations of members of the college. We must first review what evidence there is.

31. As notoriously in 59 B.C.; cf. Cic., de H.R. 48; de dom. 40f.

32. cf. below, 422ff.

33. For examples of the augural obnuntiatio, cf. above nn. 23 and 4. For the cancellation of laws below pp. 435ff. The famous case of the leges Juliae of 59 is a classic instance of a long discussion which, in fact, resulted in no action. No doubt, the extensive powers of the augurs were left unattacked precisely because they were so seldom used.

34. cf. below, 597ff.

The first explicit mention of the activity of the augurs in the fourth and fifth decades of Livy is in the troubled year 176, when two matters arose which fell within their province. First, the consul Q. Petilius was killed in battle against the Ligurians; his death was successfully concealed during the battle and the Romans won the day without him;³⁵ but the incident seems to have given rise to a good deal of rumour about religious irregularities, not surprisingly in view of the year's events. The consuls had had religious difficulties from the beginning of the year; when they were conducting the sacrifices at the opening of their consulships, they had both received disastrous omens and had great difficulty in finding beasts with which the extispicy could be satisfactorily completed;³⁶ Roman practice in this case was to go on sacrificing until the omens were good (*perlitatio*)³⁷ and it was said that Petilius had never succeeded in doing this in his sacrifices to Salus - 'Saluti Petilium perlitasse negant'.³⁸ Then, there was a mistake in the conduct of the *feriae Latinae*, which had to be repeated;³⁹

35. Livy, 41.18,11-13.

36. id., 41.14,7-15,4.

37. Wissowa, *R.u.K.*², 418f.; cf. G.Blecher, De extipicio capita tria (1905).

38. Livy, 41.15,4.

39. id., ib. 16,1-2.

and on his way back from the *feriae*, Petilius' colleague, Cn. Cornelius Scipio Hispallus, was taken ill and died soon afterwards.⁴⁰ Petilius held elections for a suffect consul⁴¹ and as soon as possible set out for his province 'ipse iam diu cupidus provinciae'.⁴² It was in his first battle that he died.⁴³

It was said that Petilius had been guilty unawares of an ominous pun before the battle, when he said 'se eo die Letum capturum esse', meaning the hill of that name on which the enemy had taken refuge.⁴⁴ Moreover, there were rumours that there had been some fault in the auspices taken before the battle and that the consul had known about it, but said nothing;⁴⁵ whether this rumour was referred to the college of augurs we do not know, though it might have been. Livy⁴⁶ does, however, tell us about an augural responsum which dealt with the procedure by which Petilius and his new colleague, Valerius Laevinus, cast lots to determine who should attack from which side. 'Valerium auspicato sortitum constabat, quod in templo fuisset; in Petilio id vitii factum postea

40. id., ib. 16,3-4.

41. id., ib. 16,5; 17,5-6.

42. id., ib. 16,6ff.

43. id., ib. 18,7ff.

44. Livy, 41.18,10.

45. id., 41.18,14.

46. id., 41.18,8-9.

augures responderunt, quod extra templum sortem in sitellam in templum latam foris ipse oporteret.' The reading of the MS. is here clearly corrupt and as we have no information as to what the correct procedure would have been, it is virtually impossible to reconstruct it;⁴⁷ the irregularity evidently turned on the respective positions at various times of Petilius, the lot and the box into which the lot was put in relation to the templum, drawn up for the ceremony. Despite the loss of the details, the incident is important and illuminating. First, it is interesting that the augurs are dealing with a matter which would not have arisen in the first century; it is because the consuls are themselves in the field that the auspices and therefore presumably the drawing of lots fall within the augurs' sphere. Secondly, it is important that the augurs evidently published in detail the point upon which their

47. For suggested restoration cf. Giarratano's edition ad loc. Perhaps the neatest is Madrig's: 'quod sorte in sitella in templum illata foris ipse oppertus esset'. The general sense seems to be that Petilius, as opposed to Valerius, was himself outside the templum at a stage of the proceedings when he ought to have been inside; thus Giarratano would read: 'quod extra templum sortem in sitellam inlatam foris ipse [oppertus esset, cum in templo eum esse] oporteret'.

decision rested; they do not simply announce that there had been a vitium, they give precise details as to its character. Thirdly, the surviving sentence suggests at least that the decision actually turned on the observed action of the consul; presumably, they had interviewed or at least heard from witnesses who could tell them exactly what happened and their part is restricted to announcing that this was not in accordance with the approved method of drawing lots.

The death of the second consul ordinarius raised another question which may well have concerned the augurs. Again, we are hampered by an incomplete text, but a sentence, or perhaps part of a sentence, which survives reads: 'periti religionum iurisque publici, quando duo ordinarii consules eius anni, alter morbo, alter ferro perissent, suffectum consulem negabant recte comitia habere posse.'⁴⁸ This sentence has been taken to show that the augurs ruled Valerius incompetent to hold the elections.⁴⁹ If so, then there is at least a prima facie case that the augurs were here acting from narrow political motives; Valerius had himself been elected by Petilius and therefore may have been his political ally;

48. Livy, 48.18,16.

49. Scullard, RP 189.

thus the college having delivered a snub to the dead Petilius obstruct the proceedings of his living friend, Valerius. But Livy's sentence does not seem to imply an augural responsum at all; it stands stripped of any context, for both the preceding and the following words are hopelessly irrelevant and lacunae must be presumed in both places. Nevertheless, the sentence does not seem to be phrased as if to report an augural decision; Livy, at least in annalistic passages, likes to use official language and does not avoid a technical phrase,⁵⁰ yet 'periti religionum iurisque publici' would be a most odd periphrasis for augures. Conceivably, the words might stand in apposition to augures to explain their relevance at this point, but even this would be strange since 'periti religionum iurisque publici' is precisely what the augurs were ex officio, and one would still expect 'responderunt' or 'decreverunt' to give the technical flavour. The whole sentence reads as if Livy is here reporting the view of informed public opinion; he might very well have gone on in the next sentence to

50. cf. e.g. 41.18,8: '... id vitii factum postea augures responderunt'. ib.16,2: '...pontificibus, quia non recte factae Latinae essent, instaurari Latinas placuit...'. Such examples can be found in Livy under almost every year.

report that the augurs were consulted and to give their decision, which might or might not have agreed with that of the 'periti'. We do not, in fact, know how the problem was solved and it would be rash to build on such slender foundations.

The earlier decree is, however, well attested and it is worth examining the relations of Petilius with the known augurs of the time. One of the college was absent from Rome (Ti. Sempronius Gracchus)⁵¹ and one is not known to us.⁵² Of the remaining seven men, we have reason to think three definitely hostile to Petilius, four may very well have been, though the grounds are rather slender; none, so far as we know, was his friend. Petilius' own earlier career is known to us from two notable incidents; first, as tribune, he was one of those responsible for the attack on L. Scipio for his conduct in the East,⁵³ and, secondly, as praetor he was the man who discovered and denounced the Pythagorean books in 181.⁵⁴ In both cases, it seems likely that he was close to the policy and

51. For the membership of the college, cf. *infra*.^{633H}
For Gracchus cf. Livy, 41.51,6; 17,1-4; *MRR* 1.403.

52. As throughout the period; cf. *infra*.¹⁸; ^{633H}

53. Valerius Antias, fgt.45 (Peter); Livy, 38.50-55;
56; 58,1; cf. 39.56,3-4; Gellius, *N.A.* 4.18,7-12.
Other sources in *MRR* 1.369.

54. cf. *infra*, ¹⁵⁸⁴.

intentions of Cato.⁵⁵ One of the augurs was P. Cornelius Scipio, son of Africanus and nephew of the man whom Petilius had attacked.⁵⁶ Another was L. Quinctius Flaminius, whom Cato had bitterly attacked and had expelled from the senate during his censorship.⁵⁷ The other two patricians were L. Aemilius Paullus and C. Claudius Pulcher; Paullus' attitude to Cato has been discussed elsewhere,⁵⁸ but his family connections with the Scipios must have put him under some pressure towards hostility to Petilius;⁵⁹ Pulcher had been consul of the previous year⁶⁰ and had been in command against the Ligurians before the arrival of Petilius;⁶¹ Petilius was in some

55. For Cato's direct support of the Petilii cf. Livy, 38.54,11, and for his general involvement, Scullard, RP, 142ff: cf. in general Mommsen, RF, 2.417-510; P. Fraccaro, Opusc., 1,263ff; D. Kienast, Cato, 57ff; Cassola, I. gruppi, 353. For the books cf. infra, 161.

56. cf. infra, 634, no 11.

57. ORF², fgt. 69-71 (with Malcovati ad loc.); Scullard, RP, 157f; 261.

58. cf. infra, 260ff.

59. cf. infra, 262.

60. MRR 1.397f.

61. Livy, 41.12,3; 7-10; 13,6-8; cf. Act. Tr., (Degrassi, 80f.; 555). After his triumph, trouble was again reported amongst the Ligures (Livy, 41.14,1-2); so the senate ordered Claudius to hold the comitia and then return to Liguria (41.14,3) and prorogued his imperium (41.14,6); later, there was yet further trouble and the senate sent him some re-inforcements (41,17,6ff.).

fear that Claudius might win the war before he could reach him and sent letters ahead to order him to leave the province and march to meet him;⁶² Claudius obeyed, but surely not without resentment. We have no clear evidence of the politics of any of the three plebeian members at this date; they were M. Servilius Pulex Geminus, Ti. Sempronius Longus and P. Aelius Paetus.⁶³ Longus was at some unknown date attacked by Cato.⁶⁴ Paetus was evidently a supporter of the Scipios and in close association with Africanus at any rate as late as 199.⁶⁵ Geminus seems to have supported his brother in the last years of the Hannibalic War⁶⁶ and I have argued earlier that they were supporting rather than opposing Africanus at that date.⁶⁷

It seems likely, then, that there were at least some augurs who would relish a decision which would be unpleasing to the friends and relations of Petilius. Proving a certain amount of hostility does not, however, close the matter. Was their hostility the motive for

62. Livy, 41.18, 5-6.

63. cf. *infra*. 633 nos. 3, 4, 5

64. Scullard, *RP*, 259f.

65. Livy, 32.7, 3, mentions that they administered their joint censorship 'magna inter se concordia'; cf. Cassola, *I gruppi*, 410f.

66. cf. *infra*. 231

67. cf. *infra*, 230ff.

their decree? Was the alleged vitium a fake? It is rather difficult to believe so. We have seen that the college gave reasons for its decision and outlined what was supposed to have happened. If the facts they quoted were faked, then the witnesses of the ceremony must have known this and the college's decision would be discredited. On the other hand, if Petilius had acted as the college said he acted, then the faking must lie in the interpretation of the augural law; that is to say, Petilius' procedure was correct but the augurs pretended that it was incorrect. This would be a fantastic way to conduct public business and would make it impossible for anyone to know what was legally valid and what was not. If we are to find malice in the augurs' proceedings it can only lie in their investigating the matter at all, and this is perhaps an important point. In a complex system, like that of the Roman auspicia large numbers of minor mistakes must have gone unnoticed and uncriticized; if the augurs felt vindictive about a particular magistrate, they might very well be able to obstruct him by detecting vitia which would otherwise have been ignored. The next case we shall examine is perhaps an example of this.

In this present case, however, the reason for the investigation seems plain enough without invoking vindictiveness. There had been a long series of evil omens,

prodigies and mishaps.⁶⁸ Petilius' death evidently gave rise to speculation about his religious behaviour both before and after leaving Rome. No doubt, it was very desirable that the rumours should be investigated; perhaps, the augurs found criticizing Petilius to their taste, but that is hardly relevant. The function of the augurs in this situation was presumably a valuable one to the authorities. They implied that Petilius' death was caused by a mistake in the ritual. It is clearly far better from the point of view of confidence in soldiers and citizens that a military disaster should be blamed on an error in ritual, than on the inefficiency of the legions and their officers. With a little care and proper supervision from the priests, such accidents can be prevented.

In 168, Livy reports another incident in which the augurs are involved in military affairs. This time the main facts are reasonably clear. The consul Licinius Crassus, colleague of L. Aemilius Paullus, was allocated Italy and Gaul as his province.⁶⁹ The usual procedure was for the consul before he left to appoint a day on which his Roman troops should report to him in his

68. cf. above, 393ff.

69. MRR 1.427

province.⁷⁰ This Crassus duly did but in doing it he had to take the auspices, so that the day should be properly approved by the gods; 'iam primum cum legionibus ad conveniendum diem edixit, non auspicato templum intravit. vitio diem dictam esse augures, cum ad eos relatum esset, decreverunt.'⁷¹ Crassus reached his winter-camp in North Italy and was there joined by the socii nominis Latini but 'legiones Romanae, quod vitio dies exercitui ad conveniendum dicta erat, Romae manserant.'⁷² There is no reason to doubt the historicity of this incident, extraordinary though it is. It seems to have been the practice at this time - i.e. during the war against Perseus - for the consul in North Italy to disband his legions when he came home and for his successor to take out new legions in the following year.⁷³ Crassus spent the earlier part of the year raising legions to fight under Aemilius Paullus in Macedonia and he himself was allotted two legions and 10,600 socii.⁷⁴ No doubt, he

70. Pol., 6.26,2-3; cf. Walbank, ad loc.

71. Livy, 45.12,10.

72. id., ib. 12,11-12.

73. Thus, in the previous season, new legions had been taken out (Livy, 43.15,4ff.) after those of 170 had been disbanded (43.9,2).

74. For his responsibility for levies and supplies for the Macedonian War, cf. Livy, 44.17,10; 19,5; 21,11; 22,5; 45,1ff. For his allotment of troops, 44.21,11.

was to take the legions with him from Rome. The consequences of the débacle were evidently more serious for Crassus' dignity than they were for the military situation in the province. Liguria seems to have been quiescent throughout the Macedonian War and the consul's duties there can have been little more than supervisory.⁷⁵ Indeed, there had repeatedly been some friction between the senate and the holder of this province, who no doubt found it very frustrating to sit at home while triumphs and rich pickings were available in the East. In 171, C. Cassius had tried to solve this problem in his own way by leaving his province and marching to Macedonia through the Alps and Illyria and the senate had only just stopped him in time, while A. Atilius in 170 had only kept his legions under arms for sixty days before he disbanded them.⁷⁶ In 169, the senate had tried to fob Cn. Servilius Caepio off with inferior legions, but he had succeeded in forcing the praetors to give him the ones he chose.⁷⁷ Crassus himself had spent some time in Rome after his colleague had left organizing reserves

75. 43.9,1 (170 B.C.): 'In Liguribus eo [anno] nihil memorabile gestum.' cf. below, nn.76,77.

76. For Cassius, Livy, 43.1,4-12; for Atilius, id., 43.9,1ff.

77. 43.15,4-6.

for the Macedonian war. Evidently the North Italian legions were there more to satisfy the consul's dignity than for any good they might do.

A similar rather comic situation had arisen a few years earlier, according to Livy.⁷⁸ When C. Claudius Pulcher, the augur and consul in 177, went to his province, the consuls of the previous year, Manlius and Iunius, refused to recognize his imperium on the grounds that he had not made his departure from Rome with the appropriate ceremonial; they would obey him, they said, 'cum is more maiorum, secundum vota in Capitolio nuncupata, lictoribus paludatis profectus ab urbe esset,'.⁷⁹ Claudius had to go back to Rome, make his ceremonial exit and come back to his province again. As the story stands in Livy, Claudius' proceedings are ludicrous and the existence of these two stories within ten years might suggest the work of an inventive historian with a talent for ridicule. But we have seen that the story of Crassus is perfectly cogent as it stands and, in fact, the same is true of the earlier story, if one ignores Livy's comments on it. When he first left Rome, Claudius had not taken his vows

78. 41.10,5-13.

79. 41.10,7.

nor processed formally from the city; but neither had he fixed a day of meeting for his legions, as emerges from letters which he sent to his colleague while he was on his way back to the city:⁸⁰ he asked him to perform the fixing of a day on his behalf, so that his legionaries could set out before him and so save time on the return trip. It seems clear from this, that, when he first went to the province, he had not intended to stay there for the rest of the year; perhaps, he thought that he could prevent his predecessors from finishing the campaign off before he arrived by a display of his consular authority, or perhaps he simply wanted to see for himself what was going on there; it will only have been when he found them so active and intransigent, that it became necessary to rush his troops and himself into the province so precipitately, for otherwise he could have taken his time over the operation. With this slight adjustment in the story, Claudius' activities make perfectly good sense and there is no reason to doubt either of the two stories.

The Claudius story raises two important questions about the augural decree of 168. First, why should not Crassus like Claudius have returned to Rome, for a brief

80. 41.10,11

visit to fix a new day for his legions? Secondly, why should he not have arranged for somebody else to do it for him? True, his colleague was also away from Rome, but there is no apparent reason why a praetor should not act instead. Presumably, the answer brings us back to a point already made, that there was no desperate need for legions in the North and Crassus was able to do his job perfectly well without them. But there is a further question; why did the mistake which Crassus made in fixing his rendez-vous not emerge until he was already in his province? These questions and others like them are obviously unanswerable on the evidence we have; but they make it clear that there was in this situation plenty of room for politically motivated manoeuvre against the consul. The terms of the problem are very similar to those of the responsum of 176; again, what is in question is a specific act of the taker of auspices - 'non auspicato templum intravit';⁸¹ again, the augurs seem to have quoted the action on which their decision turned; again, it is hard to believe that they can be falsifying either the evidence or the law with whose care

81. 45.12,10. The point is not clear, however; the templum must either be that from which he took the auspices or an 'aedes' at Rome, from which he announced the appointed day to the troops; 'inauspicato' only implies that he had not successfully completed the taking of the auspices for whatever reason.

they were charged. But the fact that the matter was raised at all and particularly the fact that it was raised so long after the event must suggest that somebody, whether inside or outside the augural college, was here exploiting to the full the mistake which Crassus had apparently made.

Crassus himself had been the villain of a cause célèbre in his praetorship a few years earlier. The notorious consul M. Popillius Laenas had flatly refused to obey an order by the senate to restore to liberty a Ligurian tribe whom he had attacked and enslaved without authority and who, in the senate's view, had always been perfectly friendly;⁸² with the help of his brother, who succeeded him as consul, Popillius maintained his attitude of defiance until with great difficulty a quaestio was set up to investigate the matter.⁸³ It was our Crassus, as praetor, who presided over this tribunal.⁸⁴ Popillius appeared before him twice but Crassus then appointed as the day for the next hearing, the day after he was due to lay down his magistracy; as a result, ~~of~~ the proceedings of the quaestio lapsed automatically.⁸⁵ Three years later,

82. Livy, 42.7,3-9,6.

83. Livy, 42.10,10-12; 21,1-5; 22,1 and 5.

84. Livy, 42.21,2-5; 22,4-5.

85. Livy, 42.22,7-8.

there must still have been many senators who felt bitterly about this insolent evasion of their authority. They must have been much amused by the predicament of Crassus in 168.

The study of the membership of the college at this date can add very little to this picture. There had been three changes since 176: Q. Aelius Paetus, who was to be consul in 167, had succeeded his father;⁸⁶ L. Flaminius had died and his successor is unknown,⁸⁷ ~~and~~ while Ti. Sempronius Longus had been succeeded by a man whose name is given as Ti. Veturius Gracchus Sempronianus,⁸⁸ of whom we know nothing if indeed his name is rightly preserved. L. Aemilius Paullus was, of course, away.⁸⁹ Of the five who remain clearly known to us and in Rome, two were the censors of 169 - C. Claudius Pulcher and Ti. Sempronius Gracchus - who had shown themselves well able to co-operate in a notoriously severe censorship in the tradition of Cato.⁹⁰

86. cf. *infra*, 634, no. 12.

87. cf. *infra*, 633 on no. 2.

88. cf. *infra*, 634 no. 13; for discussion of his identity, cf. *infra* 641

89. In Macedonia, *MRR* 1.427f.

90. They were strict in their review of the senate list (Livy, 43.15,6; 45.15,8) but handled the contracts with such severity that they were charged with *perduellio* (Livy, 43.16; cf. 44.16,8; 45.15,8; Cic., *de rep.* 1.6.2; Val. Max., 6.5,3; Festus 360L = 285M). On the other hand, they disagreed over the registration of the *liberti* (Livy, 45.15,1-7; cf. Cic., *de or.* 1.38). cf. Scullard, *RP*, 204f.; J. Suolahti, *The Roman Censors*, 374ff.; A.H. McDonald, *CHJ* 6(1939), 135ff., on the question of the *liberti*.

Their political connections are supposed to be with the Claudio-Fulvian group, but this is at best a shadowy alliance and we have no reason to connect any of the others with it. If Paetus followed his father in his Scipionic connection⁹¹ and if M. Servilius Geminus maintained his allegiance from the Hannibalic War,⁹² then one might associate them with Africanus' son⁹³ as a Scipionic group in the college, but this is all entirely tentative. In any case, Crassus' own position is ambiguous; he had clearly co-operated with Popillius in 172 and this associates him with the group of new men who emerged in the late 170's;⁹⁴ on the other hand, his brother as consul in 171 had had the unusual privilege⁹⁵ of choosing his own military tribunes and one of the two men he chose was C. Claudius Pulcher, the augur;⁹⁶ his

91. cf. *infra*, 400

92. cf. *infra*, 400 ; for commentary on such assumptions, *infra*, 36ff.

93. cf. *infra*, 634 no. 11.

94. Co-operation with Popillius, above nn. 84 and 85; for the group of new men, Scullard, *RP*, 194ff.; but it should be emphasized that we have little reason to believe that this group of politicians formed a coherent party, except, perhaps, as an alliance for electoral purposes.

95. Livy, 42.49,9. The tribuni militum were usually elected by the assembly and the senate in this case suggested that the appointment should be delegated to the consul. Cato apparently spoke on the point (Scullard, *RP*, 268), though the view that he attacked the measure is no more than a guess.

96. cf. *infra*, 271.

brother also chose Crassus as one of his legati.⁹⁷ We can say little more than that it is not possible to identify Crassus' inimici in the college, though it is not improbable that he had some.

To sum up, this incident shows clearly the ways in which the augural college could achieve political results of a sort and the result was certainly to rob Crassus of any hopes he may have had of military glory. But the political device lay not in the actual responsum of the college as far as we can reconstruct it, but rather in the fact that the matter was raised at all and in the time at which it was raised. We do not know exactly how the matter did come up. Livy says simply 'cum...relatum esset, decreverunt';⁹⁸ most probably this means that the matter was initiated in the senate, perhaps by an augur, perhaps not; it was the initiator who showed his cunning.

We next hear of the augurs in 162. By this time our knowledge of the members is even more inadequate. Claudius Pulcher had died and been succeeded by T. Quinctius Flaminius, the consul of 150.⁹⁹ Aemilius Paullus was still alive but probably in retirement by this time.¹⁰⁰ Sempronius Gracchus was abroad.¹⁰¹ Four others who had

97. 42.58,12; cf. MRR 1.418

98. Livy, 45.12,10.

99. cf. infra, 634, no. 14.

100. cf. infra Plut., Alu. 39.

101. Cic., de N.D. 2.11. and passages quoted below n.106.

been alive in 167 when Livy's record ends are known to us, but the dates of their deaths are not.¹⁰² Gracchus held the consulate for the second time in 163¹⁰³ and, at the end of his year in office, held the elections for 162.¹⁰⁴ He then returned to his province, which was Sardinia and Corsica.¹⁰⁵ There had been a curious incident at the elections; the foreman (rogator) of the prerogative century had dropped dead during the course of the comitia.¹⁰⁶

102. They were:- P. Cornelius Scipio (no. 11)
 T. Quinctius Flaminius (Cos. 150) (no. 14)
 Q. Aelius Paetus (Cos. 167) (no. 12)
 M. Servilius Pulex Geminus (Cos. 202) (no. 3)
 For them and what is known about their dates of death infra, 633f. Only Flaminius was certainly alive in 162, Scipio, probably.
103. MRR, 1.440.
104. cf. passages quoted n. 106. MRR, 1.440.
105. MRR, 1.440 states that he held the elections before going to the province, but it is just as probable that he had been there already and returned for the elections: it depends on the date of his colleague's death.
106. The fullest account of the incident is Cic., de N.D. 2.11: cf. de div. 1.33; 36; 2.74, (which substantially agrees with the account in de N.D. 1.); Val. Max., 1.1, 3, and Plut., Marc. 5, 1-3, add one important fact (n. 111 below) cf. also Cic., ad Q.F. 2.2, 1; Auct. de vir. ill. 44, 2; Gran. Lic., P. 8-9 (Flemisch); Fasti Cap. (Degrassi, 50f:123; 462f.); Fasti Ant. (Degrassi 160f).

Now this was not in itself a signum which would lead to the cancellation of the comitia and Gracchus therefore completed the elections. Having done so, however, he informed the senate of what had happened and it was decided to treat the matter as a prodigy. The senate called in the haruspices, who offered an interpretation of the prodigy; it meant, they said, that the 'rogator comitiorum' was 'non iustus'. By 'rogator comitiorum' they meant Gracchus himself and the reply evidently implied that there had been some irregularity in his proceedings. Gracchus was furious. What did Etruscan barbarians know about the niceties of Roman public law? how dared they tell him, a Roman augur, about his own subject? He had them thrown out and there the matter was left.

Later on, however, while reading a book on augural law¹⁰⁷ in his province, he found that he had in fact made a mistake in his proceedings which invalidated the comitia. The mistake lay not in his conduct during the comitia themselves, but beforehand, when he had crossed the sacred boundary of the city, the pomerium, without

107. Cic., de N.D. l.c.; Val. Max. loc.cit.: 'libros ad sacra populi pertinentes'.

taking the proper auspices.¹⁰⁸ The point was rather unusual because Gracchus having begun to take the auspices outside the pomerium, re-entered the city in order to hold a meeting of the senate; it was on his way back across the pomerium that he forgot to take the auspices.¹⁰⁹ He realized that the consuls were therefore 'vitio creati', and therefore wrote accordingly to the college of augurs: 'augures rem ad senatum; senatus ut abdicarent consules; abdicaverunt.'¹¹⁰ It was the more striking an incident because the consuls, P. Cornelius Scipio Nasica and C. Marcius Figulus, had already completed their duties at home and were on their way to their provinces.¹¹¹

108. Plut., loc.cit., regards the mistake as lying in the fact that Gracchus used the same tabernaculum twice, but the Cicero passages make it clear that he had completed the auspices before re-entering the city and that his mistake vitiated this ceremony completely. In fact, he proceeded straight to the comitia; but in augural law he ought to have started the whole taking of auspices again. cf. Valeton, Mnemosyne 18(1890) 209ff: 264ff.

109. Or, perhaps, at the amnis Petronia cf. Mommsen Röm. Staatsr. 1³ (1887), 103. n.4. But Cic., de N.D. loc.cit. is quite explicit that Gracchus did cross the pomerium.

110. Cic., de N.D. 2.11

111. So, Val. Max., loc.cit., Plut., loc.cit. This is not mentioned by Cicero, but there is no reason to doubt it.

Our sources are perfectly clear about Gracchus' motives for taking this action; they take it as an example of old-world pietas the like of which was not to be found in the later, degenerate days of the republic. They regard it as reflecting credit both on Gracchus and on the consuls who abdicated when asked to do so.¹¹² No doubt, it is Cicero's account of the incident which shaped tradition; he claims that his facts came from the augurs' own records, where the incident will have been preserved as an important ruling,¹¹³ but the interpretation is probably his own and it is therefore a possibility that sinister motives lay behind Gracchus' apparent scrupulousness. Clearly, the case is dissimilar from the others which we have examined in so far as the man who was responsible for the vitium was on this occasion the initiator of the augural action; if there was anybody who received blame for the affair, it was Gracchus himself. On the other hand, in the short term it was not he who suffered but the consuls who so suddenly lost their provinces. What is more, one of the consuls, Scipio Nasica, had just arrived

112. So Cic., de N.D. 2.11: 'peccatum suum, quod celari posset, confiteri maluit quam haerere in re publica religionem'. Val. Max., loc.cit., and Plut., loc.cit., report the incident in a list of examples of religious scruples.

113. For Cicero's source, cf. de div. 1.33.

in Corsica, part of Gracchus' own province.¹¹⁴ It has been suggested that he deliberately took the action he did in order to keep his province for a few months longer.¹¹⁵ It should be said straight away that there is no serious question of faking here, as some scholars have thought; the limitations on the augurs are those we have discussed already. The specific point at issue was whether Gracchus had or had not performed a particular action; he could hardly have lied about this, a public act by a consul on his way to perform one of his most important duties, for there would have been too many witnesses. Both the augurs at the time and Cicero assure us that by not performing the ceremony Gracchus was in breach of the augural law; the case illustrates very well, how little scope they had in this field for the decision they took was still a valid precedent in Cicero's day; again, there is no serious room for faking here, even if the whole college ^{was} under Gracchus' thumb or in his pay. As in the previous cases, the room for manoeuvre lay in the fact that the vitium was investigated at all and in the precise time at which it was referred to the college. Gracchus was in the best possible position to control both these factors. If, for instance, he realized his mistake immediately, he could have delayed announcing it until his successor reached his province,

114. Val. Max., loc.cit.

115. Scullard, RP, 227

thereby obtaining the greatest possible delay.

Some of the facts, however, do not quite fit. It is not quite certain that Scipio was about to displace Gracchus from his province, for we only know that Scipio was ~~on his way to~~ⁱⁿ Corsica and we do not know whether Sardinia was included in his province or not.¹¹⁶ Gracchus' original province had been Sardinia, Corsica being added when his own colleague died¹¹⁷ and he was in fact in Sardinia when Scipio arrived in Corsica.¹¹⁸ In any case, Gracchus does not seem to have stayed in the province very much longer, for we hear of his being in Rome later in 162¹¹⁹ and before the end of it he had left on a legatio.¹²⁰ Again, the man against whom this blow was primarily aimed, Scipio, was not to all appearances Gracchus' inimicus; they were brothers-in-law, both married to daughters of Africanus¹²¹ and later in this same year Polybius mentions Scipio and Gracchus together, casually calling on Scipio Aelilianus to check that he had paid off the inheritance due to their respective wives.¹²² Prima facie, Gracchus does not seem to gain so very much by having the election cancelled.

116. Val. Max., 1.1,3.

117. Val. Max., 9.12,3; Pliny, N.H. 7.182.

118. Cic., de N.D. 2.11; ad Q.F. 2.21.

119. Pol., 31.27, 7-16.

120. Pol., 31.15, 9-12; 32-3; Diod., 31.28; MRR 1.443 and n.1.

121. cf. infra, 262.

122. cf. above n.119.

There is another factor to be considered, the part played by the haruspices. Whether by fluke, guesswork or divination they had hit precisely upon the truth. It must have been rather humiliating for Gracchus to have had to admit that in his insolent treatment of them he had been profoundly in the wrong and, if he was being guided by purely secular considerations, it would have been all too easy for him to conceal the whole thing and thereby avoid making himself look a fool. If Gracchus had realized from the beginning that there had been a vitium in his proceedings, the scene in the senate takes on a new Machiavellian aspect. Perhaps, the haruspices also knew exactly what Gracchus had failed to do and he was so enraged because he realized that they had discovered his secret. Short of this fantasy, Gracchus must have discovered his mistake a considerable time after the event and, if so, the discovery must have come as a considerable shock to him. He would have had to have been a very hard-headed atheist (and we have no reason at all to think he was)¹²³ not to be impressed

123. For the incident cf. Gracchus' consultation of the haruspices, reported by his son Caius, cf. Cic., de div. 1.36; 2.62; Plut., T.G. 14f. ; Val. Max., 4.6,1; Auct., de vir. ill., 57.4; Pliny, N.H. 7,122. Two snakes were found in his house and the haruspices told him that if he killed the male snake, he would shortly die, but that if he killed the female one, his wife would die instead. He killed the male and soon died.

by such a sensational demonstration of the haruspices' powers. In the last resort, his motives may have been complex and obscure even to himself. He may have enjoyed cheating his brother-in-law of his province; he may have held up his announcement to obtain the maximum advantage himself; but it would be hard to deny on the evidence we have that part of his motive was a feeling that it would be dangerous for the armies of Rome to be commanded by men whose election was invalid in the sacred law of Rome.

These are the only recorded instances of direct augural intervention in the political life of Rome in the first half of the century. Conjecture can add very little more; an incident of 180, which we have examined elsewhere,¹²⁴ gives us an example of obnuntiatio, but we are not told that it was an augur who announced the signum and it seems clear that the matter was not referred to the college. Livy¹²⁵ simply tells us that there was a 'vitium de caelo' during the comitia which adjudicated a dispute between the pontifex maximus and the new rex sacrorum; as a result, the college of pontifices decided that it would be unlawful for them to carry on with the inauguration of the priest and another was inaugurated in his stead. This may or may not have been engineered by the new priest's friends and these may or may not have included an augur.¹²⁶

If, then, we are to take this evidence as a valid reflection of the activities of the augurs at this period, we are faced with a fundamental problem. In the period of Roman history where our sources are adequate to allow us to follow the activities of Roman politicians in detail,

124. cf. *infra* 305ff.

125. Livy, 40.42,10.

126. Scullard, *RP*, 179 n.4, assumes such an explanation, but there is no evidence.

the augural law is regularly used for political purposes by both magistrates, augurs and privati; the college of augurs is constantly at the heart of political issues. I have suggested that this may not necessarily be true of the second century and the lack of evidence of their activities, combined with the very limited nature of their interventions when these are recorded, bear the suggestion out. There is no very convincing reason to believe that our accounts of the augurs' activities are particularly incomplete. Livy can produce decrees of the pontifices or fetiales on important points and regularly reports the consultations of haruspices and decemviri; moreover, he gives a brief account of the leading political events year by year. If the augurs were really playing an important role, there seems to be no reason why we should not hear of it.

There is, however, a difficulty. As we have already mentioned,¹²⁷ the use of augural techniques for the cancellation of elections is attested repeatedly in the last few years of the third century. It has been regularly assumed that this evidence proves the augurs to be prepared to exploit the advantages of their position in the interests of the political group they supported. If they wanted an

127. cf. *infra*, 384f.

election cancelled, they faked a reason for cancelling it. I have discussed above¹²⁸ some of the points which this question raises, but it will be necessary here to consider the implications more fully. For, if it be true that the third century augurs ruthlessly exploited their powers without regard to religion or law, it becomes almost incredible that the second century college did not do the same; if the augurs once started to use their trump card in political life, it is impossible to believe that they would simply throw it away again.

Between 231 and 215 B.C., we hear of five incidents in which the augurs were either certainly or probably involved. In 231, the censors resigned as *vitio creati*.¹²⁹ In 223, both consuls were asked to abdicate by the senate because of bad omens and irregularities in their elections, but refused to do so.¹³⁰ In the late 220's according to a somewhat dubious anecdote a dictator and his *magister equitum* resigned.¹³¹ The same thing happened in 217, but on this occasion Livy tells¹³² us that it was the result of a decree by the augurs. Finally, in 215, M. Claudius

128. cf. *infra*, 382 ff.

129. *Fasti Cap.*, Degrassi, 44f; 117; 440f; *MRR* 1.226.

130. *Plut.*, *Marc.* 4,2ff; *Zon.*, 8,20; *Livy*, 21.63; *MRR* 1.232.

131. *Val. Max.*, 1.1,5; *Plut.*, *Marc.* 5,5; *MRR* 1.234; *Bandel, Dict.*, 123ff.

132. 22.33, 11-12. cf. *Fasti Cap.*, Degrassi 44f; 118; 444f. *MRR* 1.244.

Marcellus resigned after a similar decree by the augurs.¹³³
 Earlier arguments have established some points which are relevant to the assessment of this evidence. First, I have tried to show that such incidents are hardly likely to have arisen out of the use of obnuntiatio by an augur or anybody else;¹³⁴ rather, they result from technical mistakes in the conduct of the election and may as in the case of Gracchus arise from complex proceedings. Secondly, it has seemed that what is relevant to such cases is not so much the faking of auspices as the scrupulous examination of proceedings which might otherwise have gone unnoticed.¹³⁵
 The important questions are a) what were the vitia? b) why was the matter investigated at all?

With respect to the five incidents, neither of these questions can be answered at all accurately. For 231, we know the bare fact that the censors abdicated as 'vitio creati'. In 223, we have a little more background and know that the senate was in general hostile at least to the consul C. Flaminius if not to his colleague as well; when they departed to fight the Gauls the senate attempted to have them recalled but they refused and Flaminius eventually held a triumph though against the senate's

133. Livy, 31.12-14; Plut., Marc. 12,1; MRR 1.253f.

134. above, 389ff.

135. above, 466f.

will;¹³⁶ thus we have no detail of the alleged vitium, but plenty of evidence of the hostility which might have inspired the investigation. The case of the late 220's is told in our sources as an example of the scrupulousness of religious observances at this period; the dictator is said to have abdicated because of the squeak of a field-mouse.¹³⁷ Date, circumstances and even the dictator's name are uncertain;¹³⁸ the squeak can hardly have constituted a vitium, and it is not easy to see it either as a prodigy or as a signum which could give rise to obnuntiatio, but it would clearly be wrong to emend the text where the attention paid to a squeak provides such an admirable example of extreme religiosity. Evidently,

136. On Flaminius especially, cf. Cassola, I gruppi, 339ff. For the incidents of 223 cf. Livy, 21.63; 22.3; 22.6,3; 23.14,4. Sil. Ital., 4.704ff; 5.107ff; 649ff. Plut., Marc. 4, 2-5; 6,1; Fab., 2,4; Flor., 1.20,4; Or., 4.13,14; Zon., 8.20. For the triumph, Act. It., Degrassi, 78f; 550; Livy, 21.63,2; 23.14,4.

137. Val. Max., loc.cit.

138. The dictator's name is Fabius at Val. Max., 1.1,5, Minucius at Plut., Marc. 5,5 - both giving Flaminius as magister equitum. Fabius almost certainly held the dictatorship between 222 and 218 (MRR 1.235, cf. CIL 1².1.p.193 = Inscr. It. 13.3,80 (Fabius' elogium and cf. Mommsen ad CIL, loc.cit.) and the incident is therefore referred to this occasion. But the argument is only cogent if the story can be taken as precisely accurate, which seems highly doubtful; e.g. the variant Fabius/Minucius suggests the co-dictatorship of 217 (MRR 1.243) between Fabius and M. Minucius Rufus; if the incident did not in fact lead to an actual abdication (as seems probable), that occasion becomes perfectly possible.

there is no firm ground here. In 215, we are told that the augurs were consulted after a stroke of lightning on the first day of the consul's year;¹³⁹ I argue below that this will have been a prodigy not a vitium in the election¹⁴⁰ and we have no information as to what the vitium itself was. However, Livy observes that this was the first occasion on which two plebeians had been elected to the consulship, which some felt to be irregular;¹⁴¹ perhaps, the augurs ruled that the second plebeian was automatically 'vitio creatus'. It is only for the incident of 217 that we have any testimony as to the political interest of the augural college. Livy¹⁴² reports a speech made by the tribune Baebius Herennius, a supporter of the candidate Terentius Varro, in which he accused the augurs of cancelling the dictatorship in order to prevent the dictator's holding the elections; they wanted to create an interregnum, which would be unfavourable to Varro. This is also obscure; we do not know why Varro should have preferred dictatorship; nor do we know why an interregnum should have occurred after the dictator's abdication, but while the consuls

139. cf. n.131.

140. cf. below, p. 445

141. 'vulgoque patres ita fama ferebat, quod tum primum duo plebei consules facti essent, id deis cordi non esse'. (Livy, 23.31,13).

142. 22.34, 3ff.

were still in office; still less do we know what was the alleged vitium in this case.¹⁴³ Even taking the speech at its face value, we do not learn that the augurs' decision was in fact biased, but only that they were accused of bias.

Scholars have tried to supplement this very sketchy record by the analysis of the men involved; in particular, it has been emphasised that Fabius Cunctator, a senior augur, profited from at least two of the five abdications and it has therefore been held that he engineered the whole series.¹⁴⁴ Cassola¹⁴⁵ has objected to both halves of this

143. There is no reason to believe that the dictator and magister equitum, L. Veturius Philo and M. Pomponius Matho were in any way friends of Varro himself, though J. Bleicken, Das Volkstribunat, (1955), regards them as friends of C. Flaminius, whom many regard as a friend of Varro. For the view that Veturius and Pomponius belonged to the Scipionic faction, Münzer, APF, 124f; Scullard, RP, 49ff; Cassola, I gruppi 370, cf. 385ff; 409f. Cassola also questions the relations of Flaminius and Varro, 365ff. For the constitutional problem of the interregnum cf. Scullard, RP, 50; The speech itself might simply be of Livy's composition, for the emphasis on conflict between plebeian and patrician interests sounds suspicious at this late date.
144. cf. W. Schur, Scipio, 111f; Scullard, RP, 37f; Bleicken, op.cit., 30; Dorey, J.R.S. 45(1955), 93; Rh.Mus. 102 (1959), 249ff. contr. I. Müller-Seidel, Rh.Mus. 96(1953) 241ff.
145. 336ff.

thesis, and not without reason; we have no evidence to suggest that the majority of the augurs were friends of Fabius in the early years of the Hannibalic War¹⁴⁶ and he does not seem to profit by all the incidents in question.¹⁴⁷ There is, however a more fundamental objection still. It seems quite unfair to argue from the man who profits by an abdication to the man who engineered it. In 215, Marcellus abdicated and Fabius was elected in his place;¹⁴⁸ *prima facie*, this would only suggest that Fabius was the assembly's second choice in the situation, not that he was Marcellus' enemy; indeed, the men responsible for the abdication might for that very reason have been unpopular. As a matter of fact there is solid evidence that on both the occasions when Fabius 'profited' from an abdication, he was on good terms with the men who had abdicated.¹⁴⁹

146. For discussion, Cassola, *op.cit.*, 342

147. He profited directly in 231 and 215; lost directly in 221 (though cf. above 424f.) and can only be connected indirectly with the incidents of 223 and 217, (cf. 423f.; 425f.) if he can be regarded as an enemy of Flaminius and Varro, which is very doubtful.

148. For the election of Fabius, Livy, 23.31, 12-14; MRR 1.254.

149. The best attested of his political friendships seem to be those with Q. Fulvius Flaccus (one of the displaced censors of 231) and M. Claudius Marcellus (the displaced consul suffectus of 215). For Marcellus cf. Cassola, 314ff: for Flaccus, *ib.*, 330ff. Scullard's account of Fulvius (RP, 37f.) starts from the assumption that the incident of 231/30 proves hostility between him and Fabius from that date.

The conclusion must be that the case for regular exploitation of the auspices to political ends in the third century is a very weak one and that we have no reason to compare the situation with that of the first century. It is still true that the augurs cancelled five elections in fifteen years and that this very probably gave rise to accusations of political bias on their part. The question remains - did they stop and, if so why, or did they continue into the second century and, if so, why have we no evidence? Only one answer seems possible. We know that, during the critical years of the Gallic and Hannibalic Wars, great attention was paid at Rome to the niceties of the State's relation to the gods; religious duties were carried out with care, new cults and ceremonies introduced, special vows taken;¹⁵⁰ in particular, the pontifex maximus insisted on the observance of the finest details by the flamines in his charge.¹⁵¹ If we find that in these years the niceties of election procedure were insisted on by the augurs, influenced, perhaps, by their senior member Fabius Cunctator, there is really no reason for surprise. Here if anywhere it was dangerous to

150. cf. *infra*, 241f.; 494; ch. 3 *passim*.

151. cf. *infra*, 235ff.

ignore any indication that the gods might not be on the side of the elected generals of Rome. As the danger diminished so did the need for scrupulous care. On this basis, there seems to be no reason to doubt the general picture which our sources give us. On any other, we must either postulate further incidents, which not only Livy but the *Fasti consulares* have entirely lost, between 215 and 162, or entirely fail to make sense of the history of the augurs during the period.

From the beginning of the revolutionary era of Roman politics we find religious devices of one kind or another used against the successive popularis leaders. Our enquiry is to determine the place of the augurs in this new application of the State cult; they can be involved either directly in recommending the senate as to the validity of proceedings in the comitia or indirectly through the use by magistrates of the forms of interference allowed by the *ius divinum*. What is certain is that their jurisdiction over the validity of laws attains a quite new importance at this stage from the very character of popularis agitation. A tribune had, for the most part, a brief period in which to pass the legislation which he wanted to see; if the optimates could contrive to have his legislation cancelled sometime after its passage, it might be years before the opportunity would arise again; it is this kind of device for which we should look.

In the case of Tiberius Gracchus, we hear of a number of bad omens which he received and ignored on the day of his death. As he crossed his threshold, he stubbed his toe;¹⁵² a raven dropped a stone at his feet;¹⁵³ a more official-sounding omen is also reported that is a refusal

152. Plut., *T.G.* 17; Val. Max., 1.4,2 (Par. and Nep.).

153. Or perhaps the raven fell at his feet.

to take their food by the sacred chickens.¹⁵⁴ Gracchus refused to be impressed by the warnings and went his way to the Capitol; here he received still further signs.¹⁵⁵ As far as our information goes, all these signs were simply private omens to warn Gracchus of his peril; there is no suggestion that they were used, or could have been used, to interrupt the comitia and, of course, the comitia in question never completed its proceedings, so that no question ever arose of cancelling them. The place of these omens seems to be in the history of religious propaganda, if anywhere; though even in this context it is far from clear what the moral was. Perhaps, they were used to show that the gods disapproved of Tiberius' activities or simply that punishment awaited the man who ignored divine warnings; there is some indication that the murderers of Gracchus attempted to justify their action in terms of the religious law¹⁵⁶ and perhaps the

154. cf. below n. 156

155. The only mention is by Val. Max., loc.cit. (Nep.).

156. Cf. infra, 74ff. ; Lange, (Kl. Schriften, 1.314ff.) regarded these auspicia of Gracchus' as evidence for the tribunician taking of the auspices which we otherwise lack; but Mommsen, R.F. 1.195ff., and Valetton, Mnemosyne 18(1890), 88 n.2, pointed out that in our accounts Gracchus on this particular day was simply acting as a tribunician candidate and would only therefore be taking private auspicia. Recently, however, Professor Taylor (Athenaeum 41(1963), 51ff.) has argued that the assembly at which Gracchus died was not elective at all, but legislative and that Gracchus was proposing a bill to make repeated tribunatus legal. If she is right Lange's point would require reconsideration; but the case is far from proved cf. D.C. Earl, Athenaeum 43(1965), 95ff.

omens could be used in this context. At any rate, we have no evidence that they had anything to do with the augurs or obnuntiatio.

A very much more serious point is connected with Tiberius' brother Caius. Here for the first time we find a specifically religious reason proposed for the abrogation of a law. While Gracchus himself and his colleague as triumvir coloniae deducendae were in Africa, a number of prodigies attended the early stages of the settlement at Junonia on the site of Carthage;¹⁵⁷ the most famous and ominous of these was the destruction of the boundary stones by a pack of wolves;¹⁵⁸ the senate, bitterly opposed to the colony in any case, took the matter very seriously, '... καὶ τῶν μόντων τῆν ἀποικίαν ἡγουμένων ὑπείσιον, ἡ μὲν βουλὴ προέγραψεν ἐκκλησίαν, ἐν ᾗ τὸν νόμον ἔμελλε τὸν περὶ τῆσδε τῆς ἀποικίας λύσειν ...'

Appian¹⁵⁹ is our sole authority for the details of this

157. Plut., C.G. 32.2.

158. App., B.C. 1.24,105; Lib. 644. Plut., C.G. 32.2; Oros., 5.12,2; Obs., 33. For the wolves, E. Albertini, Les Loups de Carthage, Mélanges Gauthier (1907), 1ff. Our sources differ as to whether the wolves dug up the ἔργοι of the estates (Or., Obs., App., Lib.) or of the colony itself (Plut., App., B.C.)

159. B.C. 1.24,105.

incident though there is no doubt that he is right about the outcome - a proposal by the tribune Minucius that the lex Rubria which set up the colony should be abrogated. It is interesting that here again the religious propaganda is concentrated on the last days of the popularis' life, for Gracchus and Flaccus both died in the riots which followed this proposal to abrogate a law.

There are two major problems here; first, who were Appians 'μάντις'? secondly, why did the senate follow this particular method of cancelling the law? We know that the senate was vested with considerable powers of cancelling legislation passed through the comitia; to do this they passed a decree that since the bill in question was for such and such a reason 'vitio lata', 'ea non videri populum teneri'.¹⁶⁰ Obviously, this was an infinitely neater procedure than that adopted in this case. The 'μάντις' have often been taken to be the augurs themselves;¹⁶¹ there are two objections to this view. First, 'μάντις' is normally used as a Greek translation of haruspex not augur;¹⁶² secondly, if the

160. The best example is provided by the leges Liviae; cf. below, 448 ff. In general, Mommsen, Staatsr., 3.367.

161. e.g. by S. Weinstock, RE 17.1732 (s.v. obnuntiatio); cf. Gabba's translation on p.366 of his edition of Appian, B.C. 1.

162. cf. infra, 337; J. Maigie, De Rom. iuris publici sacraeque Voc. Sollemnibus in gr. serm. conuersis (1905), 144

augurs actually passed a decree condemning the colony it is hard to see why the senate should not have acted directly themselves in cancelling the bill. The desecration of the boundary-stones was in itself a prodigy, and it is most natural to suppose that as such it was referred to the haruspices, who were habitually consulted on such points.¹⁶³ If so, the haruspices could perfectly well have replied that the colony was accursed. But this would not in itself have justified the senate in cancelling the law. This seems by far the likeliest reconstruction of what happened; it has been thought that, since boundary stones were the special concern of the college of augurs, they would be consulted on such a point and this may be true, though the connection is rather imprecise;¹⁶⁴ it could be that both augurs and haruspices were consulted as seems to have happened in 99.¹⁶⁵

The legal point here seems fairly clear. For a bill to be declared 'vitio lata' by the augurs, they need to have evidence that there has been some religious irregularity in the taking of the auspices or the holding of the comitia, at the time when the law was supposed to have been passed. Thus, the *leges Juliae* were passed in open defiance

163. cf. *infra*, ch. 10

164. For the association of the augurs with the law of boundaries, Wissowa, *R.u.K.*², 527ff.

165. cf. below., 442ff.

of an obnuntiatio by a magistrate possessing the right to make such an obnuntiatio; they were therefore 'vitio latae' and the augurs, if asked, would so rule.¹⁶⁶ The wolves of Junonia, whatever else they constituted, did not represent such a vitium in the lex which set the colony up; if the augurs were asked for a ruling, and we do not know whether they were or not, they would presumably not have been able to declare the law 'vitio lata' at least on these grounds. That they did not, in fact, pass such a decree is shown by the necessity in which the senate finds itself to have an entirely new law carried to repeal the lex Rubria. This in itself constitutes a recognition of that law, as a valid one. To sum up, the decree which Appian ascribes to the 'μάντις' seems most likely to come from the haruspices, duly consulted about the prodigy. We have no evidence that the augurs were consulted, but if they were they seem to have been unable to decree the cancellation of the law.

During the decade from 100 to 91 B.C., no less than three sets of laws seem to have had some question raised about their validity. We must examine first a passage of Cicero which connects the three cases:¹⁶⁷

166. Cic., de domo 40.

167. de leg. 2.14.

Marcus. Igitur tu Titias et Apuleias leges
nullas putas?

Quintus. Ego vero ne Livias quidem.

Marcus. Et recte, quae praesertim uno versiculo
senatus puncto temporis sublatae sint.'

The three legislations are those of Saturninus in 100 and perhaps 103, of Sex. Titius in 99 and of M. Livius Drusus the younger in 91; at first sight, it might seem that Cicero is denying the validity of all three laws, but this is in fact only true in a special sense. The context in which the sentence comes is a passage where Marcus is proposing the thesis that true laws are eternal; he makes the proviso, with which Quintus agrees, that by true law is meant not just any law which happens to be passed by the comitia but good laws; bad laws, says Quintus do not even deserve the name of laws at all. It is in this very specialized situation that Marcus offers the example of the leges Titiae et Apuleiae as 'nullae leges'; they are non-existent, not in terms of Roman law but by the higher criterion of philosophical excellence and conformity to the eternal true law. Quintus adds a further example - the leges Liviae; the point of 'ne... quidem' here is that Quintus, as a solid optimate, regards the leges Liviae as to some extent preferable to the earlier examples but still bad enough to qualify as non-laws. Marcus' next remark is evidently to be understood as a comment on this suggested addition to his list - 'You

are right to add the *leges Liviae* for they were actually repealed by *Sc*, which could never happen to the true eternal law.' The implication is that this extra qualification for not being a law applies only to *Quintus*' suggested addition and not to the two earlier examples suggested by *Marcus* himself. It follows that on the evidence of this passage that *leges Titiae* and *Apulaiae* were not repealed by the senate and remained technically valid, though not actually put into effect.

In a later passage of this same work, however, *Cicero* returns to the subject of the *leges Titiae* and *Liviae*.¹⁶⁸ Here, he is discussing the extraordinary powers of the college of augurs and amongst these powers he quotes: '... *legem si non iure rogata est tollere, ut Titiam decreto conlegi, ut Livias consilio Philippi consulis et auguris?*' This seems to contradict directly^x the interpretation of the earlier passage just offered for here the *lex Titia* is said to have been repealed '*decreto conlegi*' i.e. by decree of the augurs. The sentence is far from being a straightforward one; for *Cicero* purporting to give two examples of laws abolished by the augurs, offers as his second example the *leges Liviae*; we know both from the earlier passage of the *de legibus*¹⁶⁹

168. *ib.* 2.31.

169. quoted above p. 436.

and from ample other evidence¹⁷⁰ that these laws were in fact abolished by SC and this is evidently what Cicero has in mind here for the phrase 'consilio auguris' can only have reference to proceedings in the senate where Marcius Philippus played a dominant role. Throughout this passage, Cicero seems to be exaggerating the powers of the augural college; he attributes to them the power to decree that magistrates should resign, when in fact it was the senate which performed this function on the augurs' advice.¹⁷¹ The sentence we are examining seems, in a more subtle way, to be similarly disingenuous; Cicero is suggesting that the augurs could repeal laws, but it seems highly probable that here again they were asked to do no more than pronounce on the state of the *ius divinum* in relation to a specific matter; the effect of their decree would not be to invalidate the law, but simply to point out a fault in its passage. Just as it would be the senate which requested the resignation of magistrates declared *vitio creati*, so it would be the senate which decreed '*ea lege populum non teneri*'.

I would suggest, then, that neither of Cicero's two examples shows the college of augurs abolishing a law by its own decree; the first example quotes a decree of the

170. cf. below, 448; 450f.

171. cf. above, 381.

college, but we have no reason to think that this was followed by a decree of the senate and if it was not then the lex Titia would presumably have remained valid in law; the second example certainly refers to the annulment of a law, but in this case the college of augurs as such seems to have nothing to do with the matter, though the decision is taken on the advice of one particular augur. There is, therefore, no direct contradiction between the two passages of the *de legibus* we have been examining. Cicero recognizes that only a decree of the senate could formally annul a law passed through the comitia and this therefore forms the basis of the distinction he makes between the *leges Titiae* and *Apuleiae* on the one hand and the *leges Liviae* on the other. In the second passage where he is extolling the powers of the augurs, he blurs this distinction in emphasizing the key role of the augurs in the handling of both sets of laws. We can now turn to the other evidence.

In the case of the laws of Saturninus we have some considerable information which bears on the question of the validity of the *lex de coloniis*. Our accounts of the carrying of the law provide the first clear case of the use of *obnuntiatio* against a popularis lex; according to Appian,¹⁷² thunder was heard during the proceedings and the ὁ πολιτικός ἄλλος ' announced this but were ignored by Saturninus;

the story is confirmed by the Auctor de viris illustribus¹⁷³ who attributes the obnuntiatio to 'multi nobiles'. The sequel was a fight between the supporters of Saturninus and his enemies, in which Saturninus was eventually successful and the law carried. So far, it would seem that two complaints could be raised against the validity of the law; first, it was carried per vim; secondly, the concilium was continued in despite of the occurrence of thunder and its announcement to the presiding magistrate. This last point requires slight qualification; the only obnuntiatio which Saturninus would have been bound to accept at this stage would be that of an augur.¹⁷⁴ It was within the rights of magistrate or private citizen to announce thunder or lightning, but the presiding magistrate was not obliged to listen to them. It follows that only if there was an augur present, and if he confirmed the obnuntiatio, would the passage of the law be vitiated; it is likely enough that this did happen but we have no direct information.

It is probable, then, that the augurs would have condemned the lex Apuleia, if it was referred to them; was it?

173. 73.7.

174. cf. above, 385 ff.

The critical passage comes in Cicero's *pro Balbo*;¹⁷⁵ Cicero is describing the attempt to question the citizenship of T. Matrinius, Marius client - 'Quem cum disertus homo L. Antistius accusaret...cum lege Apuleia coloniae non essent deductae, qua lege Saturninus C. Mario tulerat ut in singulas colonias ternos cives Romanos facere posset, negabat hoc beneficium re ipsa sublata valere debere...'. The *lex Apuleia* had arranged, therefore, for the sending out of colonies, but no colonies had in fact resulted from the law. It had also provided that Marius should have the right to confer the citizenship on a specific number of colonists and under this provision he had given the citizenship to Matrinius of Spolegium. Antistius argued, reasonably enough, that since there were no colonies there should be no grants of citizenship either; but Cicero does not say that he argued that the law itself had been rescinded, which would

175. *pro Balb.* 48; Passerini in *Athenaeum* (1934), 348f., (and cf. Badian, *F.C.* 211 n.2) argued (as above) that the implication of Cicero *de legibus* 2.14, was that the *leges Liviae* had been cancelled while the *leges Titia* and *Apuleia* had not; Gabba (*Athenaeum* 29(1951), objected that *de legibus*, 2.31, proved that the *lex Titia* had, in fact, been cancelled and explained the omission of the *lex Apuleia* from this context on the grounds that it was cancelled for secular not religious reasons and had therefore no place in the context of augural powers. But, if the analysis of the passages from the *de legibus* given above is correct, the present interpretation of *pro Balb.* 48 seems certain.

surely have settled the point, and in fact the court found for Matrinius. Thus, at least we may be certain that the validity of the lex Apuleia was upheld by a Roman court in 95 B.C.; we can be almost as sure that its validity was not even put in question by the prosecuting counsel. If there had been a question about the validity of the lex Apuleia, it would have been very much to Cicero's purpose to tell us about it; for his purpose is to demonstrate the right of a general to confer the citizenship and the example would suit his purpose all the better if Marius' gift had been upheld despite the invalidation of the law. All in all, it is almost certain that the lex Apuleia was never formally cancelled, though the colonies for which it provided were never sent out; we have then no reason to think that the augurs were involved.

For the lex Titia we have little more information than that which can be extracted from the passages discussed above. A passage of Obsequens,¹⁷⁶ however, adds some important information: 'Sex [Ti]tius tribunus plebis de agris dividendis populo cum repugnantibus collegis pertinaciter legem ferret, corvi duo numero in alto volantes ita pugnaverunt supra contionem, ut rostris unguibus lacerarentur. aruspices sacra Apollini litanda et de lege, quae ferebatur, supersedendum

pronuntiarunt.' There is no need to think in terms of a conflict of evidence here; Cicero mentions a decree of the augurs, Obsequens a recommendation of the haruspices and both are no doubt right. As far as Obsequens is concerned there can be no doubt that it is to the haruspices that he is referring. The incident would certainly be regarded as a prodigy and therefore would be the business of the colleges which dealt with prodigies not of the augures, at least in this aspect; this is confirmed by the responsum which suggests remedia,¹⁷⁷ which would certainly be outside the province of the augurs; on the other hand, the suggestion that the law should be repealed might be regarded as an encroachment on the province of the augurs, but it is one which can be paralleled from elsewhere and it is clearly quite in order that the haruspices should make such a suggestion to the senate if they feel it appropriate.

It is rather more difficult to follow the details of Obsequens' account of the voting of the law; he describes the meeting at which the prodigy of the ravens occurred as a 'contio', which does not fit with the emphasis on the fact that the law was actually being carried ('legem ferret', 'de lege Quae ferebatur'). There are two possibilities;

177. '...sacra Apollini litanda.'

first, that Obsequens use of 'contio' is inaccurate and that the prodigy occurred during the course of the comitia at which the bill was being passed; secondly, that the prodigy did, in fact, occur at a contio not at the comitia and that the 'carrying' of the bill is to be understood as referring to a period of days or weeks when Titius' bill was under continual discussion. It is, at least, clear that the bill was eventually carried through the comitia and that it had already been so carried by the time or times of the consultations of the haruspices and augurs.

Of the augurs' part in the proceedings, we can only say for certain that they passed a decree which declared the lex Titia 'vitio lata'. It would be valuable to know the grounds on which they arrived at this decision but with this problem the passage of Obsequens can offer no guidance. As far as we can tell, the incident of the ravens would not in itself constitute a vitium for it could not count as an 'auspiciu[m] impetrativu[m]' which had to be observed before the comitia,¹⁷⁸ nor as an 'auspiciu[m] oblativum' for it seems only to be thunder and lightning or a storm which counted for this purpose.¹⁷⁹

178. For the distinction of auspicia oblativa and impetrativa, cf. above n.1; further, Wissowa, R.u.K.², 529ff.; RE s.v. augures, 2580ff.

179. For thunder and lightning, above, n. 185f; For a 'tempesta[s]' responsible for the breaking up of comitia, cf. Livy, 40.59,4; but this does not actually prove that the 'tempesta[s]' counted as an auspiciu[m] in any formal sense, for, since comitia were open-air meetings, it is hardly surprising if storms broke them up. For one other possible reason, cf. Dio Cass., 46.33,1; Festus, 268 L = 234 M.

It could, of course, be precisely on this point that the augurs were asked for a ruling; but we have no evidence to connect the augural decision with this matter and it is quite possible that it had nothing to do with it. Moreover, if Obsequens is right in his use of the word *contio*, the incident of the *duo corvi* did not occur during the actual course of an assembly and could not therefore have been an *auspiciu oblativum*.¹⁸⁰ The relevant parallels here are the occasions when a prodigy led to a consultation of the augurs: thus in 215¹⁸¹ there was a lightning stroke on the first day of the consul's office, the matter was referred to the augurs, who declared him *vitio creatus*. Quite certainly, the lightning-stroke would not in itself constitute a *vitium* in the election, for it occurred long after the *comitia* when the magistrate had already assumed office; the only explanation is that the prodigy was taken as *prima facie* evidence of the displeasure of the gods, which is exactly what prodigies were, and that the augurs therefore investigated with special care the validity of the auspicia; what the actual *vitium* was said to be, we are not told.¹⁸² Here the same arguments seem to apply, except that, if the prodigy occurred during the course of the *comitia*, it might have been treated as an

180. For this rule as affecting *obnuntiatio*, cf. above 385f

181. cf. above 425.

182. unless it be, in fact, the election of a second plebeian, cf. above, 425.

auspicium oblativum. The example of Gracchus in 163, discussed above, is enough to prove that a prodigy during the course of the comitia had evidential value, but would not necessarily cause the proceedings to stop;¹⁸³ in that case too the vitium was not the death of the rogator, but the proceedings of the presiding magistrate before the comitia. It seems safest to regard the reasons for the augurs' decision in 99 as unknown.

Despite our absence of precise knowledge, however, this incident must have been a critically important one ~~for~~^{the} understanding of the augurs in Roman political life. It is the first occasion we know of on which the augurs used their authority to reverse a specific law voted in the comitia. Whether they twisted or faked the interpretation of the law to suit their purposes we do not know; as I have argued earlier,¹⁸⁴ the discovery of vitia is probably an index of the care with which the augurs searched for them, rather than of their powers of invention. It is important here to notice the circumstances in which the augurs took this decision. In the first place, they were supported in their action by a decree of the haruspices; perhaps, it was that decree which suggested to the senate the course of

183. above, 412 f.

184. above 401; 411; 416.

consulting the augurs - they will no doubt have had the elections of 163 in mind. Secondly, the bill was one which was bitterly opposed by the optimates;¹⁸⁵ indeed, it seems certain that Titius enjoyed even less support from respectable citizens than had previous popularis agitators. The previous year had seen the rallying of virtually the whole ruling class in opposition to Saturninus and his friends;¹⁸⁶ but Titius was specifically associating himself with the memory of Saturninus;¹⁸⁷ he was even opposed, as Obsequens says,¹⁸⁸ by his colleagues in the tribunate. Thus for both political and religious reasons the year 99 represented the most favourable possible conditions for an augural decree against the law. Such conditions did not occur often.

The final law which concerns us here are the *leges Liviae*.

185. For the optimate opposition to Titius' bill, cf. Cic., *de or.* 2.265; Malcovati, *ORF*², 227. For his association with Saturninus, allegedly decisive at his trial, Cic., *pro Rab. perd.* 24f; Val. Max., 8.1, *damn.* 3. For Titius in general, Cic., *Brut.* 225; Münzer, *RE* 6A.1563. Titius evidently regarded himself as a true prophet unheeded - Cic., *de or.* 2.265: '...se Cassandram esse diceret.'; Antonius turned this savagely, 'multos...possum tuos Aiaces Oileos nominare'.
186. For the roll-call of those involved, Cic., *de Rab. perd.* 20ff.; though it must be doubted how precisely Cicero could have documented his list and, after the event, few of the nobiles would have wished to be omitted from it.
187. He had an 'imago Saturnini' in his house - Cic., *pro Rab. perd.* 24; Val. Max., *loc.cit.* n.185.
188. 46: '...cum repugnantibus collegis'.

In this case, there is no doubt at all that laws were passed and subsequently cancelled by an act of the senate.¹⁸⁹ But there certainty stops: we cannot be sure how many leges Liviae were passed, nor define the contents of the different laws nor the legal objections raised to the different laws; moreover, the whole question of their cancellation is involved in a major historical problem. Livius seems to have been responsible for measures a) to distribute land,¹⁹⁰ b) to found colonies,¹⁹¹ c) to reform the juries of the

189. Cic., pro Corn., ap. Asc. 68 C: 'Quae lex lata esse dicatur, ea non videri populum teneri: ut L. Marcio Sex. Iulio consulibus de legibus Liviis.'

190. His elogium (CIL 1².1.p.199 = ILS 49 = Inscr. It. 13.3.74) describes him as 'Xvir a(gris) d(andis) a(ssignandis) lege sua et eodem anno vvir a.d.a. lege Saufeia.' Livy, Per. 71; Adut. de vir. ill., 66.4; Flor., 2.5,6 speaks of 'leges agrariae' and cf. the inscription CIL 10.44 with a list of agrarian commissioners found at Vibo Valentia (cf. Cichorius, Röm. Stud., 116ff. Last, CAH 9.178 n.5; Broughton, MRR 2.23 and 24 n.10.), which is probably, but not certainly to be referred to this year.

191. App., B.C. 1.35,156; 36,162. No doubt the same law covered both the colonial and agrarian proposals, but the lex Saufeia (cf. n.190) is obviously an unknown quantity (cf. Bernardi, Nuova Riv. Stor. 28/9 (1944/5), 86ff; Gabba, Athenaeum 32(1954), 46ff.) According to Appian, B.C. 1.35,156, colonies were some voted years before but never put into effect; this might well refer to the colonies voted by Drusus' father or even conceivably to those of Saturninus, though it would be difficult to imagine a senatorial tribune reviving that ill-fate scheme; cf. H.C. Boren, Class. Journ. 52(1956/7), 27ff.

quaestiones perpetuae,¹⁹² d) to introduce equites into the senate,¹⁹³ e) to reform the currency,¹⁹⁴ f) to give the franchise to the Italian allies,¹⁹⁵ g) to distribute grain to the plebs.¹⁹⁶ f), it seems plain, was never passed;¹⁹⁷ the evidence on d) is contradictory and its reality has been much discussed;¹⁹⁸ a) and b) may well have been covered in the same bill.¹⁹⁹ In one case, the reform of the juries, we have clear evidence both that the

192. App., B.C.1.35, 157ff; Cic., pro Rab. Post. 16; pro Cluent. 153; Asc., in Scaur. p.21C; Livy, Per 70 and 71; Flor., 2.5,4; Auct. de vir. ill., 66,4;10; Diod., 37,10; Vell., 2.13.
193. This is the tradition of App., B.C. 1.35, 157ff and cf. Auct. de vir. ill., 66.4; but it is not mentioned in the other accounts; cf. Gabba, P.P.11 (1956), 363ff.
194. Pliny, N.H. 33.46; but cf. Mattingley, P.B.A. 39, 242.
195. App., B.C.1.35, 155; Vell., 2.14.
196. Livy, Per. 71
197. Our sources treat it simply as a proposal or even promise and concentrate on the agitation of the Italians for the vote: cf. App. B.C.1.36; Plut., Cato Min. 2; Diod., 37.11; 13; Auct de vir. ill., 66,4 cf.80; cf. Livy, Per. 71; Vell., 2.4,1; Val. Max., 3.1,2; Pliny, N.H. 25.52; 33.20; Florus, 2.5,6-7; 6,3-4.
198. Mommsen, Ges. Schr. 3.341; Last, CAH 9.179-80; Gabba, P.P.11 (1956), 363ff; cf. Ewins, JRS 50(1960), 104.
199. cf. above n.191

law was passed²⁰⁰ and that it was not valid after 91, for the jurymen continued to be equites till the time of Sulla's reform.²⁰¹ It is clear, too, that an agrarian commission was actually set up in 91, though there is hardly any trace of its activity; of course, it might have been dropped, like the lex Apuleia, rather than repealed, as far as such negative evidence goes.²⁰²

Our record of the cancellation of the leges Liviae is confused. Livy speaks of their being carried 'per vim' though he does not say that this was why they were cancelled.²⁰³ Asconius²⁰⁴ reports a decree of the senate - 'Decretum est enim contra auspicia esse latas neque iis teneri populum'.

200. Livy, Per. 71: '...iudiciariam quoque pertulit'.

201. Cic., Verr. 1.13,37; Vell., 2.32; cf. Tac., Ann 11.22. For the lex Plautia, which set up mixed juries, at least temporarily, cf. Cic., pro Corn., ap. Asc. p.79C and Asc. ad loc.; Hill, Roman Middle Class, 137f; for the date, Badian, P.A.C.A. 1(1958), 305 = Studies, 76f; E. Gruen, JRS 55(1965), 69.

202. The only evidence would be that of the inscription mentioned above n.190, if that does indeed refer to this commission. There is no trace of activity in our literary sources, but clearly some work might have been started in the summer of 91.

203. Per. 71.

204. 68 C.

Cicero²⁰⁵ appears to differ: 'Iudicavit senatus M. Drusi legibus, quae contra legem Caeciliam et Didiam latae essent, populum non teneri'; and, later in the same speech,²⁰⁶ he seems to make this point more explicitly, for he mentions that Drusus 'in legibus suis plerisque' had failed in his attempt to carry 'pluribus de rebus uno sortitore', which implies that the breach of the lex Caecilia Didia lay in the tacking of different measures 'per saturam', which that law forbade.²⁰⁷ One point on which both Cicero and Asconius insist is that there was only one SC;²⁰⁸ but only Asconius tells us that all the leges Liviae were repealed,²⁰⁹ though Cicero²¹⁰ speaks simply of the leges Liviae being cancelled, which may mean all of them or may not.

One hypothesis which may be rejected out of hand is that all the measures attributed to Livius were incorporated

205. de domo 41.

206. ib. 50.

207. The MSS. read 'uno sortitu re-tulisti' and Mommsen, Staatsr., 3.377, would accept this, but read 'tulisti' for 'retulisti'; the reading given - 'uno sortitore' - is Madvig's (Adv. Crit., 2.218); cf. Nisbet, ad loc. The meaning is in any case clear. For the provisions of the lex Caecilia Didia on tacking cf. de domo 53.

208. Asc., in Corn. 68 C: '...ut leges eius omnes uno S.C. tollerentur'; Cic., de leg. 2.14: 'quae praesertim uno versiculo senatus puncto temporis sublatae sint.'

209. as quoted n.208.

210. Cic., Corn., ap. Asc., 68 C; de domo 141; de leg. 2.31; cf. 14; For de domo 50 - 'in legibus suis plerisque', cf. below, 452.

in one monster law.²¹¹ It is incredible that he should so flagrantly have violated a law passed only a few years before and in any case our sources for the year speak quite specifically of separate measures passed at separate times, while both Cicero and Asconius speak of *leges* not *lex*.²¹² Cicero,²¹³ indeed, accuses Drusus of 'tacking' 'in *legibus suis plerisque*', which, if it may be pressed, implies that there were some laws repealed for this reason and still others which were not; this could mean either that there were other laws repealed for other reasons, or that there were other laws not repealed at all, but either way it implies a plurality of laws. There seem in theory to be three ways of reconciling these various passages without completely rejecting the evidence of any one:

- 1) to argue that all the laws were held to have violated the *lex Caecilia Didia*, but under different clauses of that law, some of which may have been concerned with *auspicia*:²¹⁴
- 2) that all were held to have violated *Caecilia Didia* but also violated the *auspices*; 3) that some violated *Caecilia Didia* and some the *auspices*. Our evidence about *Caecilia Didia* itself only concerns the regulation that notice of a

211. For discussion, Hardy, *C.R.* 27(1913), 26ff.; Thomsen, *Cl. et Med.* 5(1942), 30ff.; cf. Gabba, *Athenaeum* 29(1951), 14; Badian, *F.C.*, 219 n.1.

212. *loci cit.* nn. 208, 210.

213. *de domo* 50.

214. For this point cf. Hardy *art.cit.*

trinum nundinum was required before the voting of a law and the clause already mentioned forbidding tacking;²¹⁵ but it is at least possible that the conditions of legislation were generally revised and that the bill therefore dealt with many other points.

The critical point for the present enquiry is what Asconius means by the phrase 'contra auspicia' and how seriously his evidence is to be taken. The phrase itself is not infrequent in late republican Latin and only seems to be used elsewhere when there is reference to a specifically religious matter;²¹⁶ we have no example of its being used to describe a fault in a law of a purely formal nature, which is not based on the *ius divinum*; it is hard to believe that Asconius could describe a violation of the *lex Caecilia Didia* as 'contra auspicia', unless the law contained clauses which covered the auspicia themselves. The implication seems clear that, if Asconius is right, some religious offence by Drusus must have been alleged either a mistake in ritual or the

215. For tacking, above n.207; for the 'trinum nundinum', Cic., *Phil.* 5.8.

216. For examples, *T.L.L.* 2.1546. They refer to Caesar's laws invalidated by Bibulus' *obnuntiatio* (Cic., *de domo* 40; *H.R.* 48; *Vat.* 5; *prov. cos.* 46; *ad Att.* 8.3,3) or to Antony's in 44 (Cic., *Phil.* 5.8-10; 6.13; 12.12; 13.5), to Gracchus' proceedings of 163/2 (Cic., *ad Q.F.* 2.2,1), to Crassus' leaving Rome in defiance of the auspices (Serv., *ad Aen.* 7.606), the defiance of auspicia by Claudius and Junius in the first Punic War (Cic., *de domo* 71; Livy, *per.* 19). or by Flaminius in the second (Livy, *per.* 22), Clodius' laws (Quint., *inst.* 2.4,35) or Verres' defiance of the law of the pomerium (Cic., *Verr. Actio* 2, 5.34.) In each case, the point is specifically religious and never apparently is it a question of the breaking of formal rules of legislation and election.

ignoring of obnuntiatio. It is possible, at least, that something of this kind happened; but, if so, the college of augurs must surely have been consulted, for this is exactly the kind of point which is regularly referred to them; yet, as we have seen, Cicero in mentioning the incident attributed importance to the role of Philippus the augur and yet did not mention the college, though his argument cries out for just such an example. In terms of the interpretation of the evidence, the probability seems to be that Asconius is simply wrong on this point; some religious offence might have been alleged at some point but Cicero's explanation in terms of the *lex Caecilia Didia* seems coherent and circumstantial.

The situation, however, is more difficult when a wider range of arguments is taken into account. The basic unresolved problem of Frusus' tribunate is the quite sudden reversal of the senate's attitude to him. In the middle of September, long after the passage of the agrarian, judicial and presumably the other laws, Drusus' enemy the consul Marcius Philippus, was abusing the senate in the most violent terms for their unrelenting support of Drusus.²¹⁷ Yet, within

217. Cic., *de or.* 3.2ff = Malcovati, *ORF*², 251f; Crassus' last speech in the senate - 'mane Idibus Septembribus' referred to Philippus' attacks (*loc.cit.* 2) on the senate itself: 'illo senatu se rem publicam gerere non posse'.

a month or two Philippus had won the day and Drusus lost his senatorial support.²¹⁸ How did this happen? Mr. Brunt²¹⁹ has argued recently that the volte-face can be explained by the increasing violence or threats of violence which marked the conduct of the Italians as the year drew to an end;²²⁰ but this does not quite face the complexity of the problem. For, as we have seen, the action which the senate took, when it finally abandoned Drusus, was to cancel the legislation which he passed earlier in the year, including the law which handed to them the control of the jury-courts, a measure which the optimates had waited thirty years to see passed; it is easy enough to say that they turned against Drusus and all his works, but the repeal of this law seems on the face of it both unnecessary and directly against the senate's own interests. The explanation of the cancellation

218. Drusus was dead by Dec. 10th, 91 (Elogium, cited above n.190: 'in magistratu occisus est'), yet was still alive at the time his laws were cancelled (Diod., 37.10).

219. JRS, 55(1965), 107.

220. No doubt, violence was increasing towards the end of the year: but it is difficult to believe that the plot to kill the consuls at the feriae Latinae, which Drusus exposed (Auct. de vir. ill. 66), even if there had been 'instauratio' (as Brunt., loc.cit., suggests) of the feriae, could possibly belong later than June or July. For the normal date, cf. Wissowa, R.G.K. 2, 125.

of Drusus' laws which we have found most plausible so far seems to make this problem all the more insoluble. Let us suppose that they decided that in view of the Italians' threatening attitude they could no longer support Drusus' general programme; it would then be possible for them both to abandon the *lex de sociis*, which had not yet been passed, and to cancel those parts of Drusus' earlier legislation which had been directed towards gaining general support at Rome - such as the distributions of corn and the *lex agraria*. On the arguments we have considered, all they needed to do was to rule that the *lex agraria* did and the *lex iudiciaria* did not violate the *lex Caecilia Didia*; for, if the clause at issue was that forbidding tacking, the interpretation of it in relation to different bills must have been at the senate's discretion.

The development of the situation would be much easier to understand if the senate was forced to cancel the *lex iudiciaria* by some objective still more stringent than their desire to control the jury-courts. Thus, for instance, they might have felt it essential to stop Drusus' colonization, which had alienated at least some

Italian opinion;²²¹ if it could be shown that the leges agraria and iudiciaria were open to precisely the same technical objection, as for instance were all the leges Iuliae of 59, then the cancellation of one law would carry with it the cancellation of the other. Alternatively, it would make sense if the senate had been more or less forced into cancelling the lex iudiciaria itself and then subsequently cancelled the rest of the legislation too in a fit of pique; here one might very well think of a decree of the augurs condemning, not the whole legislation, but just the lex iudiciaria as 'vitio lata'. Is it possible that Philippus could have engineered such a decree? It is at least worth examining the membership of the college at this date.

221. Appian, B.C. 1.36,162. It is certain that the lex agraria worried the Italians, whether it be supposed that the Etruscans and Umbrians of B.C. 1.36,163 were protesting about the lex agraria (as Badian, FC, 218f, argues - cf. Historia 11 (1962), 225) or the rogatio de sociis (as Gabba, Athenaeum (1954), 48; commentary on Appian, B.C. 1, p.123). Brunt, art. cit., 94f. follows Badian's view, but adds that the protests will have been taking place after Drusus' loss of influence and therefore after hope of the passage of the rogatio de sociis had vanished; but, even at the end of his life, Drusus may have been trying, or at least hoping, to press his bill through the comitia. It seems impossible to escape the conclusion that those Italians who protested against the lex agraria cared very little about the franchise.

The members whose names we know for 91 are: M. Aemilius Scaurus, Q. Mucius Scaevola (cos. 117), L. Licinius Crassus (cos. 95), M. Antonius (cos. 99), C. Marius and Philippus himself, the consul of this year. Of these men, two (Crassus and Scaurus) are those named as the leading supporters of Drusus' programme;²²² two more (Scaevola and Antonius) apparently belong to the same group, at any rate by this date;²²³ only Marius could reasonably be supposed to have joined Philippus in his opposition to Drusus.²²⁴ There are, of course, three unknown members, all patricians; and if the augural decree dated from after the death of Crassus in September of this year then a fourth unknown is added. Clearly this evidence is inadequate to reach firm conclusions, but it hardly seems likely that the college at any time in 91 would have formed a suitable basis for any action by Philippus against Drusus. Moreover, it is perhaps worth noticing that Drusus had available to him the advice and support of two of the most distinguished of

222. For the members of the college, cf. *infra*. 636f.

For Crassus and Scaurus as supporters of Drusus, cf. Cic., *de domo* 19,50; cf. Florus, 2.5; Asc. *in Scaur.* p.21 C; Cic., *de or.* 3.1ff.

223. For Antonius cf. *infra*, 351ff. For Scaevola cf. *infra* 411ff.

224. He seems to have avoided committing himself either way, but Badian, *F.C.*, 224f, speculatively rates him an opponent of Drusus and the group he represented in 91.

the consular augurs, which must make it less likely that he made mistakes in his conduct of the business of the comitia, which would leave his measures open to objections on religious grounds.

Our attempt therefore to give precision and substance to Asconius' words 'contra auspicia' has not led very far. It is clearly possible that the augurs were more deeply involved in the affair than our evidence allows us to state, but no more than possible. Some great pressure must have brought upon the senate to make it cancel the sections of the *leges Liviae* which favoured the senatorial order, but the vital information is lost and we can only guess. The theory of an *obnuntiatio* which Drusus ignored against the carrying of the *lex iudiciaria* might not be very far from the truth.

The evidence examined in the last section suggests a slow but clear development in the use of religious means to cancel legislation during the period 133 - 90; it was not until the last decade of the period that we find any regular use of techniques of augury, the authority of the college or the individual augur directed towards the cancellation of undesirable legislation. As far as this goes, the evidence seems to support the view indicated at the beginning of this chapter that the great significance of the college in Cicero's day was not simply the dying echo of past greatness but rather a quite new development; the augurs had inherited great powers from an age which had taken the actual process of divination by augural signs more seriously than the Romans of the first century, and these powers took on a quite new importance when the cancellation of laws passed through the comitia began to be of central importance to the continuance of senatorial authority. This is, however, a very different account from that given by all modern accounts of the history of the augurs; the last paragraphs of this chapter must examine why this is so.

Even though there is no direct evidence of the use of obnuntiatio in the later years of the second century, there is generally supposed to be indirect evidence in the form of legislation, involving the reform of the procedures

involving obnuntiatio. This is held to imply that the subject had already become a controversial one by the middle of the second century; if so, then magistrates and priests must have been using the mechanism of the State religion to interfere with public business long before we have direct evidence of their doing so. Again, as in the first half of the chapter, we must go backwards in time to see how far the silence of our authorities can be shown to be misleading.

About the middle of the second century two laws - lex Aelia and lex Fufia - were passed which according to Cicero played a critical role in resisting 'tribuniciae furores' from the Gracchi onwards.²²⁵ Copious discussions of the laws have followed Lange's fundamental and monumental work on them²²⁶ and it has been universally agreed that they were laws of the first importance and involved a major reform of the law of obnuntiatio, whose purpose was to make it a leading weapon against tribunician legislation. We

225. Cic., post red. in sen. 11; in Vat. 18; in Pis. 9; de H.R. 58. A.E.Astin, Latomus 23(1964)424, has well observed that only the first of those passages attributes the intention of resisting tribunes to the original propounders of the law: '...quae nostri maiores certissima subsidia rei publicae contra tribunicios furores esse voluerunt'.

226. L. Lange, De Legibus Aelia et Fufia Commentatio (1861) = Kl. Schr. (1887) 1.274ff. Mommsen, Röm. Staatsr. 13.111; Valeton, Mnemosyne 19(1891), 75ff; 229ff.; W.F.McDonald, JRS 19(1929), 164ff.; S. Weinstock, RE s.v.obnuntiatio, 1730ff; JRS 27(1937), 215ff; J.P.V.D. Balsdon, JHS 47(1957), 11ff; J.Bleicken, Hermes 85(1957), 468ff.; L.R.Taylor JRS 52(1962), 19ff; G.V.Sumner, AJP 84 (1963), 337ff; A.E.Astin, Latomus 23(1964), 422ff who has further bibliography p.422 n.1.

have no information about the passage of these bills; they are never mentioned in accounts of the 'tribuniciae fures' themselves; and two brief, rather muddled sentences are the only indication we have of their contents.²²⁷ Cicero talks of them unendingly, though he never specifies their contents;²²⁸ he is interested because Vatinius ignored them and Clodius cancelled them, at least so Cicero tells us. The modern argument has tried to reconstruct the two laws by subtracting the kinds of obnuntiatio legal after the lex Clodia from those legal before it and equating the result with Aelia Fufia;²²⁹ this assumes that Clodius' legislation on obnuntiatio and his cancellation of the two laws were one and the same thing. I shall try to argue that they were not the same thing, that the two laws did not deal primarily, perhaps not at all, with obnuntiatio.

227. Asconius, 80; Schol. Bob., p.148 St. For the date, cf. Cic., in Vat. 23; in Pis. 10 - approximately a hundred years before 58 ('centum prope annos'). Taylor, art. cit., has argued that such a bill passed in the 140's or late 150's must imply that tribunes had been in opposition to the senate long before Gracchus' legislation of 133 and, following the same line of thought to the opposite conclusion, Sumner, art. cit., has argued for the date 132, cf. Astin, art. cit. 443ff. If my conclusions below are right, this point will not arise. Cf. also, *infra* p. 114, n. 144.

228. Cic., post red. insen. 11; in Vat. 5 18; 23; 37; in Pis. 9f; 18; de H.R. 58; de prov. cons. 46; pro Sest. 33; 114.

229. Most ingeniously in W.F. McDonald, art. cit., n. 226.

One of the provisions of the laws we know with complete certainty. According to the Bobbio Scholiast,²³⁰ commenting on one of Cicero's references to the laws, 'de legibus dicit Aelia et Fufia quae non sinebant prius aliqua de re ad populum ferri quam comitiā haberentur ad designandos magistratus.' As this stands it makes little sense, because the scholiast has not defined the period before elections for which legislation was forbidden; but the general idea is clear and the scholiast's opinion is confirmed unequivocally by recorded incidents in which an individual was exempted from the provisions of the leges Aelia and Fufia, in order to carry bribery laws in the days immediately preceding the consular elections.²³¹ It is also probable that a charge against C. Cato brought in 54 under the lex Fufia had something to do with his activities in connection with the consular elections of that year.²³² This much at least then is clear: the laws forbade legislative comitia for a specified number of days before the consular elections; in effect they created a special class of dies fasti non comitiales.

On the other hand, Asconius,²³³ also commenting on a

230. P.148 St. (^{on} in Vat.23).

231. Cic. ad Att. 1.16,13 cf. Dio, 36.39,1.

232. Ad Att. 4.16, 5-6; cf.4.15,4. Sumner, art.cit.338ff.

233. 8 C (on in Pis. 9)

passage of Cicero, makes no mention of these provisions of the lex. '(legem) alteram ne quis per eos dies quibus cum populo agi liceret de caelo servaret; propter quam rogationem ait legem Aeliam et Fufiam ... eversam esse: obnuntiatio enim qua perniciosus legibus resistebatur, quam Aelia lex confirmaverat, erat sublata.' The rogatio, which abolished obnuntiatio was the lex Clodia already mentioned. This is a puzzling and rather elusive passage; Cicero speaks simply of the abolition of Aelia and Fufia; Asconius, explaining the reference, has nothing to say of lex Fufia and on lex Aelia merely remarks that it had confirmed obnuntiatio. He is plainly puzzled. What he does not say (and this is the crux) is that the abolition of Aelia and Fufia was tantamount to the abolition of obnuntiatio; he must have known very well that it was not, for obnuntiatio had existed long before Aelia Fufia, and the repeal of Aelia Fufia would simply restore obnuntiatio to its early second-century footing. What he does say is that the reason for Cicero's saying that Aelia and Fufia have been abolished is that obnuntiatio has been abolished and that, in the case of Aelia at least, obnuntiatio was part of its contents. Thus, he seems not to believe that Aelia and Fufia had been directly repealed at all; he thinks that Cicero is complaining about them because the law on obnuntiatio has had the incidental effect of cancelling some of their provisions.

Now, in so far as Asconius is offering an interpretation of Cicero here, he is certainly wrong. Not only is he contradicted by the far more coherent note of the Bobbio scholiast,²³⁴ but it is in fact clear from Cicero's own words that when he speaks of Aelia and Fufia, he is speaking not of obnuntiatio but of the passage of legislation on certain forbidden days. Thus, in pro Sest. 33: 'Isdemque consulibus sedentibus atque inspectantibus

234. It should be noticed that there is no significant difference in the contexts on which they are commenting - both are explaining a bare mention of the lex Aelia et Fufia. Sumner (art.cit.), in his very ingenious article has tried to establish that lex Aelia dealt with obnuntiatio, but not the forbidding of legislation before elections, while lex Fufia dealt with legislation before elections, but not obnuntiatio. But it must count heavily against this view that a) the laws are almost always mentioned together (exceptions: ad Att. 4.16,5 (Fufia); ad Att. 2.9,1; pro Sest. 114; Asc. 8 C (Aelia)), b) that Schol. Bob. describes both laws as dealing with the prohibition of legislation before electoral comitia, c) that at ad Att. 1.16,13 the exemption of Lurco from the prohibition of legislating before electoral comitia entails the suspension of both Aelia and Fufia. This seems to make it certain that they both forbade legislation before comitia; but it may well be true that Fufia contained no reference at all to obnuntiatio, as Asc. (loc.cit.) seems to imply. cf. below, 464.

lata lex est, NE AUSPICIA VALERENT, NE QUIS OBNUNTIARET, NE QUIS LEGI INTERCEDERET, UT OMNIBUS FASTIS DIEBUS LEGEM FERRI LICERET, UT LEX AELIA LEX FUFIA NE VALERET: qua una rogatione quis est qui non intellegat universam rem publicam esse deletam?' This purports to be a summary of the lex Clodia, though no doubt we need not think in terms of the permanent abolition of any of these elements; it was perhaps provided, as Mr. Balsdon²³⁵ has suggested, that they should be suspended in certain circumstances; Cicero is exaggerating, though not unpardonably. Another summary of the lex Clodia is found at de prov. cons., 46; 'quare aut vobis statuendum est legem Aeliam manere legem Fufiam non esse abrogatam, non omnibus fastis legem ferri licere; cum lex feratur, de caelo servari, abnuntiari, intercedi licere.' The items on the list are a) de caelo servari = auspicia, i.e. the exercise of magisterial spectio before the comitia²³⁶ b) obnuntiatio, i.e. the announcing of omens actually during the comitia²³⁷ c) intercessio, which can only be tribunician veto,²³⁸ which is the third legal method

235. JRS 47(1957), 15ff.

236. cf. above, 378 n. 1.

237. cf. above, 385 ff

238. There seems to be no justification for regarding intercessio in any other than its normal sense of tribunician veto, once it be admitted that Cicero is grossly exaggerating and that some limitation of the veto, not complete abolition, is in question.

of interfering with business in the comitia d) dies fasti non comitiales, i.e. that class of days on which legal business was permitted but comitia were not²³⁹ e) lex Aelia and lex Fufia. Now the two passages make it absolutely clear that e) belongs with d) and is quite distinct and separate from a) b) and c); according to the received view e) is simply another way of putting a) or b) or a) and b), but this is rhetorically quite impossible in both passages and is absolutely excluded for the passage from de prov. cons., by the phrase 'cum lex feratur' which marks off the regulations concerned with the proceedings at the comitia from those which deal with pre-conditions for holding comitia at all. It is quite clear that the Bobbio scholiast is precisely right in his note on lex Aelia et Fufia; the sections of that law to which Cicero refers must be those which set up a special class of dies fasti non comitiales viz the days immediately before the elections; Clodius arranged that comitia should be held on both these classes of days; Cicero objected.²⁴⁰

Even if it be admitted that when Cicero speaks of these laws he is referring to their regulations about the holding of comitia and not about obnuntiatio, there remains the

239. cf. Mommsen, Staatsrecht, 3.372ff.

240. For analysis of the other Cicero passages cf. Appendix.

possibility that the laws had provisions concerned with obnuntiatio nevertheless. In the first place, Asconius says so;²⁴¹ secondly, the very emphatic importance which Cicero attributes to the laws in the resistance to successive popularis leaders may suggest that they must have had wider scope than simply the control of legislation before elections; indeed, Mr. Astin has argued that obnuntiatio and pre-electoral legislation only represent two small fragments of a massive law which completely codified the ius augurale as a whole.²⁴² The second point seems to me without real weight; the passages in question imply no more than that successive populares respected lex Aelia et Fufia i.e. they did not attempt to legislate in the days before elections.²⁴³ Of course, Cicero is grossly exaggerating the importance of the matter and no doubt his vagueness as to the precise provisions of the laws is deliberate - to spell out the contents would have made his rhetoric ludicrous, but he can make play with the idea that here were bills of respectable

241. p.8 C.

242. Latomus 23(1964), 422ff. Astin, however, has gravely underestimated the amount of our knowledge of augural law as a whole; we have a rich and detailed knowledge of many aspects of it from writers of the first century B.C. and later, antiquarians and historians; that a law of the scope he postulates should pass totally unmentioned in this body of information and comment is quite unbelievable.

243. cf. passages quoted above, n. 229.

antiquity which even the Gracchi obeyed, yet Vatinius ignored. As for the first point, it may well be true that lex Aelia confirmed obnuntiatio at least in the sense that it contained a clause which provided for it (e.g. 'nisi quis consul, praetor etc. de caelo spectaverit, obnuntiaverit etc.'). What is important is that we have no scrap of evidence to suggest that obnuntiatio as a whole or any kind of obnuntiatio in particular was in any sense based on lex Aelia et Fufia, or that those laws in any way altered the augural law on the subject.

If, then, Lex Aelia et Fufia should be eliminated from discussions of the augurs, as I think it must, we are left with no reason to doubt that our information about them in the second and early first centuries at least roughly represents the scope of their activities. It is only at the end of the second century that we find obnuntiatio in use as a political weapon and only at the beginning of the first that laws are cancelled as 'vitio latae'. A great many of the devices characteristic of first century political life appear still later - it is Bibulus who seems to have introduced the use of magisterial spectio in 59 and as we have seen augural obnuntiatio is not known before 63.

A great deal of argument of this chapter has been negative, but the conclusions which may be drawn from it about political and religious life are far from negative.

It must be accepted that in this sphere as in others we have examined, there is little or no evidence that the priests felt able to exploit their religious position for political gain in any direct or flagrant way. They have important powers and they can and do use them on occasion; but it is rather by cautious manipulation and by timing that they gain their ends. For public purposes they present themselves as guardians of an important area of public law and no doubt that is precisely what they felt themselves to be. At a deeper level, it is no doubt true that they illustrate the weakening of Roman religious life; they no longer, at least by Cicero's time have any real knowledge of or belief in at least some of the methods of divination for which they are in theory responsible. In their day, those who believed in divination were interested in astrology or extispicy, methods of far greater flexibility and intellectual appeal than those of the archaic Romans. The maintenance of augural law was in part a matter of practical politics, in part sentiment; its decline was probably hastened by the loss of responsibility for the activities of consuls in the field. On the other hand, the importance of the college as an institution seems to increase rather than decrease as the republic draws to a close. The evidence we have examined can leave little room

for doubt that it was the authority and dignity of the office rather than any direct political advantage which caused this to be so, at least during the second century.

Appendix: Aelia et Fufia.

The other Cicero passages which refer to the laws are: post red. in sen. 11; Vat. 5; 18; 23; 37; Pis. 9; 10; de H.R. 58; Sest. 114. The passages from post red. in sen., Sest. and de H.R. provide further lists of the type discussed above 466f; the elements are given in the order, auspicia - obnuntiatio - intercessio - Aelia et Fufia (post red.); Aelia et Fufia - censura - intercessio - auspicia (de H.R.); auspicia - Aelia - senatus auctoritas (Sest.). The separation of Aelia Fufia from auspicia in de H.R. seems quite intolerable on the conventional view and only Sest. gives the order which that view would require. The only other passage to offer definite indications of Cicero's meaning is Vat. 16 - 19, which would by itself cast grave doubt on the supposed connection of Aelia Fufia and obnuntiatio. 16 accuses Vatinius of ignoring his colleagues who had announced that they had watched the heavens ('servatum esse de caelo'); 17-18 asks Vatinius when he ever hesitated 'contra eas leges (Aeliam et Fufiam) cum plebe agere et concilium convocare'; 19-20 accuses him of having held comitia 'Iove fulgente'; Cicero makes it quite clear that when he passes from 16 to 17, he is changing the subject, for he begins 'Simul etiam illud volo uti respondeas...'; the question is, why did you ignore Aelia and Fufia? evidently this is a new subject. What

is more the formulation of the question here does give a clue; it rules out the possibility that Cicero is thinking of *obnuntiatio*, for the offence alleged lies in having summoned the *comitia* 'contra legem Aeliam et Fufiam'; but it would be quite impossible to summon *comitia* against 'obnuntiatio', which had necessarily to take place after the *comitia* had begun. It would be possible to summon *comitia* in defiance of one who watched the heavens, but as already noticed Cicero has already left that particular question. The only passages which give any help to the conventional view are: post red. in sen. loc.cit.; Vat. 18; 23; Pis. 9; in all of which Cicero praises the part which these laws have played in resistance to successive 'tribuniciae furores' until the time of Vatinius, Clodius and Piso. On my view, he is of course wildly exaggerating their importance; but he is not actually lying: all his words - 'certissima subsidia rei publicae contra tribunicios furores' (post red.); 'tribunicios furores debilitarunt et represserunt' (Vat. 18); 'propugnacula murique tranquillitatis et oti' - while being deceptive, are by no means impossible descriptions of a law which prevented three weeks of legislation in the year. But neatest of all is Vat. 23: '...sanctissimas leges, Aeliam dico et Fufiam, quae in Gracchorum ferocitate et in audacia Saturnini et in conluvione Drusi et in contentione Sulpici et in cruore Cinnano, etiam inter Sullana arma vixerunt,...';

All he is actually saying here is that the Gracchi, Saturninus and the rest did not break Aelia and Fufia - 'leges...vixerunt' i.e. on my view, they did not attempt to legislate in the period before the elections; but he manages to create the impression of the laws being central to the struggle against the populares by the accumulation of abstract nouns and slips through the bathetic 'vixerunt' - they did not in fact do anything, they were just there.

9. Prodigies. 1. The decemviri s.f.

The aspect of Roman religious life about which our second-century records are most plentiful and least discontinuous is the handling of prodigies.¹ For eighty of the one hundred and twenty years between 200 and 80 BC, we have reports of prodigies dealt with by the senate at Rome and in many cases of the action they took or the consultations they recommended.² Our information is at its best in the first thirty years when the full text of Livy's list generally survives but even after 167 we have the 'liber prodigiorum' of Julius Obsequens,³ which

1. For prodigies in general see: Fr. Luterbacher, Der Prodigien Glaube u. Prodigienstil der Römer, (1880); L. Wülker, Die geschichtliche Entwicklung des Prodigienwesens bei den Römern (1903) - including lists of prodigies year by year and also under the heading of the type of manifestation (lightning, monsters etc.) and of the expiations offered to the gods, but not offering analytic lists relating prodigies to expiations and to the college consulted, which is what is needed; R. Bloch, Les prodiges dans l'antiquité classique (1963); P. Habel, RE s.v. Prodigium, 23.2.2283ff. (published in 1959, but quite inadequate). On Livy's technique of presentation cf. E. de Saint Denis, Rev. Phil. 16(1942), 126ff; and on his own beliefs, Stübler, Die Religiosität des T. Livius, 100ff; I. Kajanto, God and Fate in Livy, 46ff.
2. Cf. ~~Wülker's~~ op. cit., 86ff. for chronological list.
3. On whose date and methods cf. infra, 585 ff.. It is possible to compare his account with Livy's down to 167 i.e. for nine years altogether; the only detail he adds is 'aruspicumque iussu' in section 3 (186 B.C.), cf. Livy, 39.22; see also infra

abstracts lists of prodigies from Livy year by year, and the mention of occasional individual prodigies by Pliny in his Natural History,⁴ which he apparently took from official lists preserved by annalistic historians. I have already discussed the question of where these lists were originally preserved⁵ and found no reason to doubt that they go back to some kind of official record which included the prodigy itself, the senate's decree, the action taken and the responsum of any college consulted by the senate. From this bulk of material we can work out in some detail the procedure followed by the authorities, which will provide a valuable background to the study of the political significance of the whole matter.

A prodigy in the technical sense was any event taking place within the ager Romanus which was held to indicate there was a disturbance in the relations

4. e.g. N.H. 2.99 (174 B.C.); 17.244 (169 B.C.); 2.203 (126 B.C.); 2.99 (122 B.C.); 2.98 (121 B.C.); 2.144 (115 B.C.); 2.98 (114 B.C.); 10.36 (108 B.C.); 16.132 (104 B.C.); 2.148 (103 B.C.); 2.100 (100 B.C.); 8.221 (c.91 B.C.); 2.92 (87 B.C.); 7.34 (83 B.C.).

5. *Infra*, 29f.

between gods and men;⁶ for the most part, the events listed are unusual astronomic or meteorological⁹ phenomena, natural disasters, monsters and portentous behaviour by different kinds of animals. Astonishingly little of this is what we would call supernatural and it would perhaps be misleading to say that contemporaries regarded such happenings as supernatural through their ignorance of scientific explanations, though this is no doubt true in some cases. For our purposes it is only necessary to know that in such cases the State accepted responsibility for what was called the 'procuratio prodigii',⁷ that is to say

6. For the concept of the 'pax deorum' whose disturbance was shown by prodigies cf. Livy, 1.31,7; 3.5,14; 7,7; 7.2,2; 42.2,3; cf. Virgil, *Aen.* 3.261; Wissowa, *R.u.K.*², 390; Warde Fowler, *RERP*, 169 ff. Wülker, op.cit., 162ff. rightly observed that for the Romans there was no such thing as a good prodigy. Any departure from the normal order of things was in itself a bad sign. Bloch, op.cit., 85f. regards prodigy-lists as lists of events which were regarded as escaping the laws of nature; but this is not necessarily true and is, in any case, not the point; the fact that an event was explicable in natural terms would not necessarily disqualify it as a prodigy, while this formulation of the problem suggests a critical, scientific analysis which we have no right to assume. It would, e.g., be wrong to assume that Romans regarded floods and earthquakes as inexplicable in natural terms; for these cf. below.
7. 'Procurare' ('procuratio') is the regular word used for the whole process; e.g. 32.9,2: '...prodigia nuntiata atque eorum procuratio...' (198 B.C.); but other phrases are also used, e.g. 'deos placare' (32.9,4), 'religiones expiare' (31.13,1). For 'procuratio', cf. R.Bloch, *R.I.D.A.* 2/3(1949) = Melanges de Visscher, 120ff.

for ensuring that appropriate rites ('piacula')⁸ were performed in order to appease the god or gods who had shown their anger by the prodigy in question. The basic purpose of the whole proceeding was evidently to avert the danger which the prodigy simply indicated and it is clear that this was one of the most important religious functions of the State at Rome. The histories make it clear that in times of danger or disaster prodigies tended to be reported in large numbers and the State achieved their procuratio with particular care and expense in the interests of morale.⁹

This basic picture needs some qualification in particular cases. For instance, certain events could be regarded as prodigies, which would not normally fall within the category, such as the Virgin-Trials of 216 and 114/3.¹⁰ Again, a disastrous battle or military

8. e.g. Livy, 22.9,7; 40.37,2: '... pontifex maximus piacula irae deum conquirere iussus...'.
 9. cf. the long lists of prodigies known for 217, (Livy, 22.1, 8-20; Val. Max., 1.6,5; Oros., 4.15,1; Plut., Fab.2; Dio Cass., 14.fgt. 57,7; Mac., 1.6, 13-14); for 104, (Obs., 43; Pliny, N.H. 16.132); or for 91, (Obs., 54; Cic., de div. 1.98f.). On the significance of these, Warde Fowler, RERP, 314ff.

10. cf. infra, 341f.

crisis might be treated as a prodigy¹¹ or even floods, famines, pestilences or continuous earthquakes;¹² in these cases, the prodigies are obviously not simply warnings of graver dangers at hand but rather disasters in themselves. Accordingly, the function of the remedia will in this case be the removal of the prodigy itself and not the averting of unknown dangers; it is uncertain how far this distinction was made by the Romans themselves or, indeed, how far they made any attempt to formulate the theory behind their actions. In any case, such occasions are comparatively rare.

The senate normally dealt with prodigies at a sitting early in the consular year or at any rate before the consuls had left for their provinces; Livy¹³ mentions this on several occasions and clearly, since the consuls often take a prominent part in the procuratio,¹⁴ this must have

11. Livy, 22.9,8.

12. cf. *Walker, op. cit.*, 18; 20f.

13. 32.29, 1-2; 33.26,6; 35.21,2; 37.3,1; 38.36,4; 44,7-8; 41.9,4; at 36.37, 1-4, it is made clear that one consul has already left Rome to fight in Greece (M'. Acilius Glabrio, in 191), but the prodigies are dealt with while the other consul is still in Rome. It is, obviously, not possible to prove that the consuls had to be in Rome (cf. below, 482) but only that they usually were.

14. 32.1,13; 9,4; 40.19,4; 37,2; 41.9,7; 43.13,7.

been the regular order of events. Occasionally, prodigies are dealt with at other times of the year, though there is usually a specific reason for this; thus, under the year 179 Livy gives a list in its normal place at the beginning of the year and then a further list at the end of the year;¹⁵

15. First list at 40.45, 3-5; second list, 40.59, 6-8. In this case, the reference to *ludi Romani* and their '*instauratio*' proves conclusively that we are dealing with a second list and not with a doublet of the first one. Other years with two lists are: 183 B.C. (39.46,5; cf. 56,6) where Livy notes in the second one that there was a '*supplicatio extremo anno*', but where there is some reason to suspect a doublet; 177 B.C. (41.9, 4-8; cf. 13, 1-3), where he gives no indication that there were two lists and the lists themselves are different, though one incident (the dropping of a stone '*in agro Crustumino*') occurs in each list, in a different version; 174 B.C. (41.21, 5-7; 10-13; cf. 28,2), where there is no reason to doubt that 28,2 is reporting an incident later in the year; 169 B.C. (43.13, 3-8; cf. 44.18,6), where Livy notes that the second list belongs '*in exitu anni*' and there is certainly no doublet. In 186 (39.22, 2-5), the whole list comes towards the end of the year and Livy does not comment on this; but he mentions the consuls as present for the ceremonies (39.22,4) and since both consuls were out of Rome for a great part of the year (*infra*, 44ff.), it seems likely that the whole list has simply been displaced; Livy plunges into the *Bacchanalia* episode at 39.8 without the usual annalistic reports and is then led on to follow the consul *Marcius* to his province (39.20,1). The list was presumably accidentally omitted from its proper place.

the procuratio of this second group consisted simply in the repetition (instauration) of the ludi Romani, from which it seems a fair inference that the prodigies dealt with here had co-incided with the games and were therefore regarded as of special urgency. Thus, it does not in general seem to be felt that prodigies require immediate action as they happen, but it is important that the outstanding prodigies should be dealt with before the consuls leave to fight the major campaigns of the year.

Prodigies may be reported by various individuals - priests,¹⁶ magistrates¹⁷ or even private individuals from any part of the ager Romanus¹⁸ and it evidently fell within the senate's discretion to decide which prodigies should be accepted as genuinely affecting the State and which could safely be ignored. In 169, two prodigies were rejected by the senate - one because it had occurred on private ground, the other on ground

16. as in the case reported by Gellius, N.A.4.6, 1-2; cf. Livy, 40.19,2 and below. ^{484f.}

17. Livy, 32.1,11; cf. Strabo, 6.2,11.

18. Livy, 43.13,6; 45.16,5; cf. Diod., 32.12,2; Livy, 42.19,2, where the Lanuvini report a prodigy at the temple of Iuno Sospita.

outside the ager Romanus.¹⁹ Once the senate had accepted the prodigy, it had a choice of possible courses open to it; first, it could order directly that specific remedia should be carried out;²⁰ secondly, it could decree that the prodigies or some or one of them should be referred to one or more than one of the priestly colleges - pontifices, decemviri, haruspices.²¹ This college would then make a responsum,²² directing that particular rites should be performed; it is not clear whether this responsum directly authorized the rites or whether the recommendations

19. Livy, 43.13,6: 'duo non suscepta prodigia sunt,...'. Though it should not be thought that these principles were always so rigidly applied, cf. 45.16,5 for a prodigy 'in privato loco' and, e.g., 32.1, 11-12; 42.2,5 for prodigies accepted from outside the ager Romanus.
20. As it does, e.g., in the SC from Gellius quoted below, 484.
21. For lists cf. ~~Wölke, op. cit.~~ 30ff. For joint references, (a) of the same prodigy, Livy, 42.20 (172 B.C.) and apparently at Livy, 37.3, 1-5 (190 B.C.); 40.37,2 (180 B.C.), (b) of different prodigies at the same time, Livy, 36.37, 2-4 (191 B.C.); Obs., 22 (142 B.C.). For the complex events of 207 B.C., cf. below 494f.
22. 31.12,10 ('ex decemvirorum responso'); 32.1,14 ('ex reponso eorum' i.e. haruspicum); 34.45,7 ('ex pontificum decreto'); 41.21,10 ('ex decreto eorum' i.e. decemvirorum); 42.20,4 ('haruspices...responderunt'); Obs., 18 ('cumque aruspices respondissent'); Obs., 29 ('aruspicum responso'). Various other verbs are also used in this context iubere, pronuntiare, edicere etc.); respondere is perhaps the technical term (cf. below 525f on 'pro collegio respondit'), but not necessarily the only technical term.

were embodied in a second decree of the senate, but in some cases the senate provides in advance that the priests' recommendations shall be carried out, which perhaps implies that this might not always be the practice;²³ occasionally, too, the priests might make suggestions which would clearly require the support of SCC or laws, such as the foundation of a colony or building of a temple.²⁴ In general, the colleges seem to act as an advisory committee to the senate.

Gellius²⁵ preserves the text of a senatus consultum of 99 BC which illustrates clearly the workings of the first stage of this procedure and the topics on which a decision was needed: 'Quod C. Iulius L. filius pontifex nuntiavit in sacrario [in] regia hastas Martias movisse, de ea re ita censuerunt, uti M. Antonius consul hostiis maioribus Iovi et Marti procuraret et ceteris dis, quibus videretur, lactantibus. ([Ibus] uti procurasset, satis habendum censuerunt. Si quid succidaneis opus esset, robiis succideret.'²⁶

23. cf., e.g., Livy, 41.17,6: 'ea patres procurari, uti pontifices censuissent, iusserunt'.

24. Cf. infra. 537ff.; 344.

25. N.A. 4.6,2.

26. For 'hostiae maiores' and 'lactantes' cf. Wülker, op. cit., 44f.; Wissowa, R.u.K.², 415. For 'hostiae succidaneae', cf. Gellius, loc.cit. 5ff.; Krause, De Romanorum hostiis quaestiones selectae (1894), 31; they were victims to be sacrificed in the event of the first sacrifice not being acceptable to the gods. 'Robiae', red victims, are only met occasionally other than in this passage, cf. Iuv., 8.155ff.; CIL 6.826; Krause in RE Suppl. 5.246.

In this case, the prodigy was reported by a pontifex; the senate itself decided on the necessary action and the decree specified that a sacrifice should be held, that a particular consul should hold it, that particular victims should be sacrificed, that Iuppiter and Mars should be amongst those who received a sacrifice and so on.

In other cases, when a college of priests was consulted, its essential function was to supply this kind of specific direction as to the sacrifices and other ceremonies needed in the particular case, the names of the gods to whom piacula should be offered, the nature of the ceremonies and so on. The methods by which the different colleges arrived at their recommendations differed and are considered below; for the most part, however, the substance of their suggestions, the actual remedia they recommended, were very similar - supplications, lustrations, sacrifices are the regular methods of appeasing the gods and these can be recommended by decemviri, haruspices or, apparently, the senate alone.²⁷

Is it then possible to establish by what criteria

27. For lists, cf. ~~Walker~~, *op. cit.*, 29 ff.; 39 ff.

the senate took its initial decision whether to handle a prodigy itself or hand it on to the priests and, if so, to which college? A priori, it ought to be possible to use the material we have to discover at least approximately the principles on which the system worked; one would expect that the senate would in general decide itself when the issues were straightforward and seek help when difficulties arose and that they would consult the college most expert on the particular topic in question. That is to say, the nature of the prodigy would in general determine the action the senate took and that they would quite simply follow the available precedents. In fact, however, it does not seem to work as simply as this. The same prodigy does not always produce the same reaction nor the same remedia; the apparent implication is that the senate had a considerable degree of freedom in deciding what should be done and was not simply bound by religious or traditional precedents. This conclusion would be of some importance and the evidence must be looked at carefully.

In the first place, there are serious difficulties in the way of this enquiry owing to the nature of the information we have. Livy often describes the procedure followed in a particular case in some detail; but more often he gives a list of prodigies and then a list of the remedia

adopted, but tells us neither how the remedia were decided on nor to which prodigia particular remedia were related.²⁸ This means that we must seek our answer from the relatively limited number of cases where we can see a specific relationship and these cases are liable to be untypical. An assumption which would help, would be that where Livy does not mention a college of priests the decision had been taken by the senate itself; but although this is no doubt often so, we have no reason to trust the assumption.

In one case, there is a clear connection between a particular prodigy and a particular piaculum; this is the novendiale sacrum which Livy tells us was customary for the frequent prodigy of a rain of stones (*lapidibus* or *terra pluit*); we know of eight years between 194 and 94 in which this sacrum was either specifically recommended for a rain of stones or, at least, for that amongst other prodigies.²⁹ Even here, however, the pattern is not quite so simple; it does seem to be true that the novendiale sacrum never happened except after a rain of stones, but it is not true that it always happened after

28. As, e.g., at 41.9, 4-8 (177 B.C.).

29. Livy, 34.45,8 (194); 35.9,5 (193); 36.37,6 (191); 38.36,4 (188); 39.22,3 (186); 44.18,6 (169, twice); Obs., 44a (102); 51 (94).

a rain of stones, for we know of several occasions when the remedium was a sacrifice or supplicatio.³⁰ Again, the procedure is not apparently the same in every case. Twice and perhaps three times, the sacrum is recommended by the decemviri;³¹ but they are not mentioned in the other five cases, while in 194 the sacrum seems to be recommended by the pontifices³² and in 102 by the haruspices.³³ Thus it seems clear that the senate was under no obligation to refer this prodigy to any particular college or even to any college, as far as we can tell.

The same pattern emerges in other cases as well. Thus, a prodigy which the Romans always seem to have taken quite seriously was the birth or discovery of hermaphrodites; it seems to have been regular practice for these to be thrown in the sea and we are several times told that this was done on the recommendation of

30. Livy, 42.20,5 (172 B.C.); 43.13,3 (169 B.C.); Obs., 18 (152 B.C., supplicatio).

31. Livy, 35.9,5 (193 B.C.); 36.37,6 (191 B.C.); and, perhaps, 188 B.C. - 38.36,4.

32. Livy, 34.45,8; the report follows immediately on a mention of a decree of the pontifices to deal with other prodigies and it is not clear whether this is a further matter covered by the decree or another prodigy not covered in the decree.

33. Obs., 44a.

the haruspices.³⁴ There were, however, other remedies applied and here there is considerable variation from time to time both in the remedies themselves and in the colleges consulted. The rites consisted of a procession of 27 girls singing a specially composed hymn, a presentation by the matrons to Iuno Regina, the collection of a stips for Ceres and Proserpina and so on;³⁵ but this ceremonial does not apparently always follow this prodigy

34. Hermaphrodites cast in the sea: Livy, 27.37,5 (207 B.C.); 31.12,5 (200 B.C.); 39.22,5 (186 B.C.); Obs., 22 (142 B.C.); 32 (122 B.C.); 34 (119 B.C.); 36 (117 B.C.); 47 (98 B.C.); 48 (97 B.C.); 50 (95 B.C.); cf. Obs., 27a (133 B.C.), for one cast in a river, and Diod., 32.12,2, for a story of one buried alive. The haruspices are mentioned in 207 (Livy, 27.37,5) and in 142 (Obs., 22); cf. also Obs., 3, but since he is drawing on Livy, 39.22,5, which in our version does not mention the haruspices, the case is clearly doubtful. The account of Livy, 27.37,5, seems to make it clear that the procedure referred to was originally haruspical: 'extorrem agro Romano, procul terrae contactu, alto mergendum. Vivum in arcam condidere ^{or her}proiectumque in mare coniecerunt.' But, in view of the evidence of the transfer of rites (above, 481f.), it would be unsafe to deduce that they were always behind such recommendations.
35. For the ceremonial, H.Diels, Sibyllinische Blätter (1890), 37ff.

nor is it restricted to it.³⁶ More to the point, it is recommended once by the pontifices,³⁷ twice by the decemviri³⁸ but also by the haruspices.³⁹ Once again, the senate seems to have had considerable freedom in the action it could take and there never seems to have developed a set pattern which was invariably followed on similar occasions.

It is, moreover, possible for the senate to refer the same prodigy to more than one college, though this seems to have happened quite rarely. A famous case was the hermaphrodite of 207, over which the pontifices

36. At Obs., 48, the remedium for a hermaphrodite is given specifically as a supplicatio; at Livy, 39.22,3ff.; Obs., 22; 32; 47; 50, no remedium is mentioned other than the ejection. At Obs., 43, the procession of twenty-seven virgins follows a number of prodigies not including hermaphrodites, but apparently rather connected with a vision of 'arma caelestia'. At Obs., 46, it is ordered specifically as the remedium for 'fremitus ab inferno'.

37. Livy, 27.37,4 - the earliest case.

38. Livy, 31.12,5ff. (200 B.C.). The second case was in 125, on which cf. below, 446f.

39. First in 104 (Obs., 43); almost certainly in 99 (Obs., 46); cf. below, 444.

and haruspices were consulted and in which the decemviri, too, were very much involved.⁴⁰ The same thing happened in 172 when the columna rostrata was struck by lightning and both haruspices and decemviri were consulted.⁴¹ I shall be examining in more detail below some of the individual decisions taken by the different colleges and it seems to emerge very clearly that the whole system is extremely flexible and that the reasons for consulting particular colleges are very often related to the political requirements of the year.

40. Livy, 27.37, 5-15; cf. below, 448ff.

41. above n.21.

The decemviri sacris faciundis were primarily responsible for keeping and, at the senate's request, consulting the Sibylline books.⁴² The legend was that these books were entrusted to King Tarquin by the Sibyl herself and that he established duoviri to look after them.⁴³ In the fourth century the number of priests

42. For the Sibylline Books in general, cf. Marquardt, Staatsv., 3².350ff.; A. Bouché-Leclercq, Histoire de la divination, 2.280ff.; H. Diels, Sibyllinische Blätter; Wissowa, R.u.K.², 535ff.; de Sanctis, St. dei R., 4.1.126ff.; Latte, RRG, 160f. The general assumption has been that at least the core of the books came from some Greek milieu, but an attempt has been made by W. Hoffmann, Wandel und Herkunft d. Sibyllinischen Bücher (1933), and R. Bloch, Mélanges Ernout (1940), 21ff; Les Prodiges, 86ff., to prove that they were of Etruscan origin; cf. also J. Gagé, Apollon romain, 24ff., which also discusses the point, though to me incomprehensibly. The arguments are hardly compelling and since it seems fairly certain that additions must have been made at various dates (cf. de Sanctis, loc.cit.), it is virtually impossible to establish what the original nucleus was. See further, G. Radke, Gymnasium 66(1959), 217ff.; RE 24.1114ff. (with further bibliography).
43. Dion. Hal., 4.62; Lact., div. inst. 1.6, 10f.; Serv., ad Aen. 6.72. Cf. Wissowa, R.u.K.², 536n.5; Radke, RE 24.1115f. For 'duoviri s.f.', cf. Dion Hal., 4.62, 4f.; Zon., 7.11; Serv., ad Aen. 6.73; Livy, 6.37, 12. Radke (Gymnasium, art.cit.) has recently rejected the whole legend of Tarquin's purchase and argued that the name Sibyllini and the connection with the Sibyl are a late (first century B.C.?) fiction; the books are sometimes called 'libri fatales', as are those of the haruspices (cf. Hoffmann, op.cit. n.42; contra, Latte, RRG, 160f.); but although the detail of the story may well be late, there is no serious reason to doubt that 'libri Sibyllini' was always the specific, 'libri fatales' a more general, name for the books.

was increased to ten⁴⁴ which was their number until Sulla's reforms;⁴⁵ five of them were plebeians, five patricians.⁴⁶ In the course of time they seem to have acquired certain other responsibilities including a rather vague oversight of foreign cults⁴⁷ and we know of several occasions on which they were responsible for sacrifices or other rites.⁴⁸ The Sibylline books were apparently a collection of Greek religious prescriptions which offered the appropriate rites for the procuratio of different prodigies;⁴⁹ during the course of the fourth and third centuries they were responsible for the introduction of a number of new cults to Rome and indeed this seems to have been their most original contribution to

44. Livy, 6.37,12; cf. 42,2; Serv., ad Aen. 6.73.

45. For Sulla's reform, *infra* 4.12.

46. Livy, 6.42,2.

47. Wissowa, R.u.K. 2, 542f.

48. Livy, 37.3,6 (190 B.C.); 45.16, 5-6 (167 B.C.); Obs., 21 (143 B.C.); Obs., 44 (102 B.C.).

49. Gagé, *op.cit.*, 33ff., offers a detailed comparison with archaic Greek collections, but we know almost nothing about these and the discussion is very speculative.

the life of the city.⁵⁰ In the years immediately preceding the second century this activity was at its height and it was the books which suggested for instance the ludi Tarentini of 249,⁵¹ the human sacrifices of the 220's and 216,⁵² the temples of Venus Erycina⁵³ and the Magna Mater,⁵⁴ and so on.⁵⁵ It is not so clear that all these cults really originated from specifically Greek sources or even that they were regarded as specifically non-Roman.⁵⁶

The actual nature of the writings and the proceedings of the decemviri in consulting them are, as they were supposed to be in antiquity, quite mysterious. For the most part, the recommendations of the college of which we hear take the form of directions to carry out particular ceremonies.⁵⁷ We know, too, that it was not usual

50. The early examples for which there is specific evidence are the temples of Ceres, Liber and Libera in 493 (Dion. Hal., 6.17; 94,3), of Apollo and of Aesculapius in 293 (Livy, 10.47,7).

51. cf. Wissowa, R.u.K.², 309

52. cf. infra, 361ff.

53. cf. infra, 137 and 87.

54. cf. infra, ch. 3.

55. For ludi Apollinares, Latte, REL, 223ff; for Mens, Wissowa, R.u.K.², 313ff.

56. In some cases, the cult or rite can be shown to originate from a particular place, as the Magna Mater from Asia Minor or Venus Erycina from Eryx in Sicily; but as has been observed above, even these were in some sense regarded as Roman national cults coming home (infra 136ff). Certainly, the simple fact that a cult (e.g. Mens) was recommended by the books can hardly prove that it was Greek, still less that the Romans thought of it as such.

57. cf. below, 503ff.

for them to publish the actual text of the oracle which they had found, indeed it seems to have been an offence to do so, except in special circumstances.⁵⁸ It is therefore possible in theory that they composed their oracles ad hoc as they were required or that they did not even have any oracles. More seriously, it may have been possible for them to manipulate or re-interpret the documents in their ^{possession} ~~position~~ so as to produce oracles appropriate to their purposes. At least, it seems certain that the collection must have been kept up to date to some extent; and we do have some evidence of accretions to the books at different dates.⁵⁹ Our first century sources discuss the contents of the books to some extent and speak of the obscurity of the verses;⁶⁰ they were hexametric in form and distinguished by an acrostic form which, whatever its original significance, will have performed the function of guaranteeing the verses against casual interpolation.⁶¹ It is not, however,

58. Dion. Hal., 4.62,4: Lact., Div. inst. 1.6: Comm. Bem. Lucani, p37,28-38,2 (Usener); cf. Cic., de div. 2.5,112. Gran. Lic., p.15 (Fl): 'placuit et, quod numquam alias, pro collegio quid in libris fatalibus scriptum esset palam recitare'. cf. Dio Cass., 39.15,3. For M. Atilius the II vir s.f. who broke this rule cf. Varro, l.c.; Val. Max., 1.1,13; Zon., 7.11.

59. The best attested example is the addition of the late third century 'carmina Marciana', Serv., ad Aen. 6.72; cf. Livy, 25.12,11; Mac., Sat. 1.17,25. cf. Wissowa, R.u.K.², 536 n. For the oracle from Phlegon cf. below 4.16H. For early examples, de Sanctis, op.cit., 126.

60. Cic., de div. 2.110.

61. Cic., op.cit., 2.111f; Dion.Hal., 4.62,6.

very safe to apply this information to the second century as the original collection was destroyed in the fire of 83⁶² and subsequently replaced from various sources.

We do, in fact, possess an oracle which purports to have been delivered in 125 BC and this, if it can be trusted, offers valuable information about the nature of the books at this date.⁶³ Two objections of weight can be raised against the genuineness of this document; first, that our list of prodigies for 125 does not contain the finding of an hermaphrodite to which the oracle refers;⁶⁴ secondly, that all oracles of the second century were destroyed in 83 and since they were not published a text could not have survived the republic and so could not have been available in the reign of Hadrian, when our document was published.⁶⁵ Neither point is decisive;

62. Dion. Hal., 4.62,6.

63. Fundamental discussion in Diels, op.cit.; cf. Mommsen, Eph. ep., 8.234; Text, Diels, op.cit., 111ff.; commentary, 116ff.; the text comes from Phlegon, Mirabilia, Ch.10 = Jacoby, FGH, 2B, No.257 fgt.36.

64. It consists of Obs., 20.

65. For the destruction of the oracles cf. Dion-Hal., A.R. 4.62,6; Lact., div. inst. 1.6,11; 14.

our prodigy-list for 125 is derived solely from Obsequens⁶⁶ (a) it contains a lacuna (b) does not necessarily represent all the prodigies which occurred in Livy; but even if we had the full Livian tradition for this year this would still not be conclusive for we know of other occasions when Livy omits prodigies preserved elsewhere.⁶⁷ The second objection is obviously more serious; but Diels⁶⁸ has suggested various ways in which the text of an oracle could survive even if it was officially secret and if we suppose that it was preserved in family archives or even officially published at the time, it would presumably have been re-incorporated in the new collection which was made in the 70's. Perhaps, the real question is why it should be attributed particularly to the year 125, if it was simply one oracle from the Sibylline collection; perhaps, it was quoted in full by an annalist under that year but there is a possibility that the year 125 had a special significance in connection with the oracle and

66. 30.

67. e.g. the prodigy reported by Pliny, N.H. 7.36 (171 B.C.). For known prodigies not in Obsequens, cf. Cic., de N.D. 2.14; de rep. 1.15; ad Q.F. 3.5,1 (129 B.C.); Pliny, N.H. 2.78 (121 B.C.); 2.144 (115 B.C.); Gellius, N.A. 4.6, 1-2 (99 B.C.); Pliny, N.H. 2.98 (90 B.C.); Plut., Sulla 7 (88 B.C.); Pliny, N.H. 2.92 (87 B.C.); App., B.C. 1.78, 359 (84 B.C.).

68. Op.cit., 6ff.

this question deserves a closer examination.

Hermann Diels⁶⁹ showed that the series of ceremonies mentioned in the oracle (or rather the two oracles)⁷⁰ correspond very closely to the ceremonies for the procuratio of the finding of hermaphrodites already mentioned above⁷¹ - the procession of 27 virgins singing a hymn, the gifts from the matrons to Iuno, the collection of the stips⁷² - from which he argued that the oracle was originally composed at the time of the first introduction of this complex of ceremonies that is to say about 207 BC. He thought this the most appropriate time for the references to Trojans which also occur in the oracle.⁷³ Our detailed narrative of the events of 207, however, makes it quite clear that the various elements of the ceremony were only associated quite accidentally at this date; the matrons only become involved at all after a second and quite separate prodigy and on the suggestion of the haruspices.⁷⁴ The combined rite which we meet in the oracle is first recorded at

69. op.cit., 37ff.

70. As shown by Diels, op.cit., 30, from the acrostic.

71. pp. 488ff.

72. Virgins; 13-18; 24-8; 52.

Juno; 18-19; 50ff.

Stips; 10-12; 29; cf. 30ff.

73. cf. above n., 153ff.

74. For analysis of the basic text (Livy, 27.37). Cf.

A.A. Boyce, T.A.P.A. 68(1937), 141ff.

Rome in the year 119,⁷⁵ apart from the present oracle; thereafter it becomes quite a regular event.⁷⁶ It seems therefore to be most probable that the oracles as we have them were composed some time between 207 and 125 and it seems quite likely that the importance of the year 125 was that this was the first occasion on which the oracles in this form were produced and that they represented an innovation in religious procedure at this date. This in turn would help to explain why the text should have been preserved, for the details of the procedure must have been derived from it and a number of people must therefore have used the text in producing the rites; one is reminded of the publication of the oracle for the ^{Secular} ~~Sibylline~~ games which must similarly have served a practical purpose for the administration of the ceremonial.⁷⁷

The greater part of the oracles are concerned with this detail of ceremonial, which does not concern us here; what is important is first the indications of the situation to which the oracle was appropriate and

75. Obs., 34

76. cf. Obs., 36 (117 B.C.); 43 (104 B.C.); 46 (99 B.C.); 48 (97 B.C.); 53 (92 B.C.).

77. For this Sibylline oracle, *Inte. RRG. 298ff.*

secondly the few brief lines of prophetic content. Here, if anywhere, we can find clues as to how the decemviri set about their task, and the kind of material they found. The first oracle begins:⁷⁸

Ὅσσα τέρα καὶ ὅσσα παθήματα δαίμονος Αἴσης
 Ἰσὺς ἐμὸς λύσει. τὰς' ἐνὶ φρεσὶν σι' κε νοήσης
 ῥῶμῃ ἐγὼ πείσυνος. καὶ τοί ποτέ φημι γυναῖκα
 Ἀνδρόγυνον τέξεσθαι ἔχοντά περ ἄρσενά πάντα
 Νηπιάχαι θ' ὅσα θηλύτερά φαίνουσι γυναῖκες.

This seems to answer our first question in a perfectly straightforward way; the actual text of the oracle specifies the prodigy to which it applies. There is, however, no further comment or attempt at interpretation but the first of a series of caerimoniae follows in the next line. The two passages which seem to have a more general application are ll. 26ff of the first oracle and the last four lines of the second.

1. 26ff. . . . σεμνήν Πλουτωνίδα πάντοδιδέσκον
 Ἐν πάτρῃ εὐχέσθων μίμναν πολέμου κρδτέοντος
 Λήθην [δ'] Ἑλλήνεσσι πεσεῖν πόλεως τε καὶ αὐτῆς.

2. 67ff. ἦμος δ' ἐλθῇ
 ὕμιν χρόνος μάλα κακῶς, ἐν ᾧ ποτε τάλαι νεόνν' ἦ
 Τρῶς δῆτ' ἐκ λύσει σε κακῶν ὄμει δ' Ἑλλάδος ἐκ γῆς.

78. L. 1ff.

The first of these passages presumably means: let them pray that Persephone will remain in the fatherland despite the war which oppresses it and that the Greeks will cease from their forgetfulness of the city and of the goddess.⁷⁹ The second is, if anything, obscurer still, but must mean that when that time comes in which all else is new, salvation is to be found from the Trojans and the Greeks.⁸⁰

I discuss below the question of whether these words had any application to the situation in 125 or at any other particular date. What is important here is that they take the form of advice which applied in certain circumstances and which the decemviri would be free to ignore if the circumstances did not apply. Secondly, they are cast in twisted and obscure Greek and are nothing if not vague in their implications. We have no need therefore to regard the decemviri as tied to a

79. For this meaning, cf. Diels, op.cit., 75f,

80. Diels, op.cit., 124, takes 'τᾶλλα νεόγν᾿' as meaning 'nova monstra' and as referring to the monsters which gave rise to the consultation. The MSS. in fact read 'τᾶλλα νεόγνῃ' but the emendation seems certain. The meaning, however, is far from certain.

very precise or specific text on the occasions when they produced prophetic utterances. They might very well be able to interpret such ambiguous pronouncements to suit the circumstances of a variety of situations. It will therefore be fair to look critically at the occasions when they produced^e politically important oracles, to see how far these could be the result of very specialized interpretation. It remains true, however, that the decemviri were fundamentally the interpreters of a set of definite texts and far less free than the haruspices to produce material which suited the political situation.

There are three main questions about the history of the decemviri which we must examine: first, how far they were responsible for religious innovations of any kind during the course of the century; secondly, whether there is any sign of change or development in the nature of the oracles themselves; thirdly, how often their activities become politically important and why they do so. Clearly these are not distinct questions, since the political influence of the college is bound up, as we have seen, with the content of the books; but the issues can be treated conveniently in this order.

Religious innovations of the third century type end almost completely after the Hannibalic War. To some extent, the remedia recommended by the books vary from time to time;⁸¹ though even here it is hard to find anything strictly new to Rome in the ceremonies

81. Apart from the cases discussed below ~~n.n.~~ 504 ff. cf. the remedia of 190 (Livy, 37.3, 5-6 - sacrifice of hostiae Lactantes by the X viri s.f. themselves, with the aid of 'decem virgines, decem ingenui, patrimi omnes matrimique'); 174 (Livy, 41.21, 10-11 - special vow taken at a time of plague).

carried out.⁸² What seems most significant is that the books almost entirely cease from recommending the building of temples,⁸³ the introduction of cults or recurrent festivals.⁸⁴ There are two rather problematic exceptions to this generalization. First, in the year 191, when a list of prodigies was referred to the decemviri, one of the remedia they suggested was to be a permanent festival; '... renuntiaverunt ieiunium instituendum Cereri esse et id quinto quoque anno servandum';⁸⁵ in the Augustan fasti, this festival is found under October 4th, apparently as an annual event.⁸⁶

82. For exceptions, cf. below, 506 ff. . To qualify the novelty of the sacrifice of 190, cf. the evidence collected by Wissowa, R.u.K.², 496 n.1, of the place of 'virgines pueri ingenui patrimi matrimique' in Roman cult and especially Tac., Hist. 4.53; Cic., H.R. 23.

83. The temples dedicated in 191 and vowed before the end of the Hannibalic War are the last examples cf. infra, 205 ff., temples no. 7 and no 8.

84. The last such recurrent festival was the Ludi Megalenses, for which cf. infra, 128 ff.

85. Livy, 36.37, 2-6, esp.4.

86. Fasti Amit. sub die; cf. Degrassi, Fasti a.N. 517

We know almost nothing about the ieiunium and even less about the significance of its introduction in 191.⁸⁷ Le Bonniec⁸⁸ has suggested that the move should be associated with the dedication of the Magna Mater temple and the first regular celebration of the ludi Megalenses, both of which happened in the same year. Ceres has special associations with the plebeians and the lower orders⁸⁹ while the Magna Mater cult was the special preserve of the aristocratic sodalitates.⁹⁰ There may be something in this suggestion, though we have no direct evidence about it. The year 191 was the first year of the war against Antiochus and saw a number of religious celebrations to different deities so that the collocation of Ceres and the Magna Mater need be no more than accidental. The second exception was at the time of the human sacrifice in 113; the decemviri either recommended the building or rebuilding of the temple to Venus Verticordia, apparently in penance for the unchastity of the Vestals or in an attempt to avert its repetition.⁹¹

87. cf. Degressi, loc.cit; Wissowa R.u.K.², 301; Latte, RRG, 50.

88. H. le Bonniec, Le Culte de Cérès à Rome, 448ff.

89. cf. le Bonniec, op. cit., 293 ff.

90. cf. infra, 139 ff.

91. cf. infra, 340 ff.

In one respect, however, there is a consistent development to be traced in the list of remedia we have. The decemviri on a number of occasions order the carrying out or even themselves carry out rites outside the city of Rome. In 181 they ordered ceremonies to be carried out throughout Italy, at a time of plague.⁹² Before the war against Perseus, they order that the sacrifice of *hostiae maiores* should take place both in Rome and in Campania;⁹³ in a sense, this is an even more significant move, for whereas in 181 they were dealing with a prodigy which was causing suffering throughout Italy, in 171 the prodigy in question was one which happened in Rome itself. Later in the century, the decemviri themselves carry out sacrifices from the books first in 143 in the territory of the Salassi in Transpadane Gaul,⁹⁴ then, in 133 at the temple of Ceres at Henna in Sicily.⁹⁵

92. Livy, 40.19, 1-5. It is important to notice that in this case the ceremonies are recommended by the X viri but actually ordered by decree of the senate and edict of the consuls cf. *infra*, 483f

93. Livy, 42.20,3: '... in Capitolio Romae et in Campania ad Minervae promonturium...'

94. Obs., 21. cf. *infra*. 511f; 534f

95. Cic., in Verr. 4.108. cf. *infra*, 512; 543f

Finally, in 108, they order a sacrifice on the island of Cimolus near Crete.⁹⁶ To sum up this first question, it would seem that only in this relatively unimportant respect were the decemviri innovators in the second century.

The second question concerns the actual content of the books. Here the evidence is necessarily indirect apart from the single case, discussed above, of the oracle quoted by Phlegon. W.Hoffmann⁹⁷ suggested, primarily on the evidence of the Magna Mater oracle, that new oracles produced at the end of the third century and introduced into the Sibylline books at that time, contained a new element in addition to the traditional suggested remedia for individual prodigies. The new element was prophecy of the future. In Livy's version, the Sibylline books in 205 predicted that the foreign enemy would be driven from Italy if the Magna Mater was brought to Rome.⁹⁸ In the first century, such prophetic oracles more than once had a critical influence on

96. Obs., 40. cf. infra, 540-183

97. Wandel u. Herkunft d. Sibyllanischen Bücher (1933).

98. Livy, 29.10,4: 'quandoque hostis alienigena terrae Italiae bellum intulisset, eum pelli Italia vincique posse, si Mater Idaea a Pessinunte Roman advecta foret.'

political events.⁹⁹ If Hoffmann was right, then he has identified a change in the nature of the books at this period which ought to have had a most important effect on the whole standing of the decemviral college.

It should be noticed first that the prophetic content of the Magna Mater oracle is of a specialized and rather limited kind. There is, after all, a certain implied prophetic content in the whole process of the 'procuratio prodigiorum' even though there is no attempt at detailed analysis of the implication of the prodigies. Thus any prodigy seems to imply at least that there is some danger; the remedia are intended to avert the danger; the oracle which recommends the remedia, is prophesying by implication that Rome will be saved from the danger if the remedia are carried out. The Magna Mater oracle makes a prophecy of this specialized kind and only adds a description of the particular danger which the remedia will help to avert; it does not attempt any precise prediction of a future course of events. In

99. For instance, the oracle on the Egyptian question in 57; Dio, 39.15, lff; Cic., ad fam. 1.1,1; 2,1; 4,2; 7,4; cf. Lucan, 8.823; Drumann-Groebe, 2.859f.; Carcopino, HR, 2.751ff.

this sense it represents only a very limited step beyond the traditional function of a Sibylline oracle at Rome.

The great bulk of the recorded consultations of the decemviri during the second century gives us no indication that there was any attempt to extend this precedent. For the most part, the college was apparently content simply to fulfil its traditional role of suggesting remedia. There are, however, a few exceptions to this. First, in 187, Livy reports that a Sibylline oracle was mentioned by the legati who opposed Manlius' claim for a triumph over the Galatians: 'cupientem transire Taurum aegre omnium legatorum precibus, ne carminibus Sibyllae praedictam superantibus terminos fatalis cladem experire vellet, retentum admosse tamen exercitum et prope in ipsis iugis ad divortia aquarum castra posuisse.'¹⁰⁰ The incident is only mentioned in this speech and not referred to in Livy's narrative of Manlius' campaigns; nor is the announcing of such an oracle by the decemviri referred to. The precise implications are also rather obscure; the incident which the legati are describing had apparently occurred before Manlius' attack on the Galatians, during the course of his march through Southern

100. Livy, 38.45,3.

Turkey;¹⁰¹ but neither at this point nor, indeed, later on does Manlius seem to have reached the vicinity of the Taurus range.¹⁰² Of course, the decemviri do not say that he did cross the Taurus and claim credit for having prevented him from doing so, by reminding him of the Sibylline oracle.¹⁰³ The circumstances of the story are therefore rather suspicious but by no means impossible.

If the incident is to be trusted, it is a most important step in the history of the Books; the form of the oracle must have been that a disastrous defeat would occur if a Roman commander crossed the Taurus range; this is a far bolder step in the direction of a direct prophecy than the Magna Mater oracle, since it does not approximate to the form of averting a specific danger by a religious remedy. Evidently, too, it is

101. cf. id. 45,4 'cum ibi nullam belli causam inveniret quiescentibus regiis, circumegisse exercitu ad Gallograecos.'

102. For his route cf. *Livy*, 28.15; *Pol.* 21.35

103. cf. *Livy*, 38.45,3: '...aegre omnium legatorum precibus... retentum admosse tamen exercitum et prope [in] ipsis iugis ad divortia aquarum castra posuisse.' It is perhaps worth noticing that he had, in fact, crossed a Taurus - the river (*Livy*, 38.15,7) variously identified (cf. *RE*, 5A col.39). Perhaps there was some confusion?

politically a critical step forward and if we are to believe the version of events put forward by the legati in Livy's speech then the oracle actually had an influence on Manlius' campaign. One final point to be noted is that the oracle must actually have contained a place-name in Asia Minor;¹⁰⁴ this also seems to have been true of the Magna Mater oracle which referred to Pessinus.¹⁰⁵

In 143, an actual responsum of the decemviri is given by Obsequens:¹⁰⁶ 'cum a Salassis illata clades esset Romanis, decemviri pronuntiaverunt se invenisse in Sibyllinis, quoties bellum Gallis illaturi essent, sacrificari in eorum finibus oportere.' This oracle is precisely of the Magna Mater type that is to say it recommends a specific religious remedium to be carried out in a particular military situation. An interesting point here is that at a later date the decemviri apparently recommended that a colony should be founded in the territory of the Salassi during the period of the Gallic invasions at the turn of the century;¹⁰⁷ it

104. Though of course it is quite possible that the word 'Τάυρος' was not originally referred to the Taurus range.

105. cf. above n.98.

106. 21.

107. cf. infra, 531ff.

might very well be that the decemviri on this occasion produced the same oracle but re-interpreted its Greek; it is a fairly short step to argue that a permanent settlement will assure regular sacrifices 'in eorum finibus'.

An incident of 133, reported by Cicero,¹⁰⁸ suggests a very similar picture of the relationship between the oracle found and the decemviral interpretation of it. Cicero quotes the substance of the oracle as 'Cererem antiquissimam placari oportere' and makes it clear that the ceremonies which followed were the result of an interpretation of those words by the decemviri themselves; they decided that the 'antiquissima Ceres' was the goddess of Henna in Sicily and it was to this city that they went to carry out the sacrifice.¹⁰⁹ Again, there is no question of the oracle containing a serious prophetic element, though since Henna had only been captured from the Sicilian rebels during the course of the year, it seems possible that the oracle implied or was thought to imply that the goddess had been offended by the behaviour of the conquerors.¹¹⁰

108. in Verr., Actio 2,4,108 cf. below 543f.

109. cf. below p. 543f.

110. For the campaigns in Sicily of Calpurnius Piso, consul 133, in this year, cf. CIL, 1². 2.847; Val. Max., 2.7,9; 4.3,10; Frontin., Str. 4.1,26; Oros., 5.9,6.

Far the best evidence in support of Hoffmann comes from the text of the oracle of 125, which has already been mentioned.¹¹¹ Of the two passages quoted above, only vv.67ff. is relevant since 26ff. is cast in the form of a prayer to Persephone. The prophetic element in the two oracles simply amounts therefore to one line:-

l.64 Τρὼς δῆτ' ἐκλύσει σε κακῶν, ὅμω δ' ἑλλάδας ἐκ γῆς.

This might very well have had a political influence, though we have no reason to think it did. It amounts to a recommendation of either Trojan or Greek assistance; but it is difficult to see that it could have had any convincing reference to the known events of 125 BC. The best which can be said is that the Romans were at this time assisting the Massiliots in a war against the Gauls¹¹² and that this war helped to divert the popularis consul Fulvius Flaccus from his plans to offer citizenship to the allies;¹¹³ Massilia, colony of Phocaea, could certainly be described as Greek but hardly as Trojan

111. cf. above, 496ff.

112. Livy, Per 60; Plut., CG 36,1. For the campaign cf. MRR 1.510.

113. App., B.C. 1.34, 152; cf. 21,87.

unless Tros was understood as representing the Asia Minor coast as a whole. It seems conceivable that the oracle played some part in ensuring that Flaccus left duly for his province, but the speculation is obviously thin. Perhaps, the conclusion which should be drawn is that the decemviri did find in their oracles a certain amount of rather imprecise prophetic material, which they might occasionally be able to turn to good account but would otherwise ignore. Certainly, the lines do not sound as if they were specially concocted to suit anybody's political ends in 125.

The last oracle quoted from this period is reported by Granius Licinianus¹¹⁴ and at first sight it seems to be fundamentally different from anything we have discussed so far. In 87, after the departure of Sulla for the East, conflict arose ^ebetween the two consuls Octavius who supported the regime of the absent Sulla and Cinna who was to be the great ally of Marius and the leading figure at Rome from 86 until Sulla's return.¹¹⁵ Octavius eventually succeeded in driving Cinna and his supporters among the college of tribunes from Rome;¹¹⁶ it was during

114. p.23 (Flemisch).

115. For the conflict between Octavius and Cinna cf. App., B.C. 1.64, 287ff. and Gabba, ad loc.

116. Livy, Per. 79; Gran. Lic., loc.cit; cf. Cic., Cat 3.24; App., B.C. 1.64, 292.

this struggle according to Licinianus that a Sibylline oracle was published in full by the college which had a critical effect: 'constabat notari carmine Cinna sexque tribunis patria pulsus tranquillum otium et securitatem futuram.' As it stands, this prophecy is in complete contrast to the others; it is specific and precise refers exactly to contemporary political events and would show all the marks of being composed ad hoc. It is, however, far from clear that Licinianus intended the text as kind of a direct quotation; true, the previous sentence remarks that the actual text was released by the college,¹¹⁷ but the formula 'constabat notari' does not suggest that what followed was more than a precis of the effect of the oracle. It is therefore quite likely that the oracle was in fact a great deal vaguer in its reference and that the phrase 'Cinna sexque tribunis' is no more than an interpretation of some generalized phrase from the oracle - 'the trouble-makers' might be the sense of it. If so, the reason for regarding it as composed ad hoc disappears and the oracle seems far more in line with the general development we have found; it constitutes a prediction of a return to

117. cf. above, 495 n.58.

peace and security provided certain instructions are carried out, though here for the first time the instructions do seem to be of a definitely political character.

To sum up this section, it does seem to be true that some prophetic element was to be found in the Sibylline books from the third century onwards. But the prophecies are of an extremely cautious type, representing only a limited advance on the prophetic element which was always implied by a Sibylline prescription. The oracle of 125 shows that such a prophecy might be vague and generalised; occasionally, the college might be able to make use of a line or two of this kind and perhaps that is what happened in 87. The process should not, however, be exaggerated and we have certainly no evidence that a prophecy claiming to come from the books played a major part in political life before the incident of 87.

There are ways nevertheless in which the decemviri are able to take a political initiative and to this subject we must turn next. The first occasion on which we hear of the college as engaged in a definite political controversy is in the year 143 B.C. In the previous year, Q. Marcius Rex, the praetor peregrinus of that year, had been authorized by the senate to see to the repair of the existing aqueducts (aquae Appia and Anio Vetus) and also

to arrange the building of others if possible.¹¹⁸ At the end of the year, he had not succeeded in completing the work and his imperium was prorogued for a further year to enable him to continue.¹¹⁹ However, in this second year of his task he ran into religious difficulties: 'Eo tempore, decemviri, dum aliis ex causis libros Sibillinos inspiciunt, invenisse dicuntur non esse [fas] aquam Marciam - seu potius Anionem (de hoc enim constantius traditur) - in Capitolium perducī.'¹²⁰ 'fas' was added by Schoene¹²¹ and seems an essential emendation, but even so the text does not make much sense. The decemviri evidently opposed the building of the aqua Marcia or at least its extension to the Capitol, which may or may not imply that they were content that it should terminate elsewhere in the City; at any rate, they opposed Marcius' plans. But what is the point of 'seu potius Anionem etc.'? The text could only imply that the tradition varied as to whether it was the aqua Marcia or the aqua Anio vetus, whose

118. Frontinus, *de aq.* 7. 1-2.

119. id. ib. 7,4; he quotes Fenestella as his source.

120. id. ib. 7,5; it is not clear whether this sentence also comes direct from Fenestella, but this seems very likely.

121. *Hermes* 6(1872), 248.

extension the decemviri condemned; it is, however, almost inconceivable that there should have been any doubt on this point. The outcome of the dispute was a physical object - the aqua Marcia, and there can hardly have been any question about this in the minds of Frontinus' sources, let alone one which he shared himself;¹²² yet, he represents Marcius as resisting and eventually overcoming the criticism of his scheme, which implies that it was the extension of the aqua Marcia not of the Anio vetus which he originally advocated.

Because of this difficulty, Bücheler¹²³ proposed to read 'Marciam[sed Appiam] - seu potius Anionem etc.'. This has the effect of transferring the variation in the tradition from the recording of a verifiable fact to the recording of an alternative scheme which was never carried into effect and this is obviously a point which might very quickly have become confused. This is not altogether a satisfactory solution. First, the resulting sentence is still a rather odd one; if the

122. id. ib., 18, makes it perfectly clear that none of the old aqueducts could have been used for this purpose. cf. Astin, Latomus 20(1961), 541ff.

123. ad loc.

stronger tradition according to Frontinus was that the Anio not the Appia was the centre of dispute, he would surely have put that first and noted the less likely alternative in his parenthesis. Secondly, the introduction of 'sed Appiam' involves us in a completely new, and to my mind very unlikely, aspect of the affair. For the decemviri are now not only forbidding the aqua Marcia, but advocating an alternative scheme and apparently claiming authority for this from a Sibylline oracle; it is easy enough to imagine an oracle which recommended that a water-supply should never be carried to the Capitoline, the sacred heart of Rome, but it is very much more difficult to imagine an oracle which said that route (a) rather than route (b) would be appropriate for the purpose. Mr. Astin¹²⁴ has carried the point even further, by observing that according to another passage of Frontinus the alternatives would have been technically impossible at this date; thus having by emendation landed the decemviri with a scheme of their own, we can now criticize them for its impracticability; this seems to me unfair. Clearly, neither argument is conclusive against Bücheler's emendation but they do justify looking for an alternative.

124. art. cit., 547

A possible answer is that the word Anionem is corrupt and conceals some adjective which originally identified the project in question in the responsum of the decemviri. The whole run of the sentence suggests that the parenthesis originally contained not a different aqueduct altogether, but simply another name for the aqua Marcia which Frontinus found in some of his sources; Frontinus, then, makes the minor qualification that the responsum, some said, did not contain the actual phrase 'aqua Marcia'. This is in itself quite natural, for at the date of the responsum the aqua Marcia did not yet exist and the decemviri were trying to see that it never would. We must consider here one other text which might seem to support the idea that the extension of the aqua Anio was in fact under consideration in this period. The Oxyrhynchus epitome of Livy under the consuls of 140 BC reads:¹²⁵

'.....inae devotaest aquaannioaqua

.....tolium contrasibyllaecarmina'

It seems certain that the second part of this must be restored as: 'aqua [Marcia in Capi]tolium contra Sibyllae carmina [perducta.]', which fits with the rest of our tradition. But '...[inae devota est aqua Anio.]' seems to

125. Oxy. Per., 54 = p.142/3 Rossbach (with photograph).

make sense and the beginning of this line must be occupied with the end of the previous sentence, so that no more than three or four letters can be missing from the sentence about the aqua Anio.¹²⁶ Some have tried to find here a statement about the rejection of the alternative scheme,¹²⁷ but it seems almost impossible that so complicated a thought should have been expressed in so short a space and attempts at restoration have not been encouraging. The simplest solution is surely to

126. Not more than 12 letters are missing from the beginning of the line (cf. Rossbach p.142) and the previous sentence must be supplied with a verb: Q. Occius

oppress[us (i]nsidius Lusitanorum fortissime

? pugnavit] (Rossbach)

? pugnans cecidit] (Lutembacher).

For the story cf. App., Iber. 78; Val. Max., 3.2,21.

127. M. Stuart, C.P. 39 (1944), 40ff. would read ... Porc[inae] devota est aqua Anio... taking Aemilius Porcina as the leading opponent of the extension of the aqua Anio and regarding 'devota est' as a highly coloured metaphor ('it was sacrificed to him') retained from a purple passage in Livy. But (a) the sense of 'devota' is unparalleled, (b) the Epitomator's language is elsewhere consistently dry, (c) this sentence would be entirely incomprehensible to any reader, (d) Porcina seems to have been an enemy of Marcia, not Anio cf. below

find here a reference to Marcius' work in restoring the old aqueducts as well as building his new one; emendation is surely unavoidable, as so often in this very corrupt text, and 'renovata est aqua Anio' seems as likely a guess as any. In any case, I can find no support in this passage for the idea of a competition for extension between aqua Marcia and aqua Anio.¹²⁸

I would suggest that the original reading of Frontinus was 'Marciam - seu potius Aemiliam (de hoc enim constantius traditur) -...'. This is based on a series of articles by Stuart,¹²⁹ in which he suggested that Marcius Rex did not begin a completely new aqueduct in 144, but rather completed one which had been started by the censors of 179, Aemilius Lepidus and Fulvius Nobilior. Not all Stuart's arguments are of equal value; he lays stress on the fact that Marcius' imperium was only prorogued for one year and that two years would not have been long enough to allow him to build a complete aqueduct;¹³⁰ but, in fact, the dispute

128. Some scholars understood the words surviving as implying that both Marcia and Anio were extended; Ashby, Aqueducts of Ancient Rome, 152

129. A.J.A. 49 (1945), 226ff; C.P. 39 (1944), 40ff; A.J.P. 64 (1943), 440ff.

130. A.J.A. art.cit. 229ff.

was still in progress in 140¹³¹ and the work may have gone on still longer, while Marcius' responsibility will have been the placing of contracts and organizing of the project, which need not therefore have ended with his imperium. Strong arguments, however, remain: we know that Aemilius and Fulvius did place the contracts for an aqueduct in their censorship and that the work was held up by M.Licinius Crassus who refused to allow the aqueduct to cross his land;¹³² we know that M'. Aemilius Lepidus a moneyer of the last years of the second century, represented the aqua Marcia on his denarius issue, a fact which seems all the more extraordinary since a member of his gens was apparently opposing Marcius in 143;¹³³ finally, this is the only occasion we know of on which a praetor rather than a censor was responsible for the building of an aqueduct;¹³⁴ the wording of the senate's instructions to Marcius in Frontinus' text do not specifically mention the building of a new structure¹³⁵

131. cf. below, 524 ff.

132. Livy, 40.52,3.

133. Stuart, A.J.A. 49 (1945) 226ff. and plates; Sydenham, No.554 (Pl.19); Grueber, C.R.R.B.M., p.291, 590.

134. Stuart, art. cit.

135. '...curaret quatinus alias aquas quas posset in urbem perduceret.' Frontin., op.cit., 7.2. Frontinus is not claiming (apparently) to be quoting from the S.C. and perhaps the words are his own; but the words as they stand do not specifically mention a new project.

and it would be far easier to understand how the job of restoration turned into the job of construction if there was an aqueduct at least partly in existence already. If this theory is right the decemviri could very well have referred to Marcius' project as the extension of the aqua Aemilia or Aemilia-Fulvia; if aqua Aemilia was what originally stood in Frontinus' text, it would be only too liable to replacement by a more familiar aqueduct.¹³⁶

The basis of the opposition will then have been an alleged oracle which forbade the carrying of water to the Capitol but did not offer an alternative solution. The decemviri were originally consulted about other matters (presumably prodigies or the Roman defeat of this year)¹³⁷ but brought forward this matter on their own initiative. Frontinus goes on: 'deque ea re in senatu M. Lepido pro collega verba faciente actum Appio Claudio Q. Caecilio

136. Pliny, N.H. 31.41, confirms specifically that the aqua Marcia had another name before it became 'Marcia'; he calls it 'Aufeia' and, if this is correct, then no doubt this is what stood in Frontinus' text as well. But Stuart (A.J.P. 64 (1943) 440ff.), objecting that 'Aufeiis' is not a Roman name and that 'Saufeia' is little better, would read 'Aemilia-Fulvia' here.
137. Frontinus, op.cit., 7.5, says 'aliis ex causis': for the Roman defeat cf. below, 534f.

consulibus; eandemque post annum tertium a L. Lentulo retractatam C. Laelio Q. Servilio consulibus, sed utroque tempore vicisse gratiam Marcii Regis; atque ita in Capitolium esse aquam perductam.¹³⁸ (collega MSS; collegio Pighius, Bardt) The reading collega/collegio is crucial to the interpretation of the passage. Did M. Lepidus speak for his colleague Marcus or for the college of decemviri and against Marcus? Collega has been variously defended: Münzer¹³⁹ identified Lepidus as M. Aemilius Lepidus Porcina, consul of 137, who might therefore have been praetor in 143 and Marcus' 'collega' in so far as they both held praetorian imperium, even though Marcus' dated from a year earlier; Professor Taylor,¹⁴⁰ accepting the identification, has suggested that Marcus might have been an augur and hence colleague to Porcina who certainly was.¹⁴¹

The emendation 'collegio', however, seems to me quite certain. The passage reports in a clipped, official style two successive debates in which Marcus Rex succeeded in resisting criticism of his project; in the second debate it is clear that L. Lentulus is named as the leader of

138. id. ib., 7.5

139. A.P.F., 239-41.

140. See Broughton in MRR 1.473 n.1.

141. For Porcina's ~~argument~~, infra, 636. *augur* 21
augurate

opposition to Marcius, for he it was who brought the matter up again; it would be natural to expect that in the first case as well the man named would be the leading opponent of the aqua Marcia, but reading 'collega' he is not an opponent but a leading supporter and we are not in this case told at all who led the attack. Again, the phrase 'pro collega' seems not to occur elsewhere¹⁴² and it is strange to be told in the heading of a debate that one man spoke on behalf of another, colleague or not. On the other hand, pro collegio is a well-attested technical phrase implying that the speaker was acting officially on behalf of his college - 'pro collegio respondit';¹⁴³ the phrase belongs closely with 'verba faciente' which is itself a regular technical phrase in SCC.¹⁴⁴ It seems quite certain M. Lepidus in 143 was

142. At Cic. de H.R. 21, Cicero appeals to Cornelius Lentulus to give his expert opinion as a VII vir epulo, and puts an opinion in his mouth: '...et pro te et pro collegis tuis, etiam pro pontificum collegio'. This is really the exception that proves the rule, for clearly 'pro te et pro collegis tuis' is equivalent to 'pro collegio epulonum' put into a more vivid form, because Cicero is actually addressing one particular member of the college.

143. Cic., de domo 136; de H.R. 21; Livy, 4.26,9; Festus (ep.), 50L = 57M; Gran. Lic., 22,3; cf. Livy, 38.36,4; Gell., N.A. 5.27,1; Obs., 68 (ll. 7f. Roszbach).

144. For republican examples of 'verba facere' (or v.f.) and the Greek translation, 'λογους ποιειν' cf. Bruns, FIR,⁷ nos. 37, 1.7 (Gk.); 38 = Suet., Rhet. 1 (Lat.); 39, 1.3 (Lat.); 41, ll. 5-6 (Gk.); 42, ll. 17-19 (Gk.); 45 = Caelius ap. Cic., ad fam. 8.8,6 (Lat.). Cf. also, 46, 1.52; 47 = Front., de ag. 127.5; 50 = Dig. 16.1.2,1; 54 1.22; 60 = Dig. 5.3.20,6; 61, 1.13.

acting as the spokesman for the decemviri, in presenting their objections to Marcius' aqueduct, and highly probable that L. Lentulus was acting in the same way when he brought the matter up again in 140. The importance of this conclusion should not be under-estimated. On the other evidence we have, it would be possible that the college contented itself with announcing the relevant verses of the oracle and left the political side of the matter to take care of itself. The present passage of Frontinus makes it absolutely clear that they did no such thing; they heavily committed themselves as a college to the view that Marcius' scheme was forbidden by the Sibylline books and evidently recommended that it should be dropped. Twice, the senate specifically rejected their advice. Both their deep involvement in a political question and the blow to their authority are quite clear. The incident illustrates both the potential influence of Roman religion on politics and its limitations.

The passage tells us, then, that the opposition was debated in the senate in 143 and again in 140; that the opposition was rejected on both occasions; and that Lepidus and almost certainly Lentulus was a decemvir s.f. Lepidus cannot then be Aemilius Porcina, for he was an augur; his identity cannot be certain but, as

Bardt¹⁴⁵ suggested, he could perfectly well be the consul of 158¹⁴⁶ whose priesthood is unknown, while Lentulus is probably the consul of 156.¹⁴⁷ We do not know whether the decemviri had an official head;¹⁴⁸ but it is noticeable that both are patrician and that both are, if rightly identified, consulars of fifteen years' standing at the times they speak for the college. If they were heads of the college, we must assume that Lepidus was dead, ill or away from Rome at the time of the second debate.

This is as far as our information goes; we have no evidence about the exact issues debated and do not know whether the senate's action was based simply on motives of expediency, as seems likely, or whether the opinion of the decemviri was disputed on religious grounds or the actual interpretation of the oracle. Our only hope of further progress is to place the incident and the various parties in the context of what is known of the political issues of the late 140's. It is clear that Marcius himself must have had considerable support from somewhere; his appointment to the task, the proroguing

145. Priester, 30.

146. MRR 1.446; cf. 473 n.1.

147. MRR 1.447; Bardt, loc.cit.

148. For joint 'magistri' in 236 B.C., cf. CIL 1².1. p.29, fgt. 46; Fasti Cap., fgt. 49 (Degrassi, 62f.; 142f.); cf. Wissowa, R.u.K., 535 n.1. But they are recorded in connection with secular games, which are themselves more than doubtful, so the evidence is, at best, indirect.

of his imperium and the rejecting of his critics all suggest that he was supported by a powerful group in the senate. The consuls of the year were Claudius Pulcher and Metellus Macedonicus,¹⁴⁹ both enemies of Scipio Aemilianus;¹⁵⁰ in this very year Scipio and Claudius clashed in their competition for the censorship.¹⁵¹ The family connections of the Marcii Reges of succeeding generations are known to be with the Claudii Pulchri, though we have no definite evidence of a connection at this date.¹⁵² But Claudius, too, seems to have had a brush with the decemviri in the course of this year, which is discussed below¹⁵³ and which definitely supports the suggestion of co-operation between Marcius and Claudius. Still more tentatively, one might think of an association between Aemilianus and the leading opponent of Marcius, Aemilius Lepidus; but we have noticed elsewhere¹⁵⁴ that a definite alliance between Aemilii Lepidi and Paulli is somewhat ill-attested

149. MRR 1.471.

150. For the hostility between Aemilianus and Metellus, Cic., de off. 1.87; for that between Aemilianus and Appius Claudius, Cic., de rep. 1.31; pro Scaur. 32. Cf. further infra, 614f.

151. cf. Scullard, JRS 50 (1960), 67f.

152. Q. Marcius Rex, the consul of 68 (RE no.92), married Clodia Tertia, daughter of Appius Claudius Pulcher, consul 78, (Plut., Cic. 29.2; Dio Cass. 36.17,2); cf. Münzer, RE 14.1584.

153. below, 534ff.

154. infra, 260ff.

and Aemilianus' family connections were with Paulli not Lepidi. All the same, the debate of 143 at least might make sense in these terms.

One of the building operations which Aemilianus did in fact carry out in his censorship of 142, was the completion of the pons Aemilius;¹⁵⁵ this was yet another scheme started in the censorship of Aemilius Lepidus¹⁵⁶ and forms a precise parallel to the ill-fated aqueduct of the same censorship. If, then, it is true that Marcius was completing the aqua Aemilia, as I have argued,¹⁵⁷ this might very well have been displeasing to Aemilianus. Perhaps, it was already known in 144 that he intended to stand for the censorship and spend the money from Rome's recent victories in Africa and Greece on the completing of these great schemes begun in 179. One might then regard Marcius' work as an attempt to cheat Aemilianus of the credit for completing the aqua Aemilia and bringing water to the Capitol. It would then be the work of Claudius and his friends to have supported Marcius in this ingenious anticipation. Aemilius Lepidus too might have preferred that his ancestors work should at least

155. Livy, 40.51,4.

156. Livy, loc.cit. - though its initiator was in fact Fulvius Nobilior not Aemilius Lepidus.

157. Cf. infra, 522ff.

be finished by an Aemilianus. As far as this goes, it makes sense. It must, however, be said that the actual form of the opposition does not seem so sensible. For the arguments against Marcius, based as they are on a religious prohibition, would have worked equally well, had they been accepted, against Aemilianus himself. Perhaps, it was felt that once Marcius had been stopped, Aemilianus would have had the authority to prevail where the praetor had not; but his position would have been, to say the least, a tricky one. Again, the opposition could be inspired by simple malice, an attempt to rob Marcius of the credit for bringing water to the Capitol even at the price of preventing its ever reaching there; but again this does not seem particularly convincing.

What is more, we have so far discussed only one of the two debates, that of 143. The second debate is, in a way, a curious business; there could be no question by this date of the decemviri attempting to stop work on the aqueduct altogether - if, indeed, that was what they had been trying to do in 143. The bulk of the work on the aqua Marcia must, by this time, have been completed and the censorship of Aemilianus had also by this time ended;¹⁵⁸ even, Marcius had long since ceased to hold

158. Completion of the lustrum in 141, Livy, Per. 54.

his praetorian imperium.¹⁵⁹ Surely, for this date at least it has become clear that the point at issue is the narrow one of whether or not water is actually to be carried to the Capitoline hill and it is also clear that if the point of the original opposition was what I have suggested above then the point of the opposition in 140 must have been to some extent different. Moreover, it must be at this late stage a question of whether or not Marcius is to get the credit for bringing water to the Capitol - that, and no more. Analysis in terms of group conflicts is here surely wearing rather thin; can it really have been a matter of such critical importance in Roman politics of 140, that Marcius, who already had the credit for building or at least completing a new aqueduct, should not also have the credit for piping water to the Capitol? The decemviri, even if we suppose them to have been enemies of Marcius to a man, must at least have realized that in bringing up the question for a second time, they were seriously risking a second snub; what did they stand to gain?

On the information available, this question does not seem answerable in political terms. It has always

159. According to Front., de aq. 1.7, it was prorogued for one year.

been assumed that purely political motives lay behind the college's action;¹⁶⁰ and, indeed, such an analysis offers a coherent and sensible explanation of what happened in 143; but, as has been argued elsewhere, a political motive does not exclude a religious one.

Ignoring the possible political implications of the situation, the choice with which the senate was faced in 143 was between the advice of a priestly college backed by the Sibylline books and that of a magistrate concerned with tackling a practical problem. Their decision was to reject the authority of the college and Frontinus¹⁶¹ explains this as the result of the *gratiâ* of Marcius himself. If the matter was brought up again three years later, it seems much likelier that the reason which inspired the college, was either real concern at the irreligion of the senate's choice or at least concern at the severe blow which the college's standing must have suffered as a result.

This seems to be the critical point which emerges from the whole incident. The motives of the original decemviral initiative is not really such an important question; as always, they will have been mixed. The surprising and historically most significant event was the double demonstration that the senate rejected the advice of the priests.

160. e.g., by Münzer, APF, 239ff.; Stuart, AJA, art.cit., n.133, 247f.; Astin, Iatamus, art.cit., 544f.

161. loc.cit.

During the same year, 143, a second incident occurred which calls for comment and which may perhaps even throw light on the affair of the aqua Marcia. The consul Appius Claudius Pulcher had been allotted Italy as his province.¹⁶² He was asked to arbitrate in a dispute in Cisalpine Gaul between the Salassi and the local farmers of the area.¹⁶³ Before Roman intervention in the area, so Strabo¹⁶⁴ tells us, the Salassi had themselves worked the gold-mines in the hills and for this purpose had used the waters of the Dora Baltica; in so doing they had involved themselves in strife with the farmers who needed the water for their own farms. Appius used some such dispute to provoke the Salassi, allegedly in hopes of a triumph.¹⁶⁵ Unfortunately for him, he was decisively beaten. The Sibylline books were consulted and 'decemviri pronuntiaverunt se invenisse in Sibyllinis, quoties bellum Gallis illaturi essent, sacrificari in eorum finibus oportere.'¹⁶⁶ Two of the decemviri accordingly went to Gaul and there conducted a sacrifice. Thereafter, the war went better

162. Dio Cass., 22. fgt 74.1.

163. Dio Cass., loc.cit.

164. Strabo, 4.6,7; cf. Dio Cass., loc.cit. Strabo does not refer to Appius Claudius specifically, cf. E. Pais, Dalle guerre Puniche, 595ff. and below n.167. For the gold in the Val d'Aosta, Chilver, Cisalpine Gaul, 167ff.

165. Dio Cass., loc.cit.

166. Obs., 21.

and the Salassi were duly expelled from their mountains.¹⁶⁷

It is difficult to believe that this priestly intervention in the war was very much to Claudius' taste. The books were apparently consulted as a result of the defeat,¹⁶⁸ action which was generally taken only in the very gravest crises of the Roman State.¹⁶⁹ The effect of this will have been, and must have been intended to be, ^{to} drawing everybody's attention to the disaster in a way which must have been quite out of proportion to the seriousness of the situation. Then, the priests themselves travel to

167. For the sacrifice, Obs., 21; the ultimate victory, Livy, Per. 53. That the Salassi were actually expelled at this date rests on the assumption that Strabo, loc.cit., is describing the events of 143, which in turn rests on the assumption that the conflict between the Salassi and the farmers described in both Strabo, loc.cit., and Dio, loc.cit., arose only on this one occasion and was then settled once and for all; but Strabo might just be referring to a later incident when the same problem occurred again, of which we hear nothing elsewhere.

168. This is the apparent implication of Obsequens; since the regular handling of prodigies would have occurred while Claudius was still in Rome (*infra*, 480f.), it seems probable that this was an extra/ordinary consultation in mid-summer.

169. cf. Livy, 22.9,5: after the battle of Trasimene, Fabius Cunctator persuaded the senate to have the books consulted, owing to the alleged irreligion of C. Flaminius: 'pervicit ut, quod non ferme decernitur nisi cum taetra prodigia nuntiata sunt, decemviri libros Sibyllinos adire iuberentur.'

Gaul to hold their sacrifice; again, Claudius cannot have been altogether pleased. Emphasis was being placed again on his earlier failure and the priestly sacrifice can only have deflected some of the credit from him for the eventual recovery of the situation. The whole sequence of incidents may well have had something to do with the attempts to prevent his triumphing when he came back to Rome at the end of the year;¹⁷⁰ and it is interesting that here again a religious device is used. Appius being prevented from holding an official triumph, held a private and unrecognized one; but he had to protect himself against a veto by carrying his daughter, who was a Vestal Virgin in his triumphal chariot.¹⁷¹

It would be valuable to know how these three incidents, two involving the decemviri and one a Vestal and all involving Claudius directly or indirectly, relate to one another chronologically. The defeat and subsequent decemviral responsum must belong to the early campaigning season and the triumph to winter 143/2. The issue of the aqua Marcia is the doubtful element; it

170. Cic., Cael. 34; Val. Max., 5.4,6; Suet., Tib. 2; Dio Cass., 22. fgt. 74,2; Oros., 5.4,7.

171. According to Dio, loc.cit., Claudius did not ask for a triumph from either senate or people, but simply assumed that he had a right to it. Cicero does not refer to the illegality of the triumph, but he is solely concerned to emphasize the piety of the Vestal Claudia.

could conceivably result from the same consultation of the college about the clades against the Sallassi, but, as probably, the college may have been consulted earlier in the year as well, when the ordinary prodigies were dealt with, before the consuls left for their provinces. If this is right and our analysis of relations between Marcius Rex and Claudius is also right, then Claudius might very well have been active on behalf of Marcius in the senate before he left for Gaul. If so, the responsum on the clades begins to form part of a pattern of conflict between Claudius and the college. There are too many unknowns to be certain.

I suggested earlier¹⁷² that it may have been the same oracle, though this time interpreted in a new sense which lay behind a decemviral recommendation of forty or so years later. Certainly, the oracle of 143 will have been applicable again in the last few years of the century, when repeated defeats by the Cimbri and Teutones came to a climax with the defeat at Arausio in 105, and it would be interesting to know whether the decemviri again held a

172. *infra*, 511f.

sacrifice in Gallic territory. Our only knowledge of decemviral action at this date comes from a brief reference in the elder Pliny:¹⁷³ 'Oppidum Eporedia Sibyllinis a populo Romano conditum iussis.' Velleius adds the important information that the colony at Eporedia was founded in 100 B.C.¹⁷⁴ These two items of information constitute a very important piece of evidence for us; this is the only occasion we know of on which the Sibylline books recommended the foundation of a colony and it is evident that they did so at a date when colonization was an extremely important political issue at Rome; it is hardly surprising that the decemviri should here have been suspected of pursuing political ends.¹⁷⁵

Eporedia is the modern Ivrea and it lies in the area with which the decemviri had been involved before, in 143.¹⁷⁶ Moreover, the site lies on the Dora Baltica and on the route into Italy from both the St. Bernard passes, invaded so recently by the Cimbri. The reasons for the foundation of the colony at this date have

173. 3.123.

174. 1.15,5.

175. For discussion, Lange, Röm. Alterthümer, 3².80; R. Fraccaro, Annali dei Lavori pubblici, 1947, 719ff. - Opuscula 3.93ff.; Ewins, P.B.S.R. 20 (1952) 70f.

176. cf. above, 534ff

attracted discussion;¹⁷⁷ Strabo¹⁷⁸ puts it down to the continued intransigence of the Salassi, but it is hard not to suspect that there is a more specific point in the particular date of the foundation. One possibility is that the position was one which the fighting of 103 - 1 had shown to be a strong-point which should be held by Roman colonists; but this would be more comprehensible if it lay on one of the the routes which the invaders had actually used, which it does not.¹⁷⁹ Perhaps, the Salassi had in fact risen in support of the invaders, but our sources give no hint of this at all.

An alternative approach would be to relate the colony to other known colonization projects of the last years of the century. It hardly seems likely that a decemviral decree would have supported the colonization schemes of Saturninus and, in any case, his law of 103 does not seem to have provided for colonies in Italy,¹⁸⁰ while that of 100 was not put into action, as we have

177. cf. above n.175, also Last in CAH 9.150.

178. 4.6,7.

179. For this suggestion, Last, loc.cit.

180. For this interpretation, E. Sadée, Klio 33(1940), 231; contra, Fraccaro, art.cit., 721ff - 100f; Gabba, Athenaeum 29(1951), 16f.; cf. id. on Appian, B.C. 1.29,130.

seen elsewhere.¹⁸¹ Fraccaro¹⁸² has revived the suggestion that the colony at Eporedia was intended to compete with the programme of Saturninus, rather as the elder Livius Drusus had tried to outbid the schemes of C. Gracchus; he tried to show that senatorial policy must be involved here because a responsum of the decemviri implies that they had been consulted by the senate. This argument fails for two reasons. First, the fact that the decemviri were consulted by the senate does not show that the senate approved decemviral policy or even that the senate wanted to have a decemviral decree dealing with colonization; the decemviri will have been consulted after prodigies or perhaps one of the Gallic defeats and the suggestion of a colony could perfectly well have been made entirely on their own initiative.¹⁸³ Secondly, Fraccaro's view implies that the decemviral response was made in the context of Saturninus' tribuneships, even perhaps of his second tribuneship; but, in fact, it is

181. cf. *infra*, 436ff; 440ff.

182. *art.cit.* n.175, 722f. = 102f.

183. For known consultations of this period, cf. *Obs.*, 40 (108 B.C.) and, perhaps, *Obs.*, 44 (102 B.C.), though here they are only said to have performed a ritual act - the casting out of the ashes of the victims, apparently after a 'lustratio urbis' ordered, not by themselves, but by the haruspices.

only the foundation of the colony for which we have a date, not the decemviral recommendation. In a case of this kind the recommendation will have had to be incorporated in a senatus consultum¹⁸⁴ and will presumably have taken some little time to put into effect. But 100 is in fact the first year since 113 when it will have been feasible for a colony to be set up in N. Italy; it would hardly have been auspicious to send out new colonists under the shadow of renewed Cimbric aggression. Therefore, the decemviri could have made their suggestion any time between about 112 and 101 and we are really not in any position to gauge the precise political circumstances.

There is moreover a problem about the respective contributions to the decision of college and senate. For all we know, the college might have made the bare suggestion of colonization and the timing, place and all other details have been decided later by senatus-consultum. The suggestion has, however, already been made that the responsum should be taken in close association with the earlier one of 143; if that is right, it becomes likely that the decemviri did in fact refer to the specific area, regarding it as still Gallic territory within the meaning

184. cf. *infra*, 484.

of the Sibylline oracle and suggesting that permanent security against the Gauls might be obtained by maintaining a permanent Roman settlement in their territory. What is more, the same suggestion will give an indication of date; for in 143, it was a military disaster which produced the oracle and it therefore seems reasonable to suggest that the same sequence of events may have repeated itself on the second occasion. If so, the last year in which the oracle is likely to have been found would be 104 - after the greatest reverse for Roman arms at Arausio.¹⁸⁵

Whether or not, the theory of a specific connection with 143 is right, it does seem very probable that the decemviral decree would belong some time earlier than 100. If so, then a different political context must be sought. Perhaps, the answer lies nearer to the political interests of the college as such. 104, if that is the right date, is the year of Domitius' bill to abolish college co-optation of new members;¹⁸⁶ it may well have been known some time earlier that such a proposal was in the air. It would not be surprising if the priests in their attempt to avert the threat tried to

185. For the date, Oct. 6th. 105 cf. *infra*, 686.

186. *infra* ch. 12; though it might already have been passed in January. 104 cf. *infra*, 683; 692f.

associate themselves with popular schemes and colonization is a likely enough vote-winner. The implication of this argument would of course be that the senate when they came to put the decemviral suggestion into effect must have been influenced by quite different motives, if indeed politics played an important part in their decision.

To complete this survey of the political role of the decemviri in the second half of the century a few more incidents should be taken into account. We have already considered elsewhere the significance of the oracle recorded by Phlegon and also the very important role played by the college in 87.¹⁸⁷ They are consulted too, on two or three vital occasions, and produce striking remedia, though this time of a more strictly religious nature. Thus after the death of Tiberius Gracchus, an oracle was found which recommended that the 'antiquissima Ceres' should be placated and this led to the mission of the college to sacrifice at Henna in Sicily.¹⁸⁸ This is the second decemviral responsum we have met which dealt

187. *infra* 446ff.; 513ff.

188. Cic., *Verr.*, Actio 2, 4.49, 108. Cicero dates the incident specifically 'P. Mucio, L. Calpurnio consulibus' and 'Tiberio Graccho occiso' and says that the consultation resulted from the fact that 'magnorum periculorum metus ex ostentis portenderetur'.

primarily with Ceres,¹⁸⁹ but in this case the political significance of the incident is much clearer; Ceres is the special goddess of the Roman plebs and it was the death of a Roman tribune of the plebs which occasioned the need to placate her. The problematic aspect of the case was surely the choice of the goddess of Henna; it was the Ceres of Rome who was guardian of the plebs and, as Cicero¹⁹⁰ notes she could perfectly well be described as 'antiquissima'. Perhaps, the point is again here a political one; an official procession of the decemviri to the temple of Ceres to hold special sacrifices would amount to an admission of guilt by the authorities for the death of Gracchus; this can hardly have been the aspect which the decemviri would have wished to emphasise and perhaps the mission to Henna can be seen as an attempt to make a spectacular piacular offering to Ceres, without committing the college to a politically charged demonstration in Rome. In any case, the college must have been faced with a tricky decision.

Again, in 114, they seem to have been involved, as we have seen in another chapter,¹⁹¹ with the consequences

189. cf. *infra*, 504 f.

190. *loc.cit.*; 'cum esset in urbe nostra Cereris pulcherrimum et magnificentissimum templum...'; 'non ad aedem Cereris, sed ad ipsam Cererem...'

191. cf. *infra*, 336 ff. 340 ff.

of the Virgin-trials and to have recommended two remedia, both of them unique in this century: the building of a temple to Venus Verticordia and the sacrifice of pairs of human victims. Here, as in 133, they are faced with a situation where their contribution might well have political implications. They were probably consulted after the first trial and therefore probably enough while the agitation over the second trial was under way but before the bill had been passed.¹⁹² This situation probably explains the vigour of their reaction; it was essential to convince the people that the religious authorities were acting as rigourously as the situation demanded, in the hope that the popularis leaders would not succeed in having the cases re-tried. If it was right to argue, as I have above, that the human sacrifice was essentially a rite to avert an invasion by the Gauls, who were at this time known to be on the move, it becomes still clearer why they took the action they did. Again in this case they are acting not so much in the pursuit of their own political interests as in the interest of the authorities and the the senate in general.

192. cf. *infra*, 341f

Finally, we should refer again to the incident of 87, when the Sibyl's oracle was published on the senate's authority and when it was used to help the consul Octavius to drive his colleague Cinna from the city.¹⁹³ It should be noticed that, if the evidence we have been examining gives us anything like a balanced picture of the scale and importance of the activities of the decemviri in the last fifty years of the second century, then the incident of 87 marks a new departure for them. Previously, they have certainly produced oracles of importance at important moments; in 143, they were perhaps involved in group political struggles; in 133 and 114, they acted as an important element in the senate's handling of a delicate situation; but it is only in 87, that we find the Sibylline books playing a central role in a critical political issue. In the struggle between the friends and enemies of the absent Sulla for the control of Rome in his absence, the decemviri emerge as firm supporters of the existing regime. In this sphere, as in so many others, it is the early years of the first century which finds new political uses for old religious devices and set the precedents for the even more desperate days of Cicero's political life-time.

193. above p. 514 ff.

10. Prodigies. 2. The haruspices

The second body which played a major role in the senate's regular procedure for the 'procuratio prodigiorum' was the haruspices¹. Where the decemviri constituted a regular collegium, whose members were leading senators and nobiles, the organization of the haruspices under the republic seems to have remained ill-defined; in the early empire they were organized into an 'ordo' with a definite number of members² and it is possible that this structure goes back to the republic, but there is no evidence of this. At all periods, the haruspices are identified as Etruscans³ and they are consulted because of their special expertise on the handling of prodigies; presumably, the Romans always appealed to a body of Etruscans with whom they had a special arrangement and in the third and second centuries, though presumably not earlier, they seem to have summoned the members of the ruling classes in Etruscan cities,

1. For the haruspices, Wissowa, R.u.K.², 543ff.; Thulin, RE 7.243lff.; Latte, RRG, 157ff.; Bloch, Prodiges, 49ff. For their libri in particular; Thulin, Die etruskische Diskiplin, 1 - Die Blitzlehre (Göteborgs Högskolas Arsskrift, 11.5(1906)); 2 - Die Haruspicin (ib., 12.1(1907)); 3 - Die Ritualbücher, (ib., 15.1(1909)). (Quoted infra as Thulin, 1, 2 and 3).
2. The evidence for the 'LX' comes entirely from inscriptions: CIL 6.32439; 2161 - 2163; 11.3382; 13.1821; cf. 6.2164-6; 32275; 11.4191; 14.164. For their leader, cf. 13.1821: 'primus de LX'; 6.2161: 'magister'; 6.2164; 2165: 'haruspex maximus'; cf. also Lact., de mort. persec. 10.3. Wissowa, R.u.K.², 584 and nn.8-10; Latte, RRG, 159 n.1; Heurgon, Latomus 12(1953), 402ff.; Thulin, 3.142ff.
3. cf. e.g. Cic., de leg. 2.21: 'prodigia portenta ad Etruscos haruspices si senatus iussit deferunt'; and below n.4.

as their advisers.⁴ It is rather tempting to suggest that by the second century a group of haruspices would actually have lived in Rome available for consultation but there is some reason to doubt this. First, in the late third century Livy still describes the haruspices as summoned from Etruria to advise the senate.⁵ Again, St. Augustine⁶ describing the events of 130, refers to two groups of haruspices - the response of the first group is regarded as unsatisfactory and a second is therefore assembled, 'velut peritiores', which offers a different analysis of the prodigy in question. Finally, we have important evidence that the organization of the haruspices was still based on the Etruscan cities and these passages must be considered in more detail.

Cicero⁷ tells us that; '...apud maiores nostros senatus tum, cum florebat imperium, decrevit, ut de principum filiis ex singulis Etruriae populis in disciplinam traderentur,

4. For the summoning from Etruria, Cic., de H.R. 25; Livy, 27.37,6; Tac., Ann. 11.15; for the phrase 'ex tota Etruria', Cic., Cat. 3.19; cf. Tac., Hist. 4.53; cf. Wissowa, R.u.k.², 544 n.4. For their membership of leading families in the latter period of the republic, cf. below, 550f. ; but this arrangement can only have been regularized after the defeat of the various Etruscan cities.
5. 27.36,6; they are still so described in the first century cf. n.4 above.
6. de C.D. 3.11.
7. de div. 1.92; repeated with some variations by Val. Max., 1.1,3.

ne ars tanta propter tenuitatem hominum a religionis auctoritate abduceretur ad mercedem atque quaestum.' The passage is evidently echoed by Tacitus,⁸ when the Emperor Claudius was proposing rather similar legislation: 'primoresque Etruriae sponte aut patrum Romanorum impulsu retinuisse scientiam et in familias propagasse'. There is some doubt about the text of the Cicero passage; the MSS read 'sex singulis etc.' and although this would be very difficult to understand, there has been disagreement about how many from each Etruscan state would be an appropriate number;⁹ but since the number of these trainees need not, or should not, be brought into direct connection with the 'ordo' of sixty haruspices even if that 'ordo' existed at the date of the SC; the number can hardly be determined a priori. The passage does not then tell us that the haruspices were specially organized into a group for the benefit of the Romans, but it does tell us: a) that the haruspices were members of the leading aristocratic families of Etruria and that their education in Etruscan traditions was still based on the Etruscan cities; b) that at some unknown date the disciplina Etrusca was, or was thought by the senate to be, in danger of disappearing and that the senate then

8. Ann. 11.15.

9. For discussion, Thulin, 3.143 and n.2.

legislated to stop this decline. It is less clear exactly what the second half of Cicero's sentence, still apparently quoted from the senatus-consultum, refers to. The background is presumably the senate's concern not only about the neglect of their hereditary disciplina by the Etruscan nobility, but the cheapening of haruspicy itself by lower-class pedlars of prophecy. For the bad reputation of these private haruspices one may compare Cato's¹⁰ warning to his bailiff - '...haruspicem, augurem, hariolum, Chaldaeum ne quem consuluisse velit.' and similar comments are made elsewhere in what we have of second-century literature.¹¹ We know, too, that the senate of 139 was concerned about the same problem of cheap prophets, with special reference to astrology: '...fallaci siderum interpretatione quaestuosam mendaciis suis caliginem iniciantes.'¹² The difference was that in the case of the Chaldaeans they simply expelled them from Rome and Italy, while haruspicy was 'vetustissima Italiae disciplina' which they treated with respect.

The question is complicated by the fact that the term 'haruspex' does not indicate the practice of any one specific discipline and is evidently not limited to the very respectable

10. de ag. 5.4.

11. cf. infra, 164f.

12. Vel. Max., 1.3,3.

haruspices regularly consulted by the senate. Thus we meet from the third century onwards haruspices accompanying Roman generals in the field¹³ and some second century figures are said to have placed great faith in them.¹⁴ We do not know what relation these haruspices bore to the group whose 'disciplina' the senate encouraged. The interpretation of prodigies was only one aspect of the ancient religion of the Etruscans as recorded in the libri which enshrined this knowledge.¹⁵ They were experts in extispicy¹⁶ and in the interpretation of lightning;¹⁷ it is apparently the former art which they practiced as advisers to Roman generals in the field. The senate was perhaps taking an interest in this aspect of their activity as well, though there is no reason to believe that every haruspex we meet was a scion of the noble families of Etruria.¹⁸

It would be very valuable to have a precise date for the SC which Cicero quotes. The only indication he gives

13. Livy, 23.36,10 (215 B.C. - Fabius); 25.16,3 (212 B.C. - T. Sempronius); 27.16,5 (209 B.C. - Fabius); 27.26,14 cf. Pliny, N.H. 11.189 (208 B.C. - Marcellus).
14. cf. infra 699 (Sulla); 710 (Marinus)
15. cf. n.l.
16. On their technique cf. Thulin 2.2ff.
17. cf. below 513ff.
18. One might have doubts e.g. about Herennius Siculus, an haruspex attached to C. Gracchus (Val. Max., 9.12,6: Vell., 2.7,2) whose name seems not to be Etruscan, cf. Schulze, 82.

is '...tum, cum florebat imperium...' and this is too vague to rely on. But it would be strange if the phrase referred to any period earlier than the second century and since the third, fourth and fifth decades of Livy do not mention the decree, a date between 167 and 133 would be a fair enough guess. Before examining the evidence for the activities of the haruspices as an advisory group to the senate, it will be worth looking for signs of effects of the policy of encouraging the disciplina on a wider basis. Is there evidence that there was a renewal of interest in Etruscan religious traditions during the course of the second century?

At first sight, it seems that there is in fact such a revival but that it comes in the first century, not the second;¹⁹ amongst the contemporaries of Cicero and Varro, we know of a number of men who studied and wrote about Etruscan culture and particularly religion. First, there was A. Caecina, a friend and correspondent of Cicero and himself of Etruscan origin and a haruspex, who had learned the art from his father;²⁰ he wrote apparently in Latin on

19. For a brief summary, Heurgon, Daily Life of the Etruscans, 233ff.

20. For him cf. Cic., ad Fam. 6 ep. 5-8; he was defended by Cicero in the pro Caecina. For his haruspical learning and debt to his father cf. ad Fam. 6.6,3.

the Etruscan art of interpreting lightning.²¹ Then, more influential but less well known to us was Tarquiti-
 Priscus,²² who was responsible for translations into Latin
 of various Etruscan books and rituals and was apparently a
 key figure in the popularization of Etruscan lore at Rome.²³
 A third first century figure was Nigidius Figulus, who
 included Etruria amongst his many interests and one of
 whose translations of prophetic works is preserved by Lydus.²⁴
 It is the work of these men amongst others which lies behind
 the accounts of Etruscan teaching which comes down to us
 through Pliny, Seneca and others.²⁵ This revival of interest

21. He was used as a source for the Etruscan Lore of lightning by both Pliny (index) and Seneca, N.Q. 2.39.
22. He is associated with Varro in the epigram of the Appendix Vergiliana: Cat. 5,3. and referred to in the elogia CIL 11.3370:7566 cf. Pallottino, St. Etr. 21(1950(1)), 168ff: Heurgon, Latomus 12(1953), 402ff.
23. The elogium refers to his translation of sacred works (including a 'ritus comitialis' and the sacra taught to Arruns cf. below, ~~558H~~). We also hear of a translation of parts of the libri known at Rome as the 'libri Tarquitianii', cf. Mac., 3.20,3; cf. 3.7,2; Amm. Marc., 25.2,7. He is also quoted as a source by Pliny, loc. cit.
24. p.62 (W), cf. Kroll, RE, 17.208; Weinstock, PBSR NS 6(1951); Piganiol, Studies for A.C. Johnson (1951), 79f.
25. Weinstock, art. cit., 124f.

antiquarian or genuinely pious in its intentions, is evidently not the kind of development which the senate had in mind when it passed its decree; but such an interest could very well be the indirect consequence of a renewed attention to the haruspical law in the hundred years preceding Tarquitiu and Caecina. The question is whether we can trace the origins of the movement back into the second century.

At one level, the examples of Caecina and Tarquitiu are themselves a valuable indication. Caecina learned haruspicy from his father.²⁶ Tarquitiu is recorded on an inscription of the Early empire,²⁷ which lists his descendants in three generations, all haruspices. This shows quite clearly the arrangements of the SC in action; no doubt, the SC was in any case only re-inforcing the ancestral traditions of the Etruscans, but it is valuable to have these examples of the system in action, amongst the leading Etruscan families of the day.

The most important clue we have comes from Censorinus' quotation of Varro's discussion of the Etruscan saecula:²⁸

'haec portenta Etrusci pro haruspicii disciplinae suae peritia diligenter observata in libros rettulerunt. quare in Tuscis historiis, quae octavo eorum saeculo scriptae sunt,

26. Cic., *ad Fam.* 6.6,3.

27. cf. above n.22.

28. Cens., 17.6.

ut Varro testatur, et quot numero saecula ei genti data sint et transactorum singula quanta fuerint quibusve ostentis eorum exitus designati sint continetur. itaque scriptum est, quattuor prima saecula annorum fuisse centenum, quintum centum viginti trium, sextum undeviginti et centum, septimum totidem, octavum tum demum agi, nonum et decimum superesse, quibus transactis finem fore nominis Etrusci.'

The name 'Tuscae historiae' presumably implies that the work offered some kind of history of the Etruscans and perhaps one should see another reference to it in the 'auctores Tusci' from whom Claudius took his Etruscan version of Servius Tullius.²⁹ This fragment, however, shows that the work included a general survey of the Etruscan saecula, an analysis of their significance and a report of the ostenta which showed that one saeculum had ended and that another was beginning. If it is possible to give a firm date to the eighth Etruscan saeculum to which the 'tuscae historiae' are specifically dated, this will give us a firm point.

In 88, an Etruscan saeculum did in fact come to an end and a new one began. A loud trumpet-blast was heard and this was accepted as a State prodigy at Rome; the haruspices were consulted and they explained to the senate that

29. cf. CIL 13.1668.

this^{was} one of the ostenta which indicated the beginning of a new saeculum and indeed according to Plutarch they gave a general exposition of their doctrine on this subject.³⁰

In this exposition they say: ' εἶναι μὲν γὰρ ὀκτὼ τὰ σύμπαντα γένη, διαφέροντα τοῖς βίοις καὶ τοῖς ἡθέσειν ἀλλήλων, ἐκάστω δ' ἀφωρισθέναι χρόνον ἄριθμὸν ὑπὸ τοῦ θεοῦ.

At first sight, Plutarch seems here to be giving the total number of saecula as eight not, as the Tuscae historiae, ten. Some³¹ have thought that he is following a different tradition or even referring to Roman rather than Etruscan saecula;³² but it is quite clear that the general doctrine is precisely that of the Etruscan saecula and very probable that he, like Censorinus, is here drawing on Varro's account of them.³³ Thulin³⁴ pointed out that Plutarch's words could perfectly well mean not that there were eight saecula

30. Plut., Sulla 7, 8 ff.

31. Bouché-Leclercq. DS 3.1, 296 (art. haruspices), cf. Müller, Die Etrusker, 2.314.

32. Mommsen, Rh. Mus. 12(1854), 539f.

33. So Mommsen, Röm. Chronologie 2.189 n.372. Thulin, 3.65; contra, L. Zancan, Athene e Roma Ser. 3.7(1939), 209 n.13; Zancan maintains that Suidas, 4.455 (Adler), tells us that Plutarch's sources at this point were Livy and Diodorus, not Varro; but, in fact, even if this is what the text of Suidas means, it is hard to see how Plutarch's sources could have been known to the authors of Suidas; the notice says simply that the story was told by Livy and Diodorus, but goes on by quoting Plutarch almost verbatim; even if the information about Livy and Diodorus is reliable, it need mean only that a common source lay behind all three.

34. 3.65f.

altogether but that there had been eight saecula altogether and this seems to be the only tolerable interpretation of the passage. If so, we get a fixed point in Etruscan chronology which is of the first importance. In 88 B.C. the eighth saeculum ended and the ninth began.

The eighth saeculum is thus roughly equated to the second century B.C. and we thus have a firm date for the *Tuscae historiae* in the second century and a great deal earlier than the revival of the second century. An interesting parallel to this writing is provided by the development of the religious and antiquarian tradition at Rome itself, which has been discussed elsewhere.³⁵

The placing of the eighth saeculum enables us to give an approximate date to another fragment of Etruscan writing. This is a Latin version of an Etruscan prophecy said to have been given to Arruns Veltumnus by the nymph Vegoia.³⁶ We know that there were *libri Vegoici* revealed by the nymph and that these revelations were amongst the works translated by Tarquinius Priscus.³⁷ The prophecy deals with Boundary-stones and was for this reason preserved amongst the *Corpus*

35. *infra*, 224.

36. Lachman, *Grom. Vet.*, 1.350; quoted *JRS* 49(1959), 41 n.1. cf. S. Weinstock, *RE* 8 A 1.577ff.; Zancan, *art.cit.*, 209ff.; Heurgon, *JRS* 49(1959), 41ff.

37. For the *libri*, Servius, *ad Aen.* 6.72; for Tarquinius' translation, *CIL* 11.3370; for discussion, Thulin, 1.3ff.

agrimensorum Romanorum. It traces the division of Etruria and the placing of the boundaries back to an act of Iuppiter himself and goes on: 'Quos (terminos) quandoque quis ob avaritiam prope novissimi octavi saeculi data sibi homines malo dolo violabunt contingentque atque movebunt. Sed qui contigerit moveritque, possessionem promovendo suam, alterius minuendo, ob hoc scelus damnabitur a diis.' There follow a series of dire threats of the consequences of this irreligion both upon the perpetrators themselves and on the human race in general - 'Fieri haec scitote cum talia scelera committentur'. The prophecy begins with a trace of a cosmogony, which can perhaps be placed in a Chaldean tradition, but the substance of the document is preoccupied with the defence of landed property. Arruns might either be a mythical figure to whom, like Numa, a nymph offered the benefit of her wisdom, or a statesman of later date who actually issued or perhaps compiled the prophecy.³⁸

Various dates have been suggested for the prophecy,³⁹ on the assumption that it is specifically concerned with the various attempts to distribute lands to the Roman plebs

38. For the view that he was a second century statesman, Weinstock, art. cit., 579.

39. cf. e.g. Piotrowicz, Klio 23(1930), 336ff.; Latte, Philologus 87(1932), 270; Zancan, art.cit., 213ff.

from the time of Tiberius Gracchus onwards. Professor Heurgon,⁴⁰ in particular, has argued that the text should be referred to the events of the year 91 and the initiative of Livius Drusus in that year, which we know to have provoked Etruscan resistance.⁴¹ He points out, quite rightly that the phrase 'prope novissimi octavi saeculi' ought to mean almost at the end of the eighth century.⁴² Since the eighth century actually ended in 88, he insists that a date shortly before this is required. There are various difficulties. First, clearly since the Etruscan saeculum is not of a specific length it would not be known in advance when it was going to end and the words could therefore be used as a vague indication of date at any time when the end of a saeculum was about due. Secondly, the sentence in which the phrase occurs is evidently corrupt and must be emended.⁴³ Thirdly, it is far from

40. art.cit.

41. infra, 456f.

42. art.cit., 42f.

43. 'quos quandoque quis ob avaritiam prope novissimi octavi saeculi data sibi homines malo dolo violabunt contingentque atque movebunt.' 'quos' (i.e. 'terminos') is apparently the object of the three verbs at the end, to which 'homines' is the subject; it follows that 'quandoque quis' introduces a subordinate clause of which 'quis' is the subject and 'data sibi' the object; if so, the verb and possibly more of this subordinate clause is evidently missing; so, Heurgon, art.cit., 44f., who would suggest (exempli gratia); 'data sibi [bona pro nihilo ducens aliena appetiverit], homines etc.' This may well be the general sense, though perhaps no more ^{needed} than 'data sibi [bona contempserit]'; but Heurgon sees the clause as a specific reference to Drusus, a guess, and not a very plausible one, based on his dating of the document. ~~for which cf. below~~

certain that the reference in the prophecy is to the activities of non-Etruscans. The two categories of possible offenders who are specified are 'domini' and 'servi', and it is against these two classes that the threats are made; this seems to refer specifically to the social structure of Etruria⁴⁴ and the point seems to be that the threat to the boundary stones will come either from the 'servi' themselves trying to increase their holdings or from 'domini' conniving at this irreligion. Finally, even if it be conceded that the reference must be to Roman land-distributions, there is no need for it to be associated with any specific agitation known to us.; it must date from a time when there was fear of such a possibility, but that is as far as one can go.

What we have then is a prophecy that certain events will take place at the end of the eighth saeculum i.e. at the end of the second or beginning of the first century B.C. It does not seem as if the text we have was composed ad hoc to resist Roman land-distributions, or at least it seems rash to try to fix it to any particular land-distribution. It hardly seems likely that it would have been composed in its present form many years before the date of promised fulfilment, but any time in the last third of the

44. For 'servi' and 'domini', cf. Heurgon, Historia 6(1957), 94ff.

second century seems perfectly possible. Professor Heurgon makes the point that land in Etruria does not, in fact, seem to have been distributed by the Gracchi⁴⁵ and concludes that Drusus the younger was the first to raise the question. But we do know that Tiberius was said by his brother Caius to have been particularly shocked by the condition of agriculture in Etruria when he travelled through it in 137.⁴⁶ No doubt, the matter was discussed at Rome even though no action was eventually taken. It is surely in this context that the compilation of the prophecy makes sense; its intention being to create a sense of awe about Etruscan landed property which would convince any who might try to interfere that a curse would fall upon them.

Dr. Weinstock⁴⁷ has observed that the opening of the prophecy - 'Know that the sea was separated off from the sky',⁴⁸ - indicates that it was set in the context of a cosmology and has suggested a series of Etruscan parallels for this. Most suggestive is a fragment in Suidas s.v.

Τυρρηνικά : 'ἱστορίαν δὲ παρ' αὐτοῖς ἔμπειρος ἀνὴρ
 συνεγράψετο ἔφη γάρ...; there follows a description of the
 creation of the universe by 'τὸν δημιουργὸν τῶν πάντων θεῶν;

45. JRS art.cit., 43; cf. especially, Bernardi, N.R.S. 28/9(1944/5), 67ff.; Badian, F.C., 221.

46. cf. ~~in~~ Plut., T.G. 3.

47. art.cit.

48. 'Scias mare ex aethera remotum. Cum autem Iuppiter terram Aetruriae sibi vindicavit,...'.

the total span of the kosmos is given as twelve chiliads of years, man being created in the sixth. The stages of this cosmology include the separation of the heavens in the second Chiliad and of the sea and all the waters in the earth in the third. The system as it stands does not relate to the secular system of the Etruscans as recorded by Varro from the *Tuscae Historiae*, but it should be noticed that it is perfectly reconcilable with it, on the assumption that the nine saecula fall within a single Chiliad. Plutarch's account of the doctrine in fact indicates something of this kind, for he refers to the god as appointing the length of the saecula and describes them as the circuit of the great year,⁴⁹ which suggests that the secular doctrine too was set in a cosmological framework. It is clearly a possibility that the Suidas' anonymous historian is also the author of the *Tuscae Historiae*.

An even more important question is raised by the *libri Etrusci* themselves. These were the sacred books in which

49. Each 'γένος' is allotted a certain number of years (χρόνων ἀριθμὸν) by the god 'συμπερδινόμενον ἐνιδυτοῦ μεγάλου περιόδου'. He can hardly intend to equate a saeculum of about 120 years with a magnus annus of many thousands of years (cf. J. Boyancé, *Études sur le songe de Scipion*, 160ff.) and it therefore seems reasonable to suppose that the whole series of saecula were 'completed by the circuit of the great year'. But the phrase is very obscure.

the whole Etruscan doctrine was contained, the libri haruspicini containing the doctrine on extispicy, the libri fulgurales that on the interpretation of lightning and the libri rituales (most important for our present purpose) that on the interpretation of prodigies and other State rituals.⁵⁰ The books are known to us entirely from first century B.C. sources or later and it seems a reasonable assumption that their unified form at this stage is the result of a recension in the third or second centuries; we know of books individual to particular cities in Etruria⁵¹ and it seems unlikely that a single set of authoritative libri should come into existence so long as the Etruscans constituted a League of independent cities, each responsible for its own policy and cult. This general consideration is borne out by the actual contents of the books and, in particular of the libri fulgurales of whose contents we have the most coherent accounts. There can be no doubt that the basic techniques of the haruspices go back to ancient Etruscan forms of divination; but in the form we

50. cf. above **n**, 554.

51. cf. e.g. Cic., de div. 1.100: 'ex fatis, quae Veientes scripta haberent'; cf. Livy, 5.15.

have them they also show the influence of forms which cannot be earlier than third-century in date.⁵² Thus, the doctrine of foretelling the future of an individual through lightning is brought into relation with the Hellenistic practice of casting individual horoscopes.⁵³ Clearly, it would not be possible to base precise historical conclusions on this evidence. We cannot put an exact date to the origins of individual horoscopes, nor to the arrival of such practices in Italy, least of all to the incorporation of them in the scientia of the Etruscans. But the hypothesis of a recension of the libri in the second half of the second century would certainly offer an occasion for them to reach the form in which first century antiquarians found them.

To sum up, there are certain indications of a revival of and re-organization of the traditional religious learning of the Etruscans in the course of the second century. It seems a distinct possibility that this was the result of the senate's initiative in supporting the continuance of haruspical training. We must turn next to the evidence about the

52. cf. especially, S. Winstock, P.B.S.R. NS 6(1951), 122ff; esp. 133-5; 135-7; 152-3; JRS 36(1956), 101ff.

53. For the Etruscan doctrine on private lightnings, Pliny, N.H. 2.139; Seneca, N.Q. 2.47; Thulin, 1.81ff.; Winstock, P.B.S.R., art.cit., 135ff.; Chaldaean astrology originally dealt with the fate of States not individuals, cf. M. Jastrow, Die Religion Babylonien, 2.415ff; it was only in the Hellenistic period that horoscopes began to be cast for individuals; Jastrow, loc.cit., 428 n.1; Bouché-Leclercq, L'astrologie grecque, 44; 70; Kroll, RE 17.208; Thulin, 3.90f.

consultation of the haruspices over prodigies in the course of this period; in particular, we might expect to find signs that their standing would improve in the course of the century.

The first striking difference between the role of the haruspices and that of the decemviri, is that whereas the decemviri are very often consulted about the correct handling of a whole list of prodigies and produce a series of remedia suitable to the occasion in their view,⁵⁴ the haruspices are generally consulted on one special point and produce remedia on that alone. In the 34 years from 200 to 167, which are covered by the extant books of Livy we hear of responsa by the haruspices eight times, seven of them recorded by Livy himself, one by Pliny.⁵⁵ Three of these consultations were concerned with prodigies involving oxen or cows;⁵⁶ two with human beings of eccentric anatomy;⁵⁷ two with damage done by storms;⁵⁸ one with the growth of a laurel-tree in the bows of a warship.⁵⁹ To this record one can add three occasions when they were consulted immediately before the opening of a war, not in their capacity as interpreters of prodigies, but rather to assess the acceptability of the prayer for success in the coming campaign, through the exta of the beast sacrificed in association with the prayer.⁶⁰

54. cf. *infra* ch. 9.

55. Livy, 32.1,14 (199 B.C.); 35.21,5 (192 B.C.); 36.37,2 (191 B.C.); 39.22,5; cf. Obs.3 (186 B.C.); 40.2,3 (182 B.C.); 41.13,3 (177 B.C.); 42.20,4 (172 B.C.); Pliny, *N.H.* 7.136 (171 B.C.).

56. Livy, 35.21,5 (192 B.C.); 36.37,2 (191 B.C.); 41.13,3 (177 B.C.).

57. A hermaphrodite in 186 (Livy, 39.22,5); change of sex in 171 (Pliny, *N.H.* 7.136).

58. In 182 (40.2,3) and 172 (42.20,4).

59. 32.1,4 (199 B.C.).

60. Livy, 31.5,7; 36.1,3; 42.30,9; cf. Arnob., 7.38.

There are also two or three occasions where it might be a fair guess that particular remedia were recommended by the haruspices even though our sources do not mention them.⁶¹

We saw earlier that the senate does not seem to have a set routine for handling particular prodigies in a particular way,⁶² but here a certain pattern does emerge. The haruspices are only consulted as specialists on a very limited number of topics. The remedia they recommend are for the most part the conventional rites we have already met in connection with the decemviri - sacrifices and supplicationes.⁶³ But they also have procedures peculiar to themselves; one of these we have already discussed,⁶⁴ namely the recommendation that monsters should be expelled from the ager Romanus, in various specified ways; another procedure was applied in cases where an animal had spoken ominous words, when they recommended that the animal should be carefully preserved at public expense.⁶⁵ We must deduce that storms, animals, trees and monsters were topics on which

61. E.g. Pliny, *N.H.* 17.244; cf. Festus 360 L. A palm-tree appeared at the altar of Iuppiter in 171 and 'victoriam triumphosque portendit', where the language might reflect a response of the haruspices; or perhaps the occasions when oxen are to be fed at public expense, Livy, 41.13,2; 43.13,3.

62. *infra*, 487ff.

63. supplicatio, 199, (32.1,14); 192 (35.21,5); 182 (40.20,3); 177 (41.13,3); sacrifice of hostiae maiores, 182 (40.2,3).

64. *infra*, 486f.

65. Livy, 35.21,5 (192); cf. Val. Max., 1.6,5.

the haruspices were regarded as experts at Rome. We know all too little about the books of the Etruscans which dealt with such matters; and what little knowledge we do have comes to a great extent from the recorded consultations at Rome.⁶⁶ There is, however, some independent evidence that there was specialized haruspical doctrine on the lore of trees, and it is a fair inference that the other subjects too were special preserves of the Etruscans.⁶⁷

There is, however, another aspect to the matter too; not only are they consulted on a narrow range of topics, but they are also consulted more frequently in the early years of the successive wars in the East. Of the eleven mentions of the haruspices listed above no less than eight fall in the first or second years of the Macedonian and Syrian wars i.e. in 200/199, 192/3 and 172/1;⁶⁸ of the other three consultations one is from the year of the Bacchanalia and one from the year of a great plague.⁶⁹ The general picture which emerges is of their being summoned to Rome for special occasions.

66. Thulin, 3.76ff.; Bloch, Les prodiges, 43ff.

67. This is assured by Mac., 3.20,3, referring to a work of Tarquinius Priscus: 'Tarquinius autem Priscus in ostentatio arborario sic sit...'; there follows the Etruscan doctrine of 'arbores infelices'. For a collection of the known traditions, cf. Thulin, 1.94ff.; Bloch, op.cit. 67ff.

68. cf. above nn. 55 and 56.

69. i.e. those of 186 (Livy, 39.22,5 cf. Obs., 3) and 182 (Livy, 40.2,3; the prodigy is dated to the 20th April 182); for the great plague, cf. 40.19,3ff.; it is reported as at its height by the spring of 181.

Their importance on these occasions is obviously of a rather restricted kind. Their most significant function is to predict Roman success in the three great wars of the period when asked to officiate over the prayer and sacrifice. On each occasion they produce a very similar and very interesting formula, predicting not only victory but the extension of the Roman domain.⁷⁰ In relation to prodigies, however, they do not, any more than the decemviri, produce prophetic interpretations except for a single occasion in 172; the *columna rostrata* on the Capitol had been thrown down by a storm at night and the senate referred the prodigy to both the decemviri and the *haruspices*; the decemviri contented themselves with suggesting *remedia* to appease the gods, but the *haruspices* offered an interpretation: '*...in bonum versurum id prodigium, prolationemque finium et interitum perduellium portendi responderunt...*'⁷¹ The content of this prophecy is precisely parallel to the *responsa* we have already discussed delivered in 200, 191 and 171, victory and the extension of Roman power. The interesting point is that they should be offering it as an explanation of a prodigy. There is perhaps a fundamental

70. passages cited above n.56.

71. Livy, 42.20,4; cf. the response of the *haruspices* in 171 (42.30,9), when consulted over the war with Perseus: '*si quid rei novae inciperetur, id maturandum esse; victoriam, triumphum, propagationem [imperii portendi]*.'

point here. The Romans, as was said earlier, regarded all prodigies as signs of a danger which had to be appeased by offerings to the gods and the basic function of the decemviri, pontifices and haruspices in this field was to suggest the remedia appropriate to this purpose. But the Etruscan disciplina offered more than this; they did not regard all prodigies as bad, but rather as indications of the future; to some extent this conception was alien to the Romans and 172 is the first occasion when we know it to have been proclaimed at Rome. It is interesting that their responsum only claims that 'in bonum versurum id prodigium' - it will turn out for the good, not that it is good.

Our record of the consultations of the haruspices after the end of Livy's history, presents us with three kinds of new development. First, they begin to be consulted over a far wider range of topics. Secondly, they begin to offer specific prophecies on the basis of the prodigies with which they are presented. Thirdly, they offer recommendations which become increasingly important in the political life of Rome. Some explanation of these developments must clearly be attempted, but first evidence must be analysed under these headings.

First, the subjects on which they are consulted: the first new topic comes in 162 when, in an incident examined

in detail elsewhere,⁷² they were consulted about the sudden death of the foreman of the prerogative century and offered an interpretation of the incident which events later proved to be correct. It is very tempting to take this spectacular success as something of a turning point in the history of the haruspices' reputation at Rome and indeed if Cicero's story of the insolent rejection of their opinion at the time is to be believed, their subsequent vindication must have been an impressive event. It is not, however, until the 120's that we find them being regularly consulted on a wide range of subjects. In 130, they were consulted about the prodigy of a statue of Apollo weeping;⁷³ in 126, about an earthquake and 121 about the wolves of Iunonia.⁷⁴ In the years which follow, they seem to have advised the senate on such subjects as ghostly appearances in the sky, a trumpet-blast, a rain of stones, birds fighting during a meeting, and particularly lightning.⁷⁵ Unless our record is in some way methodically distorted, it seems clear that by the end of the century the senate is making a far wider use of haruspical advice than in the first thirty years of the century.

72. *infra*, 411 ff.

73. Obs., 28; Aug., *de C.D.* 3.11.

74. Earthquake, Obs. 29; wolves, App., *B.C.* 1.24, 105; cf. *infra*, 432 ff.; 587.

75. Visions, Obs., 43; trumpet-blast, Plut., *Sulla* 7, cf. *below above*, 556 ff.; rain of stones, Obs., 44; birds fighting, Obs., 46; lightning, Pliny, *N.H.* 2.144; Pliny, *Q.R.* 83; Obs., 37.

Particularly significant, perhaps, is the case of lightning. We know of two or three occasions when lightning-strokes had been referred to the haruspices before 200;⁷⁶ but, although the striking of buildings by lightning is one of the commonest of the prodigies reported between 200 and 167,⁷⁷ it is regularly either dealt with by the senate itself, or referred to the pontifices or decemviri s.f.;⁷⁸ lightning does not seem to be one of the subjects on which the haruspices were regarded as expert and this is in itself a curious fact. The only apparent exception is the case of 172, which we have already noticed; the columna rostrata had been destroyed by lightning; both decemviri and haruspices were consulted and the haruspices replied: '...in bonum versurum id prodigium, prolationemque finium et interitum perduellium portendi responderunt, quod ex hostibus spolia fuissent ea rostra, quae tempestas disiecisset.' Even here, the point

76. 278 B.C. (Cic., *de div.* 1.16); 214 (Livy, 24.10,9); 207 (Livy 27.37,7); cf. Gell., *N.A.* 4.5,1ff.

77. There are fifteen occasions between 200 and 167: Livy, 32.1,10 (199 B.C.); 32.9,2 (198 B.C.); 32.29,1 (197 B.C.); 33.26,7 (196 B.C.); 35.9,3 (193 B.C.); 35.21,4 (192 B.C.); 36.37,3 (191 B.C.); 37.3,2 (190 B.C.); 39.22,4 (186 B.C.); 40.2,4 (182 B.C.); 40.45,3 (179 B.C.); 41.9,5 (177 B.C.); 41.16,6 (176 B.C.); 42.20 (172 B.C.); 45.16,5 (167 B.C.).

78. The prodigy is dealt with by the pontifices three times (190; 186; 176); by the decemviri, as part of a list referred to them, six times (193; 191; 190; 179; 172; 167); seven times (199; 198; 197; 196; 192; 182; 177) no college is mentioned. The haruspices are only consulted in 172 and that only in addition to a consultation of the Sibylline books.

is not quite clear; first, it is odd that the responsum should refer not ^{to} the lightning itself but to the 'tempestas' in which the rostra were destroyed; secondly, the interpretation is not given in terms of the coherent Etruscan technique for divination through lightning, but is based simply on the nature of the building struck; not that such an interpretation would not be based on an established body of Etruscan discipline, but rather that it is based on the less sophisticated parts of that discipline. Etruscan teachings can be divided roughly into those which belong to a coherent, explicit system of divination and those which simply represent a collection of ancient lore devoted to the elucidation of individual events, no doubt with the aid of common-sense in each particular analysis.⁷⁹ It is distinctly to this second class that the responsum of 172 owes its origin.

Later in the century, however, the haruspices seem to have been more willing to offer erudite explanations and certainly the Romans are more willing to consult them. We know of five occasions in the period 115 - 82, when the haruspices seem to have given an opinion on lightning strokes⁸⁰

79. Of course, not all doctrines could be classified even roughly into these categories; but e.g. divination by lightning or by marks on the liver in terms of the sixteen regions is evidently a coherent system of science; whereas the Ostentarium is a collection of more or less traditional unsystematic lore. My point is that the interpretation of lightning is in part systematic, in part not.
80. 115 (Pliny, N.H. 2.144); 114 (Plut., G.R. 83; Obs., 37); 102 (Obs., 44); 84 (App., B.C. 1.78, 359); of Pliny, N.H. 2.144 for a further example perhaps belonging to 82 B.C.

and on at least one of those occasions the interpretation was given in the terms of the 'regiones caeli' on which their divination was founded and the sign in question was the supremely good one.⁸¹

The responsum of 172 also provides the starting point for the element of prophecy in haruspical consultations. Again in this respect there is no immediate repetition of the innovation, but the incident of 162 again offers a parallel; there the death of the foreman seems to have been treated by the haruspices as providing evidence of a mistake by the 'rogator comitiorum' in his proceedings at the comitia.⁸² This is far from being a prediction of the future, but the effect is that of a prediction and the implication is that present events can supply evidence of the past, to which they have no direct connection.⁸³ The next incident also involves the abdication of magistrates but the circumstances are far more mysterious: 'turbinis vi in campo columna ante aedem Iovis decussa cum signo aurato; cumque aruspices respondissent magistratum et sacerdotum interitum fore, omnes magistratus se protinus abdicaverunt.'⁸⁴ This account of Obsequens⁴ is the only one we have of these events and

81. Pliny, N.H. 2.144.

82. infra, 412f.

83. infra 413 ; and cf. Pliny, N.H. 2.141: Weinstock, P.B.S.R. art.cit., 144f.; for the claim apparently made by the Etruscans that lightnings could reveal past events as well as future ones.

84. Obs., 18.

the only possible test of its truth open to us is the consular fasti, which do not, in fact, give any indication of suffect consuls in this year.⁸⁵ There are, however, too many possibilities open here for the silence to be conclusive; perhaps, Obsequens' 'omnes' is an exaggeration and it was only the minor magistrates or all except the consuls who abdicated; perhaps, the incident occurred before the magistrates took office i.e. at the very end of 153, not the beginning of 152; or perhaps the fasti omit consular suffects by mistake, or mistake the consules suffecti for the ordinarii of the year. On balance there seems no adequate reason to reject information which presumably comes from Livy, though it would be preferable that such important information should be better attested. With this qualification we have here the first prophecy of the future attributed to the haruspices apart from the prophecy of victory discussed above. The implication was presumably not that all magistrates and priests would die, but that some would and the resignation of magistrates was intended to avert the disaster as far as magistrates were concerned. It should be noticed that on this occasion as opposed to 162, the haruspices advice was taken seriously.

The latter years of the century are full of haruspical prophecies of disaster. In 130, the disaster predicted was

85. Fasti Cap., Degrassi 52f.; 124; 464.; MRR 1.453.

for Greece not Rome on the grounds that a statue of Apollo brought from Greece would weep for his native not adoptive land.⁸⁶ Augustine⁸⁷ offers a detailed account of this incident; the first group of haruspices consulted advised that the statue should be thrown in the sea and it was only after protests by the Cumani, that the same thing had happened in previous Greek wars which the Romans had eventually won, that a second group of haruspices produced the revised interpretation. The eventual conclusion must be understood as applying to the war in Asia Minor against Aristonicus and it was in 130 that the Romans had heard of the defeat and death of the pontifex maximus Crassus Mucianus.⁸⁸

Two prophecies of civil discord are reported during the course of the 120's; the first is not specifically connected with the haruspices but can confidently be attributed to them; it was the result of the appearance of snakes in the cella of Minerva - 'civilem caedem portenderunt'.⁸⁹ The second three years later, is specifically attributed by Obsequens:⁹⁰ 'quod prodigium

86. above p. 549.

87. de C.D. 3.11.

88. For the defeat of Mucianus, fighting against the forces of Aristonicus, cf. Livy, Per. 59; Strabo, 14.1,38; Vell., 2.4,1; Val. Max., 3.2,12; Asc., 25 C; MRR 1.503.

89. Obs., 28a.

90. Obs., 29.

aruspicum responso seditionem, quae post tempora ea fuit, portendit.' The prodigy in question was a chain of natural disasters beginning with an eruption of Mount Etna.⁹¹ It would be valuable to be able to place this incident in a definite context in the year. If the prodigy was amongst those dealt with by the senate in the early meeting of the year, it can hardly be directly connected with the popularis consul Flaccus' attempt to introduce a law giving citizenship to the allies in the following year,⁹² though the beginning of 126 did see the expulsion of allies from Rome and this does perhaps indicate that the question was already under discussion; perhaps, it was safe enough to predict sedition in 126.

The next interpretation we hear of belongs to 114 and concerns the death by lightning of Helvia, which has been discussed already.⁹³ Here the prophecy is a great deal less generalized - 'responsum infamiam virginibus et equestri ordini portendi,...'. In this case, the responsum is very directly derived from the facts of the case; the girl was found 'vestimento deducto in inguinibus, exerta ligua,

91. For further details of the eruption, cf. Strabo, 6.2,11 (= Poseidonius, FGH 2A. fgt. 88); Pliny, N.H. 2.203; but the details seem to vary and it is not quite clear that Pliny is thinking of the same occasion; cf. also, Pliny, N.H. 2.238 and Jacoby, FGH 2C.202.

92. Flaccus' proposals of 125, Val. Max., 9.5,1; App., B.C. 1.21,86f.; 34,152. For the aliens' bill of 127 or early 126 (cf. MRR 1.509 n.3), Cic., Brutus 109; de off. 3.47; Festus, 362 L = 286 M.

93. infra 336ff.

per inferiores locos ut ignis ad os emicuerit.' and the horse with its trappings scattered. Once again, the prophecy was rapidly fulfilled and, once again, the timing rather suggests that the haruspices knew at least the possibility of its immediate fulfilment.⁹⁴

An interesting pair of prophecies were made in 99 and 98; the first seems definitely to have come from the haruspices, the second very probably so. First, 'fremitus ab inferno ad caelum ferri visus inopiam famemque portendit';⁹⁵ then, 'ludis in theatro creta candida pluit: fruges et tempestates portendit bonas.'⁹⁶ It is interesting to notice that a frequent prodigy is a rain of milk,⁹⁷ and presumably this is the same phenomenon as is here described as a rain of white chalk. The interpretation offered certainly fits better with a rain of milk, and the rationalizing description is presumably the work of an historian. Here again, the prophecy is quite specific and it is particularly suggestive that we should find such an interpretation, with no apparent political significance and offered to a prodigy, which had frequently occurred before without attracting any comment. It should be noticed that here again a prodigy is

94. *infra*, 578.

95. Obs., 46.

96. Obs., 47.

97. cf. Obs. 14 (163 B.C.); 28 (130 B.C.); 30 (125 B.C.); 31 (124 B.C.); 35 (118 B.C.); 36 (117 B.C.); Pliny, *N.H.* 2.98, cf. Lydus, *de ost.* c.6. p.136 W² (114) etc.

actually taken as a good sign.

The last twenty years of the period are inevitably full of predictions of civil discord and wars - we hear of distinct prophecies in 97, before and during the social war, in 88 and again in 83.⁹⁸ It is not unlikely that all these originated with the haruspices but we have definite evidence in only two cases. Before the Social War, they regarded the chewing by mice of the clipei at Lanuvium as a disastrous omen and predicted the coming war.⁹⁹ In 88, they delivered their explanation of the arrival of the new saeculum, discussed above.¹⁰⁰ While this discussion was in progress a further sign occurred: a bird flew into the temple of Bellona, where the senate was in session and dropped part of a grass-hopper which it held in its beak before flying away.¹⁰¹ The haruspices interpreted this as

98. 97 B.C. (Obs., 48); 91/0 B.C. (Obs., 54; Cic., de div. 1.99; Pliny, N.H. 8.221); 88 B.C. (Plut., Sulla 7); 83 B.C. (App., B.C. 1.83, 378; cf 377). For other possible activities of the haruspices at this time, cf. Pliny, N.H. 2.149, where a prodigy recorded in the 'Etruscae disciplinae volumina' is dated to 91, a great earthquake, cf. Heurgon, JRS 49 (1959), 43f.. Appian, B.C. 1.377-8, speaks of various ^{prodigies} current in Italy at this time - 'μαντευσίων παιδιών ἐπιφοβωτέρων ἐρηγερόντων...' But, even if the haruspices were responsible for the situation, we cannot assume that the ^{μαντεύματα} were officially delivered by the haruspices at Rome - still less that the reference is to the saecular prophecy of 88, as Gabba, on Appian loc.cit.; cf. below

99. Cic., de div. 1.99; Pliny, N.H. 8.221.

100. Plut., Sulla 7.

101. id., ib.

indicating conflict between the rich and the poor, the grass-hopper representing the poor. Again here, the interpretation is directly based on the facts.

Two or three more incidents are worth noticing in this context. First, we know of two occasions when the haruspices offered explanations of lightning in terms of their own doctrine on the subject. One was the sign of supreme felicity given to Sulla at some unknown date, perhaps during his dictatorship.¹⁰² Another occurred in 115, the consulship of Scaurus, but the incident is completely obscure though it seems probable that the sign was a bad one for Scaurus and the outcome, according to Pliny, was to expose the vanity of the whole system.¹⁰³ Finally, a curious incident is reported in 102, when the temple of Iuppiter was struck by lightning and the haruspices refused to reveal the proper remedia except for one of them, Aemilius Potensis, who was rewarded for his patriotism. The reason for the reserve of the other haruspices was '*...quod ipsis liberisque exitium portenderetur*';¹⁰⁴ presumably, that is to say that the revelation of the remedia would threaten them and their children, rather than that the sign itself did. Perhaps, the incident of Scaurus' consulship was in some way similar, for Pliny quotes it immediately after

102. Pliny, *N.H.* 2.144.

103. *id.*, *ib.*

104. *Obs.*, 44.

a remark that there are certain lightnings which it is forbidden to announce or hear except to a guest or a parent. Pliny says nothing of the dangers consequent on breaking the rule, but perhaps the same rule explains the incident of 102. The incident is important as showing the way in which the haruspices as a group could have interests divergent from those of the Roman State and this is a point to which we shall return.

The presence of these prophetic elements in the responsa of the haruspices from 130 onwards raises serious problems. Most, though not all, of the evidence comes from *Obsequens*, but we have explicit evidence from Cicero too that by the early years of the second century the haruspices were offering such prophetic interpretations.¹⁰⁵ The problem is how these prophecies were related to the traditional Roman conception of the prodigy. We have some material from the speeches of Cicero which gives us a picture of the form of an haruspical response in his period and this might offer us some help here. One response is given in detail in the *de haruspicum responso*¹⁰⁶ and this falls into four parts -

105. Cic., *de H.R.* 18, speaking of predictions made by the haruspices in the first half of the first century, which had been justified by subsequent events; in a different mood, Cic., *de div.* 2.52, commenting on predictions which had not been so justified by events or had been confounded by them. But both passages imply that distinct predictions had been made.

106. *de H.R.* 20; 21; 34; 36-7; 40; 55-6; 60; for analysis, Thulin, 3.78ff.; Wissowa, *R.u.K.*² 545 and n.4; Bloch, *Les prodiges*, 49ff.

1) The gods by whom the prodigy was sent and to whom the piacular offerings should therefore be made are listed; 2) the reasons for the gods' anger are explained; 3) the dangers which are indicated by the prodigy are given but 4) it is implied that these will be averted by the appropriate remedies.¹⁰⁷ Thus in effect the response has no prophetic content, so long as the appropriate ceremonies are carried out. The same applies to a responsum mentioned by Cicero with reference to Catiline: a series of horrors and disasters were predicted by the haruspices, '...nisi di immortales omni ratione placati suo numine prope fata ipsa flexissent'.¹⁰⁸ From one point of view, this can be regarded as an ingenious reconciliation of Roman and Etruscan ideas; the haruspices have not conceded that the prodigy is without its significance, but they have admitted that the right action can avert the coming disaster. Cicero summarizes the position in the de divinatione¹⁰⁹ - 'cum res tristissimas portendi dixerunt, addunt ad extremum omnia levius casura rebus divinis procuratis.'

107. No remedies are actually cited in the de H.R., but they are clearly implied.

108. Cic., in Cat. 3.19ff.

109. de div. 2.24.

We saw earlier¹¹⁰ that some kind of prophetic intention is presupposed even by the simple fact of ceremonies to avert danger from the city when prodigies had occurred and that most of the utterances of the Sibylline Books which have been regarded as prophetic did little more than make this threatened danger rather more explicit. This is exactly the function of the prophetic element in the response discussed by Cicero in the de haruspicum responso. It is, however, clear that not all the examples we have considered can be assimilated to this pattern. Both Cicero and Obsequens speak of the occasions when predictions were fulfilled or not fulfilled, a question could not arise if the remedia automatically cancelled the danger.¹¹¹ Secondly, the formulations quoted above do not suggest that the danger could be completely averted every time, but rather diminished in their effect.¹¹² Again, while it is true that some of the prophecies are no more than an expansion of the danger which threatens Rome and which the remedia will avert this does not apply to all the cases; thus the reference to the disgrace of the virgins is perfectly specific and so are the prophecies of good and bad harvests; two prophecies are

110. above, 508f.

111. For Obs. above n. 90 ; for Cicero, above n. 105

112. cf. especially de div. loc.cit. n.109 - 'levius casura rebus divinis procuratis'.

actually beneficial to the Romans - the good harvest and the disaster for the Greeks.

A crucial question is the interest of Obsequens himself in the material which he offers. Different views have been held¹¹³ as to the reasons for which he collected Livy's prodigy list from each year and added occasional facts, perhaps from an epitome rather than Livy himself.¹¹⁴ He certainly seems to take an interest in the outcome of the prodigies and their procuratio and occasionally seems to imply that the threatened danger was successfully averted - 'urbe lustrata pax domi forisque fuit'.¹¹⁵ But by no means all his comments are so straightforward as this and if his intention was either to make propaganda for paganism against

- 113. Cf., e.g., Mommsen in Jahn's edition of 1853, p.XIX, who suggested that Obsequens collected horrors from the pre-Christian period as propaganda for Christianity; Rossbach, Rh. Mus. 52(1897), lff.; introduction to his edition of Livy's periochae etc. p. XXXIV; regarded him rather as a pagan concerned to demonstrate the validity of the ancestral beliefs.
- 114. Though since his intention is to give the prodigy-lists fully, the events very briefly, the possibility can hardly be excluded that he summarized Livy's text for himself.
- 115. Examples collected by Rossbach, Rh. Mus. art,cit., 2ff.; edition, XXXIV. There are also counter-examples, e.g. 47 (98 B.C.), where a list of horrible prodigies is followed by - 'Hispani pluribus proeliis devicti'; or 53 (92 B.C.), where elaborate remedia - 'virgines viginti septem carmen canentes urbem lustraverunt' - are immediately followed by disaster: 'Macedonum in Macedonia gens provinciam cruenta vastavit.'

the Christianity or for Christianity against paganism, he has been remarkably unsuccessful in presenting a consistent picture. He evidently does take an interest in prophecies which come true and warnings which go unheeded;¹¹⁶ it may therefore be true that he took special care to collect all the predictions which he could find in Livy's lists; but by no means all the examples we have considered are even stated to have come true, so he can hardly have included them, let alone invented them, for any propagandist purpose. However, there must be a possibility that Livy's text originally indicated that the predictions only applied if the appropriate remedies were not performed and that Obsequens has mistaken them for simple prophecies. There seems to be no question of misrepresentation here, but rather of misunderstanding; and this is not a very plausible hypothesis for it is quite clear that Obsequens used a full text of Livy, for the prodigies at least, and that he understood him very competently.

The conclusion seems inescapable that from the 120's onwards quite regularly and before that occasionally, the haruspices offered to the Roman senate interpretations of the prodigies about which they were consulted and that they predicted the future on the basis of those prodigies. In this respect, they go far further than any of the surviving

116. cf. e.g. 56b; 61a; 55 ad fin.

Sibylline oracles of which we hear. This must imply that the importance and standing of the haruspices at Rome was increasing throughout this period, that they and their doctrines are being taken more and more seriously. It implies too that the Roman conception of the prodigy was undergoing substantial modification, from a simple warning of danger to an index of future events. We shall return to these points.

The third new development in our evidence about the haruspices is also an index of their increasing importance. They acquire a quite new significance in the internal politics of Rome. The first suggestion of this comes with the responsum of 152, discussed above, when they caused the resignation of magistrates through their interpretation of the damage caused by a storm.¹¹⁷ But again, it is the 120's which show the importance of the change. It was their interpretation of the prodigy of the wolves of Iunonia that enabled the senate to recommend the cancellation of Gracchus' projects there.¹¹⁸ In 114, their decree on the Helvia must have had important effects on the attack on the Vestal virgins and may well have forced the pontifices'

¹¹⁷. above pp. 515ff.

¹¹⁸. above n. 74 ; App., B.C. 1.24,105; infra, 432ff.

stand on the issue.¹¹⁹ Again in 99, they recommended the cancellation of a lex, this time that of the tribune Sextus Titius on the grounds of a prodigy which had occurred during the course of its passage.¹²⁰ Finally, in 84, they seem to have played a critically important role in the political manoeuvring which enabled Papirius Carbo to act as sole consul after the death of Cinna in the early months of the year; Carbo had been forced into coming into Rome to hold elections at all¹²¹ and his first attempt to hold the comitia had to be put off for religious reasons;¹²² during the second attempt, temples on the Aventine were struck by lightning, and 'μάντις' advised that the elections should be put off until after the summer solstice.¹²³ It is very hard not to think that this was a result which Carbo had been angling for all along and he acts thereafter as sole consul. Whether or not one attributes any specific policy to the haruspices themselves it seems certain that they were by this period an influential body in terms of Roman political life.

119. above pp 578ff; infra, 336ff

120. above n. infra, 442ff.

121. App., B.C. 1.78,358.

122. id., ib. 359.

123. For his sole consulship, cf. Fasti Cap., Legrassi p.55; Livy, Per. 83; Vell., 2.24,5.

Thulin¹²⁴ had no doubts that this record implies that the haruspices were firmly attached to the optimate party, as perhaps one might expect of Etruscan nobles. It seems at least clear that the haruspices as opposed to the members of the official Roman colleges had considerable freedom as to what advice they offered the senate; they were not tied to a specific set of documents as the decemviri, or to a defined body of public law as were the pontifices and augures. On the other hand, it hardly seems so clear that they used their freedom in the interest of a single group. The events of 121 and 99, certainly show them in opposition to the plans of the populares, but there is nothing unlikely about their being perfectly sincere in their opposition to legislation which might interfere in the long run with the established order of Etruscan life and land-holding. They may have had their own axe to grind in these cases. The other incidents are even more equivocal; it is hard to think that the provocation of the Virgin-trials suited any optimate policy; while Carbo could hardly be described as an optimate, even though those who opposed his sole consulate need not be regarded necessarily as supporters of Sulla. Perhaps, the various predictions of sedition and civil strife were intended to strengthen the hand of the

124. 3.135f.

senate against various agitations by dissident tribunes,
but it would be impossible to judge this without having
a more detailed context for the delivery of the prophecies.

There seems to me no doubt that this record shows clearly an increase in the importance of the haruspices during the course of the second century. To some extent, their influence increases at the expense of the colleges of priests at Rome. This can best be shown by the relative frequency with which consultations of the priests are recorded; in the first thirty years of the second century, the decemviri are mentioned fifteen times against the haruspices' eight; but in the following ninety years, we hear of twelve consultations of the decemviri against sixteen of the haruspices.¹²⁵ Meanwhile, the pontifices who are several times consulted over prodigies, particularly over lightning, in the first thirty years of the second century, are never mentioned again in this context.¹²⁶ Of course one cannot treat these figures as reliable statistics; our record after 167 is far too erratic to be trusted. Nevertheless, there seems to be no reason why our sources should be systematically omitting references to the decemviri or pontifices and systematically including those to the haruspices, and, if not, the figures must reflect a gradual decline in the frequency with which the senate turned to the Sibylline Books. On a more specific level it seems

125. cf. Wülker, *Religionswesen*, 33f.; 37

126. cf. Wülker, *op. cit.*, 31.

certain that the haruspices are taking over functions one might expect to see fulfilled by other priests: thus they recommend the abdication of magistrates, the cancellation of laws and the delaying of elections, normally the business of the augurs, and we have seen them consulted about prodigies of new types which would once have been dealt with by the decemviri.¹²⁷

It is important not to exaggerate what is happening. There is no serious evidence to support the suggestion that the haruspices were regarded with contempt by Roman aristocrats in the early years of the second century. Disrespectful remarks about haruspices mostly refer to the private and unauthorized diviners, who have little or nothing to do with the senate's dignified advisers,¹²⁸ and this no doubt applies to Cato's famous remark about his astonishment that one haruspex could meet another without laughing;¹²⁹ he did perhaps allow himself a sly dig at the Etruscan lore of trees,¹³⁰ but, if so the joke was on the Roman lore of trees as well.¹³¹ As for Gracchus' 'vos, Tusci ac barbari,...',¹³² his point was only that it was none of their business to advise him on the augural law of the college to which he

127. above, 575ff.; 588; 571ff.

128. above pp. 551ff.

129. Cic., de div. 2.51.

130. Cato, inc. lib. fgt. 27 (p.87 Jordan).

131. For the Etruscan and Roman lore of trees, lucky and unlucky, cf. Thulin, 3.95ff.

132. infra, 413

belonged; the pejorative implications of 'barbari' are fascinating in the context, but we cannot know whether the word was really used by Gracchus or supplied by Cicero. In any case, the final outcome of the argument was so much to the haruspices' credit that the attack itself hardly matters.

The SC on the encouragement of Haruspicy, if it has been correctly dated¹³³ represents our only evidence for the decline of the haruspices in the early second century. The evidence of the consultations does not suggest at all that they were in low repute at Rome; they may not be consulted so often, but they are consulted as specialists on special occasions and important occasions at that. What the senate feared was that its supply of reputable haruspices was coming to an end, and that is as near to a decline as our evidence justifies. The evidence from later in the century suggests a considerable increase in the amount of consultation of the haruspices by the senate and in the range and importance of the haruspices' responsa. It seems a plausible hypothesis to connect this with the SC and with the evidence for a revival of interest in Etruscan religious traditions in the second and first centuries BC. The two processes meet when the senate sits to hear a

133. *infra*, 549ff.

lecture on the doctrine of the saecula delivered by the haruspices.

The reasons for the development are, of course, simply matter for speculation. No ancient source tries to explain or even observes the process. But some points can be made. First, the haruspices have considerably more freedom in their interpretations of prodigies than any of the Roman priestly colleges could possibly allow themselves. It is hard not to think that such a responsum as that in which they condemned Gracchus' colonial law was at least in part inspired by political motives and clearly had had a freedom in this kind of situation which the other colleges lacked. Secondly, the ability of the haruspices to interpret prodigies must have its importance in a period when we know that divination in various exotic forms was being increasingly followed in the Roman world;¹³⁴ the senate expels the Chaldaei but offers the haruspices - as the Italian equivalent. Finally, it should not be forgotten that the haruspices represent the only body available to the senate who are professional priests, devoting their lives to religious wisdom and laying claim to a revealed science of divination. The priests of Rome are politicians elected for political reasons and hardly laying claim to religious authority. *It has been argued* in another field¹³⁵

134. *infra*, 164ff.

135. Wolfgang Kunkel. Herkunft u. soziale Stellung der römischen Juristen (1952).

~~low~~^{that} the end of the second century is the period when specialist juriconsults begin to replace the nobiles as advisers on the law and there are other areas of Roman life where experts of one kind or another replace the amateur aristocrat. On the religious level, the haruspices represent the specialized priestly class, which the Romans so strikingly lacked.

11. The priests

To a considerable extent, the lists of priests which follow this chapter explain themselves;¹ my intention is, first, to analyse some aspects of the lists and, secondly, to survey the evidence, much of which has been examined in detail in earlier chapters,² for the degree of control over the colleges established at different times by particular families or political groups. It is, of course, only for the first thirty years of the century and only for the pontifices and augures that we have the information for a full, or nearly full, reconstruction of the priests, but there is enough evidence of priests in the second half of the century to allow some comparison with the earlier colleges; any assessment of the *lex Domitia*³ must obviously take account of the possibility that the membership or character of the colleges had changed dramatically; but there is also the alternative possibility that Domitius and his friends thought it had changed and acted on their belief, but thought so wrongly; this, no lists can ever tell us.

The first point which the lists make clear is that a particular social status was a pre-condition for membership, especially of the pontifices and augures. Virtually all

1. cf. pp. 625 ff.
2. cf. *infra* chs. 5 and 8.
3. cf. below ch. 12.

pontifices and augures are themselves 'consulares viri'; the few exceptions can mostly be shown either to have died young or to have taken no part in public life through bad health.⁴ The decemviri are markedly less distinguished, though some notable men were members;⁵ the triumviri epulones founded in 196 are evidently of lower standing in the second century.⁶ In itself, a consulate does not prove their standing at the time of co-optation, for/^{it}often followed ten or twenty years after their priesthoods; but, in fact, we know of no pontifex who was not a 'nobilis' by inheritance, and in the augurs we have to wait for C. Marius and possible, M. Antonius, to find new men in the college;⁷

4. Ponts. 7, 8, 9, 18, 31 and 32 died before or soon after their praetorship; likewise augur 7; aug. 11 took no part in public life; pont. 19 reached the praetorship and not the consulate, but we have no knowledge of how long he lived; 22 is not clearly identifiable, but can hardly have been prominent; aug. 13 is unknown and 28, if correctly identified, did not rise further than the praetorship. Of course, it should be remembered that in the second half of the century only prominent names reach us at all. One very odd name is preserved in the third century list: P. Scantinius (Bardt no. 17; cf. Livy, 23.21,7) of whom nothing is known and whose family is almost unknown.
- 5..e.g. nos. 6, 10 and 12 (whether he be the father or the equally distinguished son; for the dedications to Verminus by one or the other of them from the Largo Argentina ILLRP 121; 281; cf. Münzer, RE 22.1.927); nos. 3 & 8 are also important men, but they doubled the decemvirate with another priesthood (cf. aug. 4; pont. 6).
6. No member reaches the consulate; of course, we know only four altogether.
7. nos. 25 and 24.

Marius became an augur only after holding the consulship six times and only after the passage of the lex Domitia;⁸ Antonius, who is a less clear case,⁹ may have been co-opted before 104, but there is no evidence for his priesthood before the eighties.¹⁰ The two senior colleges seem to represent an area least open to the 'novus homo'. As one might expect, there are a few examples in the decemviri; perhaps, C. Laetorius, who did not himself reach the consulship;¹¹ certainly M'. Acilius Glabrio, whose decemvirate in 200, almost ten years before his consulate, was evidently a very remarkable achievement;¹² finally, Cn. Octavius, who was priest three or four years before his consulship but who came from a praetorian family.¹³ Even the most powerful of the new men of the 190's, Cato and Laelius, do not seem to have held priesthoods, though it is just possible that one of them was an augur¹⁴ and our lists for the decemviri are incomplete.

8. the election does, however, imply that he had at least one supporter in the college; cf. *infra*, 654.

9. He certainly had no immediate noble forbears, but cf. M. Antonius Magister equitum in 334 or 3 (*MRR* 1.140f.).

10. cf. below no. 24.

11. no. 4; but M. Laetorius Placianus was Mag. eq. in 257 (*MRR* 1.208).

12. no. 6.

13. no. 14; though Cicero in fact calls him 'novus homo' *de off.* 1.138; *Phil.* 9.4; cf. Strasburger, *RE* 17.1.1224.

14. For Cato cf. below augurs, note 1, (a).

Within the noble families themselves, however, there does not seem to have been any particular priestly clique. Between 200 and 167, seventeen places in pontifices and augures can be traced almost continuously; we know the names of 36 priests altogether; these came from twenty-seven different families and eighteen different gentes. The partial decemviral lists would add another six families, five gentes. These figures are based on the assumption that the same *cogomen* means the same family, which is certainly not true of families in the narrower sense. Sometimes, a particular place does remain in a family for two or three generations, but this is exceptional rather than the rule.¹⁵ Sometimes, too, a family or, more often, gens controls more than one place in the college; there were two Sempronii in the augurs for many years;¹⁶ likewise two Servilii in the pontifices,¹⁷ while for a brief period at the end of the third century and the beginning of the second, four pontifical places were held by two gentes, Servilii and Sulpicii.¹⁸ But it is evident that it is not safe to predict priesthoods on the basis of family traditions.

15. e.g. ponts. 13 and 17; augs. Q. Fabius Maximus Cunctator and no. 7; nos. 5 and 12; decemviri, Ti. Sempronius Longus (cos. 218), no. 3 and no. 11 - the only case in this period of a place staying in one family for three generations.

16. nos. 4 and 6; cf. 13 and note 2.

17. nos. 4 and 6.

18. from 202 - 199; nos. 4, 6, 8, 9; 8 and 9 both died in 199, but, of course, the situation could well have lasted for many years.

Later in the century it is far harder to check, but the twenty-four certainly known priests would add seven new families, six new gentes to the list. This, of course, proves very little by itself; it is always possible that in the middle of the century a number of families, including a few new ones since the 160's, had settled down in possession of the colleges and refused to co-opt anyone outside their own circle; one can only say that the evidence, such as it is, does not suggest that this happened, though some explanation is certainly required for the attempt to abolish co-optation in 145 and a series of co-optations of sons to succeed fathers might be precisely the required new development. Towards the end of the century, we begin to have a little direct evidence of the control over membership exercised by the existing priests and their tendency to pick new priests with some care; but whereas in Laelius case, this had the effect of stocking the augurs with his daughters' husbands,¹⁹ Aemilius Scaurus, if Suetonius²⁰ is to be believed, used his power actually to exclude the son from his father's place. This neatly, though not conclusively, stands our hypothesis on its head: Domitius brought in his

19. cf. below n.91.

20. Nero 2; cf. *infra* 161^o ff.

bill to ensure that a son should get his family place, not to stop such undesirable practices.

Certain families do seem to hold significantly many priesthoods in the course of the period; the Cornelii Scipiones hold seven places altogether; Cornelii of all branches eleven altogether;²¹ Aemilii Lepidi hold four altogether, Aemilii of all branches seven;²² Sempronii Longi hold three, Tuditani two, Gracchi one with two dubious cases;²³ Servilii of all branches six.²⁴ But it should be noticed that these are in any case among the great dominant gentes of the period and their representation, particularly the representation of the patrician families, hardly indicates any special sacerdotal interest, but rather reflects their general power. There is perhaps more to be learned from the families which do not occur in the lists - Baebii, Calpurnii Pisones, Popillii, Petillii, Cassii - all consular families, none reaching the augurate or pontificate by 167; they are, in general the rising families of the middle years of the second century²⁵ and the last three are families which ran foul of the senate or the religious authorities at some

21. Scipiones: ponts. 11, 23, 25; augs. 11, 15, 27; Xvir 17; other Cornelii: pont. 3; aug. 1; Xviri 1, 16.

22. Lepidi: pont. 10; aug. 21; Xviri 2, 15; other Aemilii : augs. 9, 22; Xvir 7.

23. Longi: aug. 4; Xvir 3, 11; but aug. 4 = Xvir 11. Tuditani: pont. 7 and 14. Gracchi: aug. 6; cf. 13 (and note 2); ? 30.

24. ponts. 4, 6, 22, cf. ? 38; augs. 3, 28; Xvir 8 (= pont. 6).

25. cf. ~~infra~~ *Scullard, R.P.*, 194 ff.

stage.²⁶ Still more suggestive is the absence of a Manlius Vulso, for patrician families are not so many; nor is there a Fulvius before the much-discussed case of Fulvius Flaccus in 180;²⁷ here perhaps we may see the hand of a traditionalist establishment. Remarkable, too, are some of the individuals not in the early lists; the great Africanus was a Salii, but not pontifex or augur;²⁸ Cato did not hold a priesthood at all as far as we know;²⁹ nor did Fulvius Nobilior, one of the few men whose religious interests have left any mark in the tradition;³⁰ another remarkable absentee is T. Quinctius Flamininus, the liberator of the Greeks, whose brother seems to have been augur from a very early age, but whose own priesthood is again unknown.³¹ Two points should be noticed here; first, there are relatively fewer places available in the second century than after the Sullan re-organization of the colleges; secondly, there is some possibility that each priest possessed a black-ball, so that one enemy in a college would be enough to exclude any individual.³² Perhaps too, eminence itself ~~can~~^{could} work against a possible candidate's interest; it might have been less than an attractive prospect to have the great Africanus, with dreams and private communications from Iuppiter,

26. Popilli, cf. *infra*, 408 ff.; Cassii, *infra*, 274 ; Petillii, *infra*, 343 ff.

27. *infra*, 265 ff.

28. For Africanus as Salii, cf. *Pol.*, 21.10, 10; 13, 9-14; *Livy*, 37.33, 7.

29. below, 639

30. cf. *infra*, 719 ff.

31. L. Flamininus, aug. 2.

32. cf. *infra*, 657 ff.

sharing college debates and dinners.

Finally, it may be asked whether particular gentes show a preference for particular colleges, whether or not holding a particular place in succession. There are some noteable examples of this; the Claudii Pulchri seem to hold the augurate and not the pontificate;³³ Sempronii Gracchi and Longi seem to do the same;³⁴ but perhaps this happens less even than one might have predicted; a man would surely expect to have at least a certain preference when competing for his father's place or in a college where his ancestors had been prominent members; but the evidence in general suggests that this happened very little and that families tended to shift over the years.³⁵

A somewhat different topic can be dealt with more straightforwardly. For quite a large number of priests early in the century and for a few later, we have the date of co-optation as well as details of their later careers and can therefore examine the question of whether there was a normal period of a man's life at which he would expect to win a priesthood or whether he might be co-opted at any time of life. By a simple count of heads, the evidence

33. augs. no. 8, ? 29, Appius Claudius Pulcher (cos. 54), cf. *infra*, 638.

34. cf. above n. 23.

35. cf. e.g. the Aemilii Lepidi, above n. 22; Cornelii Scipiones above n. 21; Claudius Marcellus (cos. 222 etc.) was an augur (MRR 1.293) and so was the praetor of 80 (MRR 2.255); but cf. ponts. 13; 17; Xvir 9.

seems overwhelmingly in favour of priesthoods being conferred on young, sometimes on very young men; it seems to be quite normal for a man to attain his priesthood at least seven years before reaching the consulate, in a few cases more than twenty years before.³⁶ The exceptions, however, are not a random group of the known cases, for they all fall within the period 196 - 180; these are all men who were co-opted either immediately before becoming consuls, or during their consular year, or up to six years after their consular year; five successive co-optations by the pontifices fall into this group,³⁷ together with one by the augurs and one by the decemviri;³⁸ five of these seven cases fall in the period 184 - 180. It would seem that the pontifices at least had a definite policy at this period of electing more senior men into the college and it is not until 177 that they return to the original policy; presumably, the other colleges were to some extent influenced by this, though less markedly. The implication would seem to be that practice on this point might vary from time to time and hence that the assumption often made that a distinguished man must

36. exceptionally long gaps: ponts. 6, 11; augs. 2, 6; about ten years seems fairly normal. e.g. ponts. 1, 2, 4, 17, 20; augs. 3, 9; Xvir 6; between ten and twenty: ponts. 3, 10; augs. 1, 4, 8, 14.

37. nos. 12 - 16.

38. aug. 10; Xvir 10.

have attained his priesthood early, will at least sometimes be wrong. It should be said, however, that we know of only one case where a man attained the priesthood more than three years after his consulship and that was a decemvirate.³⁹

Is there a specific explanation for the exceptions? The answer perhaps lies in the character of the pontifices at the end of the Hannibalic Wars. Of the nine priests at that date, no less than six had been co-opted between about 220 and 210;⁴⁰ all but one of them had held a consulate between 206 and 203 and the sixth had been praetor in 202, though his consulship was long delayed.⁴¹ The five co-optations between 204 and 199, however, do not show any signs of a change of policy, for all the men elected are young, one not to hold the consulship for twenty-three years.⁴² But in 196, the policy changes and the co-optations of that year being in two men of consular or near-consular rank.⁴³ It had perhaps become evident to the college that they represented a particular age-group and lacked representation amongst the consuls of the years after the war; similarly, in 183, they find themselves

39. 10.

40. nos. 1 - 6;

41. viz. no. 6, consul in 188.

42. nos. 8 - 11; no. 11 was co-opted in 199 and held the consulship in 176.

43. nos. 12 and 13.

with only one consul from the period 194 - 184 and in the following three years co-opt the consuls of 185, 183 and 179, instead of younger men whose consulships lay ten or twenty years in the future.⁴⁴ If this is right, it will explain why the augurs made less use of the same policy, for their composition is far less unbalanced and they include by the end of the war two men who were to hold consulships in the 190's,⁴⁵ though they do lack representation in the consuls of 191 - 183 and it is in 184 that they co-opt the consul of 186.⁴⁶ However, it is perhaps more important to notice that both the senior man co-opted by the augurs and the one co-opted by the decemviri at about the same time are consuls of 186, that is to say the men responsible for the Bacchanalian quaestio; a priesthood was perhaps their reward.

The evidence is not, then, in support of a random choice between the available members of noble families between the ages of twenty and forty; it rather suggests that the factors which the college might take into account in choosing their man would at least sometimes include the desire to have a balanced college, with a cross-section of age-groups. Too young a college would presumably not carry

44. nos. 14, 15 and 16.

45. nos. 2 and 4.

46. no. 10.

much weight, while too old a college would tend to produce a situation in which a high percentage of the members died in a relatively short period; it should be remembered that the college was in theory possessed of esoteric knowledge and that, even in practice, arriving at decisions on the points of religious law submitted to them would require a basic knowledge of that law and some experience of how to extract precedents from the body of the college's archives. If they were to some extent concerned with such considerations, the possibility is always present that at any time they might choose to co-opt from outside the normal age-group, as the pontifices did in the 190's and 180's. But this was apparently occasioned by the very high death-rate amongst pontifices in the early years of the Hannibalic War; such conditions would not arise often and co-opting young men regularly would normally lead to a balanced college, once a balance had been struck at all. But it is a relevant factor in assessing co-optations that the college may well have had a complex of factors to bear in mind; the man they chose would tend to come rather from patricians of a certain age or plebeians of a certain age and their choice was rather more restricted than one is inclined to think. Perhaps, after all it is not so surprising that the pontifices should have chosen Scipio Hispallus rather than Scipio Africanus in 199, for Africanus would only have added another to their list of consuls 206 - 203.⁴⁷

47. For Hispallus' co-optation, cf. no. 11.

The second range of questions which should be discussed here concerns the control over colleges by particular groups. I have already discussed the evidence in those areas where it seemed possible to relate the membership of the colleges to the decisions which they took. In the case of the pontifices, most of the evidence has been examined; successive co-optations up to 180 seemed to indicate (or at least to be consistent with) there being an element in the college favourable to Cato and his stand for Roman tradition; the change, if there was one, seemed to come about with the co-optation of Q. Fulvius Flaccus which suggested that the younger men in the college had changed its political balance.⁴⁸ Subsequent co-optations down to 167, do little to prove or disprove these arguments; there is certainly no sign that any of the rising families gained admittance, but we know too little about the politics of the 160's and 150's for any attempt at serious analysis of the composition of the college.⁴⁹

Our knowledge of pontifices in the second half of the century is almost entirely limited to the pontifices maximi; the men selected by the comitia were not necessarily typical

48. cf. *infra*, 265 ff.

49. for the co-optations, cf. nos. 17 - 22. A powerful figure in the 150's must have been M. Claudius Marcellus, no. 17.

of the college as a whole; two fairly clear groups do, however, emerge. First, Scipio Corculum and Scipio Serapio seem to have been at one time in the college together⁵⁰ and this strongly suggests that they and their friends were in a very strong position in the 140's; who their friends would be is beyond speculation, but both men make strong gestures in defence of the 'mos maiorum' as they understood it and this suggests a continuing strain of traditionalism in the college;⁵¹ but we have no way of telling how great their control was. What is more, the next two men to emerge from the college as pontifices maximi are of a very different stamp and yet must both owe their co-optations to the period of Scipioic influence; they are P. Licinius Dives Mucianus and P. Mucius Scaevola.⁵² Their advent marks the beginning of a period of great influence for Licinii and Mucii, related, though not necessarily united, families who held a remarkable series of priesthoods during the latter years of the century; Mucius and Mucianus were natural brothers, sons of P. Scaevola (cos. 175);⁵³ P. Mucius' son Q. Mucius was also later a pontifex and, indeed, pontifex maximus in his turn;⁵⁴

50. cf. on pontifex no. 25 and infra, 658H

51. For Scipio Corculum's resistance to the stone theatre cf. infra 275; for Serapio's hostility to Ti. Gracchus, below, 791.

52. nos. 26 and 27.

53. For a stemma of the Mucii, RE 16.1.413f. (Münzer); for Scaevola and Mucianus as brothers, cf. Cic., Acad. pr. 2.13 'Duos...sapientissimos et clarissimos fratres, P. Crassum et P. Scaevolam...'

54. no. 30.

meanwhile, in the augurs, Q. Mucius Scaevola, first cousin of Mucius and Mucianus,⁵⁵ was found a place early in his career by his father-in-law C. Laelius⁵⁶ and lived to see his own son-in-law also in the college, M. Licinius Crassus the orator.⁵⁷ The successive pontifices maximi of 132 and 130, Mucianus and Mucius were both to some extent supporters of Ti. Gracchus⁵⁸ and it is clear that their elections must mark a reaction against their predecessor, his most bitter enemy and the leader of his murderers. We do not know the men against whom they stood, but it is likely that here again we should see evidence of conflicting political interests within the college.

It would be pleasant to have evidence that the pontifices of the last few years of the century were extremist optimates and that the lex Domitia brought about a dramatic

55. Mucius the pontifex maximus was P.f. Q.n.; Mucius the augur Q.f. Q.n.; their common grandfather is probably the praetor of 215 and their fathers the consuls of 175 and 174, respectively.

56. Cic., Brut. 101

57. augur no. 23; for his marriage to Mucia cf. Cic., de or 3.171 (Lucilius fgt. 86 Marx).

58. Cicero to some extent differentiates between them in the warmth of their support cf. Acad. pr. 2.13: '...P. Crassum et P. Scaevolam, aiunt Ti. Graccho auctores legum fuisse, alterum quidem, ut videmus, palam; alterum, ut suspicantur, obscurius.' They are both also mentioned by Plut., T.G. 9.1. For Licinianus cf. further infra 315H. Mucius' half-heartedness is borne out by his behaviour at the time of Gracchus' death; cf. Plut., T.G. 18.3; Cic., de dom. 91; Tusc. 4.51; Auct. de vir. ill., 64.7; and also afterwards, cf. Cic., de dom. 91; Planc. 88. But he still appears amongst the opponents of Aemilianus on behalf of the Gracchan land-bill after Ti. Gracchus' death in de rep. 1.31.

change to be rapidly reversed by the lex Cornelia; but what evidence we have hardly falls into this pattern. The last three men to be co-opted whom we know of are Metellus Delmaticus, Domitius Ahenobarbus and Q. Mucius Scaevola,⁵⁹ of whom one actually carried the lex Domitia and is to say the least an ambiguous figure;⁶⁰ of Metellus we know nothing decisive;⁶¹ Mucius emerges from our tradition as an honourable, straight-backed lawyer, but no extremist politician.⁶² The early elections, which we can for the most part only guess at, seem to produce no popularis; perhaps, C. Julius was elected as a connection of Marius;⁶³ but Livius Drusus until the very end of his tribunate was acting in the senate's interest as all our sources emphasize;⁶⁴ and Metellus Pius, was as bitter as any enemy of Marius and of the Cinna regime of the eighties.⁶⁵ It would seem that

59. nox. 28, 29 and 30.

60. cf. infra, ch. 12.

61. cf. infra, 348f.

62. cf. Münzer/Kübler, RE 16.1.437ff.

63. For stemma of the Julii, RE 10.1.183f. (Münzer); C. Julius (no. 31) will have belonged to a different line from Marius' wife Julia, but he will have been her second cousin.

64. cf. infra, 454ff.

65. He was, of course, the son of Numicius, driven into exile by Marius and distinguished himself by his efforts to get his father brought home (App., B.C. 1.33, 147; Cic., de or. 2.167; Val. Max. 5.2, 7; cf. Th. Ulrich, Pietas (Pius) als politischer Begriff im röm. Staate, 11f.); he was in Africa throughout the period of Sulla's campaigns in the East (Livy, per. 84; Plut., Crass. 6.2;), though E. Badian, JRS 52(1962), 54; 59; has drawn attention to Metellus' apparent reluctance to join Sulla either.

the electoral machine of the nobiles could work as well for priests as for politicians. The only piece of evidence which really fits is the last; for, as Professor Taylor⁶⁶ has shown so clearly, the men found in senior places in the college of the 70's and who probably owe their places to Sulla's reorganization of the college are all leading supporters of Sulla. But it would be astonishing if it were otherwise.

For the augurs, we have rather more information not so far considered, particularly for the early years of the century. The college in 200 included:

- Pats. Cn. Cornelius Lentulus (1)
- L. Quinctius Flaminius (2)
- Q. Fabius Maximus (7)
- Plebs. M. Servilius Pulex Geminus (3)
- Ti. Sempronius Longus (4)
- P. Aelius Paetus (5)
- Ti. Sempronius Gracchus (6)

One plebeian and one patrician member are unknown to us. It is very difficult to see any political grouping amongst these men; Paetus and Geminus were apparently favourable to Africanus during the latter years of the war;⁶⁷ Gracchus

66. A.J.P. 63(1942), 402ff.; cf. ponts. nos. 35 - 38.

67. For the Gemini cf. infra, 230H; for Paetus infra, 400.

must have been very young, but our tradition represents him as hostile to Scipio in his earlier years.⁶⁸ Lentulus, Paetus' colleague as consul in 201, emerges as no friend of Scipio's⁶⁹ and Cassola has recently tried to show his relationship to a group including Cn. Servilius Caepio and others, which was independent both of Fabius and of Scipio and which favoured at various stages an aggressive, expansionist policy for Rome;⁷⁰ the evidence for this is far from clear, but if it is true, the only other augur who could be placed in the group would be Sempronius Longus.⁷¹ This would leave Fabius as the only Fabian in the college, unless indeed the Quinctii Flaminii can be described as Fabian supporters.⁷² It may, of course, be that there is a coherent group here even if we cannot detect it; the only hope of enlightenment lies in the recorded co-optations of the college.

68. For Gracchus' attitude to Scipio, *infra* 263 ff.

69. Cassola, *I gruppi*, 415 - 420.

70. Cassola's group is based on the successive attacks on Scipio's position in Africa by Servilius Caepio (cf. *infra*, 230 ff.) and Lentulus the augur (cf. Livy, 30.40-43), which he connects not only with their private ambitions but also with their belief that the destruction of Carthage was necessary, as opposed to the Scipionic (and mercantile) policy of keeping the city in existence but subordinate (Cassola, *op.cit.*, 417; 419); but the connection is rather thin.

71. For the possible association of the Longi with this group cf. Cassola, *op.cit.*, 419 n.31.

72. As Münzer, *APF*, 115ff. argued; cf. Scullard, *RP*, 97ff.; 113: though he believed they later changed their position cf. *op.cit.*, 165ff.; contra, T. Frank, *CAH* 8.368, emphasizing the common pro-Hellenism of Scipios and Flaminii and Cassola, *I gruppi*, 190f.; 380f.; 390ff.; but on this subject Cassola has little to add to what has been said and what has been said justifies nothing but suspended judgement.

The first is C. Claudius Pulcher, who succeeds to Fabius Maximus' place in 196.⁷³ Our records of his allegiances are far from straightforward; he may have had family connections with the Fulvii, though the evidence is tenuous,⁷⁴ but later, as we have seen already, he and Tiberius Gracchus exercise a severe censorship and he then seems removed from any Fulvian connection;⁷⁵ but his politics of the 190's, if he had any, are quite unknown to us and it is well to remember that he too will have been a very young man at this date. The co-optation of Aemilius Paullus perhaps puts us on stronger ground; he was Scipio Africanus' brother-in-law; we do not know his predecessor.⁷⁶ It must be said, however, that if his co-optation indicates anything like Scipionic control of the college, it is very hard to see where the control came from; the answer might partly lie with the mysterious ninth member; perhaps Ti. Gracchus was in fact a Scipionic supporter from the

73. no. 8.

74. For the Claudii-Fulvii cf. Scullard, RP, 61ff.; 135ff.; an important piece of evidence is his appointment as military tribune by P. Licinius Crassus (cos. 171) cf. Livy, 42.49,8. cf. infra 410 ; Briscoe, JRS 54(1964), 76f.; but this connects him with Popillii not Fulvii, cf. infra

75. cf. infra 409 and 410 ; 271.

76. the co-optation, cf. on no. 9 ; his relationship to Africanus cf. infra 260ff

beginning and perhaps, too, a suggestion of Cassola's⁷⁷ the Claudii Pulchri can be identified as Scipio's amici has something in it. It is a measure of our lack of solid information both that such a co-optation would not have been predictable for us and that we cannot even identify the likely sources of support.

The first co-optation of the 180's was that of Sp. Postumius Albinus to succeed Cn. Cornelius Lentulus;⁷⁸ the death of Lentulus ought, if anything, to strengthen still further Scipionic control of the college; but the man elected was the consul of 186, Sp. Postumius Albinus, whom scholars have generally placed in the middle group (so, Scullard)⁷⁹ or alternatively in some association with the Fulvii;⁸⁰ but the evidence is purely derived from joint and successive tenure of office;⁸¹ there seems in any case to be no direct evidence and the co-optation would certainly make better sense if Postumius was at least an independent voice. The next co-optation is really a key piece of

77. I gruppi, 411: but the argument is extremely thin.

78. cf. on no. 10.

79. RP, 190ff., where he seeks to establish a distinction between Fulvii and Postumii.

80. So, J. Briscoe, JRS 54(1964), 73f.

81. cf. infra, 268f.

evidence for the man chosen to succeed Postumius Albinus is Africanus' own son, co-opted in 180.⁸² This, surely, is a gesture which could only be made so soon after Africanus' death by a college strongly favourable to him; it must strongly confirm the interpretation of the earlier co-optations and the only outstanding question is who exactly were the supporters of Africanus.

From here on our record is rather confused and there is little to be learned. Paetus died in 174, and was probably succeeded by his son.⁸³ Flamininus' successor is not known and Ti. Longus' cannot be identified;⁸⁴ Claudius Pulcher was succeeded by T. Quinctius Flamininus and he is the last augur preserved in our lists, for this period.⁸⁵ Before turning to the evidence from later in the century, it may be noted that within the college as it stood, the political pattern may have been transformed by the progress of events during the 170's and 160's; clearly, adherence to the Scipionic group becomes less meaningful as time went by; we have noticed elsewhere the

82. no. 11.

83. no. 12.

84. nos. 13, there is a lacuna in Livy's text at 43.11,13, no. 2's death.

85. no. 14.

progressive drift of various politicians towards the kind of traditionalism represented by Cato; several of the augurs, whatever their previous views, seem to be involved in traditionalist protests of one kind or another - Gracchus and Claudius Pulcher in their censorship;⁸⁶ Aemilius Paullus must by this time be sympathetic to the same point of view and indeed perhaps his attacks on Manlius already foreshadow it.⁸⁷ Here, as no doubt often, the college reflects the general trends of Roman politics which must have frustrated those (if there were any) who were concerned to maintain control in the hands of a particular group.

We have a considerable knowledge of the composition of the college in two periods before the rule of Sulla, though very little for some time afterwards. First, we can reconstruct at least some of the college as it was in the late 130's:

Pats. P. Cornelius Scipio Africanus Aemilianus (15)

M. Aemilius Lepidus Porcina (21)

Plebs. C. Laelius Sapiens (16)

Q. Caecilius Metellus Macedonicus (17)

D. Junius Brutus Callaicus (18)

Q. Mucius Scaevola (19)

C. Fannius (20)

86. cf. *infra*, 409 *l. n. 90*; 271

87. cf. *infra*, 260ff.

If Plutarch's story about Ti. Gracchus and App. Claudius Pulcher is to be trusted, Appius would be a third patrician and Gracchus presumably the predecessor of Fannius;⁸⁸ both Gracchus and Appius were dead by 130⁸⁹ and Aemilianus in 129,⁹⁰ Laelius not very long after,⁹¹ so there will have been substantial changes which we cannot follow fairly soon. The college as it stands is of great interest, however; ~~four~~ ^{three} of the seven members we know are closely allied to Aemilianus - Laelius and his two sons-in-law. Even here, however, it is not clear that a single group is in control, for Metellus Macedonicus is one of Aemilianus' best-known enemies⁹² and there was also conflict with Lepidus Porcina over the lex Cassia of 137, when Aemilianus supported it.⁹³ If Appius Claudius was indeed

88. cf. on nos. ? 29 and ? 30.

89. For Appius' death, before Scipio Aemilianus' in 129, cf. Cic., de rep. 1.31.

90. Aemilianus died some time after the *feriae Latinae*, Cic., de rep. 1.14; For the date, cf. Laelius' death cf. Münzer, RE 12.1.408.

91. Both Fannius and Scaevola were married to daughters of Laelius; Scaevola to the elder Laelia (RE no. 25), Fannia to the younger (RE 26); for both sons-in-law, cf. Cic., Brut. 101; de rep. 1.18; Lael. 3; 5; 26; ad Att. 4.16,2; for Scaevola alone also, de or. 1.35; 3.58.

92. Cic., de off. 1.87; Lael. 77; de rep. 1.31; the conflict is perhaps already evident in their attitudes to the case of Aurelius Cotta, whom Aemilianus prosecuted and Macedonicus defended in 138; Cic., pro Mur. 58; Brut. 81; div. in Caec. 69ff.; Livy, oxy. per. 55; Val. Max. 8.1,11; cf. ORF 2, 107; 129ff.; Fraccaro, Studi Gracch., (1914), 383f.; on Scipio's *inimici* in general, Fraccaro, op.cit. 78ff.; Münzer, APF, 257ff.; Scullard, JRS 50(1960), 67; 73.

93. For Porcina cf. infra 525ff.; dispute over the lex Cassia, Cic., Brut. 97.

also a member, he is yet another of Aemilianus' enemies, already by the 140's.⁹⁴ What is more, Macedonicus and Appius Claudius were two more of the men who supported Gracchus in the introduction of his bill in 133.⁹⁵

It might just be possible to explain the conflicts existing within the college as subsequent to the establishment of its membership; for Aemilianus' support for Cassius is not very much in character and he might have broken with Lepidus Porcina for that very reason;⁹⁶ while Cicero speaks of his being alienated from Macedonicus over a specific issue of policy.⁹⁷ It is evident, too, that Laelius, presumably with Aemilianus' support, was able to control co-optations to a remarkable extent, which

94. Cic., pro Scauro 32; de rep. 1.31.

95. For Appius, Plut., T.G. 9.1; for Macedonicus, Cic., de rep. 1.31; Appius was actually on the board of triumviri under Gracchus' law (MRR 1.495); Macedonicus attacked Ti. Gracchus some time during his year as tribune cf. ORF², no. 18, speech II, but this is associated by Plut., T.G. 4, with his proposal to dispose of the Attalus inheritance, not the lex agraria; cf. Malcovati, ORF², loc.cit.

96. Cf. Scullard, JRS 50(1960), for Scipio's claim to be called a popularis; but his support for the lex Cassia is really quite isolated in our tradition about him, apart from the mysterious lex agraria of Laelius, about which we know nothing at all.

97. cf. Cic., de off. 1.87: 'sine acerbitate dissensio'; and Lael. 77: '...propter dissensionem autem, quae est in re publica, alienatus est a collega nostro, Metello.'

suggests that by the time of Scaevola's co-optation, hostile elements in the college were in a minority, or at least divided. Again, if Appius was a member, we can trace further family relationships in the college and also between the pontifices and augures; Aemilianus himself was married to a Sempronia and Gracchus to Claudius' daughter;⁹⁸ another of Claudius' ~~daughters~~^{family} was married to Licinius Mucianus the pontifex maximus⁹⁹ and Mucianus' cousin was Scaevola the augur, Laelius' son-in-law.¹⁰⁰

It is tempting to see in all this family grouping one of the factors which brought the whole system into disrepute and produced the repeated attacks on it; but there are reasons for caution. First, the tribunes of Gracchus and Appius are a key link and must be doubtful; secondly, the group seems to represent those nobles who were most sympathetic to reform and, although Aemilianus denounced Gracchus, at least some of the others remained faithful to him;¹⁰¹ thirdly, we know too little about family relationships earlier in the century to tell whether the situation of the 130's was in any way a new one.

98. For Aemilianus' Sempronia (RE no. 99) cf. Plut., T.G. 1.3; cf. 4.4; Cic., Lael. 101; for Gracchus' Claudia, Plut., T.G. 4.1; Livy. per. 58.

99. cf. M²₄₃ rev. AFE, 272 ff.

100. cf. above n. 55

101. for Appius and Licinianus, both on the board of triumviri agris iudicandis assignandis by the end of 133, cf. MRR 1.495; cf. infra, 350 n. 57.

In the key years later in the century our information breaks down and it is hard, as with the pontifices, to find signs of optimate control of the college. Fannius abandoned the Gracchan cause and was the leading opponent of C. Gracchus;¹⁰² Scaurus, in many ways a leading optimate, but notoriously a flexible politician, joined the college in 123;¹⁰³ to these years also probably belong the co-optations of Licinius Crassus, once a popularis, but changing his attitude by 111 or 106,¹⁰⁴ and Antonius his friend and apparent political ally;¹⁰⁵ together with Scaurus these men constitute the group of moderate optimates who supported Livius Drusus in 91.¹⁰⁶ Again,

102. For his defection from the populares cf. Plut., C.G. 8.1ff.; 12.1; for his anti-Gracchan activities as consul cf. ORF² 143f. esp. fgt. 1; cf. Badian, FC, 187ff.; Münzer, RE s.v. Fannius 7, 6.1987ff.

103. cf. no. 22; for his politics cf. infra 684f.

104. cf. infra 349ff.

105. cf. infra 351ff.

106. cf. Badian, Historia 6(1957), 318ff. = Studies in Greek and Roman History, 34ff.; E.S. Gruen, JRS 55(1954), 61f. for the view that these men represent the Metellan faction; it is no doubt true that they have Metellan connections or at least that the Metelli had connections with them, but none are very prominent in the nineties. For doubts as to whether this group supported Drusus in his offer of citizenship to the Italians or only in the earlier part of his programme, cf. Gabba, Athenaeum 31 (1953), 259ff.; Gruen, art.cit., 62. Crassus at least hardly had the opportunity to 'draw back', since he was behind Drusus in September 91, practically with his dying breath; but Drusus can hardly have produced his proposal much later than this.

it is hard to see these men as the particular target of the lex Domitia and as we have seen we know of no occasion when the augurs acted against a popularis law, until the lex Titia, which was after the abolition of co-optation.¹⁰⁷

The introduction of the election does bring one new element into the college, C. Marius; he is perhaps the clearest example of a man who would never have reached a priesthood under the old conditions. Other elections may possibly include L. Marcius Philippus, Livius' enemy but an unknown quantity before his consular year,¹⁰⁸ and L. Cornelius Scipio Asigenus;¹⁰⁹ he was consul under the Cinna regime and fought or intended to fight against Sulla on his return;¹¹⁰ indeed, he seems to be irreconcilably opposed to Sulla;¹¹¹ he is again a clear example of the possible effects of the lex Domitia.

It is time now to turn to that lex itself. The lists of priests provide in a sense a disappointing introduction to it. The precise objection of the populares does not

107. cf. *infra*, 442 H.

108. For the relations of Marcius Philippus and Servilius Caepio in the 90's cf. Badian, *art.cit.* n.106; as tribune of the plebs, he made a speech which Cicero at least regarded as revolutionary (*ORF*² 266f., from *Cic., de off.* 2.73); he suffered an unexpected repulsa at the hands of a novus homo in 94 (*Cic., Brut.* 166); cf. in general Münzer, *RE* 14,1562ff.

109. no. 27.

110. Cos. 83 (*MRR* 2.62), he marched out to oppose Sulla but his army defected; cf. *Cic., Phil.* 12.27; 13.2; *Livy*, per. 85; *Vell.*, 2.25,2; *App.*, *B.C.* 1.85,384ff. Other sources, *MRR* 1.62.

111. He subsequently revolted (*App.*, *B.C.* 1.95,441), got hold of an army (*Diod.*, 38-39, 16), fought against Pompey (*Plut., Pomp.* 7.5), was prescribed (*Cr.*, 5.21,3) and fled to Massilia where he died (*Cic., Sest.* 7; cf.

emerge very clearly from our evidence. The point is rather perhaps in the development of political life generally in this period, than in the names of the men who held the different priesthoods; the effect of the repeated attacks by the populares on different established institutions was in a sense to unite the consulares viri against them. Nobles very often shared in their youth in these attacks, but it is only in the early years that we find populares, particularly Ti. Gracchus, having the support of senior men. But the priestly colleges, by their nature and constitution, were formed precisely of such senior consulares; they may very well have been seen as strongholds of optimate opposition, even though the men we know of do not seem to be in any sense extremists. And, if the augurs had not actually taken action, there can be little doubt that the possibility of their doing so was much discussed.

111. cont'd.....

ad Att. 9.15,2; Schol. Bob. 126 St.). cf. Münzer, R.E.
s.v. Cornelius no. 338;

Pontifices.

(The numbers in brackets after each name are first RE number, secondly number in Bardt, Die Priester der vier grossen collegien; patricians are marked with an 'x').

1. P. Licinius Crassus Dives (69: 47); before 218 - 183 (Livy, 39.46,1; predecessor unknown; successor no. 14) Cos. 205.

Pontifex maximus 212 (Livy, 25.5,1-4).

2. Q. Caecilius Metellus (81: 18); 216 - ? (Livy, 23.21,7; predecessor P. Scantinius; successor not known; still alive in 167 ?) Cos. 206.

x 3. M. Cornelius Cethegus (92: 29); 213 - 196 (Livy, 25.2,2; 5,2; 33.42,5; predecessor L. Cornelius Lentulus Caudinus (cos. 237); successor no. 12). Cos. 204.

x 4. Cn. Servilius Caepio (92: 33); 213 - 174 (Livy, 25.2,1; 41.21,8-9; predecessor C. Papirius Maso (cos. 231); successor no. 19) Cos. 203.

5. C. Livius Salinator (29: 36); 211 - 170 (Livy, 26.23,7; 43.11,13; predecessor M. Pomponius Matho (cos. 233 ?); successor no. 22) Cos. 188.

6. C. Servilius Geminus (60: 39); 210 - 180 (Livy, 27.6,15; 40.42,11; predecessor T. Otacilius Crassus (pr. 217, 214); (cf. on augur no. 4) successor no. 15) Cos. 203. Pontifex maximus (2) 183 (Livy, 39.46,1-2).

7. C. Sempronius Tuditanus (90: 25); ? - 197 (Livy, 32.42,5; predecessor not recorded, but by elimination, Q. Fulvius Flaccus (cos. L 237), for the date of whose death, cf. infra

229 nlS ; Tuditanus died in Spain,

Livy, 33.25,9; 27,1; 42,5) Pr. 197.

- ^x 8. Ser. Sulpicius Galba (56: 21); 203 - 199 (Livy, 30.26,10; 32.7,15; predecessor Q. Fabius Maximus Cunctator (cos. 233 etc.); successor no. 10).
- ^x 9. C. Sulpicius Galba (49: 43); 202 - 199 (Livy, 30.39,6; 32,7,15; Predecessor T. Manlius Torquatus (cos. 235); successor no. 11).
- ^x 10. M. Aemilius Lepidus (68: 22); 199 - 153/2 (Livy, 32.7,15; predecessor no. 8; successor not known; for the date of his death, Livy, per. 48)
Pontifex maximus (3) 180 (Livy, 40.42,12; cf. 37.43,1; Pol., 22.3,2; 32.21,5; Cic., de prov. cos. 20 = Val. Max., 4.21; de dom. 136; Phil. 13.15; sen. 61; Val. Max., 6.6,1.).
Cos. 187, 175.
- ^x 11. Cn. Cornelius Scipio Hispallus (346: 44); 199 - 176 (Livy, 32.7,15; 41.16,4; predecessor no. 9; successor not known; for his death, Livy, 41.16,3-4; Fasti Cap. sub 176.)
Cos. 176.
- ^x 12. L. Valerius Flaccus (173: 30); 196 - 180 (Livy, 33.42,5; 40.42,6; predecessor no.3; successor no. 16) Cos. 195.
13. M. Claudius Marcellus (222: 27); 196 - 177 (Livy, 33.42,5; 41.13,4; Asc. 12 C; predecessor no. 7; successor no. 17) Cos. 196.
14. M. Sempronius Tuditanus (95: 48); 183 - 174 (Livy, 39.46,1; 41.21, 8-9; predecessor no. 1; successor not known (cf. augurs n.2)) Cos. 185.

15. Q. Fulvius Flaccus (61: 40); 180 - 172 (Livy, 40.42,11-12; 42.28,10-13; predecessor no. 6; successor no. 20)
Cos. 179.
- x 16. Q. Fabius Labeo (91: 31); 180 - after 167? (Livy, 40.42,6; predecessor no. 12) Cos. 183.
17. M. Claudius Marcellus (225: 27); 177 - ? (Livy, 41.13,4; predecessor no. 13 - his father; successor not known; he died in 148, Livy, per. 50; Asc., p. 12 C; cf. Cic., Pis. 44; de div. 2.14) Cos. 166, 155, 152.
- x 18. L. Furius Philus (77: 45); 176 - 170 (Livy, 41.16,4; 43.11,13; predecessor no. 11; successor no. 21) Pr. 171.
- x 19. C. Sulpicius Galba (50: 34); 174 - ? (Livy, 41.21,9; predecessor no. 4) Pr. 171.
20. Cn. Domitius Ahenobarbus (19: 41); 172 - ? (Livy, 42.28,13; predecessor no. 15) Cos. 162.
- x 21. T. Manlius Torquatus (83: 46); 170 - ? (Livy, 43.11,13; predecessor no. 18) Cos. 165.
22. M. Servilius (cf. 8: 37); 170 - ? (Livy, 43.11,13; predecessor no. 5; nothing is known about him but it is not unlikely that he is to be identified with the tr. mil. of 181 (Livy, 40.27,4)).
- x 23. P. Cornelius Scipio Nasica (Corculum) (353: 49); ? - c.141 (Cic., sen. 50; de N.D. 3.5; de or. 3.134) cos. 162; 155.
Pontifex maximus (4); cf. Bardt, 5f. Aemilius Lepidus (P.M. 3) died in 152, Livy, per. 48; Corculum elected, 150 (Cic., sen. loc.cit.).

- ^x 24. Q. Fabius Maximus Servilianus (115: 50) Mac., 1.16,25; cos. 142, dates of pontificate unknown. Cos. 142.
- ^x 25. P. Cornelius Scipio Nasica Serapio (354: 51); ? - 132 (frequently mentioned as pontifex maximus cf. Cic., Cat. 1.3; de N.D. 3.5; Tusc. 4.51; Plut., T.G. 21.4; App., B.C. 1.16,68; these references are in the context of his opposition to Ti. Gracchus and App., loc.cit., mentions that his being pontifex maximus was an objection to his going to Pergamum in 132 (MRR 1.499); Vell., 2.3,1, notes that he was the first pontifex maximus to be elected while 'absens', but in view of the other evidence this can hardly be referred to the legatio to Pergamum and, if Velleius is right (might he not be confusedly recollecting the fact that Serapio was the first pont. max. to go abroad?), he must mean some earlier absence; Scipio Corculum was still alive in 142 (Val. Max., 7.5,2; Plut., Aem. 15.2) when he was reappointed princeps senatus, but probably dead by 136, when he was not (MRR 1.486 and n.2); Münzer, RE s.v. Cornelius no. 354, 1504; APF, 251; 260, argued that Corculum must have died in 141 and been succeeded by Serapio, whom he suggested was praetor in 141 and therefore away in his province, but the date of succession could really be any time between 141 and 136. More importantly, it cannot be certain that Serapio did succeed directly to Corculum, for there might have been an unknown pont. max. between them; a lurid story in Val. Max., 6.9,13, describes 'Q. Caepio'

as pontifex maximus and this could conceivably be the consul of 140 (Bardt, 6f.). There is in any case no reason to believe that Serapio succeeded Corculum as pontifex as well as pontifex maximus (as Münzer, loci cit.; MRR 1.478) cf. infra, 658ff. Pontifex maximus (5); cos. 138.

26. P. Licinius Crassus Dives Mucianus (72: 52); ? - 130 (Cic., Phil. 11.18; Livy, per. 59; Asc., 25 C; Gell., N.A. 1.13, 10; referred to as pontifex maximus at the beginning of 131 (cf. infra 316ff.), he can only just have been elected, cf. on no. 25. He died in Pergamum, Livy, per. 59; MRR 1.503. The date of his co-optation as pontifex is unknown.

Pontifex maximus (6); cos. 131.

27. P. Mucius Scaevola (17: 53); ? - ? (He was certainly pontifex maximus in 123, Cic., de dom. 136; and Cicero regards him as an important figure in the history of the college cf. de leg. 2.52; de or. 2.52; de N.D. 1.115; ad Att. 12.5b, 3. It is economical to suppose that he was elected in 130 after the death of ^{Mucianus} ~~Licinius~~ and that he was succeeded by no. 28 in the 110's, though other possibilities can hardly be excluded.

Pontifex maximus (7); cos. 133.

28. L. Caecilius Metellus Delmaticus (91:54); ? - c.104; the identification as Delmaticus rather than Diadematus (e.g.) was proved by Bardt, 7f.; Delmaticus restored the temple of Castor (Ps. Asc., p. 254 St.); the restorer of the temple is identified as the maternal grandfather of

Cicero's client Scaurus (Cic., Scaur. 46; Asc., ad loc. 28 C;) and Scaurus' maternal grandfather as pontifex maximus (Asc., 27 C). He was pontifex maximus at the Vestal-trials of Dec. 114 (infra ~~348f~~).

Pontifex maximus (8); cos. 119.

29. Cn. Domitius Ahenobarbus (21: 56) bef. 104 - c. 89 (referred to as pont. max. Livy, per. 67; cf. Cic., Deiot. 31; Val. Max., 6.5,5, for the date and his activities cf. infra ⁶⁴¹² ~~348f~~).

Pontifex maximus (9); cos. 96.

30. Q. Mucius Scaevola (22: 57); ? - 82. (he must have succeeded Ahenobarbus as pont. max. after 92, when the latter was censor (MRR 2.17) but we have no indication exactly when; cf. Cic., de leg. 2.47; 52f.; de N.D. 3.80; de off. 3.70; de or. 3.10; Varro, de L.L. 5.83; Diod. 38.17; Vell., 2.26,2; Asc., 67 C (cf. 14 C, where he is called just 'pōntifex' with reference to 95); App., B.C. 1.88,403; Gell., N.A. 5.19,6; cf. Cic., Lael., 1; Flor., 2.9,21. Broughton, MRR 1.532, makes him his father's successor (no. 27) in about 115, but this is a pure guess. Pontifex maximus (10); cos. 95.

31. C. Julius Caesar Strabo (135: 59) mention in 99 (Gell., N.A. 4.6,2, cf. infra ~~484~~ ; for his identity cf. Münzer, RE s.v. Julius no. 59, 183f.; if he is the aed. cur. of 90 (MRR 2.26), his co-optation must be very recent, perhaps under the lex Domitia; cf. infra ~~612~~. For his death c.87, cf. MRR 2.51f.

32. M. Livius Drusus (18: 58) ? - 91 (Elogium, CIL 1².1.p. 199 = Inscr. It. 13.3,74; Cic., de domo 120; likely to have been elected under the lex Domitia).

33. Q. Caecilius Metellus Pius (18: 61) ? - 64 (Auct. de vir. ill., 63.3 notices his election as pontifex: 'adolescens in petitione praeturae et pontificatus consularibus viris praelatus est.' 'praeturae' must be wrong both because of his youth and his consular competitors, but there is no reason to doubt the information about his pontificate, which fits with the probability that he would be standing after 104 and therefore be elected not co-opted. He succeeded Mucius Scaevola as pontifex maximus presumably in 81 or 2; cf. Asc., 79 C; Plut., Caes. 7.1; Dio Cass., 37.37,1; Mac., 3.13,10-11; cf. infra, 328f.)

Pontifex maximus (11); cos. 80.

? 34. Cn. Domitius Ahenobarbus (20: 55) ? - ? (Suet., Nero 2, mentions no. 29's resentment at not winning his father's place in the pontifices; for criticism of the story cf. infra, 670ff.; but it is always possible that this element of the story is true, or else that Domitius was rejected both by augurs and by pontifices; alternatively no. 34 might have been an augur, though Asconius does not mention him in the context (21 C). Cos. 122.

In addition, it is very probable that some at least of the senior pontifices known from the 70's B.C., will have been members of the college before the reversal of the lex

Domitia or at the latest before Sulla's death; this would add:

- ? 35. C. Aurelius Cotta (96: 62) ? - 74 (Vell., 2.43,1; Cic., de N.D. 3.5; Velleius must be wrong about his being Caesar's predecessor, however, for he was a plebeian; for the possibility of his early election to the college of. L.R. Taylor, A.J.P. 63(1942), 393; 411; but he was in exile during the 80's under the lex Varia (Cic., de or. 3.11; Brut., 311; Münzer RE s.v. Aurelius 96); and may therefore only have been co-opted when he returned with Sulla. Cos. 75.
- x ? 36. Mam. Aemilius Lepidus Livianus (80: not in B.) For this identification of the pontifex standing second in Macrobius' (3.13,11) list cf. L.R. Taylor, art.cit., 391ff.; 401f. It cannot be more than a suggestion. Cos. 77.
- ? 37. Q. Lutatius Catulus (8: 60) ? - before 60 (the senior named augur in the list at Mac., 3.13) Cos. 78.
- ? 38. P. Servilius Vatia Isauricus (93: 71) ? - 44 (Cic., de H.R. 12, shows him to have been a senior pontifex at that date, below no. 36, but senior to six known pontifices by the end of the 70's: cf. list at MRR 2. 114 and, for discussion, Taylor, art.cit., 391ff. Cos. 79.

Augures

- ^x 1. Cn. Cornelius Lentulus (176: 26); ? before 218 - 184 B.C. (Livy, 39.45,8 - co-optation date unknown: predecessor unknown: successor no.10) Cos. 201.
- ^x 2. L. Quinctius Flaminius (43: 14); 213 - 170 B.C. (Livy, 25.2,2; 43.11,13. predecessor P. Furius Philus (cos. 223); successor unknown. For his identity, Bardt, 18f.; Münzer, APF, 118f.; MRR 1.267 n.7; the consul of 192, brother of the liberator of the Greeks, is the only known L. Flaminius of the right generation; co-optation as priest fourteen years before holding the praetorship is notable, but not without parallel; cf. infra, 605 n.36.). Cos. 192.
3. M. Servilius Pulex Geminus (78: 16): 211 - after 168 B.C. (Livy, 26.23,7-8; predecessor Sp. Carvilius Maximus Ruga (cos. 234); successor unknown.) Cos 202.
4. Ti. Sempronius Longus (67: 11); 210 - 174 B.C. (Livy 27.6,15; 41.21,8-9; predecessor T. Otacilius Crassus: successor no. 13; for the problems of this and other Sempronian priesthoods cf. below 639ff.) Cos. 194.
5. P. Aelius Paetus (101: 18); 208 - 174 B.C. (Livy, 27.36,5; 41.21,8; predecessor M. Claudius Marcellus (cos. 222 etc.); successor no. 12, his son.) Cos. 201.
6. Ti. Sempronius Gracchus (52 cf. 3: 21); 204 - after 162/1 B.C. (Livy, 29.38,7 'admodum adulescens'; predecessor M. Pomponius Matho (cf. MRR 1.246 n.4); successor not known; for the problems, cf. below 639ff. ; for his augural activities in 162, cf. infra ch 8.) Cos. I 177.

- ^x 7. Q. Fabius Maximus (104: 23); 203 - 196 B.C. (Livy, 30.26,7 & 10; 33.42,6; predecessor Q. Fabius Maximus Cunctator (cos. 233 etc.); successor no. 8; the Cunctator's grandson? cf. Münzer RE)
- ^x 8. C. Claudius Pulcher (300: 24); 196 - 167 B.C. (Livy, 33.44,3; 45.44,3; predecessor no. 7; successor no. 14) Cos. 177.
- ^x 9. L. Aemilius Paullus (114: 30); c. 192 - 160 B.C. (According to Plut., Aem. 3, became augur between his aedileship and praetorship i.e. 193 and 191; co-optation not in Livy; predecessor and successor unknown.) Cos. I 182.
- ^x 10. Sp. Postumius Albinus (44: 27); 184 - 180 B.C. (Livy 39.45,8; 40.42,13; predecessor no. 1; successor no. 11) Cos. 186.
- ^x 11. P. Cornelius Scipio (331: 28); 180 - ? B.C. (Livy, 40.42,13; predecessor no. 10) Son of Africanus.
12. Q. Aelius Paetus (104: 19); 174 - ? B.C. (Livy, 41.21,8-9; predecessor no. 5) Cos. 167.
13. Ti. Veturius Gracchus Sempronianus ? (23: 12) 174 B.C. - ? (Livy, 41.21,8-9; predecessor no. 4; for his identity cf. below **641**)
- ^x 14. T. Quinctius Flaminius (46: 25) 167 B.C. - ? (Livy, 45.44,3: predecessor no. 8) Cos. 150.

- ^x 15. P. Cornelius Scipio Africanus Aemilianus (335: 32); 150's - 129 B.C. (CIL 1².1.p.198 = Inscr. It. 13.3.71; for the date cf. Cic., Lael. 77; sen. 64).
16. C. Laelius Sapiens (3: 33); 150's - after 129 (Cic., de N.D. 3.5; Phil. 2.83; for the date Cic., Lael. 77; sen. 64) Cos. 140.
17. Q. Caecilius Metellus Macedonicus (94: 34); 140's - 115 (Cic., de fin. 5.83; for the date, Cic., Lael. 77) Cos. 143.
18. D. Junius Brutus Callaicus (57: 36) Mention in 129, Cic., Lael. 7. Cos. 138.
19. Q. Mucius Scaevola (21: 38); Cic., Brut. 101, tells us C. Fannius (no. 20) resented the fact that Scaevola, who like him was Laelius' (no. 16) son-in-law, had become augur before him; Cic., Lael. 7f. makes it clear that both of them had become augurs by 129. Broughton (MRR 1.496; 506) places Scaevola's co-optation before and Fannius' after 133, but this is only necessary if Ti. Gracchus was an augur too, in which case the five plebeian augurs in 133 will have been nos. 16, 17, 18, 19 and Gracchus; for Gracchus, however, cf. below, 638 ; otherwise there is no reason why both Scaevola and Fannius should not have been augurs by the middle 130's. For mentions of Scaevola's augurate, which is used to distinguish him from the pontifex maximus, cf. Cic., Balb., 45; Phil. 8.45; Lael. 1; Brut. 102; 212; de or. 1.39; Val. Max., 3.8,5; Pliny, N.H. 10.20.) Cos. 117.

20. C. Fannius (7: not in B.); Cic., Lael. 8; cf. Brut., 101. For the date cf. on no. ¹⁹20 and below, 638. For the identity of this Fannius, cf. Fraccaro, Rend. Acc. Linc. 27(1906), 656ff. = Opusc. 2.103ff.; Athenaeum 1926, 153ff. = Opusc. 2.115ff.; Münzer, Hermes 55(1920), 427ff.; RE s.v. Fannius no. 7; Malcovati, O.R.F.², 142f.; MRR 1.519 n.2. It emerges reasonably clearly that Laelius' son-in-law, the augur, was the consul of 122, but not necessarily Fannius the historian.) Cos. 122.
- ^x 21. M. Aemilius Lepidus (Porcina) (83: 35); Vell., 2.10,1 - referring to an incident in 125, but he is probably the consul of 137 and had therefore probably been augur for some years.
- ^x 22. M. Aemilius Scaurus (140: 37); 123 - 88 B.C. (ILS 9338, no. 4; Asc. 21 C) For discussion, infra, 670ff.; it is not impossible that the augurates of nos. 21 and 22 (both Aemilii) overlap; for the legality of this cf. infra 658ff.; but our only knowledge of Porcina after 125 (loc. cit. under no. 21) rests on the attribution to 115 of his speech 'Uti lex Aemilia abrogetur' (cf. Malcovati, O.R.F.², 136f.); but the identification of the lex Aemilia is quite uncertain and it is perhaps likelier that he was Scaurus' predecessor in 123.) Cos. 115.
23. L. Licinius Crassus (28: 39); ? - 91 (Cic., de or. 1.39: where Scaevola (no. 19) addresses Crassus: '... auspicia, quibus ego et tu, Crasse, ...praesumus.' Crassus was married to Scaevola's daughter (cf. de or. 1.24)) He

is likely to have been an augur before the end of the second century perhaps well before). Cos. 95.

24. M. Antonius (28: not in B.) ? - 87 (Schol. Bern. on Lucan, 2.121 (p. 57 Usener); the evidence refers to the time of his death, but he like Crassus is likely to have been augur for some years; cos. 99.

25. C. Marius (14, suppb. 6: 40); c. 97 - Jan. 13th. 86 (CIL 1².1.p.195 = Inscr. It. 13.3.17 & 83; Cic., ad Brut. 1.5,3; he was elected under the lex Domitia while absent in Cappadocia; for the date MRR 2.9 n.7) Cos. 107 etc.

26. L. Marcius Philippus (75: not in B.) by 93 - 70's (Cic., Brut. 166; de leg. 2.31; the latter refers to his activities as augur and consul in 91; cf. infra 437 ; the former refers to his presence in a 'collegium' presumably the augurs and a 'sodalitas', perhaps those connected with the Megalesia (infra 1344.); Cicero claims to have heard him speak in the senate i.e. after 74, for Cicero was quaestor in 75 (MRR 2.98), which will have given him access to the senate, but served in Sicily in that year (MRR loc.cit.)) Cos. 91.

x 27. L. Cornelius Scipio Asiagenus (338: not in B.) 88 - ? (ILS 9338 no. 4; cf. above on no. 22 and infra, 610ff.) Cos. 83.

28. Servilius (RE 12 cf. 11) c.101 (Plut., Luc. 1.1; he attacked the praetor of 104, L. Licinius Lucullus, and drove him into exile, cf. Cic., Verr. actio 2.4.147; MRR

1.564; 568; 573 and n.6; he may or may not be identical with the praetor of 102, G. Servilius, Lucullus' successor in the province of Sicily (MRR 1.568).

x ? 29. App. Claudius Pulcher (295: not in B.) Cos. 143.

? 30. Ti. Sempronius Gracchus (54: not in B.) Tr. pl. 133.

They are both mentioned as augurs by Plut., T.G. 4.1, but this is apparently the only evidence for either of them and comes in the context of an anecdote; Claudius and Gracchus met at an augural banquet and there arranged that Gracchus should marry Claudius' daughter; Claudius went home and told his wife that he had arranged a marriage for their daughter; she said he should not have done it without consulting her, even if the bridegroom had been Ti. Gracchus. Precisely the same story (as Plutarch, l.c., notes) is told of Gracchus' father and Scipio Africanus (Livy, 38.57,4ff.), though placed at a dinner of the senate on the Capitol: '... non, si Ti. Graccho daret, expertem consilii debuisse matrem esse.' The story of the elder Gracchus is almost certainly untrue (cf. Carcopino, Autour des Gracques, 47ff.) and therefore it might be true of the son and transferred to the father (for vilification of the son by comparison with his father cf. e.g. Cic., de prov. cos. 18); or the anecdote might be untrue but the augurates historical, as was the marriage (Livy, per. 58: 'Appium Claudium socerum'). But it is difficult to feel great confidence. cf. Fraccaro, Studi sull'età dei Gr. (1914), I. 41f; Müntzer, ADP, 268 n.1.

Note 1.

Others who have been thought to be augurs are: (a) M. Porcius Cato (31 Bardt) solely on the strength of Cic., sen. 64, reading 'in nostro collegio' rather than 'in vestro', as the Leyden MS; he is addressing Laelius (no. 16) and Aemilianus (no. 15), so 'in vestro' makes perfectly good sense; he is not in Livy's lists, though there is one vacant plebeian place; O.R.F.², Cato fgt. 197, implies nothing either way; the balance of probability seems heavily against since, if Cicero knew that Cato was an augur, it seems astonishing that he should nowhere say so.

(b) Q. Caecilius Metellus Numidicus, cf. L.R. Taylor, A.J.A. 48(1944), 352ff.; on the strength of Syd., 751, a denarius of Q. Caecilius Metellus Pius, Numidicus' grandson; he was pontifex not augur (cf. infra, 631), but shows the lituus (for this, cf. infra, 676-108), which Professor Taylor takes as referring to his grandfather's augurate; so, MRR 1.532. Such inferences are always shaky: in this case, we know of five plebeian augurs of the nineties (nos. 19, 23-6): it is just possible that Antonius (no. 24) should have been Numidicus' successor (he died in 91, Cic., de N.D. 3.81), but on such slender evidence it is hardly justifiable to assume so.

(c) L. Cornelius Sulla Felix; cf. infra, 675H.

Note 2.

There is considerable confusion in our records of nos. 4, 6 and 13. Ti. Longus (no. 4) is reported to have become

both augur and Xvir s.f. in 210 (Livy, 27.6,15;). Ti. Gracchus (no. 6) became augur in 204 (29.38,7). At 41.21,8, Livy's text reads: 'sacerdotes publici ea pestilentia mortui sunt Cn. Servilius Caepio pontifex, pater praetoris, et Ti. Sempronius Ti. filius Longus decemvir sacrorum et P. Aelius Paetus augur et Ti. Sempronius Gracchus et C. Mamilius Atellus curio maximus [et] M. Sempronius Tuditanus [pontifex]. pontifices suffecti sunt C. Sulpicius Galba in locum Tuditani, augures suffecti sunt in Gracchi locum T. Veturius Gracchus Sempronianus, in P. Aeli Q. Aelius Paetus. decemvir sacrorum C. Sempronius Longus, curio maximus C. Scribonius Curio sufficitur.' The corrections seem inevitable and the changes in Xviri, pontifices and the curio max. quite clear, except for the loss of Tuditanus' successor. But (a) there is no mention of Longus' augurate (b) Veturius is a patrician name (Münzer, APF, 123; 126ff.); even if there were room for a patrician in the college (cf. nos. 2,8,9,11), he could not succeed to a plebeian, as Gracchus; (c) the Gracchus co-opted in 204 ought to be the consul of 177 - very young, but cf. Livy, 29.38,7 'admodum adulescens' - who was still very much alive in 163/2 (cf. infra, 40ff.). Bardt 18ff. suggested reading 'Longus' for 'Gracchus' and this must surely be right in substance, though the mistake is likely to be earlier than Livy, or he would comment on the double priesthood as at 40.42,11. Alternatively, Longus' augurate

could be rejected altogether (there is some confusion in his predecessor's priesthood as well, cf. MRR 1.284 n.6) and a second Ti. Gracchus postulated, otherwise unknown. As for Veturius, R.M. Geer, A.J.P. 60(1939), 466f., has suggested the correct name as Ti. Sempronius Gracchus Veturianus (i.e. a Veturius adopted by a Sempronius, rather than vice versa). On the alternative view suggested, the unknown Gracchus would almost inevitably have to be succeeded by Gracchus the consul of 177, who was unquestionably an augur by 163/2 (cf. *infra*, 6"4). Bardt's view is economical and much to be preferred.

Decemviri sacris faciundis.

- ^x 1. L. Cornelius Lentulus. (187 or 8: 4); 213 - 173 (Livy, 25.2,2; 42.10,6; predecessor C. Papirius Maso; successor no. 12; it is not certain whether there are two L. Corneli *Lentuli* at this period or only one; he may or may not, therefore, be identical with the consul of 199 (MRR 1.326); for discussion cf. Bardt, p. 28; MRR 1.267 n.8.).
- ^x 2. M. Aemilius Lepidus (67: 7); 211 - ? (Livy, 26.23,6; his predecessor was M'. Aemilius Numida; his death is not recorded in Livy, who apparently omits co-optations to the decemviri from about 200 - 180; the same is true of nos. 4 and 6 (both plebeians); it seems probable that their successors were, in fact, nos. 7, 8 and 9, whose co-optations are not recorded, for argument on this cf. infra 18 ff. ; Lepidus will then have died between 200 and 180, his successor will be no. 7. His identity is uncertain; he can hardly be the pontifex maximus (cf. pontifex no. 10) as Bardt p.29 saw and could therefore either be the praetor of 213 (MRR 1.263) or of 218 (MRR 1.238) or both, cf. Klebs, RE s.v. Aemilius 67; MRR 1.266 n.1.).
3. Ti. Sempronius Longus (67: 9); 210 - 175 (Livy, 27.6,15; 41.21,8-9; predecessor Ti. Sempronius Longus (cos. 218); successor no. 11). Cos. 194; he was also an augur, no. 4 (but cf. augurs note 2).
4. G. Laetorius (2: 4); 209 - ? (Livy, 27.8,4; predecessor Q. Mucius Scaevola, pr. 215; last heard of in 194 (Livy

34.45,3-5); for the date of his death cf. on no.2; on this basis he will have died before 180 and his successor will be no. 8 or no. 9.) pr. 210.

5. M. Aurelius Cotta (103: 14); 204 - 200 (Livy, 29.38,7; 31.50,5; predecessor M. Pomponius Matho (cos. 231 ?); successor no. 6) Aed. pl. 216.

6. M'. Acilius Glabrio (35: 15); 200 - ? (Livy, 31.50,5; predecessor no. 5; he is the third decemvir whose death is not recorded cf. above on no. 2; it seems likely that he had died before 181 when his son dedicated his temple and put up a statue to him (cf. *infra*, 206 no. 10); his successor would be no. 8 or no. 9) Cos. 191.

x 7. L. Aemilius Papus (109: 18); ? - 172 (Livy, 42.28,10; successor no. 13; he is the first of the three (cf. nos. 8 and 9) whose co-optations are not recorded cf. above on no.2, who will have been his predecessor on that argument.). Pr. 205.

8. C. Servilius Geminus (60: 16); ? - 180 (Livy, 40.42,11; successor no. 10; the second of the three without co-optation notices cf. above on no. 2; his predecessor will have been either no. 4 or 6.) Cos. 203; he was also pontifex no. 5 and pontifex maximus (2).

9. M. Claudius Marcellus (223 or 4: 20); ? - 169 (Livy, 44.18,7; successor no. 14; the third without co-optation notice cf. no. 2; predecessor on that basis no. 4 or no. 6; his identity is doubtful: he can certainly not be either pontifex no. 13 or 17 (cos. 196; 166 etc.) but will either

be the consul of 183 (MRR 1.378) or the praetor of 183 (MRR 1.372; cf. Münzer, RE s.v. Claudius 223); there are presumably two men of this name involved because one was legatus (MRR 1.426) in the year of the other's death, 169).

10. Q. Marcius Philippus (79: 17); 180 - ? (Livy, 40.42, 11-12; predecessor no. 8; he officiated on behalf of the college in 175 (Livy, 41.21, 10-11) which seems odd, since one would expect that such a function would be performed by a senior member; he was still alive in 164, when he was censor, (MRR 1.439)). Cos. 186, 169.

11. C. Sempronius Longus (63: 10) 174 - ? (Livy, 41.21, 8-9; predecessor no. 3).

x 12. A. Postumius Albinus (31 or 46: 5); 171 - ? (Livy, 42.10, 6; predecessor no. 1; he was still alive in 167 (Livy, 45.17, 1-2)). Cos. 180, or 151.

x 13. M. Valerius Messalla (252 or 3: 19) 171 - ? (Livy, 42.28, 10; predecessor no. 7; he was presumably still alive in 167) Cos. 188, or more probably, cos. 161, his son (cf. Münzer, de gent. Val. nos. 53 - 4).

14. Cn. Octavius (17: 21); 169 - 162 (Livy, 44.18, 7; predecessor no. 9.; he was killed in Syria in 162 (Pol. 31.11, 1; MRR 1.443)). Cos. 165.

x 15. M. Aemilius Lepidus (70: 24) Cos. 158.

x 16. L. Cornelius Lentulus Lupus (224: 25) Cos. 156. Mentioned by Frontinus, de ag. 1, 7 as speaking 'pro collegio' in the senate; cf. *infra*, 525f. The identifications are

likely but not certain.

- ^x 17. Cn. Cornelius Scipio Hispanus (347: 23) Elogium,
CIL 1².2.15 = ILS 6. Pr. 139. Date of co-optation unknown.
- ? 18. Q. Pompeius Rufus (39: 27) Syd., no. 909, denarius
of Pompeius Rufus, definitely referring to his ancestor
the consul of 88, show an arrow and laurel-branch; cf.
Bardt, p.30; this may mean that Rufus was decemvir, but
not certainly.

Triumviri epulones.

1. C. Licinius Lucullus (99: 1) Tr. pl. 196.
2. P. Manlius (31: 2) Pr. 195; 182.
3. P. Porcius Laeca (19: 3) Pr. 195.
4. Q. Fulvius (29: 4)

The college was founded in 196 and the first three members are given by Livy 33.42,1; Fulvius was successor to Manlius in 180 (Livy, 40.42,7). Mommsen, R.F. 90f. argued that the whole college was plebeian at the beginning and that patricians were only introduced by Sulla, cf. Klose, Röm. Priesterfasten, 92; Münzer, RE s.v. Manlius 31; cf. Manilius 2; one would expect Manlius to be either a Vulso or Torquatus, in either case patrician, but his successor is plebeian and it is striking that in the references to him as praetor, he is never given a cognomen in lists where almost all his colleagues have theirs cf. Livy, 33.42,7; 43,5; 39.56,5; 40.1,1-2; so he may well be a plebeian Manlius or a Manilius, cf. Plut., Cat mai. 17.7 for a possible candidate.

Other priests.

- ^x 1. C. Sulpicius Galba (51: not in B.) Cic., Brut. 127, refers to one of those convicted by the Mamilian commission as 'in collegio sacerdotum'; but not necessarily one of the major colleges.
- ^x 2. L. Cornelius Sulla Felix (392: Augur 41); App., B.C. 1. 79,362, mentions his demand for the return of his priesthood in 84, on his way back from the East; presumably a major priesthood; cf. *infra* 675 ff.

12. Lex Domitia

Until the very end of the second century, the priests of the four major colleges replaced their dead colleagues by private arrangement amongst themselves.¹ How exactly they reached their decisions we can only guess, but it was presumably by some form of election and at least one college apparently had a system whereby any member could reject a candidate as his inimicus.² The pontifex maximus, however, was not co-opted in this way but chosen by a special assembly consisting of seventeen of the thirty-five tribes, selected by lot.³

In 145, an attempt was made to change this privileged system and to make all the priestly elections in the four colleges subject to a popular vote;⁴ the bill was proposed by C. Licinius Crassus⁵ and opposed in a notable speech by C. Laelius Sapiens.⁶ The bill was rejected and we know neither its provisions nor the arguments used by the protagonists, but it would be a fair guess that the bill anticipated the lex Domitia which was eventually passed 40 years

1. For discussion of co-optation in general, cf. Borghesi, Oeuvres, 3.409ff.; 428ff.; L. Mercklin, Die Co-optation der Römer (1848); A. Gemoll, De Co-optatione sacerdotum Romanorum (1870); Wissowa, RE s.v. co-optatio; id., R.u.K.², 487ff.; L.R. Taylor, A.J.P. 63(1942), 384ff.; Latte, RRG, 394ff.
2. Cic., ad fam. 3.20,9, speaking of the augurs.
3. Livy, 25.5,1ff.; Cic., de leg. ag. 2.16; 18; cf., Mommsen, Staatsr. 23.27ff.; Latte, RRG, 277 n.1; on the significance of seventeen rather than eighteen tribes cf., Pais, Ricerche sulla storia e sul diritto pubblico di Roma, Ser. 1 (1915), 337ff.
4. Cic., Lael. 96; Brut. 83; de N.D. 3.5; 43; de rep. 6.2; Malcovati, ORF², 117f.; Wissowa, R.u.K.², 487; Latte, RRG, 277.
5. Niccolini, Fasti, 133ff.; MRR 1.470; Münzer, RE 13.1.251f.
6. For his speech, ORF², loc.cit. n.4; he was praetor in this year, 145 (MRR 1.479); on his politics and his proposal of a lex agraria cf. Scullard, JRS 50 (1960), 62ff.

later and that Laelius argued against it that the task of a priest involved him in such ancient, specialized and delicate knowledge that only they themselves were competent to assess the merits of the candidates.⁷

Cn.Domitius Ahenobarbus as tribune in 104 or 3 succeeded in having a bill passed which extended the system which had previously applied to the election of the pontifex maximus.⁸ Cicero explained this system in some detail when an attempt was made in 63 to extend it into yet another field.⁹ He implies that there was some religious reason for not allowing the whole populus to vote in these elections¹⁰ but does not tell us what exactly the objection was; perhaps his vagueness is deliberate.

Domitius' law was operative for about twenty years; then, it was repealed by Sulla and the old system restored.¹¹

7. Cicero (de N.D. 3.5) regarded his speech as a text-book exposition of the good Roman's, as opposed to the philosopher's, attitude to the gods and 'religio', while de N.D. 3.43 and the brief fragment of the de republica, 6.2, from Non. p.398.28, show his use of erudite, archaic learning in his speech.
8. Niccolini, Fasti, 189ff.; MRR 1.559.
9. de leg. ag. 2.16; 18.
10. op.cit. 18: 'quod populus per religionem sacerdotia mandare non poterat, ut minor pars populi vocaretur, ab ea parte.....'
11. Dio Cass., 37.37,1.

This particular part of the Sullan system lasted longer than his crucial reform of the tribunate and was not in fact touched until the year of Cicero's consulship when a lex Labiena re-imposed the lex Domitia.¹² The lex Labiena seems effectively to have been the final settlement. We do, however, hear from Cicero of another lex de sacerdotiis, the lex Julia,¹³ but if this be, as seems probable, the lex whereby Caesar increased the number of priestly places in the colleges,¹⁴ then there is no reason to suppose that it in any way altered the provisions of the Domitia and Labiena.

I shall examine first the precise provisions of the lex Domitia and then the circumstances in which it was passed; I think that positive progress can be made on both sides of the question which ought to throw some light at least on Domitius' intentions in proposing it. Two general points can be made at the outset. First, our evidence refers to a certain extent not to the period of operation of the lex Domitia but to Cicero's day, when it was the lex Labiena which was in operation; it is, in general, clear enough that Sulla simply repealed Domitius law and that Labienus simply re-imposed it and this is the assumption

12. Dio Cass., *ib.*

13. Cic., ep.ad Brut. 1.5,3 = 13,3 (Watt).

14. Dio Cass., 42.51,4; 43.51,9; cf. Wissowa, R.u.K.², 485 n.5.

on which I shall work; but there is a possibility of error here, which should be borne in mind. Secondly, I shall assume that Dio, 37.37,1-2, is mistaken in suggesting that the lex Cornelia had returned the election of the pontifex maximus as well to the sole control of the pontifices and that in fact the election of the pontifex maximus was not in any way affected by any of our series of laws.¹⁵ Since Labienus' law was passed in the same year as Caesar's election as pontifex maximus it was a natural mistake for him to suggest a direct connection between the two events; perhaps, too, a similar misunderstanding lies behind his later statement that Antony removed the election of the pontifex maximus from the assembly and returned it to the priests themselves,¹⁶ a statement which also seems to be quite untrue.

In Cicero's time, the selection of a priest consisted of four stages; nominatio, election by the tribes, co-optatio and inauguratio.¹⁷ Of these, the third had become a pure

15. So, Taylor, C.Ph. 37(1942), 421ff.

16. Dio Cass., 44.53,6.

17. Gemoll, De co-optatione, 8f.; R.u.K.², 488ff. Opinions have varied as to whether inauguratio took place only for the rex and flamines (so, Bouché-Leclercq, DS s.v. inauguratio, 438b; Wissowa, R.u.K.², 490 n.3) or for most of the other priests as well (as Cic., de leg. 2.20 seems to imply; cf. now P. Catalano, Contributi allo studio del diritto augurale, 211ff.).

formality simply confirming the election already made and the fourth was the traditional religious admission to the college. Nominatio was not, however, a mere formality although it was apparently a traditional stage in the selection process.¹⁸ Cicero was nominated augur by Pompeius and Hortensius - 'nec enim licebat a pluribus nominari!¹⁹ The nominator seems to have spoken for the candidate on oath and is said in some sense to co-opt his nominee - 'mea nominatione co-optabo!²⁰ These passages show that nominations were made by those who were already priests in the college and that there was a rule preventing more than two priests from nominating the same man. This evidence all follows the passage of the lex Labiena, but here for once we have evidence from the actual period of the operation of the lex Domitia. The Rhetorica ad Herennium²¹ gives the following example of a conflict of laws: 'lex vetat eum qui de pecuniis repetundis damnatus sit in contione orationem habere: altera lex iubet augurem in demortui locum qui petat in contione nominare. Augur quidam damnatus de

18. Nomination was evidently a traditional part of the selection of the rex and flamines (Livy, 40.42,11; Tac., Ann. 4.16; cf infra, 4.6), so it is likely enough that this applied within the major colleges as well.

19. Cic., Phil. 2.4.

20. For the oath, Cic., Brut. 1; cf. Suet., D.C. 22. 'mea nominatione co-optabo', Cic., Phil. 13.12; cf. also, Pliny, ep. 4.8,3.

21. 1.20.

pecuniis repetundis in demortui locum nominavit: petitur ab eo multa.' There is no way of telling whether this is (as seems likely) a fictitious case or one which actually arose; in either case there is no reason to doubt that it does reflect the state of the law between 104 and 80²² and that the altera lex in question is the lex Domitia. Two points emerge clearly: first, the nomination was made in a public meeting and not simply presented to the people as a list fixed by the college in private; secondly, as Mommsen²³ saw, the passage implies that it was mandatory for an augur to make a nomination for otherwise the conflict of laws

22. For the date of the *Rhetorica*, cf. Marx, *Prolegomena* to his edition, 153ff.; *Rh. Mus.* N.F. 43(1888), 398; Warde Fowler, *CR* 29(1915), 36; Schanz-Hosius, *Röm. Lit.*, 14.587. The latest historical reference is 4.54,68, which mentions either Marius' seventh, or, more probably, Sulla's second consulate; this would suggest a date in the late eighties or early seventies. But A.E. Douglas (*CQ* N.S. 10(1960), 68ff.) has argued on stylistic grounds for a date of composition in the 50's and pointed out that there is no compelling reason to believe that the writing was immediately subsequent to the latest historical reference; the author may be using a collection of examples from the late second and early first centuries, which had become standard and unchanging by his day.
23. *Staatsr.* 2³.30 n.2; and he is surely also right in thinking that a maximum of three candidates cannot properly be inferred from the analogy of the three candidates for the flaminates.

would not arise and the words 'lex iubet' would be quite inaccurate. The system which thus emerges is a quite consistent one. Its purpose is to ensure that the assembly is presented with a real choice between candidates and as far as possible to prevent the college from fixing the election in advance. Thus nominations had to be made in public; it was impossible for the whole college to nominate the same man and equally impossible for all but one of the college to abstain from nominating anybody at all. There must have been provision for excusing augurs not in Rome at the time of the election but short of six members being away or seven dying at once the assembly was assured of a choice of candidates. Finally, there is apparently no need of more than one nominator, so that a candidate need have no more than one friend in the college to stand for election. On the other hand, the initiative is clearly left with the existing priests themselves.

The main function of the bill was the insertion of the second stage, election by the seventeen tribes. In Cicero's time, the election seems to have taken place between the consular and the praetorian comitia²⁴ and he seems to imply that it was a consul who presided over the priestly elections; if this is so, it is an important point because we know that at least in the third century and almost

24. Cic., ep. ad Brut., 1.5,4 = 13,4 (Watt).

certainly later the elections for the pontifex maximus, on which Domitius was modelling his arrangements, was held by the junior pontifex;²⁵ this would therefore be a deliberate change whose intention could only be to prevent the existing college from exercising any influence over the conduct of the election. The Cicero evidence, however, stands alone and all Cicero actually says is that had one of the consuls of 43 had survived, the priestly elections could have been held rather than delayed, as they were, till the following year; but this could mean no more than that the priestly elections were fixed by law as following the consular ones and would therefore be automatically be delayed with them whether or not the consul himself would have presided at them. "...conlegam sibi subrogavisset, deinde ante praetoria sacerdotum comitia fuissent."

Another point emerges from Cicero's letter;²⁶ he argues (for the benefit of his son) that *absentis ratio* was permitted under the *lex Domitia*. In support of this he quotes the precedent of C. Marius who was elected augur while on the trip to Cappadocia²⁷ but instead of quoting the text of the

25. Livy, 25.5,2.

26. *Ep. ad Brut.* 1.5,3 = 13,3 (Watt)

27. *Plut., Mar.* 31.1-3; cf. *MRR* 2.8f. and n.7.

law he quotes that of the lex Julia 'quae lex est de sacerdotiis proxima' to the effect that it mentioned 'Qui petet cuiusve ratio habebitur' which implies that there might be candidates other than those present at the election. He is evidently right that neither the lex Domitia nor the Julia actually forbade absentis ratio; but, evidently too, he has had to look far for his precedent and we know from a casual remark in a letter of 59²⁸ that those not actually in Rome were not normally considered for the place. Here again Domitius seems to be following the precedent of the election of the pontifex maximus for here too an absens could be considered; as far as we know, the same was true of priestly co-optation before the lex Domitia, though there is no certain case.

So far, the facts have been clear if scarce; but here our direct information about the contents of the lex ends and its further provisions have to be established by inference. We know that certain restrictions on the eligibility of candidates existed at one time or another and it is clearly of the first importance to establish the relationship of the lex Domitia to these rules. First, as

28. ad Att. 2.5,2: 'et quoniam Nepos proficiscitur, cuinam auguratus deferatur.' Cicero had his own ambitions, so the remark is not as casual as it might seem; the place was that of Metellus Celer and his brother Nepos would have been a strong candidate. Clearly, Cicero would not have bothered to look up the precedents for him, but he speaks as if the rule would be generally accepted.

already mentioned there seems to have been a blackball system which was obsolete by Cicero's day;²⁹ secondly, Dio³⁰ tells us of a rule that only one priest could come from any one gens; thirdly, it is extremely abnormal for any one man to hold two major priesthoods.³¹ A priori, all these rules could have existed as conventions among the priests before the lex Domitia and then have been adopted, ignored or abolished by Domitius; alternatively, Domitius might have invented them.

Cicero³² tells us that it had once been impossible for the inimicus of any augur to be co-opted by the college and that this was no longer true in his day. There is no way of telling to what period he refers, for it could be remote antiquity or the late second century or even the eighties or seventies of the first century. Even where we know the membership of colleges in detail it is impossible to prove or disprove the existence of the rule, for even if one found an example of an inimicus elected to a college, this would not show that the blackball could not have been used only that it had not been used.³³ If one could assume, however,

29. cf. n.2 above.

30. 39,17.

31. cf. below nn.71-3.

32. n.2 above.

33. For possible examples, infra, 602H.

that the blackball operated in the second century this would go far to explain the absence from our priestly lists of such figures as Africanus, Flamininus, Cato and Fulvius Nobilior.³⁴ It seems quite likely that Cicero knew of the practice from some incident in the later part of the second century, which he knew, of course, far better than the earlier part. If so, it seems likely enough that Domitius abolished the rule, for it would be impossible to believe that he left the college the right of veto after a popular election. An anecdote from Asconius³⁵ gives as the motive for his bill a repulse which he had suffered at the hands of Scaurus when he was seeking to become an augur; scholars³⁶ have suggested that this must mean no more than that Scaurus had used his *auctoritas* to oppose Domitius' candidature but it would give a far clearer point to the story if Scaurus had actually used a blackball to prevent Domitius' admission and his abolition of the practice becomes all the more comprehensible. Clearly, nothing can be proved.

The second rule has been much discussed and never satisfactorily explained. Dio mentions it with reference to an incident in which Lentulus Spinther had his son adopted into

34. None of these occur in the lists of augurs and pontifices between 216 and 167. Cato is often said (Bardt, Priester, 22; MRR 1.457) to have been an augur at any rate by 150 and probably earlier, but cf. *infra*, 601ff; 639.

35. 21 C.

36. So, Fraccaro, Scauriana, Rend. dell' Acc. Linc. 20(1911), 184 = Opuscula, 2.137.

the Manlii in order that he might become an augur; he was obliged to do this because the augurs already included Faustus Cornelius Sulla and it was illegal for two priests to come from the same *'συγγένεια'*.³⁷ It would be very difficult to reject the rule Dio gives because it is an integral part of the incident he is describing, which there is no reason to question. He might, of course, be mistaken or misleading as to the rule's scope or interpretation. There are a series of apparent exceptions to the rule and it will be convenient to list these:

- 1) From 210 - 180, both Cn. Servilius Caepio and C. Servilius were pontifices.³⁸
- 2) From 202 - 199, Ser. Sulpicius Galba and C. Sulpicius Galba were both pontifices.³⁹
- 3) 199 - 196, Cn. Cornelius Scipio and M. Cornelius Cethegus both pontifices.⁴⁰
- 4) 204 - 174, Ti. Sempronius Gracchus and Ti. Sempronius Longus both augures.⁴¹
- 5) Before 73, Q. Caecilius Metellus Creticus and Q. Caecilius Metellus Pius both pontifices.⁴²

37. Dio Cass., 39.17.

38. Caepio - Livy, 25.2,2; cf. 41.21,8. Geminus - 27.6,15; 40.42,11-2.

39. Servius - 30.26,10; cf. 32.7,15; Caius - 30.39,6; cf. 32.7,15.

40. Scipio - 32.7,15; 41.16,4; Cethegus - 25.2,2; 33.42,5.

41. Longus - 27.6,15; Gracchus - 29.38,7; for both cf. 41.21,8-9 and infra, 639f.

42. Metellus Pius was pontifex maximus from about 81 (MRR 2.78; cf. infra, 631) to about 64 (below, 665ff.); Creticus is in the list at Cic., de H.R. 12; cf. below

- 6) By 63 until at least 57, Creticus and Q.Caecilius Metellus Pius Scipio Nasica.⁴³
- 7) Before 60, M.Aemilius Lepidus and M.Aemilius Scaurus both pontifices.⁴⁴
- 8) At least in 51, App.Claudius Pulcher and M.Claudius Marcellus both augures.⁴⁵
- 9) 46 - 44, C.Julius Caesar and L.Julius Caesar both augures.⁴⁶

There are other cases, too, not so certain:

- 10) It is probable that during the 140's Scipio Nasica Corculum and his son Serapio were both pontifices.⁴⁷
- 11) It has been argued plausibly that Ti.Sempronius Longus (cf. no. 41) was himself succeeded by a Sempronius.⁴⁸
- 12) It is quite possible that for a time in the sixties the Caecilii Metelli actually had three pontifices - Pius, Creticus and Pius Scipio Nasica.⁴⁹

43. Both occur in de H.R. 12; cf. below, 665

44. Both occur in de H.R. 12; cf. below, 665 ff.

45. Both are mentioned by Cicero, de div. 2.75.

46. For L. Caesar cf. Mac., 3.13, 11; he was certainly still alive in 43; cf. Cic., Phil. 12.1-2; 18; 28; cf. MRR 2.351; 385; Münzer, Hermes 52(1917), 152ff. For C. Caesar, Dio Cass., 42.51, 3; cf. Sydenham, no. 1023.

47. Unless Serapio succeeded his father as pontifex as well as pontifex maximus; whether we should believe that he did or not, depends on the success of the present argument; cf. infra, 628

48. So, Geer, A.J.P. 60(1939), 466f.; Broughton, MRR 1.407 n.5; cf. infra, 628 ff.

49. This would be the case if Pius was still alive when Pius Scipio joined the college; cf. below, 662 ff.

The critical casses are 1) - 8), the last three being arguable and 9) being exceptional in view of the irregular position of the second entrant to the college. 1) - 4) is divided by almost a century from 5) - 8), but the gap can hardly be given any weight in view of the scrappiness of the intervening lists, though it should be said that there is no exception in the almost complete list of the augures in 133.⁵⁰ Bardt⁵¹ sought to resolve the difficulties by limiting the application of Dio's rule to the augures; this left him with cases 4) and 8) to be explained: on 8), he argued that the plebeian Claudii were regarded as a different gens from the plebeian Claudii, quoting Livy 10.8,9: 'Semper ista audita sunt eadem penes vos auspicia esse, vos solos gentem habere vos solos iustum imperium et auspiciu domi militiaeque.' Bardt claimed that this archaic sense of gens had survived in the priestly rules; but there is no other evidence of this and he had to find another and quite unconvincing explanation for case 4).⁵² Clearly an account is needed which will apply to all the cases. I suggest that the simplest thesis which will explain all the facts is that Dio's rule applied to both colleges, but was first instituted by the lex Domitia, subsequently cancelled by the lex Cornelia

50. cf. *infra*, 635 ff.; *aug. nos.* 15-21; cf. ? 29, ? 30.

51. Priester, 34ff.

52. *op.cit.*, 36.

and re-imposed by the lex Labiena. It is worth noticing that Dio mentions a law, as such, which imposed the rule;⁵³ this might be a loose expression but not necessarily so.

At least, we can say that there is no evidence at all for such a rule in the second century and plenty of evidence for violations of it. If then, it can be shown that in each of the first-century pairs quoted above, the second member of the gens to join did so between the years 82 and 63, there will be a strong case for thinking that the colleges themselves had no rule on this subject and that it was in fact an invention of the lex Domitia. The cases which concern us here are 5) - 8); of these, cases 5) - 7) depend for dating on the two lists of pontifices given by Macrobius⁵⁴ for the year 69 and Cicero⁵⁵ for the year 57. Professor Taylor⁵⁶ has shown, I think irrefutably, that the two lists are given in the official order, that is to say in order of co-optation. On this basis one can fix the co-optation dates for different members of the college in relation to a few fixed points. Thus, Caesar was co-opted in 73⁵⁷ and any priest who appears above him in the list must have been co-opted before that date. Applying this to case 5) we can

53. i.e. 'νόμος', Dio Cass., 39.17.

54. Sat. 3.13,11.

55. de H.R. 12.

56. A.J.P. 63(1942) 391ff.

57. Vell., 2.43,1.

be certain that both Creticus and Pius were pontifices in the year 73;⁵⁸ Pius, who became pontifex maximus in about 81,⁵⁹ must have been pontifex for some time earlier. The only remaining question is whether Creticus was also pontifex by 82. We know the names of seven of the eight plebeian members of the college for the year 73:

Metellus Pius

Q.Lutatius Catulus

P.Servilius Vatia

M.Terentius Varro Lucullus

Metellus Creticus

M'.Acilius Glabrio

D.Junius Silanus⁶⁰

P.Mucius Scaevola was certainly also a member by 69; his predecessor, the eighth member in 73, may well have been a senior member of the college.⁶¹ If so, Creticus must have been one of the three junior members of the college before Scaevola's predecessor died; but since the three junior places were created by the Sullan lex de sacerdotiis,⁶² Creticus'

58. For Creticus occurs above Caesar in the list at de H.R. 12, and Pius became Pontifex Maximus under Sulla's rule (cf. next note).

59. For the sources cf. infra, 631. He succeeded Q.Mucius Scaevola, who had been killed in 82 (cf. infra, 630).

60. Vatia, Varro Lucullus, Creticus and Glabrio occur above Caesar in the list at de H.R. 12. Catulus and Silanus occur above him at Mac., 3.13,11.

61. i.e. he already occurs in the list at Mac., 3.13,11, but below Caesar; so his co-optation is dated between 73 and 69.

62. which increased the plebeian places from 5 to 8 (Livy, Per. 89).

joining the college must be subsequent to that lex. The only other possibility is that Creticus was the junior member of the college in 82 i.e. before the lex de sacerdotiis; but if so, we should have to suppose first, that he was the successor as pontifex of the pontifex maximus, Mucius Scaevola, slain by Damasippus in 82:⁶³ secondly, that he was elected at comitia held under the lex Domitia between the death of Scaevola and the passage of the lex Cornelia:⁶⁴ thirdly, that no pontifex holding a plebeian place in the pre-Sullan college died between 82 and 73, including the period of the proscriptions. It seems virtually certain that Creticus' pontificate dates from the time of the lex Cornelia.

Another clear case is no. 8); for, although the explicit mention of the two Claudii as augures dates from 51,⁶⁵ they must both have been senior members of the college at that date. For Claudius Pulcher, we have explicit evidence that he was already an augur in 63.⁶⁶ Marcellus was praetor in 80⁶⁷ i.e. under Sullan rule, but never reached the consulship; it seems most likely that he too benefitted directly from the Sullan reorganization, but in any case it is quite incredible

63. cf. *infra*. 630f.

64. We have, of course, no precise date for the lex Cornelia de sacerdotiis.

65. cf. n.41.

66. Cic., *de div.* 1.105.

67. MRR 2.79 and 84.

that he should have become an augur later than 64, already sixteen years after his praetorship. On the other hand, Claudius Pulcher was too young to have been an augur before the lex Cornelia.⁶⁸

The only remaining cases are 6) and 7); here, the chronology is tighter but the facts fairly clear. Cicero's list of this part of the college is as follows:⁶⁹

Q. Metellus Scipio

C. Fannius

M. Lepidus

L. Claudius, rex sacrorum

M. Scaurus

M. Crassus

C. Curio

The question is where in this sequence of co-optations are we to fit the death of Metellus Pius, the pontifex maximus, the election of Caesar as his successor and the passage of the lex Labiena. Crassus and Curio are the successors of Catulus and Silanus who must have died between 62 and 60;⁷⁰ Metellus Scipio and Fannius are the successors

68. He can hardly have been more than 12 or 13 in 82; his first appearance in politics was apparently in 75 (cf. RE 3.2.2849f. (Münzer)) and he was consul in 54.

69. de H.R. 12.

70. Catulus was dead by May 60 (cf. Cic., ad Att. 1.20,3; Dio Cass., 37.46,3-4). Silenus is last heard of as consul in 62 (cf. Münzer RE s.v. Junius 163). Neither occurs in the list at Cic., de H.R. 12; but since both were alive in 62 it must without doubt be they who were succeeded by the two junior plebeians of the college as it appears in de H.R. 12.

of P. Mucius Scaevola and Metellus Pius and one of them must therefore have joined the college before Caesar's election as pontifex maximus.⁷¹ This election took place almost certainly early in 63⁷² and Pius must have died in 64 or perhaps rather earlier. The lex Labiena was passed⁷³ apparently towards the end of 63 and we can be fairly sure that the inauguration of Claudius, in which the pontifex maximus was heavily involved will have taken place after March and presumably some time before Caesar was expecting to leave Rome at the end of 62.⁷⁴ We can thus isolate the

71. Or perhaps both did.

72. cf. below, 680f. For the year, Dio Cass., 37.37,1-2; Sall., Cat. 49.2; for the time of year, below

73. Dio, loc.cit., places the bill after the deaths of the conspirators, but also implies that it was immediately followed by Caesar's election as Pontifex Maximus; as we have seen already, Dio has made a mistake in thinking that the method of Caesar's election was in any way affected by the lex Labiena, and Sall., Cat. 49.2 shows clearly that Caesar was already Pontifex Maximus by the date of the debate over the conspirators; but this does not entail that Dio is wrong about the date of the lex Labiena, only that he has moved the election because he (or his source) regarded it as a consequence of the lex. His evidence as to the date of the bill remains the only real indication we have. Cicero's (leg-ag. ii. 18f) discussion of the method of election ought to provide some clue and it is indeed curious that he should discuss Domitius with apparent approval in the very year that his law was re-enacted, without in any way referring to the fact that such re-enactment was imminent; the point is shaky, but for what it is worth, it supports a date late in the year.

74. For the procedure in electing a rex sacrorum, the locus classicus is Livy, 40.42 (cf. Wissowa R.u.K.², 487). This leaves no doubt that the pontifex maximus played a major role of some kind; whether in his absence another pontifex or the college as a whole could act in his stead is arguable: we know of no such event during the prolonged absences from Rome of Metellus Pius and Caesar. In the case of Caesar's absence in Gaul, a flamen did die in 56 and here the man who almost certainly succeeded him had not become flamen

problem very precisely; either the selection of the second Aemilius fell immediately before the passage of the lex Labiena or it was the first election held under its terms. Since this is the only outstanding exception (for no.6) is automatically before 63) I submit that it is a virtual certainty that Scaurus was the last priest co-opted under the lex Cornelia, immediately before the passage of Labienus' bill and in a deliberate attempt to cheat its terms by the majority of the pontifices; this was the last chance they would ever have of getting Scaurus into the college while Lepidus lived and suitable patrician candidates were hard enough to find without wasting a perfectly good chance.

This long, complicated argument can therefore be said to have reached a firm conclusion. All the known exceptions to Dio's rule, can be placed and almost certainly must be

74. cont'd....

at any rate by 54, we do not know when he did, but our only evidence is for the year 46. For the facts cf. MRR 2.213 and n.3. Cic., ad Att. 12.7,1 makes it certain (as Klose, Röm. Priester, Fasten, 25, argued) that Lentulus Niger became flamen before 46; Cic., ad Q.F. 3.1,15 and Asc., 28C, that he had not by 54. Otherwise, Münzer, RE s.v. Cornelius no.196: MRR loc.cit. For Caesar's departure, MRR 2.173,180. He was a praetor in 62 and will have expected to leave for Spain at the end of his term, but was in fact delayed by the crisis at the end of the year (Cic., ad Att. 1.13,5).

placed in the periods when priests were co-opted not elected. We can be sure that the rule was first introduced by Domitius, repealed by Sulla and re-imposed by Labienus. This is obviously one of the important provisions of the lex Domitia and its point is very clearly illustrated by the cases we have been considering; thus, for instance, from the seventies until 64, the Caecilii Metelli provide at least one other pontifex as well as the pontifex maximus; Domitius' objective will have been precisely to prevent this kind of block of family power within a college. It will have been all the more important before Sulla increased the number of priests from 9 to 15.⁷⁵

The third rule was that no man might hold more than one priesthood and here the situation was rather different. There are three cases early in the second century:

Q.Fabius Cunctator was augur and pontifex.⁷⁶

C.Servilius Geminus was Pontifex maximus and
decemvir s.f.⁷⁷

Ti.Sempronius Longus was augur and decemvir s.f.⁷⁸

We know, however, of no other case of the doubling of major priesthoods earlier than Caesar. It seems therefore fairly certain that there was an accepted convention about this by the end of the second century; our lists for the

75. Livy, Per. 84.

76. Livy, 30.26,10.

77. Livy, 40.42,11; cf. infra, ~~625, no. 6~~ 625, no. 6; 643, no. 8.

78. Livy, 27.6,15; 41.21,8-9; cf. infra, 633, no. 4; 642, no. 3.

second half of the second century are too incomplete to be certain of this and it is conceivable that the lex Domitia did legislate on this point. We can, however, be certain that there was no spate of such double elections under the lex Cornelia, which certainly would be reflected in our first century lists.⁷⁹ Either, then, Sulla here followed Domitius' lead or the legislation did not and did not need to cover the point.

The contents of the bill as far as we can determine them are therefore: a) provision for the insertion of popular election between the nomination and co-optation of priests on the system of the election of the pontifex maximus.

b) a system of rules for nomination whereby the people were assured of a choice of candidates for election while the priests retained the right of initiating candidature.

c) a rule that no two members of any gens could enter the same major college.

d) the abolition probably of the blackball system and possibly of the legality of holding two major priesthoods. It is time to examine the circumstances in which the bill was passed.

79. Thus, for instance, no name occurs both in the list of the pontifices at Cic., de H.R. 12, and in the list of the augurs in 50 B.C. (MRR 2.254ff.), which is complete but for one patrician place.

Only one passage comments on Domitius' motives in proposing his bill: "Cn.Domitius in tribunatu pontificibus offensior quod alium quam se in patris sui locum co-optassent ius sacerdotum subrogandorum a collegiis ad populum transtulit." (Suet., Nero 2) Now we know that Domitius subsequently became pontifex maximus⁸⁰ and this event is certainly dated by the order of events in Livy's epitomator either to 104 or 103; assuming that Livy followed a chronological order within the year, it becomes probable that this happened in March 103.⁸¹ Thus, the order of events which one would reconstruct from Suetonius and Livy would be that Domitius passed his bill in order to become a pontifex and having achieved this ambition went on to be elected pontifex maximus a few months later. There are, however, two difficulties about this formulation. First, Asconius⁸² gives what looks like a variant version of the story of Domitius' repulsa in which it is the augures not the pontifices who fail to co-opt him; secondly, it is not altogether clear whether there would be time for the necessary sequence of events to take place between the passage of the bill and the election of Domitius as pontifex maximus. Both these problems must be examined.

80. Livy, Per. 67; cf. Cic., Deiot. 31; Val. Max., 6.5,5; MRR 1.565.

81. For March cf. below, 680ff; for 103, below, 682f. But none of the chronological arguments is conclusive and no reliance can be placed on the details; cf. further below, 692f.

82. 21 C.

Asconius' words are: "Domitius qui consul fuit cum C. Cassio cum esset tribunus plebis, iratus Scauro, quod eum in augurum collegio non co-optaverat, diem ei dixit apud populum et multam irrogavit, quod eius opera sacra populi Romani deminuta esse diceret." In no respect, is this strictly irreconcilable with Suetonius. Domitius could have suffered two repulsae, one at the hands of Scaurus and the augurs the other at the hands of the pontifices;⁸³ the first leading to his attack on Scaurus, the second to the lex Domitia. If there was a second repulsa, all the more reason for Domitius to feel resentment against the whole system of priestly elections. There is, however, one point about Asconius story which has been challenged; it has been argued that Scaurus was not an augur at all but a pontifex;⁸⁴ if this is so, we can take it that Suetonius is after all referring to the same repulsa, that the attack on Scaurus and the introduction of the lex are part of Domitius response to his rebuff and more particularly that Scaurus himself was one of the leading candidates for the office of pontifex maximus in 107⁴/3⁸⁵ whom the cheeky young Domitius succeeded

83. So, Fraccaro, Opuscula 2.136 and n.48; but he is inclined to reject the idea.

84. By Geer, C.Phil. 24(1929), 292-4; L.R.Taylor, quoted MRR 1.562.

85. Scaurus will have had formidable qualifications - consul, triumphator and princeps senatus in 115 B.C. (MRR 1.531f.; cf. n.3); censor in 109 (MRR 1.545); special commissioner under the lex Manilia (MRR 1.547); special commissioner for the grain-supply in 104 (MRR 1.561).

in defeating. Attractive though this whole picture is it falls down in its initial stage; the arguments against Scaurus' augurate are none of them cogent. Three arguments have been adduced: first, that our Domitius' father was more likely to have been a pontifex than an augur because his own father had also been a pontifex;⁸⁶ secondly, that Scaurus himself must be a pontifex, because only as pontifex could he have incurred a charge which Domitius makes against him;⁸⁷ thirdly, in ILS 9338, 4 we have the name of Scaurus' successor in whatever college he was in, but the successor was a Cornelius⁸⁸ and at that date there was already a Cornelius⁸⁹ in the augures, therefore the college in question must be the pontifices.

The first of these arguments is *worthless*. Sons sometimes go into their father's college and sometimes not;⁹⁰

86. Geer, art.cit.

87. id., ib.

88. L.R.Taylor, MRR 1.562 n.7. Scaurus' successor was L. Cornelius Scipio Asiagenus, consul 83. ILS 9338 certainly consists of a number of fragments of sacerdotal fasti; they were found in the area of the Regia. Fragment no. 4 includes a co-optation into the augurs (cf. Münzer, Hermes 52(1917), 152ff.) and this at least creates a presumption that the fasti are those of the augural college; but it is at least conceivable that there were joint fasti of augurs and pontifices kept in the Regia and none of the other co-optations listed can be placed with confidence.

89. L. Cornelius Sulla Felix.

90. For instance, M. Claudius Marcellus (cos. 222 etc.) was an augur (Livy 27.36,5; cf. Plut., Marc. 2.2); his son, consul 196, became pontifex in his consular year (infra, 626); his grandson, (cos. 166 etc.) succeeded to his own father's place in the pontifices in 177 (infra, 627); perhaps, the consul of 196 tried and failed to get his father's place in the augurs in 208. On the whole question, infra, 664.

since, as far as we know, it was usually unacceptable for a son to enter his father's college in his father's lifetime, the choice would depend on the father's dying at a conveniently early point in his son's career. Our Domitius' father died before his son had reached the tribunate;⁹¹ our Domitius' grandfather, who held the consulate in 162,⁹² may, for all we know, have lived for forty years thereafter. In any case, the argument is not directed against Asconius' story as it stands, for Asconius does not say that it was his father's place from which Scaurus ousted Domitius: that point depends on the conflation of the two stories.

The second argument raised^s interesting points, to which we shall return; but as an argument in determining Scaurus' priesthood it is little better than the first. The charge was connected with the sacra of the Dei Penates at Lavinium and we are told that it was chiefly dictators, consuls, praetors and pontifices who were concerned with these sacra.⁹³ The latest of these magistracies which Scaurus had held was the consulate in 115;⁹⁴ the argument is therefore that the charge must have arisen from his performance of his priestly duties as pontifex. But, no doubt, others than those mentioned in our scanty accounts went to Lavinium, including

91. At least, if we can trust Suet., Nero loc.cit.

92. MRR 1.442 - he was consul suffectus. His son was the consul of 122, and might already have been a priest fifteen or twenty years earlier.

93. Mac., 3.4,11; Serv., ad Aen. 8.664; 2.296; 3.12; Verona Schol., ad Aen. 1.239; Wissowa, R.u.K.², 164 and n.6.

94. MRR 1.531.

augurs surely.⁹⁵ In any case, the charge could have arisen either from some action taken in Scaurus' consulate or possibly from a reform or renovation of the shrine effected in his censorship.⁹⁶ The fact that Scaurus' consulate was ten years earlier than the charge hardly seems a serious objection to the first explanation, for Domitius' other charge of this year refers to the events of 109⁹⁷ and the Rabirius case of 63⁹⁸ is an obvious parallel.

The third argument is the most serious; the stone leaves no doubt that Scaurus' successor in 88 BC was Cornelius Scipio Asiagenes and if it be true that Sulla was at this date an augur, the election of Asiagenes would have been illegal and it becomes a virtual certainty that Scaurus and Asiagenes were pontifices. One possible way out is to think that Asiagenes was only elected augur after Sulla had left Rome and been deprived of his priesthood; it would have been a neat enough move to put another Cornelius

95. It is indeed hard to see how the charge could arise from any action an augur might take at the ceremony, but no harder than in the case of a pontifex; the incident is on any view unique in Roman life.

96. R.E.A. Palmer, Historia 14(1965), 319ff. has rightly pointed out that it is easy to exaggerate the role of the censors in the State Religion of Rome; but they certainly had some degree of responsibility for the maintenance and upkeep of the temples; cf. infra, 259 for the censorship of Aemilius Lepidus. Scaurus himself undertook the restoration of some temples, at an unknown date (Cic., de N.D. 2.61).

97. i.e. Silenus' campaign against the Cimbri cf. MRR 1.545.

98. Cic., pro Rab. perd. passim; the charge arose out of the events of 100 B.C.

in the college to ensure that Sulla could never be re-elected to it.⁹⁹ This can however, be excluded on chronological grounds; Scipio was co-opted in 88;¹⁰⁰ the Marian recovery from Sulla's coup d'état does not seem to have begun before Sulla left Italy in the early weeks of 87¹⁰¹ and Cinna changed sides.¹⁰² There is, however, another weak link: are we certain that Sulla was an augur at all? The literary texts only say that he demanded the return of his priesthood¹⁰³ when he came back from Greece; the evidence adduced to show that he was an augur, is solely the presence on his coins¹⁰⁴ and on his son's early coins¹⁰⁵ of the lituus, the

99. This assumes of course that the rule excluding a second member of the same gens applied at this date; but this is a presupposition of the whole argument cf. above. 658ff.

100. ILS 9338, 4 ll. 5-6.

101. For the date, Carcopino, Histoire romaine, 2.431.

102. Appian, B.C. 1.64, 287f.; MRR 2.56; cf. Bennett, Cinna and his times, 3ff.; Cinna introduced his bill early in 87, but it was not until winter 87/6 that the Marians took Rome and were in a position to cancel the laws of Sulla (App., B.C. 1.73, 338ff.).

103. App., B.C. 1.79, 362: ' ἦτοι δ' αὐτοὺς τῶν τε ἀγίων καὶ περιουσίαν καὶ ἱερωσύνην καὶ εἰς πᾶν ἄλλο γέρας ἔχον, ἐν ταῖς πόλεσι πάντοτε ἀποδοῦναι

104. Sydenham, nos. 60-61; for the date, M.H. Crawford, N.C. 1964, 148ff.

105. i.e. those which show the lituus before Faustus himself became an augur in about 57. The coins in question are Syd. nos. 879-81, which Sydenham, following Grueber (C.R.R.B.M. 1.472), dates to 64; no. 884, which also shows the lituus, belongs to 52. There are two difficulties: first, we only know that Faustus was already an augur in 57 and have no evidence when he was co-opted, so the early coins could refer to his own rather than his father's augurate; secondly, on nos. 880-1 the lituus is shown held by the goddess Diana and on 879 (a distinct but related type) the lituus is associated with the Diana head; if this is indeed a reference to his own or his father's augurate, it is an unconventional and astonishing one.

augural staff; it is true that the lituus does sometimes appear on the coins of those who are in fact augurs,¹⁰⁶ but also sometimes on those of men who as far as we know are not;¹⁰⁷ thus Sulla's colleague Metellus Pius also uses the lituus¹⁰⁸ and nobody has so far suggested that he too was an augur; what they do suggest¹⁰⁹ is that he is referring

106. e.g. those of Caesar late in his dictatorship (Syd. 1015; 1027; cf. 1056-7; 1075); of Hirtius (1017); of L. Semp-ronius Atratinus (1261-4) and of Lentulus Spinther (1304-9); but particularly in the series of coins issued by Antony and Octavian (Sydenham, pp.188-93). For Faustus Sulla's later coins cf. above n. 105.

107. e.g. Sydenham nos. 463; 494-5 (Minucii Augurini); 483; 720; 890 (Serveilii); M. Junius Silanus (537); Q. Pompeius Rufus (909); L. Marcius Philippus (919). All these coins raise their own difficulties, and it is impossible except for the very late republic to prove that an individual was not an augur. But it is clear that the lituus is relatively rare on coins dated before the 50's and 40's; and that on the early series with a named moneyer, it is only used by Minucii (with reference to their name and tradition) and Servilii (perhaps with reference to an ancestral augurate), apart from the Cornelii Sullae, father and son. The only case where an individual might be referring to his own augurate would be Silanus (Syd. 537), not known as an augur, though he might be. The real question is whether the automatic connection of lituus and the individual's augurate can be assumed on the basis of the evidence from the 50's and 40's; I submit that it cannot.

108. Syd. 751; cf. also 1049, an issue of Metellus Pius Scipio, also calling himself 'imperator'.

109. A.J.A. 48(1944), 352-6; and cf. *ibid.*, 639.

to the augurate of some ancestor; but this is simply a modern guess and we do not in fact know what he meant; nor do we know what Sulla meant. Quite probably, both men are simply referring to their military glory by a symbol conventionally associated with the auspices.¹¹⁰

On the other hand, there are two solid arguments against Sulla's being an augur; first, the fact that he was deprived of his priesthood suggests that it was not the augurate, which could not be removed in any circumstances whatsoever;¹¹¹ secondly, we can now stand the previous argument on its head, for Asconius says that Scaurus was an augur we have found no shred of reason to doubt this, and we have shown that Scaurus and Sulla cannot have held the same priesthood. It seems fair to say that we do not

110. It is to be noticed that Pius shows the lituus and jug with the heading 'imper[ator]', the whole enclosed in a laurel wreath; while Sulla shows jug and lituus between trophies, inscribing 'imper[ator]' above and 'iterum' below. These are, in fact, the earliest coins on which a Roman calls himself 'imperator' and the only republican coins on which we have the particular abbreviation 'imper.'
111. Pliny, Ep. 4.8,1: 'non adimitur viventi'; Plut., Q.R. 99. These texts make it absolutely clear that in the early empire it was a special privilege of the augurs as opposed to other priests that in no circumstances could they be deprived of their priesthood, even if condemned and exiled. Crifò, Latomus 21(1962), 689ff., has, however, tried to prove that the special privilege cannot be earlier than Augustus; but it seems very probable that Plutarch's account is derived from republican antiquarianism and Crifò cannot convincingly explain why the augurs should ever have acquired their special privilege unless it was an ancestral tradition that they possessed it; but the significance of the privilege may well have altered in different periods. For another augural privilege, infra, 256-257. 346 n.40

know which priesthood Sulla held, lost and demanded back but it was almost certainly not the augurate. Scaurus cannot be shown to have been a pontifex and we cannot prove anything to be wrong in Asconius' story.

If this is so, we can look critically on Suetonius' story; strictly speaking, as we have seen, the two repulsae could both have happened. But Suetonius' version looks to be coloured by malice; it is one thing to suggest, as Asconius does, that Domitius was riled by Scaurus' bias against him and sought his revenge by attacking Scaurus in the courts; Domitius would no doubt have agreed cheerfully; but it is a different matter to suggest, as does Suetonius, that Domitius' motive in introducing a major democratic bill was jealousy of the pontifices and even a desire to secure his own admission; here Domitius would surely have demurred. It is easy, too, to see how Asconius' story could be converted by muddle into Suetonius'; it is neater and rhetorically more satisfactory for Domitius to be rejected by the very college he is so soon to preside over. There are also chronological reasons for suspecting Suetonius' story and to this we turn next.

The crucial question here is whether Domitius should be thought to be already a pontifex by the year 104. The repulsa (or repulsae) can hardly be dated at all, if it is right to convert the detail that Domitius was excluded from his father's place from the Suetonius story to the Asconius

one, then the repulsa has to be later than 115 when Domitius' father is last heard of.¹¹² In any case, there is no reason to be derived from either story for thinking that Domitius had not subsequently to his repulsa succeeded in being co-opted to the pontifices and I shall argue that he almost certainly had been.

The procedure which was followed on the death of the pontifex maximus can be established with some confidence; he had to be replaced both as pontifex and pontifex maximus. We know of no case where a pontifex maximus was replaced in both his offices by the same man.¹¹³ Indeed, it seems to be almost an impossibility for this to happen. In the year 213, Cornelius Lentulus, pontifex maximus, and one other pontifex died: "In Lentuli locum M.Cornelius Cethegus, in Papiri Cn.Servilius Caepio pontifices suffecti sunt."¹¹⁴ Then, under the year 212 Livy¹¹⁵ reports the election of the new pontifex maximus: "Comitia inde pontifici maximo creando sunt habita; ea comitia novus pontifex M.Cornelius Cethegus habuit." Thus, the procedure seems to have been that the

112. As censor, Livy, Per. 63; MRR 1.531.

113. That is to say, the sources never tell us that this happened; it has been assumed to have happened in the case of Scipio Corculum and Scipio Serapio (*infra*. 623) but only on the grounds that Dio's rule, against two priests from the same gens, applied in the second century, which I have sought to disprove above. Cf. Bardt, Priester, 3; Münzer, APF 251; 260; Broughton, MRR 1.479 n.2.

114. Livy, 25.2,2.

115. Livy, 25.5,2-4.

successor as pontifex was co-opted first and then he himself held the elections for the successor as pontifex maximus. Since the holder of the elections could not himself be elected¹¹⁶ this procedure ensured that none of the existing college would lose his chance of election. Thus it becomes almost impossible for the same man to succeed to both offices at once and it would no doubt have been felt very improper for the pontifex maximus to have had no experience in the college before his election.

There is no reason to doubt that this procedure was substantially maintained until the end of the century and indeed the end of the republic. On one significant point there seems to be continuity with the practice of the principate. It has often been observed that the early principes, (who are the first men for whom we have a date of election to pontifex maximus) were all elected in the month of March;¹¹⁷ now this is about the time at which one

116. Mommsen, Staatsr., 1³.500f.

117. e.g. Augustus (March 6th., Degrassi, F.a.N., 420); Tiberius (March 10th., Degrassi, F.a.N., 421). F.A. Lepper has suggested in an unpublished paper that the Fasti Maff. sub March 6th. are referring not to Augustus' becoming Pontifex maximus but to his adoptive father, in which case both became pontifex maximus on the same day of the same month; we should then have at least one clear republican example. Lepper was inclined to think that March must have had some special religious significance in this context, but it is hard to see exactly what or why. It is, of course, always possible that Caesar (or Augustus) simply happened to be elected in March, setting a precedent which his successors followed for want of a better

would have expected the elction to take place in the third and second centuries, for, when the pontifex maximus died in 213, Livy reports the co-optation of his successor to the college at the end of the year, but puts the election of the new pontifex maximus after the beginning of the consular year 212/11, i.e. in or soon after March 212.¹¹⁸ Other elections of the early second century seem to have followed a similar pattern, though there are difficulties.¹¹⁹

118. Cf. above nn. 114-5; the beginning of the consular year, cf., e.g., Livy, 26.1,1 (211 B.C.): '...consules cum idibus Martiis magistratum inissent.'
119. In 183, Livy, 39.46,1: 'huius principio anni P. Licinius Crassus pontifex maximus mortuus est, in cuius locum M. Sempronius Tuditanus pontifex est co-optatus; pontifex maximus est creatus C. Servilius Geminus.' This seems to reflect the same order of events - co-optation of new pontifex before election of new pont. max. - but obviously if Crassus died after March 15th 183 i.e. after the beginning of the consular year, Geminus could hardly have been elected before the beginning of April. It is interesting that the co-optation of a new priest apparently happens at the beginning of the year (cf. *infra* 626.); but the sentence immediately preceding is certainly corrupt and it is possible that there is confusion between the different parts of the sentence (cf. *Gem. all. op. cit.* 9 ff.). In 180, Livy, 40.42,11-12, Geminus himself died at the end of the year and Livy places both his replacement as pontifex and as pont. max. under the same year; but here he may well be telescoping events for convenience.

The case of 152/0, when there is more than a years delay between Aemilius Lepidus' death and the election of his successor, supports the suggestion that there was a set procedure;¹²⁰ for it could well be explained if Lepidus died late in 152 and the succession had not been arranged soon enough to take place in spring of 151. Similarly, a hundred years later, when Caesar died in March 44, the election of his successor was rushed through with indecent haste and some degree of irregularity.¹²¹ The evidence on the whole subject is far from satisfactory; but at least a plausible development would be that first, in the early second century, the election happened early in the consular year, generally in March; secondly, that it remained in March when the consular year started in January instead, so that by the late republic it had become conventional to hold it in that month and no other. At least the basis of the procedure seems to have been fixed - the successor as pontifex being elected first, the elections for the pontifex maximus being held in the spring of the next year.

It now becomes very difficult to find a chronology on

120. Death of Lepidus, Livy, Per.48; election of his successor, Cic., de sen. 50: 'Scipionis qui his paucis diebus pontifex maximus factus est.' The dramatic date of the dialogue is 150 (cf. 14: 'consulibus Quinctio et Acilio'), but does not seem to be precisely fixed except by this passage.

121. Vell., 2.63,1; other sources MRR 2.333.

which Domitius could be elected pontifex early enough to become pontifex maximus by 103, unless he was already pontifex before 104. The matter would be firmly decided if it could be shown that Domitius was tribune in 103 or alternatively pontifex maximus in 104, either of which is perfectly possible. There is, however, just the possibility that he passed his bill early in 104, was elected under its terms in 104 also at the first elections held under his bill, but not as successor to the pontifex maximus, himself stood for pontifex maximus immediately and was duly elected. The point is of considerable importance, for the possibilities open, range from Domitius introducing his bill as a complete outsider to his introducing it as an established, if new, pontifex maximus. I discuss the somewhat complex evidence on the chronological question in an appendix; in what follows I shall assume at least as an hypothesis the following time scheme:-

c. 110 repulsa at the hands of the augurs.

shortly afterwards (?) co-opted to the pontifices.

Dec. 104 tribune - attack on Silanus - bill

Early 103 - attack on Scaurus (?)

March 103 - elected pontifex maximus.

Thus, I should accept Asconius' story as it stands; Suetonius' story is to be explained as a misunderstanding or misrepresentation of the incident which Asconius describes.

We are now in a position to try to assess Domitius' bill in relation to his general political position. He was responsible for two major political trials during his tribunate.¹²² We have already discussed some aspects of the trial of Scaurus. He was charged that "sacra publica populi Romani deum Penatium, quae Lavini fierent opera eius minus recte casteque fieri." It would be wrong to underestimate the originality of this proceeding; Rome knew of no charge corresponding to the Greek *δοξεία* and there were almost never major political trials arising from a religious issue. The only exceptions are the few incestum trials, notably those of 114,¹²³ and the charges against Clodius of violating the secrecy of the Bona Dea ceremonies.¹²⁴ As we have seen, we can do no more than guess at the precise nature of Scaurus' alleged offence and perhaps it does not very much matter. What we can do is to try to put the affair into a context in its time. The cult of the Penates at Lavinium, closely associated with that of Vesta, is parallel to the cult maintained at Rome by the Vestal Virgins themselves.¹²⁵ Each year the senior magistrates made a sacrifice at Lavinium¹²⁶

122. For the charge against Silanus, below. 686f

123. cf. *infra*, c. 7.

124. Cic., *ad Att.* 1.13,3; Suet., *D.J.* 6.2; 74.2; Plut., *Caes.* 9f.; Dio Cass., 37.45; Schol. Bob., 85 St.

125. Weinstock, *RE* 19.440ff.; cf. *infra*, 355ff.

126. Schol. Ver., *ad Aen.* 1.239; Serv., *ad Aen.* 8.664; cf. 2.296; 3.12; Mac., 3.4,11; cf. Wissowa, *R.u.K.*², 164 and n.6.

and it is apparently this ritual which Scaurus had in some way violated; we know that there was an intimate connection between the cult and the *salus populi Romani*¹²⁷ and hence it may be presumed that on the successful outcome of the *sacra* depended at least to some extent the successful conduct of the wars for which the sacrificing magistrates were to be responsible. It is interesting that the only other mention of this sacrifice in the second century is when, in 137, the consul received an adverse omen while making his sacrifice;¹²⁸ the consul in question was the Hostilius Mancinus who was forced to make peace with the Numantines to save his defeated army.¹²⁹ We are not in a position to analyse very precisely the significance of the Lavinium cult at Rome but it is clear that the Penates worshipped at Lavinium were the Penates carried from burning Troy by Anchises and Aeneas and brought first to Lavinium where the Trojans first resettled.¹³⁰ There, too, were the sacred relics from Troy, of which we know from Timaeus.¹³¹ Two points, then, might be thought to connect with Scaurus' trial; first, it happened at a time of complete disaster

127. cf. especially Cic., *pro Font.* 47-8.

128. Obs., 24; Livy, *per.* 55; Val. Max., 1.6,7; cf. Oros., 5.4,19; Auct. de vir. ill., 59,1.

129. cf. *infra* 789 n. 75.

130. For the Trojan legend, *infra* 153f.

131. Egt. 59, Jacoby from Dion. Hal., *A.R.* 1.67,4; cf. Varro, de L.L. 5.144; Mac., 3.4,11.

for Roman arms between the tragedy of Arausio and the eventual recovery under Marius;¹³² secondly, it comes at the time when we can trace the first attempts by the gens Iulia to exploit their special position in the direct line from Aeneas.¹³³ Can we establish Domitius' relationship to Marius the coming saviour of Italy and his wife's family, the resurgent Aeneads?

Here we meet the basic contradiction in Domitius' career. His activities in his tribunate show him at that stage as an extreme popularis; to be more precise the attack on Silanus and that on Scaurus put him in a close relationship to the activities at the same time of Saturninus and Norbanus, who were at this time violently and persistently attacking the record of the successive commanders against the Cimbri and Teutones;¹³⁴ Saturninus and Norbanus prosecuted Caepio and Mallius in 103¹³⁵ and both of them were in conflict with Scaurus¹³⁶ at this period; Domitius prosecuted Silanus for his earlier adventures against the Cimbri¹³⁷ and Scaurus on the charge we have discussed. That

132. Arausio was fought on Oct. 6th. 105, sources, MRR 1.555; 557.

133. Syd. nos. 476, 493, both late second century, representing Venus and Cupid, with apparent reference to the divine origins of the gens.

134. i.e., in particular, the commanders who had failed in 105.

135. For sources on the 'seditio Norbani', MRR 1.563-4. For the relative dating, *infra*, 642 ff

136. Scaurus had replaced Saturninus in charge of the grain supply in Ostia the previous year; cf. Cic., Sest. 39; de H.R. 43; Diod., 36.12; MRR 1.560. He was also deeply involved against Norbanus and on behalf of Caepio; cf.

Val. Max., 8.5,2; Cic., de or. 2.197; 203.

137. Cic., Corn. ap. Asc. 80-81 C; div. in Caec. 67; Verr. 2.2.118.

charge can be seen now as related to the charge against Silanus, in so far as its gravamen is that religious irregularities had led to the military disasters of the following ten years. Perhaps, too, it can be connected with the Virgin-trials of 114, which I have argued elsewhere¹³⁸ represent an attempt to exploit against the priestly establishment the known menace of Gallic invaders. Thus, the activities of Domitius, Saturninus and Norbanus, make a coherent attempt to exploit the military situation in Marius' interests.

When Domitius' tribunate was over, however, there is little or nothing in the rest of his career to suggest any kind of attachment to Marius; it is not surprising, of course, to find him in the list of those who supported Marius when he finally turned on Saturninus in 100.¹³⁹ What does show him as far closer to the optimates than one would have expected is the correspondence which Gellius¹⁴⁰ mentions between him and the exiled Metellus Numidicus, Marius' bitterest enemy whose return he opposed to the end. By the time of his censorship, he seems to have moved firmly

138. *infra*, c. 7.

139. Cic., pro Rab. perd. 21; on this stage of Domitius' career, cf. Drumann-Groebe, 3.14 (no. 4); Münzer, RE s.v. Domitius 21, especially col. 1326.

140. 15.13,6; 17.2,7.

into the tradition of Cato and Numidicus, appearing as the unbending critic of the luxurious degeneracy of his colleague as censor, the orator Licinius Crassus.¹⁴¹

It is easy enough to describe his policy in his tribunate as a brief flirtation with the populares and indeed the whole sequence of his activity can be explained in relation to his candidature for the office of pontifex maximus. In his search for that office he associates himself with the popular movement of the times - the bandwagon of Marius; in so doing, he is able to represent himself also as the protector of the religious traditions which a pontifex maximus ought to have close to his heart; yet, he can also contrive to court ^{still} ~~yet~~ more votes by ending the priestly monopoly of its own membership and represent this too as being done in strict accordance with religious tradition. One or two of the points we have examined, however, might give one pause here. In the first place, we have seen that his feud with Scaurus was of some considerable standing and not simply assumed in 104 for temporary political purposes.¹⁴² Secondly, if he was co-opted

141. Cic., Brut. 164-5; de or. 2.45; 227; 242; Val. Max., 9.1,4; Plin., N.H. 17.1ff.; Suet., Nero 2; Mac., 3.15, 3-5; Plut., de inim. util. 5; pr. rei pub. ger. 14.24; Ael., H.A. 8.4.

142. above .671ff.

pontifex before the passage of his bill, this implies that he had some considerable support amongst the pontifices of that time. Unfortunately, we know the name of no single pontifex at this date, for our lists are here at their lowest ebb.¹⁴³ It is worth asking though whether we can assume that Domitius' bill met with the astonished opposition of colleagues who felt that he had betrayed the faith they put in him or whether it is conceivable that in putting the bill forward he represented at least a section of priestly opinion. To sum up, Domitius' political career is to say the least equivocal; we must return to see whether the bill reflects the equivocal nature of his position.

There is no question that the general attitude of the so-called *factio* will have been hostile to Domitius' bill. This is shown, if it needs showing, by the attitude of the opposition in 145 and by the fact that one of Sulla's acts was to cancel Domitius' bill. But this does not altogether settle the matter; times had changed since 145 and events since the death of C. Gracchus had shown that popularis activity was not to be simply the very occasional and short-lived rebellion, but was a fact that had to be accepted and dealt with regularly year by year.¹⁴⁴ There may well have been those who felt that it would only be a matter of time

143. ~~below infra~~, 69ff

144. cf. the very acute remarks of Badian, JRS 46(1956), 91ff.

before some enterprising tribune turned his attention to the archaic method by which priestly colleges renewed themselves. The fear may well have been sharpened by the severe snub to the pontifices entailed by the transfer of the Virgin-trials to a quaestio in 113.¹⁴⁵ Moreover, even Sulla seems to have admitted that there was at least some need for reform in these years, for at the same time as he abolished Domitius' system, he increased the number of priests in the colleges.¹⁴⁶ Both could be attempts to deal with the problem which Domitius' repulsa suggests - that there were too many men seeking too few priestly places and that this led to excessive control of the membership by any group which contrived to obtain majority control.

Is it then fair to look upon Domitius' lex as to some extent a compromise measure which might have been looked upon as a moderate attempt to avoid some more extremist measure? We have seen already that the detailed provisions of the bill represent a consistent attempt to ensure that the existing priests should not exercise excessive influence over the result or short-circuit the popular election. But the main provisions of the bill can also be looked at in another light; both the clause restricting nominations to the existing members of the college and that which forbade

145. *infra* ch. 7.

146. Livy, per. 89.

the election of more than one member of the gens can be looked upon as restrictions on the freedom of the comitia to elect the candidates they liked. Nominations remain under the firm control of the college; only the final choice is removed. The ban on two members of a gens will prevent a concentration of members of popularis families, just as of optimates.

Of course, this is not to say that his colleagues can have liked the outcome of the campaign. Even if not the newest, he must have been a relatively junior member of the college. Some of the men who co-opted him must have been his unsuccessful competitors in the elections and it is hard to believe that they foresaw or liked the outcome of Domitius' campaign. The whole sequence of events is of course extremely reminiscent of the events forty years later, though with the difference that Caesar was already praetor when he became pontifex maximus and had by that time been pontifex for fully ten years. Domitius' rise was even more spectacular.

Appendix: the chronology.

The chronology given in the text (p. 683) depends on Mommsen's suggestion (Staatsr. 2³.29 n.3) that the difference in dating Domitius' tribunate between Asconius (80 - 81 C) and Velleius (2.12,3) is to be explained by Asconius' referring to December 104, and Domitius' having been tribune in 104/3. Niccolini (Fasti, 191) argued against Mommsen (a) that the attack on Scaurus ought to precede the bill abolishing co-optatio, because it is connected with Scaurus' refusal to co-opt Domitius; (b) that the order of the fragments of Dio in the Excerpta Constantiniana (Boissevain, 1.fgts. 92 and 93) indicates that the attack on Scaurus happened either before or during the praetorship of P. Licinius Nerva in 104; (c) that the election to pontifex maximus is said by Livy to have been 'suffragio populi' and hence must have followed the passage of the lex Domitia. (c) is tied to the view that the lex Domitia affected the election of the pontifex maximus as well, which is certainly not true: but if the other two points are valid, we should have to place both the attacks, on Silanus (specifically dated 104 by Asconius l.c.) and on Scaurus in the last three weeks of Dec. 104. But (a) is not compelling - why should not Scaurus be attacked after the lex Domitia? and (b) is only as secure as the dating of Nerva's praetorship to 104; this depends on the fragments of Diodorus Bk. 36, which

describe the three successive governors of the island at the time of the revolt there (Diod., 36, 3-9 cf. MRR 1.559; 564; 568). But the only fixed point in the whole sequence seems to be provided by Diod., 36.3;

Marius was given permission to recruit troops from abroad but found that Nicomedes of Bithynia refused

because 'τοὺς πλείους τῶν Βιθυνῶν ὑπὸ τῶν δημοσιωνῶν
ἐπαρχίας!
διεπαγμένους δουλεύειν ἐν ταῖς. As a result, the senate passes

a decree 'ὅπως μηδὲς σύμμιχας ἐλεύθερος ἐν ἐπαρχίᾳ
δουλεύη ...': Nerva accordingly set himself to free

the wrongly enslaved. Marius' exchange with Nicomedes no doubt belongs in the year of his second consulship, but there is no way of telling when the senate passed its decree and 103 seems a perfectly credible date for Nerva's governorship. Placing Domitius' tribunate as well as his election to pontifex maximus in 103, gives a tight chronology - both the religious charge against Scaurus and the bill will fit neatly into the campaign to become pontifex maximus.

However, although Asconius p. 80 C only says that Silanus was consul five years before Domitius was tribune, which he might well take from 109 - 104, if he knew that the attack on Silanus belonged to Dec. 104, it is harder to explain 81 C, where he is simply giving the date of the tribunate and gives the consulship of Marius 11 and Fimbria. It is unwise to reject Asconius in favour of Velleius and doubt must remain.

PART III. Generals and Politicians

13. The generals

It has long been realized that the period of Marius and Sulla provides us with a quarry for precedents to the divine or nearly divine honours assumed by the great imperatores of the last years of the Republic and the Roman Emperors themselves.¹ But attempts at the general assessment of the religious and political importance of these steps towards ruler-cult in the context of their own time have tended to concentrate almost entirely on the question of Sulla. In particular, Carcopino² laid ~~tremendous~~^{great} emphasis on the religious side of Sulla's activities in seeking to show that during his brief regnum at Rome, he was, in fact, seeking to establish a permanent monarchy on the model of the Hellenistic kings. These notions have since been very effectively criticized by Balsdon,³ who sought to show that there was no special devotion to the Italian Venus either in Sulla's career in general or in his assumption of the cognomen Felix, and particularly by Erkell⁴ who tried to show that Felicitas, far from being any special achievement

1. Cf. e.g., A. Alföldi, Die Geburt der kaiserlichen Bildsymbolik, Mus. Helv. 7(1950), 1ff.; 8(1951), 190ff. (esp. 205ff.); 9(1952), 209ff.; 10(1953), 103ff. (esp. 104f.); J. Tondriau, (S.O. 27(1949), 128ff.; S. Weinstock, H.T.R. 50(1957), 211ff. Cerfaux-Tondriau, Le culte des souverains, 51ff., offers a full, though very uncritical, bibliography of the subject in general up to the early 1950's; cf. also Taeger, Charisma, 2.1ff.
2. Sylla ou la monarchie manquée, (1931), esp. 79-119.
3. JRS 41(1951), 1ff.
4. Eranos 41(1943), 77-89; Augustus, Felicitas, Fortuna (1952), 43ff; 93ff. (detailed criticism of Carcopino, op.cit.); For further bibliography below

of Sulla's own was simply a traditional attribute of the Roman general as a triumphator. Others have concentrated on the less profitable question of how far Sulla was sincere in his belief in his own divine mission and how far he assumed it for purposes of morale; was he, as Carcopino put it, with brutal rationalism, 'dupe ou menteur'?⁵

I want to concentrate on two questions: first, how far was Sulla remarkable amongst his contemporaries, an innovator in religious matters and how far was he simply behaving as the practice of his day allowed or expected; secondly, how far was his emphasis on his luck, his *Felicitas*, a traditional attitude amongst Romans of his own and previous generations. In other words, I shall try to place Sulla's religious activities in the context of what we know about others and thus to place it in some perspective in the history of Roman religion. The clear evidence about Sulla himself can be summarized fairly briefly.

At various stages of his career he received prophetic signs or was guided by dreams and oracles. The earliest we hear of⁶ was during his service in Cappadocia in the nineties, when a Chaldaean who accompanied a Parthian

5. *op.cit.*, 105; for Sulla the mystic, cf. especially C. Lanzani, Lucio Cornelio Silla dittatore, 287f.

6. *Plut.*, Sulla 5.11. This was during his Eastern praetorship; cf. for the date, E. Badian, Athenaeum 37(1959), 379ff.; MRR Suppl. 20f.

embassy foretold that Sulla was destined to attain the highest eminence; no doubt, this was a discreet prophecy⁷ but it may well have been the origin of Sulla's reputation as man marked out by fate and perhaps of his own conception of his destiny. A second incident occurred during the Social War; a crack opened in the earth and a flame leaped up towards the sky;⁸ this was interpreted to mean that a man 'ἀγαθὸς ὄψει διάφορος καὶ περὶ τὸς ἄρξας τῆ πόλεως ἀπαλλάξει τῇ πόλει ταραχὰς τὰς παρούσας.'

Both these stories come from Plutarch's Life and quite probably originate in Sulla's own Memoirs, which Plutarch used elsewhere;⁹ it should be noticed that the second story represents a private interpretation of a prodigy, though it may be that the same prodigy was also referred to the senate.¹⁰

7. For the circumstances of Sulla's mission, cf. Plut., loc.cit.; Livy, per. 70; Vell., 2.24,3.
8. Plut., Sulla 6.11-13; cf. Obs. 54; Oros., 5.18,5; below n.10.
9. The first story has no specified source but is likely enough to come from the Memoirs: the second follows immediately after two specific references to the Memoirs and is specifically attributed to Sulla. For Plutarch's use of the Memoirs in the Life, cf. Plut., Sulla 6.8; 14.3; 14.10; 23.5; 37.2; cf. 4.5; 5.2; 16.1; 17.2; 19.8; 28.15; 27.11; Peter, HRR, 1.CCLXXIff.; 195ff. (fragments).
10. Cf. under 91 B.C., Obs., 54, where a very similar prodigy is reported from 'Aenariae terrae' i.e. Ischia, if the text is correct; Orosius places the prodigy 'in Samnitibus'; Plutarch, at Laverna; Oudendorp proposed 'Aeserniae' as a correction to the text of Obsequens; Peter 'Ἀισερνίαν' for 'Ἀσιβέρνην' or 'Ἀσιβέρνιν' in Plutarch; all three authors would then be referring to Sulla's campaigns against the Samnites in 89 (App., B.C. 1.51, 223ff.; MRR 2.36); Obsequens' account would presumably imply that the matter was taken up as a State prodigy, but, if so, his date must be wrong.

The first critical decision of Sulla's career came during his consulship of 88, when after leaving Rome in the face of Sulpicius Rufus' attack on his position, he reacted by marching on the city with the army he was due to take to the East;¹¹ it was on this occasion, too, that we first find him making direct use of a religious method. He announced to his army that the goddess Ma had appeared to him in a dream,¹² placed a thunderbolt in his hand and listed to him the enemies against whom he should strike. We have no indication of how great a role this divine revelation played in persuading Sulla's troops to follow him, but it is clear enough that the task of persuasion cannot have been altogether an easy one and that Sulla's reputation as a destined conqueror must have helped.¹³

During his stay in the East, we hear of various further

11. App. B.C. 1.55,241ff.; Plut., Sulla 7.1ff.; Marius 34f.; MRR 2.40; cf. H. Völkman, Sullas Marsch auf Rom (1958).
12. Plut., Sulla 9.7; Plutarch defines her as '... θεὸν ἢν τιμῶσι Ῥωμαῖοι παρὰ Κεπιαδόκω μισθόντες, εἴτε δὲ Ξερῆλιν οὐδὲν εἶτ' Ἀθηναῖον εἶτ' Ἐνυόε'.
13. So, Carcopino, Sylla, 101f.; though it should be noted that this reconstruction is based purely on inference; Plutarch, Sulla 9, in fact represents the soldiers as showing enthusiasm for the march and Sulla as hesitating about it (cf. App., B.C. 1. 57,250ff.); he regards the dream as a decisive influence in resolving Sulla's doubts and does not even say that it was announced to the troops but only to Sulla's colleague. But Plut., Mar. 35.6, attributes the whole initiative to Sulla himself and it is not easy to believe that the dream was kept a secret; for opposition to his plans at least amongst his officers, App., B.C. 1.57,253; for the significance of this, Gabba, Athenaeum 29(1951), 188; 206.

prophecies; Thus, the oracle of Zeus at Lebadeia predicted Sulla's conquest not only of Greece but of Italy;¹⁴ while Delphi¹⁵ instructing him to make offering to the Gods and especially to Aphrodite in Caria, predicted ' ἡρώτος
 ἡμφιλαφές σοι ' if he obeyed; and at Peiraeus, a prediction of victory by a haruspex preceded the capture of Athens.¹⁶

Meanwhile, Sulla had acquired a statuette of Apollo taken again from Delphi;¹⁷ this he used to good effect at the battle at the Porta Collina after his return to Italy, praying for its continued support in the crisis.¹⁸ On his return to Italy, other signs followed his progress; a laurel wreath was found engraved on the liver of a sacrificed beast at Tarentum;¹⁹ another prediction urged him to hurry to Rome to save the most sacred of sanctuaries from fire,²⁰ though, alas, the fire on the Capitol had already happened. We hear of other signs and dreams less precisely dateable.²¹

14. Plut., Sulla 17.1f.; Aug., C.D. 2:24.

15. App., B.C. 1.97,453; cf. Baisdon, art.cit., 8f.; Carcopino, Sulla, 110; R. Schilling, La religion romaine de Vénus (1954), 281f.

16. Obs., 56b.

17. Plut., Sulla 29.11; Frontinus, Strat. 1.11,11, Val. Max., 1.2,3. One should perhaps think of a sacred object rather than just a lucky charm; it was carried 'ἐν τῇ ἑορτῇ', but this is not unparalleled for 'sacra' in antiquity (examples collected by Weinstock, RE s.v. Penates, 435f); Sulla would presumably set it up to pray to it.

18. Plut., Sulla 29.12.

19. id., ib. 27.7.

20. id., ib. 27.12.

21. App., B.C. 1.97,455, quotes Sulla's dedication to Aphrodite of Aphrodisias, which reports that Sulla had seen her too in a dream. Dateless, too, is the prediction of his supreme felicitas by the haruspices, cf. infra, 581.

It is striking that all this material comes from the last ten years of Sulla's life and it is worth asking whether he had always believed in and advertised his luck. It might be that a great deal more information of this kind would be available if we had a more detailed knowledge of the earlier stages of Sulla's career. On the whole, it does not seem likely. As Balsdon noted,²² that career was not strikingly successful until the very year 88 in which we first hear of an inspired dream; for between his celebrated capture of Jugurtha and his achievements in the Social War, which led up to his consulate of 88, Sulla's progress was undistinguished and even slow. Moreover, the direct evidence of Sulla's Felicitas also derives from this same period. He took the name Felix after the capture of Rome in late 82,²³ though it is possible that he had used his corresponding Greek name 'Epaphroditos' rather earlier.²⁴ The names Faustus and Fausta were given to the children born in about 86.²⁵ The two curious examples of Sulla's luck quoted by Plutarch concern his capture of Athens,²⁶ and his relations

22. art.cit., 3.

23. App., B.C. 1.97,451f.; Plut., Sulla 34.3-4; cf. Diod., fgt. 38.15. For discussion of the chronology, Balsdon, art.cit., 4-5.

24. So, Balsdon, art.cit., 9-10, but nothing can be proved. However, the mere fact that 'ἐπαφροδίτου' was preferred to more obvious translations of Felix (and, indeed, the fact that an official translation was provided at all) suggests that the name was already in use when Sulla was in the East.

25. For Faustus and Fausta the date of their birth, RE 4.1515. Carcopino, Sylla, lll n.5, argued that they were not named before 82, but this hardly seems likely.

26. (Plut.), Moralia 202E; the luck consisted in his being able to protect the city from total destruction.

with his colleague in the consulship of 80, Metellus Pius.²⁷
 To the time of his dictatorship there also belongs the story
 of Valeria, later his second wife who snatched a thread
 from his robe in the hope of sharing a little of his luck.²⁸

The concentration of the evidence in these latter years,
 is the more impressive when it is remembered that Plutarch
 was drawing on Sulla's lengthy memoirs and might very well
 have preserved examples of Felicitas from earlier in Sulla's
 life had he recorded them. It seems clear that the Memoirs
 were written late in the dictator's life, perhaps after his
 retirement,²⁹ and Plutarch's quotations make it certain
 that the subject of prophecies, omens and dreams was treated
 very seriously in them. Sulla proclaimed his belief that
 those of his enterprizes had best prospered in which he had
 trusted most to his luck³⁰ and he advised his old lieutenant
 Lucullus to rely on nothing so freely as his dreams.³¹ It
 is hard to believe that these last published thoughts were
 intended to pursue any political purpose and they must
 surely represent the substance of Sulla's views at least at

27. Plut., Sulla 6.9; Moralia, loc.cit.; he had apparently
 expected trouble from Metellus and was pleasantly sur-
 prised at his amenability.

28. Plut., Sulla 35.5ff. cf. Erkell, Augustus etc., 110.

29. For the date of composition, Peter, HRR, 12.CCLXX.

30. Plut., Sulla 6.8.

31. id., ib. 6.10.

this date. He had, again according to Plutarch, made much the same point in his speech to the plebs after his triumph.³² It is often found puzzling that a successful man should thus emphasize his luck at the expense of his credit; to this point we shall return.³³ It is important to notice here that if we are to take Sulla's words seriously his claim was not that he had always been especially lucky, but rather that it was when he trusted his luck most, that he succeeded best; he may therefore perfectly well have shared the view that his career before 88 was neither particularly lucky nor particularly successful.

A second aspect of the evidence concerns Sulla's adherence to particular cults, gods and goddesses. Here, it is difficult to find any special affiliation and Sulla can fairly be called an eclectic. The statuette he carried was of Apollo.³⁴ His dream in 88 was of the goddess of Cappadocia.³⁵ In Athens, he was initiated into the mysteries of Eleusis.³⁶ After Chaeronea, he made a dedication to Ares, Nike and Aphrodite.³⁷ At Sicyon he made a dedication to Ares.³⁸ Back in Italy, he made a gift to Diana at Tifata;³⁹ contributed

32. id., ib. 34.3.

33. cf. below. 744ff.

34. above n.17.

35. above n.12.

36. Plut., Sulla 26.1.

37. id., ib. 19.9.

38. Année épig., 1939, 43 = B.C.H. 1938, 459.

39. Vell., 2.25,4; CIL 10.3828.

to the temple of Fortuna at Praeneste.⁴⁰ In Rome he dedicated a tenth of his wealth to Hercules.⁴¹ His final work which he did not live to complete, was the restoration of the temple of Iuppiter on the Capitol at Rome.⁴² The permanent games which he founded were to Victoria.⁴³ The name he took came from Felicitas.⁴⁴

Two points here need special emphasis. First, there is some reason to think that Sulla regarded himself as a special devotee of Aphrodite. The Delphic oracle had ordered him to make a dedication to the Aphrodite of Aphrodisias in Caria and he duly sent a silver axe with an epigram recalling that he had dreamt of Aphrodite in the panoply of war.⁴⁵ He also included her, rather surprisingly,

40. Pliny, N.H. 33.61; this is the only evidence specifically connecting Sulla with the Fortuna of Praeneste; it is possible that the restoration of the temple was carried out under his patronage, though the excavators of the site (F. Fasolo - G. Gullini, Il santuario della Fortuna Primigenia a Palestrina (1953)) dated the magnificent temple, which still partly survives, to the middle of the second century; but, contra, Lugli, Rend. Acc. Nap. 29(1954), 51ff., defending the traditional first century date.

41. Plut., Sulla 35.1ff.

42. Val. Max., 9.3,8; Tac., Hist. 3.72; Pliny, N.H. 7.138.

43. Vell., 2.27,6; cf. Degrassi, F.a.N., 525f.

44. above n.23.

45. App., B.C. 1.97,453ff.

in his dedication after Chaeronea.⁴⁶ The evidence would not perhaps take us very far except that we know that the Greek version of 'Felix' was 'Epaphroditos', a name which obviously incorporates the name of Aphrodite and it could be that Sulla was by using it emphasizing his special connections with that goddess. Even here, however, we are treading thin ice. It is not clear that 'Epaphroditos' can mean the favourite of Aphrodite or the like;⁴⁷ nor is it clear that 'Epaphroditos' was an official translation of 'Felix' in the sense in which 'Sebastos' was the official equivalent of 'Augustus'. All we know, is that Sulla used the name 'Epaphroditos' in official contexts in correspondence with the East;⁴⁸ he might have chosen it for its association with Aphrodite but it might also be for reasons accidental and undiscoverable.

46. above n.37.

47. For an acute, though necessarily inconclusive, discussion cf. Erkell, Augustus etc., 82-4; the points which seem reasonably clear are (a) that ~~Ev~~ the name of a god cannot be paralleled in the sense of 'favourite of...'; (b) that the normal meaning of the word and the sense in which it was perhaps originally applied to Sulla was 'fascinating' or 'charming' (for Sulla's charm (despite the red blotches) cf. Plut., Sulla 2.7); (c) that ancient writers were already puzzled by the name and that their suggestions (e.g. App., B.C. 1.97,452f.) were based on theorizing rather than fact.

48. Plut., Sulla 34.4. Something should perhaps be added on the subject of Sulla's alleged connection with Venus, as opposed to Aphrodite; Erkell, Augustus etc., 85ff. and, better, Balsdon, art.cit., 5ff. seem to me to have conclusively eliminated all the evidence connecting Sulla and Venus; R. Schilling, La religion romaine de Vénus, 272ff., is quite unpersuaded and devotes many pages to the subject, but without answering the arguments or producing new ones. There is simply no evidence on the subject.

The second point of importance is the foundation of the ludi Victoriae. These were permanent games, the first new ones to be added since the ludi Apollinares of the Hannibalic War and the ludi Megalenses which became regular in 191.⁴⁹ From 81 onwards, they were apparently a regular annual event and in the early stone calendars they occupy 7 days ending on the 1st of November.⁵⁰ They are here referred to as the ludi Victoriae Sullanae,⁵¹ but Mommsen⁵² observed that in Cicero's day they were simply the ludi Victoriae⁵³ and suggested that it was only after the addition of Caesar's games that 'Sullanae' was added by way of distinction. They are, however, games specifically in memory of a single Victoria, for November the first is the anniversary of Sulla's final victory over the Marians at the Porta Collina in 82.⁵⁴ This is by far Sulla's most remarkable contribution to the religious life of Rome; there had previously, as we have seen, been games specific to a particular commander,⁵⁵ but only games resulting from a vow and celebrated on one occasion and quite

49. Cf. *infra*, 28ff.

50. cf. Degraffi, *F.a.N.*, 525f.

51. Ludi Victoriae Sull(ae or anae), *Fasti Arv.* and *Sab.*; lud(i) Vict(oriae), *Fasti Maff.* cf. also Vell., 2.27,6, where they are called simply Sullanae, presumably omitting 'Victoriae'.

52. *Röm. Münz.*, 625; 464; cf. Syd., no. 885 (denarius of (M. Nonius) Sufenas).

53. Cf. Syd., no. 885; Cic., *Verr.* 1.31 with Ps. Asc. 217 St.

54. App., *B.C.* 1.93,428ff.; Plut., *Sulla* 29; Sall., *Hist.* 1.40 (Maur); *MRR* 2.69.

55. cf. *infra*, 28ff.

distinct from the State's occasional votive games and from the permanent games of the *ludi Romani*, *plebei*, *Apollinares* and the rest; it is just possible, though I think unlikely, that Marius had also founded permanent games⁵⁶ but, with this speculative exception, Sulla was the first individual founder of such games. There is a little more evidence of Sulla's interest in Victoria as a cult: Victoria was one of the recipients of the dedication after Chaeronaia;⁵⁷ Sulla may well have been connected with games to Victoria founded at this time at Oropus;⁵⁸ the coins, too, connect Sulla with Victoria.⁵⁹ It is harder to see precisely what the cult meant in Sulla's hands, but we know that in practice, as in theory, the cult of the victor was intimately connected with the general's *felicitas*.⁶⁰ The Victoria for Sulla seems to be specially concerned with the civil war and his victory over the Marians;

56. cf. below, 721 ff.

57. cf. above n. 37.

58. SC de Oropiis, SIG³, 747 = Bruns, 42 = Riccobono 36.

59. Syd., no. 756 (Pl. 22) shows Sulla triumphant, crowned by a flying Victory. For the date, Crawford, *N.C.* ser. 7, 4(1964), 148ff. For the popularity of Victoria at this time cf. below n. 105.

60. For the cult associations of Victoria or Venus Victrix with Felicitas, cf. (a) a shrine on the Capitol to Venus Victrix and Fausta Felicitas (*Fasti Amit.* sub Oct. 9th.; cf. Wissowa, *R.u.K.*², 266 n. 6). (b) Pompey's shrines in his theatre cf. below n. 140, which included Venus Victrix and Felicitas, if not Victoria as well. (c) Caesar's passwords - Venus Victrix at Pharsalus, Felicitas at Thapsus (App., *B.C.* 2.68, 281; 76, 319; cf. Weinstock, *H.T.R.* 50 (1957), 226 n. 90); (d) The cult of Victoria et Felicitas Caesaris, known from *CIL* 9.5904.

for not only is the battle of the Colline Gate the occasion for the ludi, but Sulla was also responsible for the destruction of Marius' golden Victoriae on the Capitol.⁶¹

We have considered so far two kinds of evidence - that concerned with the signs and prophecies which marked Sulla out as the man of felicitas and the different cults to which he devoted his attention. A third category of evidence is concerned with the honours which he received, particularly during the last years of his life. He was granted, probably officially though we do not know exactly how, the cognomen Felix.⁶² He held a magnificent triumph⁶³ and gave extravagant displays on the occasion of his dedication to Hercules.⁶⁴ He was hailed by his supporters as Saviour and Pater patriae,⁶⁵ though we have no reason to think that these titles were officially conferred. The comitia voted him the honour of having a gilded equestrian statue, which stood before the rostra and which bore a dedication to Cornelius Sulla Felix the Dictator.⁶⁶ These

61. Val. Max., 6.6,14; Suet., D.J. 11; Plut., Caes. 6.1; Vell., 2.43,4.

62. Plut., Sulla 34.3, speaks as if Sulla conferred the name on himself by decree and Diodorus (fgt. 38.15) implies the same. App., B.C. 1.97,451 reports the use of the name in the SC dealing with the equestrian statue; Balsdon (art. cit., 1; 9) speaks of confirmation by the senate; Erskell (Eranos 41(1943), 77ff.) thinks of official confirmation by the comitia; but we do not really know.

63. Act. Tr.; Cic., de imp. Cn. Pomp. 8; Val. Max., 2.8,2; Pliny, N.H. 33.16; Plut., Sulla 34.1f.; App., B.C. 1.101, 473; Eutrop., 5.9.

64. above n. 41.

65. Plut., Sulla 34.2.

66. App., B.C. 1.97,451; cf. ILS 870 (from Suessa); cf. 871-4. On variations in wording, Balsdon art.cit., 4 n. 50. He was the first to receive the honour of a statue in his lifetime, though others did later, Cic., Phil. 9.6,13; Dio Cass., 42.18,2; 43.49,1; Suet., D.J. 75; but cf. below, 120-121.

are striking and exceptional honours, but even more striking is the complete absence of any hint that Sulla was offered or aspired to any kind of cult or deification, whether spontaneous or official. We hear of games to his honour in one Greek city,⁶⁷ and that is all. In some respects, he does anticipate the honours granted to Augustus and his successors - the honorific cognomen, the golden statue, the founding of permanent ludi - but he seems to have kept firmly to the honours proper to a mortal. We have not even reason to think that he toyed with the qualified aspiration to divinity which seems implied by the evocation of Alexander the Great in the cases of some of his contemporaries.

67. IG 2². 1039 mentions sacrifices at the Syllaea.

So much for Sulla. The only figure of the period comparable either in his achievements or in terms of our knowledge of his activities was his old commander and rival, Marius, to whom we turn now. Compared with Sulla's, Marius' religious activities have aroused very little interest; it is easy enough to see why: whereas in Sulla's case his religious policy has been thought to be relevant to his political intentions, scholars have tended to concentrate rather on the issue of Marius political sophistication or naiveté.⁶⁸ Moreover, we have no first-hand information to compare with Plutarch's quotations from Sulla's Memoirs, we have no coins which can be directly referred to him or his interest and he never ruled at Rome as did Sulla. Yet on a close examination there seems to be surprisingly little tangible difference between their activities. Again, the evidence can conveniently be divided into three categories - the prophecies, signs and evidences of good fortune which accompany his career; secondly, the cults in which he takes an interest; thirdly, the honours which he assumes or which are voted to him.

68. cf. especially, A. Passerini, Caio Mario come uomo politico, Athenaeum 12(1934), 10ff.; 109ff.; 257ff.; 348ff.; F.W. Robinson, Marius, Saturninus and Glaucia, (1912); R. Weynand, RE suppl. 6.1363ff. (1935); E. Badian, Historia 6(1957), 342ff.; T.F. Carney, A biography of C. Marius, P.A.C.A. suppl. 1(1961). For Marius' origin-ality in the sphere of religion see now J.Cl. Richard, M.E.F.R. 77(1965), 69ff.

The first prophecy we hear of is delivered by Scipio Aemilianus when Marius was first serving with great distinction at Numantia; Scipio, the story goes, was asked who would succeed him as the Roman people's 'ἡγεμόνα καὶ προστάνην': Scipio tapped Marius on the shoulder and said "τῶχα δὲ τοῦτον". Marius was greatly uplifted in his hopes by this 'ὥστερ ὑπὸ θεοῦ κληδόνα'.⁶⁹ The story is obviously highly suspect as it stands; it seems highly improbable that Aemilianus should have guessed that this novus homo, whose early career was to show the difficulties which beset a man in his position, was destined for any great future; furthermore, the story is told in a similar form about Sulla and the young Caesar.⁷⁰ The important question is when the story first circulated; it seems quite likely that it might have been used in connection with Marius' election as consul and his appointment to the command in Africa, for Numantia was very much a Scipionic sphere of influence.⁷¹

The next occasion is less open to doubt; "per idem tempus Uticae forte C. Mario per hostias dis supplicanti magna atque mirabilia portendi haruspex dixerat: proinde quae animo agitabat, fretus dis ageret, fortunam quam saepissime experiretur; cuncta prospere eventura."⁷² Plutarch tells

69. Plut., Mar. 3-4; cf. Val. Max., 8.15,7.

70. For Sulla, cf. Auct. de vir. ill., 75.1; for Caesar, Suet., D.J. 1.3; cf. in general, Carney, Marius, 30 n.81.

71. For the Scipiones as patrons of Massinissa of Numidia, cf. Val. Max., 5.2,4; App. Lib. 105-6; Zon., 9.2,7; Badian, F.C. 164; 192f.

72. Sall., B.J. 63.

the same story in less detail.⁷³ The date of this incident is (immediately) before Marius' departure for Rome to stand for the consulate.⁷⁴ Again, one may suspect that this story was spread with a political intention or even invented for the purpose; what is most important about it, is the emphasis on trusting in fortuna whenever possible. Marius, like Sulla, is the man of felicitas.

There is no hint in our accounts of Marius' campaign for the consulship that this sort of propaganda was in fact used. But Sallust does return to the theme in his narrative of Marius' first activities in Africa. He rapidly captured the town of Capsa, without loss and Sallust comments:

'Postquam tantam rem Marius sine ullo suorum incommodo peregit, magnus et clarus antea, maior atque clarior haberi coepit, omnia non bene consulta in virtutem trahebantur: milites, modesto imperio habiti simul ac locupletes, ad caelum ferre; Numidae magis atque mortalem timere; postremo omnes, socii atque hostes, credere illi aut mentam divinam esse aut deorum nutu cuncta portendi.'⁷⁵ This puts very succinctly the advantages of a reputation of being specially

73. Plut., Mar. 8.8.

74. So, Plut., loc. cit., though he does refer to Marius' hesitation at Utica; Sallust, B.J. 64, makes the incident the cause of Marius' decision. Pliny, N.H. 2.189, also refers to an extispicy at Utica, but here the omens were disastrous and the occasion (presumably) different.

75. Sall., B.J. 92.

favoured by the gods and the phrase 'mentem divinam esse' is particularly suggestive. Sallust might presumably be thinking of actual deification but more probably, he is thinking in terms similar to Cicero's well-known definition of felicitas as a divine quality of the mind of the imperator.⁷⁶

Marius' next exploit gives a further illustration: 'ea res forte quam consilio melius gesta'.⁷⁷ Marius commits himself to an attack on a mountain stronghold but rapidly finds it to be virtually impregnable. 'multis diebus et laboribus consumptis anxius trahere cum animo suo, omittetne inceptum quoniam frustra erat an fortunam opperiretur qua saepe prospere usus fuerat'.⁷⁸ Sallust is thinking of the Utica prophecy and Marius' previous exploit. His perplexity is resolved by chance: 'forte quidam Ligus' finds a route by which he climbs the mountain; 'forte' there was a tree which helped him to scale the castle. He tells Marius this and the place is duly surprised. 'sic forte conrecta Mari temeritas gloriam ex culpa invenit'.⁷⁹ The critical element is here brought out very clearly, Sallust is deliberately giving Marius no credit for the success and accusing him of a mistake in strategy.

76. Cic., de imp. Cn. Pomp. 47.

77. Sall., B.J. 92.6.

78. id., ib. 93.1.

79. 'forte quidam Ligus', 93.2; the story, 93.2 - 94; 'sic... invenit', 94.7.

Sallust's hostility at this point creates a difficulty; Sallust is far from being biased in favour of Marius⁸⁰ even though he basically sympathises with his attitude of hostility to the nobiles; he nowhere stresses Marius' achievements as a general and he gives Sulla a great deal of the credit for the capture of Jugurtha and the ending of the war.⁸¹ Again, Sallust is himself extremely fond of contrasting chance and skill.⁸² If then he emphasises as he does the role of fortuna in Marius' successes one ought to ask whether he is here using the terms in which Marius himself thought

80. Though some have thought of Marius as the hero of the piece; cf. J. Pajk, Sallust als Ethiker 1 (Progr. Wien, 1892); H.M. Last, CAH 9.137; but cf. R. Syme, Sallust, 159ff.; D.C. Earl, JRS 55(1965), 234ff. The problem is a complex one; Marius as represented in his speech (B.H. 63) on the occasion of his candidacy is expressing the very views which Sallust himself propagates as to the degeneracy of the 'factio nobilitatis', cf. (with some exaggeration, K. von Fritz, T.A.P.A. 74(1943), 134ff.) Yet this picture is not carried through with any consistency; the problem which must be faced is whether the depreciation of Marius (well outlined by Earl, loc.cit.) is the result of Sallust's own bias, or whether it reflects the material he used and his own inadequacy as a critical historian.
81. Notoriously, B.J. 102 - end is almost entirely concerned with Sulla's exploits and almost entirely ignores Marius. But, already in their lifetime, it was a subject of bitter dispute who deserved the credit for ending the war; cf. Plut., Mar. 10.9; 32.4; Sulla, 6.1; cf. Carney, Marius, 30 n. 154.
82. cf. e.g. B.J. 1.1: 'forte potius quam virtute'; 95.4: 'fortior an felicior'; cf. Erckell, Augustus etc., 147-60, for Sallust's general concept of Fortuna.

and spoke of his achievements or whether he is not rather using the idea of fortuna to belittle Marius' doings. There may indeed be an undertone of irony in his comments on Marius' reputation for felicitas as, perhaps, in the last sentence of the bellum Jugurthinum - 'et ea tempestate spes atque opes civitatis in illo sitae' - he must always have been aware of the disasters and crimes which marked Marius' later career. But he seems to me to leave no doubt that he believed Marius to have advertised and perhaps believed in his own good luck. This seems to be a clear implication of his comments on the capture of Capsa and also of his representing Marius wondering whether to abandon an apparently hopeless enterprise or trust in his fortuna as before and is specifically stated later in the work.⁸³

Plutarch has little to say on this phase of Marius' career. He does, however, give a brief but valuable hint of the part played by felicitas in Marius' repeated elections to the consulate; with reference to the fourth consulship he says that men recognized that the crisis of the Gallic invasion required 'δευότης ἄρα καὶ τύχης'.⁸⁴

83. For the specific statement of Sallust's belief in Marius' religiosity, cf. B.J. 90.1; cf. above nn. 77 and 78; for further references to Marius' luck, cf. Plut., Mar. 19.7; 27.6; Dio Cass., 26.89,2; Val. Max., 1.5,5.

84. Plut., Mar. 14.4.

During the Cimbric Wars we find Marius using a new device. A certain Syrian prophetess whom Plutarch calls Martha but who is also mentioned by other authorities,⁸⁵ had come to Rome with a prophecy of victory for Roman arms; she went first to the senate which refused to hear her and then to Julia, Marius' wife, who duly forwarded her to Marius. He not only listened to her and carried out public sacrifices under her instructions, but apparently claimed that he was taking his decisions as to the place and time at which he would fight the Gauls in the light of her advice.⁸⁶ Plutarch says that this gave rise to some doubt as to whether Marius really believed in her or was merely pretending to in the interests of morale.⁸⁷ In any case, it would be hard to say whether it is more astonishing that he should have taken military decisions on her advice or, disbelieving, have told the troops that he was doing so. Of course, the consultation of augures or haruspices before the taking of any action is a traditional and deeply ingrained part of

85. Plut., Mar. 17.2ff.; Val. Max., 1.3,4 (Nep.); Frontinus, Strat. 1.11,12.

86. Plut., loc.cit.: 'ἀλλ' ἐκ τινῶν λογίων τὸν τῆς νίκης ἄμα καθὼς καὶ τὸν τρόπον ἐκδεχόμενος'; Val. Max., loc.cit.: 'ex cuius auctoritate asserebat omnia aggredi.'

87. Plut., loc.cit.: 'τοῦτο μὲν οὖν τὸ δρᾶμα πολλοῖς ἀμφισβητήσιν παρείχεν, εἴτε πεπεισμένος ὡς ἀληθὺς εἴτε πλαττόμενος καὶ συνυποκρινόμενος ἐπιδείκνυται τῇ ἡμετέρῃ ἀνθρώπων

the Roman tradition; but a Syrian prophetess is quite another matter and there is some reason to suspect that Marius, like some of his contemporaries, was interested by Eastern religion.⁸⁸

The later part of Plutarch's narrative is full of omens and miraculous events; these belong to the romantic tradition of Marius' exile and adventures and perhaps not too much faith is to be placed in them. But it is to be noticed that they are not merely prophecies connected with his adventures but definitely emphasise that he was himself affected by his faith in them; thus, he was upheld throughout his troubles by an old interpretation of his seeing an eagle with seven young;⁸⁹ the prophets said that he would hold the highest office seven times and Marius, who had only so far held six consulships, was upheld by the belief that he still had one to go. He is also influenced by his own interpretations of signs.⁹⁰ Finally, the barbarian detailed to kill him at Minturnae flees in terror at the sight of Marius' flaming eyes;⁹¹ one is reminded of Augustus

88. cf. *infra*, 717f.

89. Plut., Mar. 36.7ff.

90. cf. Plut., Mar. 38.7ff.; 40.13.

91. Plut., Mar. 39; esp. 3.

reported vanity that nobody could look him straight in the eyes.⁹²

However much or little faith should be placed in the details of all this it is clear that Marius left the image of a man with divine qualities and assisted by divine interventions. We have already seen that he already had this reputation and probably consciously used it long before the days of his exile. When he returns to Rome, the death of the consul Octavius gives rise to the further comment by Plutarch that two men with faith in prophecy here met and Marius prevailed. Octavius a great believer in Chaldaean prophecy had stayed in Rome on their advice and died with his horoscope in his pocket.⁹³

So much for prophecies. The evidence for Marius' interest in particular cults is scrappy and unsatisfactory but in its own way suggestive and particularly so when taken in relation to the actions of later 'generals'. He shows interest in two main groups of cults: first, Eastern cults: secondly, cults with warlike or triumphal associations. In the first group, the Syrian prophetess, Martha, has already been mentioned;⁹⁴ when Marius went on his libera legatio to

92. cf. Suet., D.A. 79.2.

93. Plut., Mar. 42.7ff.; esp. 8: 'καὶ λέγεται δισέγραμμα Χαλδαϊκὸν ἐν τοῖς κόλποις αὐτοῦ φανερωθέντι εὐρεθῆναι.'

94. above nn. 85-7.

the East in the early 90's he gave as his reason for visiting Galatia and Cappadocia a vow which he had taken to the Magna Mater; Plutarch,⁹⁵ who tells us this, rejects this reason and claims that Marius was really engaged in subversive attempts to provoke a war for himself in the East. On the other hand, whatever one makes of his motives there is no reason to question that he had made a vow during the Cimbric Wars which provided the excuse for his trip. We know too that during the war the Battaces, the second to head priest of the Magna Mater at Pessinus, made a mysterious visit to Rome where he prophesied victory in the war and received great acclaim from the people as well as a favourable reception from the senate.⁹⁶ We know also that at about this time Attis had his devotees amongst the population at Rome.⁹⁷ There is another reason for thinking of a connection between Marius and the Magna Mater, which is that at this period his wife's family were beginning to develop their special connection with the legend of

95. Plut., Mar. 31.2ff.; cf. infra, (50). It was probably in 97, cf. MRR 2.9 n.7; Cic., ad Brut. 1.5,3; CIL 12.2.845 (from Delos); B.C.H. 1932, 519ff. (Picard).

96. cf. infra, 197 ff.

97. cf. infra, 192 ff.

Aeneas;⁹⁸ with this there is every reason to connect the Magna Mater.⁹⁹ This cult had originally been introduced to Rome towards the end of the second Punic War as the result of a Sibylline prophecy that only the introduction of the Magna Mater would drive the hostis alienigena from Italy;¹⁰⁰ it should be noticed that the prophecy was again applicable in the years at the end of the second century. In these circumstances Marius must have been making his vow presumably to make an offering at Pessinus.

The other group of cults, centres on Victoria and Honos

98. Our first evidence for Julian reference to the legend comes with the denarii of Sext. Julius Caesar (Syd. no. 476) and L. Julius Caesar (Syd., no. 593), both of which show Venus and Cupid, presumably with reference to the divine origin of the gens; but it is odd that we should have to wait till 48 B.C. (Syd., 1013) for a Julian coin showing the familiar scene of Aeneas bearing Anchises, whereas the scene does occur on a coin of Herennius (Syd., 567 - rightly interpreted, surely, by J. Boyancé, La religion de Virgile, 60f.). More specific evidence is provided by the Julian connection with Ilium, ILS 8770, cf. Münzer, RE on Julii nos. 142 and 143, 10.465ff.; Weinstock, RE s.v. Penates, 19.447. One can presumably say that the material was available for the Julii to use earlier in the century, though we do not know whether they did or not; for the connection Ascanius/Iulus, on which their claim was based, Cato, Origines, fgt. 9 P; for their place in the list of Alban families, Ogilvie, on Livy, 1.30,2; for the Trojan legend in general, infra, 153 ff.; 684 f.

99. cf. infra, 135 ff.

100. Livy, 29.10; cf. infra, 124 ff.

and Virtus. The only direct evidence for Victoria is that Marius set up golden statues of Victoria with trophies after both his great triumphs;¹⁰¹ they were on the Capitoline and were later destroyed by Sulla and restored by Caesar in his quaestorship. Caesar also set up a statue of Marius himself; there seems to be no evidence, though it is highly probable, that this was also a restoration of a Marian original.¹⁰² A possible restoration of Marius' *elogium* mentions a temple to Victoria, but there is no other evidence for this and Victor as opposed to Victor(iae) is perfectly comprehensible.¹⁰³ We also have a dedication to Victoria on the Palatine by one *Icius* C.f. which may plausibly be connected with the appearance of Victoria on the coin-types of C. Marcus Censorinus who was prominent in the Marian coup d'état of 87.¹⁰⁴ In general, however, Victoria is far too common a coin-type for its appearance to carry very much weight.¹⁰⁵

101. Plut., *Caes.* 6,1-2; Vell., 2.43,4; Suet., *D.J.* 11; cf. Val. Max., 6.9,4; Prop., 3.11,4f. For the Victoria Mariana, Weinstock, *H.T.R.* 50(1957), 211ff.; Richard, *M.E.F.R.* 77(1965), 69ff., though, curiously enough, he ignores the passages here cited.

102. Plut., *Caes.* loc.cit., does not actually say that the statue, like the golden Victoriae, was a restoration, while the other sources do not mention the statue at all; the point is of course important, since it would provide a further case of Marius providing a precedent for Sulla.

103. *CIL* 1². p.195 no.XVII = *Inscr. It.* 13.3.p.22 no.17; p.64 no. 83 (commentary 65ff.) = *ILS* 59. The text reads: 'aedem Honori ey Virtuti Victor fecit.'

104. The dedication, *CIL* 1².805 = *ILLRP* 284. Marcus' coins, Syd., nos. 715; 716; Grueber, *CRRBM*, 1.2415; 2419; cf. Münzer, *RE* 14.1550f.

105. cf. e.g. the examples listed in Sydenham's Index of Types, pp.304-5.

To Honos and Virtus Marius himself vowed a temple of whose whereabouts we are quite ignorant¹⁰⁶ it was however a very notable building described by Vitruvius and we know of one notable occasion when the senate met there.¹⁰⁷

Plutarch mentions the games which were held in honour of the dedication of the temple and according to the Bobbio scholiast on Cicero's pro Sestio these games were still celebrated in honour of Marius in Cicero's day.¹⁰⁸ Dio mentions a pompa of Honos and Virtus, which he says Augustus had moved to its date in the calendar of his day.¹⁰⁹ The calendar of Philocalus (C4) does in fact mention such a pompa under May 29th;¹¹⁰ it has been suggested that it had been moved back to this date from the beginning of the following month because of the ludi saeculares and Dio does indeed refer the change to 17, though not in direct connection with the ludi.¹¹¹ It is

106. quoted n.103; cf. Vitr., 3.2,5; 7 praef.17; infra,¹¹²

107. viz. when they voted that those who were offered protection to the exiled Cicero were to be commended; cf. Cic., Sest. 116; de domo 85; pro Planc. 78; Sest. 50; 128; post red. in sen. 24; Plut., Cic. 33.6; cf. P. Stein, Senatsitzungen, 32.

108. Schol. Bob. on Cic., Sest. 116 (p.196 St.): 'ludos Honoris atque Virtutis qui celebrabantur (N.B. the imperfect) in memoriam et honorem C. Marii a quo res bello Cimbrico feliciter gestae sunt.'

109. Dio Cass., 54.18,2, sub anno 17 B.C.

110. cf. Degrassi, F.a.N., 462; the notice reads: 'Honos et Virtus. Zinza.' 'Zinza' is mysterious (cf. Degrassi, F.a.N., 460, for a similar notice under May 19th.) but presumably irrelevant.

111. Suggested by Heinze, in Kiessling-Heinze, Q. Horatius Flaccus Od. Epod., on Carm. Saec. 57. cf. Weinstock JRS 51(1961), 211; Degrassi, F.a.N., 462.

tempting at this stage to fit the information together and suggest that ^rMarius founded games which one may compare with the Sullan ludi Victoriae, that by Augustus' day these had shrunk to a mere pompa but that in Cicero's day they had still been full-scale ludi at the beginning of June. Only the pre-julian fasti could then be expected to mention them and they seem not, in general, to list the games.¹¹²

The only evidence, however, on which this is based is one sentence in the scholiast; Wissowa¹¹³ simply notices that there is no other evidence for such games at Rome (there is at Terracina)¹¹⁴ and concludes that the scholiast has been

112. In the Fasti Ant. Maj. (Degrassi, F.a.N., lff.), the information given about the ludi may be set out as follows:

	No. of days of games	Days extant in Ant. Maj.	Days marked in Ant. Maj.	Notes
Romani	15	5	3	8,9,10 Sept:- M(agni)
Plebeii	14	3 small fgts.	0	-
Cereales	8	5 (+ 2 fgts.)	0	but cf. 19th April - Cerealia
Apollinares	8	5	1	13th July - Loed(i) Apol.
Megalenses	7	7	0	but cf. 11th April (day after games): M.D.M.I.
Florales	8	5	0	-
Totals	60	27	4	

notes continued on following page...

misled by the context. The situation is that Cicero reports a meeting of the senate some time before his actual recall in August 57 which took place in Marius' temple and by which those who had helped Cicero during his exile were officially commended.¹¹⁵ The senate went direct from the temple to the ludi where they received a remarkably enthusiastic welcome;¹¹⁶ Cicero also details various demonstrations in his favour including the near murder of Clodius and various acclamations provoked by lines in the plays performed.¹¹⁷ He also mentions that

112. cont'd....

The first column gives the days of games known at the date of the Fasti; the second column gives the number of days from the period of the known ludi of which enough survives for us to tell whether ludi were marked or not; the third column gives the number of such extant days which do refer to the ludi. It should be added that the Fasti Ant. Maj. do., in fact, read 'Honori' under July 17th., but this may well refer to the dies natalis of the temple.

113. R.u.K.², 150 n.2.

114. CIL 10.8260 = ILS 5051; but it should perhaps be asked how likely it is that such games should be founded in Terracina unless they were imitated from Roman ones.

115. cf. above n.107.

116. Sest. 117.

117. Sest. 116: 'vix vivus effugit' (Clodius); cf. 117; for the demonstrations in Cicero's favour and lines which the actors inserted or turned to Cicero's advantage, Sest. 116-23.

these games were presided over by the consul Lentulus.¹¹⁸

He nowhere says which games these were.

It may well be asked how the scholiast knew which games were in progress at this particular date; a page or so later he shows himself puzzled by the various different SCC to which Cicero refers, so it is difficult to believe, for instance, that he had a table of dates and places in front of him.¹¹⁹ He knows indeed that the meeting at which the senate approved Cicero's recall took place on the Capitol and he cannot see why Cicero speaks as if it was voted in the temple of Virtus as well. There is only one way out here; perhaps, he decided that the games were the ludi of Honos and Virtus because he knew that the only time the senate met in the temple of H. & V. was precisely during the games of H. & V. The question then is, is he right? There seems to be no way of testing this.¹²⁰

118. Sest. 117. Lentulus must have been presiding in the senate on this occasion, to judge by Cicero's expressions of gratitude; his colleague hardly deserved gratitude for his actions at this time, (Cic., ad Att. 4.3,3-4; de domo 13; Sest. 89; Dio Cass., 39,7,4) though he changed his mind later and supported Cicero's recall (Cic., de prov. cos. 22; cf. ad Att. 3.24,2.).
119. cf. the scholiast's very puzzled comment on Sest.¹²⁰ (p.136 St.), which shows that he does not know which SC was, in fact, passed in the templum Virtutis.
120. We can, for instance, show that the senate met in the temple of Apollo at times other than the ludi Apollinares (e.g. Pr. Kal. Oct. 51 B.C., cf. Caelius ap. Cic., ad fam. 8.8,6); but we know of no other meeting in the temple of Virtus than the one under discussion. It would seem rather an erudite piece of information for our scholiast, but hardly impossibly so.

Can we work it out from Cicero? There are two apparent clues: first, Cicero says that the games were being held by a consul: secondly, he says that the SC of the temple of Virtus was passed some time before his recall.¹²¹ Now, it is generally believed that all the games at this date were held either by a praetor¹²² (Apollinares) or an aedile¹²³ (Romani, Plebeii, Florales, Cereales, Megalenses). The first games other than ludi votivi held by a consul are the games set up by Caesar.¹²⁴ We know of no ludi votivi in 57 B.C. Sulla's games were held by a praetor.¹²⁵ Only Marius' games are left. However, our evidence for the ludi Apollinares being held by a praetor dates from the third century when a consul would never be in Rome in July;¹²⁶

121. de domo 86; but what does 'multo ante' imply? Stein (op.cit. 32) puts the decree at the end of May and the decree passed on the Capitol for Cicero's recall in mid-July; this latter was certainly passed through the comitia on August 4th (ad Att. 4.1,4). It seems that the games (which Stein does not notice) are the only means of dating the decree in the temple of Virtus; there are none between May 2nd, and July 5th.

122. Wissowa, R.u.K.², 405 n.4; cf. Livy, 25.12,10.

123. Wissowa, R.u.K.², 405; cf. L.R. Taylor, T.A.P.A. 1937, 285ff.; A.J.P. 1939, 194ff.

124. Dio Cass., 49.42,1; cf. Wissowa, R.u.K.², 457.

125. Wissowa, R.u.K.² 457n.2, arguing from the coin, Syd., no.885 (Pl. 24); cf. MRR 2.76. The only extraordinary games we know of in this year are the 'munera' given by Q. Caecilius Metellus Pius Scipio Nasica (cos. 52) in honour of his adoptive father, (Cic., Sest. 124; Schol. Bob. p.137 St.). Cicero distinguishes these quite clearly from the ones we are discussing.

126. cf. above n. 122.

a possibility is thus created that the games were held by the senior magistrate in Rome and hence in the first century by a consul. If so, Cicero's decree of the temple of Virtus must have been passed early in July. This seems to conflict with Cicero's statement in the *de domo* about the interval between this SC and his actual recall.¹²⁷ It is, however, very much in Cicero's interest to exaggerate this gap to show as far as he can, that the senate had been agitating for his recall longer than it in fact did. It seems then quite possible on this evidence for the ludi in question to have been the ludi Apollinares; the case for Marius' ludi is too thin to be relied on without more evidence. It is of course possible that he had something to do with the pompa of the calendar, but no more than possible.

Honos and Virtus already had a temple at Rome before Marius' day; a temple to Honos had originally been vowed by Q. Fabius Maximus Verrucosus Cunctator in a war with the Ligurians in 233.¹²⁸ M. Claudius Marcellus wanted to add to this a temple for Virtus which he had vowed in battle against

127. cf. above n. 121.

128. Cic., de N.D. 2.61.

the invading Gauls in 223.¹²⁹ The pontifices, however, ruled that this would not be possible as in the case of the temple being the scene of a prodigy it would not be possible to tell to which of the gods *piacula* should be offered. Marcellus accordingly built his temple beside Fabius'.¹³⁰ The cult seems to have specifically military associations and the first temple to have been near to the temple of Mars at Porta Capena.¹³¹ There are imperial inscriptions which are dedicated 'Honori aquilae legionis' or 'Virtuti aquilae legionis'.¹³² It is even possible that Marius, who was responsible for making the eagle the only recognized legionary standard,¹³³ was also responsible for the adoption of these cults. There is some reason to regard Honos, Virtus, Victoria and Felicitas as a related group of

129. Livy, 27.25,7ff.; 29.11,13; Val. Max., 1.1,8; Plut., Marc. 28; de fort. Rom. 5; cf. infra, 116.

130. loci cit. n.129; we do not know whether the pontifices' objection was specifically withdrawn by Marius' day, but there is no sign in our descriptions that it was built to contain two separate cellae.

131. This emerges from the fact that the starting point of the 'transvectio equitum' is given alternatively as the temple of Honos and Virtus (Auct. de vir. ill., 32.2) or the temple of Mars near the Porta Capena (Dion. Hal., 6.13,4); cf. Wissowa, R.u.K.², 149; Latte, RRG, 236n.3.

132. CIL 3.7591; 13.6679; 6708; 6752; 6762.

133. Pliny, N.H. 10.16. For his probable introduction of Victoria as well cf. Domaszewski, Religion d. röm. Heeres, 4; 118; Weinstock, H.T.R. 50(1957), 224 n.73.

cults;¹³⁴ and under August 12th in the Calendars there is a reference to the shrines which Pompey built in his stone theatre - 'Veneri Victrici Honori Virtuti Felicitati in theatro marmoreo'.¹³⁵ This summarizes neatly the group of cults particularly patronized by the successive late

134. For the connection of Victoria and Felicitas cf. above n. 60. Honos and Virtus can be associated with this group on the strength (a) of the joint dedication, cf. next note; (b) of their common function as legionary standards, above nn. 132 and 3; (c) on the evidence for the use of Honos and Virtus on triumphal monuments; this depends chiefly on Miss Bieber's identification (A.J.A. 1945, 25ff.) of the two rather battered figures leading the triumphal chariot on the Titus arch (cf. Scott Ryberg, Rites of the State Religion in Roman Art, pl. 52, fig. 79a) For the iconography of Virtus, cf. Bieber, art.cit., figs. 7 & 8; Gneecchi, R.I.N. 1905, 349f.; 354-9; 387ff.; Medaglioni Romani, l.54 n.30, pl.27.7; and of Honos, cf. Bieber, art.cit., fig. 10; Gneecchi, R.I.N. art.cit., 352; 370. For a republican representation of Honos, Syd., no. 961 (pl.26); Honos and Virtus, Syd., no. 797.
135. Degrassi, F.a.N., 493f.; Fasti Amit. (Degrassi, op.cit., 190f.) read 'Veneri Vitrici Hon(ori) Virtut(i) Felicitati in theatro marmoreo'; Fasti Allif. (Degrassi, op.cit., 180f.): 'V V H V V Felicitati in theatro marm[oreo]'. This gives an extra V and it is tempting to restore 'V(eneri) V(ictrici) H(onori) V(irtuti) V(ictoriae) Felicitati etc.'; Dio Cass., 50.8,3 in fact refers to a 'Νίκης Ὀψάλα' in the theatre of Pompey, while Tiro ap. Gell., N.A. 10.17, actually refers to Pompey's aedes Victoriae. Contra Mommsen, CIL 12.324, but only on the highly questionable grounds that Victoria and Venus Victrix must be identical.

republican generals and curiously enough there is even some reason to connect Marius too with the enterprise of building a stone theatre. There is some reason to think that such a theatre was begun in the year of Marius' first consulship.¹³⁶ We have no direct evidence of his interest in this scheme, which is connected rather with his colleague Cassius; but it is not unlikely that the project had been taken up by the populares as a group and resisted by the optimates as a group. The fact that Marius did not resume the scheme later in his career need mean no more than that he was not prepared to endanger his bid for acceptance by the nobiles. It is time to turn to the third category of evidence - the honours which Marius received or assumed.

136. App., B.C. 1.28,125 (following the better manuscripts - BV, cf. Gabba's edition p.97, app. crit. and notes) reads: 'καί πιν ὕπνω καθείλε τὸ θέατρον οὗ Λευκίου Κόσσιου ἦρκετο (καὶ ἤδη πρὸς τέλος ἐλάμβανεν),...'.
 at the critics

The date is unspecified but somewhere in the last decade of the second century - it is preceded by the third of Appian's agrarian laws and followed by an incident of 102 B.C. I take the sentence to mean that Caepio, the consul of 106, pulled down a stone theatre begun by L. Cassius, his predecessor as consul and Marius' colleague. Scholars have tended to read Scipio, as the worse manuscripts, and take the sentence as an anachronistic reference to the events of the 150's (cf. infra, 275), when Scipio Corculum resisted the attempt of the censors to build such a theatre. But, if so, Appian has got both the details he gives wrong for (a) that Scipio was not consul and (b) that Cassius was not Lucius but Caius. The unspoken premiss^{at the critics} is that the scheme once tried would not be attempted again; but why not? and who likelier to try than a descendant of one of the original censors? At least, Appian says so and I can see no reason not to believe him.

Even the official honours voted to Marius were exceptional. He received seven consulships and two triumphs, was offered and refused another;¹³⁷ five days' supplicatio were voted after his Cimbric victory;¹³⁸ he had a statue at Ravenna as well as the one on the Capitol, though neither is attested for his lifetime;¹³⁹ a Victoria Mariana is attested at Mutina, there may well have been others.¹⁴⁰ Furthermore, Marius seems to have received some special honour connected with the *vestis triumphalis*; this is, however, problematic, for the elogium breaks off at this point and we are left to work the details out for ourselves.¹⁴¹ Mommsen¹⁴² connected the notice with the story that on the day of his Jugurthine triumph, Marius entered the senate in the *vestis triumphalis* and then had to leave to change;¹⁴³ the details of this story vary as to whether Marius had forgotten to change or was testing the senate's reaction but

137. Consul 107, 104-3, 86; cf. MRR 1.550; 558; 562; 567; 570; 574; 2.53; triumphs, 104 and 101; cf. MRR 1.558; 570f; refusal of a triumph, Plut., Mar. 24.1-2.

138. Cic., de prov. cos. 26; he gives no specific number of days for Marius' supplicatio, but seems to imply five days (certainly not fifteen as Carney, Marius, 39 n.190, understands); for the length of earlier supplicationes, cf. de Sanctis, St. d. R., 4.2.1.313 n.837; Halkin, La supplication des graces, passim.

139. Plut., Mar. 2.1; cf. above, 720.

140. Obs., 70.

141. ILS 59: 'veste triumphali calceis patriciis'.

142. CIL 12.196.

143. Livy, Per. 67; Plut., Mar. 12.7; cf. Dio Cass., 48.54.

there seems no doubt that the incident ended in some humiliation and is the last thing one would expect to be mentioned on an inscription. Others¹⁴⁴ have connected the notice either with the grant of the right to wear the vestis on certain occasions as to Aemilius Paulus¹⁴⁵ and Pompey,¹⁴⁶ or with the imperial custom of wearing the vestis on the first of January, which as it happens was the day of Marius' triumph against Jugurtha in his second consulship.¹⁴⁷ Certainty seems unattainable.

Plutarch, commenting on the claims of Catulus to credit for the defeat of the Cimbri, tells us that the people at least gave Marius the credit and lists the unofficial honours paid him.¹⁴⁸ He was regarded as the third founder of Rome, i.e. in succession to Romulus and Camillus, as victor over the Gauls; Plutarch too refers to Marius - in the context of his adventure at Minturnae - as the saviour of Italy.¹⁴⁹

144. cf. Mommsen, loc.cit.

145. Auct. de vir. ill., 56.2.

146. Vell., 2.40,4; Dio Cass., 37.21,4.

147. Passerini, Athenaeum 17(1939), 59ff., who compared especially Dio Cass., 48.54; 53.26,5. Richard, M.E.F.R. 77(1965), 72ff., lays great emphasis on this incident and takes it to imply that Marius was trying to establish a 'monopoly' of the triumph, which he only broke (art. cit., 75ff.) for Catulus in special circumstances. This is quite unsupported by evidence.

148. Plut., Mar. 27.8-9; cf. Val.Max., 8.15,7.

149. Plut., Mar. 39.5: '

All this is again reminiscent both of Hellenistic concepts and of the developments to come in the first century;¹⁵⁰ but it is important to remember that this is an unofficial honour and there is no evidence, for instance, of Marius, or anyone else at this date, interesting himself in the cult of Quirinus.¹⁵¹

Plutarch goes on to say that they also offered "ἑρπιδὸς τοῖς θεοῖς καὶ Μαρτίῳ δεῖπνον καὶ λοιβῆς ἀπήρχοντο".¹⁵²

Here, we have something much closer to a recognition of his divinity, again of course unofficially. Here, too, Marius foreshadows later developments.¹⁵³ Finally, after his great victories, Marius himself took to using a cantharus to drink from in imitation of Dionysus on his return from the conquest of India.¹⁵⁴ This is regarded by our sources as a sign of pride and arrogance, comparing his victories to Dionysus.¹⁵⁵

150. A. Alföldi, *Mus. Helv.* 8(1951), 203ff; contra, Classen, *Philologus* 106 (1962), 181f.

151. There is a solitary inscription, *ILLRP* 251: 'Quirino L. Aemilius L.f. prator'. On the date of the identification of Quirinus with Romulus, always controversial, cf. C. Koch, *Religio*, 17ff.; esp. 33ff; de Sanctis, *St. d. R.*, 4.2.1.203f.; Classen, *Philologus* 106(1962), 174ff.; W. Burkert, *Historia* 11(1962), 356ff.; Ogilvie, on Livy, 1.16; for the critical evidence of Lucilius, the only plausible evidence before the 60's, cf. Cichorius, *Untersuchungen zu Lucilius*, 222f.; 228; N. Terzaghi, *Lucilio*, 273ff.; Classen, art.cit., 180f.; on the varying conception of Romulus at different periods of the republic, cf. Classen, art.cit.; Ogilvie, op.cit., 85.

152. Plut., *Mar.* 27.9; cf. Val. Max., 8.15,7: '...nemo fuit, qui non illi tamquam dis immortalibus apud sacra mensae suae libaverit.' - with reference to the night when the news of the defeat of the Cimbri arrived.

153. cf. e.g. for Augustus, Horace, *Od.* 4.5,32; Dio Cass., 57.19,7; Ovid, *Fasti* 2.632.

154. Val. Max., 3.6,6; Pliny, *N.H.* 33.150; cf. Plautus, *Pseud.*; Richard, art.cit., 79ff.

155. Val. Max., 3.6,6.

He was apparently posing as a neos Dionysus, as did his contemporary Mithridates;¹⁵⁶ the point here seems to be that this was understood as a reference to the inheritance of Alexander the Great, a claim to the mastery of the East.¹⁵⁷ Marius is evidently already thinking in terms of the Eastern command he was to intrigue for in 88.¹⁵⁸ How far this should be taken as a real claim to divinity and how far as a symbolic gesture seems to me quite imponderable. It is the reference to Alexander, which is more important. Pompey is here the successor who comes to mind;¹⁵⁹ but there are traces at least of an awareness of Alexander far earlier than Marius; the Scipio legend shows traces of Alexander's influence¹⁶⁰ and perhaps Ennius had him in mind when he called Scipio invicte;¹⁶¹ ¹⁶² Plautus seems to connect triumph and cantharus and elsewhere mentions Alexander.

To complete the picture, one should perhaps add that during his absence in the East Marius was elected an augur,¹⁶³ the first election we know of under the lex Domitia¹⁶⁴ and

156. For Mithridates, cf. Cerfaux-Tondriau, 255ff.; cf. esp. Cic., pro Flacco 60, which shows knowledge of this at Rome.

157. Cerfaux-Tondriau, 156ff.; Nock, JHS 48(1928), 21ff.

158. cf. Carney, Marius, 52 n.244; but Plut., Mar. 31.2ff. does in fact attribute ambitions in the East to him.

159. Syme, RR, 30; Gelzer, Pompeius, 134ff; Heuss, Antike u. Abend. 4(1954), 81-2; Weinstock, H.T.R. 50(1957), 228; the same is perhaps, though less clearly, true of Caesar; cf. Weinstock, art.cit., 229; 232.

160. cf. infra, 754f.

161. Ennius, Scipio v.3 (Vahlen³) = Cic., or. 152. cf. below

162. Pseud. 1051; cf. Most. 775.

163. cf. infra, 637.

164. cf. infra, 612f; 623f.

the only election or co-optation to have taken place as far as we know in the absence of the candidate; at least, it was the only precedent Cicero could find.¹⁶⁵

Marius died of pneumonia¹⁶⁶ on the thirteenth day¹⁶⁷ of his seventh consulship¹⁶⁸ and in the midst of his preparations for an Eastern war.¹⁶⁹ According to an otherwise unknown Piso,¹⁷⁰ before he died Marius reviewed the events of his life and remarked that he did not see how a sensible man could again put any faith in tyche in view of his career. The anecdote is not perhaps very reliable; Marius was very rapidly seen as a symbol of the mutability of Fortune¹⁷¹ and an historian would always find it tempting to make him comment on this himself. One can hardly assess the reliability of an otherwise unknown Piso, even if he be the consul of 67.¹⁷² If Marius did make this remark one can say that he will have had two things in mind - first, Sulla, secondly, himself: Sulla was by this time openly advertising his luck;¹⁷³ but the implication is also that Marius himself

165. Cic., ad Brut. 1.5,3.

166. cf. Lanzani, Stor. interna di Roma, 1.117f.

167. Livy, Per. 80; cf. MRR 2.53.

168. above n. 137.

169. Carney, Marius, 70.

170. Piso, fgt. 1 (and last) P, ap. Plut., Mar. 45.

171. cf. Val. Max., 6.9,14; cf. JRS 50(1960), 25 n.8; Passerini, Athenaeum 12(1934), 348.

172. As Peter, HRR 1².CCCLXXX, suggests; cf. Cic., Brut. 239.

173. cf. above, 698ff.

had at one time at least trusted to his luck or he could not have thought that his career could provide evidence of the unreliability of Fortune.

This completes the evidence which we can collect from the careers of Marius and Sulla. For these two men themselves, the implications are clear and interesting; these I shall consider next. It is easy enough, too, to extract from their careers precedents for the behaviour of the later imperatores. It is very much harder to use the evidence about these individual careers as an indication of the religious life of their time. There are I think two possible lines of enquiry: first, we can extend the scope a little by seeing how some of Marius' and Sulla's activities fit into what we know of contemporary religious history; and we can, in the case of the key idea of *felicitas* try to assess how much of the emphasis placed on it by Marius and Sulla should be regarded as an innovation for Rome at this period.

On the basis of this evidence we can attempt a direct comparison of the religious activities of the two men; we can try, too, to identify the points in which there was conflict between them in religious terms. But it must be admitted that the similarities are more striking than the differences. Both men were believed by others and probably believed themselves to be gifted by the gods with special favour and support;¹⁷⁴ both claimed that they put more faith in religious revelation than in their skill as soldiers;¹⁷⁵ both lay striking emphasis on their adherence to Oriental cults;¹⁷⁶ both were guided by Chaldaeans¹⁷⁷ and influenced by the signs and prophecies which marked the progress of their careers.¹⁷⁸ In one area, the conflict between them was overtly expressed in religious terms: Marius built golden Victoriae on the Capitol, Sulla destroyed them and Caesar, the faithful Marian, later restored them as an act of piety.¹⁷⁹ The foundation of games to

174. cf. above, 698ff.; cf. 710ff.; 714.

175. cf. above, 701; cf. 715.

176. cf. above, 696; 698; cf. 716ff.

177. cf. above, 696; cf. 717.

178. cf. above, 696ff.; cf. 710ff.

179. cf. above, 720; according to Plut., Mar. 32.4; Sulla 6.1-2, very similar trouble had arisen earlier over a dedication by Bocchus on the Capitol, which showed Sulla receiving Jugurtha's submission; but Plutarch's story is somewhat jejune - the affair was about to erupt into Civil conflict, when the Social War broke out; the dedication included 'Νίκαι... τροπαιοφόροι';¹⁷⁹ Marius threatened to destroy it, but Plutarch does not say that he actually did. For a Sullan representation Syd., no. 879 (pl.24); cf. Carney, N.C. 19(1954), 79ff.

Victoria and the adoption of Felix as a name are both in one aspect expressions by Sulla of the permanence as against Marius of his Victoria and his Felicitas.

One may suspect that Marius' special attachment to the cult of Honos and Virtus gives the key to another area of opposition, but this requires more careful examination. In an important speech reported by both Sallust¹⁸⁰ and Plutarch¹⁸¹ and made in the course of his campaign for the consulate, Marius laid the chief emphasis in his claim for the highest magistracy on his virtus. What he said was that the nobiles laid great stress on the achievements of their ancestors, but that he, the novus homo with no ancestral tradition to quote, nevertheless was more worthy than they of rivalling the great deeds of the past; they had maiores but no virtus, he virtus and no maiores. What he is doing is to twist the optimate conception of virtus as related essentially to family history, a quality conceived in the context of aristocratic tradition;¹⁸² his virtus is essentially a personal quality and he claimed that, if he possessed it, his family history was irrelevant to his merit. No doubt, this speech does reflect Marius'

180. B.J. 85.

181. Marius 9.

182. For the Roman conception of Virtus, D.C. Earl, Historia 9(1960), 235ff.

own ideas and it is an illuminating commentary on his adherence to this particular cult - it is, in a way, the cult of his own achievements. It is tempting to suggest that we have here a direct propaganda conflict, between Marius the man of *virtus* and Sulla the man of *felicitas*: certainly, for each man this is the cult he stresses most. But the opposition is not at all clear-cut; as we have seen Marius too is a man of *felicitas*,¹⁸³ even if he did reject the thought at the end of his life;¹⁸⁴ and, as we shall see in more detail,¹⁸⁵ *felicitas* is not a quality which is in any way irreconcilable with the possession of *virtus* - indeed, there is a saying in Latin corresponding to 'fortune favours the brave' whose history can be traced from Appius Claudius Caecus onwards.¹⁸⁶

Marius' interest in the cult of *Honos* and *Virtus* is one of the marked differences between the two men. There are others. Marius does not seem to have founded *ludi* and here it is Sulla who seems to set the precedent. Again, it seems to be Sulla not Marius who follows the example of Scipio Africanus in using his dreams to give divine support for his intentions, and it may be, though it would be hard

183. cf. above, 710 ff.

184. cf. above, 734 & 170.

185. cf. below, 746 ff.

186. App. Claudius Caecus, *Carmina* fgt. 3 = Sall., rep. 1.12; Ennius, *Annals* v.257 (Vahlen) = Mac., 6.1,52; Sall., *Cat.* 1.5.

to prove, that he went further than Marius in putting his faith in the support of the gods.¹⁸⁷ On the other hand, the respect in which Marius is markedly more advanced than Sulla is in his acceptance of honours. In part, these honours are said to have been spontaneous and clearly Marius the Saviour of Italy from the barbarians had a right to gratitude in its most extreme forms which Sulla, at least in Italy, had not. But, even allowing for this, the impression left by the evidence is very clearly that Sulla was definitely conservative in his aspiration to honours; it was Marius who made the gestures of pride - drinking from his cantharus and wearing his triumphalis vestis in the senate. Yet, it was Sulla not Marius who held, for a time, absolute sway at Rome.

The first conclusion which seems justified concerns our estimate of the two men themselves. If it is true that to a great extent Sulla and Marius made similar claims and pursued similar objectives then it becomes an extremely relevant fact that in almost every respect Marius had preceded Sulla by fifteen years or more. To a great extent Sulla must be regarded as following Marian precedents; occasionally he goes rather further, as in the actual taking of the name Felix, but in essentials it is he who is the

187. For Sulla we have the unequivocal evidence of the Memoirs (²²⁴ ~~in~~ ⁷⁰¹ ~~in~~ ⁷¹⁴ ~~in~~ ⁷³⁴ ~~in~~ ⁷⁴⁴ ~~in~~ ⁷⁵⁴ ~~in~~ ⁷⁶⁴ ~~in~~ ⁷⁷⁴ ~~in~~ ⁷⁸⁴ ~~in~~ ⁷⁹⁴ ~~in~~ ⁸⁰⁴ ~~in~~ ⁸¹⁴ ~~in~~ ⁸²⁴ ~~in~~ ⁸³⁴ ~~in~~ ⁸⁴⁴ ~~in~~ ⁸⁵⁴ ~~in~~ ⁸⁶⁴ ~~in~~ ⁸⁷⁴ ~~in~~ ⁸⁸⁴ ~~in~~ ⁸⁹⁴ ~~in~~ ⁹⁰⁴ ~~in~~ ⁹¹⁴ ~~in~~ ⁹²⁴ ~~in~~ ⁹³⁴ ~~in~~ ⁹⁴⁴ ~~in~~ ⁹⁵⁴ ~~in~~ ⁹⁶⁴ ~~in~~ ⁹⁷⁴ ~~in~~ ⁹⁸⁴ ~~in~~ ⁹⁹⁴ ~~in~~ ¹⁰⁰⁴ ~~in~~ ¹⁰¹⁴ ~~in~~ ¹⁰²⁴ ~~in~~ ¹⁰³⁴ ~~in~~ ¹⁰⁴⁴ ~~in~~ ¹⁰⁵⁴ ~~in~~ ¹⁰⁶⁴ ~~in~~ ¹⁰⁷⁴ ~~in~~ ¹⁰⁸⁴ ~~in~~ ¹⁰⁹⁴ ~~in~~ ¹¹⁰⁴ ~~in~~ ¹¹¹⁴ ~~in~~ ¹¹²⁴ ~~in~~ ¹¹³⁴ ~~in~~ ¹¹⁴⁴ ~~in~~ ¹¹⁵⁴ ~~in~~ ¹¹⁶⁴ ~~in~~ ¹¹⁷⁴ ~~in~~ ¹¹⁸⁴ ~~in~~ ¹¹⁹⁴ ~~in~~ ¹²⁰⁴ ~~in~~ ¹²¹⁴ ~~in~~ ¹²²⁴ ~~in~~ ¹²³⁴ ~~in~~ ¹²⁴⁴ ~~in~~ ¹²⁵⁴ ~~in~~ ¹²⁶⁴ ~~in~~ ¹²⁷⁴ ~~in~~ ¹²⁸⁴ ~~in~~ ¹²⁹⁴ ~~in~~ ¹³⁰⁴ ~~in~~ ¹³¹⁴ ~~in~~ ¹³²⁴ ~~in~~ ¹³³⁴ ~~in~~ ¹³⁴⁴ ~~in~~ ¹³⁵⁴ ~~in~~ ¹³⁶⁴ ~~in~~ ¹³⁷⁴ ~~in~~ ¹³⁸⁴ ~~in~~ ¹³⁹⁴ ~~in~~ ¹⁴⁰⁴ ~~in~~ ¹⁴¹⁴ ~~in~~ ¹⁴²⁴ ~~in~~ ¹⁴³⁴ ~~in~~ ¹⁴⁴⁴ ~~in~~ ¹⁴⁵⁴ ~~in~~ ¹⁴⁶⁴ ~~in~~ ¹⁴⁷⁴ ~~in~~ ¹⁴⁸⁴ ~~in~~ ¹⁴⁹⁴ ~~in~~ ¹⁵⁰⁴ ~~in~~ 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imitator. But perhaps the implications go rather more deeply than this; one of the features which Marius and Sulla had in common was apparently a sincere belief in their own special relationship to the gods and this is even more clearly attested for Sulla the imitator than for Marius. The tendency in the past has been quite simply to regard Sulla as in some way exceptional amongst his contemporaries - to call him, if one feels sympathetic, a mystic, if not, superstitious.¹⁸⁸ But such evocative words are based on certain assumptions about contemporary life; if Sulla is regarded as exceptional this must be because others of his class and education did not share his faith in oracles, prophecies and dreams. If Marius too is to be an exception, the basis for this assumption of universal scepticism needs to be established with some care.

As a matter of fact, we can find a certain amount of evidence that the particular forms which Sulla and Marius interest themselves in were those which were reaching new popularity amongst their contemporaries. I have examined

188. For Sulla the mystic, cf. C. Lanzani, Lucio Cornelio Silla dittatore, appendix, La Venere Sillana; H. Berve, N.J. 7(1931), 673ff. = (with some revision) Gestaltende Kräfte der Antike (1949), 130ff.; Schilling, La religion romaine de Venus, 276ff. E. Badian, Historia 11(1962), 220f. emphasizes Sulla's 'superstition', as, indeed, that of his contemporaries; superstition is not the word I would choose, but the observation is sound.

elsewhere the evidence for a growing interest in some Oriental cults towards the end of the century¹⁸⁹ and this is duly reflected by Marius' Syrian prophetess and his vow to Cybele and by Sulla's devotion to the goddess of Cappadocia. Likewise evidence from the activities of the haruspices has suggested that as the century progressed the Senate placed more rather than less emphasis on the prophetic interpretation of prodigies;¹⁹⁰ this corresponds to the emphasis Sulla and Marius place on prophecies and prophets. The Chaldaeans too seem to be establishing themselves by the middle of the second century and not only Sulla and Marius but Octavius the consul of 87 placed their faith in astrology.¹⁹¹ Even dreams are not confined to Sulla; in the nineties a matron's dream led to the cleansing of the temple of Iuno Sospita.¹⁹²

Again, the divine honours and aspirations connected with Marius can be paralleled from events of the period. Between 133 and 80, we hear of a number of Romans who received divine or near-divine honours. The consul of 129, M'. Aquilius, received a priest and special prayers in the

189. Cf. *infra*, 147ff.

190. Cf. *infra*, cl. 10.

191. Cf. *infra*, 164ff.

192. *Obs.*, 55.

prytaneum at Pergamum in gratitude for his organization of the province of Asia;¹⁹³ M. Annius, a quaestor who served in Macedonia, was honoured in 119 with an annual agon;¹⁹⁴ Q. Mucius Scaevola, as a result of his proconsulship of Asia in the 90's, was honoured with a festival called 'Soteria et Mucieia'.¹⁹⁵ These are the earliest examples of Romans sent out to administer in the provinces of the East, who received such extreme honours; the tendency of the Greeks to go further in such matters than would have been acceptable in Italy is notorious, but it is not without significance that the Romans are at this date accepting honours of this kind. More important, however, is the evidence for spontaneous divine honours offered by the people of Rome to its heroes: Tiberius and Caius Gracchus, were granted such honours posthumously - statues, offerings of first - fruits, sacrifices, the consecration of the places where they died, cult as if for a temple - according to Plutarch;¹⁹⁶ perhaps more surprising still are the posthumous offering made to Marius Gratidianus the praetor of 86 in return for his

193. IGRR 4.292, 1.39; 293, 1.24; first published by Hepding in Ath. Mitt. 32(1907), p.247, 1.40; 202. 1.24.

194. SIG³ 700. cf. MRR 1.526; he had organized the province to defend itself against a Celtic invasion, after the governor, Sext. Pompeius, had been killed.

195. OGIS 438; 439; cf. Insch. v. Perg. 268; P. Foucart, Rev. Phil. 25 (1901), 85ff. cf. Cic., Verr. 2.2.51.

196. Plut., C.G. ad fin.

championing of the plebs, for offerings were made to statues of him in the vici and apparently through the official organization of the vicomagistri.¹⁹⁷ Finally, not long after 80, we have some curious information about the honours paid to Metellus Pius in Spain. Macrobius¹⁹⁸ reports that the Romans in Spain, whom he saved, hailed him as their Saviour and burned incense to him as to a god. Plutarch¹⁹⁹ apparently refers to the same events in his Life of Sertorius, mentioning altars in the cities, the burning of incense and a ceremony in which Metellus himself was crowned by a Victory lowered by a machine. We know that Mithridates had been similarly crowned at the height of his power; in his case the machine failed, presaging the coming disaster.²⁰⁰ Sertorius, too, deserves a mention here; he claimed that he communed with Diana through the agency of a white doe and was therefore believed to be himself a god.²⁰¹ Here again, therefore, it must be asked how far this evidence suggests a change in the standards and beliefs of contemporaries, which should qualify our emphasis on Marius' special position.

197. Cic., de off. 3.80; Sen., de ira 3.18.

198. 3.13,6.

199. Sert. 24.

200. Plut., Sulla 11.1.

201. Plut., Sert. 12.13.

In these respects, then, it would seem that Marius and Sulla are both sharing and exploiting new developments in the religious life of Rome. But the key notion in their conflict has still to be examined. It is quite well established that the concept of Felicitas played an important part in the religious thought of the age of Marius and Sulla, though we have found that it is largely in the tradition about these great figures and in their reputations in their lifetime rather than in devotion to the cult of Felicitas herself; neither Marius nor Sulla shows any marked interest either in Felicitas herself or in Fortuna, whose cult must be closely related.²⁰² As we have seen,²⁰³ the cult which attracts most attention from both of them is that of Victoria and it is in terms of this that they express their respective successes. Victoria and Felicitas are closely related as expressions of the triumphator; the Victoria in a sense implies the consequence of Felicitas. We must examine the significance and history of both the cult and concept of Felicitas.

The meaning of the group of words in felic- (felicitas, felix, feliciter) can be very fully documented from first century Latin and thereafter. The word felicitas always

202. cf. ^{below} ~~above~~, 746 ff.

203. cf. above, 705 ff.; 720.

means good fortune and never occurs, like fortuna, qualified as bad or indifferent.²⁰⁴ Secondly, it has a very distinct moral connotation; Cicero can ask whether an evil man can be called 'felix', however lucky he may have been²⁰⁵ and later comments on Sulla tend to make ironical play on the contradiction between his felicitas and the crimes for which he was responsible.²⁰⁶ Finally, felicitas represents an inherent characteristic of the individual concerned, that is to say it is not used to describe the recipient of a mere stroke of luck; the characteristic consists in the divine gift, which can be relied upon for the future as well as discovered in the past and it represents therefore a complicated relationship between the felix himself and the gods. Cicero himself defines it as 'quaedam ad amplitudinem et ad gloriam et ad res magnas bene gerendas divinitus adiuncta fortuna'.²⁰⁷

204. So, Aug., C.D. 4.8: 'An aliud est felicitas, aliud fortuna? Quia fortuna potest esse et mala; felicitas autem si mala fuerit, felicitas non erit.' cf. Erkell, Augustus etc., 50ff.

205. He comments on Antony at Phil. 2.59: 'felix fuit, si potest ulla in scelere esse felicitas'; or on Caesar, at Phil. 2.64: 'mea autem sententia qui reipublicae sit hostis, felix esse nemo potest.'

206. cf. e.g. Vell., 2.27,5: 'Felicis nomen adsumpsit, quod quidem usurpasset iustissime, si eundem et vincendi et vivendi finem habuisset.' i.e. if he had died at the battle at the Porta Collina, before the proscriptions; more material at Erkell, op.cit., 90ff.

207. de imp. Cn. Pomp. 47.

This is the sense of felicitas which has become by Cicero's day one of the standard qualities of the imperator and something of a political cliché. It constitutes a concept which cannot exactly parallel from the Greek world.²⁰⁸ Indeed, it has the effect of cheating one of the standard antitheses of Hellenistic Greek writing - the opposition between luck and merit. It is this which makes sense of some of the more extraordinary traditions about Sulla and Marius. Their admission or rather boast that the gods deserved the credit for their successes represents not only a proper modesty in the triumphator but also a claim to the possession of felicitas. Thus far from the contribution of felicitas diminishing the credit due to the general or diminishing the chances of his repeating the success in future, a reputation for felicitas became one of the most prized and reliable of a general's qualities.²⁰⁹

208. Though scholars have sought to find a parallel in the Hellenistic notion of a 'τυχή' specially connected with a city or individual; cf. W. Jaeger, *Hermes* 48 (1913), 442ff.; *Demosthenes*, 236 n.33; F. Leo, *Hermes* 49(1914), 16ff.; E. Burck, *W.G.* 1935, 466; cf. Erkell, *Augustus etc.*, 72ff. 'τυχή' always seems to represent an external power, which is the origin of the individual success; felicitas on the other hand is an immanent quality which cannot therefore be regarded as external, but shows itself through the actions of the gods. This is well illustrated by Sulla, who is assisted not by a single specific power but by various different gods, by signs, dreams etc. (cf. above, 646ff.).

209. The locus classicus is again Cic., *de imp. Cn. Pomp.* 47ff.; particularly noticeable is the opposition between felicitas and temeritas and its correspondingly close association with prudentia; e.g. Livy, 31.48,12: '...quod bene ac feliciter, non quod male ac temere res publica gesta esset.'; cf. Erkell, *op.cit.*, 60ff. Felicitas is the opposite of rashness.

It seems that our picture of felicitas derived from Cicero fits very well with the evidence we have examined concerning Sulla and Marius; the more difficult question begins when one tries to assess whether this complex of ideas is a traditional Roman one or whether we can trace a development during the course of the second century. As mentioned earlier,²¹⁰ Erkell reached the conclusion that the concept was traditional and others have sought parallels from primitive societies on the assumption that the history of felicitas at Rome stretched back to archaic times.²¹¹ At first sight, the linguistic evidence seems to be far from supporting this conclusion; the word is rare in the extant second-century literature and it is not before Cicero that we find it used regularly in the sense of happy or lucky.²¹² The only well-attested second-century usage is in a series of closely related prayers, in which the adverb feliciter qualifies vertat or eveniat: 'ut

210. above, 695f.

211. Cf. especially, H. Wagenvoort, Roman Dynamism (1947), 71f.

212. The following statistics are based on the articles for felix and felicitas in the Thesaurus Linguae Latinae, 6.1.426ff.

	Felicitas	Felix and Feliciter
Ennius	0	1
Plautus	1	2
Terence	1	2
Cicero	52	42
Livy	32	50

ea res mihi collegaeque meo bene et feliciter eveniat';²¹³
 'nunc quae res tibi et gnatae tuae/bene feliciterque vortat
'.²¹⁴ The decree for a triumph contained a similar
 phrase: 'quod bene et feliciter rem publicam administravit';²¹⁵
 and we also know of a prayer used before the beginning of a
 war: 'Quod senatus populusque Romanus de re publica deque
 ineundo novo bello in animo haberet, ea res uti populo
 Romano sociisque ac nomini Latino bene et feliciter eveniret.'²¹⁶

Examples of the word *felicitas* describing a quality of
 an individual are very rare indeed. Plautus has perhaps
 one example: 'sati' spectatast mihi iam tua felicitas'.²¹⁷
 Cicero has been thought to be quoting a SC of 201 at de fin.

213. Livy, 40.46,9, quoting prayers of the censors in a speech attributed to the censor of 179.
 214. Plautus, *Au.* 788; for other examples cf. Ennius, *Annals* v.107f. (*Vahlen*³); Plautus, *Tri* 41;
 215. Livy, 38.48,14-15; cf. *Erkell*, op.cit., 56ff.
 216. Livy, 31.5,3-4; cf. 31.7,15; 8,2. *Erkell*, op.cit., 54f.
 217. *St.* 627. The line refers to a parasite, whom the speaker is refusing to admit; he has just commented 'dum parasitus mihi atque fratri fuisti, rem confregimus', i.e. the general sense must be that the parasite will cause them expense - 'I know what kind of good luck/prosperity you will bring with you'; this seems closest to the sense of *felix* = fruitful, as in Cato, inc. lib. fgt. 27 (Jordan): '"felicis arbores" Cato dixit "quae fructum ferunt"' (cf. infra, §42). The attributed remark of Cornelia (*Sen., cons. ad Marc.* 16.3) puns on this sense: '"numquam" inquit "non felicem me dicam, quae Gracchos peperit."' cf. Livy, 5.24,2; *Lucr.*, 5.1378 et al. This is no doubt the original sense of the word, connected with *fe-cundus*, *fe-mina*; cf. *Walde-Hofmann*³, 474.; *H. Fugier, Recherches sur L'expression du sacré*, 32ff.

4.22 - 'An senatus, cum triumphum Africano decerneret, 'quod eius virtute' aut 'felicitate' posset dicere, si neque virtus in ullo nisi in sapiente nec felicitas vere dici potest?' - but Cicero's point here is only to show that Stoic usage conflicts with the ordinary use of words and Africanus is introduced purely as an example;²¹⁸ he may be paraphrasing the form of decree used in his own day and it is hard to believe that he checked the third century text even if he was in a position to do so. Aemilius Paullus used the phrase 'in maximo proventu felicitatis nostrae' in his famous speech after the deaths of his sons;²¹⁹ but here the felicitas is evidently Rome's not Paullus' for the speaker's whole point is that fortune was planning a disaster to compensate for the Felicitas and that he had prayed that this disaster should be diverted from the populus Romanus on to the heads of his own family. We are left with a single very important example quoted by Livy from an inscription set up in the temple of the Lares Permarini in 179 BC: '...auspicio imperio felicitate ductu- que eius... classis Antiochi regis antehac invicta fusa contusa fugataque est,...'.²²⁰ This is the earliest example

218. For the view that Cicero is quoting the SC, Taeger, Phil. Woch. 53(1933), 932; contra, Erkell, op.cit., 58.

219. L. Aemilius Paullus, ORF², 102f., No. 12 fgt.2 = Val. Max., 5.10,2.

220. Livy, 40.52,5.

we have of this particular triumphal formula consisting of a series of nouns in the ablative with the general's name in the genitive;²²¹ the nouns used do not seem in republican times to have been fixed and *virtus*, *consilium* and *auctoritas* can also be included;²²² but *felicitas* is amongst those which occur fairly regularly.²²³ Here at least, then, we have evidence of continuity in the use of *felicitas* from the first quarter of the second century onwards. It is also clear that the presence of *felicitas* in the formula of 179 is to be closely associated with the formulation of the contemporary triumphal prayer quoted above; it is a short step from '*feliciter administravit*' or '*re publica felicissime gesta*' to speaking of the *felicitas* of the general himself. The balance of the four nouns in the formula give a further indication; if *auspicio* and *imperio* give the religious and secular sides of the power conferred by the people on its consul, *felicitate* and *ductu* presumably represent the religious and secular contributions of the general himself.²²⁴

221. cf. Cic., *Phil.* 14.11; 5.40; *de leg. ag.* 5; *pro Sext. Rosc.* 136.

222. *virtus*, Cic., *Phil.* loc.cit.; *consilium*, *pro Sext. Rosc.* loc.cit.; *auctoritas*, Cic., *Phil.* 5.40.

223. though not, e.g., at Livy, 41.17,3; 28,8.

224. for discussion cf. Levi, *R.I.L.* 71(1938), 101ff.; Erkell, op.cit., 59. Levi argued that *imperium* and *auspiciu* represented the attributes of the magistrate, while *ductus* and *felicitas* could as well be used of the *privatus*; but (a) '*ductu auspicioque*' is found without *imperium* (Livy, 41.17,3); (b) in the case of the *privatus cum imperio*, *imperium* is precisely what he has, but divorced from the *auspicia*, and it was for this reason that he could not hold a triumph.

This is, however, as far as this evidence can be taken; we have no way of telling from the linguistic evidence alone what the word *felicitas* meant to the men of the early second century; it could be that it already carried the full meaning we have discovered in the first century - that this particular man was marked out by the gods for their especial assistance in all his enterprizes; but it need mean no more than that it was his luck as well as his leadership which had led to the victory. It thus leaves ample room for the possibility that the concept developed greatly in the hands of Marius and his contemporaries. We must turn elsewhere for our evidence.

The cult of *Felicitas*, the goddess, perhaps offers a clue, though a slippery one. The first temple to her was built in the middle of the second century as the outcome of the Spanish campaigns of L. Licinius Lucullus and dedicated in about 146. The striking point here is that the cult is established so late. Roman temples were for the most part vowed in battle and therefore built by triumphant generals;²²⁵ one would expect that *Felicitas* would provide a general with the ideal recipient of such a vow representing as it did the good fortune which the gods sent to him and which assured him the victory. Yet *Felicitas* is the very last of the abstractions to receive a temple at 225. cf. *infra*, 170H.

Rome. Fortuna,²²⁶ Concordia,²²⁷ Salus,²²⁸ Spes,²²⁹ Mens,²³⁰ Libertas,²³¹ Honos²³² and Virtus²³³ had all received temples by the end of the third century and that to Pietas was vowed in 191 and dedicated ten years later.²³⁴ Why should Felicitas

226. e.g., the temple of Fortuna in foro Boario attributed to Servius Tullius (Dion. Hal., A.R. 4.27,7). There were many of them, for surveys cf. Wissowa, R.u.K.², 256ff.; Latte, RRG, 180; de Sanctis, St. d. R., 4.2.1. 287ff.
227. Temple attributed to Camillus, Ovid, Fasti 1.641; Plut., Cam. 42.4; cf. Wissowa, R.u.K.², 328; Latte, RRG, 237 n8; de Sanctis, St. d. R., 4.2.1. 298 n.781; the attribution was questioned by A. Momigliano, C.Q. 36 (1942), 115ff.
228. Livy, 9.43,25; 10.1,9 - vowed, 311; contracts 306; dedicated, 302; cf. Wissowa, R.u.K.², 132; Latte, RRG, 234; de Sanctis, St. d. R., 4.2.1. 294 and n.757.
229. Cic., de leg. 2.28; Tac., Ann. 2.49; this was vowed in the First Punic War by the consul of 258 (A. Atilius Calatinus), but there may have been a still older temple. (cf. Frontinus, aq., 5.6; 19.7; 20.3; 65.3; ILS 7543; de Sanctis, op.cit., 295 n.762) cf. Wissowa, R.u.K.², 330; Latte, RRG, 238.
230. Dedicated in 215; Livy, 22.9,10; 10,10; Ovid, Fasti 6.241ff.; Livy, 23.31,9; 32,20. Wissowa, R.u.K.², 313; Latte, RRG, 239; de Sanctis, loc.cit., 300f.
231. Livy, 34.16,19; Wissowa, R.u.K.², 138; Latte, RRG, 256; de Sanctis, op.cit., 303f. Dedicated c. 240.
232. Cic., de N.D. 2.61; Wissowa, R.u.K.², 149; Latte, RRG, 235; de Sanctis, op.cit., 302. cf. infra 726f.
233. Livy, 25.40,1-3; 27.25,7-9; 29.11,13; Cic., de N.D. 2.61; Wissowa, R.u.K.², 150; Latte, RRG, 235; de Sanctis, op.cit., 302; cf. infra 726f.
234. cf. infra, 206, temple v. 10.

have had to wait a further fifty years? Such questions are notoriously dangerous; but at least a possible explanation would be that at the time when the deification of most of the abstractions took place Felicitas had not yet been formulated as a specific principle in its own right but would rather have been looked upon as a gift made by Fortuna to the individual; in this case it would be Fortuna which would be the agent whose assistance in battle would be sought by a vow. Again, here, our evidence does not take us earlier than the first half of the second century.

The only line of investigation which remains is to look for individual generals who may be thought to claim felicitas in the generations before Sulla. The great figure who in many ways stands behind Sulla, is the greatest member of his own gens, Scipio Africanus the elder, and this precedent is of especial value to us because we have unusually good evidence about his religious reputation, including a long discussion by Polybius on precisely this point.²³⁵

235. Pol., 10.2ff. The Scipio legend, and particularly Polybius' account of it have been the subject of much discussion; cf. especially, Ed. Meyer, Kl. Schr., 2.438ff.; R.M. Haywood, Studies on Scipio, 20ff.; 30ff.; Stübler, Die Religiosität des Livius, 123ff.; H.H. Scullard, Scipio Africanus and the Second Punic War, 18ff.; H. Bengtson, H.Z. 168 (1943), 199f.; A. Aymard, R.E.L. 31 (1953), 111f.; Lippold, Consules, 358ff. The best statement of the situation is Scullard's; Haywood, artcit., goes furthest in accepting Polybius' view of Scipio and his dreams; Lippold carefully examines Livy's tradition for evidence on Scipio's religiosity, and lays great emphasis on the fact that he never, apparently, vowed and built a temple in Rome, as did for instance Fabius and

Polybius' treatment of the subject is highly polemical in its tone. He begins, as so often, by setting out the view of previous writers: 'οἱ μὲν οὖν ἄλλοι πάντες αὐτὸν

ἐπιτυχῇ πυνδ καὶ τῷ πλείονι αἰεὶ παρρηλόγως καὶ ταύτορμότῃ
κατορθοῦντα τὰς ἐπιβολὰς προσεισάγουσι, νομίζοντες ὡς ἂν εἰ
θειοτέρους εἶναι καὶ θαυμαστοτέρους πῶς ποιούτους ἀνδράς, ...'.²³⁶

There was then a literary tradition which attributed Scipio's achievements to good fortune and divine assistance; it is clear that it was in no sense a hostile tradition for the writers in question are said to regard the fortunate man as more worthy of admiration than he who succeeds as a result of calculation.²³⁷ It would be worth a great deal to know which writers Polybius had in mind at this point, but he never specifies and the sources he used are too imprecisely known for conjecture to be at all reliable; but it is not improbable that he has in mind the senatorial annalists, perhaps Fabius Pictor, whom he certainly used.²³⁸ His

235. cont'd....

Marcellus; but building temples is surely an obvious way of advertising one's piety, which one might have expected Africanus to do whether his beliefs were sincere or not.

236. Pol., 10.2,5ff.

237. id., 10.2,6.

238. There is no doubt that Polybius used Fabius (Pol., 1.14-15 (fgt. 21 P); 1.58,2 (fgt. 22 P); 3.8,1 (fgt. 25 P)), though it is arguable how much (cf. e.g. P. Pedech, *R.E.A.* 54 (1952), 246ff.; A. Momigliano, *R.A.L.* ser.8, 15 (1960), 310ff.; Cassola, *I gruppi*, 356ff.), and not certain how much of the war Fabius included, for the last fragment (26 P) comes from 217; but Polybius speaks of him as one of the main historians of the war (1.14f.) which makes it most unlikely that he only took his work to 217. In any case, the nature of the tradition Polybius discusses seems to ensure that he was using Roman rather than Greek sources (cf. below 758).

objection to their attitude is that they have failed to realize that by emphasizing the miraculous element in Scipio's actions they are automatically denying him the credit which he deserved.

A later passage makes it clearer exactly what was at issue. In dealing with the siege of New Carthage, Polybius explains at length the enquiries which Scipio made about the town and the calculations on which he based his decision to attack it;²³⁹ he then refers again to the other writers on the subject and says that they all admit that these calculations were made and that it is only when they come to the action itself that they attribute its success to the gods and not to the calculations of the general.²⁴⁰ Unless Polybius' account of this tradition is quite unreliable, therefore, the difference between his account and theirs is not a difference of fact but of interpretation. Polybius himself is frankly puzzled by the attitude they take; 'οὐκ οἶδ' ὅπως οὐκ εἰς τὸν ἄνδρα καὶ τὴν τοῦτο πρόνοιαν, εἰς δὲ τοὺς θεοὺς καὶ τὴν τύχην ἀναφέρουσιν τὸ γεγονός κατόρθωμα'.²⁴¹

The substance of Polybius' argument is presented in two stories of Scipio's early life and in his detailed account of the siege of New Carthage. The first story²⁴²

239. Pol., 10.8-9,1.

240. Pol., 10.9,2-3.

241. id., 10.9,2.

242. id., 10.3,3-7.

concerns his first campaign; during a battle he saved his father's life by conspicuous bravery and thereby won himself a great reputation for courage; after this he never risked his life without adequate reason. This, says Polybius,²⁴³ shows that he relied on intelligence, not luck. Secondly, while he was still extremely young but wished to stand for the aedileship at the same time as his elder brother, he told his mother that he had twice dreamed that he and his brother had been elected aediles together and that she met them at the door and embraced them; she did not realize that he seriously intended to stand and agreed jokingly that he should; his candidature was successful and the dream was precisely fulfilled. He thus won a reputation for communing with the gods, though in fact there was no dream and the credit should go to Scipio's accurate assessment of his electoral popularity.²⁴⁴

243. *id.*, 10.3,7.

244. It was Meyer (*Kl. Schr.*, 2.430f.) who showed that the Polybius story as it stands must be untrue for (a) Lucius was Publius' younger not older brother and the story turns on Publius' desire, when too young to stand for office, to help his brother who was old enough, but less popular; (b) in any case, his colleague as curule aedile was M. Cornelius Cethegus (*Livy*, 25.2,6f.; cf. *MRR* 1.263; 267n.4). This makes it impossible to take Polybius seriously in his claim to have Laelius as his authority for the story; as a matter of fact, he does not say specifically that this second story did come from Laelius, though he introduces the two stories as illustrations of how Laelius persuaded him that Scipio was no child of Fortune, but a cunning schemer; the first story is specifically from Laelius. The point is important because the first story does not, in fact, have anything to do with dreams or the like and there is therefore no reason to think that Laelius shared Polybius' view of Scipio. Where did the story come from? Presumably not the historians of 10.9,2f., for it is they who are refuted by such facts. Perhaps, a muddled barber?

The third example actually forms part of the narrative of the war in Spain.²⁴⁵ The relevant point is that here again Scipio claimed to have had a significant dream; Poseidon had appeared to him, suggested a plan^{and} promised that he would render open assistance when the time came. The plan was that they should use the ebb tide to make an attack from the seaward side of the town's defences. The tide duly receded at the critical moment and the troops attributed the consequent victory to the direct intervention of Poseidon.²⁴⁶ The implication, once again, is that there was in fact no such dream and that Scipio was simply claiming divine assistance in order to create confidence in his army. Polybius' general comment on Scipio's religious policy is to compare it with that of Lycurgus of Sparta²⁴⁷ - both men deliberately promoted the belief that ideas which were in fact their own had been divinely inspired.

Polybius does not succeed in proving his point very convincingly. He insists on an absolute choice between

245. Pol., 10.6,1; 'οὗ μὲν δ'αὖ' marks the point at which he returns to the main narrative.

246. Plan, 10.8,6-8; the dream, 10.11,7; the tide, 10.14,11-12; there has been some discussion as to what really happened to the lagoon, cf. e.g. Scullard, *Scipio*, 69 ff.; and Professor Walbank has discussed the matter again in a paper to be published shortly; it seems certain that phenomenon, whatever it was, must have been local, occasional but predictable to the expert (hence, the fishermen, 10.8,6-7); Walbank points out that since the lagoon was fordable anyway (10.8,7, 'ὅτι γὰρ') Scipio could always have made his attack from the lagoon even if the ebb had not happened, and still have claimed Neptune's assistance.

247. 10.2,8ff.

Scipio the lucky and Scipio the clever and ignores the infinite possibilities between the two; in a sense, the tradition he is criticizing seems rather more sympathetic, for it at least recognized some combination of calculation and luck; but, as with Sulla, so with Scipio, there seems little point in speculating about the deeper motives and sincerity of the man, when our evidence is so hopelessly inadequate to the task.²⁴⁸ Polybius' own attitude is clear enough; it is tempting to suggest here that the dispute has arisen because he has failed to understand the Roman tradition of felicitas and if this is true it would be an important conclusion. His precise criticism of the tradition is that for mysterious reasons, historians have emphasized the role of luck in Scipio's career and not realized that they were thereby diminishing his stature as a commander. This fits exactly the distinction discussed above²⁴⁹ between Greek and Roman conceptions of luck; to Polybius there is a hard and fast alternative and that which happens through luck or divine assistance affords no credit to the general; the Roman notion of felicitas, if this is what is in question, depended on the idea that to have good luck was the most important of a general's qualities. Polybius, not surprisingly, failed to take the point.

248. though cf. below, 759.

249. above, 745ff.

The question of how far the precedent of Scipio shows that the felicitas of Marius and Sulla was a traditional quality of the Roman general has so far provided little firm ground. It is quite certain that in several respects his example stands behind much of the religious propaganda of the first century BC. He had, or claimed to have, inspired dreams which played an important part in his career.²⁵⁰ We are told, too, that he used to visit the temple of Iuppiter on the Capitol very early in the morning, order the cella of the god to be opened and there stay 'quasi consultantem de re publica cum Iove';²⁵¹ our evidence for this is later, but a remark by Polybius confirms the story.²⁵² Again, there are traces of a

250. cf. above 754ff. and Livy, 26.19,4-5; Eutr., 3.11.

251. Gell., N.A. 6.1,6ff.

252. Gellius cites as his authorities (a) Oppius, i.e. Caesar's friend, (RE no. 9, 18.1.729ff.; esp. 735ff.; Peter, HRR 2. fgts. 2 & 3; cf. LXIIIff.) and (b) Julius Hyginus, Augustus' freedman (Suet., de gramm. 20; RE s.v. Julius no. 278, 10.1.268ff.; HRR 2.fgt. 4; cf. Cliff.). But Pol., 10.5,5, comments that Scipio was believed to commune with the gods not only in dreams, but 'ὡς περ καὶ μεθ' ἡπείρου'. This is quite irrelevant to its context, which is solely concerned with dreams, and Polybius must clearly be thinking of other stories such as that of the visits to Iuppiter on the Capitol.

connection between legends of Scipio and Alexander the Great; Scipio's mother, like Olympias, was said to have been visited by a snake at the time of his conception and it was hence rumoured that he was the child of Iuppiter.²⁵³ Perhaps, his consultations of Iuppiter recall Alexander's visit to Zeus of Ammon;²⁵⁴ and, perhaps, Ennius' famous phrase 'Scipio invicte' echoes Alexander as the 'θεός ἀνίκητος'.²⁵⁵ We have seen that this aspect of Scipio immediately received emphasis in the tradition and that the picture of him as a man of Fortune was highly developed by the time Polybius was writing.

Two points, however, must be emphasized. First, we have no evidence at all that Scipio claimed to be a man of Felicitas or that this concept was fully developed in the Ciceronian manner in his day. Secondly, the respects in which Scipio anticipates the events of the following century are precisely those in which he seems to be least typical of the republican tradition; we have no reason to think that earlier Roman commanders dreamed significant dreams, echoed Alexander or communed directly with Iuppiter;

253. The snake, Sil. Ital., Pun. 4.475,6; 13.632,3; Livy, 26.19,7; Gell., N.A. 6.1,1. Son of Iuppiter, Val. Max., 1.2,2; Livy, 26.19,7-8; 26.38,58.

254. Cerfaux-Tondriaux, le culte des souverains, 135ff.

255. Ennius, Scipio v.3 (Vahlen³); cf. Cic., Verr. 4.82, for the inscription 'invicti imperatoris' on a statue. For Alexander, cf. Hyperides, l. col. 32.5; Weinstock, H.T.R. 50(1957), 221f. Cf., further, Ennius' epigram (Epig. 23-4 (Vahlen³)), implying some form of apotheosis:

Si fas endo plagas caelestum ascendere cuiquam est,
mi soli caeli maxima porta patet.

in the last respect, indeed, he has no successors either. The actual career of Scipio provides no evidence at all that felicitas was a traditional quality of Roman generals.

A specific picture now emerges. Scipio claimed in some respects a special relationship to the gods; by Cicero's day this relationship had been institutionalized under the form of Felicitas, which all the great first century generals claimed to possess. But there are solid reasons for doubting whether this situation applied to Scipio's time. First, the word 'felix' seems to develop in popularity and breadth of connotation only during the course of the second century.²⁵⁶ Secondly, the cult of Felicitas only begins in the 140's.²⁵⁷ On the other hand, it seems likely that it was in the tradition about Scipio to which Polybius refers with distaste, that the idea of the great man gifted with good fortune and receiving direct assistance from the gods was first clearly formulated. It may be that the word felix had always been applied to the successful general, though we are not in a position to say what it would have meant before the second century. What seems clear is that the associations of the word were dramatically transformed during the course of the century and that the full first century concept would not have

256. *infra*, 747ff.

257. *infra*, 751ff.

been acceptable in the third.

The ideas behind felicitas are essentially those of an age in which events are dominated by a small number of powerful military men; the implicit claim is that certain individuals, perhaps one in a generation, are the recipients of specific divine assistance in the form of direct inspiration or assistance and of good luck. As a result, these individuals are virtually unconquerable and are quite different in their quality from ordinary men. The development of felicitas in Rome is the religious counterpart to the process by which the senate gradually lost control of the power and ambitions of its individual proconsuls. No doubt, there are traditional elements in the concept but it is its rapid transformation which is significant for understanding the break-down of republican institutions.

14. Cult and belief

It is generally accepted as a truth that in the second and first centuries B.C. the State religion of Rome was in decline, its institutions decaying, its priests deprived of their ancient knowledge and art, its significance lost.¹ The educated classes had long since abandoned any belief in the gods of their ancestors and the whole system was operated by the ruling classes either for their own political advantage or for the manipulation of the more credulous classes of society. It is far from easy, however, to find any precise evidence in the course of the second century to prove or disprove any of these assertions. We certainly know that by the end of the republic some of the ancient priesthoods and sacrifices had fallen into disuse;² the Romans knew of ancient formulae

1. The idea has influenced all writers on the subject, but they have varied in their emphasis and in the evidence they found most impressive: cf. especially Mommsen, History of Rome (Eng. tr.), 2.398ff; Bloch-Carcopino, H.R. 2.53ff.; Wissowa, R.u.K.², 61ff; Latte, RRG, 264ff (on which, S. Weinstock, JRS 51(1961), 208ff); Fr. Altheim, A History of Roman Religion (Eng. tr. 1937), 327ff; O. Koch, Convivium (Festschr. Ziegler), 85ff = Religio, 176ff. A more moderate attitude is that of J. Bayet, Histoire Politique et psychologique de la religion romaine, 144ff; while de Sanctis, St. d. R., 4.2.1.371ff, lays some weight on the more positive side. Warde Fowler, RERP, 335ff, sees clear evidence of the loss of the old Roman conceptions, particularly in the prodigy lists of the Hannibalic War and thereafter, but does not emphasize the concepts of decline and decay.
2. The most important example is that of the flamen Dialis, cf. infra, 321K; for other priesthoods alleged to have been abolished cf. below, n.71.

which they no longer understood and ancient gods whose identity they had forgotten;³ the augurs had lost their art of divining and the fetiales no longer declared war.⁴ All this was no doubt a gradual process and in this sense it is a fair assumption that the system was declining in the second century; but this is a very superficial conclusion and leaves us as ignorant as ever about the questions which really matter: even granted that certain institutions were decaying, does this imply that those which remained were without importance and validity? secondly, was there a definite change in the accepted standards of what a politician could or could not do in using religious means to further secular ends? thirdly, is there a transformation in the beliefs of Romans about the gods and their relation to the city? The first two of these questions are tangible and some kind of answer to them can be attempted in the light of the discussions of earlier chapters; to these I shall return later. The last question, though in itself central to this, or any other study of Roman religion, remains and must remain elusive; but from this slippery point the study must begin.

3. cf. Varro, de L.L. 6.19; Varro ap. Aug., C.D. 6.2; cf. 4.31; on Varro's distinction between di certi and incerti at Aug., C.D. 7.17 cf. Wissowa, Ges. Abh., 308ff; R. Agahd, Jahr. Phil. Supp., 24, 126ff.
4. Cic., de div. 1.25; 2.77; cf. de N.D. 2.9; de leg. 2.33. For the attribution of the same thought to Cato, cf. Cic., de div. 1.28 = Cato, fgt. 132 (Peter).

There are fragments of evidence which have been thought to show that by the early second century Roman aristocrats had adopted more or less publicly an attitude of scepticism towards their gods and accordingly to make use of the State religion for political purposes. The first piece of evidence usually quoted is the passage in which Polybius traces the superiority of Rome over the Greeks to their greater 'δεισιδαιμονία';⁵ Polybius' words are sometimes treated as if he had explicitly told us that it was the masses at Rome who were superstitious while the rulers exploited, but did not share, their religious fears. His thoughts, however, are very much less clear-cut than this. He comments on Roman superstition and gives his opinion that Roman pomp is intended 'τοῦ πλῆθους χάριν', but the only example he gives to illustrate his point is the respect with which a Roman treats his oath;⁶ this is an essential difference, in Polybius' view, between Roman and Greek public life - the Roman official under oath can be trusted, the Greek cannot. Whether or not this was true, it is certain that Polybius has in mind not only the religiousness of the masses but that of the ruling class. The other element in the passage is a digression in which Polybius analyses the

5. Pol., 6.56,6ff: cf. Dion. Hal., A.R. 2.19,3; Posidonius Fgt. 59 (Jacoby).

6. For Polybius' own opinion, 6.56,9: 'ἐμοί γε μὴν δεοῦσι τοῦ πλῆθους χάριν τοῦτο πεποιηκέναι'; his mention of the oath, 6.56,14.

loss which Greek cities had suffered through the decline in religious beliefs;⁷ here he does put forward the view that it is necessary for the rulers to be able to manipulate the masses by terrifying them with the fear of punishments in store for them in hell. At first sight, it seems a reasonable assumption that terrifying the masses must represent the element lacking in Greece, but still present at Rome; therefore, we have Polybius' word for it that Roman aristocrats were themselves sceptics, but cynically exploited the superstitions of the masses. There are two objections, however, to the making of the assumption; first, the example of keeping one's oath refers to the ruling classes not the masses; secondly, though there are various ways in which the State religion could have been used by the ruling class to exploit popular superstition, threats of hell can hardly be one of them, for it seems that ideas of the underworld and its gods were hardly current at all in Roman tradition.⁸ It follows that Polybius' digression

7. 6.56, 10-13.

8. Though cf. *infra*. p. 8 for some evidence from Plautus about Roman conceptions on the subject and cf., of course, Lucretius, 3.950 - fin., who seems to assume that fears of Hell are an important factor in men's lives; both stand close to Greek originals and if there were those at Rome in fear of Hell it was presumably owing to oriental influence rather than political manipulation. For mockery at superstitious fears of bogies cf. Lucilius, 48ff (Marx), where the institutions are traced back to: 'Fauni...Pomiliique...Numae', but the fear regarded as childish.

refers to Greece, without special reference to any comparison with Rome. He tells us that the Romans were god-fearing and kept their oaths, and this apparently includes the aristocrats.

Can we find particular examples of early Roman scepticism? The only evidence comes from remarks attributed to leading Romans of the of the late third and early second century. Most famous is Cato's comment on the haruspices, how could they meet without laughing?⁹ Claudius Marcellus is said to have travelled in a closed litter to avoid seeing signs from the gods which might hinder his intentions.¹⁰ To Flaminius are attributed jibes at the taking of auspices¹¹ and Fabius Cunctator is also credited with more moderate scepticism about the value of the auspices.¹² The evidence

9. Cic., de div. but cf. de N.D. 1.71 where the same saying is given, but not ascribed to Cato.

10. Cic., de div. 2.77.

11. For the prodigies and signs ignored before the battle of Trasimene cf. Coelius Antipater, fgts. 19: 20 (Peter) = Cic., de N.D. 2.8; de div. 1.77 respectively. cf. Livy, 22.3, 11-13; Flor., 1.22, 15; Val. Max., 1.6, 6. Sil. Ital., 5.54ff: but a great deal of this tradition must be regarded as dubious - (So, Cassola, I gruppi, 296). For the religious conflict of 223, cf. infra ,423 ff. . For the attributed remark of Flaminius: 'praeclara vero auspicia, si esurientibus pullis res geri poterit, saturis nihil geretur' cf. Cic., de div. 1.77.

12. Cic., Sen. 11: Plut., Fab. 2, 3-4; cf. I. Müller-Seidl. Rh. Mus. 96(1953), 278ff.

is far from being first-hand and such anecdotal material is notoriously vulnerable. But it is hard to reject a tradition which attributes criticism of the religion to a number of contemporary figures at a date before such adverse comments might have been expected; the whole set of remarks hardly seems likely to have been an invention. There are, however, profound differences between the remarks themselves. Cato, as we saw earlier,¹³ is not commenting on Roman religion at all, but jeering either at Etruscans or at private prophets. Marcellus is still less outrageous for his practice is perfectly in accord with Roman augural doctrine that only signs you see have reference to you.¹⁴ Flaminius' remarks, on the other hand, find their place in a tradition hostile to him and tracing his disastrous failure in the Hannibalic War back to his own religious irregularities;¹⁵ in this case, it is quite clear that the currency of stories of Flaminius' scepticism was damaging to his reputation, certainly in the historical tradition

13. cf. *infra*, 542 ; and cf. his views on auguria, cited above n.4.

14. Pliny, *N.H.* 28.17: Serv. ad Aen. 12.259; cf. Festus 268L = 234M = Cato, *ORF*² fgt.73. On the dropping by Marcellus of 'auspicia ex acuminibus' (Cic., *de div.* 2.77) cf. Mommsen, *Staatsr.*, 13.88.

15. cf. especially the remark attributed to Fabius in the senate: 'plus negligentia caerimoniarum auspicio- rum (que quam) temeritate atque inscitia peccatum a L. Flaminio consule esse'. (Livy, 22.9,7).

and perhaps also in his lifetime. Fabius, like Flaminius, was a man deeply involved in political controversy and it is at least possible that in his case too the remark was attributed to him - rightly or wrongly - by his enemies rather than his friends.¹⁶ To sum up, these remarks represent an interesting tradition but have to be handled with extreme care. It would be risky to conclude that Roman aristocrats at this date made public statements about their disbelief in the gods. They seem to reflect rather a society in which criticism of religion was in the air, but by no means tolerated.

Another kind of information comes from an anecdote about Aemilius Paullus in Plutarch's life of him.¹⁷ He is remarking on Paullus' exceptional devotion to his college - the augurs - and his extreme scrupulousness in carrying out his religious duties. On one occasion, his colleagues actually asked him why he was so concerned about minute points of ritual; did he really think that the gods would punish such insignificant mistakes? He replied that he did not; but, in his view, to relax over the details of civic duties would eventually lead

16. 'Augurque cum esset, dicere ausus est optimis auspiciis ea feri quae pro rei publicae salute gereretur; quae contra rem publicam ferrentur, contra auspicia ferri'. (sen. 11); the thought goes back to II.12.243: 'εἴς σῆνος ἄριστος ἀμύνεσθαι περὶ πάντων'.

17. Plut. Aem. 3.2ff.

to relaxation over important matters of politics and hence to revolution. The likeliest source for this story is surely Polybius; he was very interested in Paullus¹⁸ and supplied a good deal of the material for Plutarch's life;¹⁹ in the extant portions of his work we have another remark attributed to Paullus which makes a very similar point, about the value of attention to the details of religious ceremonial, though this time from the point of view of organization rather than ~~ritual~~ ^{politics}.²⁰ There is no reason to regard the story as an anachronistic anticipation of the first-century controversy within the augural college, about whether divination was possible or not,²¹ for there is no real similarity apart from the basic situation of a dialogue between members of the augural college. In Plutarch's story the issue is not whether or not divination is genuine, nor even whether or not the gods exist, but far more specific and far more plausible for the date in question.

18. cf. esp. 31.22; 29.20; 30.10,6.

19. Polybius is specifically quoted at Plut., Aem. 15.5; 16.3; cf. in general, W. Schwarze, *Quibus fontibus Plutarchus in vita Aemilii Paulli usus sit* (1891); L. Liedmeier, *Plutarchus' Biographie von Aemilius Paullus* (1935).

20. Pol., 30.14, cf. Livy 45.32, 11.

21. cf. Cic., *de div.* 1.105; 2.75; *de leg.* 2.32f.

Both sides of the discussion apparently presuppose that the gods do exist and neither is, at least explicitly, adopting an attitude of general scepticism. His colleagues are inclined to criticize ^{Paullus'} his extreme concern over points of detail: but it is on the detail of his concern that the interest falls, not on the possibility of divine intervention. In the end, both sides are agreed that the displeasure of the gods is not what matters, or at least that there is no risk of its being incurred by minor mistakes of ritual. The implication of this is not that the members of the college were inclined to atheism, but rather that their conception of deity had risen above the idea that a god would be satisfied by the precise and unerring fulfilment of ritual and dissatisfied by the slightest deviation from it. Whether this is decline or progress in terms of Roman religion is a matter of opinion.

There is another point of interest here. The attitude which Paullus professes in Plutarch's story is precisely that which I have argued in earlier chapters must be postulated to explain the behaviour of colleges and individuals in various situations.²² Scholars have tended to assume that any initiative by a college must be motivated by the desire to secure some kind of advantage and this principle has been applied even in circumstances where no such advantage is discernible at all.²³ Since we completely lack

22. Cf. *infra* chs. 5, 6, 8.

23. Cf. *infra*, e.g., 304 ff.

direct evidence of why particular action was taken any explanation must remain on the level of a hypothesis. I have tried to argue that in many cases the priests were influenced by a more or less disinterested desire to maintain the rules of the religious law and the traditions of their ancestors. It is this attitude which Plutarch ascribes to Paullus and it is of the greatest value to have some literary evidence that the attitude of mind at least existed somewhere. No doubt, others would have offered different explanations of their own scrupulousness - in terms, perhaps, of religious obligation rather than political advantage. But that men such as Aemilius Paullus, Licinius Crassus the pontifex maximus and Tiberius Gracchus the augur kept alive at least this part of the religious tradition of Rome seems to me beyond reasonable question.

It is not until the last years of the period that we possess anything like a theological statement from a Roman priest. St. Augustine preserves and comments on some passages of Varro in which he quotes the views of the pontifex maximus Mucius Scaevola.²⁴ It is anything but clear in what

24. Aug. C.D. 4.27: the doctrine is elsewhere developed at length and there attributed to Varro himself (C.D. 6.5), which evidently implies that Varro had adopted it from Scaevola. The Scaevola in question is presumably Q. (cos. 95) rather than P. (cos. 133), both pontifices maximi; the words 'Scaevola pontifex' usually serve to distinguish Q. (cos. 95) from Q. (cos. 117), the augur: but since his pontificate is here relevant this is no sure guide. For discussion of Scaevola's views cf. Fowler RERP, 338, n.6; Koch, Religio, 188f; L.R.Taylor, Party politics, 77 and n.2; Latte, RRG, 277.

form Scaevola's remarks were published, if they were published at all; but the nature of the quotations certainly suggests that Varro was quoting from a text rather than reporting alleged remarks and the content perhaps suggests an essay intended for rather limited circulation rather than any kind of public pronouncement. Scaevola distinguished three kinds of gods: those handed down by the poets, those by the statesmen and those by the philosophers. At first sight, this might seem to be a completely sceptical view, but, in fact, it does not quite do justice to Scaevola's position in so far as that can be reconstructed from what Augustine tells us. The poetical gods Scaevola simply rejected - 'nugatorium dicit esse, quod multa de diis fingantur indigne'.²⁵ The views of the philosophers he takes more seriously and regards as positively harmful to the life of the State; two examples are given: first, that certain of the gods are not gods at all; secondly, that of those who are gods there are no true likenesses, 'quod verus deus nec sexum habeat nec aetatem nec definita corporis membra'.²⁶ These are examples of views which in Scaevola's opinion should be concealed from the people at large; it is this aspect of the matter which Augustine is concerned to emphasize, for Scaevola is recommending that the people should be deliberately deceived

25. Aug., C.D. 4.27 cf. 6.5-7.

26. Aug., C.D. 4.27 cf. Varro ap. Arn., 7.1.

about religious truths.

In what we have of the passage, Scaevola is writing purely from the point of view of the politician in his analysis of the philosophical gods and, as is clear from the doctrines which Augustine quotes, his criticism of Scaevola is fair enough. Scaevola apparently accepted the view that Hercules and Aesculapius were not gods and that the real gods ⁵⁴⁵ were sexless, ageless and immaterial; these points are not put as dangerous and wrong views which must be resisted, but as truths which must be concealed for the good of the State. 'Haec pontifex nosse populos non vult; nam falsa esse non putat. Expedire igitur falli in religione civitatibus.' Of course, these words are Augustine's exegesis, not Scaevola's own; but they substantially represent his point.²⁷ But there is another aspect to the matter which interests Augustine less, but which his quotations make very clear; for Scaevola is actually committing himself to the particular philosophical views which he mentions; he seems to accept that Hercules and Aesculapius are not gods but men given divine honours; and he accepts that there is a 'ver~~us~~us Deus', sexless, ageless and immaterial.

It has been thought that Scaevola derived his opinions from contemporary Stoic thought and in particular that the view that there were mythical gods, philosophical gods and

27. Koch (Religio, 188f: 196) seems to take these words as Scaevola's own.

civic gods was directly taken from Panaetius of Rhodes and is an example of Stoic influence on Roman thought.²⁸ Latte²⁹ is in no doubt about this: 'Gerade im Scipionenkreise entwickelte Panatios die Lehre von eine Dreiteilung der Theologie in *ῥεθικῇ, πολιτικῇ, φιλοσοφικῇ*. But, in fact, there is no reason^{cited} to attribute Scaevola's views to Panaetius, apart from the fact that, according to Cicero, he was in some sense Panaetius' pupil;³⁰ while what little we know about Panaetius' views on religion is far from suggesting that he developed any kind of theology of his own.³¹ In any case, Scaevola's association with Panaetius cannot be used to suggest that these opinions on the gods would be current and familiar to the Roman aristocrats who met and talked to Panaetius in Rome. It is perfectly possible that it was Scaevola himself who examined Greek philosophical doctrines,

28. So, e.g. A. Schmekel, *Die Philosophie der mittleren Stoa*, 71; 117ff.; K. Reinhardt, *Poseidonios*, 408f; M. Pohlenz, *Die Stoa*, 1.198.

29. *RRG*, 277.

30. For discussion cf. M. van Straaten, *Panaetius*, 87ff: 259ff: 311ff: he argues effectively against the attribution of Scaevola's views to Panaetius, but was rather surprised by the passages of Cicero describing Scaevola as a pupil of Panaetius (Cic., *de or.* 1.45; 75): however, he need not have worried, since Cicero is referring to the other Scaevola, the augur. Scaevola the pontifex would probably have been too young to have heard Panaetius in Rome for he seems to have lived in Athens from the early 120's and died in about 109 (cf. Pohlenz, *Antikes Führentum*, 125f; Van Straaten, *op.cit.*, 23).

31. We know that Panaetius doubted the possibility of divination (Cic., *de div.* 1; 6; 12; 87ff (van Straaten, fgt. 71-31) and according to Epiphanius (*de fide* 9.45 = van Straaten fgt. 68) regarded theology as *ῥησιμαγωγία*: the fragment has often been rejected; cf. van Straaten's (not altogether convincing) defence, *op.cit.*, 87ff.

and in particular those which he himself found sympathetic, from the point of view of a Roman priest, for this is the essential point of the fragments as we have them. As we have seen Scaevola's analysis hangs together as a whole, whose purpose is to examine the relationship between civic cult and poetical and philosophical conceptions of deity and in this form the ideas could perfectly well be his own, including the threefold division of the gods.

It is different with the individual elements of the discussion, representing the views of the philosophers; here, Scaevola is evidently borrowing and it is important to ask how new are his ideas for a Roman. The idea that some or all gods of the traditional pantheon were no more than men who received worship when they died, so-called Euhemerism, certainly goes back in Rome to the work of Ennius, who adapted or translated the work of Euhemerus into Latin;³² Lactantius³³ preserves substantial fragments in prose, which describe events in the life of Iuppiter and his efforts to create a cult to himself all over the world. There is no sign that any effort was made to suppress Ennius' work or that it was felt to be a threat to the State cult. It has, however, been suggested that similar ideas to

32. Cic., *de N.D.* 1.119; Lact., *Div. Inst.* 1.11, 33. cf. F. Skutsch, *RE* 5.2.2600f. E. Fraenkel, *Eranos*, 49, 50ff.

33. Lact., *Div. Inst.* 1, cf. Vahlen³, *Varia fgts.* 60-146: better arranged in Warmington, *ROL* 1.414ff.

Ennius' were contained in the mysterious 'Libri Numae' supposed to have been excavated from Numa's tomb in 181 B.C.;³⁴ Varro's account of the incident tells how the fathers ordered that the books should be burned after 'primores quasdam causas legissent, cur quidque in sacris fuerit institutum...': they agreed with Numa, and, incidentally, with Scaevola and Varro himself, that there were certain truths best kept hidden. A possible explanation would be that the books contained accounts, supposed to be given by Numa, of the origins of the gods along the lines of Euhemerus' theories; Delatte,³⁵ whose view this is, regarded the books as an effort first to prove the association between Numa and Pythagoras and secondly to justify Roman religion by making it intellectually more acceptable, precisely along the lines which Scaevola was later to put forward; this would be an important conclusion, but there is obviously a danger that, even if this is what Varro's words were intended to imply, they give us not solid evidence as to what was in the books, but rather Varro's own ideas of what a dangerous religious pamphlet would be likely to contain. Even the view that the books were Pythagorean is not altogether secure.³⁷

34. Cf. *infra*, 158ff.

35. *Varro* an. Aug. C.D. 7.34.

36. *Bull. de L'acad. roy. de Belge, cl. des lettres*, 1936, 19ff. cf. also *Ward Fowler, RERP*, 350; L. Ferrero, *Storia del Pitagorismo*, 231ff; J. Gagé, *Apollon Romain*, 328ff; de Sanctis, *St. d. R.*, 4.2.1. 367ff; Latte, *RRG* 268ff.

37. Cf. *infra*, 154f.

Another figure who might have a bearing on Scaevola's ideas is Fulvius Nobilior, the consul of 189 and enemy of M. Aemilius Lepidus, the pontifex maximus.³⁸ He was certainly associated with Ennius,³⁹ took a considerable interest in Numa,⁴⁰ and his dedications in the temple of

38. Cf. *infra*, 248ff.

39. Cic., *Tusc.* 1.3 = Cato, *ORF*², fgt. 149 (for the date of Cato's attack on Fulvius, Fraccaro, *Opusc.* 1.250ff; Scullard, *RP*, 267; Malcovati, *ORF*², 57); Cic., *pro Arch.* 27; *Brut.* 20: for Ennius' celebration of Nobilior's campaign, cf. his *Ambracia* and *Annals* XV; for Ennius' citizenship with the help of Nobilior's son, cf. Cic., *Brut.* 79; *pro Arch.* 22; *de or.* 3.168; Livy, 39.44, 10.

40. For Numa's 'aedicula' to the Muses, which Fulvius transferred to the temple of Hercules, cf. *infra* 140 : for his mention of Numa in connection with the calendar, cf. *Mac.*, 1.12, 16; *de Sanctis*, *St. d. R.* 4.2.1, 258; 356: *infra* n.42. For Numa's alleged Pythagoreanism, rejected by our first-century sources cf. Cic., *de rep.* 2.28; *Diod.*, 8.14; *Dion. Hal.*, *AR* 2.59; Livy, 1.18, 2; on the evidence^{ce} of a Roman tradition of Pythagoreanism ^{for} the third century cf. Ferrero, *Storia del Pitagorismo* 137ff; but cf. W. Burkert, *Philologus* 105(1961), 236ff. Plutarch preserves a good deal of learned speculation from the first century ^{with} Castor of Rhodes on Pythagorean elements in archaic Roman customs, especially the caerimoniae of the flamen Dialis, cf. *Numa* 14, 16-12; *Q.R.* 10; 76; 95; 101-2; 112. cf. F. Boehm, *De Symbolis Pyth.* (1905): The parallels may well have been found impressive already in the second century.

Hercules have suggested the influence of Pythagorean ideas.⁴¹ He also apparently wrote on the subject of Numa, and Lydus⁴² preserves a fragment in which Fulvius praised the study of astrology which leads men to perceive ἡρόναιον τ[οῦ πάν]των ἀρρήτου [πατρὸς], the ineffable creator of the universe. Fulvius' conception, probably derived ultimately from Plato's Timaeus,⁴³ is a measure

41. For this interpretation of Hercules and the Muses, cf. F. Cumont, Symbolisme funéraire, ch.4 and passim; P. Boyancé, le Culte des Muses 233ff; Rev. Phil. 29 (1955), 180ff; for a different view, B. Tamm, Opusc. Romana 3 (1961), 157ff. Boyancé argued that the cult of Hercules and the Muses was derived from Croton, where there was a strong Pythagorean tradition; but a) the statues are said by Pliny, N.H. 35.66, to have come from Greece, where there is in fact evidence of a cult, cf. SIG³ 578; 959; b) Heracles was the special god of the city Ambracia (Ant. Lib., 4.7); cf. Fulvius' dedication: 'M. Fulvius M.f.Ser.n. Nobilior cos. Ambracia cepit,' (ILLRP 124) and infra 190. c) We have representations of Hercules Musarum and the Muses on a series of denarii issued by Q. Pomponius Musa in the 60's B.C., which may show the original statues; the Muses are dated C.280 by Lippold, Die griech. Plastik, 305; but Professor Webster believes Hercules to be stylistically different and probably later. d) It is doubtful whether there was a cult at all, or just a collocation of statues, cf. infra 188 ff. e) It makes perfectly good sense for Hercules and the Muses to represent Fulvius and Ennius; the warrior and the poet.

42. de Ost. 16.

43. Plato, Timaeus, 28C; 47a-c; for the identification of Fulvius, which cannot be certain, cf. Delatte, art.cit. n.36, 35f; Boyancé, art.cit. n.41, 172ff; Burkert, art.cit. n.40, 241ff, thinks of pseudo-Pythagorean writing as intermediary: for other examples of Roman knowledge of Pythagorean writings, cf. Burkert, art.cit. 29ff; 239, but the examples are not altogether persuasive.

of how little we know about the religious ideas of Romans before Cicero and might very well have been seen as an attack on Roman religious tradition. Fulvius' association with Ennius was, in fact, the subject of criticism by Cato and similarly it was a political ally of Cato who was behind the burning of the 'libri Numae'.⁴⁴

A safer parallel to Scaevola's philosophical monotheism is provided by a fragment of his contemporary, Q. Valerius Soranus:⁴⁵

'Iuppiter omnipotens rerum regumque repertor,

progenitor genetrixque deum, deus unus et omnes.'

It seems probable that this aspect of the ideas of Scaevola and Soranus is to be seen in the light of Stoic theology, whether or not derived from Panaetius; certainly, the Stoic deity was ageless, sexless and had no 'definita corporis membra', which could be represented by statues, though of course this is not an adequate definition.⁴⁶ What the

44. Cf. *infra*, 158ff. For Ennius' Pythagoreanism, cf. Altheim, *History of Roman Religion*, 200ff, who bases his arguments largely on the proem of Ennius' *Annals*; but cf. O. Skutsch, *C.Q.* 38(1944), 84ff. for the general structure of the proem; Waszink, *Mnemosyne*, Ser. 4, 3(1950), 221ff, who showed that the fragments are far from proving that Ennius was himself Pythagorean, cf. further, Burkert, *art.cit.* 243ff. However, he did evidently use Pythagorean ideas; and for possible acquaintance with Empedocles, cf. Norden. *Ennius u. Virgilius*, 10ff.

45. *fgt.* 4 (Morel).

46. Nock, *JRS* 49(1959) 5ff. argued that the appearance of such ideas in Stoic circles involved a revision of the traditional Stoic conception of deity (for which cf. Pohlenz, *Die Stoa*, 1.93ff: Nock, *art.cit.* 9ff.), and traced this to the influence of Judaism as understood by Posidonius; Scaevola could well have known Posidonius' ideas, but it is impossible to prove so.

Scaevola fragment does not indicate is Scaevola's own attitude to the State cult; he assumes that the politician will wish to maintain belief in the gods, but does not tell us why. He could quite consistently adopt the attitude of Cotta in Cicero's de Natura Deorum,⁴⁷ that his allegiance to the State cult and the *mos maiorum* is quite separate from and unaffected by speculations about the truths of theology. Adherence to Roman religion does not require any particular faith.

Such little evidence as we have, then, suggests not the growth of irreligion at Rome but rather of attitudes of sophisticated detachment from the traditional belief; this would not necessarily lead to contempt for the rites and observances of the cult; Varro, after all, who to a great extent adopted Scaevola's attitude, bitterly lamented the decline of ancient practices.⁴⁸ It does lead to the ambiguity characteristic of much first-century writing, the tension between the Cicero of the speeches or the de legibus and the Cicero of the de Natura Deorum. But it is important to emphasize that none of the earlier evidence examined justifies us in the assumption that Scaevola's attitude was necessarily typical even of his own generation, let alone of earlier ones.

47. de N.D. 3.5f; cf. Koch, Religio, 192ff; Weinstock, JRS 51(1961), 209ff.

48. ap. Aug. C.D. 6.2.

It has been suggested that the growing division between sophisticated aristocrats like Scaevola or Cicero and the superstitious masses was a key factor in the decline of Roman republican institutions;⁴⁹ clearly such a hypothesis goes far beyond the evidence we have available, but it is worth noticing how far the evidence from this period throws light on it. The only occasion which lends any colour to the suggestion is the trial and retrial of the Virgins and the human sacrifice which followed it. Here, the picture does seem to be of reluctant action from the religious authorities under pressure from popular religious fears;⁵⁰ but even here the matter is not quite so clear; the original responsum of the haruspices⁵¹ can hardly have been forced on them and the ordering of the human sacrifice was a decision of the decemviri, whose motives we can only guess.⁵² The pontifices certainly appear as a moderating influence and the subsequent condemnation of human sacrifice, belated though it was, also suggests misgivings at the time;⁵³ but perhaps it was rather a division within the ruling class than a division between rulers and ruled, which produced this sequence of events. In other areas, no such clear-cut division has appeared; Sulla and Marius, who certainly both

49. Cf. R.E. Smith, The Failure of the Roman Republic.

50. Cf. *infra*, ch 7.

51. Cf. *infra*, 336 ff.

52. Cf. *infra*, 357 ff; cf. 341 f.

53. Cf. *infra*, 361

exploited religious propaganda, are far from emerging as cool disinterested rationalists and these, as we have seen, are the only cases over which we have any control at all.⁵⁴ Nor is the other half of the division so very clear; there is perhaps a little clear evidence that Eastern cults and astrology were beginning to make progress, but if so aristocrats as well as ordinary Romans were coming under their influence.⁵⁵ The increased importance of the haruspices⁵⁶ may reflect a popular taste for prophetic revelation, but again it is purely arbitrary to label this superstition and attribute it to the lower classes alone. The truth is that we simply do not have the evidence to make statements about the religious beliefs of different classes and can only indicate general trends and individual cases.

In other respects, firmer conclusions can be stated and some attempt made to write a history of Roman religious institutions in their impact on politics. In the early part of the century, there seems to be a distinct and considered attempt to defend Italian religion against possible foreign influences⁵⁷ and also to defend the rules and traditions of the *ius divinum* against attempts to change or abolish them.⁵⁸ There is very little evidence of the deliberate exploitation of religion, but more importantly

54. Cf. *infra*, ch. 13.

55. Cf. *infra*, 147ff; 164ff, cf. 646ff; 698; 717ff.

56. Cf. *infra*, ch. 10.

57. Cf. *infra*, Part I.; esp. 200f.

58. Cf. *infra*, 223ff; ch. 6.; 421ff.

it happens, when it happens, discreetly and within the framework of the religious law: the key often seemed to lie rather in the fact that a particular individual's conduct was considered at all than in any distortion of law or fact.⁵⁹

There is no question that this picture, if it is at all accurate, was transformed later in the century. As we have seen, religion was slowly drawn into politics in ever more overt ways. The haruspices made prophecies of political relevance:⁶⁰ laws produced by tribunes were fought with religious weapons:⁶¹ we find, too, an attempt to introduce something like, and perhaps modelled on, the Greek impiety charge;⁶² the constitution of the priestly colleges itself became a matter for popular election not priestly decision. We have traced other developments in relation to the religious policies of Marius and of Sulla: they both apparently emphasized their own personal contact with the gods, through dreams, prophecies and signs, and began to develop the cults which expressed the emperor's personal achievements and virtues;⁶³ here they had a forerunner in some ways in Scipio Africanus, like Sulla a man who dreamed significant dreams.⁶⁴ Again, we find some of

59. Cf. *infra*, 400ff.; 411.

60. Cf. *infra*, 571ff.

61. Cf. *infra*, 430ff.

62. Cf. *infra*, ch. 7; 684ff.

63. Cf. *infra*, ch. 13; ~~Scipio~~, 743ff.

64. Cf. *infra*, 743ff.

the influences which the senate had striven to exclude earlier in the century appearing towards the end of it; but it is important to avoid exaggerating the contrast here; the senate's attempt to exclude philosophers was short-lived and problematic,⁶⁵ while its suspicions of the Magna Mater cult at the beginning of the century had only been cautiously modified by the end of it.⁶⁶

How fundamental are the changes we can trace? The central institutions of the cult, the priestly colleges, can hardly be said to have diminished significantly; indeed, the pontifices and augures here in some ways more prominent in the political life of the first century than of the second;⁶⁷ the pontifices had fought a long battle to preserve the limitations on the flamines and rex and, before the time of Sulla, none of the limitations had been abolished;⁶⁸ there was not yet a flamen Dialis to succeed Caesar, but it was not yet apparent, let alone decided, that there would not be.⁶⁹ As long as one concentrates on the external evidence of the cult, its priests and its ceremonies, it is hard to find positive

65. Cf. *infra*, 158 ff.

66. Cf. *infra*, 134 f: cf 147 ff.

67. Cf. *infra*, chs. 5 and 8.

68. Cf. *infra*, ch. 6.

69. Cf. *infra*, 322 ff.

evidence of decline; generals still expressed their successes in terms of the same customs: they were voted supplicationes by the senate on their victories and triumphs on their return; they took vows on campaign and fulfilled their vows by building temples and holding votive games;⁷⁰ nor do we know of a single major reform in the inherited religious law. It is, of course, very much more difficult to estimate those areas of the cult which lie outside the interests of historical sources - the Salii, the fratres Arvales and the sodales Titii - but we have no positive evidence of the extinction of any of them, and the fact that Augustus chose to emphasize them should not blind us to their relative insignificance;⁷¹ more important, at least at one time, were the fetiales, but they had already lost their central functions before the beginning of the second century.⁷² Of course, it is

70. Cf. *infra*, e.g. 730f.; 712f.; 707.

71. We are never told explicitly that any of these priesthoods died out, or that Augustus re-founded them, though he certainly revised them. Varro, *de L.L.* 5.85, is surely conclusive that all three were in existence, since he refers to their activities in the present tense, and in the case of the Salii adds: 'quod facere...et solent et debent.' Moreover, in the following chapter, he uses the imperfect tense to describe activities of the Fetiales which we know to have lapsed. Latte, in a somewhat disingenuous note (*RRG*, 278 n.2) obscures the point by arguing that 'debent' implies that Varro was defending the Salii against those who thought them unnecessary; but cf. Weinstock, *JRS* 51(1961), 209.

72. For the last reference to the Fetiales, cf. below n. 75. For the decline of Fetial law, cf. E. Bickermann, *C.P.* 40 (1945) 137ff. though it has been argued that traces of a Set Fetial procedure can still be discovered in the second century, cf. A.H. McDonald and F.W. Walbank, *JRS* 27(1937), 192ff; Walbank, *C.P.* 44(1949), 17f; S.I. Oost, *AJP* 75(1954), 150ff. It may be significant that Livy does not mention the fetiales in 172/1. of Livy, 31.8, 1ff: 36-3, 7ff. for 200 and 191, and cf. *infra*, 256.

misleading to concentrate on the external organization of the cult to the exclusion of its significance, but this does at least provide an objective criterion of comparison between different periods and it must be said that the institutions of the Roman cult show a resilience astonishing in a supposedly moribund system.

It would not even be true to say that ceremonies simply carry on without interest or concern, for lack of any reason to stop performing them. Our control here must be the ceremonies which formed no part of the regular cycle but were supposed to take place on special occasions; thus, the *ludi saeculares* recur at intervals of about a hundred years and were duly celebrated in 146;⁷³ the *augurium salutis* should take place in times when no war is in progress, it was certainly under consideration in 63, quite probably in the 90's and a case has been made out for an actual celebration in 160, just before Aemilius Paullus' death.⁷⁴

73. *Cens., de d. nat.* 17.11-12 (cf. *Piso*, fgt. 39; *Hemina* fgt. 39; *Cn. Gellius*, fgt. 28 (Peter)); *Livy, Per.* 49; cf. *Oxy. Per.*: *Zos.*, 2.4,1-2; *Ps-Acro on Hor., Carm. Saec.* 8; *Aug., C.D.* 3.18. We know nothing beyond the fact that they were celebrated.

74. On the *augurium salutis*, cf. *Liegle, Hermes* 77(1942), 249ff. cf. especially *Dio Cass.*, 37.24, for the proposal of 63: the incident of the 90's can only be inferred from *Cic., de off.* 3.66: *Festus*, 466 - 8L = 344M, both of which refer to the 90's and suggest that the augurs were insisting on the destruction of property obstructing their view from the *Arx*. The celebration of 160 is more securely deduced from *Plut., Aem.* 39.3; contra, *Latte, RRG*, 140 n.2.

The 140's seem to have seen even stranger archaisms: in 140 there was a proposal to invoke the ancient practice of handing over the consul who had made a treaty subsequently not ratified to the enemy cheated of their peace and later, notoriously, this was actually done;⁷⁵ scarcely less odd, if one should believe in it, is the evocatio of Carthage in the Third Punic War, the ritual summoning out of the goddess of the city by the offer of a cult in Rome.⁷⁶ Nor should it

75. For the proposal with reference to Q. Pompeius, cos. 141, cf. Cic., de off. 3.109. For the celebrated handing over of Mancinus, cos. 137, cf. Vell., 2.1,5; Cic., de or. 1.238; 2.137; Plut., T.G. 7.3; Lucil. 1324ff (Marx); Münzer, RE s.v. Hostilius, no.18, 8.2.2510f.

76. Serv., ad Aen. 12.841; Mac., 3.91ff., who quotes formulae supposed to have been used on this occasion. Wissowa, Hermes 16(1882), 502ff; RE s.v. evocatio; R.u.K.², 383ff; Latte, RRG 346 n.4, have rejected the story on the grounds that it derives from the Severan propaganda in connection with the transfer of Dea Caelestis and indeed Macrobius quotes as his source Serenus Sammonicus, who lived at the time of the introduction of Caelestis. But the arguments are far from conclusive and perhaps this group of revivals to some extent defends this example too; one must suspect here the influence of the annalist Fabius (cf. infra, 22 ff.) and his work on religious law, for in the case of the fetial ceremony (n.75) the precedent followed is that of the peace after the Caudine Forks (cf. Livy, 9.1-12; for detailed comparison of the two incidents, Nissen, Rh. Mus. 1870, 50ff. Antiquarian research might very well be behind all four incidents (nn. 73-6).

be forgotten that Rome impressed Polybius with its extreme religiousness⁷⁷ and that exactly the same comment is made both by Posidonius and by Dionysius of Halicarnassus;⁷⁸ nor that Cicero himself could make the same point not only in a public speech, but on the lips of a speaker in the de Natura Deorum.⁷⁹

The historical development with which we have to reckon is not so much the decay of cult practice (though this is what the Romans themselves tended to emphasize),⁸⁰ but rather the gradual transformation of them by political and social changes. Some of these are noticed by the Romans themselves; Cicero argues that the increasing length of the supplications of his day is not in honour of the gods but of the individual general;⁸¹ the same considerations might have been applied to the increasing lavishness of triumphs and games, vehicles as time went by of the individual's glory and wealth, for the promotion of his political ambitions. I have tried to suggest that a parallel process affected the development of 'felicitas' as successive generals claimed to possess divine qualities denied to their contemporaries.⁸²

77. Pol., 6.57,5.

78. Posidonius fgt. 59 (Jacoby): Dion Hal., A.R. 2.19,2.

79. Cic., de N.D. 2.8; de H.R. 19: cf. Gell., N.A. 2.28.

80. Cf. above nn. 3-4.

81. de prov. cos. 26: 'Rei publicae satis erat tot dierum quot (Mario: dis immortalibus non erat exigua eadem gratulatio quae ex maximis bellis; ergo ille cumulus dierum hominis est diguitati tributus.'

82. cf. infra, 4.13.

Most importantly of all, the whole character of the State cult is changed by its direct involvement in political issues in the second half of the second century. Traces of this can again be found in the 140's, particularly the controversy over the aqua Marcia, when the decemviri were over-ruled by the senate,⁸³ and the use made by Appius Claudius of the Vestal's sacrosanctity to protect his triumph from interference.⁸⁴ It is important, too, that the 140's should have seen the unsuccessful attempt to introduce election to priesthoods, which perhaps suggests political involvements which we can no longer follow.⁸⁵ But it is the Gracchan revolution which really transforms the situation: perhaps even the year of Tiberius Gracchus saw the State religion used as anti-Gracchan propaganda, for the pontifex maximus led Gracchus' killers with his head veiled and this perhaps indicates some claim to religious justification;⁸⁶ certainly, the elder Livius

83. cf. infra, 516 ff.

84. cf. infra, 536.

85. cf. infra, 648 ff.

86. App., B.C. 1.16,68; Plut., T.G. 19.5; Auct. ad Her., 4.68; Val. Max. 3.2,17; Vell. 2.3,1; for interpretation, cf. Fraccaro, *Studi sul età dei Gracchi*, (1914), 167 n.1; G. Grassedi, *R.A.L. ser. 5,8* (1950), 450ff. He can hardly be evoking the notion of sacrifice since the victim has essentially to be a perfect offering to the god.

Drusus claimed explicitly that the republic was sacred and that its enemies paid their penalty to it, again perhaps with reference to Tiberius death and its justification.⁸⁷ Later, the use of religious methods becomes progressively more overt: the wolves of Junonia provide the first clear example;⁸⁸ the pontifices had become deeply involved by the time of the Vestal-trials;⁸⁹ the augurs make their first direct contribution with their decree on the lex Titia;⁹⁰ the decemviri by the time of the Sibylline oracle of 87.⁹¹ Even then, it was left to the last years of the republic to turn religious devices into part of the regular processes of obstructing business. It has been one of the central contentions of this thesis that this development marks a break with the practice of the preceding years and that it involved a total change in the character of religious interventions in political life. For the first time, the colleges become identified with a particular political attitude;⁹² the changes had originated in political not in religious life; but, as always at Rome, political changes had repercussions on religious institutions; so deeply were politics and religion involved with one another.

87. ORF², p.162.

88. Cf. *infra*, 422ff.; 587.

89. Cf. *infra*, ch. 7.

90. Cf. *infra*, 442ff.

91. Cf. *infra*, 514ff.; 546

92. Cf. *infra*, 623f.

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