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The Age of Tiberius: *exempla iudicorum maiestatis*

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Introduction

The concept of *maiestas* and the actions that were directed against it have been a concern of the Roman people since the early republican years. Drawing on the *Annales*, *Digesta*, and Seneca's *Controversiae*, this paper will examine three typical *exempla iudicorum maiestatis*. The *maiestas* trials were one of the major issues of Tiberius' reign and thus one of the main motifs of Tacitus' *Annales*. The aim of this paper is a brief presentation of the theoretical background of the term *maiestas* and the related laws and provisions as they are preserved in Justinian's *Digesta*. In *Digesta*, texts were collected and codified most of the laws before Justinian and it is the most complete tool we have on Roman law. Through the analysis of three typical *exempla iudicorum maiestatis*, I will call into question whether the people on trial did indeed offend the *publica maiestas* of the *populus Romanus* with their actions. The trials I will be focusing on are about the Roman horsemen Falanius and Rubrius (Tac. *Ann.* 1.73), the historiographer Cremutius Cordus (Tac. *Ann.* 4.34-5), and finally the rhetor Votienus Montanus (Tac. *Ann.* 4.42). The reason why I chose these cases is because they provide the reader with a deeper understanding of the way Tiberius handled Roman law and the judicial affairs in which he was directly or indirectly involved.

Maiestas: From the Twelve Tables to Digesta

The basis for the three trials, which will be examined below, was an instance of insult to the *maiestas* – that is, the greatness – of the Roman people. As evidenced by Cicero and Horace,¹ *maiestas* came to denote the greatness of the Roman state.² The concept of *maiestas* was a preoccupation of the Roman people and the laws of Rome already as the

¹ Cic. *Part.* 30, Hor. *Carm.* 4.15.

² Smith 1875: 724 -726, s.v. “maiestas” Long.

early years of the *res publica*. The main source for us is Justinian's *Digesta* (*Digesta seu Pandectae*, AD 530-533), where older Roman laws were collected, expanded upon, and updated. In the 48th book of the *Digesta*, Ulpianus (*ad ed.*) defines *crimen maiestatis*, and in the third provision of the same law a reference is made to the *Twelve Tables*. It seems that in *tabula 9*, which is now lost, the framework according to which one could be accused of acting against the Roman state and the Roman people, was defined. The law in the *Digesta* is entitled *Ad legem Iuliam maiestatis* and states:

*Maiestatis autem crimen illud est, quod adversus populum Romanum vel adversus securitatem eius committitur*³

On the other hand, the crime of *maiestas* is the one, which is committed against the Roman people or against their security

*Lex duodecim tabularum iubet eum, qui hostem concitaverit quive civem hosti tradiderit, capite puniri. Lex autem Iulia maiestatis praecipit eum, qui maiestatem publicam laeserit, teneri: qualis est ille, qui in bellis cesserit aut arcem tenuerit aut castra concesserit.*⁴

The law of the *Twelve Tables* stipulates that anyone who raises an enemy or delivers a citizen to the enemy is punishable by death. And the Julian Law on *maiestas* states that anyone who offends the majesty of the State is liable, just as he who has submitted (i.e., to the enemy) to war or has conquered a castle or surrendered a camp.

According to the *Twelve Tables*, anyone who acted against the *publica maiestas* was equated with a deserter or even an enemy of the Roman people and the penalty was death.⁵ The provisions of Law 48.4 are characterized by a high degree of precision and show the Romans' attempt to cover a wide range of offences. At the same time, they also specify a set of actions and possible offences for which one could not be held accountable for violating *maiestas*.

The formulation of betrayal as defined by the term, *maiestas*, first appears in the late republic. The first law in which the term *maiestas* appears was the *lex Apuleia de maiestate*. It was introduced by the tribune, Apuleius Saturninus, in the late 2nd century

³ *Dig.* 48.4.1. *Digesta* quotes are taken from: Mommsen 1985.

⁴ *Dig.* 48.4.3.

⁵ *Dig.* 48.4.

(103 or 100 BC) and probably replaced that charge which was based on the concept of *perduellio*.⁶ Initially, *maiestas* was simply complementary to the term *perduellio*, which was rendered as an attack on the existence of the state.⁷ This legal term is also found in *Digesta* and in the first book by Livy:

*sed qui perduellionis reus est, hostili animo adversus rem publicam vel principem animates*⁸

But only he who is guilty of a hostile act against the fatherland and possessed of hostile intent against the state or the emperor

*"Duumuiros" inquit, "qui Horatio perduellionem iudicent, secundum legem facio." "Duumuiiri perduellionem iudicent; [...] tum alter ex iis "Publi Horati, tibi perduellionem iudico" inquit.*⁹

I am appointing a two-member committee of officials to judge Horatio's hostile attitude towards the State in accordance with the law." "The two officials will judge the cases of the attack on the State then one of them said: "Publius Horatius, I declare you guilty of a hostile attitude towards *res publica*.

As Bauman points out, the boundaries between the concepts of *perduellio* and *maiestas* are particularly blurred and the distinction between them is mostly determined by one's perspective on the issue at hand.¹⁰ The quoted passages show that the term *perduellio* may have resonated more with military matters, but this does not exclude other actions that endangered the security of the Romans and their state. What is clear is that the law on betrayal evolved over the centuries and tried to include in its provisions all possible offences which would either be directed against the officials of the Roman state or would harm the interests of the Roman people. The adjudication of these cases was entrusted to the *praetores*,¹¹ to whom, as early as 366 BC the responsibility for justice, which had hitherto been included in the powers of the consul, was assigned.¹²

⁶ Levick 1999: 144.

⁷ Thurston, H. 1898: 1308.

⁸ *Dig.* 48.4.11.

⁹ Liv. 1.26. T. Livius quote is taken from Conway R.S. and Walters C.F. 1958.

¹⁰ Bauman 1967: 16-17.

¹¹ Smith 1875: 956-957, s.v. "praetor" Long.

¹² Thurston 1898: 1308.

Octavianus made one-time use of the law *maiestatis* to prosecute the authors of *famosi libelli*.¹³ However, it appears from Tacitus' passage (Tac. *Ann.* 1.72) that the charges of *maiestas* did not include words or writings.¹⁴ *Maiestas* did not usually extend to textual activity. Furthermore, in 1.72 of the *Annales* the discussion between the *praetor* and Tiberius shows that, during Octavianus' reign, the *maiestas* trials were stopped on the grounds that they were a plague of the civil wars. Later in Tiberius's reign, this changed. prior to AD 23, Tiberius handled civil cases that arose in a correct and moderate manner, as in every dispute with a private individual he referred or resorted to the legal procedures provided by law.¹⁵ From then on, owing to the change of character of Tiberius and the continually increasing influence of Sejanus over the *princeps*, *maiestas* trials multiplied; Tacitus gives a number of examples in the fourth book of *Annales*.¹⁶ The extent of this phenomenon are commented on by Seneca the Younger:

*Sub Tib. Caesare fuit accusandi frequens et paene publica rabies, quae omni ciuili bello grauius togatam ciuitatem confecit*¹⁷

During the reign of Tiberius Caesar, there was a frequent and there was almost a frenzy of public accusations., which did more to wear down the citizens of Rome than the whole civil war.

Falanius et Rubrius: Premiere for the *maiestas* trials

Tacitus introduces the issue of *iudicia maiestatis* in the *Annales* with the cases of Falanius and Rubrius (1.73). Before going into detail about the charges and the development of the cases of the two Roman equites, in chapter 1.72 he prepares the ground for the subject which will occupy him extensively in his later books. The historian uses this chapter as a kind of prelude to the *maiestas* trials, which begin in the next paragraph and reach their climax in the fourth and sixth books of the *Annales*. In 1.72 he sets out the first

¹³ Tac. *Ann.* 1.72, D. Cass. 56.27, Smith 1875: 724-726 s.v. "maiestas" Long.

¹⁴ This fact is confirmed by the *Digesta* and which will be examined in the case of the historiographer Cremutius Cordus.

¹⁵ Levick 1999: 144.

¹⁶ Sejanus' power reached its peak from the year AD 23 onwards, after the death of Tiberius' biological son, Drusus. Sejanus' considerable influence on Tiberius is shown at the end of the third and throughout the fourth book of the *Annales*. For an illustration see Tac. *Ann.* 3.72, 4.1, 4.3, 4.7-8, 4.10 12, 4.39-41, 4.57-60.

¹⁷ Sen. *Ben.* 3.26.1 Seneca's quote is taken from: Winterbottom, M. (1974).

misleading view on the subject of the *maiestas* trials. He claims that Tiberius *legem maiestatis reduxerat*. The *princeps* did not in fact revive any law, as it had not been abolished under Octavian, nor had it ever been formally or informally suspended.¹⁸ At the same time, he points out that Augustus had made a single use of this law against Cassius Severus for some *famosis libellis*.¹⁹ The phrase is not often attested, it was probably a semi-technical legal term, and does not occur before Horace (*Ep.* 1.19.31, c. 42-30 BC).²⁰ The rarity of the term and its use for the first time by Horace leads us to conclude that Augustus or his predecessor Julius Caesar attempted in the *lex Iulia de maiestatis* to include among the offences of *maiestas* the writing of texts which affected themselves or the high-ranking officials of Rome in general.²¹

Tiberius gives a clear answer regarding the use of the law of *maiestas*: *exercendas leges esse*.²² Suetonius refers to this issue in exactly the same words: “*consulente praetore an iudicia maiestatis cogi iuberet, exercendas esse leges respondit*.”²³ It is worth noting that the persons in the first four books who are tried under this law, other than Piso, have no prominent political position. Therefore, the cases of Falanius and Rubrius must be taken by the reader not as mere facts, but as examples of paraphrasing the *maiestas* law.²⁴ At the beginning of chapter 73, Tacitus justifies his decision to include these categories in his work as follows:

*ut quibus initiis, quanta Tiberii arte gravissimum exitium inreperit, dein repressum sit, postremo arserit cunctaque corripuerit, noscatur.*²⁵

¹⁸ Seager 2005: 126.

¹⁹ According to Bauman 1967: 246, Tacitus' criticism of the prosecution of Cassius Severus should be evaluated by investigating the extent to which *crimen maiestatis* was used as a means of restricting free speech in both the republican and imperial eras.

²⁰ Goodyear 1981: 151. The noun *libellus* is attested in the first *Carmen* of Catullus in the sense of *libellus*. However, the determiner *famosus* is absent, which made Cassius Severus accountable in the light of *maiestas*.

²¹ Seager 2005: 126.

²² Tac. *Ann.* 1.72.

²³ After being asked by a praetor if he would order the courts to meet in *maiestas* cases, he replied that the laws exist to be enforced. Suet. *Tib.* 58.

²⁴ Walker 1952:21.

²⁵ The extracts from the *Annales* of Tacitus have been taken from: Fischer (1906).

That it may be known from these initial (i.e., accusations), how much because of Tiberius' deception the immense destruction intruded, then was checked, then finally flared up and burned everything.

The verbs used create a gradual escalation: *inrepserit, repressum sit, arserit, corripuerit*. However, it is not necessary to refer to the course which the trials followed in Tiberius' reign. As Goodyear aptly points out,²⁶ these verbs roughly fit the course followed by Tiberius' reign as a whole rather than the trials themselves; a reign that was characterized by climaxes and recessions.²⁷

Falanius, then, was accused by an anonymous accusatory of including a *mimum corpore infamem* named Cassius among the worshippers of Augustus. But to what extent were these actions tried according to the laws of *maiestas*? In order to be able to give as convincing an answer as possible, we must refer to the *Digesta* and the relevant provisions. About the *infamem mimum*:

*Ait praetor: " qui in scaenam prodierit, infamis est". scaena est, ut Labeo definit, quae ludorum faciendorum causa quolibet loco, ubi quis consistat moveaturque spectaculum sui praebiturus, posita sit in publico privatove vel in vico, quo tamen loco passim homines spectaculi causa admittantur*²⁸

The praetor says: "whoever appears on the stage is infamous". The scene, as Labeo defines it, is understood to mean that which, because of the festivities which take place in any place in which one stands and moves, projecting oneself as a spectacle, takes place in a public or private place or in the street, where people come together disorderly in one place to watch a spectacle "

The status of actors in Rome was indeed not enviable, as defined by law. Actors were forbidden to hold public office,²⁹ yet nowhere does it appear that they were subject to a *maiestas* trial. Similarly, on the charge of selling the August statue, *Digesta* reports:

²⁶ Goodyear 1981: 154.

²⁷ Tiberius indeed intruded on the issue of succession, as he was one of Octavian's last choices. At first he ruled as a prudent and moderate ruler at least until the year AD 23, fanned by his conversion to a fearful ruler who no longer managed the affairs of state with moderation and finally, his period of residence in Capri is considered, by Tacitus to be the ultimate disaster for the Roman State.

²⁸ *Dig.* 3.2.25.

²⁹ Goodyear 1981: 155. The exclusion from public office is confirmed by Tertullian (*Tert. Spect.* 22).

*Idem Pontio rescripsit non videri contra maiestatem fieri ob imagines Caesaris nondum consecratas venditas.*³⁰

[The emperor] replied to Pontius that he did not consider that a crime had been committed against the *maiestas* by selling the statues of Caesar, which had not yet been consecrated.

The law specifies that the purging of statues is the telling difference so that one is not guilty of *maiestas*. The text of the *Annales*, however, is not particularly clear on this requirement. These two laws, combined with the anonymous *accusator* and the relative vagueness of Tacitus' text, indicate that the accusations of *maiestas* against Falanius were not based on solid foundations.

The charge against Rubrius is presented in a much more concise manner and lies in the *periurium* against the now deified Augustus. The consuls appeal to Tiberius, who, with a letter, rejects all three of the above-mentioned charges and acquits the accused. His reply expresses reasonableness, but the very same reply will in the next chapter (1.74) lead the would-be exploiters of the *maiestas* laws to charges of slandering the ruler himself.³¹ The way that Tiberius closes his letter to the consules is especially noteworthy.³² It divides the conclusion into two parts. In the section, '*ius iurandum perinde aestimandum quam si lovem fefellisset,*' he regards as necessary the legal retort to the accusers' claims, while the '*deorum iniurias dis curae*' Tacitus characterizes as *sententia* and attributes to Tiberius' knowledge of the literary past, both poetic and historical. One might conclude that Tiberius' response with specific arguments demonstrates his knowledge of Roman law. Still, it shows his intention not to allow the trivialization of the laws, as was the case during the civil wars, in which *maiestas* laws were exploited as a weapon in the hands of powerful men to exterminate not only their political opponents, but also those who did not comply with their dictates.

³⁰ *Dig.* 48.4.5.2.

³¹ Seager 2005: 127.

³² Sinclair 1992: 397.

Crementius Cordus: *maiestas* in the service of censorship

The case of Crementius Cordus is the first extensively documented case of censorship in the context of Roman historiography.³³ The trial of the historian takes place in AD 25 and is indicative of the climate of introspection that prevailed in Rome from AD 23 onwards, as well as of Tiberius's change of character.³⁴ Before describing Cordus' accusation and *apologia* (Tac. *Ann.* 4.34-5), Tacitus uses chapters 32 and 33 as a second preface in the form of a theoretical treatise on the genre of historiography. In this way, he creates coherence with chapters 34 and 35 and a productive reflection, since, having praised this literary genre in general and his personal style of writing, he passes into a dark moment for historiography with the persecution of one of its representatives. A second main source for this court case, apart from the reports of Suetonius and Cassius,³⁵ is Seneca the Younger in his *Consolatio ad Marciam*. However, according to Seneca, Cordus committed suicide before receiving the indictment and therefore the authenticity of the defendant's apology, which Tacitus quotes in the *Annales*, is questioned.³⁶

Tacitus characterizes the trial as *novo ac tunc primum audito crimine*. According to Woodman,³⁷ a strong intertextuality with Cicero's *pro Ligario* speech is being created.³⁸ At the beginning of his speech, Cicero acknowledges that his client is accused of betrayal, but claims that he has committed no crime. Therefore, Tacitus's phrase is most

³³ The phenomenon of censorship, especially against historiographers, became significant during the age of the Flavians' reign and especially during the reign of Domitian. Important information on this subject is drawn from Suetonius' *Life of Domitian*. In chapter 10 the historiographer mentions a number of incidents of censorship with the accused being put to death. Hermogenes Tarseus is executed because of allusions to Domitian in his story. Junius Rusticus is condemned for having published *laudationes* (encomiums) for Paetus Thrasea and Helvidius Priscus, in which he described them as *sanctissimos viros* (men of most integrity). The case of Rusticus probably constitutes a literary replication of Cordus, by Suetonius, or even more likely, a deliberate imitation. On Priscus, see D. Cass. 66.12. and for Thrasea Suet. *Nero*. 37 and Tac. *Ann.* 14.48-9. On the phenomenon of censorship under the Flavians, see Howley 2017, Rohmann 2013.

³⁴ Woodman 2018: 188. The year AD 23 is a milestone of the *princeps*' reign. In addition to the loss of Tiberius' relatives and intimates, the commander of the Praetorian Guard Sejanus tries to isolate Tiberius from the political life of Rome, creating a sense of fear and suspicion around him. His plan is successful when the *princeps* finally decides in AD 26 to leave the state capital for good.

³⁵ Suet. *Tib.* 61.3, D. Cass. 57.24.

³⁶ Rogers 1965 352.

³⁷ Woodman (2018) 189.

³⁸ *Novum crimen, C. Caesar, et ante hanc diem non auditum* (Cic. *Lig.* 1).

appropriate for the case of Cordus, who develops the same reasoning. At the same time, unlike the charges against Falanius and Rubrius, the accusers here are named and identified as *Seiani clientes*. This designation is indicative of the steadily increasing influence of Sejanus, the commander of the Praetorian guard, over the princeps from the year 23 onwards. But why did Sejanus desire the condemnation of the historian? Cordus had previously publicly criticized the placing of a statue of Sejanus in the theatre of Pompeius.³⁹ Presumably, therefore, the commander found the right occasion to retaliate against the historian for the public insult against him.

Crementius Cordus is condemned on the charge that in his work he praised Brutus and described Cassius as *Romanorum ultimum*. But what did Roman law provide for those texts which were directed against the house of the *princeps* or, more generally, against the status of the *principatus* itself? According to the *Digesta* and the *lex de iniuriis et famosis libellis*:

*Si quis librum ad infamiam alicuius pertinentem scripserit composuerit ediderit dolove malo fecerit, quo quid eorum fieret, etiamsi alterius nomine ediderit vel sine nomine, uti de ea re agere liceret et, si condemnatus sit qui id fecit, intestabilis ex lege esse iubetur.*⁴⁰

If anyone had written in the books anything to aim at the dishonesty of another, or had compiled it or published it, or in bad faith had arranged for it to be done, even though it may be published in another's name or without a name, he may be prosecuted under this law, and if he who did so is convicted, he will be by law without rights.

This law is included in neither the passage nor the book (*Dig.* 48.4) which is related to the *maiestas*' crimes. If we therefore stand by *Pandectae*, who for this provision is informed by Ulpianus' *ad edictum* (*ad ed.* 56), the writing of defamatory and malicious texts is not subject to *maiestas* offences. Moreover, criticism against the emperor in the texts could hardly stand alone as a *maiestas* offence. It was usually combined with accusations of

³⁹ Woodman 2018: 191. Seneca cites the same cause of rivalry in his *Consolatio ad Marciam* (22.4). A similar disagreement had been expressed by Tiberius' son, Drusus, who had even claimed that the real destruction of Pompey's theatre was not the fire from which it was threatened but the placement of a statue of Sejanus on the site.

⁴⁰ *Dig.* 47.10.5.9.

sorcery and thus resulted in an accusation of betrayal. The *Twelve Tables* even listed the two offences together.⁴¹

The defendant's statement is based on the memory of his former 'colleagues' in order to prove that the charges are unfounded. This is precisely the strategy of Cordus, who claims that the subject of the trial does not exist and is rhetorical, since it adopts the widespread view that the dead cannot be the object of love or hate of the powerful.⁴² Moreover, it highlights the fact that both Octavian and Julius Caesar did not persecute historians who, in their writings, not only included but also glorified their political opponents. Cremutius' defence is further strengthened by Suetonius:

*animadversum statim in auctores scriptaque abolita, quamvis probarentur ante aliquot annos etiam Augusto audiente recitata.*⁴³

punishment was immediately imposed on the authors and their works were destroyed, even though they had been approved while being publicly read a few years before with Augustus listening.

The testimony of Suetonius further demonstrates the absurdity of this trial. If the work of Cordus was indeed known to Augustus, then the judicial adventures of its author after so many years were certainly not due to the violation of the *maiestas*. They were rather animated by personal rivalries and by Sejanus' plan to create supposed enemies around Tiberius. As Cramer aptly points out, 'So many years after Octavian's death it was discovered that this work, a typical pro-democratic but moderate history, was full of traitorous passages.'⁴⁴

In the end Cremutius, sure of his doom, chooses suicide by starvation. Tacitus informs us that despite the order of the *senatores* to destroy his books, they were saved and later published. Worthy of comment is the *sententia* which Tacitus uses according to which:

⁴¹ Rohmann 2013: 126.

⁴² Luce 1989: 30.

⁴³ Suet. *Tib.* 61.3. The quotation from Suetonius is taken from: Ailloud, H. (1967).

⁴⁴ Cramer 1945: 192.

*nam contra punitis ingeniis gliscit auctoritas.*⁴⁵ Tacitus implicitly projects himself onto Cordus and thus the following chapters function as an extension of the second preamble discussed at the beginning of the section.⁴⁶ Because of his historiographical status, Cordus is an ideal *exemplum* for Tacitus, as the figures of the past sometimes function as symbols of present concerns.⁴⁷ The concern over Tiberius' change and mode of governance is likely to echo Tacitus' own personal fears of possible persecution. Under Domitian – the era in which Tacitus lives – *maiestas* trials and corresponding persecutions had reached their peak.

Both primary and scholarly sources agree that, in the end, Cordus' conviction did not lead to the loss of his work, but actually helped to spread his fame and his *ingenium*.⁴⁸ The episode of Cremutius Cordus is indicative of the course and style that characterized the *maiestas* trials from AD 23 onwards. The fourth book of the *Annales* as a whole contains a number of trials, some of which were significant in Tiberius' reign.

The trial of Votienus Montanus: Tiberius out of the Senatus

The trial of Votienus Montanus, as described in 4.42 of the *Annales*, finally convinces the *princeps* to abstain permanently from the sessions of the Senate. The trial occurs after the letters between Sejanus and Tiberius (4.39-41) and the former's failed attempt to become a member of the imperial house through his marriage to the widow of Drusus, Tiberius' only biological son. Despite this failure, Sejanus succeeds through the trial of Montanus in marginalizing Tiberius and cutting him off from the senate. In essence, the first part of chapter 42 continues the theme with which the previous chapter ended: the withdrawal urged by the commander of the Praetorian Guard.⁴⁹

⁴⁵ On the contrary, when the spirit is punished, prestige increases. Tac. *Ann.* 4.35.

⁴⁶ Tac. *Ann.* 34-5.

⁴⁷ Luce 1989: 31.

⁴⁸ Tac. *Ann.* 4.35, Sen. *Ad Marc.* 1.3-4, Cramer 1989: 196.

⁴⁹ Woodman 2018: 229.

Votienus Montanus was a well-known rhetor of the early imperial period, who after his condemnation was exiled, and died in AD 27 or shortly thereafter.⁵⁰ The first speech he delivered was entitled *pro Galla Numisia apud Centumviros*, defending Galla Numisia, who had been accused of poisoning.⁵¹ The *accusator* remains anonymous in this case too, but there is a reference made to a witness named Aemilius.⁵² From the information given about him, it appears that he was a *tribunus* of the Praetorian Guard, who had been chosen by Sejanus himself as commander of the corps for this position.⁵³ Therefore, his presence as a witness at the trial of the rhetor may be interpreted as a return of favour to his 'superior'. The question that arises is why did the case of Montanus lead Tiberius to the decision of permanently abstaining from the senate?

The second main source we have on the rhetor, Seneca the Elder's *Controversiae*, can give us the fullest answer to this. Seneca refers at length to this rhetor and gives a set of characteristics of his style and speeches which make him the perfect choice for Sejanus, so that Tiberius could indeed be convinced of the validity of the charges against him. More specifically, Seneca states:

*Montanus Votienus, homo rarissimi etiamsi non emendatissimi ingeni, vitium suum, quod in orationibus non evitat, in scholasticis quoque evitare non potuit; sed in orationibus, quia laxatior est materia, minus [ex] earundem rerum adnotatur iteratio. in scholasticis si eadem sunt quae dicuntur, quia pauca sunt, notantur.*⁵⁴

“Montanus Votienus, a man of rare thought and not impeccable talent, could not avoid even in his coaching the fault which hinders him in his speeches. But in his speeches, as the material is more diffuse, one notices less repetition. In the coaching, if the same things are said, they are recognized (i.e., repeated), precisely because they are few. ”

⁵⁰ NP 12.2. 345.

⁵¹ RE 17.2. 926.

⁵² The witness Aemilius is probably the same as the one mentioned in 2.11 of the *Annales*.

⁵³ Woodman 2018: 230.

⁵⁴ Sen. *Contr.* 9.5.15.

This passage points out the repetition, which was observed in the rhetor's speeches. After this general formulation, Seneca gives a plethora of examples which prove exactly what he has broadly suggested. Later in the chapter he argues at the same length that:

*Montanus vitium: sententias suas repetendo corrumpit. dum non est contentus unam rem semel bene dicere, efficit, ne bene dixerit*⁵⁵

Montanus' problem is that he spoils his epigrams with repetition. Because he is not content to say a thing well once, he does not say it well at all in the end.

He concludes the chapter with a quote from Scaurus, according to which:

[..] *aiebat autem Scaurus rem veram: non minus magnam virtutem esse scire dicere quam scire desinere.*⁵⁶

and indeed Scaurus rightly said: knowing how to speak is no less a virtue than knowing when to stop.

Seneca's identification of these characteristics of the rhetor, dominated by the latter's tendency to repetition and especially Scaurus' effusiveness saying that the rhetor did not know when to stop, made him the ideal target for Sejanus. These two criticisms, when considered in conjunction with the trial of the orator as presented in Tacitus, are certainly enough to justify the ruler's anger and the pressure on him, as Tiberius was forced to sit and listen to insults and slander directed at him.⁵⁷

Up to this point in the work, Tiberius is characterized by moderation, calmness, and sobriety in his decisions. There are only two occasions when he loses control and lashes out. One is the present example and the second is found in 1.74 of the *Annales* with the case of the accused Marcellus. All this evidence shows that Sejanus was determined to take the case to another level, even though there was no clear indictment and evidence of Montanus' guilt, and for this very reason he secured as a witness Aemilius,⁵⁸ who, despite the opposition of the audience, persisted in his speech with emphasis on the taunts against Tiberius. The *maiestas* trial to which the rhetor is subjected essentially

⁵⁵ Sen. *Contr.* 9.5.17.

⁵⁶ Sen. *Contr.* 9.5.17.

⁵⁷ Shotter 1991: 21.

⁵⁸ Shotter 1991: 21.

reflects the final phase of Sejanus' plan. It still shows the progressive development of the question of *maiestas* and the ease with which one could now be indicted and eventually convicted in the light of this law. Whether the rhetor was indeed speaking out against the emperor with insults and slander can hardly be answered. What is certain is that the *ingenium* and moderation with which the *princeps* treated these trials, and the way justice was administered in general during the early years of his reign, have now disappeared and given way to a web of suspicion, fear, and a search for enemies.

Conclusion

The three trials which have been examined are only a small sample of the set of *iudicorum maiestatis* which Tacitus presents in his work, some in an extensive and others in a more concise manner. However, I consider that they are illustrative, so as to delimit in turn two periods in Tiberius' reign. From his accession to power until AD 23, the *princeps* handles matters of justice with moderation, and his involvement in judicial affairs, whenever called upon, demonstrates his knowledge of Roman law. Proof of this knowledge is shown in the dismissal of the indictment drawn up against Falanius and Rubrius (Tac. *Ann.* 1.73). However, from that year onwards, there is a general change in the ruler's character, which is reflected in the way he handles and becomes involved in the *maiestas* trials. If we take into account Suetonius' testimony about Cremutius Cordus (Suet. *Tib.* 61.3), then it could be argued that even the *imitatio Augusti* which the ruler – even if covertly – had followed up to this point has now disappeared. Similarly, the persecution of the rhetor Votienus Montanus (Tac. *Ann.* 4.42) is representative of the success of Sejanus' machinations, but also of the perversion of the *maiestas* laws. One cannot be sure to what an extent an attack against the emperor could put the state into danger. Taking into account Luke's view,⁵⁹ according to which in the first century AD the security of the state was directly linked to the security of the *princeps*, we can then find any accusation which 'revealed' actions against the *princeps* would not go unpunished. Moreover, the interdependence between the security of the state and the ruler gave people like Sejanus the chance to

⁵⁹ Luke 2013: 216.

benefit personally. The effort to protect and preserve Roman greatness now turns into an effort to eliminate people who directly or indirectly endanger Sejanus' plans or, even more importantly, whose profile and actions are suitable to reinforce the fear and suspicion around Tiberius. In conclusion, the *maiestas* laws, as preserved in the *Digesta*, constitute an important tool in studying Tacitus' work. The *maiestas* laws lead the scholars to draw conclusions as to whether all these 'crimes' tried in Rome were indeed endangering the *maiestas*, which the Romans had been trying to protect since the time of the *Twelve Tables*.

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