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MAIESTAS, THE IMPERIAL IDEOLOGY AND THE IMPERIAL FAMILY: THE EVIDENCE OF THE *SENATUS CONSULTUM DE CN. PISONE PATRE*

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The *senatus consultum de Cn. Pisone patre*¹ sheds light on the concept of *maiestas* during the early years of Tiberius' reign. The document deals with Gnaeus Piso's offences against the state and against Germanicus - the Emperor's (adopted) son. It has been claimed to show that by 20 CE, offences against the Emperor's family were regarded as punishable under the law of *maiestas*. In this paper I shall argue that this concept of *maiestas* cannot be unambiguously deduced from the text of the *senatus consultum*. The most relevant passage of the s.c. (32-33: *ne neglecta maiestate domus Augustae, ne neglecto etiam iure publico* etc.) does not state that an affront to the dignity of the imperial house is, in itself, an offence against the state. Its formal meaning is in fact the opposite one: a distinction is drawn between the former and the latter. This distinction, unsurprisingly, echoes the sentiments of Tiberius himself on the matter, as reported by Tacitus.

However, the straightforward reading of the passage is perhaps not the most correct one. The overall message of the s.c. (and of the relevant passage itself) on this matter is highly ambivalent - perhaps deliberately so. If the question is put differently - not whether any affront to the dignity of the imperial house (caused by insulting one of its members) was tantamount to treason, but whether anyone, having read the s.c., could assume that he might insult the majesty of the *domus Augusta* with impunity - the answer could hardly be positive. By the same token, it would have been most unwise for anyone to rely, in his dealings with a

¹ I first dealt with some of the issues raised here in my article *The Princess of Inscriptions: Senatus Consultum de Cn. Pisone Patre and the Early Years of Tiberius' Reign*, in *Scripta Classica Israelica* XVII, 1998, 206-224 (esp. 220-223) - a review of W. ECK - A. CABALLOS - F. FERNANDES, *Das senatus consultum de Cn. Pisone Patre*, Munich 1996 (henceforward: ECK ET AL.).

member of the imperial family, on the doctrine clearly implied in Tiberius' opening speech at the trial of Piso: namely, that a grave personal affront to the Princeps as *pater familias* was a private matter to be distinguished from a crime against the state. Moreover, the concept of the majesty of the *domus Augusta* is far from clearly defined in the *s.c.* - any more than is the exact relationship between it and the crime of *maiestas*. In fact, any attempt to define the exact scope of the crime of *maiestas* and its precise legal meaning during the reign of Tiberius is probably misguided. The most sinister feature of *maiestas* was precisely the fact that it was impossible to know with certainty, beforehand, what it meant.

Maiestas domus Augustae and public law

The *s.c.* states that, by his conduct towards Germanicus, Piso showed disrespect for the majesty of the imperial house and also for public law - «*nelecta maiestate domus Augustae, nelecto etiam iure publico*» -, since Germanicus was a holder of a greater imperium bestowed on him by a law passed by the people (32-33). In their exemplary commentary, Eck, Caballos and Fernandes hold that the reference to *maiestas domus Augustae* as well as to public law clearly indicates that Piso was judged guilty of the crime of *maiestas* on both these accounts: «Das *s.c.* weist auch selbst *expressis verbis* auf eine zweifache Verletzung der *lex maiestatis* ... Der Princeps und seine Familie, die für die *res publica* stehen, wurden durch Pisos Verhalten schwer betroffen, ebenso aber auch das *ius publicum*, weil Piso seine Aufgaben als Amtsträger gegenüber einem anderen Amtsträger verletzte». Elsewhere, they write that this passage shows that Piso was condemned under «*lex (Iulia) maiestatis*, nach der sowohl Vergehen gegen den Princeps und seine, Familie' als auch Vergehen gegen die Pflichten von Amtsträgern verfolgt werden konnten»². It may be argued that this «familial» concept of *maiestas* can be traced back to the times of Augustus, when, according to some, the law of *maiestas* came to be regarded as protecting not just the person of the Princeps but also that of other members of the imperial family³. This

² ECK ET AL., 149; 162.

³ See, e.g., J. BLEICKEN, *Augustus*, Berlin 1998, 537; D. SHOTTER, *Tiberius Caesar*, London-New York 1992, 29-30. Cf. C.W. CHILTON, *The Roman law of treason in the early Principate*, in JRS XLV, 1955, 75: «the *crimen minutae maiestatis* was extended (under Augustus, as a result of a new *lex maiestatis*) to include, as well as abuse of the divinity of Julius, verbal abuse of and slander of the Princeps, and sometimes even slander of members of his family».

development is sometimes connected with the way Augustus dealt with the adulteries of the two Julias - his daughter and granddaughter⁴. Indeed, according to Tacitus (*ann.* 3.24.2-3), the first Princeps «expelled (his daughter and granddaughter) from the city while punishing their paramours by death or exile. For by designating the besetting sin of both sexes by the harsh appellations of sacrilege and treason (*culpam inter viros et feminas vulgatam gravi nomine laesarum religionum ac violatae maiestatis appellant*), he overstepped both the mild penalties of an earlier day and those of his own laws»⁵.

Thus the reference to Piso «neglecting» the majesty of the *domus Augusta* can be seen as another manifestation of a trend already discernible under Augustus: a (clearly monarchic) tendency to regard the Roman state as headed by the imperial family - and not just by the Princeps⁶ - and hence to treat an assault on its dignity as a crime against the state. That such a tendency existed cannot be doubted. Indeed, it was a more or less inevitable result of the Roman state's being in fact - though not in name - turned into a hereditary monarchy. But the Principate was, as is well known, a monarchy of a special kind - not breaking openly with the Republican past and its norms. This produced ambiguities and equivocations in various fields. One of them was, apparently, the exact relationship between the dignity of the imperial house and the law of *maiestas*.

Let us now turn to the crucial phrase «*neglecta maiestate domus Augustae, neglecto etiam iure publico*». Does it signify that Piso is declared guilty of a «two-fold violation of the *lex maiestatis*» - that is to say, that his offence against the dignity of the imperial house is considered as «diminishing the majesty of the Roman people» no less than his

⁴ See, e.g. CHILTON 1955 (*op.cit.* n. 3), 75 for the usual view that the punishment of the two Julias' paramours under the *lex maiestatis* shows that this law was used by Augustus to protect the dignity of his family. R.A. BAUMAN, *The Crimen Maiestatis in the Roman Republic and Augustan Principate*, Johannesburg 1967, 198-245 suggests, taking Tacitus' *violata maiestas* technically, that Augustus created a new crime of «violating the majesty» of the Princeps and the imperial family. This offence was close to the traditional crime of *maiestas poluli Romani imminuta* but not identical with it; offenders were, according to Bauman, tried and punished in the Emperor's own court.

⁵ English translations will mostly follow the Loeb edition. Translations of the *senatus consultum de Cn. Pisone patre* will mostly follow those of M. GRIFFIN, *The senate's story* (a review of ECK ET AL.), in *JRS* LXXXVII, 1997, 249-263.

⁶ Cf. B. SEVERY, *Family and state in the early imperial monarchy: the senatus consultum de Pisone patre, Tabula Siarensis, and Tabula Hebana*, in *ClassPhil* XCV, 2000, 318-337. On the importance of the imperial family in the ideology of the early Principate cf. F. MILLAR, *Ovid and the domus Augusta: Rome seen from Tomoi*, in *JRS* LXXXIII, 1993, 1-17.

defiance of Germanicus who was his legal superior? That Piso was condemned under the law of *maiestas* cannot of course be doubted, not only because the praetor in charge of *maiestas* trials is instructed to interdict Piso's *comites* (121-122), but also because the list of Piso's misdeeds, which starts with the phrase just quoted, includes classic «republican» cases of *maiestas*: waging a civil war (by trying to retake the province by force after Germanicus' death) and attempting to instigate a foreign one (with Parthia) without legal authority (37-38; 45-46)⁷. But I do not think that the phrase in question should be taken to mean that an injury to the majesty of the *domus Augusta* was automatically tantamount to the crime of *maiestas*. In fact, the very distinction between *maiestas domus Augustae* and public law seems to lead to the opposite conclusion. The *lex Iulia maiestatis* was, of course, part of public law; it was no less «public» than the law which had given Germanicus his *imperium*, or any other legal norm. Its exact provisions are unknown to us (we shall return to this point later on) but it is obvious that all of them were considered equally «public». They were all supposedly designed, in equal measure, to protect the majesty of the Roman people. Once, therefore, disrespect towards the Princeps came to be regarded as punishable under the law of *maiestas*, one could not speak of someone «violating both the majesty of the Princeps and public law» - rather, defaming the Emperor was, *per se*, considered a violation of public law. This was, no doubt, justified on the grounds that an attack on the dignity of the head of state was an attack on the state itself - that is to say, on the majesty of the Roman people. This was the whole point of Ateius Capito's sycophantic protest («*quasi per libertatem*», in Tacitus' words) in the senate when (in 22) Tiberius rejected the charge of *maiestas* against someone who was accused of having «turned a statuette of the Princeps into promiscuous uses of (household) silver»: «The right of decision ought not to be snatched from the senate, nor should so grave an offence pass without punishment. By all means let him (Tiberius) be easy-tempered in a grievance of his own; but injuries to the state he must not condone (*sane lentus in suo dolore esset; rei publicae iniurias ne largiretur*)» (*ann.* 3.70.3).

Had the framers of the *senatus consultum de Cn. Pisone patre* wished to assert, clearly and unambiguously, that an injury to the digni-

⁷ In addition to that, Piso is also said to have violated the *numen* of the divine Augustus by removing every sign of honour accorded to him as well as the portraits (*imagines*) dedicated to him before his deification (68-70). No details are given; see ECK ET AL., 186-188. Offences against the divine Augustus had already been treated as *maiestas* by the time of Piso's trial (20 CE).

ty of the Emperor's son (and thus, to that of the imperial house) constituted in itself, because of his family connection and regardless of any official («public») position that he might hold, the crime of *maiestas* («*rei publicae iniuria*»), they would not have drawn a distinction between this injury and *ius publicum*. *Maiestas* that is distinguished from public law is not the majesty of the Roman people that was protected by the *lex maiestatis*⁸. I would suggest the following reading of 32-33: Piso's behaviour was not only insolent and outrageous, in that it was directed against the Emperor's son, but actually unlawful and treasonable, since Germanicus was also his legal superior, invested with his higher *imperium* by a special law. At the same time, the fact that the dignity of the imperial house is defined as *maiestas* can hardly be accidental in such a context. While it cannot be said that injury to the majesty of the imperial house is formally defined as treason, the two concepts are so close and are formulated in such similar language that the former can scarcely be imagined without the latter. The authors of the text may well have intended it to be ambiguous on this question.

The senatus consultum and the Emperor's speech

All this may perhaps sound like an over-interpretation of a single phrase. But the distinction between private injuries to the Emperor as head of the imperial family and crimes against the state is in fact the central theme of the speech delivered, according to Tacitus⁹, by Tiberius at the opening of Piso's trial: «On the day the senate met, the Caesar spoke with calculated moderation (*meditato temperamento*) ... Whether he (Piso) had exasperated the young man by perversity and contentiousness, and then betrayed pleasure at his death, or whether he had actually

⁸ Bauman's theory (*op.cit.* n. 4) on the creation under Augustus of a separate crime of «*maiestas violata*», protecting the imperial family, to be distinguished from the traditional crime of diminishing the majesty of the Roman people, might be used to argue that an affront to *maiestas domus Augustae* could, in itself, be treated as a punishable offence, even though it was not subsumed under the *lex maiestatis*. I find Bauman's theory unconvincing. Moreover, it is not relevant to the development of the concept of *maiestas* under Tiberius, which, as Tacitus makes clear throughout, took place wholly within the framework of the *lex maiestatis*. See, e.g. *ann.* 1.72.3-5 (cf. *SUET. Tib.* LVIII); 2.50. Moreover, according to Tiberius' speech, only recognizable «public» crimes deserved official punishment. In any case, Bauman holds that the new offence which he postulates was punished in the Emperor's own court alone.

⁹ There seems to be no reason to assume that Tacitus misrepresents the main thrust of Tiberius' speech.

cut short his days by crime, was a question they must determine with open minds. For if the case is one of a subordinate who, after ignoring the limits of his commission and the deference owed to his superior (*si legatus officii terminos, obsequium erga imperatorem exiit*), has exulted over his (Germanicus') death and my own sorrow, I shall hate him and banish him from my house - but I will not use the power of Princeps to avenge private wrongs (*odero seponamque a domo mea et privatas inimicitias non vi principis ulciscar*). But if murder comes into light ... (then you should punish the guilty party). At the same time, consider the following points: Did Piso's treatment of the armies make for disorder and sedition? Did he employ corrupt means in order to win the favour of the soldiers? Did he levy war in order to repossess himself of the province?...» (*ann.* 3.12).

Throughout this passage Tiberius stresses the distinction between personal and family matters and crimes against the state.¹⁰ The conflict between Germanicus and Piso is presented, despite the fact that one of the protagonists was the Emperor's son (as well as a higher official), as an essentially private quarrel («*contumacia et certaminibus asperasset iuvenem exituque eius laetatus est an scelere extinxisset*»). Moreover, Tiberius refuses to assume that the whole blame for this quarrel lay necessarily with Piso alone: the defendant is free «to adduce every circumstance that may tend to prove his innocence or to convict Germanicus of some injustice (*si qua fuit iniquitas Germanici*)». Remarkably, even expressing joy over the death of the Emperor's son is still a «personal» matter to be dealt with by the Emperor's *renuntiatio amicitiae* and not punished as a crime. Piso should be punished if he has committed murder, or if he has tampered with the loyalty of the armies or initiated a civil war; even a dereliction of official duty on Piso's part is not automatically regarded as a capital offence. The senate is repeatedly urged to show complete impartiality and to ignore the private sentiments of the Emperor, grieved as he is by the loss of his son.

All this is quite incompatible with the notion that an affront to the Princeps' son is tantamount to treason. Now it is quite natural that the tenor of the Emperor's speech should be markedly more «republican» than that of the *senatus consultum*. A *civilis Princeps* was always more

¹⁰ Cf. R.A. BAUMAN, *Impietas in Principem: A Study of Treason against the Roman Emperor with Special Reference to the First Century A.D.*, München 1974, 108: «Tiberius charged the senate to maintain a strict line of demarcation between injuries to the emperor, for which the appropriate remedy was *renuntiatio amicitiae*, and wrongs falling under (the criminal laws)».

«republican» than the senate¹¹. Specifically, this is how the concept of *maiestas* developed under Tiberius: the *pietas* of the senate was constantly struggling with the *civilitas* of the Emperor (with no mean success). But it seems unlikely that the decree of the senate (which must have been formulated with great care on this occasion) was meant to contradict the Emperor's opening statement directly, on such a crucial point. It is much more probable that where the Emperor had drawn the sharpest possible distinction between wrongs to the imperial family and crimes against the state, the *senatus consultum* also drew a distinction - but a far less sharp one. The ominous word *maiestas* hints at the possibility of regarding an affront to the imperial family as treasonable, but Piso's condemnation does not hinge on this notion. It should be remembered that the text of the *s.c.* is not just a legal judgement, but a «politisch-moralische Verurteilung Pisos»¹². Legal charges and moralistic denunciations are intermingled throughout the text, and it is not quite clear where misbehaviour ends and treason starts (especially in the case of Piso's dealings with the soldiers). In such a context, any clarity as to what constitutes and what does not constitute the crime of *maiestas* is conveniently unnecessary.

Thus, while Tiberius, as we have seen, shows his *civilitas* and moderation by conceding, in his opening speech, the possibility that there may have been some *iniquitas* on Germanicus' part and allowing Piso to use this line of argument in his defence, the senate shows its *pietas* by including the following item in the list of Piso's crimes and sins: «He dared, after the death of Germanicus Caesar, whose loss not only the Roman people but foreign nations as well mourned, to send to his most excellent and forbearing parent, a document accusing him (Germanicus), forgetting not only the respect and affection (*venerationis caritatisque*) due to the son of the Princeps, but even common humanity which does not permit feuds to be carried on after death» (57-61).

This phrase comes after a long list of Piso's misdeeds. These include actions that clearly constitute the crime of *maiestas*, such as trying to provoke a foreign war without legal authority, starting a civil war (by his attempt to regain the province after Germanicus' death) and tampering with military discipline and the troops' loyalty. The reference to the *libellum* accusing Germanicus is followed by an account of Piso's

¹¹ On *civilis Princeps* see A. WALLACE-HADRILL, *Civilis Princeps: between citizen and king*, in JRS LXXII, 1982, 32-48.

¹² ECK ET AL., 165.

rejoicing at his death. The text dwells on this point at length (61-68), adducing proofs and examples: «nefarious sacrifices», decoration of ships, the reopening of temples, the present of money to the man who informed him of Germanicus' death, banquets. Great weight is obviously attached to this matter,¹³ and any reader of the *s.c.* will conclude that it is highly relevant to the final conclusion (which follows the last item on the list: *numen quoque divi Augusti violatum*) that, by taking his life, Piso «did not undergo the punishment he deserved but saved himself from the harsher one which he inferred from the *pietas* and the strictness of the judges was threatening him» (71-73). Tiberius, however, as we have seen, is said to have stated at the opening of the trial that if Piso had exulted over Germanicus' death and (hence) over the Emperor's own sorrow, he should lose the Emperor's friendship - but not (for this reason) be punished as a criminal.

Which, then, of Piso's many misdeeds were, in the judgement of the senate, actually criminal and treasonable? To this question no precise answer is possible; perhaps none was desirable, as far as those who framed the document were concerned. It has been argued that the examples of Piso's «unacceptable behaviour» after Germanicus' death, including his «unfeeling decision to send a letter to Tiberius» attacking his dead son, and the fact that he «openly rejoiced» at his adversary's death, are adduced by the senate in order to show that Piso «had alienated himself from civilized people ... These actions do not themselves render Piso liable to criminal prosecution, but they provide a framework within which Piso's alleged crimes seem credible»¹⁴. But the text of the decree does not tell us that those unfeeling and uncivilized actions «do not themselves render Piso liable to criminal prosecution» - or that they do. They are all presented as part of a broad picture, and the «bottom line» is that Piso is guilty of the crime of *maiestas*. The Emperor's explicit «guidelines», which drew a clear distinction between private grievances of the imperial family and public law, could not be openly contradicted by the senate.¹⁵ At the same time, the text of the decree makes it clear to

¹³ This matter is mentioned in Tacitus' summary of the charges presented by the prosecutors at the start of Piso's trial («*sacra hinc et immolationes nefandae ipsius et Plancinae*» - *ann.* 3.13.3). No other offences against the dignity of Germanicus are mentioned in the summary (which of course is not necessarily full), though Piso's allegedly seditious behaviour in Syria is ascribed to «*odium Germanici et rerum novarum studium*».

¹⁴ A. COOLEY, *The moralising message of the senatus consultum de Cn. Pisone patre*, in *Greece and Rome* XLV 2, 1998, 201.

¹⁵ SEVERY 2000 (*op.cit.* n. 6), 335, who rightly stresses the fact that the *s.c.* treats the imperial house as a «civic institution», remarks that «we might also identify tension in Tiberius' response to the

any potential offender against the majesty of the imperial house that his chances of escaping conviction for *maiestas* (on this or that legal pretext) are very slim indeed. After all, it was in the nature of things for the Emperor's son to be also a holder of a wide-ranging *imperium*. This was how the Principate worked. The emphasis on the legal and public nature and source of Germanicus' powers (*imperium* conferred, on the initiative of the Princes, by the senate and the people) coexists happily, in the text of the decree, with an equally strong emphasis on the fact that it was as a son of the Emperor that Germanicus received those legal powers: «Germanicus Caesar had been dispatched by our Princeps with the authority of this House to put overseas affairs in order, affairs which called for the presence either of Ti. Caesar Augustus himself or of one of his two sons» (30-33). Thus the analytic distinction between Germanicus as the Emperor's son and Germanicus as a higher official is, at least in the context of the *senatus consultum*, largely artificial. How far could one go in pursuing a private feud with such a person before one crossed the line of the *lex maiestatis*? The reader is left guessing, and is not encouraged to try to find out.

We should not assume that such a warning was superfluous. The concept of *maiestas* had always been flexible enough, and during the early years of Tiberius' reign it was expanding. «*Adolescebat interea lex maiestatis*», in Tacitus' words (*ann.* 2.50.1 - referring to a case, in 17 CE, when verbal abuse of the Divus Augustus was first equated with treason). Note the imperfect tense: this was an ongoing process with a strong element of unpredictability. In 20 CE some people may well have been genuinely uncertain about the exact rules that applied - especially as regards members of the imperial family other than the Princeps himself (or his deified father). When Piso's son Marcus was, according to Tacitus, urging him not to retake Syria by force, he assumed that until that point Piso had not yet irrevocably compromised himself by his open feud with Germanicus: «*nihil adhuc inexpiabile admissum... discordiam erga Germanicum odio fortasse dignum, non poena*» (*ann.* 2.76.2-3). Marcus'

decree. In his subscript ordering the *senatus consultum* to be enrolled in the public record, Tiberius rejects the family metaphor and identifies himself by the possession of tribunician power». Severy suggests that what produced the «tension» was Tiberius' reluctance to acknowledge the public role of Livia, openly paraded in the *s.c.* But the *tribunicia potestas* was the most widely used imperial title; its presence here is natural and unremarkable. There is no reason to read into its use here any desire, on the part of Tiberius, to «counterbalance» the content or the tone of the *s.c.* The difference in tone between Tiberius' speech and the *s.c.* as regards the imperial family is best explained by the fact that the *civilis princeps* was playing his part, while the loyal senators were playing theirs.

understanding of *maiestas* was apparently quite similar to that formulated in Tiberius' opening speech. Indeed, Piso's whole conduct in this affair is hard to account for - for all his notorious arrogance - if one assumes that, by that time, it had become an established principle that the dignity of the Emperor's son was protected by the law of *maiestas*. Of course, it is possible that Piso was emboldened, in his dealings with Germanicus, by his feeling or knowledge that Tiberius (and Livia) were on his side. But whatever Piso may have known or guessed about Tiberius' true attitude towards Germanicus, it is hard to account for the scandalously public way in which he pursued his quarrel - even to the extent of openly rejoicing at the death of the Emperor's adopted son¹⁶ - unless one assumes that at least to him, it was far from obvious that such behaviour was punishable as *maiestas*. At the beginning of his account, Tacitus refers to Piso's spirit of insubordination («*obsequii ignarus*») and ascribes the man's arrogance to his noble lineage and to the «paternal temper» inherited from his father (who had been a staunch republican before accepting office under Augustus). «To Tiberius he accorded a grudging precedence, upon his children he looked down as far beneath him» (*ann.* 2.43.4). «*Vix Tiberio concedere*» is surely an overstatement. But it is not inconceivable that even a loyal servant of the regime might fail to appreciate the full implications of the fact that Rome now had not just a monarch but a reigning house, whose dignity might be protected by the law of *maiestas*.

The imperial family and the Roman state in the senatus consultum

The trial of Piso did not settle the matter in any formal sense. The Emperor's speech, as we have seen, is in fact incompatible with a «familial» concept of *maiestas*, while the text of the *senatus consultum* is, as I have tried to show, ambiguous on this point. But the text is quite explicit and unambiguous on the position of the imperial family in the Roman state. It consistently presents this family (including its female members, first and foremost the Emperor's mother) as a «civic institution» at the

¹⁶ Unless both the *s.c.* and Tacitus present a wholly distorted picture in this respect. ECK ET AL., note (295) that although Tacitus' general view of Piso is strongly critical, his description of particular events - both in Syria and at Piso's trial - is considerably less biased than that of the *s.c.*; the historian repeatedly presents, on various points, what must have been Piso's side of the story. Tacitus' description of Piso openly celebrating the news of Germanicus' death (*ann.* 2.75) is thus not to be lightly dismissed.

head of the state, «uses terms of family obligation to describe loyalty to Rome, substitutes *domus Augusta* where previously we might have expected *res publica*». Even «military loyalty is ... defined as loyalty to the imperial family; patriotism is religious and familial devotion to the house of Augustus»¹⁷. It can be said that none of this is formally relevant to the question whether the law of *maiestas* applied to offences against the dignity of the imperial house. But the political atmosphere and the ideological mindset reflected in the document make any rigid distinction between crimes against the state and affronts to the imperial family very hard to maintain.

The concept of *domus Augusta* as a reigning house and as a dynasty finds expression explicitly and repeatedly. The senate hopes that the immortal gods will devote their care to Drusus, who is to succeed to his father's position (*paterna statio*) in the state (128-130). This, in itself, is hardly surprising: as Eck et al. point out,¹⁸ the notion of the Princeps' son (or sons) succeeding to the *statio paterna* goes back to the days of Augustus, and is mentioned in the context of Tiberius' accession, though it had not yet been attested in a decree of the senate. But the official status conferred on the imperial house is not confined to the Emperor's two adult sons, who could, and did, possess legal powers of their own. The public position of Livia (Julia Augusta) as reflected in the *senatus consultum*, is perhaps one of the most remarkable features of the document. «It confirms the truly astonishing power of Julia Augusta (which has often been doubted)»¹⁹. «By virtue of being a mother in the imperial family, she had become in effect an officer of the state»²⁰. According to the decree, Plancina, Piso's wife, having no valid defence against the grave charges she was facing, threw herself on the mercy of the Princeps and the senate and was saved by the intervention of the Emperor's mother: «(Since our Princeps) pleaded himself for Plancina at the request of his mother and had very just reasons presented to him by her for wanting to secure her request, the senate believes that to Julia Augusta, who had served the commonwealth superlatively not only in giving birth to our Princeps but

¹⁷ SEVERY 2000 (*op.cit.* n. 5), 319; 327; 328. The article deals also with two related documents - the *Tabula Siarensis* and the *Tabula Hebana*, which record the senatorial decrees and the consular law passed in 19 CE on the subject of Germanicus' posthumous honours. They, too, reflect the exalted public standing of the imperial family, including its women.

¹⁸ ECK ET AL., 240 (with a list of sources).

¹⁹ E. CHAMPLIN, *The First (1996) Edition of the Senatus Consultum de Cn. Pisone Patre: a review*, in *AJPh* CXX 1, 1999, 121.

²⁰ SEVERY 2000 (*op.cit.* n. 6), 331.

also through her many great favours towards men of every rank, and who rightly and deservedly could have supreme influence in what she asked from the senate, but who used that influence sparingly, and to the supreme piety of our Princeps towards his mother, support and indulgence should be accorded and has decided that the punishment of Plancina should be waived» (113-120).

This open celebration of Livia's preeminence in public affairs (couched by the senators almost in the language of a patron-client relationship) has rightly been compared to the provisions of the first senatorial decree recorded on the *Tabula Siarensis* (1.3-8): «And therefore it was pleasing that action be taken about this affair through the counsel of Tiberius Caesar Augustus, our Princeps, and that a booklet with the multitude of senatorial opinions be made for him, and he, with customary indulgence, chose, from all those honours that the senate moved should be taken up, those that Tiberius Caesar Augustus, and his mother, Augusta, and Drusus Caesar, and the mother of Germanicus Caesar, and Agrippina, his wife, invited by them also for consultation, judged sufficient to be taken up».

«Such formal recognition of women's giving advice to the deliberative body of the senate is unprecedented and reflects dramatic changes in the boundaries between public and private»²¹. But in the case of Plancina we are not dealing with matters that could still be regarded as directly concerning, above all, the imperial family itself. Rather, a matter of great legal and political importance was decided, in a way sure to provoke considerable discontent,²² not in accordance with the law but in conformity with Livia's request (the motives of which were apparently not divulged to the senate, though assessed as «just» by Tiberius). In his opening speech Tiberius had declared that Germanicus should be «raised above the laws» (*id solum Germanico super leges praestiterimus*) only in one respect - that the inquiry into his death is conducted before a senate and not in a court of law (*apud iudices*). But the text of the *senatus consultum* makes no attempt at all to conceal the fact that Livia's position in the imperial family had, in an important sense, raised her above the laws.

No less remarkable is the concept of the army's loyalty to the imperial house (rather than just to the Emperor) which finds expression in the text of the decree: «That likewise the senate commends the loyalty of those soldiers whose hearts were tempted in vain by the criminal

²¹ SEVERY 2000 (*op.cit.* n. 6), 321.

²² See TAC. *ann.* III 17, 2-6.

activity of Cn. Piso Senior and hopes that all who were soldiers in the service of our Princesps will continue to manifest the same loyalty to and devotion (*fidem pietatemque*) to the imperial house (*domus Augusta*), since they know that the safety of our empire depends on the protection of that house. The senate believes that it belongs to their concern and duty that, among those who command them at any time, the greatest authority with them should belong to those who have with the most devoted loyalty honoured the name of the Caesars (*qui fidelissima pietate... nomen Caesarum coluissent*), which gives protection to this city and to the empire of the Roman people» (159-165).

The soldiers are not urged to be unquestioningly loyal and obedient to their lawful commanders, or to the Emperor and those appointed by him. Their duty is more complicated. They should perceive which of their commanders have honoured the name of the Caesars²³ with the greatest devotion, and these should have the greatest authority with them. Imposing such a task on soldiers is hardly consistent with traditional notions of military discipline. The text does not explicitly refer to the possibility of conflicting orders, but it clearly implies that in such an eventuality, «the higher legality» of loyalty to the imperial house should guide the soldiers' steps. Of course, this passage does not merely look to the future; its language is «plainly chosen to support the position of Sentius Saturninus and his associates after Germanicus' death»²⁴ and to make it clear that the soldiers who had fought on their side had taken the right course. The conflict between Piso and Germanicus had always been one between two lawful commanders: they both had the authority of the Emperor and the law behind them. As long as Germanicus lived, his right to command obedience - Piso's as well as that of everybody else, including the soldiers - could be deduced from his higher *imperium*, sanctioned by a statute, to which the *s.c.* refers. Thus there was no need to base it, explicitly, on Germanicus' position as the Emperor's son. After his death, Piso, who still considered himself the lawful governor of the province, tried to retake it with the help of forces loyal to him, and was rebuffed by the forces loyal to Cn. Sentius Saturninus, a «provisional governor» of Syria appointed by «the legates and other senators present» (TAC. *ann.* II 74, 1). In this clash - defined by the *s.c.* as a «civil war» - it was far from obvious who had the law on his side. Piso's claim that he, as the Emperor's *legatus* in Syria, was entitled to resume his command

²³ ECK ET AL., 302: «*nomen Caesarum*, was nur ein sprachliche Variation der *domus Augusta* ist».

²⁴ D.S. POTTER, *Political Theory in the SCP*, in *AJPh* CXX 1, 1999, 73.

after Germanicus' death, appears in fact to have had considerable legal merit. The very fact that the *senatus consultum* blames Piso for leaving the province («*pessimo et animo et exemplo*» - 48-49) «concedes the point that Piso had not been removed from office, and that Germanicus' *renuntiatio amicitiae*, while reflecting a personal quarrel, did not technically change Piso's status as governor»²⁵.

If so, it was possible to claim, as Piso clearly did, that his attempt to return to Syria and resume command after Germanicus' death was legitimate²⁶; the «civil war» could thus be said to have been unleashed by those who resisted him by force. At any rate, no soldier could be expected to be a competent judge of the legal niceties involved in such a controversy. In such circumstances, piety towards the imperial house (which demanded that a deputy appointed by the dead prince's loyal friends, rather than his enemy, should be obeyed) is divorced from *ius publicum* and stands on its own feet. It becomes the sole standard by which a loyal citizen(-soldier) is expected to judge the rights and wrongs of the conflict, and by which his own conduct will be judged by the senate. Though it should be noted that none of the soldiers who had fought for Piso were actually punished (they are said to have been «forced» by him to fight - 49), it is the conduct of those who had fought for the other side that is praised and held out as an example.

In his opening speech reported by Tacitus, Tiberius poses the question «did he (Piso) levy war in order to repossess himself of the province». If indeed he formulated the question in this way, the Emperor was clearly prejudicing Piso's case, since the facts in this matter were not disputed, and Piso's only possible defence was that his attempt to retake the province by force was legally justified. According to Tacitus, Tiberius was inexorable towards the defendant during the trial, «because war had been levied on the province» (*ann.* 3.14.4). Indeed, whatever Tiberius' feelings towards Germanicus, it is very likely that in his view, it was quite intolerable for a Roman commander to lead troops into battle against

²⁵ POTTER 1999 (*op.cit.* n. 24), 73; see also W. SUERBAUM, *Schwierigkeiten bei der Lektüre des SC de Cn. Pisone patre durch die Zeitgenossen um 20 n. Chr., durch Tacitus und durch heutige Leser*, in ZPE CXXVIII, 1999, 233-234. The claim that Germanicus had explicitly ordered Piso out of the province (TAC. *ann.* II 70, 2), if it was made at the trial, was obviously not accepted by the senate. An imperial *renuntiatio amicitiae* had already, as we shall see, been treated as a virtual sentence of exile. Blaming Piso for having left the province after Germanicus had renounced his friendship has the paradoxical effect of belittling, by implication, the significance of the *renuntiatio amicitiae* on the part of the Emperor's son. Either way Piso was damned.

²⁶ Cf. TAC. *ann.* II 76, 1; 77.1-2; 80.2; ECK ET AL., 294.

other Roman soldiers in pursuit of what was, after all, essentially a private quarrel. Such behaviour undermined the very foundations of the imperial system in the vital field of the Emperor's control over the military forces of the state; whatever the strictly legal merits of the case, it could never be countenanced. In any case, Tiberius could hardly afford to seem to be siding, retrospectively, with Germanicus' enemy in that «war». Moreover, there was the question of Piso's whole approach to the soldiers during his conflict with Germanicus, a matter on which Tiberius laid great stress in his opening remarks. The *s.c.* accuses Piso of having subverted military discipline. It refers to his displays of generosity «which, as he was pleased to see, led to some soldiers being called Pisonians, others Caesarians»; he went on to confer «distinctions on those who, after usurping such a name, had shown him obedience» (54-57). Tiberius must have taken a very dim view of this. Roman troops could not be allowed to split into «parties» reminiscent - however superficially - of the old civil war division between «Pompeians» and «Caesarians». Of course, there was no true similarity between the two cases: Piso could not, with any plausibility, be charged with having aspired to conquer the Roman state with his «Pisonians», and «*Caesariani*», in this context, clearly means «supporters of Germanicus Caesar» rather than «the Caesar's (Emperor's) men». Nevertheless, no «party» struggle within the Roman army could be tolerated - much less a situation where the appellation «Caesarians», among units of Roman soldiers, was being used as a mere «party» label²⁷. A private quarrel with the Emperor's son had turned Piso into an «anti-Caesarian»; such a quarrel - especially since soldiers were involved in it, on both sides - could not, according to the logic of the Principate, be treated as a mere private matter.

Given all this - and, of course, the senators' deep hostility - it is hard to see how Piso could have escaped conviction on *maiestas* charges, whatever the merits of his defence in terms of public law. The clear distinction between familial and personal matters relating to the imperial family on the one hand, and public law on the other, on which Tiberius insists in his opening speech, turns out to have been unrealistic. In the text of the *senatus consultum*, this distinction becomes blurred, though it is not entirely abandoned. This does not necessarily mean that Tiberius was consciously hypocritical when he was drawing this distinction in his

²⁷ See on this ECK ET AL., 175-177; SUERBAUM 1999 (*op.cit.* n. 25), 234.

speech; nor is it at all likely, on the other hand, that any widening of the scope of *maiestas* could have been imposed on the Princeps against his will. But it was in the nature of the Principate that the political status of the imperial family in the Roman state was not susceptible to a precise definition; that the dividing line between the permissible and the punishable, in one's relations with members of the imperial house, was both blurred and apt to move; that it was possible to cross this line inadvertently; that the concept of the crime of *maiestas* (both as applied to the person of the Emperor and as regards protecting the dignity of the imperial house) was expanding, over the Emperor's objections; and that the driving force in this process (apart from the accusers' ambitions) was the *pietas* of the senate towards the house of Augustus.

The imperial house and the crime of maiestas under Tiberius

The development of the concept of *maiestas* under Tiberius²⁸ follows, throughout, the same broad pattern: on the one hand, vagueness and unpredictability; on the other, a clear tendency to expand. In 20 CE, when the trial of Piso was taking place, there was, as far as we know, no precedent for equating an affront to the imperial family, as opposed to offences against the divine Augustus, with treason. Even the status of personal attacks on the Emperor himself was, apparently, not quite settled by that time. Any ambiguity on that score was certainly destined to be removed during Tiberius' reign - but not, so it seems, as regards other members of the imperial house.

As to the scope of *maiestas* during the period preceding Piso's trial, the most detailed account we have is provided by Tacitus' description of the case of Appuleia Varilla, the granddaughter of Augustus' sister, who, in 17 CE, was prosecuted for *maiestas* «on the ground that she had insulted the deified Augustus, as well as Tiberius and his mother, by her scandalous conversations, and was guilty of adultery, related as she was to Caesar (*Caesarique conexa adulterio teneretur*). The adultery, it was decided, was sufficiently covered by the Julian law (on adultery); as to the charge of *maiestas*, the Emperor requested that a distinction should be drawn, conviction to follow, should she have said anything tanta-

²⁸ On this much-discussed subject see, e.g., R.S. ROGERS, *Criminal Trials and Criminal Legislation under Tiberius*, Middletown 1935; CHITON 1955 (*op.cit.* n.3), 73-81; BAUMAN 1974 (*op.cit.* n.10); R. SEAGER, *Tiberius*, London, 1972, 151-161; B. LEVICK, *Tiberius the Politician*, London 1976, 180-200.

mount to sacrilege against Augustus: remarks leveled at himself he did not wish to be made the subject of inquiry. To the consul's question: 'What was his opinion of the reprehensible statements she was alleged to have made about his mother?' he gave no answer; but at the next meeting of the senate he asked, in her name also, that no one should be held legally accountable for words uttered against her in any circumstances whatever» (*ann.* 2.50).

The *delator* was clearly advancing a notion that adultery involving a woman connected (however distantly) to the imperial house was treasonable. The fact that this notion was rejected by Tiberius²⁹ may be thought remarkable, given his declared policy of following Augustan precedents³⁰. Perhaps the precedents in this field were not as unambiguous as is sometimes thought³¹. Our knowledge of the exact circumstances surrounding the fall of Augustus' daughter and granddaughter - including the legal aspects of both cases - is very imperfect³². According to Tacitus, indeed, Augustus «expelled (his daughter and granddaughter) from the city while punishing their paramours by death or exile. For by designating the besetting sin of both sexes by the harsh appellations of sacrilege and treason (*culpam inter viros et feminas vulgatam gravi nomine laesarum religionum ac violatae maiestatis appellando*), he overstepped both the mild penalties of an earlier day and those of his own laws» (*ann.* 3.24.2-3). But this does not necessarily mean that adultery by, or with, the Emperor's daughter and granddaughter was explicitly equated with treason. Tacitus' reproach would equally apply on the assumption that, in his estimation, charges of conspiracy were trumped up in order to punish, with excessive severity, scandalous immoral behaviour within the imperial family. «Tacitus says that Augustus chose

²⁹ The decision lay with the Emperor, though Tacitus does not directly ascribe it to him. Cf. below, in the same passage: «*Liberavitque Appuleiam lege maiestatis*».

³⁰ *TAC. ann.* I 77, 4; IV 37, 4. According to BAUMAN 1967 (*op.cit.* n. 4), 234, in this case «Tiberius refused (uncharacteristically) to follow an Augustan precedent».

³¹ Against the usual view that «Julia and Iullus were tried for adultery but under the law of treason» see R.S. ROGERS, *Treason in the Early Empire*, in *JRS* XLIX, 1959, 92-93, stressing that charges of conspiracy were involved. Similarly, R.S. ROGERS, *The Emperor's Displeasure - amicitiam renuntiare*, in *TAPhA* XC, 1959, 230-231 (concerning the affair of the younger Julia as well). In his earlier book on criminal trials under Tiberius - *op.cit.* n. 28, 192 - Rogers had expressed a different view: «whereas Augustus had treated adultery which touched the imperial family as *maiestas*, Tiberius refused (in the case of Appuleia Varilla) so to regard it». Similarly, SEAGER 1972 (*op.cit.* n. 28), 155: «Despite Augustan precedents for such an approach, Tiberius refused to adopt it».

³² On the affairs of the two Julias see A.A. BARRET, *Agrippina: Sex, Power and Politics in the Early Empire*, New Haven-London 1996, 20-21; 256 n. 30, 36 (ancient sources and modern literature).

to treat those adulteries as treason, implying that he did not believe (the elder) Julia's offence to have been treason; but modern historians have woven here a tale of a major attempt at a *coup d'état*»³³. However, what interests us here is not the truth of the matter but precisely the official version.

There are strong indications that political charges were in fact made in the elder Julia's case. Pliny (*n.b.* 7.149) speaks of «*adulterium filiae et consilia parricidae palam facta*». Iullus Antonius is the only one of Julia's paramours known to have paid with his life for his part in the affair (he was apparently driven to suicide rather than executed - *Vell. Pat.* 2.100.4). Dio states that he was accused of aspiring to «monarchy» (55.10.15); such a charge could be made with some plausibility against the son of Mark Antony who had been married to Marcella, the daughter of Augustus' sister Octavia. The affair of the younger Julia is an even more obscure matter than that of her mother; most details are lacking. There is a testimony - admittedly, not a reliable one - which connects her relegation with the execution of her husband for conspiracy (*Schol. Iuv. sat.* 6.158). In any case, what Tacitus tells us about the fate of a *nobilis* involved in this affair plainly indicates that adultery with the Emperor's granddaughter was not, in itself, automatically regarded as amounting to a crime of *maiestas*: «Decimus Silanus, who had committed adultery with Augustus' granddaughter (*in nepti Augusti adulter*), though subjected to no harsher penalty than forfeiture of the imperial friendship, realized that the implication was exile...» (*ann.* 3.24.2)³⁴.

It is thus obvious that no formal doctrine equating adultery with- in the imperial family, as such, with treason was established by Augustus. Nevertheless, many will have learnt the lesson that in certain aggravating circumstances, such adultery might be, if not formally subsumed under the law of treason, then at least regarded as creating a strong presumption of treasonable intentions; the practical significance of the distinction might be rather limited. This overall impression is reflected in the sources, and there is no reason to suppose that Augustus would have wished to dispel it. Moreover, this was not just a matter of Augustus' sensitivity and vindictiveness in defending his family honour. In a reign-

³³ J.A. CROOK, *Political history, 30 B.C. to A.D. 14*, in CAH II, 1996, 102.

³⁴ It is unclear why Silanus was not tried for adultery, which, upon conviction, would have resulted in formal banishment to an island and the confiscation of half his property. See on this ROGERS 1959 (*op.cit.* n. 31), 229-232: Augustus seems to have shown «inexplicable clemency» on this occasion; in Tacitus' passage, this fact is obscured by the context. Nevertheless, Silanus' (semi-official) banishment appears to have lasted for 12 years.

ing house, personal and family matters tend to be perceived and treated as affairs of state of the highest import. It has been pointed out that «The borderline between immorality and conspiracy is a fine one, when the imperial family is involved ... Under English law, for instance, it is still a treasonable offence, punishable by death, to be involved in a sexual liaison with the spouse of the heir to the throne. If the paramour is someone with an impressive personal pedigree the situation becomes especially dangerous, even if there is no overt conspiracy»³⁵.

In Seneca's description of the affair of the elder Julia, it is hard to tell whether he believes that there was a real conspiracy against the Emperor, or that, in his view, an illicit liaison between Augustus' daughter and Mark Antony's son was, in itself, a dangerous conspiracy. After mentioning all those who had conspired to kill Augustus throughout his career, he adds: «Not yet had he escaped their plots (*effugerat insidias*), when his daughter and all the noble youths who were bound to her by adultery as by a sacred oath, oft alarmed his failing years - and there was Paulus (Iullus?), and a second time the need to fear a woman in league with an Antony (*iterum timenda cum Antonio mulier*)» (*de brev. vit.* 4.5).

But the comparison with the English law of treason is instructive in more than one way. The similarity is obvious - but one should not overlook the difference. In England, the legal status of the royal family is clearly defined by law, as are the rules of succession. The language of the treason law (originating in the fourteenth century) is remarkably precise and explicit, aiming to prevent any possible interference with the lawful succession to the throne: «violating the King's wife or the King's eldest daughter unmarried» is high treason. In Rome under Augustus - or Tiberius - the existence of the reigning house and the expectation of hereditary succession were openly acknowledged - in fact, celebrated - political facts; but they were not, formally, part of public law. Thus it is natural that there was no formal and definite answer to the question whether, and in what cases, adultery with an imperial «princess» was a crime against the state. Rather, what emerged from the affairs of the two Julias was an ill-defined but very real threat to anyone who might be tempted to test the limits of permissible in this field. It would be rash to conclude that this threat was removed by Appuleia Varilla's acquittal on the charge of *maiestas* in 17 CE. All what happened was that in the cir-

³⁵ BARRET 1996 (*op.cit.* n. 32), 20.

cumstances of the case it was decided to regard this particular adultery - between a distant and unimportant relative of the Emperor (not at all to be compared to either Julia) and a certain Manlius, apparently a man of no particular note - as politically insignificant and not «qualifying» as *maiestas*³⁶.

Tiberius' ruling that Appuleia Varilla should be convicted «if she has said anything tantamount to sacrilege against Augustus (*si qua de Augusto inreligiose dixisset*)» definitely established, for the first time, the principle that verbal attacks on the divine Augustus were punishable as *maiestas* (though the specific charges against the accused could not be substantiated). The first attempt to apply the *lex maiestatis* to offences against Augustus' divinity had been rejected in 15 CE by Tiberius who wrote to the consuls that «a place in heaven had not been decreed to his father in order that the honour might be turned to the destruction of citizens» (TAC. *ann.* I 73, 3). At first glance, this looks like a firm statement of principle rejecting any use of the treason law in cases involving the dignity of the Divus Augustus. However, the Emperor's letter went on to explain why the specific actions alleged in the indictment (none of which appeared as a malicious attack on Augustus) did not constitute sacrilege (*nec contra religiones fieri*). It is obvious that the door was left open to similar charges in the future, and in 17 CE there came a positive ruling that words spoken *inreligiose* against Augustus were to be punished³⁷. Various sources attest that from that point on offences against the divine Augustus were prosecuted and punished with increasing ferocity. It is alleged that every word or deed, however inadvertent, which could be interpreted as disrespectful towards Augustus, came eventually to be treated as a capital crime³⁸. Even if there is some exaggeration in these descriptions, it is clear that insulting the majesty of Augustus was indeed treated as a crime of *maiestas* under Tiberius, and that people were executed for this crime. The reasons for this policy are not far to seek: «the deification of Augustus was an act of patent political significance to Tiberius»³⁹. The legal status of the imperial family might be ambiguous, and even the most basic fact of life about the Principate - that the Emperor was a monarch - might sometimes be obscured by a display of

³⁶ In fact, both of them eventually received a penalty considerably milder than that prescribed by the Julian law on adultery; see ROGERS 1935 (*op.cit.* n. 28), 28; cf. BAUMAN 1967 (*op.cit.* n. 4), 234-235.

³⁷ See on this ROGERS 1935 (*op.cit.* n. 28), 28.

³⁸ See Suet. *Tib.* LVIII; Plin. *pan.* XI 1; Dio LVII 9, 3; XIX 1; perhaps TAC. *ann.* VI 7 is relevant, cf. Sen. *ben.* 3.6.1. See on this BAUMAN 1974 (*op.cit.* n. 10), 79-82.

³⁹ LEVICK 1976 (*op.cit.* n. 28), 193.

civilitas on his part; but there was no ambiguity about the standing of the Divus Augustus in the Roman state under Tiberius.

As to verbal attacks on the Emperor himself, Tiberius' ruling in 17 CE («remarks leveled at himself he did not wish to be made the subject of inquiry») was consistent with his policy during the early years of the reign. Suetonius describes him as «firm and patient» in the face of repeated slurs, refusing the senate's requests to take cognizance of such offences and stating that «in a free state speech and thought should be free»⁴⁰. This was to change. Though the development of the concept of «verbal treason» against the Emperor and the role played by Tiberius himself in this process are a subject of considerable scholarly controversy, there can be no doubt about the final result. During Tiberius' reign it became a well-established doctrine that the dignity of the Emperor was protected by the *lex maiestatis*. As we have noted, there is no clear example, in any source, of such use of the law before 20 CE, when the trial of Piso was taking place. But when in 25 CE Cremutius Cordus was charged with *maiestas* on the unprecedented ground that he had written a history praising Brutus and Cassius, the defendant's speech in the senate, as recounted by Tacitus, takes it for granted that «words» spoken against the Emperor count as treason: «My words, Conscript Fathers, are brought to judgement – so guiltless am I of deeds. Nor are they even words against the Princeps or the Princeps' parent, who are embraced by the law of *maiestas* (*sed neque haec in principem aut principis parentem, quos lex maiestatis amplectitur*)» (*ann.* 4.34.1)⁴¹.

It is usually assumed that the «parent of the Princeps» in question is the divine Augustus⁴². Furneaux, however, suggests another possibility: «*Parentem* may mean Augustus, as would appear from 2.50.2 (the passage dealing with the case of Appuleia Varilla); but that passage would also suggest that a libel on Augusta fell within the law, which probably

⁴⁰ «*In civitate libera linguam mentemque liberas esse debere*» – Suet. *Tib.* XXVIII. Bauman suggests that this remark may have been made on the occasion of Appuleia Varilla's trial (*op.cit.* n. 28, 110 n. 4).

⁴¹ See BAUMAN 1974 (*op.cit.* n. 10), 99–101 on the case and the content of Cremutius Cordus' speech as reported by Tacitus. Dio mentions an earlier case of a man executed (in 23 CE) for writing libelous verses against Tiberius, and adds that many others were executed at that time on similar charges – 57.22.5–23.3. Some doubt this testimony – ROGERS 1935 (*op.cit.* n. 28), 73; BAUMAN 1974 (*op.cit.* n. 10), 113–114. Tacitus relates that in 24 CE Tiberius won praise by sparing a Roman knight convicted of a poetical lampoon against him, as a concession to the prayers of his brother («*convictum ... concessit*» – *ann.* 4.31.1). This clearly indicates that by that time such conduct was recognized as punishable, though the Emperor could of course show mercy.

⁴² E.g. BAUMAN 1974 (*op.cit.* n. 10), 101; LEVICK 1976 (*op.cit.* n. 28), 194.

extended to the family generally (see 6.5.1; 6.9.3, etc), the other members of which are perhaps here omitted on account of their youth»⁴³.

Thus, according to Furneaux, *parentem* may possibly refer to Livia; moreover, the law of *maiestas* probably extended to all the Emperor's relatives. Similarly, Seager paraphrases Cremutius Cordus' speech: «He pointed out that he had said nothing against the princeps or any of the princeps' relatives, who alone were covered by the law of *maiestas*»⁴⁴. This brings us back to the question of the applicability of the law *maiestas* to attacks on the dignity of non-reigning members of the imperial house.

It is hard to see how Tacitus' account of the trial of Appuleia Varilla can be taken to imply that the law of *maiestas* extended to Livia Augusta or to other members of the imperial family. After all, Tiberius' response to the consul's question whether libels against his mother should be punished as *maiestas* was emphatically negative: «he asked, in her name also, that no one should be held legally accountable for words uttered against her in any circumstances whatever (*ne cui verba in eam quouquo modo habita crimini foret*)». This answer certainly does not imply that there had existed, before this trial, an established doctrine equating verbal injury to the Emperor's mother with *maiestas*. It was the prosecution that was trying to establish such a doctrine, and this attempt was rejected by Tiberius. But it should be noted that he did show some hesitation in doing so: he did not dismiss the possibility of treating libels against Livia as *maiestas* out of hand, as he did regarding verbal attacks on himself, but waited until the next meeting of the senate to answer the consul's question in his mother's name as well. It is very difficult to make legal sense of this hesitation. If words spoken against the Emperor himself were not to be regarded as treasonable, how could there be any doubt that the same principle should apply, *a fortiori*, to any of the Emperor's relatives? With Augustus, of, course, it was different: his deification made it possible - indeed, logical - to regard malicious attacks on him as sacrilege, and since the very legitimacy of Tiberius' rule rested, in no small measure, on the legacy of Augustus, it was natural for him to punish this kind of sacrilege as a grave political offence. But what con-

⁴³ Koestermann, in his commentary, takes «*parentem*» to refer to Augustus, but adds «auf diese beiden (Tiberius and Augustus) sowie die Augusta erstreckte sich also das Majestätsgesetz ursprünglich allein (vgl. 2,50,2). 6,5,1 and 9,2 zeigen, dass dann auch die ubrigen Mitglieder des Herrscherhauses miteinbezogen wurden».

⁴⁴ SEAGER 1972 (*op.cit.* n. 28), 195.

ceivable legal reason or pretext could there have been for treating libels against Livia - for all her dignity and influence - as more dangerous to the state than libels against the Princeps?

It appears that in dealing with matters pertaining to the *lex maiestatis*, Tiberius, unlike some modern scholars, was not necessarily concerned to expound a logically consistent legal doctrine. He probably felt that it would have been inappropriate for him to dismiss out of hand, without consulting his mother, charges in a case that involved an affront to her dignity. The *senatus consultum de Pisone Patre* clearly shows that the Emperor's *pietas* towards his mother was a prominent feature of the image that the regime projected to the public. The open, quasi-official way in which Livia participated in the decision not to treat attacks on her as *maiestas* (reminiscent of the way she and other members of the imperial family were invited by a *senatus consultum* to participate in deciding which of the posthumous honours offered to Germanicus were to be accepted) shows the extent to which the imperial family had indeed become a «civic institution» at the head of the Roman state. Thus, while the decision itself reflected *moderatio* and *civilitas*, the way it was reached was another eloquent demonstration of the fact that the Roman state now had a reigning family as well as a monarch. It was therefore natural that any refusal - however strongly worded - to apply the law of *maiestas* to offences against its dignity was not perceived as final and irrevocable. It did not quite shut the door against further attempts, at some opportune occasion in the future, to extend the application of the law in this way.

Whether the law of *maiestas* came to apply to defamation of Livia (as it certainly did in the case of Tiberius himself) is uncertain. Dio, in 57.19, claims that this is what happened. According to his account, the death of Germanicus marked a change for the worse in the character of Tiberius' rule: «Among other ways in which his rule became cruel, he pushed to the bitter end trials of *maiestas* in cases where complaint was made against anyone for committing any improper act, or any improper speech, not only against Augustus but also against Tiberius himself or against his mother» (57.19). This is not confirmed by any other source. Moreover, Dio himself mentions no specific case of anyone being punished for defaming Livia. The reference to Livia is part of his sweeping denunciation of the way the law of *maiestas* came to be applied by Tiberius. Dio could easily have been «carried away» by his desire to stress the gravity of the change, and it seems unsafe to rely on this testimony alone. If offences against Livia were not brought within the ambit

of the law, it is probable that the reason for this had to do with Tiberius' uneasy relations with his mother during the twenties (which also account for the fact that she was not deified when she died in 29 CE).

The two other passages of Tacitus which, according to Furneaux and Koestermann, show that other members of the imperial house were brought under the protection of the *lex maiestatis*, do not in fact indicate that defamation of the Emperor's relatives was unambiguously subsumed under this law. Both passages have to do with Gaius Caesar (Caligula) - the son of Tiberius' adopted son Germanicus and the future Emperor. Though he became personally close to Tiberius, Gaius was never given official powers during his predecessor's reign (except for the quaestorship in 33 CE). His sole official status was thus his proximity to his «grandfather», the Emperor. Both passages refer to the year 32 CE - a late, *maiestas*-ridden period of Tiberius' reign. «Cotta Messalinus... was confronted with many charges: he had spoken of Gaius Caesar as being of a suspect manhood (*quasi incertae virilitatis*), and, when there was a banquet among the priests on the birthday of Augusta, he had called the meal a funeral feast; and, as he complained about the influence of Marcus Lepidus and Lucius Arruntius, with whom he was in dispute over a money matter, he had added: 'The senate will side with them, but my darling Tiberius (*Tiberiolus meus*) with me'. The charges were proved against him by men of the highest position; and, as they pressed their case, he appealed to the Emperor. Before long came a letter in which Tiberius, by way of defence, harked back to the origin of the friendship between himself and Cotta, commemorated his many services, and demanded that words twisted out of context and the frankness of table-talk should not be turned into evidence of guilt (*ne verba prave detorta neu convivalium fabularum simplicitas in crimen duceretur postulavit*)» (TAC. *ann.* VI 5, 1-2).

The prosecutors' case clearly rested on a «familial» concept of *maiestas*. Tiberius' answer does not deal directly with the question whether insulting the Emperor's grandson, as such (no question here of a higher official being defied by his subordinate) was punishable as *maiestas*. Instead, Tiberius held that there was no malicious intent in the defendant's words. «*Tiberiolus meus*», indeed, sounds inappropriately intimate rather than hostile. Livia's «funeral feast» must refer to the fact that she had not been deified. It is unclear whether the prosecutors were charging Messalinus with disrespect towards Livia, or with casting an slur on Tiberius, who had refused to allow his mother's deification, or, possibly, on both these accounts. Bauman holds that the «victim» of the

alleged insult could only have been Tiberius, since Livia, not having been deified, fell outside the law of *maiestas*⁴⁵. This sounds reasonable, but we cannot be quite sure that the prosecutors could not have claimed that disrespect towards the Emperor's deceased mother should be punished as *maiestas*. In any case, Tiberius refused to regard this remark as a serious political matter. Talk of Gaius Caesar's «*incerta virilitas*» could certainly have been taken as a deliberate insult⁴⁶. Nevertheless, Tiberius chose to dismiss it, too, as mere «table-talk». Not content with dismissing the charges, Tiberius apparently authorized the senate to punish Messalina's accusers for *calumnia*, and Tacitus relates that the chief accuser was indeed punished (he doesn't say how)⁴⁷. Such punishment indicates that Tiberius did not regard this as a «borderline case» but as a flagrantly unjustified prosecution and an abuse of the legal procedure⁴⁸. Soon afterwards, however, another case of an affront to Gaius Caesar was to elicit a very different response from Tiberius: «Now followed a letter (to the senate) from Tiberius directed against the former praetor Sextus Vistilius, whom, as the close friend of his brother Drusus, he had transferred to his own retinue. The cause of his displeasure with Vistilius was either that he had put in writing some remarks against Gaius Caesar (*composuerat quaedam in Gaium Caesarem ut impudicum*) or that credence was given to a fabrication. And for this reason, being debarred from the Princeps' table, after he had tried the knife with aged hand, he bound up his veins, then sent a written plea for pardon, and, on receiving a pitiless reply, opened them again» (TAC. *ann.* VI 9, 2).

«The inconsistency with Tiberius' treatment of Cotta is striking»⁴⁹. It has been plausibly suggested that Tiberius may have been influenced by the fact that «Cotta's remarks had been verbal and perhaps voiced in private, whereas Vistilius had committed the attack to writing and published it»⁵⁰. But there can be no certainty as to the Emperor's considerations. Words (rather than writings) against the divine Augustus had been,

⁴⁵ *Op.cit.* n. 10, 103.

⁴⁶ Cf. Furneaux *ad loc.* for the reading «*arguitur pleraque in C. Caesarem quasi incertae virilitatis*», which would imply repeated slurs on Gaius.

⁴⁷ «*Tum facta patribus potestate statuendi de C. Caeciliani senatore, qui plurima adversum Cottam prompserat...*» (6.7.1).

⁴⁸ Tiberius' outburst, quoted by Tacitus in 6.6.1 (cf. Suet. *Tib.* LXVII), may point in the same direction - see ROGERS 1935 (*op.cit.* n. 28), 133-135; B.A. LEVICK, *A Cry from the Heart from Tiberius Caesar?*, in *Historia* XXVII, 1978, 95-101.

⁴⁹ SEAGER 1972 (*op.cit.* n. 28), 228.

⁵⁰ ROGERS 1935 (*op.cit.* n. 28), 138.

as we have seen, equated with treason as early as 17 CE. There was obviously a strong element of unpredictability in such cases. The outcome (certainly in the later period of Tiberius' reign) depended far more on the ruler's pleasure than on any settled principles. «In the last resort the retention or otherwise of the Emperor's friendship was more important than anything the delators might do»⁵¹.

Nevertheless, it should be stressed that even this case does not provide a clear positive answer to the question whether defamation of the Emperor's grandson was, by that time, recognized as punishable under the law of *maiestas*. Vistilius was «debarred from the Princeps' table» (*convictu principis prohibitus*). This, in itself, was not an official legal punishment, much less a capital one, but a mark of displeasure on the Emperor's part. Moreover, this may actually have been, in principle, «a lesser punishment than the full *renuntiatio amicitiae*, though scarcely so regarded by Vistilius»⁵². It seems likely (though no certainty is possible) that Vistilius took his life because he expected the Emperor's «private» displeasure, communicated to the senate in an official letter, and having to do with what the Princeps perceived as a malicious insult to his grandson, to lead to his prosecution for *maiestas*. The results of such a trial, in these circumstances, would have been a foregone conclusion. But it is idle to speculate whether the insult to Caligula would have figured as an official charge (perhaps alongside various other charges, as happened so often at *maiestas* trials), or whether other pretexts would have been preferred.

Thus we cannot ascribe even to this late period of Tiberius' reign any definite legal doctrine subsuming defamation of non-reigning members of the imperial family under the *lex maiestatis*. All we can say is that such defamation might sometimes prove fatal to the offender. On the other hand, sometimes it might not; sometimes, as happened in Cotta Messalina's case, a prosecutor in such a case might be punished for his excessive zeal (though he could hardly have known, when he was launching the prosecution, that his zeal was excessive). The lack of clarity concerning the definition of *maiestas* was dangerous to prosecutors as

⁵¹ BAUMAN 1974 (*op.cit.* n.10), 125.

⁵² BAUMAN 1974 (*op.cit.* n.10), 125. See Furneaux and Koestermann *ad loc.* on *convictu prohibitus* as opposed to the full renunciation of the Emperor's friendship; see also ROGERS 1959 (*op.cit.* n. 31), 227. Rogers notes (225, n. 2) that the expression «*renuntiatio amicitiae*», customary among modern writers, does not in fact appear in the sources, which repeatedly use the verb «*renuntiare*» (*amicitiam*) but not the substantive «*renuntiatio*».

well as defendants⁵³. The general tendency, over time, was for the scope of *maiestas* to widen. But this was not a straightforward process - it advanced by trial and error (or rather, by error and subsequent trial).

In 20 CE, as we have seen, Tiberius had declared, in his opening speech at Piso's trial, that he would not use his power as Princeps in order to avenge private wrongs - in this case, grave insults to his deceased son and to his memory. Formally, it can be said that no change in his attitude had taken place between 20 CE and 32 CE: in Vistilius' case, he was still avenging an insult to his grandson by breaking off his private ties with the offender rather than by taking any legal action. In an article on «the Emperor's displeasure», R.S. Rogers has stressed the private and unofficial character of the imperial «*renuntiatio amicitiae*», arguing that it was different from a penal sanction and «was not tantamount to injunction of suicide, even if some offenders out of their own character made that response»⁵⁴. From the strictly legal point of view, this is no doubt true; moreover, Rogers cites cases where various (more or less formal) marks of displeasure on the part of different Emperors did not lead to such dramatic results. Nevertheless, not every case where a man was driven to suicide, or to self-imposed exile, by an imperial renunciation of friendship, can be safely imputed to his over-sensitive nature, and Rogers himself mentions cases where such a renunciation was followed by a prosecution for *maiestas*. In Bauman's words, «despite Tiberius' firm stand in 20, *renuntiatio amicitiae* was destined to continue moving steadily closer to the *crimen maiestatis populi Romani minutae* throughout the reign»⁵⁵. But this was never officially acknowledged by Tiberius. In 34 CE Pomponius Labeo, who had been governor of Moesia, committed suicide by severing his veins. Tacitus expressly states that he did it in order to avoid being executed: «The Caesar, however, in a letter addressed to the senate explained that it had been the custom of our ancestors, as often as they broke a friendship, to interdict their house to the offender and to make this the close of amicable relations. To this method he had himself reverted in the case of Labeo; but Labeo,

⁵³ Cf. the case of Marcus Terentius, prosecuted in the same year (32 CE), like so many others, for *maiestas* on account of his friendship with Sejanus. Rather than denying this fact, the defendant admitted that he actively strove for this friendship and claimed that this was the proper way for a loyal citizen to treat someone who was, at the time, visibly enjoying the Emperor's highest favour. His defence made so powerful an impression that «the accusers, whose former delinquencies were added to the reckoning, were punished by banishment or death» (*ann.* 6.8-9.1).

⁵⁴ *Op. cit.* n. 31, 237.

⁵⁵ BAUMAN 1974 (*op.cit.* n. 10), 113.

arraigned for maladministration of his province, as well as on other accounts, had veiled his guilt by casting a slur (upon the Princesps, by committing suicide)»⁵⁶.

The case of Decimus Junius Silanus, already referred to, is another example of a possible effect of an imperial *renuntiatio amicitiae* - as well as of Tiberius' refusal to acknowledge this effect. This paramour of the younger Julia «though subjected to no harsher penalty than forfeiture of the imperial friendship, realized that the implication was exile (*exilium sibi demonstrari intellexit*)». Only in 20 CE, six years after Augustus' death and Tiberius' succession, did he dare (*ausus est*) to appeal to the Emperor and the senate, through his influential brother Marcus, for permission to return. «But while (Marcus) Silanus was expressing his gratitude before the senate, Tiberius replied that 'he was also glad that his brother had come back from his protracted travels (*peregrinatione longinqua*); he had a right to do so, as he had not been exiled either by a senatorial decree or by form of law. However, he (Tiberius) retained his father's objections intact; the return of Silanus had not cancelled the wishes of Augustus'. Accordingly, he (Silanus) resided for the future in Rome, but held no magistracy» (TAC. *ann.* III 24, 5-7).

In this case there can be little doubt that had Silanus failed to undertake his «protracted travels» following Augustus' *renuntiatio amicitiae*, he would have been prosecuted and punished for his adultery. While it might still be possible, under Augustus, to lose the Emperor's favour and even be formally «banished from his house» without incurring any further penalties,⁵⁷ the famous case of Cornelius Gallus demonstrated, as early as 26 BCE, the deadly potential of the Emperor's renunciation of friendship: «Cornelius Gallus, because of his ungrateful and envious spirit, was banished by Augustus from his house and from his provinces. But when Gallus ... was driven to suicide by the denunciations of his accusers and by the decrees of the senate, though commending their loyalty and their indignation on his account, Augustus yet shed tears and bewailed his lot, because he alone could not quarrel with his friends as much as he wished»⁵⁸.

⁵⁶ TAC. *ann.* VI 29, 1-3. Tiberius had made a similar complaint in the senate after Gnaeus Piso's suicide: «*Caesar flexo in maestitiam ore suam invidiam tali morte quaesitam apud senatum ...*» (*ann.* 3.16.3). See Suet. *Tib.* LVI for another case of a suicide ascribed to Tiberius' *renuntiatio amicitiae*.

⁵⁷ See SEN. *ir.* 3.23.4-8; *ben.* 3.27.1 f.

⁵⁸ Suet. *Aug.* 66. According to DIO 53.23.7, Augustus' announcement was followed by numerous indictments; the senate decreed «that (Gallus) should be convicted in the courts, exiled, and deprived of his estate»; he then took his life. Augustus was away in Spain when all this happened.

Rogers draws from this passage the conclusion that «Augustus was well content to punish only by breach of friendly intercourse even Gallus' offences»⁵⁹. However, even assuming that the public effect of Augustus' ostensibly private display of disfavour was wholly unpredictable, there was «one aspect of Gallus' case that tended to obscure the distinction between the public and private remedies, and that was the fact that the renunciation decree included Gallus' expulsion from the imperial provinces»⁶⁰.

Seen against this background, the distinction between public and private offences and remedies, which was the cornerstone of Tiberius' opening speech at Piso's trial, appears to have been unrealistic. It can hardly be imagined that in the event (scarcely conceivable in itself) of Piso being acquitted by the senate of the strictly «public» charges against him but proven guilty, in the course of the trial, of the «private» offence of having insulted Germanicus and «exulted over his death and the (Emperor's) sorrow» - it can hardly be imagined that the «private remedy» of *renuntiatio amicitiae* promised by Tiberius would not then have driven Gnaeus Piso into exile as surely as any formal sentence would have done.

Conclusions

«Definitions of treason are seldom precise, but the Romans do not seem to have attained even a moderate degree of precision in the matter, and trials for *maiestas* were decided mainly on political considerations»⁶¹. This applies to the Republic no less than to the Principate, but different political conditions produced very different results. The crime of *maiestas* was dealt with by a series of late-republican laws, starting with the *lex Appuleia maestatis* of Saturninus. These laws imposed punishments for «diminishing the majesty of the Roman people». Certain specific actions dangerous to the state were expressly proscribed (such as, for a proconsul, to lead his army out of the province or to start a war without legal authority), but it seems doubtful whether an exhaustive list of such actions appeared in any of the laws. Bauman suggests that such a list of categories existed, and «an act falling outside a category was not culpa-

⁵⁹ ROGERS 1959 (*op.cit.* n. 31), 229.

⁶⁰ BAUMAN 1974 (*op.cit.* n. 10), 111.

⁶¹ H.F. JOLOWICZ, *Historical Introduction to the Study of Roman Law*, Cambridge 1939², 327-328.

ble unless it could, in accordance with judicial principles which were developed for the purpose, be interpreted into the *lex*»⁶². If so, then the categories themselves must have been very vaguely formulated, and the rules of interpretation lax, for the final result, undoubtedly, was great vagueness and uncertainty as to the scope of this offence⁶³.

The republican concept of *maiestas* was vague enough for Cicero to offer the following conventional (*ex opinione hominum*) definition that could be used by a prosecutor (though not necessarily accepted by the defence) in a *maiestas* trial: «To diminish *maiestas* is to detract from the dignity, grandeur or power of the people or those on whom it has conferred authority (*maiestatem minuere est de dignitate aut amplitudine aut potestate populi aut eorum quibus populus potestatem dedit aliquid derogare*)»⁶⁴.

If this could be regarded as a reasonable definition of *maiestas* in the late Republic, it is obvious that there was no need for any legislative change in order to transform the republican crime of treason into a monarchic «lèse-majesté». In fact, Quintillian's statement that an *iniuria* (which might, presumably, be a verbal one) to a magistrate was liable to be prosecuted as *maiestas*⁶⁵, may well describe correctly the legal situation under the Republic. But no prosecution under the *lex maiestatis* for a verbal attack on a Republican magistrate is attested in the sources, and Tacitus' general description of the way this law was applied under the Republic («deeds were challenged, words went immune» - *ann.* 1.72.3) should be accepted. Once, however, the Princeps, the highest magistrate on whom the people conferred supreme authority, became the embodiment of the commonwealth, it was natural to treat anything detracting from his dignity or grandeur as diminishing the majesty of the Roman people. Moreover, the Emperor's tribunician *sacrosanctitas* could be taken to imply that any indignity offered to him, in deed or word, could be treated as a capital crime⁶⁶ (though whatever the theoretical and potential scope of the *sacrosanctitas* may have been, it certainly did not shield the tribunes of the Republic from an occasional unkind comment). Conspiracy against the Emperor, naturally, was treated as conspiracy

⁶² BAUMAN 1967 (*op.cit.* n. 4), 54-55; 88-89. *Contra* LEVICK 1976 (*op.cit.* n. 28), 183, suggesting «a clause making liable for prosecution anyone who diminished the *maiestas* of the Roman people (by whatever means)».

⁶³ See CIC. *fam.* III 11, 2; Ascon. 62 C.

⁶⁴ *Invent.* 2.53; cf. Auct. *Herren.* 2.17.

⁶⁵ «*Iniuriam fecisti, sed quia magistratui, maiestatis actio est*» - Quint. *inst. or.* 5.10.39.

⁶⁶ See DIO LIII 17, 9.

against the state - indeed, it was a conspiracy against the state as it then stood.

It is therefore quite unnecessary to postulate, as some do, that Augustus passed a *maiestas* law which widened scope of the crime by extending it to attacks on the dignity of the Princeps, or even, as it is sometimes supposed, to offences against the dignity of the imperial family⁶⁷. Such legislation would have been openly and gratuitously monarchic - precisely the kind of thing Augustus took care to avoid. Moreover, Augustus is described as tolerant of verbal and written abuse⁶⁸ - just as Tiberius would be, in the early part of his reign. It is true that Tacitus attributes to his reign the first case of libel treated as *maiestas*; «The first to take cognizance of written libel under this law was Augustus (*cognitionem de famosis libellis specie legis eius tractavit*), who was provoked to this step by the effrontery with which Cassius Severus had blackened the characters of men and women of repute in his scandalous writings» (*ann.* 1.72.4). The libels in question were obviously not aimed at the Emperor, and Tacitus portrays the affair not as an act of political persecution or personal vindictiveness, but as a problematic response to scandalous behaviour, creating a dangerous precedent⁶⁹. The affairs of the two Julias raised the spectre of treating adultery within the imperial family as treason, but did not, in all probability, create a clear precedent for extending the law in this way.

It is not surprising that the process whereby *maiestas populi Romani minuta* turned into «lèse-majesté» was relatively slow and hesitant. For while this process was grounded in the monarchic logic of the Principate, it ran contrary to its civic and «republican» aspect. The importance of this aspect should not be minimized, nor should it be assumed that Augustus and Tiberius were wholly insincere when they spoke or behaved in conformity with its spirit. By the end of Tiberius' reign, this process was completed as far as the Emperor's own person was concerned; but there appears to have remained some ambiguity as to the status of other members of the imperial family in this respect. This applies to defamation; in cases linked, however tenuously or dubiously, to the actual safety of an imperial «prince», there was no ambiguity or

⁶⁷ See note 3 and note 4 above.

⁶⁸ SUEF. *Aug.* LI; LV-LVI; SEN. *ben.* III 27, 1; cf. TAC. *ann.* IV 34, 8.

⁶⁹ BAUMAN 1974 (*op.cit.* n. 10), 25-31 suggests that Cassius Severus' writings were adjudged seditious. This would make resort to the *lex maiestatis* more natural, but Tacitus' description of the affair does not seem to have political undertones.

hesitation⁷⁰. Under Gaius Caligula, unsurprisingly, we hear of savage punishments being inflicted on those accused of showing disrespect towards the memory of the deified Drusilla, his sister, or that of his mother Agrippina (who was never deified)⁷¹.

The pivotal political importance of Caesar's family was one of the salient features of the Principate⁷². It was publicly acknowledged and celebrated - as far as possible, making use of traditional notions of Roman public life. As regards male members of the family, especially young «princes», this could easily be done by having the senate and the people confer wide-ranging official powers on them. Giving public expression to the political status of the womenfolk of the imperial house was a more delicate business. According to Dio (49.38.1), Octavian granted, in 35 BCE, the tribunician *sacrosanctitas* to his sister Octavia and to Livia. If true, this was a startling innovation; one would have wished to have this testimony confirmed by another source⁷³. The *senatus consultum de Pisone Patre* and the *Tabula Siarensis* show that Livia, in the first years of Tiberius' reign, wielded enormous political influence, coming close to official exercise of power (though not quite reaching this stage in the formal sense).

«The creative interweaving of (the imperial) family and civic government»⁷⁴ made it increasingly logical to regard an attack on its dignity as an attack on the state itself - just as in the case of attacks on the dignity of the Princes. But the «civic» aspect of the Principate required that the Roman state should still be perceived, in some important sense, as a commonwealth, and not as the «private property» of a family. Accordingly, Tiberius drew a sharp distinction, in his opening speech at Piso's trial, between «public» crimes against the state and «private» offences against members of the imperial family (which touched the Princes as *pater familias*, but not as head of state). In the *senatus consultum de Cn. Pisone Patre* this distinction is blurred, but not wholly

⁷⁰ See TAC. *ann.* III 49-51 (a poem «predicting» Drusus' death). Cf. BAUMAN 1974 (*op.cit.* n. 10), 63: the poem was not an attack on Drusus' character; it was apparently treated as «black magic and astrology». Tiberius' negative reaction (3.51) perhaps had to do with the death penalty rather than with the conviction. See also TAC. *ann.* VI 3, 4 («a plot against Gaius Caesar»).

⁷¹ SUET. *Cal.* 24; DIO LIX 11, 5 f.

⁷² See on this now G. ROWE, *Princes and Political Cultures: The New Tiberian Senatorial Decrees*, Ann Arbor 2002.

⁷³ «(This grant) marked the introduction of a new principle in Roman public life ... The grant ... is one of the strands in the formation of the concept of the 'domus Caesaris'» - BAUMAN 1967 (*op.cit.* n. 4), 217-220.

⁷⁴ SEVERY 2000 (*op.cit.* n. 6), 326-327.

abandoned. The imperial «privatization» of *maiestas* was well underway in 20 CE, but the process had not yet been completed. The concept of *maiestas* under the Principate changed as the concept of the Roman state changed. An autocratic and dynastic state demanded, ultimately, a clearly autocratic and dynastic law of treason. The gradual and hesitant process whereby this result was achieved reflects the peculiar nature of the Roman autocracy, with its debt to Republican forms and notions. For the subjects of the imperial regime, this was a mixed blessing: the ambiguities and equivocations surrounding the question of the scope of *maiestas* made the application of the law, in some fields, less predictable and thus more arbitrary.