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THE ROMAN SENATE UNDER THE EARLY EMPIRE.

A Thesis submitted to the
Faculty of the Graduate School
of the
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by

Frances Hicks

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The Roman Senate Under the Early Empire.

)The Subject, " The Roman Senate Under the Early Empire," might at first thought seem to render unnecessary any extended account of that institution previous to the imperial period, but a little deliberation will show that an understanding even of the beginning of the senate in pre-historic times, then of its rise and fall under the republic, in other words, a general knowledge of its history, must be possessed in order to appreciate properly its exact functions at a later time; one is not primarily interested in the imperial senate per se, but rather in its comparative powers. With this thought in mind, we have seen fit to trace in considerable detail the development of the senate from the earliest evidence of its existence.(

The Roman Senate Under the Early Empire.

Our knowledge of the customs and institutions of the pre-historic Latins, the ancestors of the Romans, is so meagre and incomplete that we can not say positively that a senate, even in embryo, existed among them; and yet we shall not perhaps assume too much if we say that such was probably the case, basing our judgment on tradition, conjecture, and inference drawn from later institutions. Such organization as we have any account of may indicate it was developed more or less in the following way. The gens was the political unit, composed of several related families, with a common head. For the sake of mutual protection, a number of gentes combined and joined a pagus, a district with a common fortified centre. With the hope of mutual commercial advantage, in addition to that of protection, several pagi united and formed a league. To just what degree this league was organized, we do not know, -perhaps it had only a leader and a council, the latter an incipient senate, but of its status or powers, we are almost wholly ignorant.

Our sources of information concerning the early institutions and customs among the Romans are somewhat more abundant and authentic, for legend and tradition, preserved by Roman writers, especially Livy, have left us a comparatively clear and detailed account of them. From the founding of Rome (753 B. C.) until nearly the end of the sixth century (509 B. C.), Kings ruled the city, and from the beginning, a senate existed. Romulus, the first king, is said to have created this body⁽¹⁾ when he chose one hundred senatores from his subjects to act as his council.⁽²⁾ These men seem to have been chosen by him because of special ability or unusual worth;

(1) L. 1.8 (2) L. 1.8.7

and, thus set apart from the masses, they formed the nobility or patricians,⁽³⁾ from whose families senators continued to be drawn. The words, senatus and senator were used from the beginning, and probably were derived from the old verb senere, to be old, as they were men of experience, tho not necessarily of advanced age. Patres was another of the earliest terms applied to them, perhaps as a mark of honor⁽⁴⁾ or evidence of affection,⁽⁵⁾ or perhaps because of their age⁽⁶⁾ or a similiarity between their duty and that of heads of families. Just when their number increased, we do not know, but it had reached three hundred⁽⁷⁾ very early, and this remained the maximum until the last century of the republic.

The duties and powers of this early senate were not clearly defined, but seem to have been four fold. Primarily, it was the king's council, as has been said. Second, it was considered the ultimate source of power⁽⁸⁾, for if the throne became vacant thru death or any other reason, the government of the state reverted to the senate until a new king ruled, chosen by them from their number and approved by the people. Third, it possessed the auctoritas patrum, by virtue of which it received some legislative power and could accept or reject laws passed by the assemblies. And fourth, there may have been a faint fore-shadowing of its later control over Rome's foreign policy, implied in the formula of the Fetiales,⁽⁹⁾ which really meant that the decision of the senate would decide the question under discussion between Rome and her neighbors.

In 509 a change in government took place, for in that year the monarchy was overthrown and a republic established. Under the republic the history of the senate, as a whole, may be briefly characterized as a slow rise, followed by a comparatively swift fall.

(3) L. 1.3.4.6 (4) L. 1.8.7 (5) Cicero Rep.2.8.14 (6) Sallust Cat. 6.(6) Velleius Paterculus

1.8.6.

(7) Livy 2.1.10 (8) L. 1.32.1 (9) L. 1.32.6

It is naturally divided into three distinct periods. First, for a century and a half, the senate was involved in a bitter struggle with the plebians, who resented the fact that they were being refused political recognition. Second, from the middle of the fourth century until the middle of the second, the senate was steadily attaining to the height of its power, for Rome was engaged in foreign wars during the greater part of that time, and the real administration of affairs devolved upon the senate. Third, from the middle of the second century until the overthrow of the republic in the middle of the first, there gradually took place a decline, a decay, even a disintegration, which appearing on all sides throughout Rome's possessions and threatening the very existence of the government finally resulted in the down-fall of the senate, in spite of vigorous efforts to restore or even preserve it.

During the first period, the senate for the most part was little altered from the senate in regal times. The greatest change concerned its composition.- in the fifth century, plebians were found in the senate for the first time. This change is worthy of emphasis tho we have no clear proof that plebians were ever legally excluded; indeed, we have evidence to the contrary in the fact that the magistrate was to select new members from the whole body of citizens; ⁽¹⁰⁾ still apparently by custom and tradition, he had hitherto been limited to patricians. In 445 B. C. however, ⁽¹¹⁾ the office of consular tribunate was created, to which plebians as well as patricians were eligible, and election carried with it a right to a seat in the senate. Yet not until 401 B. C., according to Livy, did Rome have a plebian consular tribune, and hence a plebian senator, (Publius Licinius Calvus), for hoping to satisfy their demands, the senate had given the people merely a show of

(10) Cic. Pro Sest. 65 (10) Festus p 246 (11) Livy 4.6.8.

power by this apparent concession, since it reserved for itself the privilege of deciding annually whether consuls or consular tribunes were to be elected.

From this time, members chosen from the people were present in varying numbers, in spite of the constant struggle of the patres to exclude them. But while they had made a decided gain in merely being admitted to the senate, yet they were not on an equal footing with the older members for they were denied the precedence and prestige accorded the patres, and were never granted two privileges which were always prerogatives of the latter; - first, they could not vote on the *auctoritas patrum*, and, second, they could not fill the *interregnum*. Furthermore, to distinguish them from the patricians, the plebian members were called *conscripti* or *adlecti*. Later the significance of this term was lost, so that in the time of Cicero, for example, the senate as a whole was addressed as *patres conscripti*.⁽¹²⁾ From the fact that they did not possess the right *ius dicendae sententiae*, as did the patres, certain plebian members were called *pedarii*, because, when the house was divided (*discessio*) they passed to one side or the other to signify their vote (*pedibus ire in sententiam*)⁽¹³⁾ without being able to discuss the question. To just which ones this term was applied is not clear, but perhaps to those who were chosen without having previously held office,⁽¹⁴⁾ for occasionally new members were added to the lists as a special reward for military service, or something similar. Later, at the time of Cicero, the same term had a slightly different use,⁽¹⁵⁾ for it was applied to the older ex-magistrates who were put last on the official lists and not asked their opinion. But at all times, it signified a senator of inferior rank.⁽¹⁶⁾

(12) Cat. I and IV (13) Gall. 3.18.1 (14) Livy 23. 32.3 (15) Tac. Ann 3.65.2 (16) Dict. des Ant. Rom. Vol. IV . p 1187.

Another, the less important change in the republican senate was made by changing the method of adding names to the senatorial lists. As we have noticed, the kings named the senators. Then when consuls replaced kings, they, as chief executives, filled the vacancies until nearly the end of the fourth century. But sometime about 311 B. C. the *lectio senatus* passed from them to the censors in accordance with the Ovinian plebscite, and the first recorded revision of senatorial lists by these officials was in the following year, 312 B. C., in the consulship of Appius Claudius Caecus.⁽¹⁷⁾ Since this revision could occur only once in four or five years, the outcome was that any former curule official was allowed a seat and vote in the senate till the next lists appeared; and then since by custom he was considered a part of it, his name was added to the lists, and he thus became a member in good standing. Consuls were not members *ex-officio* at first, but it soon became the custom to enroll them as well as consuls-elect. Plebians, ex-tribunes, ex-questors and others who had held the less important offices gained a seat in a similar way, and consequently, there were many additions.

The far-reaching result of the Ovinian law became more apparent during the second period, which we are next to consider, and in addition to other influences at work, aided in bringing the senate up to a point of perfection never attained before or after. It became the centre of the government round which all else moved. To be sure, the government was oligarchic rather than democratic, since the power was in the hands of a few, but the business of an empire of such extent as the Roman became could scarcely have been managed by the large assemblies, and the Romans had only a very imperfect conception of the principle of representation; i. e. part of the senators were elected by the people. A monarchy at this time would undoubtedly have hindered and cramped that genius for government and organization in which the Romans excelled, and

(17) Livy 9.28.7

consequently, the senate, for the time being, seemed the best, most natural and most efficient means of administering state affairs. It served well its purpose in holding together Rome, Italy and the provinces until, becoming undermined by the evil tendencies which sprang up on every hand as a result of the division of power among many, it gave way to a strong, central government that then took its place.

Of the causes which tended to strengthen the senate, let us notice in the first place that the number of plebians increased, after their first appearance, until finally they gained a majority. Then beside the old aristocratic nobility there developed a political nobility composed of men of great wealth and political experience. The fresh vigor, interest and enthusiasm of these members, added at an opportune time, proved to be a valuable asset to the senate in the following difficult years, for the old patrician families, so long self-centred, had become narrow and conservative, and in many cases, were even dying out. Again, as the increase in the power of the censor detracted from that of the consul, the senate was indirectly affected. It gradually became more independent of the magistrate, to whom it had always been subordinate, and could then grow unhampered by him. Besides, as we have already noted, for approximately the next two centuries, Rome was engaged in foreign wars. This made it necessary for the consuls to be absent from the city a great part of the time, so that soon the real conduct of affairs, at home and abroad, was left to the senate. This was natural, for this body represented a continuity in Roman policy and a permanence in the government such as neither the people nor the magistrates could do, because the former had little initiative, and the latter, changing annually, could do scarcely more than start a policy, to be adopted or changed by their successors, as the latter wished. The senate, however, was composed very largely of ex-magistrates holding their

seat for life, and, therefore, it brought together men of at least as wide experience and training as the presiding officer, and often of even wider. This fact was quickly apparent to all, and increased the facility with which the senate could enforce its wishes and demands, for no one was bold enough to resist, knowing that, at the end of the year, he would take his seat among these very men, no longer superior to them or exempt from the liability of being called to account. This resulted in reversing the former state of things, in that it gave to the senate a strong hold on the magistrate.

We may next trace the republican development of such functions of the senate as were found under the monarchy, and also notice those acquired later. First, theoretically, the senate remained an advisory board, and the consul continued to consult it, but with this difference, he seldom failed to follow its advice. This may have been because he recognized the fact that the senators, on account of their continued residence in Rome, had a more comprehensive, detailed grasp of conditions than he could have, after frequent absences, but more probably because he knew that there were numerous ways by which they could force their plans through, in spite of his opposition. For example, the senate might claim, with the connivance of the priests, that the auspices were unfavorable, or it might make use of the *auctoritas patrum*, if the chief executive seemed about to secure the passage of some undesirable bill, or it might direct another magistrate to employ his right of intercession. This ability is all the more curious, since, as a matter of fact, legally there was no obligation resting upon the consul to compel him to adopt the suggestions of the senate. And we may even add that there was but little constitutional foundation for the whole of the enormous power which gradually came into the hands of the nobles; it was rather the result of custom and

precedent, and they were by no means loath to retain it. Second, the necessity for an interrex became less and less frequent, so that the senate exercised this function only on rare occasions; e. g., at the time of the First Triumvirate. Third, the *auctoritas patrum* had become a mere matter of form as early as 342 B. C. In that year, the Publilian Law was passed, which provided that a bill should be approved by the senate before it was proposed to the assemblies, rather than after its passage, as had previously been the case. Thus the oligarchy had considerable control over legislation also, since practically only such bills as it desired could ever reach the people; and yet the change gave to the latter an advantage since it was easier to bring up a bill a second time before it has been vetoed than it would be after that had happened. Fourth, the senate's influence over Rome's foreign policy was now the dominating influence. It claimed the right to conduct negotiations and to frame alliances to be ratified by the people. The general supervision of Latin colonies was divided between it and the consul, but it appointed the governors of the provinces.

Besides these duties, which had grown out of primitive ones, we find the senate assuming a new activity in nearly every department of the government. There were few, if any, administrative matters which were not determined, directly or indirectly, by it. In religious affairs, it was an advisory committee for the priests; it attended to public sacrifices and prayers; and it decreed thanksgiving⁽¹⁹⁾. In finance, it took over the censor's duties, when that office lapsed, such as tax collection, and the letting of contracts, and, as their number increased, trained the inexperienced quaestors, whose duties included the expenditure of public money. In judicial matters, the senate was not a court of justice, but, before Sulla, it did have a limited jurisdiction

(18) Livy 30.44.13 (19) Caesar IV 38 (De Bello Gall)

over certain criminal offenses, chiefly political; after him, these cases were turned over to the quaestiones perpetuae.⁽²⁰⁾ In an emergency, it could suspend the ordinary law, (senatus consultum ultimum)⁽²¹⁾ and give to the consul absolute authority. This happened as early as the middle of the fourth century,⁽²²⁾ at the time of an epidemic of poisoning, in the consulship of M. Claudius Marcellus and C. Valerius. A later and better known example, occurred in the case of the capital punishment of the Catilinarian conspirators.

As might be expected, a reaction followed Rome's two centuries of successful wars and conquest, and a general decay set in throughout the moral, economic and political life of the city and provinces. A consideration of this reaction brings us to the third, and last, period, under the republic. In the first place, the great wealth which had made its way to Rome after the war was unevenly distributed, falling chiefly into the hands of those already rich and affecting only indirectly the main body of citizens. With this one-sided increase in wealth and power, the social distinctions between classes was becoming more marked, and the gulf was ever widening between the aristocrats and plebeians. Then as luxury, extravagance and even immorality crept into the private life of the nobility, these same evils were not long in making themselves felt in the public life as well. Also economic conditions were extremely bad. The great number of slaves in the city had so reduced the price of labor that the ordinary man was, to some extent, replaced by them and deprived of his former means of earning a livelihood. Throughout Italy, too, the small farmer, or land-owner, was being crowded out of his property, as the land was seized upon by the wealthy few, as well as out of his former occupation, for the greater part of the labor on the vast estates was performed by slaves. (20) *op. cit.* *Id.* *Fam.* 3.11.2 (21) *Op* I 11 (22) *Livy* 3.18.6

Consequently, in the city, the lot of the average man was far from enviable; there was no place for him outside, and he seemed threatened with extermination. Such was the economic situation, and the political situation was but little better. The senate had steadily been taking over to itself powers and privileges until it had become the real governing body of Rome. It had encroached upon the political rights of the masses until the latter could do little more than vote "yes" or "no" to whatever bills were presented to them, while bribery and the shifting influence of selfish demagogues were brought to bear upon them during election or at any time when they appeared as a political body. For these reasons, a great civil discontent and unrest sprang up and rapidly developed. Very evidently all advantage was on the side of the wealthy, the governing class, or the class from which the senate was recruited. Most justly, then, the senate might have been considered the proper body to relieve these conditions, at least so far as legislation could do so, but it was too much engaged with its own problems to undertake such a task, divided as it was by internal lack of harmony and unity. Thus, selfish and greedy from its absorption of power and accumulation of wealth, the senate lost even its patriotism and interest in the welfare of the commonwealth, preferring the lesser to the greater good.

The proper government of the provinces had long been the senate's chief strength, but there, too, a similar spirit of decay appeared. Charges of extortion, bribery and injustice were brought repeatedly against the governors. (Cf. Verrea) but when they came to trial, the facts were glossed over, and severe punishment was seldom if ever, inflicted, because the accused was usually one of the senate's own number. With dissatisfaction and mal-administration everywhere throughout the empire and even a breaking-down of the senate itself threatening at home, reforms were

plainly needed. It is not strange that, in this environment, the senate's power became undermined and weakened to such an extent that it could not easily withstand the attacks of the popular party under such leaders as the Gracchi or Marius. These reformers, devoted to the state tho not experienced statesmen, understood that no lasting results could possibly be obtained until the supremacy of the senate had been broken, and the Gracchi, by passing laws contra auctoritatem senatus (Agrarian laws) first instilled in the public mind the idea that the decision of the senate was not final. This fundamental idea, never uprooted, was at the bottom of further attempts.

But in the mean-time, by his military achievements at home and abroad, Sulla had been proving himself a man of no mean organizing and executive ability. After his victory in the Social War, by which he saved Italy for Rome, he was recognized not only as a great general but also as a great politician, and was rewarded with the consulship. He next restored the glory of the Roman name in the East by his successful campaign against Mithridates, and finally, returning to Rome, he defeated the Marian party. With such a record, and supported by his conquering army, Sulla was regarded as the greatest man of the times. Therefore, the senate, unable to cope with conditions and sorely in need of a leader, hailed him as its protector and champion. Perceiving the necessity of a re-organization of the government, Sulla undertook the task, but was not far-sighted enough to see, as the democratic leaders did, that changes must be fundamental and thorough, or otherwise they could not succeed. His purpose was to re-construct the government in such a way that the oligarchy would continue to possess special advantages, and for this reason, his legislation tended to annul any progressive steps made by revolutionary leaders preceding him and to restore the government to its former

aristocratic status. This purpose he was enabled to carry out by causing himself to be named dict⁽²³⁾ator, a title which conferred upon him supreme authority and which was to last till the work of reconstruction was complete.

Sulla's reforms were extensive, touching nearly every phase of Roman political life, but of them all, that which affected the judicial system was the most important and permanent, as it laid the foundation for later criminal law. Sulla re-organized the courts already existing, and established new ones (quaestiones perpetuae) before which were tried such cases as those of extortion, bribery and embezzlement. In what way this concerned the senate, it is of importance to notice. The distinct advantage to be found in furnishing jurymen for the courts had given rise, for many years, to almost constant jealousy and dispute between the equites and senators. Since the time of the Gracchi, the wealthy equestrian order had claimed the privilege of supplying jurymen, and as a result, had become a more powerful factor in the state than ever before. To weaken its influence, and thereby to strengthen that of the senate, Sulla, reviving the custom which preceded the change of the Gracchi, restored to the senators the exclusive right to fill out the jury-list. ⁽²⁴⁾ In addition to giving it this judicial control, Sulla made the senate the chief governing body in the republic by giving it the right to initiate legislation, and he practically restored the auctoritas patrum by making the approval of the senate necessary before a law could become valid.

Sulla found that the senate itself would have to be built up, as its ranks had been decimated thru wars, proscriptions and natural causes. The normal number of senators, since the beginning, had been three hundred. (23) Cic. Ad. Att. 9.15.2 (24) Tac Ann. XI 22.10

The Gracchi had attempted to increase it, but failed, and Sulla likewise was unsuccessful till 81 B. C. In that year, he selected three hundred additional members from the equites, and perhaps even from those whom he wished to reward for military services. Then, in order that this larger number might be maintained, he increased the number of quaestors to twenty and provided for the automatic filling of vacancies in the future by a special law, in accordance with which an ex-quaestor became an ex-officio member of the senate. Thus Sulla made the quaestorship the first step in the *gradus honorum*, and so it remained. As this law freed senators from censorial appointment, and they were also freed from censorial expulsion by the temporary abolition of the office of censor, it soon came to be understood that senators held their seat for life.

But unfortunately, Sulla saw the whole situation only from the narrow, selfish view point of an aristocrat, and under that condition, his reforms could not endure. His measures were superficial, while the need of the time was for a change which should strike at the root of the trouble and result in the improvement and betterment of the conditions of the people, instead of that of the few. Therefore dissatisfaction and unrest on the part of the masses soon arose once more, and within ten years, the constitution which he had hoped would be lasting was overthrown in a popular revolt led by Pompey and Crassus. The fact that this happened, and that at the end of the revolt, the senate was in practically the same position in which it had been before him, merely proves that Sulla could not, or would not, fully grasp the situation. Legislative power was returned to the *comitia*, and the approval of the senate was not necessary to make their laws valid;

(27)

jurors were no longer drawn from senators exclusively, but equally from the senate, knights and tribuni aerarii, the latter minor magistrates, and the office of censor was restored. It is of some interest to note that one immediate result of this last act was the expulsion of sixty-four undesirable senators.

These various attempts of the democracy to throw off the weak and inefficient control of the aristocracy were slow in yielding more than temporary success. But finally, Caesar appeared as leader of the former, and thru his efforts the latter was forced to resign its supremacy, a supremacy which it never regained. During this century of struggle and revolt under several leaders, Sulla and Caesar stand out most distinctly as able statesmen and reformers, altho their purposes and aims were as far apart as possible. Briefly, the one considered the welfare of the aristocrats alone, and the other, the welfare of the Roman people as a whole. And reviewing these years, we can not but feel that the movement begun by the Gracchi was merely interrupted by Sulla, and brought to a successful end by the work of Caesar.

After the overthrow of the Sullan constitution, political confusion and disorder reigned in Rome for several years. The weak and helpless senate drifted on without a leader, and when practical control of affairs was taken over into the hands of the First Triumvirate, it was powerless to uphold its own dignity and right and became of less importance than ever. But after the dissolution of the Triumvirate, and the break between Caesar and Pompey, there seemed to be a possible ray of hope for it in the fact that Pompey allied himself with the senate and became its leader. Had Pompey been as brilliant a politician and statesman as he

had been general, or had the senate held a more secure position in the state, results might have been far different, but as it was, the senatorial party, even under Pompey's leadership, was no match for the genius of Caesar, and in the ensuing civil war, it was decisively defeated and overthrown, and Caesar was left undisputed ruler in Rome a position emphasized by the various titles, as consul,⁽²⁸⁾ dictator,⁽²⁹⁾ imperator⁽³⁰⁾ and others,⁽³¹⁾ bestowed upon him. Thus offices hitherto scattered among different republican magistrates were gathered under one head, and such strength did this concentration of power give Caesar, that the senate was but a shadow of its former self, holding a very inferior and subordinate place in the government. And thus, the last step was taken toward making a reality a certain general tendency which had steadily been gaining favor for nearly the entire last century of the republic's existence, or from the time that the senate's weakening and ultimate failure became apparent. This tendency was in the direction of a monarchy, or at least the centralization of power in one man, and may be seen in the successive tribunates of the Gracchi, the several consulships of Marius and the dictatorship of Sulla. The concentration of military power under Pompey in Cicero's time, may also be cited as an example of this same tendency. That the old republican institutions had outlived their usefulness and were no longer capable of holding together the Roman empire had been proved beyond a doubt. The senate, in particular, had broken down because of its failure to govern the provinces, Italy or even Rome. This, in addition to the fact that it had lost its sense of justice and patriotism, becoming narrow and self-centred, made it incompetent to be longer the chief governing body of Rome and the growing empire.

(28) Dio. 43. 44 (29) Suet. Jul 76

A strong, central government to manage affairs both abroad and at home seemed inevitable.

It is for these reasons, then, that the senate finally gave way and so closely was it bound up with the republic that the latter also gave way and a monarchy gradually took its place. To be sure, a senate is found thereafter under the empire, but of so secondary a character and possessing so little governing power that a study of it is almost like the study of another institution. And yet, since no such consideration can be entered upon without first obtaining a knowledge of the republican body and a thorough understanding of conditions from which the imperial body developed, and particularly of the way in which it was influenced by Caesar's reforms, which marked the turning-point in the senate's history, we have attempted to set forth these things in this introduction.

Caesar soon showed very clearly his disregard for a constitutional government in his attitude toward the old institutions. In his scheme of reform, he had no place for a senate with great power, but he dared not abolish it. As an alternative he determined to lessen its authority and to deprive it of as much dignity and prestige as possible. To aid in this purpose, he raised the membership of the senate to nine hundred,⁽³⁰⁾ and temporarily, even to one thousand,⁽³⁰⁾ and he admitted those of equestrian rank, freedmen and also many Gauls who had been given citizenship, thus removing its former aristocratic character. Its duties became chiefly advisory, in this respect making it resemble the old monarchical senate, yet not giving it equal influence or prestige, since Caesar seldom consulted it as a whole, so large and unwieldy a body had it become, and further excuse was easily found in the fact that so diversified in interest and type were the old and new members that they seemed unable to coalesce and work

(30) Dio 43.47 (30) Suet. Cass. 41 (30) Suet. Cass. 76

together in harmony. Instead, therefore, he chose a committee composed of its leading men to aid him in his task. That the greater number of senators might more easily be provided for, as well as to reduce the importance of the magistrates themselves, Caesar added to the number of the higher officials, and we find for example, forty ⁽³¹⁾ quaestors alone, the first magistrates who could claim a seat in the senate because of his office.

Caesar's reforms, to be of much avail or to be an improvement over the senate's rule, had to strengthen Rome's government outside of her walls as well as inside, and Caesar was keen enough to understand this. He therefore gave to the Italian municipalities a share in the local government, and he improved the condition of the provinces by re-organizing their administration, and removed an unnecessary burden and expense by withdrawing the troops from those provinces which did not border on the imperial frontier. Over all, he himself exercised a constant, strong and detailed supervision.

A statement of two principles underlying Caesar's work, which had been existing, in lesser degree, for many years previously, and which were found running thru the work of his successors, is of value in showing the line of cleavage between the old and new schemes of government and the real reason for the disappearance of the old senate. The first principle was that the old republican institutions should become local, dealing chiefly with affairs of the city. Proof that this had been developing is seen in the fact that, thru the laxity of the senate, pro-consuls and praetors had arrived at the point where they governed with absolute power in their provinces, subject to no higher authority anywhere, while consuls and praetors remained in Rome, with the senate managed municipal affairs. The second principle referred to was that the republican forms should be

subordinate to the man who was supreme in the provinces and over the legions. This principle was working out in the change by which the senate no longer ruled, but was merely advisory, while imperial affairs were in Caesar's hands. He also was in command of the legions, since it was decreed, when the hereditary title imperator was given him, that there should be only one commander-in-chief and that he alone should have troops. (32) As these powers were passed on to the emperors, this principle really resulted in completing the break between the old republican government and the imperial government.

Caesar's work ended very suddenly, before he had opportunity to carry out all of his plans, but he opened the way for and made possible the later permanent change, and proved that at that time imperialism was inevitable, and that the rule of one man was far more effective than that of large assemblies.

(32) Dic. 43.45

If we may judge from results and from conditions which soon prevailed under his guidance, Octavius the nephew of Caesar, was well-fitted to take up the reins of government and complete the task of adjustment to the new needs and demands. But in order better to understand the later position of the senate, it is worth our while to pause long enough to see by what means he put himself at the head of the state, thus overshadowing the senate, and to learn what his attitude was toward this same body. After Caesar's assassination, the "liberators" must have been deeply disappointed to find that instead of restoring the old republic by their removal of Caesar, and returning the senate to its former place of honor and power, matters were decidedly worse, for disorder and confusion arose, over the question of succession, and before it was more than temporarily decided, Rome was again plunged into civil war. Octavius, from the first, showed himself tactful and crafty, as well as persevering, in furthering the claim that he, as Caesar's heir, was the rightful successor, as opposed to Antony, Caesar's colleague in the consulship. He allied himself with the senate against Antony, until the senate, refusing him the consulship, could no longer be of assistance to him, and then he turned his attention to the task of placating his former enemy, with the result that soon the Second Triumvirate was formed. This coalition, was in the beginning officially recognized by a law of the tribal assembly, thus differing from the First Triumvirate, and its members were given dictatorial power for five years, but at the end of that time, this power was extended for five more years, thru their own action.

After avenging themselves on their enemies in Rome and then overthrowing the republican party at Philippi, Octavius and his associates were ready to turn their attention to administrative affairs of the government. This was simplified

(33) Furneaux Vol. I Intro. p 76.

by dividing the empire among themselves in such a way that the East fell to Antony, Africa to Lepidus, while Italy and the West were given to Octavius, who devoted himself to winning the favor of the people in these places, and showing himself able and wise in governing and restoring order. When the weak Lepidus treacherously planned to overthrow him and set himself up as chief, Octavius easily persuaded his soldiers to desert him, and causing him to be removed from his position as triumvir, thus strengthened his own position by removing one obstacle in the way of his ambition. He was also aided by Antony's entanglement with Cleopatra, which was so displeasing to the Roman people, who thought he might even be planning treason against Rome, that Antony was declared a public enemy and war, nominally on the Egyptian queen was declared against him. After the battle of Actium, Octavius at last found himself apparently within reach of the coveted place of head of the state, but yet further scheming and planning were necessary before it was actually within his grasp.

Octavius may have understood that, to bring about the best results, neither the plan of Sulla nor that of Caesar was wholly practicable, for each was too radical; but he also remembered that, tho the name King⁽³⁴⁾ was hateful to the Roman people, yet the old order of things had passed away, and a new, but contrary order, that of centralization of power, had taken its place, however cautiously the fact might be concealed. As a result, his course was to be steered with great wisdom and care, and apparently it was selected as being a compromise between that of Sulla and of Caesar, tho inclining toward his uncle's plan. Like Caesar, he exercised his powers under titles not distasteful to the senate or people, especially avoiding that of rex; but unlike him, he pretended to preserve⁽³⁵⁾ the cherished forms of the republic. And by appearing conservative and

(34) Dio 53.17 (35) Dio 53.2.4

masking his true intentions under a seeming unwillingness to be more than mere head of the state from which he received all power, he was able to accomplish much with little friction. The fact that in 27 B. C., claiming to restore the republic, he returned to the commonwealth all power in his hands, strengthened this impression, but after due persuasion, he finally with reluctance accepted again certain honors and offices, ⁽³⁷⁾ tho it was to belong to him for ten years only. ⁽³⁸⁾ From this same year, Dio dates the re-establishment of the monarchy, ⁽³⁹⁾ and Tacitus also considers it the time when Caesar's ascendancy was secured. Their view-point is easily seen, upon consideration, not to contrast Augustus, for what happened was that the extraordinary powers of the Triumvirate ⁽³⁹⁾ were laid down, arbitrary acts cancelled, ⁽⁴⁰⁾ and power taken up afresh, and thus, with Augustus' hopes and ambitions at last realized, the constitution of the principate began, and 27 B. C. became important ⁽⁴¹⁾ for this reason. The senate as well as the old republican assemblies, ⁽⁴²⁾ again theoretically resumed their regular functions, and after the peaceful restoration of all provinces, armies and revenues, the unarmed provinces were actually given up, while those in which troops were ⁽⁴³⁾ necessary were retained, ⁽⁴⁴⁾ so that Augustus might have the responsibility and difficulty of quieting the still troublesome regions, but that the senate might at once begin to enjoy those already at peace. As a matter of fact, this division meant that Octavius was supported by military power, while the senate wholly lacked it. ⁽⁴⁵⁾ ⁽⁴⁵⁾

Besides such honorary titles as Augustus and pater patriae,

(36) Dio 53.13 (37) Dio 53.12 (38) Dio 53.17 (39) Dio 53.4 (40) Dio 53.2

(41) Suet. Aug. 40. Aug. 55 (42) Dio 53.12 (43) Suet. Aug. 47 (44) Dio 53.12

(45) Dio 53.16 (46) Mon. An. 35

three others were conferred upon him, binding him respectively to the army, people and senate, by virtue of which he exercised express authority becoming in reality almost an absolute ruler under cover of authority thus bestowed upon him. These powers were imperium proconsulare, ⁽⁴⁷⁾ tribunicia potestas ⁽⁴⁸⁾ and the powers belonging to the title princeps. ⁽⁴⁹⁾ The first originally signified the power of an imperator over his troops, and when given to Augustus, as Octavianus was now called, emphasized the military basis of his position, for he was imperator, or commander-in-chief, over all troops, with the final decision in regard to removal, promotion or pay. The tribunicia potestas, ⁽⁵⁰⁾ growing out of the old republican tribuneship instituted to protect the people, besides making his person ⁽⁵¹⁾ inviolable everywhere throughout the empire, gave him the initiative, since it gave him the formal right to summon the senate, ⁽⁵²⁾ but before it any business, ⁽⁵³⁾ and nominate candidates. By this same power, the emperor could veto the measure of any official, ⁽⁵⁴⁾ but to preserve peace with the senate, to whom he usually showed great deference, and to seem to observe the former custom, such action was often taken by the tribune for him. It was the possession of this power which more than any other indicated his very high position. ⁽⁵⁵⁾ The last title, princeps, came to mean prince, indicating dignity rather than power, and was assumed by Augustus to show that he was the first citizen of the state, holding power in trust and not as an absolute monarch. These unusual concessions made to Augustus continued with his successors, and so helped to shape the principate in subsequent years. In 23 B. C. he brought to an end his long series of consulships, ⁽⁵⁶⁾ but Dio says that in 19 B. C. he was given power of ⁽⁵⁷⁾ consul for life, in outward rank being made equal to the consuls, for he

(47) Mon. Anc. 4 (47) Dio 53.17 (48) Mon. Anc. 10 (49) Mon. Anc. 13

(50) Dio. 53.32 (51) Dio 49.15 (52) Tac. Ann. 3.70.2 - 13.43.7

(53) Tac. Ann. 3.56 (54) Dio 53.32 (55) 54.10

was given twelve lectors and had an official chair between those of the consuls, and that at the same time he was given censorial power (56) for life. Two statements, however, of Augustus himself seem to make it doubtful that this power was permanent, but rather that he had it conferred upon him when necessary.

Thus Augustus' own position as head of the state was clearly and securely fixed, altho both Dio (57) and Suetonius state that after a grievous illness, he once or perhaps twice, seriously contemplated abdicating, even going so far as to consult his advisors, Agrippa and Maecenas, in regard to this step. But whether or not the suggestion is well founded that this was merely a ruse to discover how firm a hold he really had upon the people, he was again induced to change his mind. Then in his usual nonostentatious and politic way, he soon outlined the position of the senate, according to his plan. In general, without making it supreme in any sense, he restored to it some of its former dignity and prestige by excluding the freedmen and provincials admitted by Caesar, and made it chiefly advisory to himself. In his desire to seem to make no fundamental change in the government, he pretended that he and the senate together shared the burdens of state, and that each was to assist the other. Possibly he did plan some division of labor, but it did not work out, and soon he was encroaching (58) more and more on the rights of the senate, as well as those of the magistrates, until protected by his titles, he had absorbed the real power himself, and only honorary titles, increasing proportionately in number, remained for the republican representatives. But it was all managed so subtly, and changes were so quietly and skillfully introduced, that the theory

(56. A. Mon. Anc. 5.6. Mon. An. 9 (57. Dio 52.1 - Suet. Aug. 26
 { 58. Tac. Ann. 1.3.1

of the existence of a republic with a princeps at its head survived (till about the third century, long after all but the theory had vanished. Augustus' successors, on the whole, followed his policy, and the senate, in spite of brief bursts into new life during the second and third centuries, was of little true importance after the Julian emperors (69 A. D.)

Augustus, by his adjustments in regard to the composition of the senate, made it once more the most aristocratic body in the state, and it was not much changed, in important points, by the four emperors immediately following him. In the first place, by his right as censor he, with Agrippa, purged the senate, reducing the membership from nine hundred or more to six hundred,⁽⁵⁹⁾ which again became the normal number as under the republic. This was done by at least three revisions,⁽⁶⁰⁾ the first in 39-38 B. C., and the second ten years later, upon finding the number still too large. At the latter time, almost fifty senators voluntarily withdrew at his request,⁽⁶¹⁾ while one hundred and fifty others resigned only under compulsion, and the most were disenfranchised, the names of the latter were posted, as a penalty for their delay,⁽⁶²⁾ an embarrassment which the others were saved. Dio mentions a third revision in 11 A. D.,⁽⁶³⁾ and it is also referred to by Augustus himself in the Commentum Annyranum. A fourth⁽⁶⁴⁾ is also mentioned by Dio, but apparently was not so thorough, or extensive, being conducted by tres viri.⁽⁶⁵⁾ As has been said, Augustus removed certain provincials and freedmen, and the former were prevented from entering again till the time of Claudius, altho they were early given the franchise, without the right of seeking office in Rome (Ius adipscentiarum in urbe honorum), an omission which

(59- Dio 52.42 Suet. Aug. .35 (60- Mon. Anc. 8 (61- Dio 52.43
 (62- Dio 52.42 (63- Dio 54.35 (64- Dio 56.13 (65- Dio 55.13 (66-Tac
 Ann. XI.25.1 - 25.1

made it impossible for them to become senators, except at the direct summons of the emperor (adlecti).⁽⁶⁷⁾ Sons of freedmen were also early allowed to enter but Nero forbade this, and even degraded some who had previously gained admission. This question of removal had long since been solved in the following manner. Under the pre-historic kings, and even under the first consuls, a senator's name could be arbitrarily omitted from the lists, without offense to any one; later the quinquennial revision by censors made his tenure a little more secure for then omission or removal signified disgrace, as the censors had to agree in such a case and also state in writing their reasons for their action.⁽⁶⁸⁾ This restriction came to mean in time that a man was not expelled except for misconduct, loss of civic rights or some serious offense. In 70 B. C. when sixty-four undesirable Sullan members were dropped, this power was exercised by censors for the last time under the republic. With Augustus it was revived and was in his hands, and that of his successors.⁽⁷⁰⁾ Album senatorium was then the official name for the senatorial list and from 9 B. C. they were revised annually, at which time, aside from death or voluntary withdrawal, names might be dropped for several reasons: - as, for being condemned in a court of law, for being deemed unworthy by the emperor, e. g. Tiberius expelled spendthrifts, or for losing the property qualification, unless the emperor saw fit to restore it. The old lists were used as a basis for the new ones, which, headed by the name of the princeps, were arranged according to official rank and seniority from dictatorii and

(67-Suet. Aug. 39 (68-Livy 40.51.1) (69-Livy 39.42 (70-Dio 53.17 (71-Dio 55.3
 (72- Livy IV 42.3 (73- Dio 60.11 (74- Tac. Ann. 3.1.1
 (75- Tac Ann 12.52.4 and Dio 53.42 (76) Tac. Ann. 3.37,38

censorii to quaestorii, differing from the arrangement under the republic when patricians had also preceded plebians. In the earlier time, (77) the names were read from the Rostra and then the records were deposited in the archives, but afterwards, they were posted in public places.

Next, Augustus established certain qualifications for membership, just as under the old regime, the minimum age limit for the quaestorship (thirty years) by custom had become that for the senate, since this office was the first to entitle one to a seat in that body, so a similar custom prevailed under Augustus, altho the minimum was reduced to twenty- (78) five. Since the ex-curule officials continued to fill vacancies in the senate the transference under Tiberius of the election of the quaestor to the senate seemed to give it control over its own composition, but in reality the emperor's influence over election, in addition to his arbitrary right to admit directly, called adlectio and corresponding to the lectio of the censors, restricted it to a considerable degree. Further- (79) more, this adlectio, combined with the arbitrary exercise of removal, made the senate more and more a council whose members were chosen by the emperor, holding their seats at his pleasure.

Augustus' next restriction, contrary to all legal precedent, established a property qualification for membership in the senate of (81) (80) 1,200,000 or 1,000,000 sesterces (\$50,000) altho of necessity it had long been the custom to choose members from wealthy families in order that (82) the position might be properly maintained. But now

(77- Livy 23.23.1.6 (78 Dio 52.20 (79 Suet Aug. 35

(80 Dio 54.17 (81 Suet Aug. 41 (82 Cic. Ad. Fam. 13.5 - 2

wealth was a more necessary adjunct of a senator than ever, since his expenses, for traveling, his retinue and many other things, were enormous. Yet senators' opportunities for adding to their income were so limited, because they were debarred from practically all business, that many a knight refused the honor of being elevated to avoid the heavy drain on his purse. Such action, however, under Claudius, was rewarded ^{by} degradation. Toward the end of the third century B. C., the ⁽⁸³⁾ Claudian law had been passed, prohibiting senators from engaging in commerce or taking up public contracts (redemptiones) lest they should thus take advantage of their position and enrich themselves. But one foreseen result of this law had been the development of a sentiment that to work for pay was degrading, and this sentiment marked the dividing line between aristocrats and the rest of the Roman people. As a matter of fact, however, this Claudian law had from the first been easily evaded by conducting business under another man's name and under the new government, similar plans of avoiding degrading business connections were adopted. To add still further to their incomes, many senators were in the habit of lending money in ⁽⁸⁴⁾ the provinces at 8 or 9 %; still high surely but not so extortionate as under the republic. The majority also invested in land at home or abroad, (it is said that under Nero, one-half of Africa belonged to ⁽⁸⁵⁾ six land-owners), which could be used for farming, factories or potteries; or in slaves, who could be let out at a profit, left to manage one's business, or employed in a variety of ways. Then there were paid posts in the army, from which further gain might be derived;

(83 - Livy 21.63.3 (84 - Friedländer Vol. I - p 119

(85 - Friedländer Vol. I - p 114

the administration of the provinces yielded a salary often quite large, (the largest, that of the proconsul of Africa was 1,000,000 sesterces); and law was still open to senators, wherein even the fees were forbidden, or limited to 10,000 sesterces, as after Claudius, huge sums were acquired by winking at the restriction, (as, by accepting gifts). Augustus, moreover, was very generous, and frequently gave aid to the worthy, if the required sum was lacking: (in 4 A. D. he raised the property of eighty senators to 1,200,000 sesterces each) unfortunately, such kindness was not always appreciated; one man, whose debts of 4,000,000 sesterces he had paid off, complained that he had been overlooked. It is clear that Augustus did all in his power to encourage the wealthy aristocracy and to keep them about him, showing every preference to the " old families". Consequently, the senate, tho not always representative of the best and most worthy men in the state, was representative of the noblest and wealthiest, for birth and lineage were held in high esteem, and furthermore, since it was still so very desirable to gain the consulship that candidates were never lacking, offices were often given to profligate spendthrifts instead of to a novus homo, no matter how excellent the latter might be.

As a wealthy, hereditary aristocracy grew up under the empire, it is not at all surprising to find that there were certain external, tangible evidences of the distinction, privileges as well as duties and restrictions, between its members and the masses, or between the senate and the rest of the Roman people. Some of these distinctions, tho somewhat changed, may be traced back, in substance, to the time of the republic, while others were introduced by the emperors to give an appearance of prestige and standing, as real power

was slowly slipping away. For example, we find that, according to tradition, from the time of Tullus Hostilius, as a badge of the senatorial order, a senator wore a broad, purple stripe, (latus clavus), on his toga. Augustus, in his desire to put special stress on lineage, allowed no one to wear it unless he could show pure Roman descent for three generations; he also extended the right to sons of senators, who had reached young man-hood, (⁽⁸⁹⁾ laticlavi), and permitted them to attend meetings of the senate that they might become familiar with the method of managing public affairs.

Senators wore also, as an evidence of their position, a gold ring, (⁽⁸⁹⁾ anulus aureus), and sandals (calcei), the whether they were red or black is uncertain. These sandals were fastened by leather thongs, and those of patrician senators had a silver crescent, (luna), which was lacking on those of the plebeian members. As further privileges, senators were given special seats at the theatre as early as 194 B. C. and later, also at the shows in the circus; they were banqueted at public expense in the Capitol; their wives might use covered carriages; ⁽⁹⁰⁾ and a matter of greater importance, from their number legati for special missions were chosen. While, in general, they were subject to the ordinary civil laws, yet they were outside the jurisdiction of the municipal authorities. It is rather curious to find that in spite of these outward emblems, no official title or name was given to senators until the first century of the empire, and then for a time, one of courtesy, vir clarissimus was used.

(87- Pliny - Nat. Hist. IX Par. 136 (88- Suet Aug. 38 Ann. 94

(89- Livy 9.47.13 (90- Livy 31.44.5 (91- Dio 60.8

(92- Suet. Aug. 35 (93- Dio. 57.15

Augustus expected senators to live in Rome, and to remain there, only a temporary absence freeing one from the necessity of obtaining his consent to leave, tho this was required always in time of war or a emergency of any kind. He also forbade them to go outside of Italy, unless ordered or permitted to do so by himself. To ignore this law was a serious matter, and laid one liable to expulsion; one man is said to have been expelled merely for having moved from Rome to the country before July first, the general moving day, because he could strike a better bargain by doing so. But in all probability, such a law did not often work a very great hardship, as the press of official business left a senator comparatively little leisure for travelling about just for pleasure. Augustus' successors were less strict, however, and it was possible to go to Italy, Sicily and, after Claudius, even to Gallia Narbonensis without first gaining the emperor's permission, tho consent of the emperor, often accompanied by an action of the senate, was customary. In order to preserve the dignity of the senate, its members were restricted in another quite different way also, - they were not allowed to marry either a freedwoman or an actress.

Most of our detailed information concerning the meetings of the senate is gleaned from references and accounts of its meetings under the republic, for there were almost no vital changes made under the new régime - in accordance with Augustus' plan to seem to retain old forms. It was prescribed that meetings should be held (habere senatus) in a place "consecrated by augurs", or a temple, and the usual place was the Curia Hostilia, (or Pompeia, and later

(94- Dio. 52.43 (95- Livy 27.50.4 (96- Friedländer Vol I p 118
 (97- Dio. 52.43 (98- Dio 60.25 (99- Gall. 14.7

Julia), which had been so consecrated, the conditions might arise as a result of which a change would be made; in the First Oration against Catiline, Cicero speaks of the fact that the senate had been summoned to the temple of Jove Stator, on account of fear of the conspirators.

Various methods of giving notice of a meeting were employed, sometimes by a herald (praeco), or by an edict, or, if urgent, even individually. Until 154 B. C., the meeting, lasting from sunrise to sun-set, could be held any day, but in that year the Lex Pupia was passed, which limited it to any day except that on which the comitia was to meet. Augustus first decided that there should be special times for the senate to gather, at which no other meeting could be held to take the members away, and these times were the Kalends and Ides of each month, except during the pestilential months of September and October, then if a meeting should be necessary, attendance was required of only a few, chosen by lot. Augustus at first found attendance very irregular and small, often with so few present that it was almost impossible to do any business, so careless and negligent had these "old families" become in regard to matters out-side their own immediate interest, devoting instead a fortune of both time and money to games, shows or any other amusement popular at the time.

(100- Cat. 1.13 (102- Dio 59.24 (101- Suet. Ci. 36

(103- Gall. 14.7.8 (and Cat. IV. 3.) (104 - Dio. 55.3

(105- Suet. Aug. 35 (106- Suet. Aug. . 35

(107)

Therefore the first emperor made attendance obligatory, unless an
 (108)
 excellent excuse was offered, and increased the penalties for absence,
 for while the senate's initiative and independence decreased with
 time, yet, at least during the first years of the principate, they
 were not allowed to forget that their presence was essential for
 the proper conduct of state business. Under the republic, meetings
 had been summoned only by the highest officials, usually by a
 consul, or in his absence, by a praetor or even by a tribune, and
 whoever called the meeting acted as presiding officer. Incidentally,
 we may notice that, since no magistrate could be prevented from
 announcing a meeting, except by a colleague, a higher officer or,
 rarely, a tribune, the only course remaining, if an unsatisfactory
 (109)
 motion passed, was to bring action against the motion. A change
 took place, however, in 23 B. C., for Augustus was given special
 (110)
 power not only to call the senate together, (*coepere senatum*)
 whether for a regular or special meeting, at which he might preside,
 but he was also given absolute veto power, and these special powers
 were passed on to his successors. Seats were assigned to the consuls
 and praetors, who sat on curule chairs, with the emperor, also

seated on the official chair, taking his place between the
 (111)
 consuls; the tribunes probably also had certain places, but the
 remaining senators sat where they chose on the benches (*subsellia*).
 Only members were present at a meeting, for, while the doors were
 open, out-siders could not enter, but could stand just out-side,
 (112)
 listening to proceedings.

(107 - Dio 56.3 - Dio 57.11 - (108 - Dio 54. 15

(109- Dio. 55. 3 (110- Dio 54. 3 (111 - Dio IV - 10

(112 Cat. IV 2

The procedure was after the following manner. Auspices were taken first to win the favor of the gods, and after dispatches, addressed to the presiding officer or high officials, had been read, and special news given, or foreign ambassadors received, religious questions, if any, were brought up. (113) As to the order of business, the president could follow his own inclination. If he so desired, he could take a vote as soon as a question had been stated but a formal consultation, (*relatio*), with the senate followed a fixed course. In 23 B. C., the same year in which so many special powers were bestowed upon Augustus, he was given the special right of *ius referendi*, (114) or of having the privilege of bringing up the first *relatio* of a meeting. At first this was done in person, or if he was obliged to be absent, (115) the matter, in writing, was entrusted to a special representative, but, (116) in time, it came to be the usual method to send the message in writing, without the emperor's appearing at all. The first step was an explanation of the business, (*verba facere*); the next was a setting forth of the magistrate's opinion, which, as we have mentioned, could be arbitrarily omitted, (*quid de ea re fieri placet?*). (117) The vote was taken (*perrogare sententiam*) in answer to a question, " Dic quid censes", (118) asked of the members in a regular order, beginning with the princeps senatus (119) (the emperor), who could vote first or last as he chose, (121) then the consuls - elect and then the other consulars. At first the more usual way of voting was to give a speech on the question, ending with a formal statement of the vote;

(113-Gell. XIV 7.9 (114-Dio 53.32 (115-Dio 56.2 (116-Dio 60.12
 (117-Cat.1.10, Suet Jul. 28 (118- 1.32.12 Livy (119 Gell XIV. 7.9
 (120-Dio 57.7 (121-Mon Anc. 78/

or it might be indicated by a nod or a wave of the hand; or by
 crossing to one side or the other, when the house was divided. Under
 the republic, a senator could speak as long as he liked uninterruptedly
 on the subject in hand or any other, thus having opportunity to bring
 up a matter which the magistrate refused to (compare Cicero's threat
 in the Manilian Law), but here again Augustus defied all precedent and
 set a time limit. As business increased, only the more important members
 spoke at length, while the rest indicated their vote silently, and still
 later, as the senate's importance decreased, most of the formality of
 routine was dispensed with and opinions were taken by acclamation. This
 was much simpler and the result just as satisfactory, for the emperor
 usually expressed his wish in any given case, which, practically amounting
 to a command, left the senate little free choice, and for this reason
 their vote did not necessarily express their will at all. This state of
 affairs shows to what an inferior position the senate really had fallen,
 for under the republic the senate could demand a certain question at
 once, refuse to give their vote till the desired question had been put
 to them, and demand a recount at any time. ⁽¹²⁵⁾ *Interitio* (*mittere senatum*)
 was indicated by such words as, *Nihil vos laetabit*, or *Nihil vos paraverit*.
 After the vote had been taken, the result was drawn up by the clerk
 according to a prescribed form, consisting of preamble, (*praescriptio*)
 and action proper, in the presence of two or three witnesses; very often
 words were inserted showing the author, as *Claudius Arestor*. ⁽¹²⁶⁾

123 (Gell. XIV. 7. 9 (123-Gell. XIV.7.9 (124-Gell. IV. 10.8(125-Liv.30.21.10
 (126 -Livy 2.24.4 (127- Tac. Ann. 3.31

It was then entrusted to the quaestors and preserved in the aedilium.

A decision of the senate was called senatus consultum.

Under the empire, the consulta almost wholly took the place of the laws of the comitia, and the empire was ruled thru the consulta or the edicts from the palace, the source practically the same in either case; under Tiberius, the comitia passed but two laws. In 57 B. C., Caesar

(129)
arranged for the publication of official reports of the proceedings, consisting of consulta, official documents submitted to the senate and speeches of the leading men, called acta senatus; and when they appeared with the acts of the popular assemblies and principal events of the day, they were called acta diurna. Augustus forbade this

(130)
publication, on the ground that reports were falsified and no authentic account was given, but the custom, stopped only temporarily, returned (131)
under Tiberius and remained till the end of the empire.

With such an organization in the state as the senate had become under the principate, it may be asked quite logically what its functions were. In general, these may be classified under the following heads: - Administrative, advisory, electoral, legislative and judicial.

In working out this question, one finds it interesting to notice how large a part of its functions were now its acknowledged and accepted duties, the previously it had controlled these same matters indirectly, - i. e. legislative, electoral and judicial. Considering the vast,

comprehensive powers in the hands of the emperor, and the fact that in almost every case he was the ultimate source of power, one can only conclude that there was little room for any other authority of any great

(128-Suet.Jul. 28-Livy 39.4.8 -Tac.Ann.3.51.3. (129-Suet.Jul.20

(130-Suet.Aug.36 (131-Suet.Tib. 73

importance, and this we find to be true. Gradually the comitia vanished, as a factor in the government, finding its representation in the princeps, and it is not surprising to see its powers passed on to the senate, perhaps in each case, as Duruy claims in that of electoral power, because the emperor, as he emphasized more and more centralization of power in himself, felt that a few hundred men could be guided and controlled much more easily than thousands. Thus it came about that as the other old republican institutions disappeared, the senate remained the only republican check upon the Caesars, and its outward position became more and more honorable. Yet even a superficial study of conditions will reveal the fact that any power given it was restricted in some way or other, - directly thru sharing it with the emperor, or indirectly, thru the supervision of his officers, and as a result, a "dyarchy" or "dual form of government" developed. The founder of the principate, in general, left names but little changed; and at first the imperial power did not so overwhelmingly overshadow the senate, as it did later. Thus, the senate in name had very important duties, even as late as (134) Here, but usually, in any given case, there sprung up beside it a set of imperial officers, and in the latter was centered the real power. It has been suggested (135) that this system of imperial officers with duties corresponding so closely to those of the senate, and the accompanying loss of power on the part of the latter, was a result of the senate's inability, its incompetence to manage properly affairs left to it, a

(133) p. 379 v. IV - Hist. of Rome. (133 - Tac. Ann. 1.3.7 (134 - Tac. Ann. 13.4.3

(135) H. Taylor - p. 434 - Constitutional and Pol. Hist. of Rome. (136 - Mon. Aug.

5 - Suet. Aug. 87.

specific example being cited in the fact that Augustus appointed a
 (136)
curator annonae in 22 A. D. , at the request of the senate, because of
 its own failure to cope with a situation, a famine, confronting it, and
 in 5 A. D. this office was filled by him again at their request, and
 from this time was permanently added to the list of imperial officials.
 (137)
 In a similar way, many other administrative officials, increasing in
 number even during Augustus' life, that they might take part in the
 (138)
 government , were created in Rome and also in Italy, e. g. curatores
 (139)
viarum, and yet the senate was never formally deprived of the general
 administration of either Rome or Italy. However that may have been,
 it is almost impossible to imagine the senate holding any but a sub-
 ordinate place in the government, since the tendency for so many years
 had been toward concentration of power and the masses were by no means
 (139)
 loathe to have it so. Yet the early principes, especially Augustus
 (139)
 and Tiberius, pretended to hold this same body in high esteem, and its
 own attitude toward the position in which it found itself was evidently
 quite in accord with that of its superior, for it ever pretended that
 it was the devoted slave of the prince and the mere registrar of his
 decrees, accepting, in short, the practice as if it were the law of the
 time, and satisfying its own pride and dignity by a mental reservation,
 to the effect that its concession to its chief was a mere voluntary
 session of its undoubted prerogatives, which it might at any time resume,
 and which, in fact, on the death of each emperor, reverted inso facto
 to itself, to be ceded to his successor or withheld from him at its own
 proper pleasure." (140).

137

(136-Mon.Jan.6,Quint.Aug.37 (Quint.Aug.37 (138-Quint. Aug.41 (139- Tac.
 Ann. 4.8.2 (Hist.Fi.20 (139- Dio. 57.7 (140- Verriale Vol.V-p238 The
 Romans Under The Empire.

first paralleled and then absorbed the duties of the senate in Rome and Italy, (141)
 so a similar encroachment took place in the provinces. The senatorial provinces,
 of varying number but always less than the imperial, were governed by pro-consuls
 (142)
 annually appointed by the senate by lot or by special appointment, while the
 (143)
 imperial provinces were governed by legati, so called even tho of consular
 rank, appointed at the emperor's pleasure and specifically assigned. Following
 closely the imaginary line of division, there would have been no interference
 by the emperor in the government of the former nor vice versa, but in virtue
 (144)
 of his maius imperium, the emperor claimed the right to supervise all provinces
 (145)
 whatever standing, and did not hesitate to exert it. There was also a check,
 slight at first, upon the pro-consuls thru an imperial officer (procurator
 (146) (147)
fisci), which, after Claudius, became very great. But the condition of the
 provinces themselves was flourishing, for with peace reigning and the government
 settled and comparatively just, commerce improved and the inhabitants were
 contented - a marked advance over their condition a few years before, under
 the lax, weak senate.

(148)

The senate lost to the emperor the right to declare war or make peace,
 (148)
 and its control over foreign affairs, altho it was permitted to receive
 (149)
 embassies and representatives from the provinces, particularly its own, and
 (150)
 the Caesars, Tiberius more than all others, kept it in touch with foreign
 (151)
 affairs, and had read to it foreign messages and dispatches. It was obliged
 (152)
 to surrender its control of the army and navy also a loss of utmost importance
 for the new empire was built up on a military foundation, with the control of
 it resting on the control of military force, - a fact evident to the Caesars,
 and hence their care

(141-Dio 53.13 (142-Tac. Ann. 3.32.1, Tac. Ann. 3.35.1 (143 Dio. 53.13
 (144-Dio.53.32; 15 (145-Tac. Ann. IV 6.5. (15.3 (146 Dio. 53.15 (147-Suet.
 Cl.12 (Tac. Ann. 12.60.1 (148-Dio.53.17 (149-Tac. Ann.12.10.1 (Dio.53.33
 (Tac. Ann. 3.60.6 (151-Tac. Ann. 1.76.4, Tac. Ann. 2.47.3, Tac. Ann. IV 13.1
 and Tac. Ann. IV 12.58 (150 - Suet. Ti. 30 .

to keep this control in their own hands.

Left to the senate were those duties which made it the "fountain
 of all honor" rather than of power, for it decided on triumphs and
 (154) ; (155)
 triumphal insignia; days of public rejoicing and congratulation or honor
 (156) (158)
 to the imperial family; public funerals and memorials to the dead.
 Upon it depended the supervision of religious affairs, and the suppression
 (159) (160)
 of unlawful or profane rites, or quelling of disorder of any kind. And
 it alone had the right to take action which granted exemption from any
 existing law, so that in this matter, even the Princeps had to appeal to
 it; in 24 B. C. a senatus consultum freed Augustus from the Cincian Law,
 which fixed a maximum for donations. It alone could make the acta of each
 (161)
 emperor valid at his death, tho it was not necessary that such action
 (162)
 should be taken, as in the case of Nero, and it could deify a deceased
 (163)
 emperor or condemn his memory (damnatio memoriae).

Under the principate, the old Aerarium Saturni, the
 State's treasury, still existed, and theoretically, the control was in the
 hands of the senate, but as a matter of fact, since the princeps guided
 (164)
 the senatorial decisions, it was only an apparent power, except in the
 case of showing even special honor to him. Here again the dynasty showed
 itself, for there grew up a Fiscus, or imperial treasury the evidence is
 lacking that this was an innovation of Augustus. It is first mentioned by
 (165)
 Tacitus, under Tiberius, but probably was not formally established until
 the time of Claudius. Each treasury received, expended and coined public
 (152-Dio.53.16 (153-Eust.Aug.38(155-Tac.Ann.XIII.9.1 (154-Tac. Ann. 1.55.1
 (154-Tac. Ann. XIII.9.8(157- Dio. 56.3 (158 - Tac.Ann.13.2.6 - 16.63,
 Dio.56.2(159-Tac.Ann. 2.38.8, 2.85.5 (160-Tac. Ann. 4.14.4, 6.13.3.
 (161-Dio.59.9,51.20,Tac. Ann. 1.72.2,Dio.39.9 and 31.20. (162-Dio.59.9
 (163-XII.69.4 Tac. Ann. (164- Tac. Ann.2.47.3,4.13.1.(165-Tac.Ann.11.48.1

money, so that it is difficult, as Dio admits, ⁽¹⁶⁶⁾ to distinguish clearly between them, and eventually the public treasury was absorbed by the imperial. In 28 B. C., the aerarium was put in charge of two praefects, ⁽¹⁶⁷⁾ chosen by the senate, but as this proved unsatisfactory, it was later ⁽¹⁶⁸⁾ assigned to praetors or praetorians, (praetores a(erarii)), ⁽¹⁶⁹⁾ appointed by the princeps by lot. Still later, there were additional changes, for we hear of the quaestors being assigned this duty, as they had ⁽¹⁷⁰⁾ been previous to Augustus, and finally the praefecti, ⁽¹⁷¹⁾ praefecti aerarii ⁽¹⁷²⁾ with whom it remained, - a good example of the shifting of power during this period, ending, as usual, with the supreme head. From the aerarium were paid expenses incurred by the branches of the administration under the direction of the senate: also for public worship, festivals, buildings, and roads. Into it was paid revenue from ⁽¹⁷³⁾ senatorial provinces and certain taxes in Italy, (vectigalia and tributum). From the fiscus were paid military and provincial expenses and those of the corn supply. Under the republic, to the senate had belonged the right to coin money, but in 27 B. C. this right was shared with the emperor, and in 15 B. C. as copper became of value, the coining of this metal was taken over by the senate, while that of gold and silver was claimed by the princeps.

Electoral power was not possessed by the senate until the ⁽¹⁷⁴⁾ reign of Tiberius, that emperor, who with great humility and self-⁽¹⁷⁵⁾ depreciation, was very deferential to this body, ever asking its advice,

(166- Dio. 53.22 (167- Tac. Ann. XIII. 29.1 (168- Suet. Aug. 36

(168- Dio. 53.2.32 (169- Tac. Ann. 1.75.4 (170- Dio. 60.24

(170- Suet. cl. 24 (170- Tac. Ann. 13.29.1 (170- Tac. Ann. 13.29.2

(171- Tac. Ann. 13.29.3 (172- Tac. Ann. 13.28.25 (173- Suet. Caligula 16

(174- Tac. Ann. 1.15.1 (175- Dio. 57.7

and attempting to make it feel very important. But his deference was but a
 veil, for his successors, ⁽¹⁷⁸⁾ the pretending to leave to the senate the election
 of the magistrates, as usual, found a means of curtailing an otherwise
 important concession thru rights known as nominatio and commendatio. ⁽¹⁷⁷⁾ In
 virtue of the first, the emperor, thru his tribunicia potestas, claimed
 the right to test the qualifications of candidates and thru his consular
 power, ⁽¹⁷⁸⁾ the right to conduct the proceedings of an election. Hence, it
 came about that even Augustus named, or nominated, those whom he wished to
 hold office, usually making the number equal to that of the vacancies,
 and the partial election could result in only one way. In virtue of the
 second, commendatio, ⁽¹⁸⁰⁾ the emperor might name, or commend, certain men as
 being suitable for office, (candidati principis or Caesaris) in a certain
 proportion for each office, - e. g. four out of twelve praetors. ⁽¹⁸¹⁾ Also
 in this case, the imperial candidates were almost invariably successful.
 The only office which was exempt from these privileges of the princeps,
 till the reign of Nero, was that of consul. But as an electoral body, the
 senate's chief duty was to fill the first place in the state, ⁽¹⁸²⁾ in case
 of a vacancy, and, with the popular assembly, to confer upon the new
 Caesar his constitutional rights, as stated in the lex Maenia. Until this
 had been done, the power reverted to the senate, with the consuls, a
 state of things which reminds us of the old Republican interregnum.

(176-Tac. Ann. XIV.28.1 (177-Tac. Ann. III.35.1 (178-Livy 7.32 -Livy9.46
 (179- Dio 53.21. (180- Suet. Aug. 55 Tac. Ann. 1.14.6; 1.15.2; Dio 53.20
 (181 - Tac. Ann. 1.15.2 (182- Tac. Ann. 12.69.3 (183- Tac. Ann. 1.7.4;
 Dio 50.1

To say that the senate was the chief legislative body under the principate would seem, on the surface, to make it very influential and powerful indeed, but in this case, as in others, it had but little free choice. It was so completely overshadowed even by Augustus, before the end of his reign, thru his various privileges, that it was subordinate and dependent in all vital matters. As time passed, this fact became fixed and undisputed varying only in degree, according to the character of the emperor, yet on the whole becoming more firmly established under each. We have seen that, theoretically, no legislative power belonged to the senate originally, yet its control over the comitia really put that power into its hands. On the contrary, theoretically, under the empire, it did possess legislative power, gradually superseding the comitia as the chief law-making body of the state as its senatus consulta took the place of leges of its former rival. But while it did gain this advantage, there was a flaw, a weakness in it, in that, since the princeps, by his intercessio, might crush any unsatisfactory decision made by the senate, the latter little by little lost its initiative not caring for the responsibility of bringing up, discussing or deciding any question, without first learning the emperor's desire. Thus it came to be little more than an echo of the ruler.

(184) Tac. Ann. 4.15.4 and Tac. Ann. 12.7.3.

The senate was still primarily advisory, as it had been previous to Augustus' re-organization, but it was greatly weakened thru the emperor's Consilium, or Privy Council. This may have been modeled after a similar council of Julius Caesar, which, as we have mentioned, was organized for the purpose of freeing Caesar from the necessity of consulting the senate as a whole, and yet under cover of it, he did not seem to have wholly ignored the senate. This council, ⁽¹⁸⁶⁾ or political committee, first ⁽¹⁸⁷⁾ appeared under Augustus (27 B. C.) composed of two consuls, one magistrate from each college and fifteen senators elected by lot to act for six months. Before it, came measures which were discussed before they were proposed to the whole senate. In the last year of Augustus' life, this committee was still found, its composition slightly changed and its power greater. It then ⁽¹⁸⁸⁾ consisted of twenty senators chosen for a year, and certain others chosen for each meeting in addition to Augustus' son, grandsons, consuls and consuls elect. Owing to Augustus' weakness and inability to go to the Curia, this council met at his home, and passed resolutions in the name of the whole senate. Under the ⁽¹⁸⁹⁾ next princeps, and for succeeding years, it still existed but later met very irregularly, and probably its influence diminished, for it was not constitutionally provided for.

The last phase of the senatorial functions to be considered, judicial, is the most important. Tho it, too, was shared with the emperor, there was less interference on his part than in the other departments, and consequently greater activity

(185- Dio 57.7 (186- Dio 55.27 (186- Suet. Aug. 35 (187- Dio 53.21 (188- Dio 56.28 (189- Suet Tl .55 (189- Dio 57.7.

on the part of the senate. It will be remembered that senators were considered the assessors of the consul in making decisions, but that the criminal jurisdiction of consuls was early limited thru the (190) law, which gave to every Roman citizen the right of appeal to the people, and this right the people retained in spite of violent attempts of the nobility to gain it for themselves. In fact, it was usurpation of that very power that led to Cicero's down-fall. Under the principate, the princeps thru his tribunicia potestas, as the (191) representative of the people, possessed this jurisdiction, which was also stated in the lex Regia, and very early shared it with the senate, perhaps holding in mind the old republican custom. After the treaty of Brundisium, Augustus first made the senate a criminal court to try the case of a lieutenant, Salvidienus, charged with treason, and later he made it a permanent court with criminal jurisdiction. This jurisdiction it did not lose during the whole period with which we are particularly dealing, altho it did not become the Supreme High Court of Appeal until the next princeps, Tiberius. In addition to the senatorial and imperial courts, there still remained the old quaestiones perpetuae, re-organized by Sulla, with apparently some such division of cases as the following: to the latter were brought ordinary and civil questions, while before the former were tried important criminal cases. While the princeps (192) was supreme, and could demand the hearing of a case or turn it over (193) to the senate at his discretion, any case could be taken by either the princeps or the senate.

(190- Livy 2.8.2 (191- Dio 53.17;32 (192- Dio 53.17 (192- Dio 53.32

(193- Tac. Ann. 3.10.6 (193- Tac Ann. 1.47.4 (193- Dio 57.22

A peculiar shifting was shown in the case of Piso, which came up before all three tribunals, beginning with the imperial, and finally being tried before the senatorial. It became customary, however, for the senate ordinarily to try cases involving its own members (194) charged with serious criminal offense, - political offenders against the imperial government, officials charged with peculation (195) and extortion, all accused of treason, and special cases in which (196) no existing law was applicable, tho there is evidence that cases (197) quite unimportant did have a hearing before it at times. Delation, (198) that bane of Roman life at this time, brought countless cases before the senate, whether merely trumped-up or truly well-grounded. It is strange that such a hateful practice should have been allowed to grow from so seemingly slight a beginning as the Lex Julia de (199) Majestate of Augustus into so far-reaching and all-inclusive a means of wreaking one's vengeance on one's enemies, and incidentally increasing one's fortune. But it helps to show how powerless the Romans, of whatever rank, were before that process of centralization of authority, then at work and sweeping all before it, and how determined the Caesars were that they should be supreme. (200)

The senate was presided over by the consul, tho Tiberius frequently acted as presiding officer, and its decisions were given (201) in the form of senatus consulta .. The commonest penalties were (202) relegatio, involving exile for life, often to a specified place; and deportatio, including relegatio, but adding loss of civitas and (194- Tac. Ann. 2. 28.5. (195- Dio 60.16 (196- Tac. Ann. 14.40.1 (197- Dio 57.15 (198- Dio 57.23 (199- Tac. Ann. IV.20 (200- Tac. Ann. 3.12.1 (201- Tac. Ann. 3.37.1 (202- Dio 57.23

(203)

confiscation of property. The penalty of death could be imposed without an appeal to the emperor, altho his veto was practically a (204) pardon, or he might order a new trial. The senate evidently had no (205) power to revise a sentence, once passed, while the emperor could revise not only his own, but even that of his deputies, for he could (206) delegate this jurisdiction, if he chose. The influence of the emperor in regard to senatorial decisions was felt in two ways: first, as (207) a member, he was usually present at a hearing before it, and thru his (208) expression, if not thru his vote, guided the senate, second, he possessed veto power which he could arbitrarily exercise.

Beside the senatorial court, there developed the emperor's (209) personal court, one more indication of the dual form of government. To it, by custom, were brought ordinarily only important political (210) cases, involving imperial civil service or army officers, - persons of high rank, altho we find evidence that other cases also came to (211) him. The princeps could pass judgment without a jury, tho in practice he was usually aided by assessors, called consilium (212) consisting of "friends", yet he was in no way bound by their suggestions. This consilium is not to be confused with the political council mentioned above.

As to appeals, a strict division of authority, would have meant that to the senate would come appeals from Rome, Italy and senatorial provinces, and to the princeps, those from the imperial

(203- Dio. 57.20 (203- Dio. 57.15 (204- Tac. Ann. 4.31.1
 (204- Tac. Ann. 13.11.2 (205- Tac. Ann. 3.51.4 (206- Tac. Ann. 1.74.6
 (207- Dio. 57.7 (208- Tac. Ann. 4.34.2 (209- Dio. 57.7
 (209- Suet. Aug. 51 (212- Tac. Ann. 3.10.4 (212- Tac. Ann. 14.62.6
 (210- Tac. Dial. 7.1 (211) Suet. Aug. 51

provinces, but the times when he, basing his appellate power on his consular power, did not claim the right to hear any case were few. To give the senate, however, a dignity in exercising its judicial power, when an appeal was made to it, the same caution-money was demanded, one third of the amount involved, as when made to the (213) princeps. There was no appeal from the senate to the emperor.

The matter of civil cases is somewhat obscure, but, from (214) the evidence, apparently both the princeps and the senate could act either as a court of first instance or of appeal.

Lists of jurors, album iudicum, were kept, under Augustus, including nearly four thousand names, and under Caligula, about five (215) thousand. These men were chosen by the emperor for life from (216) equites or ducenarii, (possessors of 20,000 sesterces), but no longer (217) from senators as under the republic.

In conclusion, the history of the senate, during the early empire, may be summarized as follows: When, in 27 B. C., Augustus "restored the republic," the senate was one of the cogs in the machinery set in motion. Its place, outwardly, was to be similar to that held previously, and one of the first things done was to have it purged of extravagant spendthrifts or other undesirables, while the vacancies, up to six hundred, were filled chiefly with ex-magistrates and those selected by the princeps. Thus, its former aristocratic character was once more revived, but for a time only, since it was later open to provincials and freedmen.

(213- Tac. Ann. 14.28.2 (214- Tac. Ann. 2.48.1 (214- Suet. Aug. 33
 (215- Suet. Aug. 32 (216- Suet. Aug. 32 (217- Dio. 43.25

The question of its duties was not settled at once, for it was not long before Augustus began to limit, restrict and curtail the power and duties of every other official or body in the state, tho in nearly every instance, the name remained, even after all else had vanished. So it came about that the comitia for all practical purposes died out, even before the end of Augustus' life, and its duties, legislative, electoral and judicial, fell to the senate, which continued to be the most important remnant of the republic left to the principate. And we have already seen how on one pretext or another, these great and numerous duties were controlled by, and shared with the emperor, until the senate began to lose its sense of responsibility, its independence, and to wait for an expression or indication of his wish before taking action.

At Augustus' death, the principate continued under his successors with only such changes as the character of each would naturally cause, for Julius Caesar and Augustus had laid foundations so firmly and strongly that the government moved automatically for a time, even after their removal. But we can not fail to notice that the princeps became more and more an absolute monarch, for his scheming, pretences and shams could cloak no other aim and result. That the senate was not unaffected by this tendency is indicated by its loss of influence and initiative, until, under Nero, for example, it is little more than a reflection of him. But as its other duties came to be rather the letter of the law, than the law itself, one department remained to it, in which the senate continued to hold a high place. The senate did remain the chief judicial body in the state, the Supreme Court of Appeal, deciding important cases, those involving persons of rank.

In spite of such a state of affairs, surely patent to all, the senate continued to refuse willingly to see how low it had fallen, to refuse to be blinded by empty words and false promises of the chief of the state, and to refuse to accept with servile flattery and fawning such crumbs as might be thrown to it, and consequently there was little hope that it would ever rise again, - rather the fear that it might be deprived of these last props to its dignity and self-respect. 7