

Beyond Republicanism: Political Thought in Tacitus' Minor Works

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Dissertation submitted in partial fulfillment of
the requirements for the degree of Doctor
of Philosophy in the Department of
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2019

ABSTRACT

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Abstract

This dissertation examines how the Roman historian Tacitus' political thought in his minor works (the *Dialogus*, the *Germania*, and the *Agricola*) departs from the political thought of his Republic-era predecessors. Tacitus wrote during the Principate, when Rome was organized under the power of a single man. Nevertheless, the dominant approach to thinking about political life was still Republicanism, a constellation of concepts formed when Rome was a Republic. In his minor works, Tacitus argues that Republicanism lacks the complexity to understand different iterations of single-man rule as well as its relationship with surrounding institutions and culture. Each of the minor works explores a different shortcoming of Republicanism. The *Dialogus* investigates how oratory was weakened in the Principate. The *Germania* observes how, contrary to a tenet of Republicanism, monarchy does not *ipso facto* preclude *libertas*. And the *Agricola* examines how certain political regimes can alter the individual. Rather than adhering to the traditional approach of viewing these writings as independent works, this dissertation argues that they form a coherent project in which Tacitus moves beyond Republicanism and argues that a new framework is needed to understand a political system as dynamic as the Principate.

Dedication

For Liz. Who else?

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Introduction

Our system is most frequently characterized as a dictatorship or, more precisely, as the dictatorship of a political bureaucracy over a society I am afraid that the term ‘dictatorship,’ regardless of how intelligible it may otherwise be, tends to obscure rather than clarify the real nature of power in the system. We usually associate the term with the notion of a small group of people who take over the government of a given country by force; their power is wielded openly, using the direct instruments of power at their disposal, and they are easily distinguished socially from the majority over whom they rule.

So starts Václav Havel’s corrective of “Western” political thought on the nature of Soviet power in the Eastern Bloc countries.¹ That power was far more insidious than previous schemata could fix, he argued. It superficially preserved institutions like the law courts but surreptitiously substituted political convenience for impartial justice. It turned independent men and women into psychological creatures of the state. And though it could be classified a dictatorship, contemporary thought’s straightjacketing of that term into a uniform idea did not adequately account for all the facets of the means by which it exerted control. The corrective required not only complicating the idea of what constituted a dictatorship, it also required a new term with which Havel could explore this new power structure, which he called the post-totalitarian system.

Though there are more differences than similarities between the intellectual milieux of post-Velvet Revolution Prague and post-Augustan Rome,

¹ Havel (1985: 24).

Havel, across 800 miles and nineteen centuries, was an unexpected—and unknowing—heir to Tacitus. There is no evidence that Havel read Tacitus, or even any other Roman political thinker. Unlike Tacitus, Havel did not practice law, and his formal education lasted only a few years, cut off as it was by the communist takeover of his country and his “bourgeoisie” background that limited many opportunities. Havel was a playwright, and, like Maternus, Tacitus’ main character in the *Dialogus de Oratoribus*, he updated an older play to skewer the powerful and their *mores*.² And like Maternus, Havel received a not-so-subtle warning to produce safer plays afterwards. Perhaps the convergence of their similarities takes place in the fact that both Havel and Tacitus were “writing people.”³ By being writing people, people both attuned to not only political shifts but also societal ones, they were in a unique position to explore the course and nature of political change and the consequences of political forms.

Throughout this dissertation, I will argue that Tacitus’ *opera minora*—that is, *Dialogus de Oratoribus*, *De Origine et Situ Germanorum*, and *De Vita Julii Agricola*—is a unified body of thought designed to investigate these shifts. Tacitus, in other words, reconnoitered the bounds of the Principate. Like Havel’s rejection of the previous approaches to understanding the nature of power in Czechoslovakia, Tacitus too rejects the popular model of political thought

² Zantovsky (2014: 147–58).

³ Havel (1985: 57).

embraced by his predecessors at Rome: republicanism. Whereas Havel called the system he was attempting to understand a post-totalitarian system, this dissertation will refer to the system Tacitus is investigating as a monopolistic system.

A monopolistic system is one in which a single governmental entity—or person—monopolizes power. A principal function of this system is the maintenance of the power structure. This by no means implies that a monopolistic ruler is necessarily a bad one. Elizabeth I—who has received high marks for her reign, especially for her contemporary religious toleration—would be considered a monopolistic ruler. And desiring to maintain the monopolistic power structure can also be seen in a positive light since it emphasizes stability. At the start of the *Annals*, Tacitus posits an imaginary debate on Augustus' legacy. The imaginary proponent of Augustus' reign notes that, after the horrors of the civil war, rule by a single man (*ab uno regetur*) was needed to reestablish law (*ius*) and ensure domestic peace (*quies*) (*Ann.* 1.9)—in short, to ensure stability. By labeling the subject of Tacitus' investigation a monopolistic system, I seek to avoid the ideological conceptions—ancient and our own—that terms such as “tyranny” or “monarch” bear. This is similar to what the imaginary proponent of Augustus' reign was observing when he noted, “the state was organized neither under a kingship nor a dictatorship, but under the name of the *princeps*” (*non regno tamen neque dictatura, sed principis nomine constitutam rem publicam*)

(*Ann.* 1.9). Because “king” and “dictator” were ideologically loaded terms at Rome and neither neatly fit Augustus’ role, a new term was needed to describe Augustus. In this way, a new term is needed to describe the object of Tacitus’ investigation.

When Tacitus began writing his *opera minora*, the dominant strain of thought—the dominant way to think about political life—was most recently shaped by Cicero, Livy, and Sallust, principally.⁴ Because the republicanism that Tacitus confronts was a product of the late Republic (and early parts of Augustus’ reign), it was shaped by those times. It was based around a constellation of concepts that argued that government should be arranged to secure *libertas*, which requires both popular sovereignty and active participation.⁵ Tacitus, however, was living at a time when the *res publica* was not the *res populi*.⁶ Rather, as one scholar notes, “Augustus turned the public concern, *res publica*, into his own private *domus*.”⁷ This transformation of the state (*verso civitatis statu*) (*Ann.* 1.4) altered republicanism’s previous concerns. Tacitus’ *opera minora* are an attempt to identify the new concerns. To do this, Tacitus uses each work—the *Germania*, the *Agricola*, and the *Dialogus*—to examine political life from the macro level (the broad organization of government), the micro level

⁴ Moatti (2018) traces the differing strains of thought among these thinkers from an historical perspective; see also Atkins (2018b: 2–3, 40).

⁵ Atkins (2018b: 37–40).

⁶ Cf. Schofield (1995); see generally Strunk (2017).

⁷ Atkins (2018b: 30).

(an individual's motivations and actions), and a level in the middle (an institutional level), respectively.⁸ Each work questions the applicability of republicanism to understanding a system as hard to “capture” and define as the Principate. Consider the *Germania*, Tacitus' macro examination of Roman political life from an external perspective. We will see that a hallmark of republicanism is that monarchy *ipso facto* precludes *libertas*, including active participation in one's government (Cic. *Rep.* 2.43, Livy 2.1). But I will argue that through his survey of the Germani and their political society, Tacitus demonstrates that several different types of monarchy exist, and some types co-exist with *libertas* (e.g., *Germ.* 44.1). Tacitus' examination does not seek to propose answers to problems under the Principate; he seeks rather to situate any subsequent investigation into the Principate into a more appropriate intellectual framework.

Throughout this dissertation, I hesitate to reference the *Annals* or *Histories* for intellectual content.⁹ This is because I argue that the *opera minora* stand on their own as a coherent undertaking. Though it is not the aim of this dissertation to explore the connections between the *opera minora* and Tacitus' subsequent works, I have found that the *opera minora* do inform Tacitus' longer works. The *opera minora* ought to be read and understood in a certain order—

⁸ In this dissertation's epilogue, I will touch on the relationship of the *opera minora* with the *Annals* and the *Histories*.

⁹ I do, however, use these works to show Tacitean literary style and word-range.

the *Dialogus*, the *Germania*, and then the *Agricola*—because each work builds on the ideas contained in the previous ones. Because the *Agricola* is the closest in subject matter and literary form to political life in the Principate, I more freely reference Tacitus' later works in that chapter. One might assume because the *Histories* were written after the *opera minora*, I would find that an easier point of contact than the *Annals*. Yet, as we will see throughout this dissertation, sequence of writing and publication does not always correlate to sequence in thought. And so, I have found the *Annals* to have the closer relationship. This must be partly due to the fact that the *Annals*, especially Book 1, investigate the transition from the Republic to the Principate, much like the *opera minora* seek to situate that change in an intellectual framework.

Throughout writing this dissertation, I have often asked myself, “Why does an investigation into the political thought of Tacitus' *opera minora* matter today?” Even Havel, whom I reference occasionally throughout this dissertation, lived under an unprecedented political regime in Czechoslovakia. Then, the world was split between communism and liberal democracy. Today, the difference between dominant ideologies is not as starkly evident. And the changes in political institutions and culture can be more subtle—Soviet tanks are no longer parked in Prague's Old Town Square. Tacitus' inquiry, however, stresses that political form impacts political culture, and so we must pay attention to political culture. In the *Dialogus*, he suggests that even though the practice of

law may be procedurally the same, it has undergone a tectonic shift not only in how one trains for it, but also in the law's impact on society. In a similar fashion, Havel notes, if an outside observer "has the opportunity to study the formal side of policing and judicial procedures and practices, how they look 'on paper,' he or she would discover that for the most part the common rules of criminal procedure are observed."¹⁰ What Tacitus did, like Havel after him, was seek to establish a framework that could look beyond the façade of monopolistic power and that could see how invasive it truly was.

¹⁰ Havel (1985: 74). Such a view, Havel reflects, does not take into account the falsified testimony, the political pressure borne on the judge and lawyers, and so on.

1. The Unity and Purpose of Tacitus' *Opera Minora*

This dissertation will argue that Tacitus' *opera minora* are a unified body of thought that pushes back against the idea, prominent during the Republic, that monarchy is *ipso facto* opposed to vital republican political institutions and culture. In doing this, Tacitus is arguing that the intellectual framework prominent at the end of the Republic, and developed by Cicero and others, lacks the complexity to understand different iterations of monarchy as well as its relationship with surrounding institutions and culture.

Each of Tacitus' works—*Dialogus de Oratoribus*, *De Origine et Situ Germanorum*, and *De Vita Julii Agricola*—explores a different aspect of the shortcomings of republican thought. The *Dialogus* demonstrates how oratory was able to adapt from the Republic to the Principate while still continuing to play an important—if reduced—role in public life. The *Germania* undercuts the idea that there was only one form of monarchy, which was necessarily corrosive of *libertas*. Finally, the *Agricola* illustrates the psychological effect monopolistic power has on its subjects and rulers. These works are not a clinician's diagnosis and treatment plan for the ills that Principate has brought on Rome. Rather, Tacitus is attempting to provide a flexible, exploratory framework with which to understand and evaluate the Principate.

No scholar has previously read Tacitus' three minor works as part of a single coherent project. Two impediments have prevented scholars from doing so. The first is the various dates of the works. Most scholars have seen that the

Germania and the *Agricola* are related due to their close publication dates of 97–8.¹ But there is no consensus for the *Dialogus*' publication date, with one possibility being a full decade after the *Germania* and the *Agricola*.

A still bigger stumbling block that has prevented anyone from reading these works together is that they are each a different literary form: the *Dialogus* is a dialogue in the Ciceronian form; the *Germania* is an ethnography with Greek roots; and the *Agricola* is an amalgam of various genres. For this reason, scholars have broken off these works and approached them separately—though sometimes *Agricola* and the *Germania* have been considered together. Consider the most prominent example: Ronald Syme views the *Dialogus* as Tacitus' valedictory to oratory before embarking on a career as an historian.² Likewise, Syme views the *Germania* and the *Agricola* as preliminary and not completely successful attempts at writing histories.³ The last translator to bring the three works together, Herbert W. Benario, sees unity in the three works as stages in Tacitus' development as an historian.⁴ He also rightly sees political overtones in the three works, insofar as Tacitus was using the works to contrast Domitian's reign with those before it and as setting groundwork for his two major works.⁵

¹ Rives (1999: 50–1); Woodman and Krauss (2014: 11).

² Syme (1958: 116). Roland Mayer (2001: 16) considers the *Agricola* the *Dialogus*' "companion piece," but makes no mention of the *Germania*.

³ Syme (1958: 128–9); see also Rives (1999: 50–1), Woodman and Krauss (2014: 25–30).

⁴ Benario (1966: xvii).

⁵ Benario (1966: xviii) also sees these three works' implied contrast of Domitian's reign with previous *principes* as part of his development of a historian, which would bear more mature fruit in Tacitus' two major works. I agree with Benario that political concerns unite the *opera minora* but disagree that these political critiques are in a developmental stage.

But rather than being an impediment to understanding the works as a unified undertaking, the three works' different literary forms are an essential part of Tacitus' project. The different literary forms enable Tacitus' rich investigation of the contemporary political landscape in all of its complexity. A corollary point is the order in which the works are read. It matters that these three works go together, because they present a coherent attempt to understand the political institutions and culture at the end of the first century, and each work's different literary form is key to understanding this project.

1.1 The Works' Close Publication Dates

As I said above, one hurdle to seeing the three works as a coherent project is their dating. Scholars overwhelmingly date the *Agricola* and the *Germania* to a year or so within each other.⁶ The *Dialogus*, however, has been variously dated from 97–108.⁷

A fuller investigation suggests that an earlier date is more compelling, namely 97–9. First, as Richard T. Bruère has shown, Pliny's *Panegyricus*, which was delivered to the Senate in 100, clearly reframes at least seven passages from the *Dialogus* in such a way that demonstrates that the *Dialogus* predates the

⁶ See, e.g., Woodman and Krauss (2014: 6, 11) and Rives (1999: 43–44, 47) dating the *Agricola* to late 97 or early 98 and the *Germania* to 98. Yet, as Rives (1999: 48) notes, dating aside, the *Agricola* and the *Dialogus* “have an obvious reference to both [Tacitus'] life and historical interests.”

⁷ See, e.g., Edwards (2008: 36–7); Mayer (2001: 22–27); Syme (1958: 116);

Panegyricus.⁸ Second, as Charles E. Murgia notes, the *Dialogus* shares “a number of similarities in thought and diction” with the *Agricola* and the *Germania*, such as the repetition of words and phrases not found in the *Annals* or *Histories*.⁹ Such similarity argues for the works’ compositions being close in time. Murgia and Barnes argue that the *Dialogus* is Tacitus’ first work. They argue that the *Germania* refashions phrases from the *Agricola*, and the *Agricola* does the same of the *Dialogus*. I find this argument unconvincing.¹⁰ Where Bruère and Rudolf Güngerich give numerous examples that carefully show the direction of influence from the *Dialogus* to the *Panegyricus*, Murgia’s evidence is not as extensive or detailed with regard to a linguistic approach.¹¹

Additionally, there is no reason to think that the *Agricola* was the first of Tacitus’ works. Much of the argument for the *Agricola* being the first work rests on the comment that it is breaking the silence of Domitian’s reign.¹² Tacitus noted an entire generation was spent in silence (*per silentium*); now, however,

⁸ Bruère (1954: 164–6 & F. 28). He argues for several “secondary” resemblances, though they may be accidental. For instance, the *Dialogus* echoes a phrase from the *De Oratore*, which emphasizes preparation for a speech. The *Dialogus* expands on this phrase by contrasting a prepared speech to the joy a speaker gets from giving a speech *ex tempore*. The *Panegyricus*, in turn, takes this comparison and applies it to one’s prayers to the gods. See Brink (1994: 266–7), who agrees with Bruère’s argument. The number of references the *Panegyricus* makes to the *Dialogus* argues against the fact that they were added after the *Panegyricus*’ delivery and before its publication. See also Güngerich (1956: 145–52), who is in accord with Bruère. Güngerich both expands on Bruère’s examples and provides several more of his own.

⁹ Murgia (1980: 108–10 & f.43); see also Barnes (1986: 231–2).

¹⁰ Much of the argument for the *Agricola* being the first work rests on *Agr.* 2.3–3.3’s comment that an entire generation was spent in silence (*per silentium*); yet now, they can speak with an uncivilized and undeveloped voice (*incondite ac rudi voce*) (*Agr.* 3.2–3).

¹¹ See Barnes (1986: 231) supporting Murgia. Barnes (1986: 232–3) also argues that in the *Dialogus*, Tacitus is leaving oratory and considering “whether to seek literary renown as a writer of tragedies.” This argument, however, does not place enough emphasis on the political nature of the *Dialogus*.

¹² See, e.g., Syme (1958: 131, 671); Bruère (1954: 161 & fn. 5); Woodman and Krauss (2014: 6–11).

people can speak, though with an uncivilized and undeveloped voice (*incondite ac rudi voce*) (*Agr.* 3.2–3). This is not at odds with the publication of the *Dialogus* before the *Agricola*. As we will see in the next chapter, the *Dialogus* carefully distances itself from overt political statements. Instead of focusing on a prominent senator or tribes who have successfully resisted Roman conquest, it focuses on the change of oratorical styles. And much of what is political commentary is done through allusions or insinuation,¹³ unlike the *Agricola*'s depiction of ineffective and corrupt administrators. For instance, in the *Agricola*, Tacitus puts names to the poor management of Britain (*Agr.* 16.4–6) and pins the blame for Agricola's death, at least partially, on Domitian's freedmen (*Agr.* 41).¹⁴ But, in the *Dialogus*, Tacitus distances himself from any overt political posture, arguably keeping his silence.

A hard date, however, is not vital to show that the *Dialogus* was part of an overall project with the *Agricola* and *Germania* for two reasons. First, it is likely that the three works' compositions overlapped. As Rebecca Edwards has shown, the publication of a work in Rome was a lengthy affair.¹⁵ After writing and producing a draft, authors would give *rectationes*, in which they would receive feedback. A draft could be sent to friends for suggestions.¹⁶ These processes could be repeated numerous times for a single work. Authors were also known

¹³ See also, Bartsch (1984); Strunk (2010).

¹⁴ There is also the clear implication that Domitian had Agricola assassinated (*Agr.* 43.2–4); see Woodman and Kraus (2014: 204–5).

¹⁵ Edwards (2008: 37–9); Mayer (2001: 24).

¹⁶ See Edwards (2008: 38–9) for examples involving Pliny and Zetzel (1995: 3–4) for an example involving Cicero.

to work on several projects at once, letting a few sit idle while concentrating on others.¹⁷ Such a lag could be several years. This is to say nothing of the time from initial conception of the project to writing, which, given Tacitus' political and professional constraints, may not have been immediate. In other words, even if the *Dialogus* were published more than a year after the *Agricola*, their development would have overlapped. Additionally, it is important to keep in mind that Tacitus had a lengthy career as an orator and imperial administrator before his literary career. During this time, he likely developed his ideas about nature of the Principate. In other words, even if the works were written apart from each other, they could still embody the same general ideas. This is a point that scholars have made about Plato's *Republic* and *Laws*, which are understood to be a part of the same unified project though written years apart.¹⁸ The chronology and dating do not matter because the works are "saying things that are recognizably the same; only the *perspective* is different."¹⁹

Second, the order in which we read the works (*Dialogus* → *Germania* → *Agricola*) does not depend on the order of publication or even composition.²⁰ If we assume an *Agricola* → *Germania* → *Dialogus* publication order, Tacitus started at the end, with his conclusion, and worked backwards, using each

¹⁷ See, e.g., Plin. *Ep.* 9.1.4; Mayer (2001: 24).

¹⁸ Schofield and Griffith (2016: 24); Laks (1990: 210). The *Republic* was written in the 370s and the *Laws* in the 350s.

¹⁹ Rowe (2007: 29).

²⁰ This is assuming *arguendo* that each work's composition did not overlap with the others.

subsequent work to explain the one published before it.²¹ More specifically, the *Agricola* shows the nadir of *libertas*.

By ending with that work, Tacitus would use the *Germania* and the *Dialogus* to explain how the Principate reached that state under Domitian. Doing this would show that such a situation was not preordained due to the fall of the Republic and rise of the Principate, but rather was the result of a series of decisions: how to reconcile monarchy with *libertas* (*Germania*); what are the new roles for republican political institutions and culture, such as oratory, when they are taken out of the republican setting (*Dialogus*). In this view, since a series of decisions led to what the *Agricola* depicts, a new series of decisions may lead to a new situation.

1.2 Different Genres Are Needed to Make the Project Coherent

Because the goal of Tacitus' project is not only to compare different political and social arrangements, but also to prompt the reader to consider the references with which to compare these arrangements, the genre each work uses is vital to achieving these ends. A genre places a work in a literary tradition that constrains the work's flexibility; it guides the work's form and the questions addressed. We can think of this as a type of serial novel.²² As Ronald Dworkin explains, in a serial novel "a group of novelists writes a novel *seriatim*; each

²¹ In a similar matter, the *Germania* being at the end of a *Dialogus* → *Agricola* → *Germania* publication order can be explained by the fact that Tacitus thought that the conceptual distance between the *Dialogus* and the *Agricola* was too far and another work was needed to bridge them.

²² Dworkin (1986: 229).

novelist in the chain interprets the chapters he has been given in order to write a new chapter.” A writer of a chapter in a serial novel must use already-introduced characters and settings as well as further advance the plot. This writer can, of course, subvert the plot as it stands by removing characters, adding new ones, and changing the setting. But the further along a serial novel is, the harder it is for the next writer to alter the novel’s structure. So it is with genres. When a writer uses a given genre, he is constrained by that genre’s conventions. And the more well-established that genre, the harder it is to deviate from its strictures. Of course, a writer can redefine that genre’s conventions, but the reference point is always the genre. Furthermore, writing in a specific genre connects the author with the society that established it; this may include its most prominent authors. So, as the *Dialogus* is linked to Roman philosophy and Cicero, and the *Germania* is tied to the non-Roman field of ethnography, the *Agricola*’s mélange of genres is a move away from the strictures of established traditions and into an open field in which Tacitus could approach and shape an issue more freely.

1.2.1 *Dialogus*

The *Dialogus*’ form as a dialogue is important for two reasons. First, the genre of dialogue is the closest point of contact with Ciceronian philosophy, particularly republicanism.²³ Cicero made the dialogue a Roman form of discourse. As James Zetzel notes, Cicero shapes the dialogue into a Roman

²³ Atkins (2018b: 5–7).

medium, one that “draw[s] attention to the shortcomings of Plato’s work,” namely that Plato’s work is theoretical and does not rely on human experience or history.²⁴ Cicero’s major works on republicanism—*De Re Publica*, *De Legibus*, and *De Oratore*—are not just dialogues, but ones in which the interlocutors ground their arguments in their own experience or relevant historical examples.²⁵ Furthermore, a Ciceronian dialogue privileges one discrete sphere of life, such as rhetoric, and discusses other spheres only to the extent that the primary concern touches upon them. *De Oratore* discusses a single topic—the ideal orator—and its relation to education, government, and philosophy.²⁶ But always, the ideal orator is the locus of thought.

Moreover, the topics of these works—statesmanship, law, and oratory, respectively—are all spheres of society in which one has to actively take part and push for his own views.²⁷ In *De Re Publica*, the interlocutor Scipio suggests and defends his view of Rome’s mixed constitution and the statesman’s role in it from the point of view of a public figure. The form of a dialogue—in which views are brought forth and refined via conflict—reflects life in a republic.

Second, the Ciceronian dialogue as a literary form compels the reader to take part in philosophy. As Jed Atkins notes of dialogue as a form in general,

²⁴ See Zetzel (1998: 14) noting that Cicero uses the dialogue form—echoing Plato—“to draw attention to the shortcomings of Plato’s work.” See also Atkins (2013: 26).

²⁵ For an analysis of *De Re Publica* and *De Legibus* “exploring the relationship between ideals and actual and realizable regimes,” see generally Atkins (2013), but especially 227–38. See also Schofield (2009: 77–8).

²⁶ Mankin (2011: 5–9, 20); May and Wisse (2001: 9–12).

²⁷ Zetzel (2013: 183).

“some dialogues are aporetic, skeptical, and open-ended, while others are more dogmatic and demanding of the reader’s assent.”²⁸ As we will see in the next chapter specifically and through this dissertation generally, the main Ciceronian intertexts for Tacitus are open-ended.²⁹ This approach casts Cicero’s reader as an observer—and judge—of the arguments presented, forcing the reader to weigh the conflicting claims. More than this, the parts of the dialogue extraneous to the direct discourse—setting, characterization, interstitial passages, and so on—inform the arguments being made and often provide further reasons to question those arguments. Consider that, in *De Oratore*, Crassus’ hunt for an ideal orator fails.³⁰ This ending forces the reader to reexamine how the dialogue was read and look for any gaps in thought that might have changed the conversations and resulted in a different conclusion. All in all, this open-ended approach to reading a dialogue constantly questions the arguments put forth.

By choosing a dialogue to present his thoughts on oratory, Tacitus is consciously echoing not only Cicero, but also his way of approaching the topic. The *Dialogus* and its interlocutors base their arguments on human experience rather than theory: Tacitus is operating firmly in a Ciceronian mold.³¹ As James M. May and Jakob Wisse have noted, using the literary form of a dialogue was “extremely rare” when Cicero did it, since most works on oratory were handled in

²⁸ Atkins (2013: 14, 14–26).

²⁹ See generally Schofield (2009).

³⁰ Dudley (2016: 135).

³¹ Mayer (2001: 31–32).

treatises; the form of a dialogue was meant to evoke memories of Plato's *Gorgias* and *Phaedrus*.³² So too with Tacitus. When he was composing the *Dialogus*, the most recent works on oratory were treatises, the most notable being Quintilian's *Institutio Oratoria*. By using a dialogue, Tacitus is recalling Cicero's own dialogues on the subject and their republican character. This connection is underscored by the fact that the *Dialogus* contains numerous echoes of Cicero's dialogues.³³ And like Cicero's dialogues, Tacitus' *Dialogus* focuses on one public aspect of society: oratory. By using a Ciceronian form, Tacitus applies a Ciceronian lens to examine how oratory has changed from the Republic to the Principate. Moreover, Tacitus frames the *Dialogus*—as well as the *Germania* and the *Agricola*—as an open-ended work in which the reader is expected to take part. Though this open-ended nature is important to reading the *Dialogus* and will be illustrated in this dissertation's chapter on the *Dialogus*, it is absolutely vital to understanding the *Germania*'s purpose. For not only dialogues (as a form) may be dialogical in nature; any work that prompts critical reflection of contrasting ideas is dialogical.

Additionally, the dialogue as a genre, especially as Cicero used it, is a constrained form. In *De Oratore*, the interlocutor Crassus observes that in a dialogue, a person speaks on each of two sides of a given issue (*in utramque partem . . . dicere*) or simply speaks against every issue that is brought forward

³² May and Weisse (2001: 9–12).

³³ See e.g., Köstermann (1930), though this will be covered thoroughly in the next chapter.

(*contra omne, quod propositum sit*) (Cic. *De or.* 3.80).³⁴ The dialogue, then, presents an issue as something an interlocutor either supports or rejects, thus limiting any investigation to a binary choice.

This is especially true in the late Ciceronian dialogues of the 40s. The situation may at first seem different in the political dialogues of the 50s, where a single dominant character, such as Scipio in Cicero's *De Re Publica*, is commonly seen to represent a single dominant view. Even here, however, the dialogue *in utramque partem* is featured in the central Book 3. And the republican ideology presented by Scipio admits of a binary. Consider Cicero's treatment of *libertas* in his dialogue *De Re Publica*. Scipio states that people who live under a king (*sub rege*) lack *libertas*, because *libertas* can only exist under no ruler (*domino . . . nullo*) (*Rep.* 2.43). In this formulation, a state can have *libertas* and no ruler or have a ruler and no *libertas*. Ciceronian dialogue as a genre reinforces republican ideology to prevent Scipio from suggesting that, in certain situations, *libertas* may exist under a ruler. In order for Tacitus to move beyond the binary investigation of the Principate suggested by republican categories, he then must use a different genre than the Ciceronian dialogue.

1.2.2 Germania

The ideas that are prevalent in the *Dialogus* are further developed the *Germania*. Tacitus wrote the *Germania* to complicate the republican³⁵ notion

³⁴ See Schofield (2009: 68–9) on this passage and a similar one in the *Tusculan Disputations* (2.9).

that there is only one type of monarchy, which is necessarily hostile to *libertas*. In his survey of Germanic tribes, however, Tacitus shows that there are various permutations of monarchy, and not all are destructive of *libertas*. Tacitus' use of an ethnographic form is integral to his investigation and is a move away from a Ciceronian-style investigation of republicanism, which focuses on one prominent sphere of public life. As we have seen above, Cicero's tack is to investigate a single public aspect of institutions and culture that bears on republicanism, such as oratory in *De Oratore*. By using an ethnography to investigate various permutations of kingship in society, Tacitus is showing how monarchy as a political form touches on all aspects of society, even ones that are not immediately apparent, such as marriage (*Germ.* 18). As a corollary, Tacitus is making a conscious move away from Ciceronian republicanism, which connotes a certain view of monarchy as necessarily hostile to *libertas*. Additionally, by not zooming in on one single aspect of society, Tacitus undercuts the notion that that government affects only public enterprises, such as oratory. In the *Germania*, Tacitus highlights that a government's actions are often more impactful in the private, rather than the public, sphere—or that such actions often break down these barriers. Tacitus' choice of an ethnographic form was all the more prominent because he was the first Roman to write a monograph on one people.³⁶

³⁵ Republicanism is defined below.

³⁶ Rives (2002: 14).

An ethnography encompasses all aspects of a society that is foreign to the reader. It is a Greek literary form, begun by Hecataeus of Miletus around 500 BC, whose work *Περίοδος Γῆς* launched the ethnographic tradition. This tradition follows two axes. One is the material it covers. By the time of Herodotus, ethnography as a form touched upon five categories: geography, climate, agriculture and natural resources, origins and features of the local people, and, finally, the political, military, and social institutions.³⁷ In the *Germania*'s first half, Tacitus follows firmly in this path, by noting, for instance, borders (*Germ.* 1), foundation myths (*Germ.* 3), physical characteristics (*Germ.* 4), and so on. Tacitus' overall goal is not to focus on one aspect of the people, but to provide a broad survey of Germania.

The second axis is how the ethnography is presented. There are three forms that ethnography can take.³⁸ The first form is periegetic, following a journey in order among different peoples and providing geographic information about them for sailors, merchants, and others interested in the area.³⁹ The second form is the ethnographic component of larger works, sometimes providing background for a larger historical investigation, other times full-length

³⁷ Thomas (1982: 1); Rives (2002: 15).

³⁸ See generally, Rives (2002: 12–4).

³⁹ For instance, The *Periplus Maris Erythraei* (“The Circumnavigation of the Red Sea”) was a first-century A.D. handbook for merchants in that area; see Casson (1989: 8–9; 45–7), see also Rives (2002: 12–3). It is roughly 50% longer than the *Germania*. The *Periplus* details sailing information and goods available at each port. In a few places, it notes local and regional rulers. But aside from the usefulness of knowing the local political structure, this information was economic, since the work “itemizes what goods can be sold to the ruler or members of his court.” In other words, these types of works did not primarily categorize political information.

ethnographic treatises on certain peoples.⁴⁰ These two approaches, though Greek in origin, had, by the end of the first century, become established in the Roman literary tradition.⁴¹ The third form is the ethnographic monograph, which focuses on a particular people or group of peoples. Though a popular subgenre among the Greeks, Romans were little interested in producing this type of ethnography.⁴² Tacitus was the first Roman we know who did so.⁴³

Tacitus innovates in that he is not just writing an ethnography and thus moving outside of a traditional Roman form, but even within the genre of ethnography itself, he moves beyond generic conventions by combining two of these three forms—the periegetic and monographic—to highlight different monarchical iterations.⁴⁴ Added to this is the fact that—as we will see more in the third chapter—the subject of the work, the Germani, are a political construct. As Otto Hirschfeld has demonstrated, the idea of the Germani was not based on any defining cultural or physical characteristics; rather, Julius Caesar grouped them together based on the fact that they successfully resisted Roman expansion.⁴⁵ All this shows that the *Germania*'s aim was to be not just a standard ethnography,

⁴⁰ Herodotus' focus in Book 2 on the Egyptians and Polybius' focus on the Celts (2.14–35) are two examples.

⁴¹ See Caesar's Gallic and Germanic ethnography (Caes. *BGall.* 6.11–28) and Sallust's African ethnography (Sall. *Iug.* 17–9).

⁴² Rives (2002: 13); Thomas (1982: 125).

⁴³ See Rives (2002: 13–4) on the possibility of ones by the younger Seneca.

⁴⁴ As we will see, Tacitus' use of those ethnographic forms is a prelude to his mélange of genres in the *Agricola*.

⁴⁵ Hirschfeld (1898).

but one that pushed conventions by investigating the Germani's political arrangements.

As I said above, Tacitus' motive for writing an ethnography is to break with Cicero's method of examining political issues in dialogues. In his political dialogues, Cicero focused on one aspect of society. As we have seen, an ethnography focuses on all aspects of society and does not necessarily privilege one. A corollary—but underappreciated—point is that covering such a broad topic in an ethnography allows Tacitus to preserve the open-ended philosophical nature that he replicated in the *Dialogus*. If Tacitus tried to cover these diverse topics in a dialogue, the dialogue through its length would lose its ability to compel the reader to take part in the philosophical process that is vital to Tacitus' overall project. To understand why this is so, let's turn to Mikhail Bakhtin.

Bakhtin tells us that a work is dialogic not because it is in the literary form of a dialogue, but because it prompts the reader to practice critical reflection. This is what he calls a dialogic form. The dialogic form's purpose is to test an idea from multiple vantage points.⁴⁶ True enough, this testing of an idea is often closely related to a dialogue, since a dialogue often forces two or more interlocutors to debate issues. Bakhtin writes, "Truth is not born nor is it to be found inside the head of an individual person, it is born *between people* collectively searching for truth, in the process of their dialogic interaction."⁴⁷ On

⁴⁶ Bakhtin (1984: 111–2).

⁴⁷ Bakhtin (1984: 110), emphasis in original.

a more specific level, two techniques emphasize the dialogic form. The first is anacrisis, which is traditionally understood as one interlocutor compelling another to state his views and defend them.⁴⁸ Anacrisis, then, is a way to illuminate thoughts or expose their inaccuracy, with which the reader is confronted. The second is syncrisis, which is the juxtaposition of opposing points of view on a topic. Through syncrisis, the interlocutors—and readers—are forced to address conflicting viewpoints in an attempt to reconcile them. These two features force the thought process—trying to arrive at a conclusion—to reveal itself, inducing the reader to question his own thought process throughout the dialogue.⁴⁹

A dialogic test of an idea exists on an open–closed continuum.⁵⁰ As we have seen, an open dialogic form asks a question but never resolves it, as is typical in Tacitus' *opera minora*; a closed one provides a ready-made answer to a proposed question.⁵¹ Although the dialogic form originated with the Socratic dialogues, according to Bakhtin, not all Socratic dialogues were dialogic.⁵² This is because the form had ceased to be a vehicle for Socrates and his interlocutors—as well as for the readers—to find certain truths, but rather became a way to deliver prepackaged truths in a question-and-answer format.⁵³

⁴⁸ Bakhtin (1984: 110); Zappen (2004: 46).

⁴⁹ Bakhtin (1986: 125).

⁵⁰ Clay (2000: 165–76).

⁵¹ This is what Mikhail Bakhtin (1984: 110) calls monologism.

⁵² Bakhtin (1984: 110); Atkins (2013: 14–5 & n.3).

⁵³ Bakhtin (1984: 110).

Plato's *Laws*—which Bakhtin does not believe to be dialogic—is an example of what an inquiry into all aspects of society would look like if it were a dialogue; it is not like the Ciceronian approach of examining one part of society and only other parts of society to the extent that they are relevant to that one part. The *Laws* is a conversation about political arrangements and law (περί τε πολιτείας τὰ νῦν καὶ νόμων) (Pl. *Leg.* 625a), their relation to each other and various parts of society. The *Laws*, then, is not just an excursus on a defined topic—such as *De Re Publica*'s statesman—but far-ranging conversation “in which different points of views about social and political order are to be voiced and debated.”⁵⁴ These viewpoints represent different ways to order society, contrasting Athens, Crete, and Sparta. The speeches range between topics as varied as marriage, education, business dealings, political organization, and structure, as well as the theoretical foundation of these things—all things covered in the *Germania*. But unlike a short work like the *Germania*, Plato's *Laws* covers twelve books, making it his longest dialogue. As a result of this length, the dialogic nature of the work disappears. References are too far apart to allude to similar points on a different topic to spark critical reflection.⁵⁵ This, in part, causes the work to lose its dialogic form.⁵⁶

Nevertheless, as James P. Zappen observes, in the open dialogic form, Socrates “did not try to tell others that their opinions were right or wrong . . .

⁵⁴ Schofield (2016: 3).

⁵⁵ See Bakhtin (1984: 110–1).

⁵⁶ Bakhtin (1984: 110).

rather, he invited them to test themselves by drawing forth their opinions and by juxtaposing them to other opinions, thereby leading them to see for themselves the errors and inconsistencies in their ideas.”⁵⁷ This process extends to the active reader who, by juxtaposing his ideas alongside those of the interlocutor, also becomes an inquirer for the truth. The open-ended process forces the reader to also question personal views, engaging in philosophy led by but apart from what is occurring in the dialogue. This makes the reader essentially another participant, albeit a silent one. We have briefly glimpsed how Cicero does this in his dialogues.

Another important point is that, in dialogues generally, Bakhtin notes that the testing of ideas means the testing of the person who represents those ideas. So, for instance, in the *Laches*, Socrates contrasts Laches’ and Nicias’ beliefs with how they actually conduct their lives.⁵⁸ This disconnect between thought and action creates a space that allows Socrates and the reader to question the interlocutors’ actions and conclusions. Vital to this understanding are not just the interlocutors’ speeches, but also the setting, as well as interstitial information, such as asides and how a character is described. But a large key to this is the relationship speeches have with each other, as they often refer to each other across topics and even days.

⁵⁷ Zappen (2004: 46).

⁵⁸ Zappen (2004: 47).

In the *Germania*, we will see how the dialogic form appears outside of the dialogue as a genre. According to Bakhtin, this is not an anomaly. Bakhtin notes that the dialogic form is present in novels, epics, historical surveys, and research papers.⁵⁹ In a scientific work, the researcher may juxtapose contending theories to fashion a new one to explain the given evidence.⁶⁰ By using one theory to respond to another, she might use the strengths of each to find a more comprehensive theory. In a similar manner, Tacitus' uses the tribes in his ethnography to examine their governmental structures through both anacrisis and syncrisis. Anacrisis is prominent in the *Germania*'s second half. There, each tribe represents a permutation of monarchy. But rather than directly explain how each permutation of monarchy affects *libertas*, Tacitus notes a cultural characteristic that may or may not be directly related to the given permutation of monarchy and *libertas*. This is similar to Bakhtin's point about the *Laches* above. The *Germania* often presents a *prima facie* reason for a tribe's specific political arrangement, only to undercut that reason when the tribe's actual organization is compared to the proffered reasons for that organization. For instance, the Suiones' king has absolute power supposedly because of the tribe's location and amount of wealth (*Germ.* 44.2). Nevertheless, a closer examination of this tribe's

⁵⁹ Bakhtin (1986: 113–26). For instance, such a novel's dialogic form is rooted in the fact the author's views are not forced on the reader in a monologism; rather, different characters present conflicting views irregularly. Bakhtin refines and elucidates this concept, which he calls polyphony, in analyzing Dostoyevsky's novels; see Bakhtin (1986: 151–2); Zappen (2004: 51–2).

⁶⁰ Bakhtin (1986: 118–9).

organization and a comparison of it with similarly-situated tribes undermine the proffered reasons.⁶¹

Second, syncretism is important to understating the *Germania*. The thread that runs through the whole work is Tacitus' examination of monarchy's effect on life, public and private. By continuously juxtaposing different types of monarchies in the work's second-half survey, he implicitly invites the reader to compare their differences. The anchor of these differences is individual *libertas*, which uses a guide to determine the severity of a monarchy. In other words, Tacitus uses each tribe's different permutation of monarchy to examine its effect on *libertas*. Just as the reader is supposed to question the statements of the *Dialogus*' interlocutors, the reader is likewise supposed to compare and question the *Germania*'s assertions.

The *Germania*'s interstitial parts—the parts not directly concerning the tribes' organizations and cultures—are no less important to facilitating a questioning approach. Consider the *Germania*'s beginning and end, which set the tone for how the work should be read. Near the end of the work, when he is discussing the tribes in the far east of Germania, Tacitus notes that information he has relayed “up to this point—by a true report—is the nature of things” (*illuc usque at fama vera tantum natura*) (*Germ.* 45.1).⁶² Yet Tacitus goes on to state details about several tribes, such as their farming habits and the weapons they

⁶¹ This will be covered in the chapter on the *Germania*.

⁶² See Rives (1999: 316–7) and Anderson (1938: 208–9) for various grammatical constructions in this passage.

use—cudgels, not iron (*Germ.* 45). This comment about true knowledge is at odds with these detailed comments. Consider the *Germania*'s framing of Hercules. He is mentioned in three different sections (*Germ.* 3.1, 9.1, 34.2).⁶³ The first two sections concern Germania-wide customs—battle preparations and religious sacrifices—and the third the limits of Germania's borders and Rome's exploration.

Each section's reference to Hercules is important for understanding a specific custom. For instance, the Germani's battle cry is said to originate from Hercules' visit to the Germani (*Germ.* 3.1). Tacitus, however, casts doubts on the story's veracity, stating that the Germani speak about (*memorant*) Hercules' visit many generations earlier, not endorsing this belief as he does for other Germani-propounded beliefs (*Germ.* 4.1).⁶⁴ This skepticism, though subtle, is important because it comes as Tacitus introduces the Germani's most notable quality, their militarism. The Germani's militarism is inexorably tied up with their overall political organization. In seeing military strength as key to a constitution, Tacitus is making a move common to both Polybius (Book 6) and Cicero (*Rep.* Book 2) before him. For they integrated the military into the constitutional analysis. For

⁶³ Rives (1999: 122–3) suggests that the Hercules mentioned in the sections may not be the same. The one in *Germ.* 3.1 is a hero and the one in *Germ.* 9.1 is divine. But more than this, the Greco-Roman Hercules may not be the Hercules prevalent in Germania, since many regions had their own "Hercules." These varied traditions and types of Hercules, however, only serve to underscore the ambiguity that a reference to Hercules brings to the surrounding assertions.

⁶⁴ In a similar vein, when relaying information about the ocean beyond Germania and the Pillars of Hercules in particular, Tacitus asks, "Did Hercules reach there, or are we in the habit of assigning whatever is splendid anywhere to his renown?" (*sive adiit Hercules, seu quidquid ubique magnificum est in claritatem eius referre consensimus*) (*Germ.* 34.2).

instance, Polybius' discussion of the Roman constitution cannot be fully understood without also understanding his analysis of the Roman military, which is bookended by the discussion of the constitution. By injecting an element of ambiguity as he begins to discuss the Germani's militarism, Tacitus is in fact introducing an element of doubt into his discussion of the Germani's political constitutions.

1.2.3 *Agricola*

As I said above, the *Agricola* is a mix of various genres but must be read in the light of the *Germania*. While the *Germania* is partly a survey of monarchical iterations, the *Agricola* portrays the most absolute of those iterations, as it appears in Roman form. This is evident from the beginning, when Tacitus states that his age had seen “what was the limit of slavery” (*ultimum . . . quid in servitude*) (*Agr.* 2.3) in respect to Domitian.⁶⁵ Moreover, like the previous two works, the *Agricola*'s investigation is very much tied up with its varied form. On its face, it is a biography and eulogy.⁶⁶ Moreover, as Syme has noted, “the treatise contains a dissertation on the history and geography of Britain, the narrative of

⁶⁵ Conversely, the Republic had seen what was the limit of *libertas* (*quid ultimum in libertate*) (*Agr.* 2.3). As we will see, this excessive *libertas* in the Republic is also a topic of debate in the *Dialogus*, in which Maternus states that *libertas* is the companion of sedition (*comes seditionum*) and without any compliance (*sine obsequio*) (*Dial.* 40.2). Moreover, the idea of *servitus* as the opposite of *libertas* is prevalent not only in this work, but in the well *Germania* as well. For instance, in the *Germania*, Tacitus notes that in societies where one person rules with no restrictions on his power (*nullis iam exceptionibus*), *libertas* is absent and slavery is present (*Germ.* 44.2–3).

⁶⁶ Birley (2010: 49) notes, “It is pointless to complain that the *Agricola* does not fit one literary genre,” since Tacitus was writing a *vita* with “no previous Latin biographies for surviv[ing] for comparison, except those by Cornelius Nepos.”

seven campaigns, the speeches of generals before battles.”⁶⁷ To this I would add that the work has strong ethnographic roots as well as the character of a psychological study. We have seen that the literary form is intimately tied to the topic it covers. By using numerous forms, Tacitus is showing that the Principate (as it then stood) affected various aspects of society, from political institutions and culture down to one’s own individual thoughts. Put differently, Tacitus’ use of this medley of various genres is designed to show that the Principate is an entity unclassifiable in traditional ways.

We have seen Tacitus write a dialogue and an ethnography. These genres are present too in the *Agricola*, most clearly in chapters 10 to 17, further tying the works together. In the ethnographic tradition, Tacitus includes Britain’s geography (*Agr.* 10), the inhabitants’ appearance (*Agr.* 11), and social and political organizations (*Agr.* 12–13). Like the *Germania*, the dialogic form is prevalent throughout the *Agricola*. For instance, before the ultimate battle, each commander—Calgacus and Agricola—gives a speech. Yet, these speeches are dialogic in the sense that they both address the same issue: the validity of Rome’s expansion into Britain, especially northern Britain. And like interlocutors’ speeches in the *Dialogus* and various descriptions of the tribes in the *Germania*, the reader is supposed to read the speeches in the light of the assertions made elsewhere in the *Agricola*.

⁶⁷ Syme (1958: 121–2); see also Woodman & Kraus (2014: 1–5).

But the most important aspect of the *Agricola* is its psychological dimension.⁶⁸ We have briefly seen in the *Dialogus* how a state can chill speech, even among friends. This chilling effect will be explored more in-depth in the next chapter. But a major thrust of the *Agricola* is showing how a political regime can alter individual's private thoughts and actions. This can be seen even under Domitian. When it is revealed that Agricola named Domitian a co-heir, Tacitus emphasizes the fact Domitian did not expect it: Domitian was delighted as if were a mark of gratitude (*laetatum eum velut honore iudicioque*) (*Agr.* 43.4). Tacitus goes further: "Domitian's mind was so blind due to constant flattery that he did not know that only a wicked *princeps* would be named an heir by a good father" (*tam caeca et corrupta mens adsiduis adulationibus erat, ut nesciret a bono patre non scribi heredem nisi malum principem*) (*Agr.* 43.4). The important takeaway from this is that even the *princeps* has been psychologically distorted by his own political regime.

The first part of this chapter shows how form follows content in reframing a republican analysis of monopolistic power. In the rest of this dissertation, I am going to show that this is true. But before I can undertake that argument, it is necessary to be clear about the ideology that Tacitus is working from as well as the ideology of the Principate that provides the context in which he is working. In the rest of this chapter, I will unpack these ideologies. Furthermore, in the

⁶⁸ Hammer (2014) is the most comprehensive psychological investigation into Tacitus; he explores the psychological impulses among the elite in Tacitus' *Annals*.

subsequent chapters, these ideologies will be further nuanced and spelled out in more definite ways as they pertain to the issues in those chapters.

1.3 Political Ideologies

1.3.1 Republicanism

Tacitus' *opera minora* are a response to the inability of the ideology of Roman republicanism to comprehend the Principate. Roman republicanism is a constellation of thought that grants certain privileges and protections to the various strata of Roman society. Though it arose during the Republic, some of its thinkers, like Livy, continued on past the Republic. The central idea behind Roman republicanism (republicanism or republican thought) is that the Roman people (*populus*) were the owners of the state.⁶⁹ The *populus* was not any group of men, but a society of a large size joined together by an agreement on the law and a sharing of benefits (*coetus multitudinis iuris consensu et utilitatis communiione sociatus*) (*Rep.* 1.39).⁷⁰ Republicanism's basis is most clearly seen in *De Re Publica*, in which Cicero states that "the *res publica* is the *res* of the people" (*res publica res populi*) (*Rep.* 1.39).⁷¹ *Res populi* takes on a double meaning: first, that the *res publica* is the affair of the people, and second that it is

⁶⁹ As Jed Atkins (2018b: 2–3) rightly points out, republicanism does not exactly correspond to the Roman Republic. Thinkers such as Livy and Tacitus wrote after the Republic fell.

⁷⁰ Moatti (2018: 187–9).

⁷¹ For the purpose of this dissertation, I will mainly focus on Cicero's account of republicanism. Cicero was the most prolific writer on the subject; see Connolly (2015: 16); Atkins (2018a: 5–6); see also Moatti's (2018: 187–224) chapter on Ciceronian theory in her recent book. And, as will become apparent throughout this dissertation, he had by far the greatest influence on Tacitus.

the property of the people.⁷² Cicero does not mean that *res publica* is actually property of the people, but that it may be conceived in this way. As owners, the people were able to entrust their property to another to manage, be it a monarch, the aristocracy, or the entire people itself.⁷³ But, as Malcolm Schofield has explained, when a ruler or ruling group treats the *res publica* as its own private property, harming the people's interests, "then there is a theft of public property."⁷⁴ At this point, the state ceases to be a public concern (*res publica*) since the state is (i) no longer ruled with the people in mind and (ii) the consensus on law and benefits no longer exists and guides policy.⁷⁵ When this happens, the monarch is a tyrant, the aristocracy an oligarchy, or the people a mob (*Rep.* 1.44).

Four features shape republicanism. First, *libertas*. *Libertas* is freedom from the possibility of domination.⁷⁶ As Chaim Wirszubski has pointed out, Roman *libertas* is rooted in the dichotomy of Roman slavery, that a person was

⁷² Schofield (1995: 69–77); Atkins (2018b: 26–7).

⁷³ It may be helpful to think of this arrangement like a trust of real property. The people own the *res publica* and entrust it to the government to manage for themselves (the people) and their descendants. The people are the trustor, since they made the trust. The trustee, the one who manages the property, is the government. The beneficiaries are the people and their descendants. Cicero points out the importance of the managing of the *res publica* with an eye toward the future, saying "the whole *res publica*, which as I said is the property of the people, must be guided by a certain amount of deliberation in order that it be long lasting" (*omnis res publica, quae ut dixi populi res est, consilio quodam regenda est, ut diuturna sit*) (*Rep.* 1.41). Like governance, this is an important aspect of trusts. A trust cannot be managed in such way that value of the real property is diminished, hindering future beneficiaries' use of it. If it is, the trustee has breached his duty and is subject to removal and personal liability.

⁷⁴ Schofield (1995: 75).

⁷⁵ Schofield (1995: 74).

⁷⁶ Arena (2012: 20–34); Strunk (2017: 24–5); Atkins (2018b: 40–1).

either a slave (*servus*) or free (*liber*).⁷⁷ Being a slave meant that one was another's property and thus was under the owner's control. A slave, like other property, could be bought, sold, or bequeathed. Even if a slave had a kind owner, one's legal status as a slave still ensured the possibility that he could be for sale.⁷⁸ We see the relation in the political sphere. Being free—not being a slave—meant not being under the arbitrary control of another, such as a king.⁷⁹ Instead of being subject to a system of laws, a subject is exposed to a king's *vis* and *dominatio*.⁸⁰ As Cicero notes, *libertas* is found not in having a just master (*iusto domino*)—or a king—but in having none (*nullus*) since, under a king, one is then ruled by will and desire of one man (*unius nutu ac voluntate*) (*Rep.* 1.43, 2.43).⁸¹ In republican thought, *libertas* was able to exist to the extent that the possibility of domination was able to be limited. The principal method of doing this was by legal and procedural mechanisms, such as a citizen's ability to appeal a magistrate's judgment and the right to vote in elections.⁸² For elite Romans, however, *libertas* was also dependent on an active space for political

⁷⁷ Wirszubski (1950: 1–2); Brunt (1988: 283–91); Atkins (2018b: 40–3). Brunt (1988: 283–91) carefully describes different types of slavery and slavery-like states, such as debt bondage, as well as the limited protections the law gave to slaves from abuse.

⁷⁸ Both Brunt (1988: 284–5) and Atkins (2018b: 42–3) note that a slave's legal position was not unique. A *paterfamilias*' power in the domestic sphere was nearly absolute: a son could not own property and if he committed a civil wrong, the *paterfamilias* could hand over his son to the injured party.

⁷⁹ Arena (2012: 16–26, 45).

⁸⁰ Atkins (2018b: 47).

⁸¹ To clarify, under this strand of thought, a king may rule a *res publica* as long as he is guided by (i) the people's welfare and (ii) the consensus on law and benefit.

⁸² Brunt (1988: 330–4, 338–42).

participation.⁸³ This space allowed elite Romans to enhance their public standing through public service.

Second, virtue. The Roman Republic did not have a written constitution, or even an extensive set of laws, which might have curtailed the accumulation of power and directed personal energies toward public goals. Instead of these hard limitations, Republican thought relied on the soft constraints of certain civic virtues to guide individuals to support and enlarge the Republic.⁸⁴ Perhaps more importantly, since individual glory was tied to success in obtaining ever-more important military and political positions, civic virtues were qualities that enabled individual Roman advancement. In theory, these civic virtues not only enabled individual Romans to politically and militarily advance, but in the process enlarged Roman power, home and abroad. Though the Romans did not agree on each specific virtue or their relative primacy, Cicero focused on four categories taken from Greek philosophy: wisdom, courage, moderation, and justice.⁸⁵ As I said, these virtues are publicly oriented.⁸⁶ For instance, wisdom is not abstract philosophical knowledge, but one's ability to navigate to obstacles of public life. It is an active intelligence: "Nor is it enough to have virtue as if it is some knowledge (*quasi artem aliquam*), unless you use it; even if it is possible that the knowledge (*ars*) is able to be held like some abstract knowledge

⁸³ Atkins (2012a: 768)

⁸⁴ Schofield (2009).

⁸⁵ Arena (2007: 56–7); Atkins (2018b: 77); Schofield (2009); Powell (2012). See also Kaster (2005) for the importance of other virtues, such as *pudor*.

⁸⁶ Martín (2017: 336–40).

(*scientia*) when you do not use it, virtue is located completely in its use” (*Rep.* 1.2).⁸⁷ By placing importance on these virtues, republicanism was able to direct potentially ruinous ambition and rivalries toward securing the state.

Third, the ability to use oratory in deliberation and judgment. Since the Roman *res publica* was entrusted to various bodies, the equitable way for these bodies to arrive at decisions was through deliberation that considered the impacts these decisions would have on various segments of society.⁸⁸ As Cicero notes in *De Re Publica*, every state (*omnis civitas*) and every commonwealth (*omnis res publica*) must be guided by some deliberation (*consilio quodam regenda est*) (*Rep.* 1.41). The most obvious place for this deliberation was the Senate, the “master of public deliberation” (*dominus . . . publici consilii*) (*Leg.* 3.28).⁸⁹ Bryan Garsten observes that “usually [deliberation/] *consilium* of the sort described in the *Republic* emerged not from a lone orator but from some public deliberation in which orators played a role.”⁹⁰ Orators here were proxies for various segments of society and were able to make sure that even the less powerful segments of society were given a hearing in a relatively impartial setting, reducing inter-class tensions. This is no less true in other venues for oratory, such as the courtroom. In his first major forensic speech, *In Verrem*, Cicero notes that anything less than an impartial hearing is dangerous for the

⁸⁷ Powell (2012: 18).

⁸⁸ In the next chapter, we will examine the different types of oratory, as well as the places where oratory can occur, such the Senate or legal spaces; see also, Atkins (2018b: 113–8).

⁸⁹ See Arena (2012: 97–9).

⁹⁰ Garsten (2006: 168).

Republic (*perniciosa rei publicae*) (*Verr.* 1.1.1) since it could inflame class tensions.

Finally, the rule of law. The rule of law curbs arbitrary power, helping to secure *libertas*. Livy links the overthrow of the monarchy to its disregard for the rule of law and grounds the Republic in its application of the law.⁹¹ In recounting the proximate cause of the monarchy's overthrow, the rape of Lucretia, Livy notes that the king, like his family and predecessors, acted with lawless domination (*vis*) and inordinate desire (*libido*) (1.59.8).⁹² In contrast, Brutus in rousing support against the monarch summoned (*advocavit*)⁹³ men in his role as Tribune of the Knights (*tribunum celerum*) (1.59.7). The law was a guard against the possibility of domination, a method to secure *libertas* by ensuring all were treated equally in legal matters.⁹⁴ This trend continued throughout the Republic. As we will see throughout this dissertation, legal protections were closely tied to the plebs' rights—right of appeal (*provocatio*), right to ask tribunes for help (*appellatio*), right to marry patricians (*conubium*), right to vote (*suffragium*)—which also helped ensure freedom from domination.⁹⁵

⁹¹ See Atkins (2018b: 46–48); see also Wilkinson (2012: 96), who states that the way Livy depicts “law and monarchy, suggest[s] that the two are opposed.”

⁹² See also, Atkins (2018a: 11–5), who, for instance, notes that *libido* includes, in the sense used here, “an arbitrary will.”

⁹³ In this sense, *advocare* means to summon according to prescribed legal methods; see, e.g., Sall. *Cat.* 46.6.

⁹⁴ For instance, in Cicero's *De Re Publica*, notes that the first law the centuriate assembly passed was the right of a citizen to appeal a magistrate's judgment to the centuriate assembly, “the cornerstone of citizens' rights during the Republic”; Zetzel (1998: 209). See also, Cic. *Off.* 2.41.

⁹⁵ Atkins (2018b: 46–8).

1.3.2 Ideology in the Principate

The critical change in the law from the Republic to the Principate was that someone—the princeps—was the source of the law and thus beyond its reach. We have seen that in the Republic, the commonwealth was public property (*res publica*) and that freedom from the possibility of domination was partially secured by law and citizens' rights. In name, this system continued under Augustus and into the Principate. In his *Res Gestae*, Augustus was at pains to point out that his actions conformed to the laws and customs in place during the Republic. Yet, throughout this rule Augustus consolidated ever more powers, especially ones that were designed to check each other. For example, Augustus was granted permanent *potestas tribunicia* without needing to become a tribune, which, as a patrician, he could not. Erich S. Gruen has noted, "As a possessor of tribunician authority without the tribunate, he had no fellow tribunes who could veto or curb his activities." Such a concentration of power put Augustus—and any following *princeps*—above the law. Additionally, Augustus became the source of law. Under the guise of reinstating laws that existed under the Republic and ensuring continuing peace, he established laws that limited the sphere of participation for the elites, leaving additional room for himself.

Owing to the princeps being the font of authority in the Principate, the focus of virtues shifted from the elite members of Republican society to the *princeps*, who is the head of the state. This is a point Seneca makes in *De Clementia*, in which he identifies the *princeps* with the state, as its head (Sen.

Clem. 3.5, 4.3–5.1). Because he is the state and keeps the state together, the law exists for his security, placing him outside of its reach. For this reason, the virtues of the *princeps* are particularly important, because he was not hemmed in by the law, which is made to keep the state functioning. Both Dio Chrysostom and Seneca note that self-restraint is vital for the *princeps* (Dio Chrys. *Or.* 3.10; Sen. *Clem.* 1.3). But since the law is not a guide for his conduct, contemporary political thought focused on whether the *princeps* has the right virtues to keep the state functioning. As Dio Chrysostom noted, “For, [a good] king acknowledges that virtue is a noble possession for others, but a vital one for himself” (ὁ γὰρ τοιοῦτος βασιλεὺς τοῖς μὲν ἄλλοις καλὸν κτῆμα τὴν ἀρετὴν νενόμικεν, αὐτῷ δὲ καὶ ἀναγκαῖον) (Dio Chrys. *Or.* 3.4). As Jed Atkins has noted, the *princeps*’ virtues are juridical ones, justice and clemency. But more than that, Seneca and Dio Chrysostom argue that rather than using the virtues to limit bad decisions by the *princeps*, the *princeps*’ position outside the law actually strengthens the legal system and society. For instance, Seneca argues that the law’s presence is in opposition to morality. Where the law is less relied on to enforce norms, community morality is strengthened: “In the state where people are rarely punished, an agreement on morality develops and is nourished for the common good” (*in qua civitate raro homines puniuntur, in ea consensus fit innocentiae et indulgetur velut publico bono*) (Sen. *Clem.* 1.23.2).

The change of the republican constitution further limited the public sphere for elite Romans. The Senate had been the high point for a political career; and it

was where matters of policy were freely debated. Yet, in the Principate, though republican institutions continued to perform vital functions in running the state, their membership was often dictated by the *princeps*. This had the effect of giving the *princeps* some control over the Senate. Nevertheless, Pliny tried to push back against this notion in his *Panegyricus*, suggesting that those tied to the *princeps* are the fairest government officials (Plin. *Pan.* 37). Nevertheless, this lack of public space for elite Romans is a theme prominent at the start of the *Dialogus*. Since the old elites had vacated some of the public and administrative sphere, those close to the *princeps* took over. In addition to elevating favorites to the Senate, the imperial administration was run and kept in order by slaves, freedmen, and *delatores*—a fact Tacitus brings to light in each work.

1.4 Conclusion

Throughout his *opera minora*, Tacitus is setting down a guide for how the Principate is related to, but also differs from, the Republic. The Principate is more varied than the Republic. This variation extends beyond the Principate's structure, such as the powers of the Senate. In each work, Tacitus examines the Principate from a different vantage point. In the *Agricola*, he examines the Principate's effect on the Roman elites and how it might corrupt them. In the *Dialogus*, Tacitus examines how and why the most dynamic practice in the Republic—forensic and deliberative oratory—adapted to a new political reality. Finally, in the *Germania*, Tacitus takes the widest view to examine how various forms of monarchy affect or are affected by wider society.

Tacitus undertakes this project because a new intellectual framework is needed to understand the Principate as well as the difficulties it poses. Republicanism up until this point too narrowly construed what a monarchy entailed. To break out of this constriction, Tacitus had to use different genres in the *Germania* and the *Agricola*. These genres provided a fresh lens to examine various aspects of the Principate. But pre-Tacitean republicanism did provide a strong point of contact—the Ciceronian dialogue—to situate the entire project. This is why Tacitus uses this genre to investigate how the practice of oratory changed from the Republic to the Principate.

2. Tacitus Tests Cicero's Hypothesis on Republican Rhetoric

A major thrust of Tacitus' *Dialogus de Oratoribus* is addressing how rhetoric has changed from the late Republic to Domitian's reign. Tacitus sees that Republican rhetoric, as he conceives it, is no longer a viable option in the Principate. This is not just because the institutional framework precludes it, though that is an important change; it is also, Tacitus suggests, because the political culture that must attend Republican rhetoric has inalterably changed. Since the *Dialogus*' discussion of rhetoric features prominently in the late Republic, Cicero is the most vital point of reference.¹ In some instances in this dissertation, Cicero will be used as an intertext; in others, he will be the best illustration of late Republican rhetoric.

Throughout *De Oratore* and *De Re Publica*, Cicero hypothesizes that Republican rhetoric cannot exist outside of republican institutions. Cicero suggests at least four areas where Republican rhetoric would change if it were removed from republican institutions: first, independent institutions are necessary for Republican rhetoric to flourish; second, such rhetoric is tied to state service; third, Republican rhetoric depends on the law and precedent; fourth, education—its substance and style—relies on *liberalia studia* and apprenticeships. These points show how Republican rhetoric is tied to the political institutions and the society around it. In the *Dialogus*, Tacitus explores

¹ See, e.g. Atkins (2018a: 757–8) for using Cicero as a proxy for republican thought.

these four points and shows how each has changed under the Principate and how each change has inhibited such rhetoric. And though he answers Cicero's hypothesis, he ends on his own unresolved question: can a monarchy be grafted onto republican institutions in such a way that it preserves Republican rhetoric? Tacitus leaves this question unresolved, because he is using the dialogic form to push his readers to think about not only the nature of rhetoric, but also rhetoric's viability vis-à-vis its political system.

2.1 What Is Republican Rhetoric?

At the outset of *De Oratore*, Cicero modifies Aristotle's definition of persuasion so as to emphasize the listener's freewill.² Cicero defines persuasion as the ability to change another's mind and thus obtain a desired outcome without resorting to outside coercion, such as threats or bribes:

“Nothing,” Crassus said, “seems more outstanding to me than to be able to hold the minds of a gathering of men through speaking, to win them over voluntarily, to drive them where he wishes, and to draw them from wherever he wants.”

“Neque vero mihi quicquam” inquit “praestabilius videtur, quam posse dicendo tenere hominum coetus mentis, adlicere voluntates, impellere quo velit, unde autem velit deducere.” (De or. 1. 30).

The capacity to choose is key. This is emphasized in two spots. The first is “to hold the minds of a gathering of men” (*tenere hominum coetus mentis*); this stresses winning the men over by valid argument. The second is “to win them

² See Fantham (2004: 161–185) for Cicero's reliance on Aristotle's *Rhetoric* and van den Berg (2014) for Tacitus's adoption of Cicero's approach. For Aristotle, “rhetoric is the ability of perceiving the possible methods of persuasion concerning any topic” (*Rh.* 1.2, 1355b 26–27).

over voluntarily” (*adlicere voluntates*). Though this may seem repetitive of the previous clause, the use of *voluntates* provides a clarification of *tenere . . . mentis*; it emphasizes the lack of coercion and therefore the audience’s freedom to weigh competing arguments.³ Importantly, no other interlocutor contests this definition, and, moving forward, it is accepted.

We here limit our discussion of Republican rhetoric to deliberative and forensic rhetoric. The first reason is that these two categories have an immediate political effect. We know from Aristotle that deliberative rhetoric aims at persuading a deliberative body (such as an assembly) to adopt some future policy (*Rh.* 1.3, 1358b 8–14) and that forensic rhetoric aims at establishing the justice or injustice of past actions (*Rh.* 1.3, 1358b 10–18). Though deliberative rhetoric is the most evidently political, forensic rhetoric is not far off since court cases often have strong political and deliberative elements.⁴

Second, when discussing rhetoric in political terms, the Romans themselves—including Cicero and Tacitus—deal only in the deliberative and forensic categories. At the very start of Book 1 of *De Oratore*, Crassus venerates rhetoric and, in doing so, delimits the conversations that will take place throughout the three books (*De or.* 1.30–34). The meat of his speech here centers on the benefits an orator obtains through his public service, which will be discussed in greater detail below. But for our immediate purposes it is sufficient

³ See also *Leg.* 3.33–38 for the argument for a secret ballot, which rests mainly on lack of coercion.

⁴ On this point see May and Wisse (2001: 7–8) and generally Riggsby (1999).

to know that the locus of the orator's rhetorical efforts—again, a point uncontested by his interlocutors⁵—is legal and deliberative spaces: the forum, the courts, the *rostra*, and the Senate House (*forum, subsellia, rostra curiamque*) (*De or.* 1.32).

This same emphasis on rhetoric working in these spaces is seen elsewhere. For example, in the prologue to Book 1—that is, in his own voice—Cicero argues that the Roman orator's primary duty is service to the state and that this duty closely aligns with the deliberative and forensic categories. For Cicero says that he does not want to put too great a burden of knowledge “on our orators, because they are especially busy in this great public service in the life of the city” (*nostris praesertim oratoribus in hac tanta occupatione urbis ac vitae*) (*De or.* 1.21).⁶ After singling out Roman orators, Cicero casts himself as following the Greek model, insofar as he limits the orator to that part of speaking which occurs only in disputes in the courts and in deliberative assemblies (*quae in forensibus disceptationibus iudiciorum aut deliberationum versaretur*) (*De or.* 1.22). What is not included here is epideictic oratory because Cicero suggests that it did not have a direct effect on political life at Rome. By excluding epideictic oratory, Cicero is framing politics as an activity that has an immediate impact in a public body, such as an assembly or court, and that affects the rights or status of an

⁵ Scaevola objects to parts of Crassus speech, but grants the parts that concern the orator's political activities in forum, *contiones*, courts, and Senate (*remoto foro, contione, iudiciis, senatu*) (*De or.* 1. 35).

⁶ Cicero routinely used *occupatio* in sense of “public service” or “service to the state.” See *Lewis & Short* II.B for this usage and example. See also, *OLD* 2.b for more numerous examples.

individual or a group.⁷ The *Dialogus* likewise focuses on deliberative and forensic oratory.⁸

From the above analysis of Republican rhetoric, we have examined the necessary parts that should enter into the definition. That definition is: Republican rhetoric is the ability through persuasion to change the mind of a political body which can make in its sphere of authority a non-coerced decision that directly affects the legal rights or status of an individual or a body of individuals.

2.2 Approaching the Dialogus

Tacitus was a careful reader of *De Oratore* specifically and Cicero more generally.⁹ Nevertheless, before we delve into how Tacitus reworks various Ciceronian strands in *De Re Publica* and *De Oratore* at the start of *Dialogus*, let's first examine a few of the ways in which Cicero evidently influenced the start of the *Dialogus*. This is vital because from the *Dialogus*' beginning Tacitus wants the reader to make comparisons between his work and Cicero's. And as we progress through this chapter, we shall observe more points of contact.

⁷ Some scholars have argued epideictic oratory was indeed political because it affected political culture. For instance, John Dugan (2009: 181) has argued that epideictic speech during the Republic "was not divorced from politics." Dugan states that "a central goal of the funeral orations of the Roman nobility was to advertise the record of service to the Republic made by the deceased and his ancestors." This is undoubtedly so, but, at root, Dugan has a broader conception of politics from what Cicero is presenting. Nevertheless, in the *Germania* and the *Agricola*, we will see Tacitus reject Cicero's narrow conception of politics and reframe it more broadly than even Dugan to include activities such as weddings and marriages.

⁸ Mayer (2001: 4).

⁹ See, for example, Mayer (2001: 12–14); van den Berg (2014: 215–38); Köstermann (1930).

First, consider the dramatic frame. All three works are written in response to an inquiry from a close companion: Cicero is responding to a request (*quod requiris*) of his brother, Quintus, to explain the principles of oratory (*De or.* 1.4),¹⁰ and Tacitus is attempting to answer L. Fabius Justus asking (*saepe ex me requiris*) why oratory has declined in quality (*Dial.* 1.1).¹¹ Second, and more broadly, Tacitus frames his answer in a recounted speech set a generation earlier (75), much like *De Re Publica* and *De Oratore*. Both of Cicero's dialogues are set at least two generations before they were actually composed, which was 56–51, making the *remembered* aspect of the conversation important. *De Re Publica* is set in 129, during the Gracchi's land reforms, and *De Oratore* is set on the eve of the Social War. To understand why Cicero used this device—and why Tacitus later would as well—it is vital to remember Cicero's political position at the time of composition.

When Cicero composed these two works—54–51 and 55, respectively—the powers of the Senate and the edifice of the Republic were under assault by populist leaders, such as Pompey and Caesar. As James Zetzel has pointed out, *De Re Publica* was written when the structures of Republican Rome were already collapsing.¹² Furthermore, during the period of composition, Cicero was out of power; he held no office, few sought his advice, and he was relegated to his villa,

¹⁰ The same holds true for *De Re Publica* (Zetzel 1995: 4).

¹¹ Underlined words will be ones echoing another passage or of other special importance.

¹² Zetzel (2010: xix–xx); see also Millar's (1998: 167–96) analysis of populist forces undercutting democratic customs.

where he commented on politics in letters to friends. Cicero was acutely aware his situation could worsen; for during this time, Pompey had advised Cicero, through his brother Quintus, to be quiet about politics if he did not want to be exiled again (*Fam.* 1.9.13).¹³ But to deflect criticism of meddling in current politics and thus avoid political retaliation, Cicero wrote philosophical works set in the past. As he stated in a letter to his brother Quintus about composing *De Re Publica*: “But had I followed that plan, that by setting it in our times, I might not offend anyone” (*ego autem id ipsum tum eram secutus, ne in nostra tempora incurrens offenderem quempiam*) (*QFr.* 3.5/6.2).¹⁴ Cicero feared that openly defending Republican institutions would strongly align him with a Senate-centric ideology that was scorned by the late 50s. By broadcasting his political loyalties, Cicero would lose room to maneuver politically, lessen his chances to regain political power, and potentially end up exiled again, or worse. Cicero, of course, still intended to defend Republican institutions but had to do it in a more circumspect way. By setting *De Re Publica* in 129, Cicero was able to provide the intellectual justification for Rome’s republican government that was currently under assault without antagonizing those who were benefitting from its weakening.

De Oratore was no different. As stated above it was set in 91 for the same reason as *De Re Publica*—fear of political retaliation. For as Elaine Fantham has

¹³ Fantham (2004: 9).

¹⁴ For a fuller discussion of this letter, see Zetzel (1998: 3–6).

pointed out, Cicero “could no longer voice his own political principles without urgent risk—that is risk of prosecution and expulsion from life at Rome.”¹⁵ This may seem a bit odd, since *De Oratore* on its face is not as blatantly political as *De Re Publica*, which centers on the proper role of the *optimates* in leading the government. But, as we will see further, the ideal orator’s existence is predicated upon the existence of republican institutions which Cicero saw current ideologies eviscerating.

With this background in mind, we now turn to Tacitus’ imitation of this form.¹⁶ Tacitus deliberately echoes Cicero’s use of remembered dialogues.¹⁷ In this manner, Cicero explains, he will reproduce the various theories on oratory elucidated by the most eminent men of his age:

And I must call upon a not-perfectly-remembered recollection of a certain old memory, but one, as I judge, fitting to what you inquire about, as you will learn those things which the most eloquent and distinguished men understood about every theory of oratory.

*Ac mihi repetenda est veteris cuiusdam memoriae non sane satis explicata recordatio, sed, ut arbitror, apta ad id, quod requiris, ut cognoscas quae viri omnium eloquentissimi clarissimique senserint de omni ratione dicendi (*De or.* 1.4).*

As Erich Köstermann has pointed out, this section greatly influences Tacitus.¹⁸

Like Cicero at the start of *De Oratore*, Tacitus also uses his own voice to relate the

¹⁵ Fantham (2004: 9–10). Unfortunately, Fantham does not much discuss the importance of the setting to Cicero’s own political situations (2004: 19–20; 26–48).

¹⁶ Underlined words and phrases are Tacitus echoing Cicero.

¹⁷ Cf. van den Berg (2014: 33).

¹⁸ Köstermann (1930: 399).

conversation. What is more, Tacitus not only hits the same general theme as Cicero—the use of memory to illuminate various theories propounded by eminent men—but uses the same keywords or very similar ones:

So, I need not intellect but memory and recollection, as I have followed those items which were subtly expressed and seriously said by the most outstanding men, when each proposed different but likely cause [for the decline of oratory].

ita non ingenio, sed memoria et recordatione opus est, ut quae a praestantissimis viris et excogitata subtiliter et dicta graviter accepi, cum singuli diversas sed probabilis causas adferrent (Dial. 1.3).

Like Cicero, Tacitus also uses *memoria* and *recordatio* to emphasize the use of memory. And where Cicero uses superlatives to illustrate the ability and position of his interlocutors (*virī omnium eloquentissimi clarissimique*), Tacitus does likewise, using an adjective that carries the same meaning (*praestantissimis viris*). It is only when talking about the various propounded theories (*diversas sed probabilis causas*) does Tacitus depart greatly from Cicero's syntax (*de omni ratione dicendi*), though the same meaning is kept.

Tacitus imitates Cicero's use of a remembered dialogue in part to signal at the time of his (Tacitus') writing that he believes it is still dangerous to write political works. In the *Agricola*, which was being written contemporaneously with the *Dialogus*, Tacitus notes that until very recently, until Trajan's reign began two years earlier, opponents of the regime had been executed: for the most able had fallen to the savagery of the previous *princeps*, Domitian (*promptissimus quisque saevitia principis interciderunt*) (*Agr.* 3.2). Tacitus

further notes that even exchanges through speech and hearing had been taken away by *delatores* (*adempto per inquisitiones etiam loquendi audiendique commercio*) (*Agr.* 2.3). Although Trajan's reign provided hope that this culture was changing, Tacitus was wary. At the very least, the contemporary culture still resembled the one Domitian had fostered because "due to the nature of human failings, remedies are slower than the maladies" (*natura tamen infirmitatis humanae tardiora sunt remedia quam mala*) (*Agr.* 3.1). So, even if Trajan was changing the culture at Rome, it would take many years. And since the culture under Trajan still resembled that of Domitian, Tacitus, like Cicero, was still hesitant to openly signal his opinions. Moreover, Tacitus also sets the *Dialogus* a generation earlier because at the time of his writing, Trajan had recently assumed the throne, and prominent senators hoped that in the coming years, Trajan would restore power to the Senate and men of that class generally.¹⁹ By setting the work in the nadir of senatorial power, Tacitus more easily delineates the effects on the senatorial class of a ruler who is hostile to them. So, the accession of a favorable ruler provides the opportunity to consider a revived senatorial class.

Because Tacitus is imitating Cicero, we must notice how Tacitus departs from Cicero. In this way, we should read *all* the *Dialogus*, and not just focus on single speeches. This includes looking beyond its speeches to examine its "conventions, habits, codes, and strategies," as Christopher van den Berg has

¹⁹ See Tac. *Agr.* 3 and Plin. *Pan.*

argued.²⁰ But it also requires reading across speeches—not just the speeches as “pairs”—such as when an interlocutor reframes an issue or addresses it in an unexpected way, and examining intertexts. Oftentimes, the most interesting questions have gone unanswered.

2.3 Cicero’s Hypothesis

2.3.1 Republican Institutions

As I said above, Cicero hypothesizes that Republican rhetoric cannot exist outside of republican institutions. This is a key argument at the start of *De Oratore*, an argument that is never resolved. Crassus contends that Republican rhetoric can exist apart from political institutions since it is the force that joins scattered men (*dispersos homines . . . congregare*) and since it establishes the law (*leges . . . describere*) after institutions are founded (*iam constitutis civitatibus*) (*De or.* 1.33). So, Crassus is arguing that rhetoric can be independent of political institutions since it existed *before* them; in other words, he is arguing that rhetoric and institutions are independent phenomena. And to make no mistake that Crassus is discussing what we above have termed Republican rhetoric, Crassus says the same rhetoric also guides legal and political life in established communities (*De or.* 1.34). Joy Connolly has mistakenly taken Crassus’ view as Cicero’s and so ascribes to Cicero the idea that the orator

²⁰ van den Berg (2014: 90–97).

established civilization.²¹ Citing the passage immediately above, she writes, “recall [Cicero’s] account of the origin of civilization, where the first civilization was the invention of the first orator.”²² There is, however, a reply to Crassus’ argument.

Scaevola rebuts Crassus’ argument. He says, “Crassus, I’m afraid that I’m not able to grant . . . that states are founded and often preserved by orators, as you’ve said.” (*Crasse, vereor ut tibi possim concedere . . . quod ab oratoribus civitates et initio constitutas et saepe conservatas esse dixisti.*) (*De or.* 1.37).²³ Scaevola is singling out Republican rhetoric. This becomes apparent once Scaevola demonstrates that contemporary rhetoric cannot work outside contemporary (read: republican) institutions. He does so by illustrating Republican rhetoric’s nonexistent role under the Roman kings. Scaevola notes that the kings and Brutus ruled not through rhetoric (*eloquentia, verba*) and its attendant institutions, but through a small group of advisors (*consilium*) (*De or.* 1.37).²⁴ He is implying that stable republican institutions are needed for rhetoric to flourish. Tellingly, this issue between Crassus and Scaevola is never resolved.

²¹ Connolly (2007: 138, 144).

²² Connolly (2007: 138). Of the other two authors who have spilled much ink on *De Oratore*, Fantham (2004: 209 n.1) does not remark on the orator’s role in the genesis of civilization, nor does Garsten (2006).

²³ It comes as something of a surprise that no scholar to my knowledge has written about Scaevola’s first objection, the one I deal with here. Fantham (2006: 107), however, does devote a few sentences to his second one, that the orators in accomplished in all kinds of discourse.

²⁴ For Scaevola’s purpose, though Brutus had ended the line of Roman kings he had not yet put into place requisite republican institutions (*De or.* 1.37); as a result, Brutus was structurally “monarchical,” see May and Wisse (2001: 66 n.29).

Nevertheless, Cicero elsewhere suggests that Republican rhetoric cannot function outside of republican institutions. Specifically, in *De Re Publica*, Scipio states that Republican rhetoric is incompatible with monarchy (2.43). This is because monarchy is predicated upon one ruler’s power (*potestas*). This power is exerted on the people, who are subservient to a king (*sub rege*). This is in stark contrast to every iteration of rhetoric we have seen, which is predicated upon persuading the mind, not forcing the body. For this reason, in a monarchical framework the most important object that is lacking is liberty (*libertas*), which is freedom from the possibility of domination or interference.²⁵ This is true even under a just ruler, since it is the framework itself that precludes liberty.²⁶ Connolly correctly notes for Cicero, “non-domination involved more than just being free from actual interference by other people at any given moment in time. It means being free from even the possibility of arbitrary interference by others.”²⁷

In the place of a republic’s large gatherings, Cicero suggests persuasion in a monarchy occurs in small groups that surround the monarch. In *De Re Publica*, Cicero expands on the idea of a monarch’s *consilium*, which we have seen above at *De Oratore* 1.37. At the start of Book 2 of *De Re Publica*, Cicero recounts the reign of Rome’s first king, Romulus. Cicero highlights that Romulus

²⁵ Pettit (1999: 27–28, 283–84). See also Atkins (2013: 143 et seq.) for a discussion of *libertas* in the Roman historical mind as well as its relationship to Roman citizenship. Note that this is the same word—*libertas*—that Maternus says is a precondition for rhetoric, though, as we’ll see, he changes its meaning (*Dial.* 40).

²⁶ Cf. Köstermann (1930: 420).

²⁷ Connolly (2014: 28), citing this passage. Atkins (2018a) additionally stresses that participation in politics is also necessary for *libertas*.

co-opted the city's leading men (*principes*) into a royal council (*regium consilium*) (*Rep.* 2.14). Though this council would later evolve into the Senate—I will now call it a proto-Senate—it was not yet independent of the king and could exercise no independent power. Cicero makes this clear in the next chapter when he states that Romulus was following in Lycurgus' tradition, which established that “states are guided and ruled better by sole sovereignty and kingly power if the authority of the best men is joined to king's absolute rule” (*singulari imperio et potestate regia tum melius gubernari et regi civitates, si esset optimi cuiusque ad illam vim dominationis adiuncta auctoritas*) (*Rep.* 2.15). The underlined words emphasize that all formal executive power lay in the monarch's hands, whereas the “best men” have *auctoritas*.

On this section generally, Michael Oakeshott, followed by Jed Atkins, rightly sees a separation between a Roman king's *potestas* and the proto-Senate's *auctoritas*.²⁸ For *potestas* was the ability to exercise the powers of a specific office whereas having *auctoritas* was “having the initiative to think and to deliberate and speak about policy.”²⁹ Oakeshott further explains “in the early years of Rome [the members of this proto-Senate] were simply the ‘magnates’ of the kingdom whom the king might consult if he chose: their business was to discuss and advise when called upon to do so.”³⁰ Oakeshott is correct to bring out

²⁸ Oakeshott (2011: 220–24); Atkins (2013: 107–8). Connolly (2007: 125) rightly recognizes that the Republican Senate embodies *auctoritas*.

²⁹ Oakeshott (2011: 222–23).

³⁰ Oakeshott (2011: 210).

the proto-Senate's debate-and-advise function. Nevertheless, he is undervaluing the power it did wield in this way; it was more than simply a neutered political body.³¹ In at least three places, Cicero highlights this body's power under Romulus, from which point on it only grew. First, after Tatius' death, Cicero remarks, Romulus ruled depending even more on the authority and advice of the proto-Senate (*multo etiam magis Romulus patrum auctoritate consilioque regnavit*) (*Rep.* 2.14). Second, and again, when waging war against Rome's neighbors, Romulus relied on and was strengthened by this almost-senatorial council (*hoc consilio et quasi senatu fultus et munitus*) (*Rep.* 2.15). What these two lines are implying is that Romulus *qua* king needed the support of the kingdom's "magnates" to reign. In fact, the proto-Senate's support was key to making war. Third, though Cicero repeats the tale that Romulus ascended to heaven during an eclipse, he strongly implies that the members of the proto-Senate killed him (*Rep.* 2.17, 20). Regardless of the tale's truth, this very implication demonstrates that the Senate wielded considerable power—enough to get away with regicide. I am not arguing that the proto-Senate in Cicero's philosophy wielded kingly power, but rather that its power encompassed more than what might be assumed under "discussing and advising." This is why Cicero still called these advisors an "almost-senatorial council" (*hoc consilio et quasi senatu*) (*Rep.* 2.15) or even the Senate (*Rep.* 2.17, 23).

³¹ Garsten (2006: 168) makes the same mistake when he argues that "usually *consilium* of the sort described in the *Republic* emerged not from a lone orator but from some public deliberation in which orators played a role."

For Cicero, the essence of a senate—regardless of whether it is in a republic or a monarchy—was its ability to debate and *persuade*. We can see this if we turn to *De Oratore*: Cicero has always emphasized the debating-and-persuading nature of the Senate, which is a place where you are able to persuade through speech (*oratione persuadere possis*) (*De or.* 2.333). Nevertheless, as a *consilium*, space must be given for others to speak and attempt to persuade: “and, in the Senate, these things must be done with less pomp; for this is a wise council and space must be ceded to many others to speak” (*atque haec in senatu minore apparatu agenda sunt; sapiens enim est consilium multisque aliis dicendi relinquendus locus*) (*De or.* 2.333).

Cicero’s analysis of the Senate in the light of Roman history suggests that even a monarch had to rely on a small group of individuals (*consilium*) for advice. But as the price for receiving their advice and support, a king had to open himself up to their persuasion. So, in other words, the locus of persuasion in a monarchy is around the monarch—not around other political institutions. *De Re Publica* and *De Oratore* thoroughly detail rhetoric in a republican setting, yet Cicero is hazy on the details of rhetoric in a monarchy. The explanation is simple: because he never lived in a monarchy and because there was a paucity of sources detailing the use of rhetoric under the Roman kings, Cicero is vague on how this type of rhetoric actually functioned.³²

³² Unlike other parts of this subsection, these few paragraphs are not alluded to in the *Dialogus*, since the focus of that work is the effects a monarchy has on republican culture. As we will see in

2.3.2 Service to the State

In Ciceronian thought, a man's usefulness is tied to his service to the state, often through his use of oratory. This is key to both *De Oratore* and *De Re Publica*. Early in *De Re Publica* and in his own voice, Cicero discusses two groups of individuals, philosophers and orators, and their role in the state (1.12–13). On the former group, Cicero states that certain Greek philosophers, who did not directly take part in government (*etiamsi qui ipsi rem publicam non gesserint*), nevertheless fulfilled a public duty (*functos esse aliquo rei publicae munere*) through their research and writing (*Rep.* 1.12). Cicero surmises this public duty is the reason the Greeks called these seven philosophers wise (*sapientis*). The thrust of Cicero's thought immediately follows. On service to the state, Cicero writes: "there is nothing else in which human virtue approaches divine will more closely than in establishing states or in preserving them" (*neque enim est ulla res, in qua propius ad deorum numen virtus accedat humana, quam civitatis aut condere novas aut conservare iam conditas*) (*Rep.* 1.12). For this reason, any art that aims at this type of service is the highest branch of that

later chapters, this idea of a monarch's *consilium* manifests in various forms such as the *Dialogus'* two companion works (see, e.g., *Agr.* 41, *Germ.* 11) and his longer works (see, e.g., *Ann.* 2.26, *Hist.* 1.14–16).

profession. So, political philosophy is then necessarily the most important branch of philosophy.³³

In a similar way, in *De Oratore*, Cicero locates an orator's duty in performing state service.³⁴ For an orator must shape policy (*auctorem publici consili*), lead the state (*regendae civitatis ducem*), and not just speak in the senate, but be a chief man (*principem*) there, based not just on his eloquence (*eloquentiae*) but also on his reasoning (*sententiae*) (*De or.* 3.63). This connection extends to philosophy. For Crassus states that most schools of philosophy cannot educate the orator since they focus on defending pleasures (*patrocinium voluptatis*), and are thus not befitting one who is a chief man in the senate, before the people, and in legal cases (*principem in senatu, in populo, in causis publicis*) (*De or.* 3.63). The idea that only political branches of philosophy are befitting an orator is a point of connection to *De Re Publica*.

Consider Crassus' discussion of the most suitable philosophy for an orator. Crassus argues that Carneades and Aristotle as well as certain Presocratics are the best models.³⁵ Crassus does so not because a study of such philosophers will give the orator's words a delightful ring, but because these philosophers linked oratory to leading the state:

³³ Later in the work, Laelius and Tubero agree it is better to pursue a branch of Greek philosophy that concerns political life (*vel ad usum vitae vel etiam ad ipsam rem publicam*) (*Rep.* 1.30). See also Nicgorski (2016: 5–9), who notes the priority of political philosophy in Cicero's thought.

³⁴ Compare with May and Wisse (2001: 4), who argue that Cicero assumes the orator's importance in politics and so leaves the connection unstated. In so framing the issue, they are looking for passages that state that oratory is vital to activities in the forum and the like.

³⁵ See Conley (1990: 36–37) for Cicero's debt to Carneades; see also Garsten (2006: 151–55).

For, as I said earlier, the Ancients, all the way down to Socrates, were accustomed to join to the study of oratory, the inquiry and knowledge of all things which related to the customs of men, to life, to virtue, to the Republic.

Namque, ut ante dixi, veteres illi usque ad Socratem omnem omnium rerum, quae ad mores hominum, quae ad vitam, quae ad virtutem, quae ad rem publicam pertinebant, cognitionem et scientiam cum dicendi ratione iungebant (De or. 3.72).

Much like the comments above, the emphasis here is on the branch of philosophy we now call political philosophy. And in the avoidance of philosophies that concern pleasure (*voluptatis*) and the promotion of those concerning proper governance (*quae ad rem publicam pertinebant*), we see that the orator's main role in Ciceronian theory concerns being active in the state.

2.3.3 Law in the Republic

As Livy generally notes, law is a marker of republican government since it curbs magistrates' caprice and license (*libidinem ac licentiam*) (3.9.5) and applies equally to all (*omnibus . . . iura aequasse*) (3.34.3).³⁶ But to see how the law changes from the Republic to the Principate, we will examine closely two different aspects of law in the Republic. The first aspect to examine is Cicero's attempt to reconcile rhetoric's separation from morality by using the law to limit rhetoric's most harmful byproducts, such as civil insurrection or civil war. The second aspect will examine how the law's step-by-step application limits arbitrariness and the effect of an individual advocate's eloquence. More

³⁶ See Atkins (2018b: 47).

generally, both aspects are necessary to understand the *Dialogus*' portrayal of law in the Principate.

2.3.3.1 Morality's Separation from Rhetoric: Cicero's Solution

The view that rhetoric is amoral is a threat Cicero addresses in his works. He understood that rhetoric was commonly viewed as distinct from morality.³⁷ In other words, an individual could use rhetoric in a moral or immoral way.³⁸ This emphasis on the corrupting nature of oratory is nothing new. The theme stretches at least as far back as Plato's *Phaedrus* and *Gorgias*; Cicero was a careful reader of both works. In the *Gorgias*, Plato identified that rhetoric was necessarily divorced from its moral usage. And as E.R. Dodds has remarked, "in Plato's view no society can afford to be content with a morally neutral education, which puts the instruments of domination into the hands of the morally ignorant."³⁹ The *Phaedrus*, on the other hand, focuses on the speaker's form and content.⁴⁰ During a discussion on the aims of rhetoric, Socrates brings out rhetoric's amoral qualities when he states, "So, the one practicing rhetoric will make the same appear to the same people at one point to be just, and whenever he wants, to appear unjust?" (οὐκοῦν ὁ τέχνη τοῦτο δρῶν ποιήσει φανῆναι τὸ αὐτὸ τοῖς αὐτοῖς τοτὲ μὲν δίκαιον, ὅταν δὲ βούληται, ἄδικον;) (*Phdr.* 261d). What

³⁷ Dudley (2016: 86–137).

³⁸ But see Remer (2017: 20), who argues that for Cicero "true rhetoric/politics [was] a moral activity," and therefore not an activity that needed to be reined in.

³⁹ Dodds (1959: 10).

⁴⁰ Yunis (2011: 186).

Socrates is making clear here is that an orator can and will persuasively argue for a position regardless of whether it is correct.⁴¹

Cicero's *De Re Publica* picks up on the amorality of rhetoric that is so prevalent in Plato and notes the threat it poses to a republican society. He says that eloquence can pervert the legal and democratic systems more easily than even bribery:

Since, in a republic, nothing ought to be as incorruptible as the ballot or a judicial judgment, I do not understand why, that the man who corrupts with money is worthy of legal punishment but he who does it with eloquence garners, by all means, praise. The man who corrupts a judge with oratory seems to do more harm than the man who corrupts with money, since no one can corrupt an honorable man with money, but he can with praise.

Cumque nihil tam incorruptum esse debeat in re publica quam suffragium, quam sententia, non intellego, cur, qui ea pecunia corruperit, poena dignus sit, qui eloquentia, laudem etiam ferat. Mihi quidem hoc plus mali facere videtur, qui oratione, quam qui pretio iudicem corrumpit, quod pecunia corrumpere pudentem nemo potest, dicendo potest (Rep. 5.11).

The legal (*sententia*) and political (*suffragium*) processes are vulnerable to eloquence because eloquence attacks the process's most vulnerable part, the individual. With the case of the judge, Cicero makes clear in *De Legibus* that corrupt men are the disease that infects the rest of the body politic (*Leg. 3.32*). As a result, the state then fails to pursue the most just or beneficial policy or outcome.

⁴¹ See Yunis (2011: 185).

De Oratore also addresses the amorality of rhetoric. At the start of the work, Scaevola rebuts Crassus' claim that rhetoric and virtue are necessarily tied together. For Crassus argues that the perfect orator ensures the safety of his state: "For I say that the moderation and wisdom of the complete orator establishes not only his own dignity, but more than anything else it establishes the safety of private citizens and the entire republic" (*sic enim statuo, perfecti oratoris moderatione et sapientia non solum ipsius dignitatem, sed et privatorum plurimorum et universae rei publicae salutem maxime contineri*) (*De or.* 1.37). Crassus is tying rhetoric to its proper moral usage, as envisioned in a citizen's duty.

Scaevola counters by citing the Gracchi. He says that they were both educated and equipped for speaking with all the weapons of nature and instruction (*diserti et omnibus vel naturae vel doctrinae praesidiis ad dicendum parati*) (*De or.* 1.38). And by using this rhetoric—what Scaevola mockingly calls the "splendid leader of states" (*gubernatrice . . . civitatum eloquentia*)—the Gracchi destroyed the Republic (*rem publicam dissipaverunt*) (*De or.* 1.38). For after stating that the Gracchi destroyed the Republic, Scaevola rhetorically asks where the societal safeguards were to prevent such an outcome, including long-standing statutes (*leges veteres*) and civil law (*iura civilia*) (*De or.* 1.39). Picking up on this last point, Robert Dudley argues that the fear attached to rhetoric is "the ability of men like the Gracchi to succeed, despite either their ignorance of,

or refusal to acknowledge, the law.”⁴² Dudley is correct to see that Scaevola raises the issue of rhetoric unbound by law, but the issue requires further examination.

Scaevola’s argument is supposed to collapse in on itself because the Gracchi’s policies—contrary to his statement—followed the law. The Gracchi sought policies that benefitted the lower classes at the expense of the senatorial elites. In 133, Tiberius Gracchus sought to give public lands to non-landowning individuals, which would increase their political power and sap the Senate’s. Knowing the Senate would not approve his plan, Tiberius Gracchus had the Plebeian Assembly pass the law without the Senate’s support; the resulting law applied to all Romans. As Jürgen von Ungern-Sternberg has pointed out, Tiberius’ actions followed the letter of the law, as did his subsequent removal of the tribune Marcus Octavius, whom the Senate attempted to have veto the legislation.⁴³ The same holds true of Gaius Gracchus’ actions. Among other things, his *lex frumentaria* increased the state grain allowance for Romans, a move which lessened the political power that elites exercised through their own private grain distribution.⁴⁴ Again, the Gracchi’s actions conformed to the law.⁴⁵ We must keep in mind that Scaevola was near forty years old during the events of Gaius Gracchus’ tribunate and was a staunch defender of the Senate. Of course,

⁴² Dudley (2016: 125).

⁴³ von Ungern-Sternberg (2014: 79–80).

⁴⁴ von Ungern-Sternberg (2014: 82).

⁴⁵ And, as von Ungern-Sternberg (2014: 82) again notes, the upheaval resulting from Gaius’ laws was put down according to a *senatus consultum ultimum* and, a year later, the responsible consul was acquitted for putting Roman citizens to death without trial. All done in accord with the law. Nor did the Gracchi’s actions lead to a widespread civil war.

Scaevola would oppose the Gracchi and would unfairly characterize them.

Furthermore, recognizing Scaevola's misleading characterization of the Gracchi prompts critical reflection of Cicero's use of the Gracchi generally.

Dudley correctly emphasizes the fact that Cicero bookends *De Oratore* with two references to the Gracchi—we just reviewed the first one—to highlight their importance, but he overlooks the references' interplay.⁴⁶ At *De Oratore*'s close, Crassus, in discussing the flute player who kept Gaius Gracchus in pitch, prods Scaevola's earlier recollection of the Gracchi. In doing so, Crassus hints at the brewing troubles:

I was truly grieved, said Crassus, that [the Gracchi] fell into this deceit against the Republic; although this web is now being woven and this way of living in the state is being shown to the upcoming generations, that we now wish that we had citizens like those whom our fathers could not tolerate.

“Ego vero,” inquit Crassus “ac doleo quidem illos viros in eam fraudem in re publica esse delapsos; quamquam ea tela textur et ea in civitate ratio vivendi posteritati ostenditur, ut eorum civium, quos nostri patres non tulerunt, iam similis habere cupiamus” (De or. 3.226).

When we examine this passage, the setting of *De Oratore* must be kept in mind.

The work is set in 91, on the eve of the Social Wars and Sulla's rise to power.

Crassus is arguing that the Gracchi are not as bad as Scaevola remembers and foreshadows that the upcoming generations (*posteritati*) will endure more than

⁴⁶ Dudley (2016: 126–27).

their fathers did with the Gracchi. Crassus raises the question of why but does not provide an immediate answer.

The answer is found in Crassus' discussion of Gaius Gracchus' flute. Crassus recounts how Gracchus used a flute-player to remind him of the correct pitch when he was speaking publicly. The flute-player stood hidden behind Gracchus (*qui staret occulte post ipsum*) (*De or.* 3.225); the unseen flute-player guided Gracchus' rhetoric. The flute-playing kept the speaker at a reasonable pitch:

“In every voice,” Crassus said, “there is a certain moderation that belongs to that voice: from here, it is useful and pleasing for the voice to ascend step-by-step (for, it is unsophisticated to declare something at the start), and the step-by-step approach is salutary, as it strengthens the voice.”

“In omni voce” inquit Crassus “est quiddam medium, sed suum cuique voci: hinc gradatim ascendere vocem utile et suave est (nam a principio clamare agreste quiddam est), et idem illud ad firmandam est vocem salutare” (De or. 3.227).

What most stands out about this passage—and the discussion in general—is the similarity it has to building an argument. For, as we will see in more depth below, an argument has to be constructed step by step (*gradus, gradatim*) from an already established principle. For the further an argument strays from its logical base, the more difficult it is to logically accept.⁴⁷ Likewise, the further one's pitch strays from its base, the more untenable it becomes. Indeed, you

⁴⁷ Quintilian (*Inst.* 5.11) elaborates on this in various permutations.

could replace *vox* with *argumentum*, and this section would be just as relevant to building an argument.

Crassus further elaborates on the flute's role in rhetoric. His language has overtones of composing a successful political or judicial speech, in which a conclusion should not stray beyond the evidence:

Then there is a certain limit of rhetoric, which is more moderate than the sharpest yell, where the flute will not allow you to go, and the flute will call you back from that rhetoric.

deinde est quiddam contentionis extremum, quod tamen interius est quam acutissimus clamor, quo te fistula progredi non sinet, et iam ab ipsa contentione revocabit (De or. 3.227).

Contentio is designed to stand out to the reader: it is used twice in this short section to highlight its importance. Here, it has two shades of meaning. The first is the straining of one's voice. The second is a struggle or a debate.⁴⁸ In this way, flute-playing takes on a second meaning. It is the invisible (*occulte*) force that does not permit the speaker to go beyond what is proper in a situation. In *De Officiis*, Cicero shows a similar tact and says like an out-of-tune flute (*Off.* 1.145), one can tell from a strained voice (*ex contentione vocis*) what clashes with duty or nature (*ab officio naturaque discrepet*) (*Off.* 1.146).

This idea is mirrored in *De Re Publica* (2.69), where Scipio likens the state to a flute or pipe's sound. What is necessary for a harmonious sound (*concentus*) is the proper blending of the different pitches; if one pitch predominates, the

⁴⁸ Cicero (*Off.* 1.132) uses *contentio* this way. In a like manner, *clamor*, like *clamare* above, is supposed to bring to mind a loud crowd. Indeed, Cicero uses the term this way frequently, see e.g. *De or.* 1.152.

sound clashes (*discrepantem*) and strains the ear. Scipio concludes, “what is called harmony in sound by musicians is concord in the state” (*quae harmonia a musicis dicitur in cantu, ea est in civitate concordia*). As Atkins has shown, *De Re Publica*’s harmony represents the managed harmony between the social classes.⁴⁹ In other words, a healthy state depends on statesmen-orators taking a moderate course. *De Oratore* provides the fullest treatment of the idea of harmony as seen in *De Re Publica* and *De Officiis*. Both those works, like *De Oratore*, sought the proper pitch for an individual and a state. *De Oratore* suggests that Gracchus’ flute keeps the orator to such a pitch. More specifically, the flute represents Roman society’s agreed-upon laws that help ensure the orator does not destabilize the state’s harmony. As we have seen, the Gracchi’s reforms were controversial but legal; they may have caused some civil unrest, but not full-blown insurrection or civil war.

As with much of *De Oratore*, the work’s setting plays an important role in understanding it, and at this instance, the reader is supposed to see the parallels between the Gracchi and contemporary events. During the year of the work’s setting, Marcus Livius Drusus had proposed a varied reform package that included transferring the jury’s composition to senators as well as land redistribution and grain laws to please the lower class. The reform package sparked a crisis during the *Ludi Romani*—that is, at the same time the

⁴⁹ Atkins (2013: 105–15).

conversations in *De Oratore* are taking place⁵⁰: the consul Lucius Marcius Philippus,⁵¹ who opposed these reforms, argued that they were illegal and could not proceed.⁵² Consequently, Drusus attempted to pass another controversial proposal, one that aimed at granting citizenship to Latin allies.⁵³ But unlike the Gracchi, the Senate subsequently declared all of Drusus' laws invalid.⁵⁴ The point is that since the proposals brought by Drusus, a skilled orator with *populares* tendencies, were illegal and flared tensions with the allies, war was inevitable. What separates him from Gaius Gracchus is that Gaius' "pitch" stayed within acceptable (and legal) bounds. Tonally speaking, the flute kept his pitch, but the flute *qua* law guided Gaius on what courses were acceptable and legal. Although the law is not a perfect break on passions since some civil unrest may be

⁵⁰ Diod. Sic. 37.12; Fantham (2004: 44–45).

⁵¹ Like the Gracchi, both Drusus and Philippus were marked for their oratory. For Diodorus Siculus remarks that Drusus was the most skilled orator of his generation (αὐτός τε ὑπῆρχε λόγῳ μὲν δεινότατος τῶν ἡλικιωτῶν) (Diod. Sic. 37.10). And Cicero rated Philippus only behind his contemporaries Antonius and Crassus (*Brut.* 47).

⁵² In particular, Philippus argued that the laws themselves were passed illegally, since, among other reasons they were carried out *contra auspicia* (Asc. 69). On a side note, due to the opaqueness of the primary sources, it is not definitive whether Drusus' *omnibus* law included an enfranchisement provision. I generally side with von Ungern-Sternberg (2014: 85–87) and, in particular, Catherine Steel (2013: 39–41); but see Mouritsen (1998: 109–27). Steel argues that Drusus attempted a citizenship measure to appease seditious allies and he gambled that it would pass the assembly and perhaps resurrect his now-invalid laws. But as the footnote below explains, I think Steel is wrong in arguing that Drusus' proposed law sought citizenship rights for all Italian allies.

⁵³ Due to the conflict among the primary sources, there is a debate on whether Drusus' proposed citizenship for all Italy as some scholars suggest, such as von Ungern-Sternberg (2014: 86) and Steel (2013: 40–41). I, however, agree with Henrik Mouritsen (1998: 118, 125) that it is highly unlikely that pro-senatorial Drusus proposed a law for complete Italian citizenship, a move that would be highly unpopular with the Senate. It is more likely he ventured the more moderate step of proposing citizenship for only the Latin allies, who were culturally and political closer to Rome than the Italian allies in general.

⁵⁴ There are at least four stated justifications for doing. For a list of the possible ground for the Senate subsequently declaring the laws illegal, see Mouritsen (1998: 121 n.40).

unavoidable, Crassus is suggesting—contra Scaevola—that the Gracchi followed the moderate and legal course and, as a result, the Republic was not thrown into war since the state’s harmony was preserved.

2.3.3.2 How the Law Is Used in the Republic

Immediately above, we saw how law serves to restrain rhetoric’s most harmful byproducts. In this section we will see how law limits arbitrariness and partiality in court cases, in part by restraining eloquence. Additionally, understanding how law is applied in court cases is necessary to understand the goals of education in the Republic, the topic of this chapter’s next section.

In *De Oratore*, Cicero signals that law dictates the outcome of legal disputes, not partiality or eloquence. Crassus and Antonius debate the extent of legal knowledge an orator requires (*De or.* 1.173–84; 234–45). Crassus’ overall point is that an orator-advocate must know the finer points of law to be able to discuss the larger issues. He gives several legal examples,⁵⁵ but Crassus’ most memorable reason is given by analogy: “Sooner, by Hercules, would he, who has capsized a two-oared skiff in port, steer the Argonauts’ ship over the Black Sea!” (*Citius hercule is, qui duorum scalmorum naviculam in portu everterit, in Euxino ponto Argonautarum navem gubernarit!*) (*De or.* 1.174). Antonius’ reply agrees with the underlying point that such cases are decided by the law.

⁵⁵ See, e.g., *De or.* 1.177 (on the need of knowing an obscure law for a patron to inherit from his client).

Antonius, however, disagrees that the orator-advocate himself must have a complete mastery of the law. As Antonius notes, the only cases that reach trial are the ones in which some point of law needs to be clarified and both proffered interpretations are reasonable (*De or.* 1.241). In these instances, an orator-advocate can rely on legal experts for their opinions on difficult parts of the law while he himself persuades with his verbal dexterity (*De or.* 1.242). But regardless of who masters the intricate points of the law and the extent to which rhetorical ability influences the case, a reasonable interpretation of the law must determine the outcome of the case. Antonius is arguing that when the law is not precisely clear on an issue, an orator's eloquence plays a defining role in persuading the judges. He notes that, in a memorable case, Crassus had won over many jurors with his charm and very refined wit (*lepore et politissimis facetiis*) (*De or.* 1.243)—in other words, with his eloquence. Nevertheless, Crassus' arguments were based on the laws and the Senate's decrees (*ex legibus et ex senatus consultis*) (*De or.* 1.243). So, although, Crassus' eloquence may have help persuade the jury, that eloquence was only able to argue for a legally valid position. This is because, regardless of how eloquent an advocate is, a case must be decided according to a reasonable chain of legal argument.

In *De Oratore*, this reasoning by analogy to establish a proof (*argumentum*) is the key to proving a point in court. An *argumentum* is a step-by-step process from a given truth used to establish a proposition as true. Almost a century later, Quintilian defines it so:

Therefore, since an *argumentum* is a process of showing a proof, by which one thing is inferred from another, and which confirms that which is uncertain through that which is not uncertain, it is necessary that there is something in the cause which does not require proof.

ergo, cum sit argumentum ratio probationem praestans, qua colligitur aliud per aliud, et quae quod est dubium per id quod dubium non est confirmat, necesse est esse aliquid in causa, quod probatione non egeat (Inst. 5.10.11).

So, when the orator-advocate wants to prove something uncertain (*dubium*), he must make a series of logical inferences or steps from something that is not doubtful (*non dubium*). This could be witnesses, written documents, previous cases, or the written law itself.

Cicero illustrates how two contrary points can be established via proofs—one from written law, the other from similar cases. Antonius recalls when Servius Galba was mentoring Publius Crassus during a political campaign (*De or.* 1.239–40). A man from outside the city approached Publius Crassus for advice on a legal dispute, and Publius Crassus gave a response that was legally sound but not helpful to the man’s predicament (*responsum . . . verum magis quam ad suam rem accommodatum*). Publius Crassus declared that his answer to the legal issues was certain (*nec dubium*) and had even been glossed in legal treatises (*commentariis scriptum*). On seeing Publius Crassus alienating a potential supporter, Servius Galba interceded. He proceeded to analogize the man’s case to similar ones with more favorable outcomes (*multas similitudines adferre*) and thus argued on the basis of precedent instead of a literal reading of written law

(*pro aequitate contra ius*).⁵⁶ Even Publius Crassus conceded these arguments were plausible (*prope veram*). The important point is not who is correct, but that each man started at a point fixed by the law—for Publius Crassus it was written sources, for Servius Galba it was prior cases—and made a series of deductive steps to arrive at his logically-sound conclusion.

This section has argued that, in Ciceronian thought, the law served two important roles. First, it limited rhetoric's most harmful byproducts. Second, the step-by-step method of applying the law from an agreed-upon point, such as a statute, constrained an advocate's eloquence as well as prevented any arbitrary, non-legally sound, decision. In this next section we will focus on the importance of law in an education at Rome.

2.3.4 An Orator's Education in the Republic

For Cicero, an orator's education must be broadly based. This is because the orator must speak on all types of issues. Again, though Crassus and Antonius disagree on the extent of an orator's education, they do agree that he must know the law and the science of government. In *De Oratore*, Crassus argues this in two different ways. First, as we have seen, he emphasizes that an orator-advocate

⁵⁶ See generally Ibbeston (2015) on what constitutes *iura*. Fantham (2004: 107–14) recounts the evolution and state of the law at the date of *De Oratore*. From the institution of the Twelve Tables in the middle of the fifth century until the middle of the second century, the process was excessively rigid. A praetor would produce a formulation of the case based on each party's claims. A judge then would reach a decision based on this formulation. In this process, if a party made even a technical error, the case could be lost. By the middle of the second century, several reforms allowed a more "freely worded 'formular' process," see Fantham (2004: 109). Because a legal dispute's procedure was no longer so rigid, advocates had greater flexibility in shaping their cases.

must know the law thoroughly. Thus, it is no surprise when he further argues that the orator must know the areas immediately relevant to the law, such as government:

We must thoroughly learn the law, understand the statutes, and comprehend all of the past, the Senate's customs, the philosophical underpinnings of the Republic, our allies' legal rights, treaties, pacts, and the process of our rule.

Perdiscendum ius civile, cognoscendae leges, percipienda omnis antiquitas, senatoria consuetudo, disciplina rei publicae, iura sociorum, foedera, pactiones, causa imperi cognoscenda est (De or. 1.159).

For these areas immediately concern the law courts and debates in the Senate.

Indeed, these areas of study are vital for running a state. Second, Crassus argues that the orator must be well-versed broadly in what we today call the liberal arts, including poetry (*poetae, historiae, omnium bonarum artium*) (*De or. 1.158*).

Such training aims to create an orator who can argue both sides of an issue (*in contrarias partis*). Antonius' curriculum for an orator is a bit more circumscribed than Crassus'. For Antonius says that such a man must know about ethics and philosophy, as well as about the state (*de re publica*), foreign affairs (*de imperio*), military affairs (*de re militari*), the philosophical underpinnings of the republic (*de disciplina civitatis*), and the customs of men (*de hominum moribus*), but he is silent on poetry (*De or. 2.67*). Nevertheless, Antonius and Crassus agree on the essentials: an orator must know "the things which concern the society of citizens and the laws of men" (*quae pertinent ad usum civium, morem hominum*) (*De or. 2.68*).

The importance of knowing the law is also made clear in *De Re Publica*: the statesman will be eager to learn the laws and statutes (*sic noster hic rector studuerit sane iuri et legibus cognoscendis*) (5.4). He will be very experienced in overarching legal concepts, without which it is impossible to be just, and he will not be inexperienced in the civil law (*summi iuris peritissimus, sine quo iustus esse nemo potest, civilis non inperitus*) (5.5). As J.G.F. Powell has pointed out, the parts we have remaining of *De Re Publica*'s Book 5 indicate that the statesman needs legal knowledge, "not in a detailed professional sense but in the sense of knowledge of the general principles of law that are necessary to be just."⁵⁷ This maps onto Antonius' statement that the orator, even if he cannot discuss the laws and human customs in the way philosophers do (*philosophorum more*), must be able to know and discuss them in general terms, like those who first established them (*De or.* 2.68).

On the second point, an orator's practical education was transmitted through an informal "apprenticeship" network, which we have touched on briefly above.⁵⁸ This education does not concern the abstract legal knowledge as much as how it should be used. For the Romans, the apprenticeship process centered around the Forum, "through which the prospective man of affairs attached himself as a youth to an established figure, learning how to act and speak as he

⁵⁷ Powell (2012: 35).

⁵⁸ I am using a modern term to describe a Roman phenomenon.

followed his model and watched him go about his business.”⁵⁹ Access to this process depended on family connections, and the instruction was based on the mature mentoring the young. We saw an example of this earlier with Galba mentoring Publius Crassus on the campaign trail. There, Publius Crassus, when asked a legal question by a farmer, gave a correct-by-the-book answer. As this exchange shows, there might be more than one correct legal answer. But Galba provides a teachable moment for young Publius Crassus:

When he heard the farmer’s situation and saw he was upset, Galba said, “I see that Crassus’ mind was elsewhere when he responded to your question.” Then he grabbed Crassus by that arm and asked him, “What were you thinking when you responded like that?”

ex quo ut audivit commotumque ut vidit hominem, “suspenso inquit “animo et occupato Crassum tibi respondisse video.” deinde ipsum Crassum manu prehendit et “heus tu,” inquit “quid tibi in mentem venit ita respondere?” (De or. 1.239–40).

Galba then provided an answer that better pleased the farmer and better instructed Publius Crassus.

We can more abstractly understand Crassus’ view⁶⁰ on an apprenticeship’s importance in his response to the rise of Latin teachers of rhetoric (*Latini rhetores*). Such teachers taught at schools, in which students sat and performed exercises. More specifically, the students would conduct drills that had little connection to real life, such as recounting fables in different ways or conducting

⁵⁹ Kaster (1988: 52).

⁶⁰ By this Crassus, I mean as Crassus is portrayed in *De Oratore*, which may be different from the historical Crassus, see May and Wisse (2001: 252 n.114).

debates on notable historical events.⁶¹ In 92, Crassus and his co-censor passed a decree that expressed disapproval⁶² of these teachers, since their methods did not follow the practices and customs of their ancestors (*quae praeter consuetudinem ac morem maiorum fiunt*).⁶³ Robert Kaster has rightly pointed out that *mos* (underlined previously) indicates the apprenticeship process.⁶⁴ He is also generally right to say that such schools threatened to undermine this process.⁶⁵ More specifically, Crassus of *De Oratore* mentions his edict because he wants to contrast the apprenticeship process with the *Latini-rhetores*/school-based process. This is what Tacitus picks up on.

2.4 Tacitus' Response

As I have mentioned above, Tacitus' *Dialogus* is a response to Ciceronian thought on the necessity of republican institutions for Republican rhetoric. In responding to Cicero, Tacitus fleshes out the points Cicero articulated.

2.4.1 Republican Institutions in the Principate

In *De Oratore* and *De Re Publica*, Cicero hypothesizes that Republican rhetoric depends on and is exemplified in different parts of republican political culture and institutions. And, absent this culture and these institutions, Republican rhetoric would not exist. As a result, Cicero suggested Republican

⁶¹ Kaster (1995: 25.4–5).

⁶² Mankin (2011: 182) points out, and contrary to what Tacitus (*Dial.* 35.1) states, the censors' edict was not able to close the schools, it was only able to show their disapproval of them.

⁶³ Kaster (1995: 25.2) and Gell. *NA* 15.11.2 both contain the decree.

⁶⁴ Kaster (1988: 52); see also Fantham (2004: 91).

⁶⁵ Kaster (1988: 52), Schmidt (1975: 214–15); and see Kaster (1995: 273–74) and Mankin (2011: 181) for concise overviews of the various suggested motives for the censors' decree.

rhetoric could not survive in a monarchy as he knew it through Roman history. But, interestingly, what followed the Roman Republic was not exactly like the monarchy that ended in 510, but a principate imposed upon existing republican institutions. This complicated Tacitus' response, especially since the *Dialogus* was being written when the leadership of Rome seemed to be moving to a much more promising *princeps*. Partially for this reason, the *Dialogus* is set in the dark of Domitian's reign, when the republican institutions—as the *Dialogus* presents them—are at their nadir. Yet, it also entertains the possibility that Republican rhetoric can flourish under the right monarch, one who supports republican institutions and fosters the attendant culture.

2.4.2 Tacitus Replaces State Service with Personal Gain

Unlike Cicero, for whom oratory is bound up with serving the Republic, in Tacitus' *Dialogus*, oratory is divorced from serving the state and instead aims at personal glory. Cicero argues that glory should be tied to state service. A public man earns glory with deeds enhancing the state; glory is the public recognition of such deeds.⁶⁶ But as A.A. Long has correctly argued about Ciceronian thought, glory is “a subordinate value, not essential or useful *per se* . . . but instrumentally useful in . . . conducting affairs of state.”⁶⁷ In a related way, Cicero understood that seeking glory as a *primary* value injured the Republic: “Even the desire for glory must be avoided since it destroys *libertas*, which ought to be the focus of a

⁶⁶ Long (1995: 215–16).

⁶⁷ Long (1995: 229).

great man's entire effort" (*cavenda etiam est gloriae cupiditas . . . eripit enim libertatem, pro qua magnanimis viris omnis debet esse contentio*) (*Off.* 1.68).

Yet, at the end of the Republic, this did happen: glory was separated from state service and was instead used to cloak the aggrandizement of personal power at the cost of the Republic. Tacitus addresses how this disjunction affects oratory and the orator in Principate.

The *Dialogus'* first pair of speeches—by Aper and Maternus—debate the purpose of oratory. As many scholars have pointed out, the thrust of Aper's speech is that oratory is a vehicle by which one can climb socially.⁶⁸ He makes no reference to serving the state. Indeed, Aper, at the start of his first speech, sums up the purpose of oratory in seemingly republican terms: one can get and maintain personal alliances (*parere simul et tueri amicitias*), establish connections (*adsciscere necessitudines*), and obtain provinces as political postings (*complecti provincias*) (*Dial.* 5.4). It is a feint. Aper does not connect these benefits to state service. Rather, they operate as a vehicle by which one can attain personal glory. For Aper remarks that in the state (*in civitate nostra*), no other action is more favorable to fame in Rome (*ad urbis famam pulchrius*), or throughout the empire (*totius imperii*), or among all mankind (*omnium gentium*) (*Dial.* 5.4).

⁶⁸ There have been variations on this overall theme: see, e.g. Syme (1958: 104); Rudich (1985: 96); Gallia (2009: 178–79); Strunk (2010: 249–51); Rutledge (2012: 70).

The trend of personal glory continues. Aper spends the rest of his speech detailing the great—personal—benefits he has acquired through oratory, namely personal renown: “What can be sweeter than to see your house always filled and busy with the coming and going of outstanding men?” (*quid enim dulcius . . . quam videre plenam semper et frequentem domum suam concursu splendidissimorum hominum?*) (*Dial.* 6.2). Through Aper’s focus on the *personal* benefits of oratory, we expect to see Maternus focus on its *public* benefits. Quite the opposite. Maternus reinforces Aper’s characterization of oratory in the principate. Maternus concedes, “And now, I have decided to depart from my forensic work, I no longer desire those retinues of followers on my way to court that you go on about or the constant stream of visitors” (*ac iam me deiungere a forensi labore constitui, nec comitatus istos et egressus aut frequentiam salutantium concupisco*) (*Dial.* 11.3). One difference, of course, between Aper’s speech and Maternus’ is that Maternus no longer wishes for the celebrity that attends to imperial oratory. Regardless, glory no longer serves as a secondary value but has become its own end.

Maternus emphasizes the notion implicit in Aper’s speech—that oratory serves no public function. He does this by stating how poetry has usurped oratory’s role:

But while I am perhaps able to do and accomplish something in pleading cases, yet it was by reciting my tragedies I was seen to enter into the path of fame, when, during Nero's reign, I broke the wicked power of Vatinius, who was profaning the revered objects of our devotions.

ego autem sicut in causis agendis efficere aliquid et eniti fortasse possum, ita recitatione tragoediarum et ingredi famam auspicatus sum, cum quidem in Neronem inprobam et studiorum quoque sacra profanantem Vatinius potentiam fregi (Dial. 11.2).

Maternus' statement that he can accomplish something (*aliquid*) through oratory is hardly a Ciceronian endorsement of oratory's vital service. There is no public service. Rather, Maternus contrasts the current public uselessness of oratory with the actual political power of tragedy. Though not enough has been written on this passage—in part due to the fact it is unclear and possibly corrupt⁶⁹—Andrew Gallia correctly notes that it places tragedy ahead of oratory in public usefulness.⁷⁰ Vatinius himself was a *delator*, whom Tacitus elsewhere described as among the most shameful curiosities at court (*Vatinius inter foedissima eius aulae ostenta fuit*) (*Ann.* 15.34). Vatinius evidently committed a more wicked act still, but due to his position at court, he was untouchable through traditional means. So Maternus satirized him in a play, and the public reaction led to Vatinius' loss of political influence. In the Ciceronian republic, the sole recourse to drive men such as Vatinius from political power was through oratory and the courts.

⁶⁹ Mayer (2001: 122–23).

⁷⁰ Gallia (2009: 190–92).

Indeed, in much the same way that that Maternus “broke” Vatinius’ power through a drama and “entered the path of fame,” a century earlier Cicero took the first step along his own path by prosecuting the politically-connected Verres in court for his corrupt provincial administration. This is exactly the point Maternus makes in his second speech, when he states that in Cicero’s time the orator had the right of attacking the most powerful men (*datum ius potentissimum quemque vexandi*) (*Dial.* 40.1). This right is now, by Maternus’ time, gone. So, Gallia correctly characterizes Maternus as a publicly minded man who has “lost interest in oratory and the illusory power it can provide,” and as a result, “has decided to use his poetry to hold the *potentes* to account.”⁷¹

Republican rhetoric’s lack of political power is a theme that runs through Maternus’ two speeches. Shadi Bartsch correctly connects Maternus’ drive to be politically active to generalized republican sentiments: “the poet Maternus uses his medium . . . to give voice to the sentiments of senators nostalgic for the republic, although these were sentiments normally muted by the dangers of free speech and recently hushed altogether by the end that befell the excesses of Helvidius Priscus.”⁷² We can take this analysis a bit further. The *Dialogus* uses Helvidius Priscus to connect Maternus’ use of tragedy to the loss of Republican rhetoric. Priscus—a Cicero living in the Principate—is the last flicker of Republican rhetoric, for he attempted to use oratory in republican institutions to

⁷¹ Gallia (2009: 190). Priscus died in 75.

⁷² Bartsch (1994: 116).

drive policy reforms.⁷³ Recounted is how Eprius Marcellus eluded (*elusit*) Helvidius' eloquent wisdom (*disertam . . . sapientiam*) (*Dial.* 5.7).⁷⁴ Maternus brings to mind this failure specifically and Helvidius generally when he later recalls that it was in the Republic where attacks on the powerful were permitted (*Dial.* 40.1).⁷⁵

Maternus connects oratory's impotence—and drama's attendant power—to the Principate through his dramas. At the start of the *Dialogus*, we are told that

⁷³ Helvidius Priscus is indicative of a Ciceronian-era senator who felt duty-bound to voice his opinion in the Senate. The late first-century and early second-century Stoic philosopher Epictetus also recounts how Vespasian attempted to stop Priscus from speaking freely in the Senate:

Vespasian sent for Helvidius Priscus and told him not go to the Senate. Priscus replied, "It is in your power to not allow me to be a senator: but until that time, I must go." Vespasian said, "Go, but be quiet." "Don't ask my thoughts, and I will be quiet." "But I must ask your thoughts." "And I must say what seems just." "But if you speak, I will have you executed." "When did I tell you that I am an immortal? You will do your part, and I will do mine. Yours is to execute me, and mine is to die without trembling. Yours is to banish me, mine is to depart untroubled."

προσπέμψαντος αὐτῷ Οὐεσπασιανοῦ, ἵνα μὴ εἰσέλθῃ εἰς τὴν σύγκλητον, ἀπεκρίνατο ἐπὶ σοὶ ἐστὶ μὴ εἶσαί με εἶναι συγκλητικόν: μέχρι δὲ ἂν ὧ, δεῖ με εἰσεῖρθεσθαι. ἄγε ἀλλ' εἰσελθῶν, φησὶν, σώψῃσόν. μὴ μ' ἐξετάζε καὶ σιωπήσω. ἀλλὰ δεῖ με ἐξετάσαι. κάμῃ εἰπεῖν τὸ φαινόμενον δίκαιον. ἀλλ' ἐὰν εἴπῃς, ἀποκτενῶ σε. πότε οὖν σοὶ εἶπον, ὅτι ἀθάνατός εἰμι; καὶ σὺ τὸ σὸν ποιήσεις καὶ γὰρ τὸ ἐμὸν. σὸν ἐστὶν ἀποκτεῖναι, ἐμὸν ἀποθανεῖν μὴ τρέμοντα. σὸν φυγαδεῦσαι, ἐμὸν ἐξελεθεῖν μὴ λυπούμενον' (*Discourses* 1.2.19–21).

In this exchange, the conflict between Priscus and Vespasian stems from the Senate's role. Priscus sees it as an independent body for debating and policy, in which it is necessary that all views are aired to arrive at a better decision: very Ciceronian. Vespasian, however, sees the Senate as an administrative tool in the imperial system. Helvidius Priscus' fate informed the *Dialogus'* move away from oratory as service to the state and for Maternus, drama as fills oratory's public function.

⁷⁴ Though, as we will see below and more fully in later chapters, Eprius Marcellus avoided impeachment due to his position with Galba (*Hist.* 4.6).

⁷⁵ References to Helvidius Priscus exist elsewhere in the *Dialogus*. Roland Mayer (2001: 92, 185) suggests at least two other references. First, that Helvidius Priscus was a motivation for Maternus' play *Cato*. Second, that the discussion on modern education practices and "morally indifferent actions" (*quae nec in virtutibus nec in vitiis numerantur*) (*Dial.* 32.1) is echoed in Helvidius Priscus' stoic beliefs (*potentiam nobilitatem ceteraque extra animum neque bonis neque malis adnumerant*) (*Hist.* 4.5).

Maternus' most recent play, *Cato*, has caused a political backlash. Aper and Secundus visited Maternus to advise him to rewrite the politically offensive parts. Maternus refused. Scholars have spent time guessing as to the specific content of this *Cato* and its offensive parts.⁷⁶ In the end, what is specifically in that play is unknowable. But what is knowable is the theme of Maternus' plays and some details surrounding their publication. We are given at least four play titles: *Cato*, *Thyestes*, *Medea*, and *Domitius*.⁷⁷ These titles themselves tell us about poetry's public role. On the *Cato*, one scholar has stated that its production (75/76) coincided "with the prosecution and conviction of a modern Cato, Helvidius Priscus," which occurred in 74/75.⁷⁸ T.E. Strunk is of the same view: "Maternus' *Cato* drew analogies between the resistance and suicide of Cato the Younger and the dissidence and execution of Helvidius Priscus."⁷⁹ Helvidius Priscus, as we have seen and will see in later chapters, was a prominent figure in Tacitus' thought and *Histories*, so it is reasonable to assume a connection between the *Cato* and Helvidius Priscus. Even if there were not a connection between the two, Cato is enough of a symbol of the Republic—partially through opposition to Caesar and his suicide—that any play bearing his name is pregnant with meaning.

Like the *Cato*, the *Thyestes*' subject matter can be inferred. Maternus tells us it is the continuation on the same theme: "Whatever my *Cato* left out, my

⁷⁶ See, e.g., Mayer (2001: 92).

⁷⁷ Gallia (2009: 190 n.54) argues that there may be a play *Nero*, but the textual support is not convincing.

⁷⁸ Saxonhouse (1975: 59).

⁷⁹ Strunk (2010: 244 & n.7). See the corresponding footnote in Strunk (2010: 244 n.7) for other scholars of the same opinion.

Thyestes will say in the next public reading” (*quod si qua omisit Cato, sequenti recitatione Thyestes dicet*) (*Dial.* 3.3). And again, the title of the play supplies enough meaning. If we turn to Seneca’s version—putting aside the fact that any mention of *Thyestes* brings to mind Seneca, who was a decade earlier forced to commit suicide under Nero—the play concerns the king Atreus serving his twin brother, Thyestes, his (Thyestes’) own sons in a soup in an act of vengeance. As Syme stated, the work’s topic was, “a wonderful theme for anti-dynastic rhetoric and maxims.”⁸⁰ The *Domitius* follows in the same path. The subject of that play is generally agreed to be one of two of Nero’s ancestors, both staunch anti-monarchists.⁸¹ The first option is Lucius Domitius Ahenobarbus, who married Cato the Younger’s sister and was a staunch supporter of the *optimates*. In this way, he opposed Caesar and eventually died opposing him at Pharsalus. The other candidate is Lucius’ son, Gnaeus Domitius Ahenobarbus. He took part in the battle of Pharsalus and was a supporter of Brutus after Caesar’s death. In either case, the play’s subject was aligned with a famous Republican.

Scholars have had a harder time trying to pin down the political import of Maternus’ *Medea*. Syme does not mention it,⁸² nor does Roland Mayer⁸³ or Shadi Bartsch.⁸⁴ Generally, we can posit that, like the rest of the plays it is mentioned alongside, the *Medea* contains an anti-imperial message. This may

⁸⁰ Syme (1958: 110 n.7).

⁸¹ See, e.g., Mayer (2001: 97) and Syme (1958: 110). Tenney Frank (1937: 226–27) argues that a dramatization of Nero’s ancestor in the *Domitius* ended the career of Vatinius.

⁸² Syme (1958: 104–11).

⁸³ Mayer (2001: 97).

⁸⁴ Bartsch (1994: 98–125).

arise from the fact that in the various traditions, Medea often tricked, deluded, or killed monarchs. In a different approach, Tenney Frank has reasonably suggested that the play contained Jason spurning Medea to marry Creusa—this would be Aper’s reference to Jason’s speech in Maternus’ *Medea (Jason disertē loquitur)* (*Dial.* 9)—and that Jason’s action was presented in such a way to call to mind Nero leaving Octavia to marry Poppaea.⁸⁵ On the plays as a whole work of coherent thought, Shadi Bartsch has written, “Maternus is writing one play after another dealing with topics well suited to anti-imperial rhetoric.”⁸⁶ I agree but would add a caveat: Maternus is doing this because rhetoric can no longer fill this role. In short, Maternus’ first speech states what Aper left unspoken: oratory has no public role.

Christopher van den Berg denies that Maternus’ plays contained any anti-imperial message and has cleverly argued that “Maternus explicitly aligns his poetry with imperial rule, and specifically, with an ideal built on the models of Augustan classicism.”⁸⁷ In this way, Maternus seeks to co-opt, not challenge, imperial power.⁸⁸ Much of van den Berg’s argument rests on two faulty points. First, he holds that *Cato* did not offend because of its content but because of Maternus’ faulty technique. Evidence for this is that he offended the powerful (*offendisse potentium animos*) because, “engrossed in the figure of Cato,

⁸⁵ Frank (1937: 229).

⁸⁶ Bartsch (1994: 102).

⁸⁷ van den Berg (2014: 159).

⁸⁸ van den Berg (2014: 160).

Maternus forgot himself [*sui oblitus*].”⁸⁹ In other words, van den Berg understands *sui oblitus* to mean Maternus over-acted or over-wrote the play. Though over-acting/over-writing might irritate the sensibilities of some in the audience, it is a far cry from *offending* them (nor is an argument made that *offendo* encompasses van den Berg’s suggestion). Over-acting/over-writing would not prompt Aper and Secundus to visit Maternus and suggest he excise parts to produce a *safer* version:

Then Secundus asked, “Maternus, does the talk of wicked men not frighten you off from being infatuated with the crimes of your *Cato*? Or have you picked up that book, to rework it more carefully, and after cutting out whatever things lend themselves to a dangerous reading, to publish not quite a better *Cato*, but at least a safer one?”

Tum Secundus 'nihilne te' inquit, 'Materne, fabulae malignorum terrent, quo minus offensas Catonis tui ames? an ideo librum istum adprehendisti, ut diligentius retractares, et sublatis si qua pravae interpretationi materiam dederunt, emitteres Catonem non quidem meliorem, sed tamen securiorem?' (Dial. 3.2).

If over-acting/over-writing were the issue, and even if excising parts of the play could reasonably fix that, such revisions would produce a better (*melioem*, previously underlined) version of the play, the very thing that Secundus is denying his edits will accomplish. And in the context of improving the play’s quality, drafting a safer (*securiorem*) one makes no sense.⁹⁰ Drafting a safer play

⁸⁹ van den Berg (2014: 19).

⁹⁰ Mayer (2001: 95) rightly argues *securiorem* here refers to physical safety, citing *Hist.* 1.1 and *Agr.* 30. What Mayer does not mention in both of those examples, however, is that *securior* is used in direct speech by individuals threatened by the principate.

can relate only to perceived dangers; van den Berg does not address this issue.⁹¹ He tries to skate around it by stating that a “faulty interpretation” (his translation of *prava interpretatio*) led some to misinterpret or misrepresent the play which has consequently led to rumors⁹²; van den Berg does not say how this “faulty interpretation” arose, aside from poor acting. Again, the connection to excising parts of the play to make it safer is a stretch and does not offer as tight a reading as we might otherwise have. It is far more reasonable that *sui oblitus*, following Roland Mayer and others, means that Maternus forgot about the political consequences of his reading.⁹³ Likewise, *prava interpretatio* means “dangerous reading.” Tacitus uses *prava* in a similar sense of physically dangerous and socially offensive elsewhere.⁹⁴ By understanding *sui oblitus* and *prava interpretatio* in this way, the passage as a whole has a tighter reading, and the comment producing a “safer” version of the play makes sense.

Second, van den Berg, following Gallia’s lead, argues that Maternus is neither attacking nor criticizing the *princeps*, but instead, the *delatores*.⁹⁵ This idea is predicated upon Tacitus seeing space between the *princeps* and the *delatores*.⁹⁶ But as Strunk has demonstrated, the *princeps* and his *delatores* mutually benefitted each other and often worked to the same ends.⁹⁷ Benefits,

⁹¹ Cf. van den Berg (2014: 18).

⁹² van den Berg (2014: 19).

⁹³ Mayer (2001: 93); Bartsch (1994: 102).

⁹⁴ See, e.g., *Ann.* 6.5; 11.33.

⁹⁵ van den Berg (2014: 158).

⁹⁶ Gallia (2009: 197–98).

⁹⁷ Strunk (2017: 86–91).

such as favorable trial verdicts, accrued to *delatores* from their connections with the *princeps*.⁹⁸ Additionally, once out of imperial favor, the reality was dreadful; for instance, Marcellus (from *Dial.* 5.7) was charged with treason and forced to commit suicide.⁹⁹ We can go a step further and note that benefits flowed to the *princeps*, as well. For example, under the reign of Vespasian in 70, the *delator* Regulus was brought to trial before the Senate for his part in Piso's murder (*Hist.* 4.42–44). The prosecution speech was so successful that others reasonably hoped that another *delator*, Eprius Marcellus, might also be ruined. Nevertheless, Domitian, who then had a seat in the Senate, suggested amnesty, which the Senate adopted.¹⁰⁰ D.S. Levene argues that “in his protection of the *delatores*, [Domitian] prefigures their sinister role in his own regime.”¹⁰¹ In other words, the *delatores* were vital to the imperial apparatus. As Michael Winterbottom has pointed out, since a *princeps* could rely on only a small circle, “*delatores* were essential to the running of the new Flavian administration.”¹⁰² They could reliably staff various administrative positions and military posts. Thus, in Tacitus' *Histories*, Domitian recognized that a direct attack upon the *delatores* was an indirect attack upon the principate, and he acted accordingly.¹⁰³

⁹⁸ Strunk (2017: 81–103).

⁹⁹ Strunk (2010: 254–55). Bartsch (1994: 108) likewise argues that “Aper describes contemporary oratory as the province of the informers, and the emperor as in their debt—nor, as it seems, was he exaggerating.”

¹⁰⁰ In following chapters, we shall examine this case in greater detail.

¹⁰¹ Levene (2010: 223).

¹⁰² Winterbottom (1964: 93).

¹⁰³ See Jones (1992: 180–2) for Domitian's use of *delatores* in ruling.

This is all to say that it was no longer through oratory that men could challenge the Principate.

Maternus' dramas are a recognition that Republican rhetoric cannot be used in the Principate. In the Republic, rhetoric was able to hold the powerful to account for malfeasance because power was more diffuse. Consider Cicero's prosecution of Verres. As a young advocate, Cicero was able to successfully prosecute Verres, a senator, for various crimes committed while he was governor of Sicily. To do so, he had to convince a jury composed of only senators to convict one of their own.¹⁰⁴ Though the jury was likely reluctant to convict Verres, Cicero framed the case in such a way that if a "not guilty" verdict were rendered, it would call into question the Roman people's trust in the Senate.¹⁰⁵ So to ensure the Senate's integrity, the senatorial jury likely would have convicted Verres if he had not exiled himself. Moreover, because the Senate was an institution, it was possible to preserve its integrity while finding one of its members guilty of wrongdoing. But the Principate itself was identified with one man in a way that had no parallel in the Republic.¹⁰⁶ And the *princeps*' reliance on the *delatores* created a more cohesive power structure. In this way, the prosecution of a *delator* such as Eprius Marcellus threatened the *princeps* himself in a way that a prosecution of a senator did not affect the Republic or the Senate. This could not

¹⁰⁴ Vasaly (2009: 122–3).

¹⁰⁵ Vasaly (2009: 123).

¹⁰⁶ Atkins (2018b: 30).

be foreseen by Cicero. For this reason, either the *princeps* or a member of his household checked prosecutions of some *delatores* in the Senate.

Tacitus' reworking of Ciceronian themes can also be seen when he (Tacitus) acknowledges how the practice of oratory now focuses on private self-advancement, rather than serving public purposes. When Aper discusses the state of contemporary oratory, Tacitus is reworking a section of *De Oratore* to illustrate the shift oratory has undergone. At *De Oratore* 1.30–32, Crassus describes the practice of Republican rhetoric and an orator's benefits:

Or what is so pleasing to understand and hear as a speech decorated and refined with wise thoughts and profound words? What is so powerful and magnificent as to turn back popular upheavals, the judges' exact observation of details, and the resolution of the Senate revised due to the oration of a single man? What, again, is so regal, so befitting a free man, so generous as to bring aid to the uninjured, to raise the prostrate, to help them, to free them from dangers, to keep them in the state? What is as necessary as holding weapons by which one defends himself, justly challenge someone, or when attacked, punish? . . . Thus, I think that the complete orator's moderation and wisdom secure not only his own standing but also the safety of countless private citizens and the whole republic.

Aut tam iucundum cognitu atque auditu, quam sapientibus sententiis gravibusque verbis ornata oratio et polita? aut tam potens tamque magnificum, quam populi motus, iudicum religiones, Senatus gravitatem unius oratione converti? Quid tam porro regium, tam liberale, tam munificum, quam opem ferre supplicibus, excitare adflictos, dare salutem, liberare periculis, retinere homines in civitate? Quid autem tam necessarium, quam tenere semper arma, quibus vel tectus ipse esse possis vel provocare integer vel te ulcisci lacessitus? . . . Sic enim statuo, perfecti oratoris moderatione et sapientia non solum ipsius dignitatem, sed et privatorum plurimorum et universae rei publicae salutem maxime contineri (De or. 1.31–32; 34).

Four points stand out about this section.¹⁰⁷ First, Crassus compares oratory to a weapon that is both defensive (*quibus vel tectus ipse esse possis*) and offensive (*provocare*). Second, oratory is used within the three traditionally republican institutions: on the *Rostra* (*populi*), in court (*iudicum*), and in the Senate (*Senatus*). Most importantly, however, is that the orator's eloquence can change the opinions of these bodies to a result favorable to him (*unius oratione converti*).

Third, oratory can benefit certain people: the politically weak (*supplicibus*), injured (*adflictos*), or those otherwise in danger (*periculis*). Crassus connects an orator's helping such people to both *libertas* and public service. For Crassus notes that nothing is so befitting a free man (*liberale*) as to keep these men in the state (*retinere homines in civitate*). Crassus' activity, in other words, was publicly oriented. This is because, for Cicero, *libertas* "assumes a wide arena for vigorous activity on behalf of the Republic" that allows elites room to enhance their public standing.¹⁰⁸ Finally, and on a related point, the orator's goal is the safety of the state (*universae rei publicae*), including its citizens (*privatorum plurimorum*). And, Crassus argues, by ensuring public safety, an orator can secure his own public standing (*dignitas*).¹⁰⁹ Crassus' depiction of oratory is, as we have seen, in keeping with Ciceronian thought—that oratory should serve the state by reinforcing its political institutions and customs

¹⁰⁷ Crassus' respondent, Scaevola, agrees with all these points (*De or.* 1.35).

¹⁰⁸ Atkins (2018b: 58).

¹⁰⁹ See Atkins (2018a: 768) for such an understanding of *dignitas*.

to resolve disputes. It is no surprise, then, that this excerpt gives the impression of an impersonal process that strives for fairness, for oratory is a weapon that can be used to punish someone who has done wrong (*te ulcisci lacessitus*). This process takes place in a public forum, such as a court, where the key to the outcome is reasoned debate.

Like Crassus, Aper also discusses the benefits the orator might gain.¹¹⁰ By changing these four points but otherwise imitating Cicero, Tacitus, via Aper, shows us how oratory has changed from the Republic to the Principate:

For if all my plans and deeds should be guided by what is useful for my life, what is safer than to practice that skill, when armed with it, you are able to be a defense to friends, a resource to foreigners, a source of safety to those in danger, and a source of fear and terror to those envious and hostile to you, while you are safe and guarded by a sort of continuous strength and power? . . . It is both a defense and a weapon, by which you are able to fight defensively and attack with equal effectiveness, in court or in the Senate or before the *Princeps*. With what else than his eloquence did Eprius Marcellus recently oppose the Senate? Equipped with this and threatening, he evaded the learned wisdom of Helvidius, which was unexercised and inexperienced in such battles.

nam si ad utilitatem vitae omnia consilia factaque nostra derigenda sunt, quid est tutius quam eam exercere artem, qua semper armatus praesidium amicis, opem alienis, salutem periclitantibus, invidis vero et inimicis metum et terrorem ultro feras, ipse securus et velut quadam perpetua potentia ac potestate munitus? . . . praesidium simul ac telum, quo propugnare pariter et incessere sive in iudicio sive in senatu sive apud principem possis. quid aliud infestis patribus nuper Eprius Marcellus quam eloquentiam suam opposuit? qua accinctus et minax disertam quidem, sed inexercitatum et eius modi certaminum rudem Helvidii sapientiam elusit (Dial. 5.4–5.6).

¹¹⁰ Like Scaevola, Aper's respondent, Maternus does not challenge the veracity of Aper's depiction of the current state of oratory.

In this text, Aper imitates Crassus at four points. First, like Crassus, Aper also compares oratory to a weapon with which one can fight both defensively and offensively (*praesidium simul ac telum, quo propugnare pariter et incessere . . . possis*).

Second, Aper alters Crassus' audiences (people, judges, and Senate). Aper keeps the judges in court (*in iudicio*) and the Senate (*in senatu*), but he replaces Crassus' people (*populi*) with the *princeps* (*apud principem*). This, of course, lets us know the locus of power and decision-making has shifted away from broadly democratic places to monarchical ones. But in this section, Tacitus' biggest change is one word. As we have seen, Cicero states that the orator can change the mind (*converti*) of his audience. In the sentence following the three audiences, Aper briefly recounts how Helvidius Priscus attempted to remove a favorite of Galba, the *delator* Eprius Marcellus, from the Senate. Tacitus later recounts this event at *Histories* 4.6, but for now it is enough to say that Priscus was on the verge of winning until Galba himself intervened and ended Priscus' prosecution. In recounting this episode, Tacitus is very telling. He states that Eprius Marcellus used his eloquence to *oppose* the hostile senators (*infestis patribus . . . opposuit*). The verb *opposuit* illustrates the absence of persuasion and the Senate's changed role, since the verb signifies force being used on an unwilling party.¹¹¹ But, as we have seen with Cicero, the Senate was a body open

¹¹¹ See Strunk (2010: 253), who notes that in this passage, "Marcellus' actions and behavior are filled with the violent, martial imagery characteristic of a *delator*."

to persuasion through an orator's reasoned language.¹¹² Tacitus pushes back against this notion.

Third, an orator's skill can benefit individuals. For Aper, it is aimed at benefitting friends (*amicis*) and political clients from Italian municipalities (*alienis*).¹¹³ This is far different from those whom Crassus focused on: those who were already injured. Crassus has no mention of a personal relationship. Rather, Aper reworks Crassus' thought to move away from public service; Aper only helps those who are personally connected to—and, by corollary, can personally benefit—Aper. Finally, and most tellingly, is the orator's lodestar. Unlike Crassus' focus on the public service and advancement, for Aper an orator's actions should be guided by what is useful for his own life (*ad utilitatem vitae omnia consilia factaque nostra derigenda sunt*). The most obvious switch in this guidepost is the absence of one's public service. Due to the lack of public space in which the elite Roman can enhance his standing, the orator centers on private advancement.

¹¹² For instance, at *De or.* 2.333, Cicero says that in the Senate it is necessary to persuade through speech (*oratione persuadere*). And at *De or.* 1.31, Cicero notes how the Senate may revise its own policy—hence, the use of the passive infinitive—due to a convincing speech: “the resolution of the Senate is [able to be] revised due to the oration of a single man” (*senatus gravitatem unius oratione converti*).

¹¹³ Mayer (2001: 102, 97) suggests that *alienis* picks up on Aper's earlier references at *Dial.* 3.4 to Maternus no longer enjoying the benefits of defending friends and clients from towns in Italy: when the cases of so many friends, and the clients from so many towns are calling you to court (*cum te tot amicorum causas, tot coloniarum et municipiorum clientelae in forum vocent*). Even the arrangement of friends and provincial clients is the same in both sections.

2.4.3 Law in the Principate

Now that we have seen how the goal of oratory has changed, we will turn to how the substance of oratory has changed. For Cicero, the law—specifically, proof (*argumentum*)—provides the structure for forensic and deliberative speeches. Aper has a condescending nod to this practice:

Long ago, lengthy introductions at the beginnings, a series of narrations stretching far back, a parade of many rhetorical divisions, a thousand steps to the legal proof, and whatever else is decreed in the extremely dry books of Hermagoras and Apollodorus were held in a place of honor.

iam vero longa principiorum praeparatio et narrationis alte repetita series et multarum divisionum ostentatio et mille argumentorum gradus, et quidquid aliud aridissimis Hermagorae et Apollodori libris praecipitur, in honore erat (Dial. 19.3).

The temporal phrase (*iam vero*) and surrounding dialogue indicate that Aper is discussing oratory during the Republic.¹¹⁴ In this passage, on one level, Aper is critical of the dryness (*aridissimis*) and overall tediousness of this type of oratory. But on another level, Aper hints at the necessity for this. For he complains—with

¹¹⁴ In the previous section, Aper is discussing Cicero and Brutus, among others (*Dial.* 18). This section itself continues the focus on Republican rhetoric by suggesting a dividing line between the new and the old rhetoric (*terminum antiquitatis*) (*Dial.* 19.1). Indeed, Aper reiterates that he is talking about the followers of the older style of oratory when he refers to them as those people before oratory changed (*prior ille populus*) (*Dial.* 19.2). But see Mayer (2001: 149), who argues that this clause principally attacks Quintilian. Taken alone, this argument is plausible; but Mayer does not address the references to oratory and people in the Republic nor why Aper is naming two first-century B.C. teachers of rhetoric instead of contemporary ones.

much hyperbole, to be sure—of needing a thousand steps to establish a legal argument (*mille argumentorum gradus*).¹¹⁵

Aper intimates that the structure of oratory has changed because the criteria for how decisions are made has changed. A judge now decides based on whether or not he is entertained and seduced (*invitatus et corruptus est*) by colorful phrases (*colore sententiarum*) and all-around wittiness (*nitore et cultu descriptionum*) (*Dial.* 20.2). The verbs liken oratory to corporal pleasures, unlike the dry and dusty speeches of Republican orator-advocates. But the contrast goes further. The new eloquence corrupts the legal process and its participants precisely because it lacks that very thing that the republican orator-advocate depended on: the law to guide the outcome of the case.¹¹⁶ With the law as a guide gone, *eloquentia* remains as the only criterion, as the emphasis on pleasing the judge signals. For Aper, a legal speech is no longer framed around legal proofs. It is aimed at entertaining the judge. This connection Aper makes explicit:

¹¹⁵ That Aper is discussing a legal argument is made obvious by the fact that the rest of this section deals with forensic oratory and the judge's new criteria for deciding a case. Additionally, the next section also begins by lamenting the lengthy works (*illa immensa volumina*) on counterpleas and the rules regulating the legal process (*de exceptione et formula*) (*Dial.* 20.1); see also Mayer (2001: 151) for a legal reading of this section.

¹¹⁶ Though Mayer (2001: 151) translates *corruptus* as "allured," he does so because he overlooks Aper's comparison to Republican oratory.

New paths of eloquence are needed, through which the orator-advocate may please the listeners, and by all means before those judges who decided according to their own caprice and arbitrariness rather than according to legal authority and the laws.

novis et exquisitis eloquentiae itineribus opus est, per quae orator fastidium aurium effugiat, utique apud eos iudices, qui vi et potestate, non iure et legibus cognoscunt (Dial. 19.5).

At first read, gone are the law-focused arguments of Cicero and other republican orator-advocates. The “new paths of eloquence” no longer seek to win a case based on persuasive legal argument but to please their audience.

What is more, Aper underscores the judge’s move from deciding according to legal authority to deciding based on his own predilection (*qui vi et potestate, non iure et legibus*). For *iure et legibus* emphasizes republican legal authority. In *Pro Sestio*, Cicero remarks that the biggest differences between civilization (*vitam perpolitam humanitate*) and barbarity (*[vitam] illam immanem*) appear in *ius atque vis* (*Sest. 92*). Unless people resort to *ius* to solve disputes, they must necessarily use *vis* (*horum utro uti nolumus, altero est utendum*) (*Sest. 92*). As noted above, the Republic and its political culture depend on *ius* (Liv. 3.34.3).¹¹⁷ Aper picks up on this dichotomy: *vi et potestate* mark that a judge’s guide is his own inclination, and that this dictates a speech’s content.

An improper understanding of this passage has led to an improper understanding of the pairs’ exact meaning and the contrast these pairs are trying to emphasize. What is clear from the phrase’s structure is that Tacitus intends a

¹¹⁷ See Atkins (2018b: 47).

strong contrast, hence the use of *non*. The use of *non* to contrast words or pairs of words is a common, though unremarked upon, device in the *Dialogus*. The most obvious example is at the start where Tacitus says to recount the conversation from a generation earlier: “I need not intellect but memory and recollection” (*ita non ingenio, sed memoria et recordatione opus est*) (*Dial.* 1.3).¹¹⁸ Tacitus’ use of *non* emphasizes his *ingenium* and contrasts it with *memoria et recordatione*.

There is no scholarly consensus on what Aper’s phrases (*qui vi et potestate, non iure et legibus*) mean. Roland Mayer argues that the pairs mean “the power of his authority” and “the specific laws within the legal code,” since “the president of the court, as was his privilege, interpreted the law in his own way.”¹¹⁹ But Mayer’s “power of his authority” does not establish a contrast with the “the specific laws within the legal code”; instead, the “power of his authority” details why the judge’s ruling on the laws is accepted. Likewise, W. Peterson’s 1914 Loeb translation—“not according to the letter of the law, but by virtue of [the court’s] own inherent authority”—makes the same error in that nothing is positively contrasted with the law.¹²⁰ Indeed, the idea of law is not even negated in this translation. For, “not according to the letter of the law” gives the wrong

¹¹⁸ In the *Dialogus*, when Tacitus puts a negated item(s) first, such as here, he logically and visually separates it from the non-negated items with a conjunction. When the negated item (or items) goes second, the *non* alone marks the separation. See, e.g., “nor was an instructor absent, indeed one of the best and most select kind, who would show them eloquence’s actual shape, not its mere likeness (*ita nec praeceptor deerat, optimus quidem et electissimus, qui faciem eloquentiae, non imaginem praestaret*) (*Dial.* 34.5).

¹¹⁹ Mayer (2001: 150).

¹²⁰ W. Peterson (1914: 283).

impression that judges are still following the law generally when the wording—specifically, *non*—states the opposite. And again, one’s “inherent authority” is, as in Mayer’s version above, merely the grounding on which the parties accept a judgement. Alfred John Church and William Jackson Brodribb’s 1943 translation is better: “Before judges who decide by power and authority, not by law and precedent.”¹²¹ A weak contrast is established; the meaning of “by power and authority” is vague, though it seems to hint that judges’ rulings may not be legally or logically grounded.

Most recently, van den Berg mistakenly blurs a lawsuit’s two parts in his translation of the phrase “Before those judges who decided by power and office rather than by law and statutes.”¹²² For his translation, van den Berg is arguing that “by power and office” refers to the procedure of *cognitio*.¹²³ *Cognitio*, in short, was the procedure that gave judges greater control over litigants. Yet, as Ernest Metzger has shown, trials in the principate were bifurcated. The first part, the process leading up to trial, focused on sharpening the issues for trial.¹²⁴ It was in this part that the process of *cognitio* was developed. The second part was the trial itself. And *cognitio* “extended hardly at all into the second stage of the lawsuit, the trial before the judge (*apud iudicem*).”¹²⁵ If we turn our minds again to the Latin of Aper’s speech on which we are now focused—*utique apud eos*

¹²¹ Church and Brodribb (1942).

¹²² van den Berg (2014: 167).

¹²³ van den Berg (2014: 168).

¹²⁴ Metzger (2015: 274); see also Harries (2007: 28–42) for discussions of procedure at Rome as contrasted with the provinces.

¹²⁵ Metzger (2015: 275).

iudices, qui vi et potestate, non iure et legibus cognoscunt—we will see that Aper is discussing the second stage of the lawsuit, the actual trial before a judge. But the *cognitio* procedure did not affect this part. Even van den Berg acknowledges that the *cognitio* procedure did not fully affect trials.¹²⁶ For these reasons, his translation does not hold water.

The phrase—*vi et potestate*—is not about a judge’s authority derived from the law, or about procedure generally. This is because the phrase’s Latin structure is set up in such a way as to contrast opposites, and legal authority and legal procedure are not the opposite of the law. The better way to understand *vi et potestate* is by keeping in mind what is being contrasted (*iure et legibus*). So, it must be the opposite of legal authority and the law, something akin to a judge’s rootless discretion.¹²⁷ What Aper is saying, then, is that judges are no longer hemmed in by the law. As such, the speeches directed at them are no longer based on the law. Since the judges are the ultimate arbitrators, speeches are now aimed to entertain them, rather than convince them with reasoned legal argument.

Maternus seconds Aper’s sentiments. Maternus oddly states that the courts are now better suited to *veritas (quae etsi nunc aptior est veritati)* (*Dial.* 38.1). The problem here is the meaning of *veritas*. I suggest that it means

¹²⁶ van den Berg (2014: 168) states “although the judge’s command of procedure increasingly affected cases in the imperial era, for many larger trials there is every indication that orators still had considerable latitude.”

¹²⁷ See Atkins (2018: 41–3) and see generally Atkins (2018 *Hist Eur*) for the established contrast in Republican thought between *vis* and *ius*.

“reality,” in the sense of the facts on the ground or one’s political situation.¹²⁸ Another section of Tacitus supports such a reading. Roland Mayer has pointed out that a phrase from the *Annals* 1.75 echoes and elaborates on this phrase from the *Dialogus*.¹²⁹ There, during trials in 15 A.D., Tiberius took a place next to the praetor in the Senate. Tacitus remarks that, although *veritas* was kept in mind, liberty was destroyed (*sed dum veritati consulitur, libertas corrumpatur*). Tacitus elaborates. Aurelius Pius alleged that his house had been damaged by nearby construction on a public road and aqueduct, and he sought compensation. The praetors of the treasury opposed his claim (*resistentibus aerarii praetoribus*) (*Ann.* 1.75). Since no ulterior reason is given for the denial of his claim, we conclude it is because the claim itself had little merit. Nevertheless, Tiberius helped him by paying him the full value of his house (*subvenit Caesar pretiumque aedium Aurelio tribuit*). What stands out here is that Pius Aurelius was seeking the difference between the value of his house as it was before the public improvement and as it was after the public improvement. So, the difference in value is necessarily less than the full value of the house before public improvement. Nevertheless, Tiberius gave the full value of Pius Aurelius’ house, presumably because Tiberius was inclined to allocate public money for honorable reasons (*erogandae per honesta pecuniae cupiens*). What is not said is that Tiberius gave out the money because he thought the praetors got it wrong on

¹²⁸ Cicero uses *veritas* in this way at *De or.* 3.214 and 3.215.

¹²⁹ Mayer (2001: 206), though he argues it means “integrity.”

legal grounds. Such a meaning is outside the range of *per honesta*. Rather, Tiberius wanted to seem charitable for political purposes. This impression is reinforced in the next line when Tiberius gives a million sesterces to Propertius Celer so that he would not forfeit his rank as a senator. As *sed dum veritati consulitur* refers to Tiberius' making decisions with his political position in mind, *libertas corrumpatur* refers to a disregard for the institutions that settle these issues.

If we keep this meaning of *veritas* in mind, and we turn back to the *Dialogus' quae etsi nunc aptior est veritati*, we see that Maternus is saying that contemporary eloquence—with the judge's gratification as the guidepost—fits the reality of political situation.

2.4.4 Education in the Principate

When scholars have focused on education in the *Dialogus*, they mainly note that Tacitus, via Messalla (*Dial.* 35), references *De Oratore's* discussion of *Latini rhetores*.¹³⁰ The scholarship focuses on whether Messalla is an effective advocate for arguing the point that oratory's decline is tied to how it is taught. Most do not think so.¹³¹ I propose a different approach: not to look at whether Messalla is an effective advocate, but to examine the political implications of the underlying facts the interlocutors present. Even if we accept van den Berg's argument that Messalla exaggerates the pernicious effects of the present

¹³⁰ See, e.g., Kaster (1995: 274); Fantham (2004: 91); Mayer (2001: 196); Mankin (2011: 181).

¹³¹ See, e.g., Fantham (2004: 321–23); van den Berg (2014: 76–77).

educational process, nevertheless Messalla's structural descriptions of contemporary education are valid. That said, he first gives a nostalgic look back at the apprenticeship of Cicero's day, in which young men got much needed practical experience (*magnus usus*) (*Dial.* 34.3). This is the basis for the contrast.

Messalla's description of the contemporary schools of rhetoric is supposed to be a contrast with how education is portrayed in *De Oratore*. He cites Crassus' censorial decree about the rhetorical schools and quotes *De Oratore* (3.94) in calling them schools of arrogance (*ludum impudentiae*) (*Dial.* 35.1). Part of the problem is the practice material that the students use. They give speeches on subjects such as the rewards of killing a tyrant (*tyrannicidarum praemia*), the choice a raped young woman had to marry her attacker or have him killed (*vitiatarum electiones*), the remedies for an infectious disease (*pestilentiae remedia*), or a mother's incest (*incesta matrum*) (*Dial.* 35.5).¹³² Messalla's point is that all these topics have little relation to reality in the way law is practiced in

¹³² To my knowledge, no scholar has noted that Messalla's four examples carry political overtones critical of Nero. For *tyrannicidarum praemia* refers ironically either to the Senate's attempt to kill Nero to increase its own authority or to Nero's secretary, Epaphroditus, who killed Nero at his request but whom Domitian had executed for killing his master (Suet. *Dom.* 14). Next, *vitiatarum electiones*, refers to Nero's rape (*uim intulit*) of a vestal virgin (Suet. *Ner.* 28). And *incesta matrum*, of course, refers to Nero's close relationship with his mother (Tac. *Ann.* 14.2; Suet. *Ner.* 28). Finally, *pestilentiae remedia* echoes the start of *Agricola*, in which Tacitus states "due to the nature of human infirmity, remedies (*remedia*) are slower than the maladies (*mala*)" (*Agr.* 3.1). As we have seen above, Tacitus (in the *Agricola*) in the next sentence then compares physical diseases and remedies to those of the body politic. In this way, where this section of the *Agricola* is critical of Domitian, the corresponding section in the *Dialogus* works on the same overall theme and is critical not of Domitian's reign, but Nero's. For political prudence would stop Messalla from being critical of the reigning *princeps* and his line, and so he reaches back to a Julio-Claudian.

the courts, especially by new advocates (*materiae abhorrenti a veritate*) (*Dial.* 35.4). This relates to another part of the problem: would-be orators and advocates get no practical experience. At the end of this description, there is a lacuna in the text, so we do not know if Messalla expanded on his criticism of contemporary rhetorical education.¹³³ But, in light of the fact that Maternus' final speech starts on the lacuna's other side, where we find him wading into politics of modern rhetoric, and that Messalla's speech has political undercurrents, we may assume that he did.¹³⁴

Incisive legal minds of a century ago noted that a contemporary legal apprenticeship fundamentally affects a young advocate's education and, as a result, his effect on surrounding society. Examining this change in America will provide a model against which to assess legal education in the *Dialogus*. A century ago, America switched its legal education from an apprenticeship to a more formal structure, what is now the law school. The changes that American commentators have noted in the American system post-switch are strikingly similar to what one reads in the *Dialogus*. This ranges from law students

¹³³ The scholarly consensus is, however, that Messalla's speech ended and the next speech is Maternus'. Some scholars, such as Charles E. Murgia (1979: 234) and Mayer (2001: 50), argue that the missing lacuna spans a folium or less; others, such as Reinhard Häussler (1986: 73–77) and Harald Merklin (1991: 2275), argue that it is a folium and a half. Whether the gap is a folium or one-and-a-half folia does not matter for my purposes, for even if it were one-and-a-half folia, as even Häussler concedes, another speech could not fit structurally within that gap.

¹³⁴ Arlene Saxonhouse (1975: 61) notes a "definite continuity" between the two speeches concerning educational patterns and political systems.

working on hypothetical cases that they as lawyers will never try, to lack of crucial time observing courtroom behavior.¹³⁵

Karl N. Llewellyn, in his lectures on law and legal education, notes several specific skills that were lost in the move away from apprenticeships, which apply equally well to Rome as to America. Let us look at three. The first is gathering the facts.¹³⁶ We see that in the *Dialogus*' era, students were given ready-made cases; they did not have to investigate the facts themselves. But in the Republic, Cicero lets us know it was often the province of apprentices and young lawyers to investigate a case's background and discover the facts. Cicero himself notes that, as a young lawyer without an apprentice, he spent fifty days traveling all over Sicily interviewing witnesses, examining documents, and creating a record of Verres' governorship (*Verr.* 1.1.6). Such work allows the apprentice-lawyer to construct, and see the cracks in, a case.

Though the second point may seem at first blush unrelated to investigating the case's background, advising a client bears remarkable similarities. There are facts that clients do not like to admit, even to their lawyers. A skilled advocate has to "know enough to suspect more facts, to suspect what they are, to get them out, whether he wants to bring them out or not."¹³⁷ Though Cicero would not air his suspicions about his clients in court or in his published speeches, if we look at

¹³⁵ Jackson (1950).

¹³⁶ Llewellyn (2008: 102).

¹³⁷ Llewellyn (2008: 103); this is what Justice Jackson (1950: 30) called a lawyer having "a wholesome skepticism about his own client's statements."

Pro Caelio, Andrew R. Dyck highlights several hazy parts of Marcus Caelius' life—his role in Catiline's conspiracy, his status as Catiline's lover, his precarious finances, the extent of his relationship with Clodia, as well as its details—that Caelius would have initially kept hidden even from Cicero.¹³⁸ Most important of the three is what Llewellyn calls “hunching power.” It is the guess of which way a case may go. This requires the knowledge of the personalities of the opposing lawyers, the inclinations of the juries, the predispositions of the judges. It is something that can only be obtained through on-your-feet practice with a mentor indicating the subtle clues.

As we have seen, Crassus has tied learning the *practice* of law to on-your-feet experience.¹³⁹ This method of education has political ramifications. Justice Robert H. Jackson¹⁴⁰ diplomatically hinted at a connection between despotic societies and legal education. For he noted that in non-democratic systems, lawyers were mere civil servants, because, in such systems, the lawyer's obligation was more to the court system than to his client.¹⁴¹ This was because the lawyer's standing depended on being in the court's (and ruling elite's) favor. As a way to prevent this from taking root in America, Justice Jackson suggested

¹³⁸ Dyck (2013: 4–5; 12–13).

¹³⁹ See, on this general point, Fantham (2004: 93).

¹⁴⁰ Jackson was something of a relic, even in his own day. He was the last United States Supreme Court justice educated through the apprenticeship process. This did not hinder him from having a varied career, from roles ranging from a country lawyer to Solicitor General, Attorney General, and chief American prosecutor at the Nuremberg trials. Not coincidentally, he is considered one of the best writers to sit on the high court. This rare background gave Justice Jackson wide-ranging views on the different types of legal education in different political regimes.

¹⁴¹ Jackson (1950: 28).

the revival of various aspects of apprenticeship, in which the young lawyer learned through a close connection with his client and thus felt more closely bound to him. In this way, the lawyer stands between his client and the force of society as seen through its applied laws.

Likewise, Tacitus hints that the lawyer is now less independent and less able to serve his clients' interests. Messalla highlights the camaraderie among orator-advocates during the Republic, when they knew and admired their colleagues as well as stocked the benches at their trials (*Dial.* 34). All this engendered a camaraderie among the Roman legal bar. Maternus picks up on Messalla's point and contrasts it with contemporary practice. For cases are now heard in rooms (*auditoria*) and offices (*tabularia*) where no audience is present (*Dial.* 39)—a situation that lacks an external and popular check, and thus empowers a judge's personal inclinations. As scholars have pointed out, Maternus carefully chooses his words in order not to offend the supporters of the regime who are present.¹⁴² As a result, he may leave certain conclusions unstated. But he is implying in the top-down Principate that lawyers lack the independence they once valued.

The apprenticeship process, as Messalla also makes plain, is bound up with the subject of one's education. He points out that Cicero's works touch on all subjects, from geometry and music to grammar—in short, all knowledge worthy of a free man (*ullius ingenuae artis scientiam*) (*Dial.* 30.4). Such a wide-

¹⁴² See generally, Strunk (2010); Saxonhouse (1975).

ranging background was necessary for Republican orators to discuss good and evil (*de bonis et malis*), honor and shame (*de honesto et turpi*), and justice and injustice (*de iusto et iniusto*) (*Dial.* 31.1–2).¹⁴³ This fits in with the apprenticeship process, because the young orator learns from observation how to, *inter alia*, more easily stir up or mollify a judge's ire (*facilius iram iudicis vel instiget vel leniat*) (*Dial.* 31.3).

Instead, in Messalla's mind, contemporary speakers lack in two areas. The first is that they do not know the statutes (*ignorent leges*) and resolutions of the Senate (*senatus consulta*), and they mock the laws of the state (*ius huius civitatis ultro derideant*) (*Dial.* 32.3). The second is that they lack the general education worthy of a free man, such as philosophy. The former deficit especially—lack of knowledge about the legal system—Messalla places in the context of the apprenticeship system; he does so by emphasizing that budding orators learned the laws by observing their application in court, not just from reading treatises (*Dial.* 34.6). Maternus further picks up on the Crassus–Antonius debate about education in *De Oratore*. For he says that the powerful men of the late Republic rose to power through their talent (*ingenio*), speaking (*oratione*), and wide-ranging studies (*his studiis*). The underpinning of their success was their liberal education and knowledge of how to apply that education through the apprenticeship process. Yet, due to the current political structure, such

¹⁴³ As Mayer (2001: 184) points out, these are the three categories of oratory: deliberative, epideictic, and forensic.

education (including an apprenticeship) is not rational, because men cannot climb politically in the same way.

2.5 The Well-Ordered State

Both Cicero and Tacitus link oratory to the state in which it operates. For Cicero, Republican rhetoric can exist only in stable republican institutions. Maternus twists this idea to suggest that Republican rhetoric can work outside of republican institutions.

In both the *Brutus* and the *De Oratore*, Cicero contends that rhetoric can exist only in a well-ordered republic (*bene constituta civitas*) that has established institutions (*Brut.* 45). He explains: rhetoric is not available to those in the process of establishing a commonwealth, to those engaged in war, nor finally to those burdened by or under the mastery of a king (*nec enim in constituentibus rem publicam nec in bella gerentibus nec in impeditis ac regum dominatione devinctis nasci cupiditas dicendi solet*) (*Brut.* 45). By delineating where rhetoric does not work, Cicero lets the reader know where it does: in an *established* republic. Such a state he calls “peaceful” and “tranquil”; eloquence is the companion of peace and the ally of tranquility (*pacis est comes otique socia . . . eloquentia*) (*Brut.* 45).

This point is made again in *De Oratore*. Crassus emphasizes that republican institutions—usually *libertas*, but here *libero populo*¹⁴⁴—are needed, but in a settled condition. Crassus states that rhetoric has always flourished and been preeminent in a completely free people and especially in peaceful and tranquil states (*haec una res in omni libero populo maximeque in pacatis tranquillisque civitatibus praecipue semper floruit semperque dominata est*) (*De or.* 1.30). Above, *pacatis tranquillisque civitatibus* slightly varies from *libertas* by signaling the institutions themselves are not in flux, but well settled.¹⁴⁵ They are peaceful and tranquil because they are free from the conditions mentioned in *Brutus*—the forming of the institutions themselves, as well as being subject to war and the mastery of a king. In short, for Cicero, *pax* and *tranquillitas* mean institutional stability.

Maternus, on the other hand, suggests that institutional stability is not alone sufficient for Republican rhetoric; a supportive political culture is also needed. Maternus’ final speech seemingly distorts Cicero’s thought about *pax* and *tranquillitas* as necessary for rhetoric. Maternus argues that rhetoric springs from chaos: “That great and famous eloquence is a nursling of lawlessness, which fools call *libertas*, the companion of civil discord . . . and which does not arise in well-ordered states” (*magna illa et notabilis eloquentia alumna licentiae, quam stulti libertatem vocitant, comes seditionum . . . quae in bene constitutis*

¹⁴⁴ Connolly (2007: 104) is generally right in noting that *libero populo* signals a discussion of political arrangements.

¹⁴⁵ At *Phil.* 2.113, Cicero states *pax est tranquilla libertas*.

civitatibus non oritur) (*Dial.* 40.2). Scholars have had trouble squaring this statement, in which Maternus seems to praise the Principate, with the fact that elsewhere he criticizes the Principate.¹⁴⁶ We can resolve this issue, however, if we realize that Maternus is not supporting the Principate, but rather he is stating that stable institutions are not enough for rhetoric to flourish.

In his second speech, Maternus assumes the existence of institutional stability without having to argue for it, aside from noting that Rome now is “well-ordered state.”¹⁴⁷ In a like manner, the *Dialogus* assumes that the necessary institutions are stable according to the *Brutus*’ definition, though they lie fallow. Yet a supportive political culture is needed as well, such as the right type of education and the proper motivation for undertaking oratory. These are things that the Principate, he argues, currently lack, since political issues are decided by the *princeps*, a singularly wise man (*sapientissimus et unus*), and judges now resolve cases not according to the law, but according to whether they choose to grant clemency (*clementia*) (*Dial.* 41.4). For Maternus also has lamented the

¹⁴⁶ For instance, Bartsch (1994: 111–12) suggests that Maternus’ statement argues that liberty can only be found in order, but she cannot square this idea with the Maternus who is a critic of the Principate. van den Berg (2014: 205–7) and Mayer (2001: 199, 211) fall into the same general camp as Bartsch. Strunk (2010) attempts to resolve this dilemma by arguing that Maternus’ second speech, including the quoted section above, is an ironic critique of the Principate that should not be taken as sincere. This idea, however, has several major flaws: first, it destroys the continuity between Maternus’ two speeches; second, it does not take into account how Maternus’ second speech, supposedly veiled in allusions and innuendos, can adequately respond to the other interlocutors’ points, if it cannot be taken as its face value; third, it equates Maternus with Tacitus (252), when such an approach does not take into account the *Dialogus*’ open-ended nature.

¹⁴⁷ See Bartsch (1994: 111).

decline of education as well as oratory's lack of a public role—important aspects of political culture that stimulate the need for Republican rhetoric.

Maternus' observation that there was a lack of quality orators in Sparta and Crete illustrates the need for a supportive political culture.¹⁴⁸ In at least one important respect, Sparta was not very dissimilar from the Principate. Like Rome and its Senate, Sparta had an assembly made up of the highest class of individuals, but the real power lay in the hands of a small council of thirty individuals, the *gerousia*, which included the two monarchs.¹⁴⁹ Yet, in contrast to Sparta, Maternus notes that there were very many Athenian orators (*plurimi Athenienses oratores*) (*Dial.* 40.2). The difference is that rhetoric (*eloquentia*) had not flourished where there is an entrenched monarchy (*certo imperio*), like Sparta (*Dial.* 40.3). But Maternus seems to go a step further, suggesting that governments such as Sparta's have the strictest laws (*severissimae leges*) and strictest culture (*severissima disciplina*). The culture that Sparta, like other monarchies, has fostered is the reason Republican rhetoric cannot exist under it (*Dial.* 40.3).

Maternus' speech, like the other interlocutors' speeches, is an open question and has the seeds of its own rebuttal. Maternus' analysis depends on monarchs who have imposed the strictest laws and operate in the strictest cultures, where there is an entrenched monarchy (*certo imperio*) (*Dial.* 40.3).

¹⁴⁸ As Mayer (2001: 212) points out, Crete's constitution was similar to Sparta's.

¹⁴⁹ Strauss (2013: 27).

Maternus' use of *certo imperio* reflects Cicero's statement that Republican rhetoric cannot exist in a society under the mastery of a king (*regum dominatione*) (*Brut.* 45). Maternus, however, is careful to say that he lives in a "well-ordered state," not a monarchy. This invites the question of whether Republican rhetoric can exist in a government that has some monarchical features. Maternus' reference to the fact that Rhodes has some orators (*quidam . . . oratores*) of quality (*Dial.* 40.2) is important for this point. Rhodes was well known for teaching rhetoric; many Republican orators, including Cicero, studied rhetoric there. But during this time, Rhodes was already under Rome's power, yet it was able to order its own internal affairs through deliberative rhetoric.¹⁵⁰ Rhodes, in other words, was internally a democracy but externally under the mastery of Rome. Rhodes, then, shared characteristics of Athens and Sparta. And, like Rhodes, the Principate cannot be classified as a single type of government. It is strictly not a monarchy, nor is it a republic. This inherent ambiguity in the Principate's character leaves open the possibility that some version of Republican rhetoric can flourish in the Principate, under the right conditions.

¹⁵⁰ Rhodes entered into a lopsided "alliance" with Rome in 164 (Polyb. 30.31). As Polybius notes, Rhodians lost their freedom of action in interstate affairs and obeyed the Senate's dictates (30.31.10, 16, 20). Despite the fact that this imbalanced relationship continued on throughout the Principate, Rhodes had an active assembly that managed Rhodes itself (see generally Dio Chrys. *Or.* 31).

The *Dialogus* brings together different strains of thought on Republican rhetoric, as principally enunciated by Cicero.¹⁵¹ In doing so, it is analyzing whether Republican rhetoric can function outside a republic. It does this by examining how Republican rhetoric changed from the Republic to the Principate against four different benchmarks: institutions, state service, law, and education. In each case, we have seen that Republican rhetoric has undergone such dramatic changes that it ceases to be “republican.” Most importantly, decisions are oftentimes coerced or otherwise reached in a prejudiced manner. Since Republican rhetoric depends on winning over minds voluntarily, the absence of this independence is fatal. The work, however, ends on Maternus implying that there might be meaningful differences between governments that have been lumped together as monarchies and that these differences may dictate political life in various ways. So when Messalla ends the dialogue by challenging Maternus—“You made comments I would argue with, and ones I would like to hear more about, if the day were not over” (*erant quibus contra dicerem, erant de quibus plura dici vellem, nisi iam dies esset exactus*) (*Dial.* 42.1)—it should come as no surprise that the Tacitus’ next work, the *Germania*, investigates how different types of monarchies affect the political activities of those within them.

¹⁵¹ To reiterate: Republican rhetoric is the ability through persuasion to change the mind of a political body which can make in its sphere of authority a non-coerced decision that directly affects the legal rights or status of an individual or a body of individuals.

3. The Constitution of the Germani

At times, the *Germania* has been often viewed as either solely or mostly an ethnographic work that is “by no means . . . complex or perplexing.”¹ For instance, Ronald Syme has called the work “much simpler” than Tacitus’ others.² When they assess the work, scholars often focus on its accuracy as a work of ethnography, looking to Bronze Age societies to validate Tacitus’ claims.³ Such an approach overlooks the work’s rich complexity. This chapter argues that the work is both dialogic in form and political in content. When the *Germania* was being written, Roman political life was in continuous flux. The political institutions that were made to thwart one-man rule were now haphazardly facilitating it, and a new dynasty was in power. The *Germania* is a response to this instability, announcing in its first line that it is a work about tribes under kings (*gentibus ac regibus*) (*Germ.* 1.1).⁴ Rather than its aim being broadly ethnographic, the *Germania* is also a vehicle by which Tacitus explores the Germani’s—and more importantly, Rome’s—political structure. In this manner,

¹ Rives (2012: 45).

² Syme (1958: 125).

³ For example, James Rives (1999: 167), the most prolific and astute recent commentator on the work, when examining the use of horses in divination by the Germani (*Germ.* 10.2), examines the similar practices of pagan and Bronze Age societies to attempt to verify the work’s assertion. This is important. But he does not take the next step and examine the importance of this practice—and Tacitus’ lengthy description of it—among the Germani and how it relates to decision-making in their society.

⁴ Anderson (1938: 36) correctly points out that if *hendiadys* is not used, the phrase would read “kingless tribes and kingdoms,” since any *gens* with a king would be subsumed under *regibus*. As he states, the phrase then means “‘tribes and their kings,’ i.e. ‘tribes under kingly rule.’” He further notes such a use of *hendiadys* can be found in Sallust’s *Bellum Catilinae*, 51.4, *reges atque populi*. See also Benario (1999: 63), who correctly writes that this phrase “refers to peoples and their kings.”

Tacitus uses the first half of the work to sketch the broad outlines of the Germani's social organization and institutions.⁵ In the second half, Tacitus expands upon different permutations of their political institutions.

Tacitus is examining the institutions of the Germani to better understand his own political system. This approach places Tacitus in the mainstream of political and constitutional thought: Aristotle studied 158 constitutions to better understand the Athenian constitution, and John Adams undertook a similar task before the drafting of the United States Constitution.⁶ But more than works of Aristotle or Adams, the *Germania* follows in the tradition of Polybius and Cicero. The discussion of republican institutions in the sixth book of the *Histories* bookends Polybius' discussion of the army's organization, because the military was the state's biggest output of manpower and resources: the army was the clearest method of showing that "the Roman *politeia* was superior to the Carthaginian."⁷ This adds up to making the army "inseparable from the *politeia* itself."⁸ In Book 2 of his *De Re Publica*, Cicero similarly preceded Tacitus in characterizing Rome's military and national character as an important part of its political culture. So, Tacitus focuses on the Germani's war-making customs because they are integral to examining the Germani's political culture and

⁵ I follow in the path of Rives (2012: 45) and Christopher Krebs (2011: 17–8) by noting the discontinuity between modern Germans and the long-ago inhabitants of Germania by calling them the Germani.

⁶ John Adams examined the faults and virtues of both modern and ancient constitutions in his *A Defence of the Constitutions of Government of the United States of America Against Attack of M. Turgot in His Letter to Dr. Price, Dated the Twenty-Second Day of March, 1778*.

⁷ Erksine (2013: 234–5).

⁸ Erksine (2013: 235).

institutions, and because this approach, in part, follows major thinkers on the Roman constitution. The *Germania*, then, forces the reader to think critically about Roman government.

On a more specific level, the *Germania* explores whether *libertas* can exist under a king. In order to examine this issue and have a basis of comparison to contemporary society, Tacitus turns to Cicero's Republican thought. By using Cicero as his main point of contact to understand previous thought on monarchy, Tacitus links further the *Germania* to the *Dialogus* as well as contests the Ciceronian dichotomy of monarchy/unfree and non-monarchy/free. To do this, Tacitus establishes four common points of reference by which two seemingly unlike systems (that of Germania and that of Rome) can be compared. These four points are: *potestas*, *imperium*, *auctoritas*, and *libertas*. The aspect of Ciceronian Republican thought that Tacitus is most interested in is the idea that *libertas* cannot exist under a king.⁹ This belief is based on the Roman experience with a single monarchy in the distant past. For this reason, Ciceronian Republican thought argues that there is only one type of monarchy, which necessarily precludes *libertas*. Tacitus pushes back against this idea by attacking the basis from which it was made: he examines this premise by exploring different types of monarchical arrangements, showing that monarchy is not a

⁹ As Cicero notes, "many things are completely lacking to a people ruled by a king, but chief among them is *libertas*" (*desunt omnia ei populo multa qui sub rege est, in primisque libertas*) (Cic. *Rep.* 2.43). See also Atkins (2018b: 37–60) for a fuller discussion of *libertas* under a monarch.

one-size-fits-all regime; there are significant political differences among monarchies. Under the Germani's various monarchial systems, the offices and divisions of powers are individually different than they were under the Roman monarchy. These differences give Tacitus a chance to investigate monarchy's possibilities as a form that preserves Republican political goals.

3.1 The Principate's Volatility Backgrounds the Germania

When Augustus rose to power, the established customs and institutions that facilitated a Republican government— such as the Senate and its *auctoritas*—were not designed to support a Roman *princeps*. Rather customs and institutions ill-designed for such a government had to be adapted, and, as a result, all emperors used these customs and institutions differently. There was no stability or uniform practice. Oftentimes, powers that were meant to check or balance each other under the Republic were folded into the same person's power, often without the corresponding office. Consider *potestas* and *imperium*. As Erich S. Gruen has noted, Augustus was granted power—*potestas tribunicia* that gave him power at Rome and *maius imperium* that gave him power abroad—without the corresponding offices. *Potestas tribunicia* is the power a tribune has to intercede on behalf of the plebs to block harmful actions of the Senate or the magistrate. Such power was never intended to be in the hands of one who was the promulgator of the potentially harmful actions.

Augustus was also freed from the constraints of Republican institutions—annual elections, ability to be vetoed, end-of-term accounting.¹⁰ This started the process where the Roman *princeps* became independent of republican institutions. As Tacitus himself notes, Augustus, like following *principes*, used the awarding of *potestas tribunicia* as a method to appoint his successor so that he need not assume the name of king or dictator, yet would still surpass all other powers by means of a title (*id summi fastigii vocabulum Augustus repperit ne regis aut dictatoris nomen adsumeret ac tamen appellatione aliqua cetera imperia praemineret*) (*Ann.* 3.56). And yet, like other *principes*, Augustus also exercised power even more informally, such as through careful promotion of elite Romans,¹¹ the establishment of an imperial cult at Rome and in Italy,¹² the patronage of poets, and the use of freedmen to circumvent senators and other nobles.¹³ In other words, from Augustus onwards, supreme power was not formalized in name and lacked external constraints. As a result, the operation of political power was not at all clear to the outsider.

The continuity of the Julio–Claudian and Flavian dynasties added some informal stability, but not much. Augustus adhered to many procedures that were not obligatory. Such procedures helped form and anchor the Principate. For example, while at Rome, Augustus regularly attended Senate meetings.

¹⁰ Gruen (2007: 40–43).

¹¹ Gruen (2007: 36)

¹² See generally Scheid (2007). Atkins (2018b: 142) notes that the establishment of the imperial cult contained many parts, such as Augustus' election as *pontifex maximus* in 12 AD and “transform[ing] his private residence into a palace shared with Vesta and Apollo.”

¹³ Wallace-Hadrill (1993); Cartledge (2016).

Richard Talbert notes that although Augustus' powers gave him near absolute control of the Senate, it was still beneficial to cultivate senatorial support for emergencies and daily work.¹⁴ More than this is the recognition that the Senate still played a part in the government—a nod to republican government. For these reasons, the Julio–Claudians and the Flavians attended Senate meetings.¹⁵ Notable exceptions, such as Nero's lack of attendance, demonstrates that attendance, like so many other things, was a precedent able to be broken.¹⁶

Domitian, too, broke with precedent. For instance, Domitian's father and brother before him had accorded the Senate power through informal channels. Vespasian had increased the Senate's ranks, "by choosing the worthy of Italians and provincials" (*honestissimo quoque Italicorum ac prouincialium allecto*) (Suet. *Vesp.* 9.2). Such additions, in part, were to fill various administrative posts with men on whom Vespasian could rely. Indeed, delegation and competent administration—and the reliance on elites this entailed—were hallmarks of Vespasian's administration.¹⁷ Additionally, he kept the Senate stable from needless turnover by ensuring, out of his own funds, that current senators could

¹⁴ Talbert (1984: 173–4).

¹⁵ Talbert (1984: 174–9).

¹⁶ Much of the constitution of the Roman Republic was based on precedent, but precedents depended on republican institutions and as Malcolm Schofield (2015: 123) points out, "a strong aristocratic military ethos" that was built over centuries through powerful families. To undercut these precedents would require mobilizing many powerful families and groups. The *princeps*, however, was not hemmed in by potential rival actors nor by centuries of precedent, let alone institutions embodying those precedents.

¹⁷ Nicols (2015: 74).

meet the requisite property qualifications (Suet. *Vesp.* 17.1).¹⁸ Titus, in his short reign, signaled his general willingness to continue his father's policies by confirming in a single edict all grants that he (Vespasian) had made (Suet. *Tit.* 8.1).¹⁹

Domitian's reign signaled that this stability was illusory. When he first came to power, he kept on Vespasian and Titus' advisors (Suet. *Tit.* 7.2). Alessandro Galimberti notes, "By maintaining in key positions individuals who had already proved themselves under Vespasian and Titus, Domitian preserved essential continuity, ensuring a smooth and efficient functioning of the imperial apparatus."²⁰ By extension, keeping the same coterie provided that the previous rulers' policies stayed largely in place. For instance, early in his reign, Domitian continued his predecessors' plans for continued military campaigns in Britain, hoping to subdue the island. This continuation is most easily seen in the fact that Tacitus' father-in-law, Agricola, was the governor of the island under all three emperors, and under all three emperors he pursued a general program of territorial expansion.²¹

¹⁸ On a related point, Dészpa (2015: 172–5) points out that after the Year of the Four Emperors and at the start of Vespasian's reign, Helvidius Priscus led a group of senators who attempted to have the Senate be the body originating and determining financial matters. Dészpa (2015: 172) points out that such actions were "attempting to make the senate the originator of political action in the *res publica* and the empire, with the *princeps* assuming the secondary role." He is right in this conclusion. But most importantly for our purposes, debate over such fundamental political power illustrates the lack of institutionally defined roles, the uncertainty of the locus of power, the chaotic transitions of that power, and overall instability.

¹⁹ Murison (2015: 86).

²⁰ Galimberti (2016: 95).

²¹ In 77, still under Vespasian's reign, Agricola began a series of offensive campaigns in Britain to subdue the inhabitants and expand territory (*Agr.* 18). These campaigns continued through

Since soft constraints were all that held Domitian to his predecessor's policies, he was easily able to upend these policies and increase Rome's volatility. By the mid-80s, Domitian began relying on a small group of advisors. As Pliny the Younger, a senator, remarked, such actions caused a permanent rift in the Roman *princeps*–senatorial relationship: “He had hated whomever we favored, but we also had hated whomever he favored” (*oderat quos nos amaremus, sed et nos quos ille*) (*Pan.* 62.3).²² This hostility eventually led to Domitian's execution or exile of prominent senators, including the likely poisoning of Agricola in 93.²³ Galimberti attributes these actions to Domitian's conflict with the Senate feeding his already-present paranoia.²⁴ In all events, these moves made a mess of the Roman *princeps*' political policies, not only by rupturing any continuity with previous policies, but also by ensuring many able men could not serve the state. This illustrates that a Roman *princeps* governed with no institutional constraints to guide policy or even to dictate his role in the government.

Perhaps the best example of the institutional instability is the Year of the Four Emperors. We have seen, briefly, that the Senate provided stability even

Titus' brief reign (*Agr.* 22–24) and into Domitian's reign (*Agr.* 37). See also Woodman and Kraus (2014: 15–16). Gil Gambash (2016: 270) generally argues that Domitian wanted to continue Vespasian and Titus' general policy of expanding Rome's borders. Gambash is uncertain, partly due to the unreliability of the sources, whether there was a continual movement toward expansion in Britain or whether it happened spasmodically. In all events, the conquest reached its peak under Domitian.

²² See also Jones (1992: 22–3).

²³ For the likely poisoning of Agricola, see Schwinge's (1963) analysis.

²⁴ Galimberti (2016: 96).

early in the Roman monarchy. After Romulus' death, there was no heir apparent, and a leader needed to be chosen. The Senate realized that not having an *imperium* holder and army leader invited danger and instability, internal and external (Livy 1.17.4). In order to fill this void, the Senate instituted an *interregnum*, in which the one-hundred-person Senate was divided into ten decuries, with a leader from each. These ten leaders filled in for the king by running the government (*decem imperitabant*) (1.17.5–6) and exercising *imperium* (*Rep.* 2.23) until the new king was chosen. Simply put, due to the development of complementary institutions, especially a Senate that had a hand in government, the state was able to remain stable after the death of even the first monarch.

Not so after Nero's death. Josiah Osgood rightly makes the point that Nero's relationship with the Senate was anything but durable. At the start of his reign, the relationship was stable, but it slowly deteriorated until the Pisonian conspiracy's wake left relations untenable after 65.²⁵ To be sure, the senators still played important roles, such as governing the provinces. But Nero gradually sidelined them. According to Suetonius, "Nero often made continuous comments lacking any doubt, namely that he would not spare any of the still-living senators, and he would remove that body from the state, and he would entrust the provinces and army to the *equites* and to his freedmen" (*multasque nec dubias*

²⁵ Interestingly, Josiah Osgood (2017) argues that senators themselves were split over what their role should be. Some were content to merely be part of the socializing upper crust, while others sought to gain some hand in governance.

significationes saepe iecit, ne reliquis quidem se parsurum senatoribus, eumque ordinem sublaturum quandoque e re publica ac provincias et exercitus equiti R. ac libertis permissurum) (Suet. *Ner.* 37.3). This excerpt shows that Nero not only hated the Senate, but also had the power to do what he wanted to it by circumventing it through the use of freedmen who were loyal only to him.²⁶ Freedmen and *equites* were a tool by which an emperor could exclude senators from taking part in the political sphere.²⁷ In other words, the Senate had no defined role even under Nero. Indeed, when Nero died, it was not the Senate that sought to control *imperium*, such as after Romulus' death, but governors with military support.

It was against this institutional background that Tacitus wrote the *Germania*. When Tacitus began the *Germania*, presumably in 97, if not earlier, Rome was undergoing another dynastic change. Not only had the Flavian dynasty ended shortly before and a new individual now reigned, but the quality of *principes* purportedly changed. The start of the *Agricola*, written at the same time as the *Germania*, acknowledges this change. It notes that for fifteen years—the length of Domitian's reign—the *princeps*' cruelty (*saevitia*) killed the ablest men in Roman society (*Agr.* 3.2). Yet the start of Nerva's reign in 96 suggested the start of a possible shift in government: it could be the very beginning of a

²⁶ On a related point, Josiah Osgood (2017: 44) argues that Nero's execution of several senatorial governors in 67 finally resolved the senate against him.

²⁷ A *princeps*' use of *equites* is not as clear as his use of freedmen. Pat Southern (1997: 50–1) notes that *equites* were increasingly used during the first and second centuries; but she argues, with regard to Domitian, that they may have been elevated simply because they were the best individuals for the task.

most blessed reign (*primo statim beatissimi saeculi ortu*) (*Agr.* 3.1). As we will see below, Tacitus was working in an intellectual tradition that held that kingship was *ipso facto* opposed to certain Republican constitutional features, especially *libertas*.²⁸ Although not a monarchy in a strict sense, the Principate shared several important features with it, such as permanent *potestas*. In this vein, the Principate's varied history suggests that the idea of monarchy itself is more complex than previously thought. In order to see how this is so, it is first necessary to understand the terms that are central to the *Germania*.

3.2 Ideological Terms Orient the Germania

In the last chapter, we saw how Tacitus was responding to Ciceronian ideas about the role of oratory in public life. In this chapter, we will continue to see Tacitus use Ciceronian ideological terms. But in the *Germania*, Tacitus' use of Ciceronian ideological terms and his eventual contesting of those terms highlight a shift away from Ciceronian ideas about political life toward an open-ended investigation, as we will see more clearly in the next chapter on the *Agricola*. The *Germania* marks where Tacitus begins to move from simply responding to Ciceronian claims to fashioning his own inquiry.²⁹ In order to root the *Germania* in Ciceronian thought about monarchy, Tacitus employs terms that Cicero uses to discuss monarchy to connect his investigation of the Germani

²⁸ Atkins (2018b: 42–3).

²⁹ This is not to say that Cicero is not an important point for the *Opera Minora* and that his influence will not be observed in each work.

to Cicero.³⁰ In this dissertation’s first chapter, I touched on these ideological concepts—*potestas*, *imperium*, *auctoritas*, *libertas*—in order to generally situate the *opera minora*. But in order to fully understand Tacitus’ *Germania* and his investigation of political life under a monarch, it is first necessary to provide further nuance to these ideological terms.

Royal power is traditionally defined as permanent *potestas*.³¹ As Cicero says: “For in any state where one person has permanent *potestas* . . . a state of this kind is not able to be or to be called anything other than a kingship” (*nam in qua re publica est unus aliquis perpetua potestate . . . neque potest eius modi res publica non regnum et esse et vocari*) (*Rep.* 2.43).³² Such permanent *potestas* was inherently dangerous, in part because there was little check on it. In the establishment of the Republic, the consuls held *potestas*, which by its type and by law was royal power (*genere ipso ac iure regiam*) (*Rep.* 2.56)—in other words, the power the kings held.³³ Additionally, Republican thought held that no matter the form of kingship, *libertas* could not exist under it. Cicero, again: “Many things are wholly lacking to these people, who are under a king’s rule, and most of all *libertas*, which does not exist in us accepting a just ruler, but in accepting none” (*desunt omnino ei populo multa, qui sub rege est, in primisque libertas*,

³⁰ Others, such as Livy, will be used to help flesh out ideas as presented in Cicero.

³¹ Atkins (2018b: 42–3).

³² For the same point, see generally Livy 2.1.

³³ Livy makes the same point at 2.1.7–8.

quae non in eo est, ut iusto utamur domino, sed ut nullo) (Cic. *Rep.* 2.43).³⁴ Put differently, the mere presence of permanent *potestas* threatens an individual's *libertas*. This is a point that Livy also makes when he says that, for Rome, the beginning of *libertas* (*libertatis . . . originem*) was based more on the fact that the consuls were elected annually than that the king's *potestas* (*regia potestate*) was diminished (Livy 2.1.7).

A related concept to *potestas* is *imperium*. While they were in power, the Roman kings exercised nearly complete control over their community, and this was understood as *imperium*. Put differently, during the monarchy, *imperium* was “extraordinary *potestas*” or royal *potestas* (*regia potestas*).³⁵ It involved three main aspects: the sole authority to understand the will of the gods (*auspicium*) and the obligation to secure the gods' favor for this community (*pax deorum*); the power to judge and dispense justice; and the right to military command (*Rep.* 2.16–38).³⁶ Cicero emphasizes that the kings held these powers. For instance, Romulus alone founded Rome on the basis of the auspices (*Rep.* 2.5, 2.16), arranged Rome's defenses (*Rep.* 2.11), and adjudicated its disputes (*Rep.* 2.16). All this is what Cicero called the *imperium of one man* (*singulare*

³⁴ See also Livy as stating that *libertas* cannot exist under a king: 1.17, 1.23, 1.46.

³⁵ Oakeshott (2006: 232).

³⁶ Oakeshott (2006: 183–4).

imperium) and royal *potestas* (*potestas regia*) (*Rep.* 2.15). Livy classifies the king's power in the same way.³⁷

During the Republic, *imperium* was placed in several hands; no longer was it in a single person's. Rather, on a general level and at Rome, it was divided among the consuls and by yearly terms (*Livy* 2.1.7; *Cic. Rep.* 2.56).³⁸ On a more specific level, *imperium* came to be identified with military command, and a general exercised it when he left Rome on campaign. Another form was proconsular *imperium*, by which a governor had near-dictatorial powers over his province, far more power than the consuls' *potestas* at Rome.³⁹ In this way, *imperium* still existed, but was cabined off by location, duration, and offices. Finally, a dictator could lawfully exercise *imperium* in Rome for a temporary period to counter a grave threat (*Cic. Rep.* 2.56; *Livy* 2.30.4–5).⁴⁰ Such an action, however, was often opposed by the people since it seemed like the establishment of a king (*Rep.* 2.56).

Unlike *potestas* and *imperium*, which were based in the power to command, *auctoritas* was the ability to persuade and influence. The Senate's power derived from its *auctoritas*.⁴¹ Malcolm Schofield defines *auctoritas* so: it was "authority in the sense of authoritative influence, deriving formally from [the Senate's] constitutional role as the chief forum for deliberating public policy and

³⁷ See, e.g., 1.59.11 and 2.1.7 for *imperium*. For *imperium* pertaining specifically to a king, see, e.g., Numa Pompilius for his command of law, religion, and war (1.19.1 and 1.20.1–3).

³⁸ See Atkins (2018b: 14–5); Lasso (2014: 23, 29).

³⁹ Oakeshott (2006: 231–2).

⁴⁰ See Atkins (2018b: 24) for Sulla's use of *imperium* as dictator to alter the Roman constitution.

⁴¹ Atkins (2018b: 27).

for advising the consuls and other senior magistrates.”⁴² Yet *auctoritas* also held the implied notion of political and social standing that added great significance to the Senate’s deliberations. To have *auctoritas* meant to be without *potestas* or *imperium*.⁴³ When the king was acting as a king—that is to say, exercising his *imperium* or *potestas regia*—he was not exercising *auctoritas*. In theory, a king’s *imperium* should not clash with the Senate’s *auctoritas*. For the Senate was founded by Romulus, who thought that “states would be better guided and ruled under the *imperium* of one man and his royal *potestas* if the *auctoritas* of the best men were added to the monarch’s rule” (*singulari imperio et potestate regiarum melius gubernari et regi civitates si esset optimi cuiusque ad illam vim dominationis adiuncta auctoritas*) (*Rep.* 2.15).

The Senate began as an advisory body and slowly gained power over time. So, by the time of time of Romulus’ death, it was able to handle transferring power to a new king (*Rep.* 2.23–24; Livy 1.17).⁴⁴ Yet, just as *libertas* cannot exist under a monarch, both Cicero and Livy imply that *auctoritas* cannot successfully function under a monarch.⁴⁵ This is because the very nature of a monarchy—its

⁴² Schofield (2015: 123).

⁴³ Schofield (2015: 123); Oakeshott (2006: 226); Atkins (2018b: 27).

⁴⁴ See Lasso (2014: 22), who observes that the institutions that supported the Republic were created under a monarchy; see also Moatti (2018: 49–50) for the same overall point.

⁴⁵ In 216, during the Second Punic War, Pacuvius Calavius, the chief magistrate of Capua was confronting a people who felt the Senate had betrayed them and therefore wanted to establish a never government. Calavius warned his follow citizens,

since you hate these senators, you do not wish to have a senate at all; to be sure, you must have either a king, which is detestable, or that which is a free state’s sole source of deliberation, a senate. So, you must now do two things, both remove the old senate and institute a new one.

caprice (*vis*), *potestas*, and name (*nomen*)—surpasses (*excellit*) and stands above (*eminet*) the Senate and its *auctoritas* (*Rep.* 2.50).⁴⁶ This antagonism created deliberative bodies that aimed to prohibit men from exercising compulsion—as *potestas*, *imperium*, or otherwise—in their deliberations.

Moreso than *potestas*, *imperium*, and *auctoritas*, *libertas* is the key to a functioning republic. As we have seen in the first chapter, *libertas* is freedom from domination.⁴⁷ As we have seen, Ciceronian Republican thought understands monarchy and *libertas* as mutually exclusive, since, according to this tradition, a monarchy always presents the opportunity for domination.⁴⁸ As Jed Atkins has pointed out, *libertas* encompasses different privileges for the non-elites and the elites.⁴⁹ For the non-elites, *libertas* is a defensive mechanism for the plebeians to protect against domination: “it is the custom for the plebeians’ interests to be protected by *libertas* from the domination of kings and patricians”

etenim hos, ut opinor, odistis senatores, non senatum omnino habere non uoltis; quippe aut rex, quod abominandum, aut, quod unum liberae ciuitatis consilium est, senatus habendus est. itaque duae res simul agendae uobis sunt, ut et ueterem senatum tollatis et nouum cooptetis (Livy 23.34–5).

Calavius, in this passage, notes that a functioning senate is incompatible with a king. As Mineo (2015: 133) observes about this section: “for Livy, the freedom of the people coincides with the rule of law, and more particularly, with respect for the Senate’s authority (*auctoritas patrum*).”

⁴⁶ In a similar way, P.A. Brunt (321–7) argues, against at-this-time prevailing scholarly opinion, that *libertas* is opposed to *auctoritas* partly because there is “an incongruity between the ‘principles’ of liberty and authority.”

⁴⁷ See, e.g., Arena (2012: 20–34).

⁴⁸ Moatti (2018: 48–51) agrees with this assertion in her examination of ancient authorities’ historical treatment of the development of the *Res Publica*.

⁴⁹ Atkins (2018b: 36–44); see also Raaflaub (2004: 266–7).

(*itaque et a regum et a patrum dominatione solere in libertatem rem populi vindicari*) (*Rep.* 1.48).⁵⁰ *Libertas* is comprised of four defensive mechanisms to protect the plebeians.⁵¹ First, Roman citizens had the right to appeal a magistrate's judgment or punishment to the Roman people (*Rep.* 2.53–56; *Leg.* 3.6; 3.27).⁵² Second, they had the right to vote (*Rep.* 2.39; *Leg.* 3.10; 3.33–39).⁵³ The non-elites' votes, however carried less weight due to the way voting blocs were arranged (*Rep.* 2.39; *Leg.* 3.39).⁵⁴ Third, the Tribune of the Plebs, on behalf of a Roman citizen, could veto senatorial legislation as well as prohibit a magistrate's act he found illegal (*Rep.* 2.58; *Leg.* 3.9, 3.16, 3.19–26).⁵⁵ Finally, *libertas* also included the right for plebs to marry patricians, which allowed plebs greater social and political mobility (*Rep.* 2.63).⁵⁶

⁵⁰ Dean Hammer (2014: 52–8) glosses over the fact that *libertas* is a plebeian concept. He is correct in seeing that it entails a freedom from domination, but he misses who is being protected from what domination. This oversight is due to the fact that Hammer does not pay sufficient attention to the class-based society that shapes Cicero's work. Rather, when he mentions the Roman "people," Hammer is generally talking about all Roman citizens, regardless of class. As such, he defines *libertas* in a non-class specific way: "A form of power that is organized around the possess and disposal of property, including oneself and public things" (2014: 54).

⁵¹ In a way similar to Hammer (2014) above, Michelle Clarke (2014) construes *libertas* too narrowly. Clarke argues that *libertas* is the freedom from domination in the sense of the freedom from arbitrary bodily coercion, which is raping, maiming, torturing, and killing with impunity (212). Clarke is right to try to define what "domination" means but she overlooks other instances of coercion which were just as important to Roman Republican thinkers. For instance, Livy notes confiscation of property (1.54.8), forced exile (1.54.9), violation of religious customs (1.59.10) and forced labor (1.59.10) as evidence of Tarquinius Superbus' unrestrained arrogance (*superbia*) (1.59.9). For *superbia* used in the context of a tyranny dominating his people, see Atkins (2018: 11–12) and Baraz (2008: 383–7).

⁵² See Arena (2012: 50–1); Atkins (2018a: 765).

⁵³ See Arena (2012: 54–5); Atkins (2018a: 765).

⁵⁴ Wirszubski (1950: 32) also notes that until the secret ballot, plebs were often compelled to vote the same way as their patrons.

⁵⁵ See Lintott (1999: 121–8) for the development of the Tribunate as well as its power to protect plebs; see also Wirszubski (1950: 22–3).

⁵⁶ See Atkins (2018b: 47–8) for Livy's analysis of these rights.

For the elites, *libertas* also “requires space for active political participation by the political class on its behalf.”⁵⁷ This space allows elite Romans to enhance their social status by serving the *res publica* in various roles, such as a praetor.⁵⁸ According to Ciceronian Republican thought, this ability is not possible under a king. As we will see, the *Germania* pushes back against this idea and suggests that, in fact, there is room for political participation and *libertas* under some types of king (see, e.g., *Germ.* 44.1).

A healthy state requires only a moderate amount of *libertas* for the non-elites, since their *libertas* is self-protective in nature. This approach ensures that the elites remain in power. As Cicero noted of one of the Republic’s founders, “by giving a moderate amount of *libertas* to the plebs, he more easily held onto the patricians’ *auctoritas*” (*modica libertate populo data facilius tenuit auctoritatem principum*) (*Rep.* 2.55). But if there is no *libertas*, the people become ungovernable in their desire for it (*Cic. Rep.* 1.66; *Livy* 2.1.3). On the other side, too much *libertas* leads people to become factious and in turn engenders the rise of a tyrant. Cicero again: “excessive *libertas* ends in excessive slavery for both the populace and individuals. As a result, from this excessive *libertas*, a tyrant is born, and that is the most unjust and harshest type of domination” (*nimiaque illa libertas et populis et privatis in nimiam servitutem cadit. Itaque ex hac maxima libertate, tyrannus gignitur et illa iniustissima et durissima servitus*) (*Rep.*

⁵⁷ Atkins (2018a: 768).

⁵⁸ Atkins (2018a: 768–70).

1.68). Livy makes the same point when he recounts the fortunate timing of the expulsion of the Roman monarchy: if the kings had been deposed earlier, the lower class (*plebs*) would have been unrestrained by royal power or an adequately-developed Senate. They would have possessed an unbounded *libertas*,⁵⁹ with no checks on or counterweights to it; they would have descended into faction-centered disputes (*discordia*) (2.1.6), destroying the community.⁶⁰

What is needed for a stable government is *libertas* moderated by other forces. So, by giving a small amount of *libertas* to the people (*modica libertate populo data*) at the outset of the Republic, the elites were able to create a stable state (*Rep.* 2.55). Livy observed the same thing: the peaceful moderation of government maintained and managed public concerns by sustaining them to such an extent that they were able to bear the healthful fruit of *libertas* with its now ripened powers (*quas fovit tranquilla moderatio imperii eoque nutriendo perduxit, ut bonam frugem libertatis maturis iam viribus ferre possent*) (2.1.5).

The importance of these terms in the *Germania* has not been given due attention. Consider that the *Germania* mentions *libertas* nearly as often as the

⁵⁹ Livy calls this *libertas immatura* in the sense of not timely or underdeveloped (2.1.3). He clarifies this by noting such *libertas* is unrestrained since it is without moderation (*moderatio*) (2.1.6).

⁶⁰ Like Cicero, Livy also thought that too much *libertas* could turn to monarchy. Hence, he had the plebs take an oath that they would allow no one become king again while republican institutions were being firmed up. Lasso (2014: 28–9) argues that this *libertas immatura* would have destroyed the “*comunidade*.” The word *comunidade*, which Lasso uses, has a wide-ranging meaning, from a local community, to a state, to the European Economic Community (*Comunidade Económica Europeia*).

Agricola.⁶¹ While the *Agricola* has been the subject of lengthy investigations into the work's portrayal of *libertas* and what it may indicate about Roman political life, these themes have been repeatedly overlooked in the *Germania*.⁶² Like he does in the *Agricola*, Tacitus describes the Germani's politics in a way that acknowledges the terms' intellectual background. Ciceronian Republican thought assumes a dichotomy between monarchy/unfree and non-monarchy/free.

Tacitus' contesting of the terms used by Ciceronian Republican thought and their binary nature can be most evidently seen at the start of the *Agricola*: "Nerva has combined ideas once thought irreconcilable: one-man rule and *libertas*" (*Nerva Caesar res olim dissociabilis miscuerit, principatum ac libertatem*) (*Agr.* 3.1). By noting that one-man rule and *libertas* were once thought irreconcilable (*olim dissociabilis*) but no longer are, Tacitus is announcing his contesting of Ciceronian Republican thought's use of these terms and the dichotomy that it assumes. The contesting of this dichotomy can further be seen in Tacitus' move away from a Ciceronian-style dialogue toward an ethnography. A dialogue, which argues for or against something, is based on a dichotomy, whereas an ethnography allows a writer room to explore often subtle differences among cultures.

⁶¹ The *Germania* uses *libertas* eight times, the *Agricola* ten.

⁶² The most prominent studies are Liebeschuetz's (1966) "The Theme of Liberty in the *Agricola*" and Jens' (1956) "*Libertas* bei Tacitus." Other such studies will be reviewed in this dissertation's chapter on the *Agricola*.

3.3 The Germania's Political Background

Tacitus uses the ethnographic form to emphasize the political issues he is investigating. A century ago, two German scholars observed that the *Germania* was part of an ethnographic literary tradition which followed prescribed norms.⁶³ But in recent years, there has been renewed skepticism about seeing the *Germania* as a reliable ethnographic source.⁶⁴ Part of this stems from the fact that Tacitus never visited the area described in his work.⁶⁵ Rather, scholars have concluded that Tacitus relied heavily on others' works, such as Pliny's lost *Bella Germaniae* and second-hand reports.⁶⁶ As a result, some scholars have noted that much of Tacitus' information was out of date.⁶⁷ One scholar assumes, without evidence, that Tacitus must have filled in the generation-long gap with reports from merchants and sailors.⁶⁸ But the *Germania*'s text gives no such indication. This lack of attention to detail is at odds with Tacitus' other historical works, especially the contemporary *Agricola*.⁶⁹ Despite the uncertainty of

⁶³ Trüdinger (1918); Norden (1920) (showing that ethnographers borrowed motifs, “*wandermotive*,” from one people and applied them to another).

⁶⁴ See, generally, Rives (1999: 56–7).

⁶⁵ Rives (1999: 58–59); Krebs (2011: 49); Thomas (2010: 59). Ronald Syme (1958: 127) does not preclude the possibility that Tacitus ever visited the area, but notes that if he did, “he disclosed no sign of it in the *Germania*.”

⁶⁶ See, principally, Norden (1920: 207–24), who dates Pliny's work to the mid-50s. See also Syme (1958: 127) and Rives (1999: 59) for Tacitus' sources.

⁶⁷ For example, Syme (1958: 127 & n.8) notes that the section on the Batavi was over a generation old.

⁶⁸ Anderson (1938: xxv–xxvi).

⁶⁹ See, generally, Syme (1958: 176–90) for Tacitus' detailed approach to historical sources.

Tacitus' information, some scholars do not give enough weight to the poor quality of material and attempt to still mine it for material about the Germani.⁷⁰

Tacitus was not as concerned about the reliability of his information as he would have been if his work were strictly ethnographic rather than literary in orientation. Zoë Tan has argued that Tacitus purposely foregoes geographic descriptions standard in ethnographic works. Tacitus foregoes this ethnographic convention, in part, both to show that Germania is “extracted from imperial control and knowledge” and to create “a textual space to examine Germanic *libertas*.”⁷¹ But focusing on the *Germania* against the backdrop of a single generic tradition constrains us too narrowly in approaching the text and predisposes us to see issues solely in terms of the Germani, which is itself problematic. The very idea of an ethnography of the Germani is a bit contrived. Otto Hirschfeld suggested that the very concept of Germania had been a recent Roman invention.⁷² And Krebs noted that Caesar's use of the term “Germania” was overtly political: tribes were classified as such based on their successful

⁷⁰ For example, Rives (1999: 59) argues that Tacitus was known for his keen use of sources in his other works and, as such, should be given the benefit of the doubt here. This view elides the fact that we know Tacitus did not have the same access to sources. For this reason, Syme (1958: 128), warns the reader not to consider the *Germania* in the same historically-reliable way as the *Historiae*. See also, e.g., Anderson (1938: xix–xxxvii) for a similar view.

⁷¹ Tan (2014: 201). I broadly agree with Tan that Tacitus' departure from ethnographic norms allows him room to explore the concept of *libertas*. I, however, disagree on the actual focus on Tacitus' investigation. Tan's focus on the ethnographic form limits her reading of the *Germania*. She contends, “only outside the borders of the Empire can the virtues and perils of personal freedom play out unrestricted.” She assumes *libertas* can only exist outside of the Principate, hence her focus on Germanic *libertas*. But when we no longer zero in on the ethnographic form and see the broader issues Tacitus is investigating, it becomes apparent that Tacitus is investigating Rome; see O'Gorman (1993).

⁷² See, generally, Hirschfeld (1898).

opposition to Rome, not on any other over-arching characteristic.⁷³ Since Germania was a political classification more than an ethnographic one, I will argue that Tacitus treats Germania as a place to examine Roman political life.

Scholars have noted that Tacitus' two contemporary works—the *Agricola* and the *Dialogus*—do not fit neatly into one category.⁷⁴ We must view the *Germania* in the same way—not as an unoriginal ethnographic work, but as a varied work that deals with contemporary problems. Christopher Krebs has recently observed that the *Germania* must be understood as a product of the political environment at Rome. In the light of its problematic historical sources, Krebs writes, the *Germania*'s “concern was of a moral and political rather than scientific nature.”⁷⁵ I will show in this chapter that Tacitus uses the ethnographic form to highlight and explore the political and institutional uncertainty at Rome.

3.4 The Dialogic Germania

We have seen that at the end of the first century, when Tacitus was planning and writing the *Germania*, the political environment was unstable and ill-defined. But Ciceronian Republican thought on monarchy, with which Tacitus could assess this new political landscape, was limited. It assumed a position that did not allow nuance: the king is always a master (*dominus*) under

⁷³ Krebs (2011: 43–4).

⁷⁴ Syme (1958: 125) says that the *Agricola* does not fit neatly into a literary category or even categories, and “is best left to be defined in its own terms.” And as we have seen in the first chapter, the *Dialogus* is an amalgam of a work on rhetoric, philosophy, education, ethics, politics, and literature.

⁷⁵ Krebs (2011: 49); see also Tan (2014).

whom *libertas* could never exist (*Rep.* 2.43). Though Ciceronian Republican thought did not accept that one-man rule could present in different forms, Tacitus observed that the policies of the different *principes* variously affected Romans. For instance, if we turn to the start of the *Agricola*, we can see that Domitian's reign, through its repression of the exchange of speech and hearing (*loquendi audiendique commercio*), marked the extreme of slavery (*quid [ultimum] in servitude*) (*Agr.* 2.3). Yet the actions of Domitian's successor, Nerva, seemed to provide space for *libertas* (*Agr.* 3.1). To begin to understand these variations and the dynamic nature of the Principate, Tacitus examines different types of monarchy.

In a similar way, the republicanism–monarchism dichotomy prevalent in modern scholarship prevents modern scholars from recognizing nuanced positions, such as Tacitus is bringing forth. For instance, Sam Wilkinson notes that the Romans did not have a word for republicanism, so we must use modern terms to “translate” ancient ideas for the modern mind.⁷⁶ “Translating” a term is a very helpful step for understanding how the Romans approach their system of government, but we run the risk of confirmation bias, highlighting evidence that supports our modern terminology and eliding evidence that does not. Similarly, political theorists such as Quentin Skinner⁷⁷ and Phillip Pettit⁷⁸ assume a dichotomy between republic and monarchy in their influential accounts of

⁷⁶ Wilkinson (2012: 12).

⁷⁷ Skinner (1998).

⁷⁸ Pettit (1997).

republicanism that investigate the topic up until the modern day. In other words, the modern republican–monarchism dichotomy can be a straitjacket that keeps us from noting nuances that separate different strains of otherwise similar thought. The *Germania*, then, is complicating both ancient and modern thought, since it questions whether such a dichotomy exists by examining different types of monarchies, some of which may be compatible with the tenets of republicanism.

Most importantly, when we talk of Tacitus or his minor works as promoting either monarchical or republican views, we are wrongly assuming that Tacitus' works are closed in the sense that they ask questions and then answer them. This approach is most easily seen in *Dialogus*, which is a dialogue focusing on several questions and in which an interlocutor reflects some view of the state. But it is no less true for the *Germania*. Yet, as we have seen, the Bakhtinian conception of “dialogic” is rooted in the testing of an idea from multiple vantage points.⁷⁹ A dialogic test of an idea exists on an open–closed continuum. An open “dialogic” form asks a question but never resolves it, and a closed one provides an answer to a proposed question.⁸⁰ The dialogic form originated with the Socratic dialogues, but, according to Bakhtin, not all Socratic dialogues were dialogic.⁸¹ Conversely, works that are not dialogues can be dialogic, such as novels, epics,

⁷⁹ Bakhtin (1984: 111–2).

⁸⁰ This is what Mikhail Bakhtin (1984: 110) calls monologism.

⁸¹ Bakhtin (1984: 110); Atkins (2013: 14–5 & n.3).

historical surveys, and research papers.⁸² They are dialogic if they investigate a question from multiple vantage points, never resolve it, and prompt critical reflection in the reader.

Tacitus' *Germania* fits the open end of the dialogic form, challenging Ciceronian Republican thought on monarchy and offering various counter examples that undermine it, but the *Germania* does not provide a system of thought to replace the vacuum it has created. The dialogic examination of the Germani's political society is spelled out in the work's first chapter. There, Tacitus talks solely about the region's geography, except when he highlights recently discovered tribes under kings (*nuper cognitis quibusdam gentibus ac regibus*) (*Germ.* 1.1). This nod details what he will discuss throughout the rest of the work generally. Tacitus mainly describes a tribe's habits to the extent that they have bearing on political organization. Consider Tacitus' account of the feasts of the Germani. Tacitus describes them in such a way as to highlight that feasts were places where the Germani chiefly deliberated (*plerumque . . . consultant*) on issues such as selecting new *principes* (*de . . . adsciscendis principibus*) and about peace and even war (*de pace denique ac bello*) (*Germ.* 22). Such a focus on political issues demonstrates that the core of this ethnographic work is about political life.

A few observers have noted that the *Germania* has political themes, but in a general way. James Rives, among others, has pointed out that the start of

⁸² Bakhtin (1986: 114–26).

Germania echoes that of Caesar's *De Bello Gallico*. The start of *De Bello Gallico*

is:

All of Gaul is divided into three parts: one part of which the Belgae inhabit, a second part the Aquitanians inhabit, and the third part those people, who are called the Celts in their own language but the Gauls in our own, inhabit.

Gallia est omnis divisa in partis tris: quarum unam incolunt Belgae, aliam Aquitani, tertiam qui ipsorum lingua Celtae, nostra Galli appellantur (Caes. *BGall.* 1.1).

And the beginning of the *Germania* is:

All of *Germania* is separated from the Gauls, Rhaetians, and Pannonians by the Rhine and Danube rivers, and from the Sarmatians and Dacians by mutual fear and mountains.

Germania omnis a Gallis Raetisque et Pannoniis Rheno et Danuvio fluminibus, a Sarmatis Dacisque mutuo metu aut montibus separatur (*Germ.* 1.1).⁸³

Aside from the *Gallia omnis/Germania omnis* parallel, there is also the division of the territory into smaller units. But putting that aside, the importance of the echo is, as Rives suggests, that the start of the *Germania*, like *De Bello Gallico*, signals that the work has political overtones. The political view of the work has developed along two broad lines: those who see the work as a trumpet call to expansion into the area, and those who see it as a report for the political elite curious about the region.⁸⁴ Such approaches are right in observing political

⁸³ Rives (2012: 54); Lund (1991: 1994–5) lists other scholars who have made similar observations.

⁸⁴ Krebs (2011: 49) sees no conflict between both views, but he subscribes to the first one more strongly.

strains in the work, but have not correctly identified what those strains are.⁸⁵ As we will see, Tacitus is developing a survey of different types of monarchies that prods the reader to compare them to the situation at Rome.

Part of the lack of emphasis on the *Germania*'s political character is due to the relative neglect of the work's second half. The second half of the *Germania* is a survey of the various tribes. James Rives suggests that the first half may describe the outline of a *genus* and the second half details its *species*. This is partially right. The second half's descriptions of the tribes flesh out the first half of the work. But Tacitus does more. In the second half, he further chips away at the idea that the Germani are in any way uniform. Far from being isolated, as he says at the start, the Germani have been reached by Roman culture, with those tribes near the borders variously influenced. The Batavi and the Mattiaci are geographically Germani but are with the Romans *mente animoque* (*Germ.* 29.2). A few degrees more independent are the Marcomanni and the Quadi, who are separated from the Romans by the Danube; nevertheless, their kings' *vis et potentia* depend on their connection with Rome (*ex auctoritate Romana*) (*Germ.* 42.2).

The overarching theme of the *Germania* is the balance between royal power and *libertas* to ensure individual political participation. The first half sets

⁸⁵ Tan (2014) does not fit neatly into either category. Her article focused on establishing how Tacitus' use of geography defied ethnographic conventions, not, unfortunately, on Tacitus' treatment of *libertas*. Nevertheless, her brief treatment of the subject prompts reflection on geography's relationship with *libertas* more broadly.

out this theme, and the second half explores different ways of confronting this issue. As has been variously observed, the *Germania* was written with an eye toward Rome.⁸⁶ In other words, Tacitus uses the Germani as a foil by which to highlight Roman customs.⁸⁷ There are two main thrusts to this overall point. The first is that the Germani have not advanced as far socially as the Romans and are thus “primitive.”⁸⁸ James Rives gives an example: the Germani do not charge interest when loaning money and, as a result, do not have usury laws (*Germ.* 26.1). This observation entails an unexpressed comparison with the Romans, who need usury laws. Moreover, the comparison represents an “image of primitive virtue” evocative of contemporary Roman ancestors.⁸⁹

The second is that the Germani take to extremes the values Romans also prize, sometimes as a result of the Germani’s lack of self-restraint.⁹⁰ For instance, Rives points out that the Germani bring weapons everywhere—including places the Romans would find shocking—such as assemblies and banquets (*Germ.* 11.4, 22.1, 11.4). As Rives argues, the fact that “Germanic boys marked their entry into adult society by taking up weapons instead of a toga was thus a subtle demonstration that for the Germani there was in effect no civil

⁸⁶ Rives (2012: 50–52); Krebs (2011: 29–55); O’Gorman (1993).

⁸⁷ For instance, the Germanic women are described as “living in well-protected chastity, corrupted by neither the allurements of shows nor the enticements of the feasts” (*ergo saepta pudicitia agunt, nullis spectaculorum illecebris, nullis conviviorum irritationibus corruptae*) (*Germ* 19.1). Anderson (1938: 111) compares the chastity of a Germanic woman to Agrippina, states that “the corrupting influence of shows upon Roman women is often noted,” and makes a similar observation about feasts.

⁸⁸ Rives (2012: 50).

⁸⁹ Rives (2012: 50).

⁹⁰ Rives (2012: 51).

sphere, only a military one.”⁹¹ But the conclusion does not absolutely follow from the evidence. For a society made up of small tribes constantly at war with neighbors on all sides, the marking of the ability to defend one’s community (as symbolized by a weapon) is in no way less indicative of a civil sphere than the ability to procreate (the literal symbolism of the *toga virilis*).⁹² Indeed, as we will see, weapons for the Germani are a nuanced symbol of their political autonomy, no less than the *toga virilis*. Nevertheless, I agree with Rives that, on one level, the *Germania* aims to reflect Roman values in different forms in a people primitive and lacking self-restraint.

Rives rightly says that Tacitus’ “techniques [are] subtle” here; but they are also intentionally misleading.⁹³ By portraying the Germani as primitive in one reading, Tacitus creates a space in which Romans readers can easily see the Germani as very different from themselves. By creating this separation between the Romans and the Germani, Tacitus makes it easier for Roman readers to objectively analyze political customs and institutions of the Germani. It is this objective separation that, almost paradoxically, allows a careful reader to see that the Germani possess a rich political life with a sophisticated sense of political demarcations. Put differently, Tacitus sets up a different reading of the Germani on a level in which they are not primitive and unconstrained but are a

⁹¹ Rives (2012: 51).

⁹² Dolansky (2008: 48–9) notes that a young freeborn Roman’s assumption of the *toga virilis* marks the male’s coming of age, but this process does not necessarily need to coincide exactly with the apparent physical onset of puberty.

⁹³ Rives (2012: 51).

sophisticated people dealing with the same issues as contemporary Romans. Tacitus is using the *Germani* as a way for the Romans to understand their own political issues.⁹⁴

To encourage critical reflection on these issues, Tacitus subtly add nuances to his assertions and at some points contradicts himself, emphasizing the work's open-ended dialogic nature. The point of this is to force the reader to rethink the "obvious" conclusions about the *Germani*'s government. We see this throughout the work, importantly at the beginning. In the first half of the work, Tacitus treats the *Germani* as a uniform people, detailing their customs. Tacitus states that the *Germani* have mixed very little with others through immigration or social intercourse (*minimeque aliarum gentium adventibus et hospitiis mixtos*). Tacitus' assertion, however, is itself open to question, since he states this with the potential subjunctive (*crediderim*) (*Germ.* 2.1).⁹⁵ In other words, it is a cautious assertion and in no way definite.⁹⁶

Tacitus' use of unreliable sources is prevalent even at the start of the work. This lack of confidence appears soon after Tacitus states that he follows others'

⁹⁴ See Tan (2014), who persuasively argues that Tacitus, through his adaptation of ethnographic norms (specifically recounting Germania's geography), creates distance for the reader for the reader to reflect on certain issues.

⁹⁵ Both Rives (1999: 105–7) and Anderson (1938: 37) argue that this clause indicates a lack of foreign blood. I disagree; they are reading *adventibus et hospitiis mixtos* too narrowly. Tacitus uses a similar phrase—*adventu hospitiisque*—when discussing a deity visiting her worshippers (*Germ.* 40.3). True enough, *mixtos* can mean sexual intercourse, but it can also be taken more widely to include any type of social intercourse, including sexual intercourse. In the relevant chapter, Tacitus discusses the *Germani*'s physical isolation from their neighbors. With this in mind, a more inclusive reading of *mixtos*—one that emphasizes their isolation and not just their family trees—is a better fit. This, however, is predicated upon the more general idea that there was no type of intercourse with non-*Germani*.

⁹⁶ Allen and Greenough §447.1

conjectures (*eorum opinionibus accedo*) that the Germani do not marry foreigners (*Germ.* 4.1). This phrase is telling of the entire work. Tacitus never details his sources or how he analyzes them. Rather, he is stating that his sources are secondhand (these men are making a conjecture on something else) and are not founded on hard evidence; if they were, the phrase would be akin to *argumentis eorum*.⁹⁷ What is more is that Tacitus is merely following (*accedo*) these *opiniones* rather than weighing them. These two comments—at *Germ.* 2.1 and 4.1—bracket a section where Tacitus links a fabled visit of Hercules to explain why the Germani chant his name before battles, as well as where Tacitus alleges that the contemporary town of Asciburgium was named by Odysseus. About the uncertain origins of the contemporary phenomena, Tacitus again strikes a tone that infects the rest of the work: “It is my intention to neither confirm nor refute these things with reasoned argument: let each person have confidence according to his own method of thinking” (*quae neque confirmare argumentis neque refellere in animo est: ex ingenio suo quisque demat vel addat fidem*) (*Germ.* 3.3). Again, Tacitus is inviting the reader to critically reflect on the work’s statements, since Tacitus does provide the evidence that underlies those statements.

⁹⁷ Tacitus uses *argumentum* in this way in the previous section, *Germ.* 3.3. Marincola (1997: 89) notes that in the Principate historians had “a greater reliance on hearsay and report” because of the distance to far-flung locations and greater secrecy that was imposed on official reports. Nevertheless, Tacitus is still silent on his sources, which prevents the reader from weighing them.

Tacitus is signaling to the reader to carefully read and question the *Germania* as a whole. Tacitus' reference to myth is all the more striking when we consider that he elsewhere states: "I would think it falls far short of the dignity of the written work I have undertaken to collect legends and delight my readers with fictions" (*ut conquirere fabulosa et fictis oblectare legentium animos procul gravitate coepti operis crediderim*) (*Hist.* 2.50).⁹⁸ Tacitus' use of the legend and myth continues until to the work's end. Yet, Tacitus' reference to legendary peoples at the work's end serves a second function. Tacitus closes the work by stating that he will not provide information beyond the tribes already described because, as he says,

The rest are legends: the Hellusii and the Oxionens have the face and expressions of humans, but the bodies and limbs of wild animals: I express no comment on the unknown.

Cetera iam fabulosa: Hellusios et Oxionas ora hominum voltusque, corpora atque artus ferarum gerere: quod ego ut incompertum in medio relinquam (*Germ.* 46.4).

Diskin Clay has argued that, at the end of certain dialogues, Plato uses myth to "disorient the reader" and cause "a shift in perspective," such as the *Gorgias*' shift "from here and now in the city of Athens to the there and then in the Underworld."⁹⁹ In the same way, Tacitus ends the *Germania* by referencing legendary peoples to shift the reader's perspective away from the specific customs

⁹⁸ Though, as Marincola (1997: 125) observes, this statement "can hardly be taken at face value since [Tacitus] occasionally includes just these things." Though, as we shall see, in the *Germania*, Tacitus uses such stories more than just occasionally.

⁹⁹ Clay (1999: 165, 174).

of the Germani, thereby preparing the reader to reflect on the entire work through a fresh lens.

3.5 The King's Limited Potestas in the Germania's First Half

The first half of the work—the overall survey of political institutions—is deliberately set up as a contrast with Romans' experience of the monarchy. In other words, Tacitus is describing a world in which a one-man ruler operates in a different institutional framework than the Roman king did. And yet, Tacitus time and again invites comparison between the governments by using the same terms that formed the Romans' basis for understanding their own government.

The society Tacitus paints in *Germania* is fundamentally different from the Roman monarchy. We can most easily see this in the role of the king, the division of roles, and the allocation of power. This balance is far more nuanced than one might expect from an account of “primitive” tribes. In the first half, Tacitus distributes the roles of government through various offices: the king (*rex*), *duces* (military leaders) and *principes* (nobles). These offices operate in various institutions, such as councils and assemblies, and are limited in their power. We are told that the king has *potestas* (*Germ.* 7.1). The king is identified as the head of state, since he embodies the state. In both monarchies and modern societies, crimes are thought to be committed not against the victim, but the state. For this reason, the state has the right to exact compensation through punishment or fine. So, when Tacitus states that fines are paid partly to the king

or state (*regi vel civitati*) and partly to the injured party (*Germ.* 12.2), he is indicating that the king is the head of the state.¹⁰⁰

Tacitus first describes a king's general role vis-à-vis other political actors in chapter 7. The opening comment on a king's power is a direct echo and refutation of the Republican definition of a king, rendered by Cicero as "anyone in a state with unconstrained *potestas*" (*in . . . re publica est unus aliquis perpetua potestate*) (*Rep.* 2.43).¹⁰¹ Tacitus notes that among the Germani, the "king's *potestas* is neither total nor unchecked" (*nec regibus infinita aut libera potestas*) (*Germ.* 7.1). With *nec infinita* and *nec libera*, Tacitus refers to two slightly different concepts. By *nec infinita*, he means that the king's power was not without bounds or was not total. In other words, it did not cover the same spheres as a Roman king's. Remember: in Roman thought, the king held *imperium* that was absolute in three spheres: military, religion, and justice.¹⁰² But, among the Germani, a king's power was not total, because his *potestas* did not embrace all the areas a Roman king's *potestas* did. We have seen that a Roman king was the supreme military commander. But among the *Germani*, another body of men were in charge of the military: the *duces*, who held

¹⁰⁰ See Anderson (1938: 89) for translating *civitatis* as "state."

¹⁰¹ As we have seen, Livy held the same view: that a king's power was absolute. Though Livy tended to use the word *imperium* more often than Cicero, who preferred a variation on *potestas*. Again, as Oakeshott (2006: 183) explains, *imperium* was "comprehensive authority" in the government.

¹⁰² Oakeshott (2006: 183–4).

imperium (*Germ.* 7.1).¹⁰³ *Imperium* in this sense—the sense it takes on during the Republic—is the *potestas* that belongs to a military leader, the power one has over an army.¹⁰⁴ Of course, Roman kings held both this type of *imperium* and *potestas* generally (*Cic. Rep.* 2.15).¹⁰⁵ But the Germani's kings did not have *potestas* with regard to the military.¹⁰⁶ Furthermore, by *nec . . . libera potestas*, Tacitus means that a Germanic king's power is not unchecked in the sense that his authority is not final in a given sphere. In both religion and justice, a Germanic king's *potestas* is not absolute: other individuals also have power in those spheres.

3.5.1 The Germanic King's Limited Religious Authority

Cicero remarked that one of Romulus' two great political contributions was establishing the auspices (*Rep.* 2.16). Controlling the auspices is important for two reasons. First, such control signifies that the king's power derives not just from men, but from an authority that supersedes man. Second, and related, examining the auspices to supposedly determine a political decision allows the auspice-taker to circumvent popular will and implement that decision by basing

¹⁰³ As we will see, the meaning of *imperium* moves from signifying total control of the government during the monarchy to just the *potestas* a military commander holds over his army, see Oakeshott (2006: 231).

¹⁰⁴ Oakeshott (2006: 231).

¹⁰⁵ This all-embracing power is what Livy termed *potestas regia* or *imperium* in the monarchical sense (2.1).

¹⁰⁶ But see, e.g., Rives (1999: 144–6) for the contrary proposition. The root of my disagreement is that I see Tacitus delineating a structured society, and other scholars do not see as delineated a society.

it, again, on extra-human authority (Cic. *Leg.* 3.27). In short, controlling the auspices solidifies a king's control.

With this in mind, we see that the Germanic king does not control auspices, but rather he shares this power with the priests (*Germ.* 10.2). Like the Romans, the Germani "examine the sound and flight of birds" (*avium voces volatusque interrogare*) (*Germ.* 10.2). Yet, what is more, in a custom particular to them, the Germani also try to divine omens from horses (*proprium gentis equorum quoque praesagia ac monitus experiri*) (*Germ.* 10.2). The importance of this auspice cannot be overstated. First, the Germani think that horses are the confidants of the gods (*deorum illos conscios putant*) (*Germ.* 10.2). For this reason, no other auspice is believed as reliable (*nec ulli auspicio maior fides*) (*Germ.* 10.2). Second, these horses are a public concern: they are kept at public expense (*publice aluntur*) and never do manual labor (*Germ.* 10.2). These expenditures show that the community is invested in the horses and that they are used in matters of great public importance. Labor-intensive societies and tribes do not support horses with public money and keep them from working to presage trivial issues. On these great public matters, a priest, with either a king or a leading noble (*sacerdos ac rex vel princeps civitatis*), divines the future from the horses' snorting.

Here again is a contrast with Rome, where this power was more firmly in the king's hands. Consider Numa. Though Numa created many priesthoods, they were subject to royal control. For instance, he appointed as the first *pontifex*

maximus Numa Marcius, whom it is believed was the husband of Numa's daughter and the father of Ancus Marcius.¹⁰⁷ Thus, Numa may have kept "royal sacred power 'in the family.'"¹⁰⁸ A Germanic king, however, must share his religious power more widely. And since the king lacks control over the religious sphere, his ability to circumvent public will on certain issues is constrained. We see this limitation elsewhere. On smaller matters, the priest of that state (*sacerdos civitatis*) alone takes the auspices to decide whether to undertake an enterprise (*Germ.* 10.1).

3.5.2 The Germanic King's Restricted Judicial Power

Tacitus uses the Germanic king's role in the justice system to refute the Republican notion that *libertas* cannot exist in a monarchical justice system. Tacitus rather suggests that it is not the monarch that precludes *libertas*, it is how a justice system is arranged. To understand this, we must first understand the *Germania's* different deliberative and judicial bodies.

The *Germania's* first half notes that there are two bodies on the tribe level, and below these, an individual *pagus* or *vicus* has its own body for "local" concerns. On the tribe level, the larger body is the assembly. This body handles the larger public issues (*de maioribus*) and is composed of common people (*plebs, turba*) as well as the king and *principes* (*Germ.* 11).¹⁰⁹ To discuss an issue,

¹⁰⁷ Glinister (2017: 67).

¹⁰⁸ Glinister (2017: 67).

¹⁰⁹ Though *turba* frequently has a negative connotation, there is no indication it carries such a meaning here.

the people are called in from their homes. It takes two or three days (*alter et tertius dies*) to gather an assembly. This delay alone makes the assembly unwieldy and ill-suited to handling small and frequent matters. Once assembled, the king or a chief speaks first, according to age (*prout aetas*), social rank (*nobilitas*), military prestige (*decus bellorum*), or eloquence (*facundia*) (*Germ.* 11.2). Like the Roman Senate, the king and others “are obeyed more due to the *auctoritas* of their words than the *potestas* of their commanding” (*audiuntur auctoritate suadendi magis quam iubendi potestate*). Most importantly, by using these politically significant terms to describe the Germani’s assembly, Tacitus is comparing the two political systems. On another level, this comment shows that the assembly is led by *auctoritas*. In other words, the assembly debates but cannot put its words into action, because *auctoritas* is not coercive power to command.¹¹⁰ So, in the assembly, the king’s power is limited. He cannot exercise *potestas* and is dependent upon approval of the assembly members. This is a point Tacitus hits home, for just because the king is a king, does not mean that his opinion will win: if the proposal displeases the assembly, they reject it with shouting; if it is pleasing, they strike their shields (*si displicuit sententia, fremitus aspernantur, sin placuit, frameas concutiunt*) (*Germ.* 11.2). This, of course, is in strong contrast to how Tacitus describes Roman legislative

¹¹⁰ This is in contrast with the *Comitia Tributa* and even the *Comitia Centuriata* during the Republic, in which the people could not debate and in which only magistrates could propose policy. The people’s role was limited to voting for or against a proposal. See generally Millar (1998: 197–206).

bodies in the *Dialogus* and *Agricola*, which the Roman *princeps* controls (*Dial.* 41.4 *Agr.* 41.1).

Let us briefly turn to the *Dialogus* to note that—and see how—Tacitus portrays the bleeding together of *auctoritas* and *potestas* in the Principate. We will examine this work since it directly depicts Tacitus' thoughts on Rome in a way the *Germania* does not. As we've seen, in the Republic, *potestas* was always separate from *auctoritas*: "To have *auctoritas* was, precisely, *not* to have power (*potestas*)."¹¹¹ In the *Dialogus*, a blending is shown by the orator's represented position in the Principate. The orator is the quintessential exhibitor of *auctoritas*—able to persuade but not command. Interestingly though, Tacitus via Aper echoes Cicero's definition of a king as one who has *perpetua potestas* (*Rep.* 2.43) when he states that an orator is able to keep himself safe from enemies as if by a certain permanent power and *potestas* (*velut quadam perpetua potentia ac potestate*) (*Dial.* 5.5).¹¹² What Aper is suggesting is that the contemporary orator, one who wields *auctoritas* (*Dial.* 10.7), may achieve virtual *potestas*. In his final speech, Maternus picks up this suggestion and takes it further. He implies that at least as far back as the late Republic, *potestas* and *auctoritas* were linked. Maternus describes men seeking prestige: these men, even when they did not hold a political office, were not without *potestas*, since they were leading both the

¹¹¹ Oakeshott (2006: 226).

¹¹² In one short section, Cicero twice describes a king with these two words. For Tacitus' close reading of Cicero in the *Dialogus*, see generally Chapter 1 of this dissertation. For a survey of Ciceronian echoes in the *Dialogus*, see Köstermann (1930), though not this echo.

people and the Senate with their advice and *auctoritas* (*hi ne privati quidem sine potestate erant, cum et populum et senatum consilio et auctoritate regerent*) (*Dial.* 36.5). Here, Maternus is stating that *potestas* might arise from *auctoritas*—that the theoretical division is not so neat.

The *Dialogus* illustrates the bleeding together of *potestas* and *auctoritas* in political institutions.¹¹³ As we have seen in Ciceronian Republican thought, the king does not have *auctoritas*. In other words, the king's power does not extend to deliberative bodies. For this reason, when Cicero discusses the monarchy as the best of the simple forms of government, he of course omits any reference to a king's role in deliberative bodies. For instance,

The monarchical form of state . . . should be placed far ahead of the other simple forms . . . as long as the safety and equality and the peace of the citizens is guided by the permanent *potestas* and justice as well as the complete wisdom of a single man.

Nam ipsum regale genus civitatis . . . reliquis simplicibus longe anteponendum . . . ut unius perpetua potestate et iustitia omnique sapientia regatur salus et aequabilitas et otium civium (*Rep.* 2.43).

Maternus echoes this passage when he talks about Domitian's power.¹¹⁴ But different from Cicero, Maternus notes that the power of a Roman *princeps* extends into legislative bodies:

¹¹³ See Rowe (2013: 11–5), who contends that Augustus' *auctoritas* (as mentioned at *Res Gestae* 34.4) was “metonymy for *princeps senatus*,” a position with held *potestas*.

¹¹⁴ Both Köstermann (1930: 420) and Mayer (2001: 215) note that *Dial.* 41.1 echoes *Rep.* 2.42, but they don't connect it to any overarching political ideas.

What is the point of long debates in the Senate when the best men quickly agree? What is the need for public assemblies when the ignorant people do not deliberate on political issues but only a single, extremely wise ruler does?

Quid enim opus longis in senatu sententiis cum optimi cito consentiant? Quid multis apud populum contionibus cum de re publica non imperiti et multi deliberant sed sapientissimus at unus? (Dial. 41.4).

We have seen, in this dissertation's first chapter, that the *optimi* quickly agree (*cito consentiant*) due to external pressure from the Roman *princeps*. This next sentence—especially the verb, *deliberant*—does not indicate that public assemblies did not exist,¹¹⁵ but that the Roman *princeps* controlled them.¹¹⁶ All this is to say that when Tacitus was composing these three works together and at roughly the same time, he was suggesting that the current Roman political system had started to blend together *potestas* and *auctoritas*. Yet, he notes through careful word choice and descriptions of the Germani that they have still kept these roles separate. More than this, the prototypical king of the Germani—unlike the Roman kings—actually had *auctoritas* when he entered the deliberative realm.

We have seen the assembly and the Germanic king's role in it. The other tribal body is the council (*concilium*) and is made up only of nobles (*principes*) (*Germ.* 11.1, 12.1). It meets and confers concerning minor political matters (*de*

¹¹⁵ Tacitus' use of *contio* here does not indicate the public assemblies that were a hallmark of the Roman Republic, but rather simply indicates any oration before a legislative body that was not the Roman Senate. See, e.g., Tac. *Ann.* 4.40., 5.4.

¹¹⁶ We can also see this in the *Agricola* (*Agr.* 40.1): Domitian *ordered* that it be decreed in the Senate (*decerni in senatu iubet*) for certain honors and the province of Syria to be given to Agricola.

minoribus rebus) as well as major judicial issues, such as capital cases.¹¹⁷ In these matters, the king has no say. This is part of a sophisticated criminal justice system. Traitors (*proditores*) and deserters to the enemy (*transfugas*) are hung. The slothful (*ignavos*), those physically and mentally unfit for combat (*inbelles*), and effeminate men (*corpore infames*) are drowned (*Germ. 12.1*).¹¹⁸ But these are not arbitrary punishments: Tacitus informs us that the theory behind this is that wicked deeds ought to be brought to public light, and shameful ones hidden (*scelera ostendi oporteat dum puniuntur, flagitia abscondi*) (*Germ. 12.1*). More specifically, deeds that are harmful to the community's external safety (*scelera*) are recognized as inherently different from those that undermine its moral strictures (*flagitia*). For lighter offenses (*levioribus delictis*), the penalties are graduated (*pro modo*) (*Germ. 12.2*). Those who are found guilty of an offense are fined a number of horses or cattle (*equorum pecorumque numero*) (*Germ. 12.2*). These lower-level judicial matters are private and are decided on the *pagus* or *vicus* level by a Germanic *principes* (*Germ. 12.3*).¹¹⁹

¹¹⁷ Both Anderson (1938: 87) and Rives (1999: 168) argue that the assembly—which was made up of the *rex*, the *principes*, and the *plebs*—handled these judicial functions. Tacitus only says that the *concilium* did; he does not list its members. For several reasons, this must be the body that was only comprised of *principes*: 1) the *plebs* would lack the moral authority of the *principes*, which would ensure their decisions are followed; 2) the *principes* would gather more quickly than the *plebs* (*Germ. 11.1*); and 3) if the king, as a member of the assembly, heard judicial cases, he would have a conflict of interest, since he would receive any levied fine (*Germ. 12.2*).

¹¹⁸ Scholars, Rives (1999: 173–5) and Anderson (1938: 87) included, have viewed *ignavos* as meaning “cowards.” But such a reading is subsumed into *inbelles*. Rather, *corpore infames* notes that this list of three has moral qualities. As such, *ignavos* then contains a broader meaning than just *cowards* and points toward those unwilling to adhere to the community's standards.

¹¹⁹ Rives (1999: 176).

Tacitus uses the Germani's justice system to critique the republicanism–monarchism dichotomy. Part of the argument that *libertas* cannot exist in a monarchy is because the monarch's administration of justice is arbitrary. A key to understanding this view is noting the difference between substantive and procedural law. Together substantive law and procedural law are “reasonable general legislation [—substantive law—] reasonably applied to the individual [—procedural law].”¹²⁰ In Ciceronian Republican thought, monarchies had substantive law. Cicero recounts that Romulus' approach to justice involved fining individuals, and that this process limited the king's arbitrary power:

Romulus had the people placed under the jurisdiction of the nobles, the benefit of which I will touch on later; he was enforcing justice with a fine of sheep and cows . . . not with caprice and physical punishment.

habuit plebem in clientelas principum discriptam, quod quantae fuerit utilitati post videro; multaeque dictione ovium et boum . . . non vi et supplicii coercebat (Rep. 2.16).

This system of fining limits the king's arbitrary power, since a system of set fines limits the penalties a king could impose.¹²¹ Additionally, the fine partially or wholly goes to the injured party, thus limiting the ruler's role in exacting physical punishment (*supplicium*). In Ciceronian Republican thought, substantive law is necessary but not sufficient to secure *libertas*, since the law was not always applied evenly. This is in part because a monarch in Ciceronian Republican

¹²⁰ Jackson (1953: 222).

¹²¹ This, of course, is only one example of substantive law under the Roman kings. For instance, see generally Cic. *Rep.* 2.53–4 and Livy 1.54 for punishments for other varied offense.

thought ultimately gives benefits to his allies.¹²² This is what procedural law aims to correct. Livy often highlights the lack of *libertas* among the Romans by noting their lack of procedural safeguards¹²³ under the king, such as the inability to defend oneself against charges (1.51.9), lack of an unbiased tribunal (1.54.8, 2.3.3) and even the lack of any tribunal (1.54.9).¹²⁴ Only when the law was applied equally for all (*aequato iure omnium*), after the end of the monarchy, does Livy say that the non-elites had *libertas* (*libertatem aliorum*) (2.3.3).

Tacitus, however, pushes back against this idea that *libertas* cannot exist in the justice system in a monarchy. He points out that goal of the Germani's justice system was to preserve already existing *libertas*:

¹²² Livy makes the point that a monarch favors his friends through selective application of the law, but in a republic, this is not possible:

[After he was deposed, the young elites complained that] that king was a man, from whom you could obtain when justice, when injury might be necessary; there is a place for favor, for advantage, and he is able to be angry and forgive, he knows the difference between friends and enemies.

regem hominem esse, a quo inpetres, ubi ius, ubi iniuria opus sit; esse gratiae locum, esse beneficio, et irasci et ignoscere posse, inter amicum atque inimicum discrimen nosse (Livy. 2.3.3).

Above, Livy uses *ius* in the sense of substantive law not applied evenly, allowing room for the king to benefit his political allies. Yet, law applied evenly (procedural law), *lex*, prevents this uneven application of the law. The young elites note that *lex* is deaf (*surdam*), unable to be moved by entreaty (*inexorabilem*) (2.3.4) since it is applied evenly to people of all classes.

¹²³ See Judge Henry Friendly (1975) for discussion about various procedural safeguards.

¹²⁴ For Cicero, the right to appeal an adverse judgment was key to ensuring impartial tribunals (*Rep.* 2.53–4).

It is necessary to take up both the feuds and the friendships of one's father or relatives; nor do they remain implacable; for even a homicide is atoned for by a fixed number of cattle or sheep, and the entire house receives compensation; a benefit for the public, because feuds are quite dangerous to *libertas*.

Suscipere tam inimicitias seu patris seu propinqui quam amicitias necesse est; nec implacabiles durant: luitur enim etiam homicidium certo armentorum ac pecorum numero recipitque satisfactionem universa domus, utiliter in publicum, quia periculosiores sunt inimicitiae iuxta libertatem (Germ. 21.1).

As we see, Tacitus references the same manner of punishment—fines of livestock—that Cicero mentions. While Germani have substantive law, they do not require procedural laws, since dispensing justice is not in one person's unchecked power. Dispensing justice is either in the hands of the council at the tribe level or individual chiefs at the *pagus* level. But even at the *pagus* level, the chief is attended by one hundred common citizens (*centeni . . . ex plebe comites*) whose advice (*consilium*) and authoritative influence (*auctoritas*) would prevent the chief from favoring the elites, as was the case with the Roman kings (*Germ.* 12.3). For this reason, Tacitus' Germani do not need procedural laws to secure *libertas*.

On the other hand, Tacitus does note that the threat to *libertas* comes from the bottom up, from factions, since Germanic society is diffuse. Ciceronian Republican thought held that too much *libertas* would tear society into factions, weakening or destroying political stability (Livy 2.1.6; Cic. *Rep.* 1.65–8). Among the Germani, inter-family feuds threaten the entire society's *libertas* by pulling even distant kin into them, creating *de facto* political factions and making feuds

quite dangerous to *libertas* (*periculosiores sunt inimicitiae iuxta libertatem*) (*Germ.* 21.1). Tacitus, however, suggests that the same substantive laws that cannot constrain a powerful king, the king that centers Ciceronian Republican thought, are an adequate basis of stability in other types of monarchies. In other words, it is not solely the king's arbitrary application of the justice system that precludes *libertas*, but it is also the way that justice system is organized.

3.5.3 The Germanic King's Use of Freedmen and Slaves

So far, we have seen Tacitus approach the problem of kingship through the lens of Ciceronian Republican thought by pointing out problems with its view of monarchy. Tacitus now moves onto another problem alien to Ciceronian Republican thought: a king's use of slaves and freedmen and its effect on *libertas*. In a nod to practice during the Republic, Tacitus notes that freedmen are thought of as barely higher than slaves (*liberti non multum supra servos sunt*) (*Germ.* 25.2). But since the Germani did not have chattel slavery, "it is very unlikely that freedmen did [exist]."¹²⁵ This makes Tacitus' mention of freedman one of his more explicit comparisons with Rome. He further discusses freedmen:

¹²⁵ Rives (1999: 219).

Rarely do freedmen have any influence in the private sphere, never in the public sphere, except in those tribes ruled by kings. For there they are above freeborn men and men of high birth; among the rest, inferiority of freedmen is evidence of *libertas*.

raro aliquod momentum in domo, numquam in civitate, exceptis dumtaxat iis gentibus quae regnantur. Ibi enim et super ingenuos et super nobiles ascendunt; apud ceteros impares libertini libertatis argumentum sunt (Germ. 25.2).

We have seen that Tacitus' taxonomy of the Germani's state, from the start of the work, centers on the king; here he acknowledges that not every tribe that has a king is *ruled* by one. As J.G.C Anderson has pointed out, "the king reigned rather than governed."¹²⁶ This is generally true, but Tacitus does go on to point out some instances where the king rules (the Gothones), even absolutely (the Suiones) (*Germ.* 44). Tacitus is doing this for two reasons. He is further undercutting Republican assertions that all kingships are the same; the gradations of kingships will be the theme for the second half of the work. And Tacitus is acknowledging a novel issue, one Ciceronian Republican thought did not address: a king's ability to undermine free men (citizens) through his use of freedmen. As we will see, a king's use of slaves and freedmen excludes citizens from the political sphere.

3.6 The Second Half's Survey of Germanic Constitutions

As we have seen, the first half of the *Germania* is the start of pushback against the belief, prominent in Ciceronian Republican thought, that the essential

¹²⁶ Anderson (1938: lii).

question regarding whether a *res publica* is free concerns whether it is a monarchy. Because Ciceronian Republican thought believed that a monarchy was *ipso facto* the negation of *libertas*, it closed off the question of the advantages and disadvantages of different monarchical forms. Since Tacitus does not immediately accept the Republican dichotomy—monarchy/ unfree and non-monarchy/free—he is eager to explore the variations within forms of monarchies. The second half expands upon this idea by showing a range of monarchies. More specifically, Tacitus shows that political institutions and cultures affect each other. The first chapter of this half (*Germ.* 28) announces Tacitus' intention to examine how various kingships have impacted their peoples, especially with respect to *libertas*.

But more than this, Tacitus forces the reader to question and weigh his assertions. Tacitus ends the first half of the work noting that tribes migrated from Germania into Gaul (*Germ.* 27.3). But in the next section, Tacitus suggests that the migration went the other way, Gaul into Germania (*Germ.* 28.1). This ambiguity serves a purpose: forcing the reader to examine the political claims that he is making and the quality of the evidence to support them. Tacitus notes that the divine Julius Caesar (*divus Julius*) proposes (*trahit*) that the Gauls were stronger (*validiores*) than the Germani, so they would have been the ones to migrate (*Germ.* 28.1).¹²⁷ Two things stand out. First, *Divus Julius* is a reference not just to the *Commentarii de Bello Gallico* but also to the establishment of the

¹²⁷ Tacitus is referencing Caes. *BGall.* 6.24; see Rives (1999: 230).

Principate: the Senate deified Julius Caesar after his assassination in response to his political position and political pressure, long after he wrote the *Commentarii de Bello Gallico*. Additionally, Octavian used his position as the adoptive son of *Divus Julius* to secure his own political position. Second, Tacitus notably lacks solid evidence to support Caesar's assertion. Tacitus states his argument is merely believable (*credible*) (*Germ.* 28.1)—hardly a firm endorsement.

Tacitus uses his reference to Caesar to segue into his (Tacitus') theory that different types of kingships affect *libertas* in different manners. Tacitus states that settlements and societies, be they Gallic or Germanic, were largely the same before they became monarchies: “tribes occupied and turned over settlements lacking distinction so far and not divided up by the power of monarchies” (*gens . . . occuparet permutaretque sedes promiscuas adhuc et nulla regnorum potentia divisas*) (*Germ.* 28.1). Tacitus elaborates on this time period: “At that time in the past, due to having the same poverty and *libertas*, the good and the bad were equal on both banks of the Rhine” (*pari olim inopia ac libertate eadem utriusque ripae bona malaque errant*) (*Germ.* 28.3). So, since these settlements were politically the same, they had the same political benefits. What is then implied—and what Tacitus expects the reader to immediately grasp—was what caused the inequality—that is, the advent of kings. As we shall see, Tacitus is suggesting that monarchies are the prime catalyst for differing types of *libertas*. By examining the tribes individually, Tacitus is exploring how different forms of monarchy produce different political situations through the lens of *libertas*.

Following him in this, we will first explore the West Germani and then examine eastern, more autocratic, tribes.

3.6.1 The West Germani: *Libertas* Under a King

Tacitus begins the *Germania*'s second half by focusing on the West Germani: Batavi, Mattiaci, Chatti, Tencteri, Bructeri, Frisii, Chesusci, and the Cimbri (*Germ.* 29–37). Tacitus uses the discussion on the West Germani to make two points that undermine the simplicity of Ciceronian Republican thought: first is that a society with a king can have *libertas*; second, and corollary, is that a people is able to govern itself, thus not always necessitating a powerful king. He does this through the lens of how a political society engages in war. In the chapter that summarizes the West Germani, Tacitus notes how the West Germanic political system compares to that of an eastern despot: “The *libertas* of the Germani is deadlier than the absolute authority of Arsaces” (*regno Arsacis acrior est Germanorum libertas*) (*Germ.* 37.3).¹²⁸ With this comparison, Tacitus asks the reader to examine the West Germani's military-political society through the lens of their *libertas*. But more than this, by using a loaded Roman political concept, Tacitus is inviting the reader to examine the West Germani's war-making strategy against those of Roman Principate and Roman Republic.

Ciceronian Republican thought holds that the people alone are unfit to run government and thus need others to hold *imperium*. We have seen that Livy

¹²⁸ Rives (1999: 276) correctly observes that the Germani are characterized as “more warlike and dangerous” than other peoples. Hence my translation of *acrior* as “deadlier.”

thought that the early Romans—“that people made up of country-folk and castoffs, runaways from their own people” (*illa pastorum convenarum plebs, transfuga ex suis populis*) (2.1.4)—were unable to manage any sort of *libertas*, since they did not have sufficient respect for their country (*priusquam . . . caritasque ipsius soli*) (2.1.5). In this vein, Cicero notes that the uncertainty and rashness that are a mark of popular government (*error et temeritas populorum*) make it unfit to rule (*Rep.* 1.52).¹²⁹ This is in part because such undisciplined men are not willing to obey one person or a few (*neque se uni neque paucis velle parere*) (*Rep.* 1.55). The result is that there is no authority, just excessive license (*nimia licentia*) and a disregard of the laws (*leges . . . neglegere*) (*Rep.* 1.67, 68). For this reason—that they cannot select their own leaders—leaders must be foisted on them.

To counter this popular rashness in the Republic, Livy argued that the people had to be checked by a strong Senate of self-appointed aristocrats who would run the government (2.1.4, 10). Both Livy (2.1.7–11) and Cicero (*Rep.* 2.39–40) emphasize that, in the Republic, the aristocrats held the majority of power through inordinately-weighted voting blocs. As we have briefly seen already, these aristocrats attained their status through inherited wealth (*Rep.*

¹²⁹ Livy, of course, is in agreement. Right after Tarquinius Superbus was expelled and before republican institutions took root—when the government was still too vulnerable to abrupt shifts in public sentiment—Livy notes that L. Tarquinius Collatinus, a man who helped remove the king, was removed by the people from the consulship since he shared the king’s name (2.2.3). As such, he notes that the people acted too rashly: “I think they were too excessive in guarding *libertas* in every quarter, even in the smallest affairs” (*ac nescio an nimium undique eam minimisque rebus muniendo modum excesserint*) (2.2.2).

2.15–6). Cicero noted that the failing of an aristocracy is the supposition that wealth equates with ability: “Nor is any type of government more misshapen than that in which the richest are considered to be the most able” (*nec ulla deformior species est civitatis quam illa in qua opulentissimi optimi putantur*) (*Rep.* 1.51). Further back, Livy and Cicero argue that a strong king must keep the people in check. Indeed, Livy argues that the people must be checked by fear of the king (*metu regio*) (2.1.4).

Tacitus pushes back against this argument with the example of the West Germani, the most militarily successful Germani. As Rives notes, Tacitus presents them “as the greatest enemy of the Roman people throughout their history.”¹³⁰ In fact, Tacitus notes that not even the Carthaginians (*Poeni*) have fought as successfully (*saepius admonuere*) (*Germ.* 37.3). Not just that, but Tacitus emphasizes this fact by cataloguing the Roman losses to the West Germani, including: “After routing or capturing at nearly the same time five consular armies from the Roman people, they robbed Caesar of Varus and his three legions (*Germani . . . fuis vel captis quinque simul consularis exercitus populo Romano, Varum trisque cum eo legiones etiam Caesari abstulerunt*) (*Germ.* 37.4).¹³¹ Indeed, Tacitus notes that these tribes are still threats to the Romans, despite Rome’s victories over them: “In recent times, we have

¹³⁰ Rives (1999: 276). Rives makes this comment about the Germani as a whole, but Anderson (1938: 171–8) is right to read this section and these comments as a capstone to the section on the West Germani for several reasons, not the least of which is the fact that all of the defeats Tacitus mentions in this section came at the hands of the West Germani.

¹³¹ See Anderson (1938: 175–6) for further details.

triumphed over them more than we have conquered them” (*proximis temporibus triumphati magis quam victi sunt*) (*Germ.* 37.6).

Additionally, this line lets the reader know that what appears to be the case on the surface—that the Romans have continually defeated the Germani due to the numerous triumphs—does not always hold true (since these tribes were not fully, if at all, conquered). In other words, Tacitus is prompting the reader to question and critically reflect. Nor is the military focus an aberration. In the following sections and with other tribes, Tacitus focuses on other socio-political aspects. For instance, in the next chapter (*Germ.* 38), Tacitus turns his attention to the Germani who occupy Germania’s interior, the Suebi, who are actually a collection of distinct *nationes* with distinct names, such as the Langobardi (*Germ.* 38.1, 40.1). There he discusses a unifying feature—specifically, how outward appearance reflects one’s social position.

Nor is the West Germani’s military success separate from their political culture. For the Germani, much like the Romans, war was the most dynamic activity a state took part in.¹³² It required marshalling all available resources and straining the military–political structure. This connection of the military to the heart of political culture has an important history in the thought of Cicero and Polybius, which it will be worth our while to pause and examine. Cicero points out that political power is based on and correlated with military hierarchy and

¹³² Paul Erdkamp (2007: 99) notes that at least during the early Republic, and presumably under the kings, war was Rome’s most critical function.

power: Lucius Tarquinius Priscus doubled the number of *equites* as members to the Senate to use them to conquer nearby tribes (*Rep.* 2.35–6), and Servius Tullius based centuries' voting power on those centuries' military effectiveness and types of weapons (*Rep.* 2.39–40).¹³³ Polybius goes more in depth. Polybius' Book 6 begins and ends with a discussion of the Roman constitution. Yet, these discussions bookend a focus on the Roman infantry's organization, illustrating that “the army was an integral part of Rome's *politeia*.”¹³⁴ Andrew Erskine notes that Rome's use of native-born men and citizens to fight—as opposed to Carthage's use of foreigners and mercenaries—makes military participation a central duty of citizenship.¹³⁵ The use of native-born soldiers, Erskine argues, is one of the ways in which “the Roman *politeia* is superior to the Carthaginian.”¹³⁶

We can take this analysis a step further: Rome's defeat of Carthage illustrates that Rome's state and military organization was more effective than Carthage's.¹³⁷ The chronological placement of the discussion of Rome's *politeia* suggests as much. Erskine rightly observes that Book 6 comes at the nadir of Rome's power, after the crippling loss at Cannae, when most Mediterranean powers had ceased to consider Rome a threat. The discussion of Rome's military and *politeia* generally prefigures Rome's resurgence and explains it.

¹³³ Zetzel (1998: 194–5).

¹³⁴ Erskine (2013: 234–5).

¹³⁵ Erskine (2013: 235).

¹³⁶ Erskine (2013: 235).

¹³⁷ Arena (2012: 96) writes, “In comparing Carthage with Rome and assessing the reasons behind Roman success against its Punic enemy, Polybius identified the reason for Carthaginian weakness as the state of decline of its constitution at the moment of its encounter with Rome.”

Polybius' military discussion in Book 6 concentrates on the infantry, but the *equites* and other elites were vital to Rome's military, as well as political, structure. In Roman legions, young aristocrats served as military tribunes, acting as junior officers to the *imperium*-possessing magistrate.¹³⁸ This was a step to political office. As Polybius notes, at least a decade's military service was required before standing for office (6.19.1–6), and valor in combat gained one recognition at home, paving the way for a political career (6.39). On a more specific level, for the Romans, politics have a tighter connection with the cavalry than the infantry for two reasons. First, to be a cavalry member, one needed three horses and two attendants for support.¹³⁹ One had to be, in other words, a member of the elite.¹⁴⁰ Second, as Nathan Rosenstein notes: "Cavalry combat and the cavalry's role in military operations generally offered many opportunities to display bravery . . . that would pave the way for electoral success."¹⁴¹ This is because cavalry does not take part in any large-scale battles that require mass coordination, but rather in quick skirmishes—a point, as we will see, that Tacitus makes. On a larger level, Tacitus notes that even for consuls and emperors, their political power was intertwined with their military power: he uses only consuls and emperors to discuss Rome's military engagements against the West Germani. He is particularly scathing of Domitian and Caligula, noting of the latter that his

¹³⁸ Rosenstein (2007: 137).

¹³⁹ Rosenstein (2007: 136).

¹⁴⁰ McCall (2002: 5–6).

¹⁴¹ Rosenstein (2007: 136).

giant threats turned into mockery (*ingentes . . . minae ludibrium versae*) (*Germ.* 37.5).

When Tacitus describes the West Germani, the Chatti are the touchstone (*Germ.* 30–1). He uses the other tribes to emphasize certain qualities which they (the Chatti) possess. The Chatti are not only the most dominant military power, but the dominant social force. For this reason, they merit the greatest investigation not only of the West Germani, but of all the Germani: Tacitus writes 40% more about them than the tribe on which he spends the second most time in the *Germania* as a whole, the Aestii (*Germ.* 45.2–5). They are given this consideration because the Chatti are the most formidable warriors among the Germani.¹⁴² Tacitus states that “you may see other tribes go to a single battle, but the Chatti on military campaign” (*alios ad proelium ire videas, Chattos ad bellum*) (*Germ.* 30.3).

Tacitus attributes their success in war to their long-term planning and discipline. The Chatti plan their responsibilities for a day (*disponere diem*) and respect their military orders (*nosse ordines*) (*Germ.* 30.2). This forethought ensures that there is rarely a quick sally and an unplanned battle (*rari excursus et fortuita pugna*) that would work to their disadvantage (*Germ.* 30.3). What gives them this ability is that they have “much critical thinking and quickness of mind, as compared to the other Germans” (*multum, ut inter Germanos, rationis ac sollertiae*) (*Germ.* 30.2). But more than this, Tacitus makes a direct

¹⁴² Rives (1999: 247–8).

comparison with the Romans: “That thing which is extremely rare unless granted to Roman discipline: they place more trust in the general than in the army” (*quodque rarissimum nec nisi Romanae disciplinae consessum, plus reponere in duce quam exercitu*) (*Germ.* 30.2). This comment is telling because, unlike the Romans with their aristocratic or royal military leaders, the Chatti elect their leaders.

To fully understand Tacitus’ comparison, let us examine the Chatti’s military–political society from the ground up, as Tacitus presents it. We have seen that for political thinkers writing about the Roman world, such as Polybius and Cicero, the military and political spheres overlapped. It was even more so for the Chatti. Tacitus tells us that all the Chatti’s strength is in infantry (*omne robur in pedite*) (*Germ.* 30.3). This is not just a military comment, but a political one as well. Paul Erdkamp has noted the connection between the importance of the Roman infantry as a fighting force and those same individuals’ claims to political power: “The increased importance of wider sections of society also caused a shift in political power and status. Henceforth, the army consisted of men who performed their duty as citizens by fighting their community’s enemies.”¹⁴³ So, the importance of the infantry brought along with it non-elites’ claim to political power. This is doubly true for the Chatti. Unlike the Roman soldiers who had their leaders appointed over them, the Chatti elected their own (*praeponere electos*) (*Germ.* 30.2). This indicates a wider base of power for the

¹⁴³ Erdkamp (2007: 99)

Chatti populace than for their Roman equivalents. Nor are these leaders strictly military leaders. We have seen that for Romans, political and military roles overlapped. It would be no different for the West Germani generally and the Chatti specifically.¹⁴⁴ We can see this most easily in the fact that Chatti were a tribe with no fixed settlement. As such, they would fight for whomever supported them. In this system, their military leaders would have responsibilities akin to political leaders.

Additionally, the Chatti lacked an aristocracy. In Roman thought and practice, the aristocrats served in the cavalry not only because they could afford the necessary equipment and attendants, but also because it accorded a superior social position not only in camp but in political life.¹⁴⁵ In the *Agricola*, Tacitus equates fighters on horse with aristocracy. He notes—echoing the *Germania*—that the Britons have their strength in infantry (*in pedite robor*), but the aristocrats are charioteers (*honestior auriga*) (*Agr.* 12.1). So, when a military force has no cavalry, it lacks a powerful aristocratic body.

Tacitus demonstrates this with reference to another West Germanic tribe, the Tencteri. He first compares the Chatti's infantry with the Tencteri's cavalry: “And the Chatti's infantry is not more renowned than the Tencteri's cavalry” (*nec maior apud Chattos peditum laus quam Tencteris equitum*) (*Germ.* 32.2).

¹⁴⁴ See generally Rives (1999: 148–9). Although I do not agree with him that *dux* and *princeps* are two names for essentially the same role, Rives is right in that these positions cannot be hermetically sealed into political or military spheres. This would be even more true of the Chatti, who not only focus on war-making more than other tribes but also because they sell their war-making ability to various hosts, so their military leaders would very much be their political ones.

¹⁴⁵ Rosenstein (2007: 135); McCall (2002: 2–12).

Tacitus slightly undercuts this assertion and, in the process, urges us to question it. For he states about the reputation of the Tencteri's cavalry vis-à-vis the Chatti infantry: since their forefathers proclaimed it, succeeding generations assume it (*sic instituere maiores, posterī imitantur*) (*Germ.* 32.3). What is telling is that unlike the Chatti, where Tacitus gives several reasons for the effectiveness of their infantry, he gives not one for the supposedly just-as-effective cavalry. More than this, Tacitus notes that the Tencteri's horses—and the basis for their cavalry—are not given according to the traditional laws of inheritance (*inter . . . iura successionum*), but to the son who is more gallant and able in war (*prout ferox bello et melior*) (*Germ.* 32.4). Putting aside the fact that the presence of the Tencteri's cavalry highlights the fact that the Chatti lack one, the important takeaway is that horses—the basis of any cavalry—are awarded based on merit within a family. This is in keeping with Tacitus' overall statement that the Germani chose their leaders based on their ability (*duces ex virtute sumunt*) (*Germ.* 7.1).¹⁴⁶ This type of selection, in turn, ameliorates the Roman practice of aristocrats being foisted on the non-elite military members.¹⁴⁷

As we have seen, this lack of a strong aristocracy does not mean that the Chatti lacked leaders, nor does it mean—contrary to Ciceronian Republican thought's preconceptions—that the non-elites were unmanageable. Indeed,

¹⁴⁶ Morford (1991: 3425) observes that the selection of tribal leaders based on such qualities emphasizes “the moral aspect of *libertas*.”

¹⁴⁷ As Cicero asks: for who is able to bear the *optimates*, who takes this name for themselves not with the permission of the people by their own self-elections? (*nam optimatis quidem quis ferat, qui non populi concessu sed suis comitiis hoc sibi nomen adrogaverunt?*) (*Rep.* 1.50).

Tacitus is suggesting that the same military qualities which the Chatti are known for—in fact, which the Roman infantry are also known for—translate to the closely-related political sphere. After detailing the Chatti infantry, Tacitus makes a comparison to cavalry. Up to this point in the *Germania*'s second half, he has not mentioned cavalry, so the comment is unexpected. Tacitus states: “It is a characteristic of the equestrians’ strength to quickly prepare for victory and to quickly give it up: for the infantry, rashness goes hand in hand with dread, while their deliberate hesitation is closer to stability” (*equestrium sane virium id proprium, cito parare victoriam, cito cedere: velocitas iuxta formidinem, cunctatio propior constantiae est*) (*Germ.* 30.3). One commentator has noted that this excerpt does not bear on why the Chatti have infantry and lack cavalry, and are thus out of place. He states, “These general reflections are not much to the point,” since the Chatti have infantry because they live in hilly areas and learned discipline from the Romans.¹⁴⁸ But if we think beyond a strictly military sense, Tacitus’ comment comes into focus.

Tacitus is pointing out that qualities each class is noted for in war are the inverse of its supposed political qualities. In Ciceronian Republican thought, the aristocrats are noted for their careful judgment. Cicero notes that there is more careful judgment among the aristocrats (*plus . . . in pluribus consilii*) than in a

¹⁴⁸ Anderson (1938: 154).

king or the populace (*Rep.* 1.55).¹⁴⁹ In this military context, Tacitus turns this on its head and notes that the cavalry does everything quickly—it quickly seizes a victory and quickly cedes it (*cito*), and thus cannot follow up on a victory.

Despite this problematizing of the preeminence of the Roman aristocracy with his reference to the cavalry, Tacitus' main focus is on the infantry. Here, too, he engages with the Republican tradition. We have seen that under Ciceronian Republican thought, rashness (*temeritas*) is associated with the people. And this leads to their inability to make sound political decisions or obey leaders. Rather, here, Tacitus is saying that the success of the Chatti infantry, that is, with the common citizen-body, is found in their deliberate hesitation (*cunctatio*)—the opposite of rashness. In turn, such a characteristic allows them to obey their elected leaders (*praepondere electos, audire praepositos*) and their military commanders (*Germ.* 30.2). This explains their success in battle. Additionally, as we have seen, these leaders and commanders are not only military commanders, but have political roles as well.

Tacitus further ties the Chatti's military success to their bottom-up political society with respect to their king. Throughout *Germania's* first half and for the tribes aside from the West Germani, kings play a large role. To start the *Germania's* second half, Tacitus emphasizes their importance; he notes that the

¹⁴⁹ Here, Cicero uses *plures* to signal the aristocrats, as he likewise uses *unus* to mean a king. Cicero re-emphasizes this point by noting that the aristocrats captivate us with their careful judgment (*nos capiunt . . . consilio optimates*) (*Rep.* 1.55). See also, e.g., Livy's description of Brutus' first act (*omnium primum*) after dethroning Tarquinius Superbus: instead of quickly squandering the victory and letting another king rise, Brutus made the populace swear that they would never endure another king, further cementing Rome's gain. (2.1.9).

Germani's communities are divided by the power of kings (*sedes . . . regnorum potentia divisas*) (*Germ.* 28.1). This reiterates the first half's emphasis on kingship and its prevalence, such as the work's very first sentence announcing its focus on the Germani's tribes and kings (*Germ.* 1.1). So, when Tacitus does not mention the kings among the West Germani, it is telling. It is not that they do not have kings—they do¹⁵⁰—but rather, in his depiction in the *Germania*, these kings are not as responsible as the other components of its political and military order for the West Germani's success.

Tacitus associates this weak, top-down control with personal autonomy and military success in the *Agricola*. Indeed, the treatment of monarchy in the *Agricola* provides an informative contrast with the *Germania*. For instance, Tacitus time and again points out that the Britons are fighting for *libertas*, which Roman rule would banish.¹⁵¹ This is not to say that Britons are without royal leaders; Boudica, who led a revolt against the Romans, was of royalty.¹⁵² Tacitus also notes that some tribes were led by weak kings (*reguli*) (*Agr.* 24.3).¹⁵³ So, it is not a king that precludes *libertas*, but the nature of that king. This is the point the Britons makes in conference once they are free of Roman oversight. They

¹⁵⁰ Tacitus elsewhere mentions that these tribes have kings: *Ann.* 11.16–17 (Cherusci); *Ann.* 13.54 (Frisii); *Hist.* 4.13 (Batavi).

¹⁵¹ Two examples. Tacitus states in his authorial voice that “Roman arms everywhere would banish *libertas* from sight” (*Romana ubique arma . . . e conspectus libertas tolleretur*) (*Agr.* 24.3). And the British Chieftain Calgacus stated that they were fighting to preserve their *libertas* from Roman occupation (*Agr.* 30.3). See also Liebeschuetz (1966: 135–9); Jens (1956: 337–41).

¹⁵² Tacitus writes that the Britons fought with “Boudica as their leader, a woman of royal lineage” (*Boudicca generis regii femina duce*) (*Agr.* 16.1).

¹⁵³ Elsewhere, Tacitus says that the Britons had kings (*Agr.* 13.3).

state that they once had their own king (*singulos sibi olim reges fuisse*) but now they have two forced on them, a legate and a procurator (*nunc binos imponi*) (*Agr.* 15.2). But it is not just that the Britons have no influence with these two new “kings,” but that they tyrannize the Britons (*saeviret*) to the extent that they are reduced to slaves (*servos*) (*Agr.* 15.2). These are the types of “kings” who preclude *libertas*.

Returning to the *Germania*, Tacitus again distinguishes between *libertas*-precluding and *libertas*-promoting kings with the Batavi and Mattiaci. Though they once belonged to the Chatti (*Chattorum quondam populus*), they broke off and migrated to the northwest of the Chatti (*Agr.* 29.1–2).¹⁵⁴ On a superficial level, the Batavi became part of the Roman empire (*pars Romani imperii*) (*Germ.* 29.1).¹⁵⁵ Yet they were exempt from Roman impositions and taxes (*exempti oneribus et conlationibus*) (*Germ.* 29.1). Tacitus describes this in such a way as to connect their freedom from monetary obligations with their autonomy, much like with Britons in the *Agricola*. For this reason, Tacitus says they are “not insulted by tribute nor ground down by the tax-farmer” (*nec tributis contemnuntur nec publicanus atterit*) (*Germ.* 29.1).¹⁵⁶ Additionally, the troops of the Batavi and the Mattiaci were free from another obligation imposed on other West Germanic tribes under Roman *imperium*: although other tribes had to

¹⁵⁴ Rives (1999: 241–2) suggests that the Mattiaci were not in fact a splinter group of the Chatti. For our purposes, this does not matter, since Tacitus treats the Mattiaci as such: they are in all respects like the Batavi (*cetera similes Batavis*) (*Germ.* 29.2).

¹⁵⁵ For a historical analysis of the competing influences on the ethnic identity of the Batavi, see Derks (2009).

¹⁵⁶ I am using Anderson’s (1938: 146) translation of this phrase.

produce troop levies to be placed under Roman command,¹⁵⁷ when the Batavi and the Mattiaci supplied troops, they were under the command of their own leaders.¹⁵⁸ In short, in several important ways the Batavi and the Mattiaci were more markedly free from top-down control—in this case, Roman control—than similarly-situated tribes. And this explains why Tacitus takes pains to emphasize their connection with their former kinsmen, the Chatti: “The respect and marks of office of their old community remain” (*manet honos et antiquae societatis insigne*) (*Germ.* 29.1). What the Batavi and the Mattiaci have retained from the Chatti, though in diminished measure, is a lack of top-down control.

3.6.2 The Suiones: Where Kingship Exceeds *Libertas*

As we have seen, Tacitus suggests that kingship is reconcilable with *libertas*. Moving from Lower Germania to the Baltic Sea region, we will now see where it is not. The meat of this inquiry focuses on the Suiones, a people with a king who prohibits weapons (*Germ.* 44.2–3). In the section immediately before this one (*Germ.* 44.1), Tacitus primes his reader to think of a king’s power with respect to his people and their arms. When Tacitus moves his discussion to the southern Baltic area, he again brings to the fore his focus on kingship and *libertas*. Discussing the Gothones, Tacitus notes one quality: that they are ruled by kings (*Gotones regnantur*) in a stricter manner than the other Germanic tribes (*paulo iam adductius quam ceterae Germanorum gentes*) (*Germ.* 44.1).

¹⁵⁷ *Hist.* 12.27, Rives (1999: 237).

¹⁵⁸ See, e.g., *Ann.* 2.11, *Hist.* 4.12, Rives (1999: 240).

Yet he takes pains to note that this is still reconcilable with *libertas*: this kingship does not exceed *libertas* (*nondum tamen supra libertatem*) (*Germ.* 44.1).

Turning next to the Rugii and the Lemovii, Tacitus again notes simply the fact that they possess weapons and are deferential toward kings (*erga reges obsequium*) (*Germ* 44.1). The short reference to these three tribes keys the reader to turn his mind again toward the relationship between *libertas* and kingship for the upcoming discussions. More than this, it also tells us that weapons will play a role here. To fully understand this shift, we must first understand the importance of weapons for the Germani.

For the Germani, weapons are closely linked with citizenship. Such a notion would not be foreign to the Roman mind since, as we have seen in Polybius and Cicero, the military is a central part of the *politeia*, and the ideal Republican regime consists of citizen-soldiers.¹⁵⁹ A Germanic male can only take

¹⁵⁹ This idea is not without precedent. A similar thought can be seen at the start of Book 2 of Xenophon's *Anabasis*. There, the surrendering of weapons goes hand in hand with submitting to a strong king and the loss of accompanying civil autonomy.

The king, since he was in fact victorious and had slain Cyrus, ordered the Greeks to surrender their weapons, come to the king's court, and seek whatever consideration they might obtain.

βασιλεὺς κελεύει τοὺς Ἕλληνας, ἐπεὶ νικῶν τυγχάνει καὶ Κῦρον ἀπέκτονε, παραδόντας τὰ ὄπλα ἰόντας ἐπὶ βασιλέως θύρας εὐρίσκεσθαι ἂν τι δύνωνται ἀγαθόν (*Xen. Ann.* 2.1.8).

During the ensuing discussion, a Greek notes that, by giving up their weapons, and putting themselves under the power of the king, the Greeks would be robbed (στερηθῆναι) of their τῶν σωμάτων (*Xen. Ann.* 2.1.12). In this instance, I argue that τῶν σωμάτων means civil autonomy. Similar use of the word can be found in Xenophon's contemporaries, such as in Andocides' *On the Mysteries* (74, 123), see MacDowell (1962: 65), who notes that the depriving of one of his "body" (σῶμα) can indicate the act of "depriving his of certain rights of action."

up weapons (*arma sumere*) after the state believes that he is able to fulfill his duties, not just as a soldier, but as a member of society (*non ante . . . quam civitas suffecturum probaverit*) (*Germ.* 13.1). This is why the youth is presented his spear and shield, oftentimes by a noble (*principum aliquis*) in the chief public body, the council itself (*in ipso concilio*) (*Germ.* 13.1). It is a matter of public concern. As Tacitus makes clear, this is the equivalent of a Roman assuming the toga: “This is their toga” (*haec apud illos toga*), since it is a passport to society” (*Germ.* 13.1).¹⁶⁰ Nor is *arma sumere* merely a nod to a hollow custom. Arms are required to take part in society. As Tacitus tells us, “The Germani do nothing in the public sphere or private unless armed” (*nihil autem neque publicae neque privatae rei nisi armati agunt*) (*Germ.* 13.1). This is especially prevalent in politics. At the assembly, to vote for approval, the Germani strike their spears against their shields (*frameas concutiunt*) (*Germ.* 11.2).¹⁶¹ In fact, “to praise with arms is the mark of the most recommended types of agreements” (*honoratissimum adsensus genus est armis laudare*) (*Germ.* 11.2). In this way, weapons are not just a mark of citizenship, but an active instrument for taking part in political decisions. It holds true with business: “They attend business affairs armed” (*ad negotia . . . procedunt armati*) (*Germ.* 22.1).

¹⁶⁰ Anderson (1938: 90) also notes that *arma sumere* echoes *togam virile sumere*. See Dolansky (2008: 54), who notes that for a Roman, “the assumption of the *toga* marked the acquisition of full citizenship and increased freedom.”

¹⁶¹ Anderson (1960: 87).

The reason for this peculiar custom—attending business armed—rests with the fact that weapons are a visible signal that one is a responsible member of society. Thus, if one is armed, a potential trading partner knows the other is reliable. In a broader sense, this is important in battle because it indicates that, as a committed and responsible citizen, the combatant is unlikely to flee. For these reasons, Tacitus equates being armed with being a member of the state and having a role in it: “Before this ceremony, these youths seem part of the home; soon after, part of the public sphere” (*ante hoc domus pars videntur, mox rei publicae*) (*Germ.* 13.1). So, to strip one of his arms is to deny one his participation in the public sphere. With this in mind, let us turn to the Suiones.

The Suiones are a tribe living on the ocean, possibly on the southernmost tip of modern Sweden, where Malmö now sits.¹⁶² Tacitus marks them out for two characteristics that he does not overtly connect. First, among them, wealth has a place of honor (*apud illos et opibus honos*) (*Germ.* 44.2). Tacitus says simply that for this reason (*eoque*), one person alone rules (*unus imperitat*) (*Germ.* 44.2). This person’s rule is absolute: “There are therefore no limitations on his rule, with no rule of obeying based on mere toleration.” (*nullis iam exceptionibus, non precario iure parendi*) (*Germ.* 44.2). There is a telling disconnect here. There is no reason why a people who highly value wealth would want it all in the power of

¹⁶² Rives (1999: xii).

one man—nor can it be so in a Germanic society.¹⁶³ At the start of the work, Tacitus tells us that Germany lacks silver and gold (*Germ.* 5.3). So, the Germani in general, and the Suiones in particular, must have their wealth in land and cattle, as was typical of developmentally equivalent societies. Indeed, Germania is “abundant in cattle” (*pecorum fecunda*) (*Germ* 5.1). Unlike gold and silver that one person can hoard, cattle require a large group of people to tend. This is a point Cicero makes about the rise of the Senate in Rome: it was composed of men whose wealth was in land and cattle (*Rep.* 2.15–16, 1.51). In other words, wealth was spread out, and a group of ever-prosperous men wanted a say in public affairs. But we are told that this is not the case among the Suiones.

Second, Tacitus notes that unlike the other Germani, to whom arms are allowed to those of all classes (*in promisco*), the Suiones’ weapons are kept under guard by a slave (*clausa sub custode, et quidem servo*) (*Germ.* 44.3).¹⁶⁴ The ability to possess arms of course implies the ability to use them. As Cicero notes in the context of self-defense: “it would not be permitted for us to have swords if we were not permitted to use them in any way” (*quos [gladius] habere certe non liceret, si uti illis nullo pacto liceret*) (*Mil.* 10). So, by restricting weapons, the Suiones’ state—which is their king—is claiming a monopoly on force. Tacitus gives two hollow reasons for the weapons being kept under guard. The first

¹⁶³ Anderson (1938: 206) argues that *eoque* means that the ruler is the richest of the lot. But this reading no more explains why a people would need to be ruled absolutely. Indeed, if wealth were more evenly spread out, it would seem to indicate that influence would be as well.

¹⁶⁴ See, e.g., *Ann.* 12.7 for Tacitus using *promiscus* to indicate all ranks of society.

proffered justification is that that the Suiones' position on the ocean prevents sudden raids (*subitos incursus*). This is a misdirection. Waterways actually make sudden attacks far more likely. Cicero points this out at the start of *De Re Publica* Book 2 when he commends Rome for being founded away from the water because "an enemy from the sea is able to arrive before any is able to know of his approach" (*maritimus vero ille et navalis hostis ante adesse potest, quam quisquam venturum esse suspicari queat*) (*Rep.* 2.6). This is a fact that Tacitus undoubtedly knew, not just because he was a close reader of Cicero's *De Re Publica*, but from his own experience. In the *Agricola*, Tacitus notes how Otho's fleet raided his grandmother-in-law's estate, killed her, and sailed away (*Agr.* 7.2–3).¹⁶⁵ Indeed, Tacitus partially undercuts this assertion in the *Germania* itself when he describes the Chauci as a "quiet people" (*quieti*), since "they seek no wars" (*nulla provocant bella*) (*Germ.* 35.2). Nevertheless, since they live on the ocean, they keep weapons ready for all men (*prompta tamen omnibus arma*) if there is a sudden attack (*Germ.* 35.2).

The second proffered justification is that unoccupied armed men (*otiosae . . . armatorum manus*) easily fight with each other (*facile lasciviunt*). On a first read, such a description of the Suiones agrees with that of the Germani generally, who are said to go armed to feasts (*ad convivia procedunt armati*) and settle their drunken quarrels with murder and blows (*caede et vulneribus*) (*Germ.*

¹⁶⁵ In the *Agricola* generally, Tacitus acknowledges that Britons and Romans knew that attacks by sea were common and dangerous (*Agr.* 18.5, 24.1)

22.1–2). If this were truly the case, a trusted citizen could be in charge of the weapons. A closer look at *lasciviunt* provides deeper understanding. Both Cicero and Tacitus have used this word to indicate when an individual disobeys his superiors.¹⁶⁶ In this vein, we can read the second reason as “unoccupied armed men easily disobey their superiors.” So, keeping arms under guard is part of the king’s absolute rule. The restriction of weapons has also been tied to restricting an ability to challenge the sitting government.¹⁶⁷ In his second Verrine oration, Cicero noted that Roman magistrates prohibited slaves with any sort of weapon in order to prevent further slave revolts (*Verr.* 2.5.7). In all events, what the Suiones’ king is doing is increasing his power and restricting any checks on it.

Most important is the fact that the king put the weapons under the power of a slave. Tacitus’ wording—and weapons *qua* citizenship—indicates that slaves had widespread power: “To put neither a noble nor a freeman, nor even a freedman in charge of the arms—that is simply royal policy” (*enimvero neque nobilem neque ingenuum, ne libertinum quidem armis praeponere regia utilitas est*) (*Germ.* 44.3). It is not a happenstance that a slave is in charge of weapons; rather it is the king’s deliberate plan.

In a broader sense, the Suiones’ king took away the instruments of their citizenship and placed them under slaves. Tacitus is confronting an issue that

¹⁶⁶ See, e.g., Cic. *Rep.* 1.63 and Tac. *Ann.* 1.16 for this specific use of *lascivire*. An example: after Augustus died and Tiberius assumed his place, Junius Blaesus loosened his control over his soldiers and allowed his men a break from military duties. Tacitus notes, “from this beginning, the soldiers began to fight each other, be without order . . . and disregard military discipline and toil” (*eo principio lascivire miles, discordare . . . disciplinam et laborem aspernari*) (*Ann.* 1.16).

¹⁶⁷ Blackstone (1996: 2.143–4).

Ciceronian Republican thought not did anticipate since it focused on only one version of monarchy: freedmen's and slaves' roles with respect to a king.

Literature contemporary to Tacitus discusses the subjugation of freeborn men to freedmen and slaves.¹⁶⁸ Much of it concerns the prominent places freedmen held in imperial administration.¹⁶⁹ For instance, Dio recounts Claudius' freedman and chief secretary (ὄς τῶν ἐπιστολῶν ἐπεστάτει) Narcissus (61.30.6b). This position allowed him to control what information Claudius saw and the decisions Claudius was able to make (Dio 61.34.5). In fact, Cassius Dio states that he was the most powerful man alive (μέγιστον τῶν τότε ἀνθρώπων δυνηθείς) and, as a result, that cities and kings sought him out (καὶ προσεῖχον αὐτῷ καὶ πόλεις καὶ βασιλεῖς) (Dio 61.34.4). Tacitus emphasizes this social structure in the *Agricola*. He notes that Domitian used his freedman to carry messages and influence decisions (*Agr.* 40.2) as well as act as his chief advisors (*Agr.* 41.4). The placement of freedmen and slaves in politically vital positions eroded the traditional power of the Senate and aristocrats.¹⁷⁰ In this way, freeborn men had less political power. Tacitus maps this trend onto the *Germania*.

In the *Germania*'s first half, Tacitus notes a descending social and political hierarchy that would be familiar to any Roman: king, nobles (*nobiles*), freemen (*ingenui*), freedmen (*libertini*), and slaves (*servi*) (*Germ.* 25.2). Tacitus

¹⁶⁸ See, e.g., *Juv.* 3.131–2 (a freeborn youth is attending to a rich man's slave); *Sen. Ben.* 3.28.5–6 (on the need for freeborn men to cultivate relationships with socially superior slaves).

¹⁶⁹ Mordine (2013: 104–6); Lavan (2013: 69–70).

¹⁷⁰ Lavan (2013: 69).

separates off the bottom end of this hierarchy by stating that freedmen and slaves occupy the same low position: “Freedmen are barely above slaves” (*liberti non multum supra servos sunt*) (*Germ.* 25.2). In this way, five classes are divided into two groups: those freeborn and those not freeborn. In order for a state to preserve *libertas*, freeborn men should be the only ones with political power. Tacitus states that slaves, and by extension freedmen, never have any influence in a state (*aliquod momentum . . . numquam in civitate*)—with the exception of those states that are ruled by kings (*quae regnantur*) (*Germ.* 25.2). This is not to say that every state that has a king then contains freedmen and slaves with political influence, since the West Germani have kings but no freedmen or slaves in politically important positions. Rather, only a kingship is able to—but does not necessarily—contain politically prominent slaves and freedmen. Such a political situation lacks *libertas*. In fact, Tacitus notes that the inferiority (*in pares*) of those not freeborn is evidence of *libertas* (*libertatis argumentum*) (*Germ.* 25.2).

Despite this detailed summary, Tacitus is silent in this chapter on the specific reasons why slaves and freedmen in political posts preclude *libertas*. That is not to say Tacitus does not suggest why. Tacitus, by noting that arms (read: rights of citizenship) are under a slave’s control, indicates two things: first, the inversion of the social hierarchy that was prevalent at Rome; second, that freeborn men are not able to take part in politics, because their roles have been assumed by freedmen and slaves.

This is one of the themes that runs through Tacitus' minor works. We have seen in Chapter 2 that a primary concern of the *Dialogus* is an elite Roman's inability through oratory to influence politics, since *delatores* not only control the courts but also have imperial favor. This produces two related effects: orators used rhetoric for personal gain, and any political activity undertaken by elite Romans, such as Maternus writing politically charged dramas, had to be done a step removed from the political center. We will see more fully in the next chapter on the *Agricola* how imperial freedmen and slaves as well as *delatores* acted not just to limit an elite Roman's power, but also to bend such men to their purposes. There, Tacitus time and again notes how freedmen and *delatores* guided Domitian's policies.¹⁷¹ On this point, Tacitus notes that, after the military defeats on the frontiers, Agricola was called by the voice of the people (*poscebatur ore vulgi*) (*Agr.* 41.3). But Domitian's circle, *delatores* and freedmen, prohibited him from assuming this command or any influence. Agricola was apprehensive of these men at Rome after he had left Britain. Agricola actively sought to lessen any political influence he might have: he thoroughly submersed himself in rest and leisure away from politics in order to lessen his military renown (*uti militare nomen . . . temperaret, tranquillitatem atque otium penitus hausit*) (*Agr.* 40.3).¹⁷²

¹⁷¹ See, e.g., *Agr.* 41.4 (freedmen), 45. 1 (*delatores*).

¹⁷² See Woodman and Kraus (2014: 292) for *tranquillitas* and *otium* marking a withdrawal from political life.

3.7 *Germania as Rome*

Tacitus has noted strong parallels between Germania and Rome. The most obvious of these are the Republican political terms that not only link together the *Germania* with Tacitus' intellectual predecessors, but also provide a way for him to safely discuss the unstable political situation at Rome. We saw in the chapter on the *Dialogus* that Tacitus imitated Cicero in setting the *Dialogus* a generation earlier to distance himself from any political repercussions. In a similar way, he is using the form of an ethnography to distance himself from any political charges. But the ethnographic form is just as well suited to survey various political cultures and institutions. For this reason, Tacitus uses it to push back against the Republican idea that there can only be one type of monarchy, which necessarily precludes *libertas*. In doing so, the *Germania* is in line with previous philosophical inquiries. In the *Politics*, Aristotle observes that, in theory, there are many types of monarchies (3.14–16). Tacitus demonstrates this theory in practice, presenting an important critique of Republicanism. For this reason, the lack of up-to-date sources does not hinder the *Germania*. We need not subscribe to Christopher Krebs's argument that the Germani who "roam Tacitus's pages are in many ways typical representatives of the northern barbarian" to see how an ethnographic work with a lack of up-to-date information would allow Tacitus room to write the work as a treatise on Roman

political thought.¹⁷³ In fact, a careful reader would see that the inconsistencies, historical and logical, as well as gaps in information are an invitation to further explore and question this dialogic work. Indeed, the work ends with Tacitus saying he will leave a report about a distant tribe unverified (*incompertum*) (*Germ.* 46.4): a final invitation to the reader of this political survey.

¹⁷³ Krebs (2011: 49).

4. *Agricola* as *Princeps*

In the past two generations, scholarship on the *Agricola* has cast Agricola in an overwhelmingly positive light, often in contrast to the political system in which he lived. R.M. Ogilvie and Ian Richmond write that “in the *Agricola* a coherent picture of a devoted public servant emerges which is contrasted with the jealous despotism of Domitian.”¹ In a similar fashion, Daniel Kapust argues that Agricola is “among the examples of good rulers in Tacitus’ writings,” in part because he combined moderation with prudence and spoke honestly.² By contrast, Domitian was a “bad ruler” because he exhibited the opposite of all the qualities that Agricola supposedly possessed, such as his *saevitia* and dissimulation.³ Dylan Sailor observes that a main goal of the work “is to praise and preserve the memory of Agricola’s virtues and exploits,” whereas “Domitian is the clear villain of the work.”⁴ And J.B. Rives writes, “Tacitus’ primary goal was of course to praise Agricola,” but Tacitus attributes Domitian’s actions to his “jealousy and resentment.”⁵ The most recent comprehensive treatment of the *Agricola*, A.J. Woodman and C.S. Kraus’ Cambridge commentary, argues that the work is itself “a moral challenge to the *princeps* under whom Agricola achieved his highest distinction.”⁶

¹ Ogilvie and Richmond (1978: 20); see also Haynes (2006: 150), Wilkinson (2012: 129), Muller (1993); cf. Hammer (2014: 354).

² Kapust 2012 (519–23); Jens (1956).

³ Kapust 2012 (520–3); see generally McGing (1982); Liebeschuetz (1966).

⁴ Sailor (2012: 26); see also, e.g., Woolf (1998: 69); Lausberg (1980: 422); Braund (1996: 154–5).

⁵ Mattingly & Rives (2009); see also Birley (2010).

⁶ Woodman and Kraus (2014: 5).

This scholarship, however, has emphasized Agricola's actions at Rome and as a foil to Domitian. Our focus with Agricola, however, will be on his time in Britain. As David Braund has observed, "It is Britain that dominates the work, and more particularly Agricola's activities there."⁷ Furthermore, we will question the view that Agricola is the foil to Domitian. Over two generations ago, Ronald Syme suggested that Agricola was not an unambiguous character: "So flagrant is the distortion when the Emperor is defamed that upon cool reflection doubt might arise about the superior excellence of Julius Agricola, that paragon of civic and military virtue."⁸

Like many other scholars of Tacitus, Syme noted that Tacitus' writings were never straightforward, and that he often hinted at opinions or views not directly stated. But Syme brought this same view to bear on Agricola himself.⁹ On this point Syme notes, "Tacitus concedes that Agricola was not impressive—one could see that he was a good man, one would gladly believe him a great man."¹⁰ More specifically, Syme suggests that Tacitus' constant praise of Agricola's virtues might indicate that Agricola's virtues were not so genuine: "The caution and prudence of the hero fatigues with reiterated documentation. Respect for authority and a conduct that so invariably enlisted the favor of higher

⁷ Braund (1996: 154).

⁸ Syme (1958: 123).

⁹ Whitmarsh (2006: 325) takes a slightly different approach, that Agricola illustrates "the disturbing compromises involved in pursuing . . . [a] virtuous life under the Principate." In this view, the *Agricola* shows what compromises must be made, but not how they might make Agricola more like a *princeps*.

¹⁰ Syme (1958: 123).

officers may be liable to unfriendly imputations.”¹¹ Agricola may not have been an unqualifiedly good man, set apart from the policies of the *princeps*. Even in his time in Britain, Syme further questions how much of Agricola’s decisions actually belong to “personal initiative” rather than “normal military routine” or “deliberate imperial policy.”¹²

In this chapter, I will follow Syme’s lead and explore the nuances of Agricola’s time in Britain. More specifically, I will argue that when in Britain, Agricola takes on aspects of Domitian specifically and a *princeps* generally.¹³ This chapter will first examine the *princeps*’—usually, but not always, Domitian’s—relationship with his subjects through the lens of dissimulation, administration, and finally education. Then, this chapter will argue that in these areas, Agricola’s actions vis-à-vis the Britons resemble the *princeps*’ vis-à-vis Romans. Thomas E. Strunk notes about his *oeuvre*, “Tacitus’ *principes* typically start off with great promise and then become tyrant.”¹⁴ I suggest something similar happens to Agricola. He does not become a tyrant, but his time in Britain is markedly different from how he is portrayed at the start of the work. In investigating Agricola’s life, Tacitus is investigating to what extent a monopolistic regime alters those who help run it. Finally, this chapter will examine how a regime exploits memory. The investigation into memory calls into question not

¹¹ Syme (1958: 123).

¹² Syme (1958: 123).

¹³ See Whitmarsh (2006: 306, 315–9) for Agricola as an agent of the imperial power in Britain.

¹⁴ Strunk (2017: 30).

only the veracity of the dormant narrative within the *Agricola* but of the *opera minora* as well.

4.1 The Regime of the Princes

The main focus of the work is Agricola's actions under Domitian, but it is necessary to separate the historical Domitian from Domitian as Tacitus portrays him. Scholarly evaluation of Domitian's regime has changed in the last generation, placing it in a more positive light.¹⁵ Yet, since this chapter is an analysis of Tacitus' political thought, Domitian will be portrayed much differently, more harshly. A major aspect of Tacitean thought is concentration of power in the *princeps*' hands. As Syme says about Tacitus' thought throughout his works:

For Cornelius Tacitus, the essential falsity of the Principate lay in the fiction that the supreme authority in the Roman state was voluntarily offered and legally conveyed, or at least ratified. The opening chapters of the *Annals* deny the Republic of Augustus, reveal the workings of dynastic politics, and demonstrate that Tiberius was already in possession of authority before the Senate was invited to express an opinion.¹⁶

What is more, the fiction upon which the Principate was founded—the nature of its power—caused its instability. And since the *princeps* was “regulated only by his own conscience,” this instability affected the *principes* and their actions.¹⁷ It affected some *principes* more than others. Dean Hammer argues that, for Tacitus, the Principate established an “an institutionalization of terror . . . in

¹⁵ See, e.g., Jones (1992); Southern (1997); Galimberti (2015).

¹⁶ Syme (1958: 412).

¹⁷ Atkins (2018b: 32).

which institutions and norms become transformed into instruments of the emperor's will."¹⁸ A *princeps malus*, such as a Domitian, then, would use these tools more maliciously.

The *Agricola* specifically illustrates how Domitian used certain tools to strengthen his own power. First, this section will explore how Domitian's use of dissimulation obscured his intentions. Next, it will examine how his administration further strengthened his influence; last, how changes in education reinforced these new norms.

4.1.1 Dissimulation

Tacitus places dissimulation at the Principate's heart.¹⁹ Though the *Oxford English Dictionary* defines dissimulation as the "concealment of what really is, under a feigned semblance of something different," this chapter will use it in a political manner.²⁰ It means the separation of words from their meanings that allows individuals to conceal their real motives or purposes. For political regimes, dissimulation allows those in power to preserve their power. We have seen that Václav Havel faced an undefined political situation not dissimilar to what Tacitus experienced.

¹⁸ Hammer (2014: 346). As will be seen, I disagree with part of Hammer's approach, not the least of which is his reading all of Tacitus' works as a coherent whole. Nevertheless, his general emphasis on the *princeps*' psychology as a major factor in explain the actions of those under him is a necessary one for making sense of the *Agricola*.

¹⁹ Both Hammer (2014: 340) and Kapust (2012: 520–1) touch on this phenomenon in Tacitus but do not delve into its role in the power structure.

²⁰ Oxford English Dictionary, "dissimulation."

Havel noted that certain monopolistic power systems led to the disjunction of meaning from words and actions, which in turn led to egocentricity: “We learned not to believe in anything, to ignore one another, to care only about ourselves.”²¹ Havel, however, delves far more deeply into this phenomenon. The best example of this in dissident literature is Havel’s greengrocer example. The greengrocer is a fruit and vegetable shop manager who places daily among his produce a sign that reads: “Workers of the World, Unite!”²² The greengrocer does not put the sign in the window because he is enthusiastic about the socialist cause; in fact, he has not given any thought to it. He puts it in the window because the sign is delivered with this produce by the bureaucracy, and such signs have always been displayed in his store and throughout the country. Perhaps, more importantly, if the greengrocer does not display the sign, he would be accused of disloyalty and might suffer punishments ranging from loss of his job to his children being removed from school. As Havel points out, the sign actually carries a much different message: “I, the greengrocer XY, live here and I know what I must do. I behave in the manner expected of me. I can be depended upon and am beyond reproach. I am obedient and therefore have the right to be left in peace.” This message, common in home and store windows throughout the state, is directed both to the greengrocer’s superiors as well as potential informers. The message lacks any real meaning, but

²¹ Havel (1990); see also Kolakowski (1971: 5), who notes monopolistic power erodes “concern for the interests of all.”

²² Havel (1985: 27).

importantly, this lack of meaning strengthens the prevailing political apparatus by creating a vacuous language that hides its intentions. This allows the political actors to openly say one thing and do another without fear of criticism.

Tacitus is interested in the same phenomenon. As Ronald Mellor observes, “Tacitus is less concerned with the specific secrets of long-dead emperors and their officials than with the way in which language is used to disguise the truth and deceive the unwary.”²³ The *Agricola* shows how Domitian dissimulated in order to keep his enemies, both close associates and others, at a safe distance.²⁴ As the *princeps*, Domitian had to project a confident demeanor regardless of the circumstances. The fact that Domitian received reports about Agricola’s success in Britain shows how dissimulation can be used before even close advisors. Domitian’s worry was that he would look weak compared to Agricola and be ripe for *coup d’état* by those close to him. According to Cassius Dio, Domitian assassinated Titus to increase his power (66.26.2–3).²⁵ More importantly, as Suetonius notes, Domitian “was overthrown by a conspiracy of his companions and close freedmen, along with his wife” (*oppressus est amicorum libertorumque intimorum conspiratione, simul et uxoris*) (Suet. *Dom.* 14.1).²⁶

²³ Mellor (1993: 94).

²⁴ Mellor (1993: 92) on Roman emperors in Tacitus acting thus.

²⁵ See also Murison (2015: 88).

²⁶ See generally Collins (2009); Mellor (1993: 95).

Furthermore, Suetonius' account of Domitian's death presages the event with numerous omens, most of them likely being propaganda fabricated after the fact.²⁷ Indeed, most of these omens were likely used to explain Domitian's tyrannical behavior. Tacitus, in a much more elusive fashion, uses the prospect of Domitian's assassination to explain why he is so suspicious of Agricola. It must also be kept in mind that two of Domitian's predecessors were assassinated by those close to him: Claudius by his wife, and Nero by the Praetorian Guard. For this reason, Suetonius notes that Domitian was always terrified and on edge (*pavidus semper atque anxius*) (Suet. *Dom.* 14.2).²⁸

When Domitian received news of Agricola's successes in Britain, Domitian dissimulated. He hid his real feelings and projected a different reaction: "As was Domitian's custom, [when he received the news,] he seemed happy on his face, but was anxious in his heart" (*ut Domitiano moris, fronte laetus, pectore anxius*) (*Agr.* 39.1). Domitian's worry was that his own false triumph over Germania (*falsus e Germania triumphum*), with its supposed captives actually bought through trade (*emptis per commercia*) and dressed like Germani, would show his inefficiency as a military leader (*Agr.* 39.1). Because military prowess was an imperial virtue (*imperatoriam virtutem*) (*Agr.* 39.2), any apparent failing as a military leader might reveal a vulnerability. Tacitus, however, highlights the fact that Domitian did not display any physical symptoms in order to emphasize that

²⁷ Collins (2009: 76)

²⁸ But see Galimberti (2015: 96) for ancient historians' overemphasis of such of fears.

his thoughts were different than what he presented to individuals. Though Daniel Kapust is right to attribute Domitian's dissimulation to his "insecurity," it is at root a political issue.²⁹ Though Tacitus claims to know what is in Domitian's heart (*pectore*), he could not actually know what Domitian's feelings were, especially if Domitian were concealing them. Rather, Tacitus is pointing out Domitian's lack of outward symptoms in order to further emphasize that Domitian's thoughts were different from what he presented to individuals. This is why Tacitus further states that Domitian was plagued by such cares (*talibus curis exercitus*) and was overly occupied by his hidden concern (*secreto suo satiatus*) (*Agr.* 39.3).³⁰

Agricola's audience before Domitian regarding the availability of the proconsulships of Africa and Asia illustrates how Domitian used dissimulation to keep senators from becoming too powerful (*Agr.* 42). As Alessandro Galimberti has noted, under Domitian, that "there was a shift towards autocracy . . . is

²⁹ Kapust (2012: 520–1). Pat Southern (1997: 119–25) examines Domitian's psychology not just in Tacitus but in other ancient sources. She observes that though Domitian's psychology may have had roots in childhood trauma. His distrust may have helped solidify his power.

³⁰ Though Woodman and Kraus (2014: 288) translate *secreto suo satiatus* as "satisfying himself with his usual seclusion," this is incorrect for two reasons. First, this translation adds spatial aspect to a passage that is focused on personal concerns and the dissimulation of them. Indeed, the very next clause is about Domitian hiding his hatred of Agricola (*reponere odium*). If Domitian withdrew after hearing about Agricola's victory, his hatred of Agricola would be manifest, not hidden. Second, Tacitus notes that during this time (*per eos dies*), flatterers were one after another (*crebro*) in Domitian's presence (*apud Domitianum*) accusing Agricola (*Agr.* 41.1). This would not be possible if Domitian secluded himself. When *secreto suo satiatus* is read against the background of Domitian's ability to hide his true thoughts, a more accurate translation is "overly occupied by his hidden concern." Tacitus uses *secretum* similarly at *Germ.* 22, *Ann.* 4.7, 6.3.

beyond doubt.”³¹ Domitian was weakening the senatorial class to further strengthen his own position. Due to Agricola’s military successes and overall popularity, as well as his own lack of these things, Domitian wanted Agricola to leave public life; but to force him openly to do so was not possible, since it would openly show that Domitian feared Agricola’s fame.³² So, Domitian had to receive Agricola as though he (Domitian) would give Agricola a proconsulship. Put differently, when speaking with Agricola, Domitian’s words were different from what he felt and intended. This is brought out when Tacitus describes Domitian at this audience as ready with deceit (*paratus simulatione*) (*Agr.* 42.2). Domitian’s face did not redden with hatred (*nec erubuit . . . invidia*) (*Agr.* 42.2) during the audience; rather, he let himself be thanked (*agi sibi gratias passus est*) (*Agr.* 42.2). This is indicative of not just saying something other than what one thinks, but of a person separated from his emotions.

Domitian’s intimates also displayed similar dissimulation. As Brian W. Jones has noted, “The source of real influence and power was the imperial court.”³³ An important part of Domitian’s court was his freedmen and slaves.³⁴ Like Domitian, the courtiers are depicted as using language to hide their intentions.³⁵ This is evident in how they approach Agricola regarding a proconsulship. As stated above, Domitian did not want Agricola to take a

³¹ Galimberti (2015: 96).

³² See Sailor (2012: 28) for Domitian seeking to limit Agricola’s renown.

³³ Jones (1992: 23).

³⁴ Jones (1992: 61).

³⁵ Mellor (1993: 92–3) observes that courtiers also have their own secrets they wish to keep hidden and thus use ambiguity.

proconsulship, since any success there would make Domitian look more ineffective still and possibly set up Agricola as a rival to Domitian.³⁶ But if Domitian compelled Agricola to forgo the position, he would be admitting his own ineffectiveness. Domitian's first step was to use intermediaries who could gradually ratchet up the pressure until Agricola complied.

Domitian's courtiers at first dissimulated. They approached Agricola under a pretext (*occultius*), encouraging him to enjoy the rest and leisure (*quietem et otium*) (*Agr.* 42.1) that forgoing the proconsulship would entail. After they offered to help Agricola be excused from this service, they at last abandoned being ambiguous (*non iam obscuri*) (*Agr.* 42.1). Finally, by threatening (*terrentes*) him, they compelled (*pertraxere*) Agricola to come before Domitian (*Agr.* 42.1). Woodman and Kraus argue that *occultius* and *obscurus* refer to an "indirect manner of speech."³⁷ I would go further. The courtiers are attempting to mask the actual reasons for their visit. In the *Annals*, Tacitus mentions that Drusus was not dissembling his hatred of Sejanus (*non occultus odii*) since he made his anger and the reasons for it known (*Ann.* 4.7). Indeed, the *Oxford Latin Dictionary* translates this phrase—without the *non* (*occultus odii*)—as "dissembling his hate."³⁸ In this way, the *Agricola*'s use of *obscurus* is further used to describe the courtiers' actions. More importantly, Tacitus' use of

³⁶ Sailor (2012: 34).

³⁷ Woodman and Kraus (2014: 299). Ogilvie and Richmond (1978: 295) translate *occultius* as "covertly."

³⁸ *OLD* *occulo* II.B.b

this word connects to Domitian. For, in the same chapter, Domitian's *natura* is described as *obscurior*: the more unintelligible Domitian's purpose, the more unchangeable it was (*Domitiani natura . . . quo obscurior, eo inrevocabilior*) (*Agr.* 42.3).

In his interactions with the courtiers, Agricola recognized the precarity of his position. As Woodman and Kraus note, Agricola “ha[d] to read between the lines” of these encounters, especially the first one, “since he was already living a life of *tranquillitas* and *otium* (40.4).”³⁹ For Agricola likely gathered that, when he was absent from Domitian's presence, he was frequently denounced (*crebo . . . apud Domitianum absens accusatus*) (*Agr.* 41.1) by Domitian's circle. It was in the courtiers' personal interest to ensure that they controlled access to, and information for, the *princeps*.⁴⁰ And though Agricola had so far been spared punishment (*absolutus est*), recent military disasters not only highlighted Agricola's military ability but also led the people to demand Agricola's return to service (*Agr.* 41.2). This situation put Agricola into extreme danger (*praeceps*) (*Agr.* 41.4) with Domitian and his courtiers. Agricola realized his best chance to be absolved of any pretended crime would be to push beyond the courtiers, who

³⁹ Woodman and Kraus (2014: 299). Though Woodman and Kraus state that Agricola was likely “completely baffled by this initial approach” since he was already living a private life, we will see below that Agricola was well-versed in speaking under pretext and would have known the meaning behind the initial approach.

⁴⁰ Mellor (1993: 95).

had a vested interest in maintaining the *status quo*, to Domitian.⁴¹ This explains Agricola's refusal to heed the courtiers' advice.

Tacitus also suggests that dissimulation has an emotional side effect. Throughout the work, Tacitus contrasts honesty and affection with fear and terror. Tacitus begins the *Agricola* by noting that, in the Republic, honest words were correlated with honest feelings: "And most thought to write about one's own life was a mark of faith in one's morals more than conceit, and Rutilius' and Scaurus' works were neither without honesty nor a source of envy" (*ac plerique suam ipsi vitam narrare fiduciam potius morum quam adrogantiam arbitrati sunt, nec id Rutilio et Scauro citra fidem aut obtreptioni fuit*) (*Agr.* 1.3). Throughout the work, a connection between honesty (*fides*) and goodwill in relationships is further underscored. For instance, near the end of the work, Tacitus notes that Domitian's best freedmen strove to provide good advice with affection and honesty (*amore et fide*) toward Domitian, while the worst sought to scheme against others, namely Agricola, due to envy and spite (*malignitate et livore*) (*Agr* 41.4). Put simply, dissimulation reaches beyond speech.

Tacitus suggests that Domitian's own dissimulation goes hand in hand with his lack of morality and overall blindness. Domitian's malice is readily apparent. As Tacitus notes of the *princeps*: "It is characteristic of human nature to hate whom you have injured" (*proprium humani ingenii est odisse quem*

⁴¹ Mellor (1993: 93) notes that an emperor's intimates were self-interested. See also Kapust (2018: 96–131) for courtiers' interest in maintaining their own positions.

laeseris) (*Agr.* 42.3). And, as we have seen at the work's beginning, Domitian, through his *saevitia*, brought to ruin an entire generation (*Agr.* 3.2). But since the focus of this work is Agricola, it is important to see how Domitian treats him. Tacitus attributes Agricola's death to poisoning at Domitian's request.⁴² Though Tacitus coyly states that he does not have certain knowledge (*nihil comperti*) (*Agr.* 43.1) of Domitian's role, Tacitus observes that Domitian had appointed runners (*per dispositos cursores*) relay the progression of Agricola's final day (*Agr.* 44.3). Furthermore, no one believed that Domitian would have the news quickly relayed (*nullo credente sic adcelerari*) if he would have been upset (*tristis*) to hear it (*Agr.* 44.3). And upon Agricola's death, Domitian gave the appearance of sadness in his heart and on his face (*speciem . . . doloris animo vultu*) but was able to conceal his joy (*dissimularet gaudium*) (*Agr.* 44.3) at Agricola's death. As noted above, Tacitus had commented earlier on Domitian's uncoupling of appearance from emotion when he had received news of Agricola's success in Britain (*Agr.* 39.1). These two instances show that dissimulation, as well as *saevitia*, was at the heart of Domitian's monopolistic system.⁴³

Tacitus connects Domitian's dissimulation and lack of morality to relationships. After his death, it is made apparent that Agricola made Domitian a co-heir (*coherdem*) (*Agr.* 44.4) to his estate, along with his own wife and

⁴² Syme (1958: 123); Schwinge (1963); Kapust (2012: 522–3).

⁴³ In this dissertation's prologue, I defined a monopolistic system as one in which a single governmental entity—or person—monopolizes power. The principal function of this system is the maintenance of the power structure.

daughter. Though this was not an uncommon practice among senators, unlike previous instances in which Domitian betrayed no emotion, here Domitian showed that he was in fact overjoyed (*laetatum*). What Tacitus highlights is the fact that Domitian actually believed that this was a freely given honor (*honore*) and Agricola's own preference (*iudicio*) (*Agr.* 43.4).⁴⁴ That is why Domitian revealed his reaction. Tacitus attributes Domitian's attitude to the fact that he is surrounded by flatterers (*laudantes*) (*Agr.* 41.1).⁴⁵ Daniel Kapust has generally pointed out the connection between flattery and tyranny in Roman political thought: a just *princeps* is one whom "inferiors could love, befriend, address without the lost dignity of the servile flatterer."⁴⁶ And a *princeps* who destroys the dignity of his subjects is a not a monarch as much as a tyrant.⁴⁷

Tacitus goes a bit further, however, and notes a correlation between flattery and relationships: "So blind and twisted by constant flattery was Domitian's mind that he did not know that only a bad *princeps* would be made an heir by a good father" (*tam caeca et corrupta mens adsiduis adulationibus erat, ut nesciret a bono patre non scribi heredem nisi malum principem*) (*Agr.* 43.4).⁴⁸ In addition to flattery acting as a catalyst to produce a *malum principem*, a just *princeps* refrains from being named a co-heir if the testator has surviving

⁴⁴ Tacitus uses *iudicium* similarly, to emphasize one's personal inclination, see e.g., *Dial.* 19.1, 25.4.

⁴⁵ See Kapust (2012: 522).

⁴⁶ Kapust (2018: 61).

⁴⁷ See generally, Kapust (2018: 30–63) examining Cicero and Pliny the Younger.

⁴⁸ Suetonius (*Dom.* 9) notes that at the start of his reign, Domitian refused to be named a co-heir if the testator had children.

children, since he would not wish to harm a legitimate party—a family member—and weaken family bonds.⁴⁹ By allowing himself to be named a co-heir, Domitian is interjecting a political role into the private sphere. Tacitus emphasizes this point by contrasting *bonus pater* with *malum principem*. Tacitus is noting the conflation of two roles. As Woodman and Kraus note about this antithesis, “The contrast is given extra sharpness because the *princeps* was supposed to be a ‘good father.’”⁵⁰ This *princeps* and the monopolistic system in which he operates, however, affect familial relationships.

4.1.2 Domitian’s Administration

Tacitus recounts that his generation, under Domitian, had seen the extreme of slavery (*quid [ultimum] in servitute*) (*Agr.* 2.3). This slavery, however, was nuanced; the *princeps* depended on certain norms to reinforce it.

Domitian’s administration depended on those he believed to be most faithful to him.⁵¹ Tacitus notes that Domitian surrounded himself with “the worst class of harmful men, flatterers” (*pessimum inimicorum genus*) (*Agr.* 41.1). For, “the authoritarian ruler, mistrusting his social equals as possible rivals for power, gathers about himself men and women whose position depends on his good will.”⁵² Such men, however, resort to flattery to keep their position as well as attain their objectives. Flattery itself is the attempt to get a person in a position

⁴⁹ See Champlin (1991: 150–2).

⁵⁰ Woodman and Kraus (2014: 308).

⁵¹ See, e.g., Jones (1992: 22–71; 170).

⁵² Mellor (1993: 94).

of power to do something he or she would not otherwise do.⁵³ In the political sphere, flattery is often tied up with one-person rule.⁵⁴

Cicero notes that flattery causes one to discard the truth and be cast headlong into dishonesty (*veritatem aspernatur et in fraudem . . . impellitur*) (Cic. *Amic.* 89). Additionally, flattery—and its inherent socio-political inequality—is not worthy of a free man (*ne libero quidem digna est*) and only exists in tyranny (*cum tyranno . . . vivitur*) (Cic. *Amic.* 89). Flattery then underlines the gulf in social and political inequality between the flatterer and the object of flattery. It cannot exist in a functioning republic.⁵⁵ Syme notes that the use of *clementia* “implied a recognition of despotism” based as it is on the same political–social gulf. Flattery implies such a recognition.⁵⁶

The flatterer often gives untruthful advice. Kapust notes that although the flatterer may say untrue things, “those he flatters believe [them] to be true.”⁵⁷ In other words, the flattered thinks he is getting true feedback. A corollary idea is that the flattered believes that the flatterers are faithful. So, it is no surprise that in Cicero’s account of the tyrant Dionysus of Syracuse, Dionysus is portrayed as constantly worried about (*extimescebat*) the disloyalty (*infidelitatem*) of those around him (Cic. *Tusc.* 5.63). For this reason, Dionysus’ company was flatterers,

⁵³ Kapust (2018: 21).

⁵⁴ Kapust (2018: 24).

⁵⁵ See also, Kapust (2018: 49).

⁵⁶ Syme (1958: 414); Kapust (2018: 41).

⁵⁷ Kapust (2018: 1); see also Mellor (1993: 94).

whom he believed he could trust (Cic. *Tusc.* 5.61–3).⁵⁸ This is not to say that all of Domitian’s flatterers had bad intentions, but some certainly did (*Agr.* 41.4). Nevertheless, Domitian thought that they all acted out of loyalty. That is why Domitian let these men urge him on (*extimulabant*) toward not granting Agricola a further governorship (*Agr.* 41.4). Flattery, like dissimulation, distorts one’s mental and moral compass.

Additionally, Domitian is portrayed as aware of activities affecting his reign through his use of various types of informers. In the *Agricola*, the most obvious example of this is Domitian’s physicians and freedmen visiting Agricola on his deathbed and relaying the information back to Domitian (*Agr.* 43).⁵⁹ As Tacitus notes: “In fact, on his last day, it is a fact that the moment of Agricola’s death was announced to Domitian through a series of runners, and no one believed that news one would be sad to hear would be hastened along” (*supremo quidem die momenta ipsa deficientis per dispositos cursores nuntiata constabat, nullo credente sic adcelerari quae tristis audiret*) (*Agr.* 43.3). The *Agricola* also hints at a more widespread network and sources of information. At the start of the work, Tacitus notes his generation’s exchanges through speech and hearing had been taken from them by spying (*adempto per inquisitiones etiam loquendi audiendique commercio*) (*Agr.* 2.3). What is more is that Tacitus also ends with a similar observation. He notes that, “Under Domitian, a chief part of our

⁵⁸ See Kapust (2018: 39–40).

⁵⁹ See generally Schwinge (1963).

miseries was to see and be seen, since even our sighs were recorded” (*praecipua sub Domitiano miseriarum pars erat videre et aspici, cum suspiria nostra subscriberentur*) (*Agr.* 45.2).

The timing of Agricola’s death is also placed against Domitian’s increased repression and the prevalence of *delatores*. For Agricola’s death had fortunate timing, since at that time two famous *delatores* were not yet powerful under Domitian’s protection: “Thus far, Carus Mettius had only one victory, and Messalinus’ judgment was causing an uproar only inside the Alban citadel” (*una adhuc victoria Carus Mettius censebatur, et intra Albanam arcem sententia Messalini strepebat*) (*Agr.* 45.1). As Brian W. Jones notes, Domitian had a reputation “to accept the information provided by informers or *delatores*.”⁶⁰ This is a trend we have seen in the *Dialogus*. As noted in this dissertation’s chapter on the *Dialogus*, an important theme in that work was that informers and *delatores* were not only close to the Flavian rulers, but the various *principes* relied on them to help run the administration.⁶¹ Pliny the Younger notes that Domitian had his favorites in the Senate who would have relayed information and gossip back to the *princeps* (*Plin. Pan.* 62.3).⁶² Domitian’s sources of information also included actors (*Suet Dom.* 15) and others’ slaves who gave evidence against their masters (*Cass. Dio* 67.1.3). The reach of Domitian’s network must have been extensive, since Suetonius recounts that a property manager of a family hostile to Domitian

⁶⁰ Jones (1992: 180).

⁶¹ Strunk (2010: 249–57); Winterbottom (1964: 93).

⁶² See also Jones (1992: 23).

was admitted into his private chambers under the pretext of having proof of a conspiracy (*conspirationis indicium*) (Suet. *Dom.* 17). In other words, it was not uncommon for people from all classes to personally inform to Domitian.

Additionally, Domitian, like many rulers, was characterized as able to grant reprieve (*venia*) from legal punishment. It is well established in Ciceronian Republican thought that the keystone to the legal system is equal application of the laws.⁶³ For instance, Livy noted that the foundation of the legal system of the Republic was to ensure that laws were equally applied to all, the highest and lowest (*omnibus, summis infimisque, iura aequasse*) (Livy 3.34.3). Moreover, Cicero makes clear that a just king can also apply the laws equally. For Cicero says about such a ruler: “When equality was established, he was holding the highest men, along with the lowest, under equal law” (*aequitate constituenda summos, cum infimis, pari iure retinebat*) (Cic. *Off.* 2.41). A king, however, since he is the embodiment of the law, is able to refrain from punishing individuals through clemency (*clementia*) or pardon (*venia*), but he must not do so indiscriminately (*volgo*) (Sen. *Clem.* 1.2.2; 2.7.4).⁶⁴ To do so and still be just, the wise (*sapiens*) king will look at the exact character (*ingenia*) of each person (Sen. *Clem.* 1.2.2; 2.7.4). When he does this, “he will see by what manner a character should be managed” (*videbit quod ingenium qua ratione tractandum sit*) (Sen. *Clem.* 2.7.4).

⁶³ Wirszubski (1950: 7–15); Moatti (2018: 47–51, 135–6); Atkins (2018b: 47–8).

⁶⁴ See Braund (2009: 421) on Seneca’s dismissal of the fine-tuned distinction between *clementia* and *venia*. Also see (Braund 2009: 188) for translating *volgo* thus; see also Gallia (2012: 105).

The work itself starts off with Tacitus' need to request such a dispensation (*venia*). Tacitus states: "But when I had been about to describe the life of a deceased man, I had need of a dispensation, which I would have needed to seek if I would criticize (*at nunc narraturo mihi vitam defuncti hominis venia opus fuit, quam non petissem incusaturus: tam saeva et infesta virtutibus tempora*) (*Agr.* 1.4). As R.M. Ogilvie and Richmond note, the *venia* indicates that Tacitus had to seek permission from the *princeps* to write about Agricola. But this need serves as more than just a mark of a monopolistic ruler: it is indicative of a certain type of ruler. As W. Liebeschuetz has pointed out, "This comment of Tacitus' is surely not intended to refer exclusively to the grim tyranny of Domitian."⁶⁵ Instead, it is referring to the political system more broadly. Tyrants decide according to their own whim, not according to the petitioner's position or character. If that were the case, the reader is led to believe, Tacitus would have been granted the dispensation.⁶⁶ And this approach accords with what we observed in the chapter on the *Dialogus*, namely that the Principate marked a shift from legal issues being decided by legal authority and the laws (*iure et legibus*) to caprice and arbitrariness (*vi et potestate*) (*Dial.* 19.5).⁶⁷

⁶⁵ Liebeschuetz (1966: 132); cf. Wirszubski (1950: 134).

⁶⁶ Cf. Liebeschuetz (1966: 133).

⁶⁷ See also Wilkinson (2012: 85–6).

4.1.3 Education as Control

Perhaps the least overtly coercive tool of control was education. Agricola's education was held out as the model for a Roman elite.⁶⁸ Agricola's education is contrasted with his father's, who was noted for his study of oratory and philosophy (*studio eloquentiae sapientiaeque notus*) (*Agr.* 4.1). We have seen in the chapter on the *Dialogus* that education changed from the Republic to the Principate. This is in part because the institutions which supported an education rooted in oratory and philosophy, such as legal proceedings, were weakened.⁶⁹ In the Republic, philosophy in particular was important to rhetoric.⁷⁰ In the *Dialogus*, Messalla notes that in Cicero's time, it was not simply enough to practice speaking, but students had to fill their breasts (*pectus implerent*) with study of what was good and bad, honest and shameful, just and unjust (*de bonis et malis, de honesto et turpi, de iusto et iniusto*)—in other words, philosophy (*Dial.* 31.1). Tacitus further notes that Agricola's father was ordered by the *princeps* to prosecute Marcus Silanus, and, because he refused, was murdered (*Marcum Silanum accusare iussus et, quia abnuerat, interfectus est*) (*Agr.* 4.2). He refused to accede to the *princeps*' demands because of the very virtues (*iisque ipsis virtutibus*) (*Agr.* 4.1) inherent in his education. As Woodman and Kraus

⁶⁸ See Syme (1958: 20).

⁶⁹ Atkins (2018b: 125).

⁷⁰ Van den Berg (2014: 173–4) for Tacitus' reversal of Cicero's connection of oratory to philosophy.

observe, “it was because of his *eloquence* that he was ordered to prosecute, because of his *philosophy* that he declined.”⁷¹

This was an outlook that Agricola’s mother raised him not to have. Tacitus recounts:

I remember that Agricola was accustomed to say that he would have indulged his study of philosophy more deeply than was permitted to a Roman and a senator, if his mother’s good sense had not checked his impassioned and ardent spirit.

Memoria teneo solitum ipsum narrare se prima in iuventa studium philosophiae acrius, ultra quam concessum Romano ac senatori, hausisse, ni prudentia matris incensum ac flagrantem animum coercuisset (Agr. 4.3).

Agricola realized later in life that his mother’s goal was to prevent him from replicating his father’s fate by limiting his exposure to philosophy, which led individuals to disobey the *princeps*.

Throughout the *opera minora*, Tacitus connects philosophy to Ciceronian Republican thought. In the *Dialogus*, Messalla observes that Cicero not only drank deeply all parts of philosophy (*omnes philosophia partes penitus hausisse*) with Philo and Diodotus, but also journeyed through Achaia and Asia Minor to supplement what he had learned (*Dial. 30.3*). But Messalla also observes the following of his contemporaries:

⁷¹ Woodman and Kraus (2014: 97).

[They] do not know the legal statutes, do not understand the resolutions of the Senate, actually mock the laws of the state, and shrink from the study of philosophy and the teachings of philosophers.

ignorent leges, non teneant senatus consulta, ius huius civitatis ultro derideant, sapientiae vero studium et praecepta prudentium penitus reformident (Agr. 32.2).

In short, Messalla is saying that his contemporaries are passive participants in the state and that philosophy may lead to engagement with politics, rather than departure from it. We saw in the *Dialogus* chapter that this lack of involvement is partly tied to the lack of an apprenticeship system, which had given them firm roots in the legal and political life of the Republic. But by also mentioning philosophy, Messalla is noting that there is a correlation between lack of involvement in the state and lack of study of philosophy. And by placing the items paratactically in the sentence, Messalla avoids implying cause or effect. Though the *Dialogus* only notes the correlation between the decline of the study of philosophy and the decline of republican institutions, the *Agricola* notes that they are related when it comes to Agricola's actions as governor.

4.2 Agricola as Princeps

Before we analyze Agricola's tenure as governor of Britain, it is first necessary to briefly situate his governorship. Myles Lavan has argued that "the *Agricola*'s Roman and British narratives are structured around a shared set of polarities . . . which can be encompassed within a broad, governing opposition

between slavishness and freedom.”⁷² The British narrative is used as a mirror to reflect political, social, and moral issues of Roman society.⁷³ Lavan is correct to see these two narratives as complementary, but he overlooks how these issues affect the work’s central character, Agricola. Ronald Mellor generally notes about Tacitean thought that “absolutism is unavoidable and absolutism corrupts.”⁷⁴ In this vein, I suggest that that in his position as governor of Britain, Agricola takes on aspects of a *princeps*.

Since Britain was an imperial province, Agricola as governor held *imperium* delegated by the *princeps*.⁷⁵ This power, however, was not comprehensive. To prevent abuse and the concentration of power in imperial provinces, fiscal authority was entrusted to a procurator; the administrative authority was given to the governor.⁷⁶ Both reported directly to the *princeps*; the procurator was supposed to be independent of the governor. In the *Agricola*, Tacitus emphasizes their different and independent roles in the Britons’ speech preceding the Iceni revolt led by Boudica in 60–1. The Britons note that the governor—officially, the *legatus Augusti pro praetore*—had power over their lives and family (*sanguinem*), and the procurator had power over their property (*bona*) (*Agr.* 15.2). The Britons further noted that these two positions possessed the same power as their individual kings (*singulos . . . reges*) they once had (*Agr.*

⁷² Lavan (2011: 303).

⁷³ Lavan (2011: 303).

⁷⁴ Mellor (1993: 90).

⁷⁵ See Ando (2006: 179).

⁷⁶ Ando (2006: 179).

15.2). In other words, a Briton king's individual power was now split between two Roman officials.

When Agricola arrives in Britain as the governor, however, he usurps the procurator's authority, thereby augmenting his own. He combines the powers that were previously split. Tacitus writes:

Agricola lessened the collection of the tax of grain taxes through a fair application among the populace, when he got rid of those practices employed for personal gain that were more intolerable than the tax itself.

*frumenti et tributorum exactionem aequalitate munerum mollire, circumcisis quae in quaestum reperta ipso tributo gravius tolerabantur (Agr. 19.4).*⁷⁷

Woodman and Kraus thoroughly emphasize that this section concerns taxes. They note that *frumentum* is tax paid in grain and *tributum* "is a general term for imperial taxes," which may be rendered as a *frumentum*.⁷⁸ Furthermore, *exactio* refers to the call for taxes.⁷⁹ In this section, Agricola adjusts the tax scheme in two ways. First, he institutes uniform tax rates, so one region does not pay more than another. Second, he eliminates two practices that Roman officials used to enrich themselves. One practice was to force locals to pay the *frumentum* when no grain was available, and the other was to have the grain-collection centers distant from the population centers. In the former, the locals were forced to buy

⁷⁷ See Mann (1985: 21–23) for a detailed description of the operation of taxes described in this section.

⁷⁸ Woodman and Kraus (2014: 194–5). Due to the overlap of the *frumentum* and *tributum*, I render the pair through hendiadys.

⁷⁹ *OLD 2b*; Woodman and Kraus (2014: 195).

grain from the Roman granaries at an inflated price and sell it back at a much lower price; the officials kept the difference.⁸⁰ In the latter, Roman officials would take bribes from locals to avoid taking their grain over the long distance.⁸¹

Agricola ended these predatory practices for the benefit for Britons. But as Woodman and Kraus note, “Since taxes were the responsibility not of a province’s governor but of its procurator, Agricola is evidently ‘pulling rank.’” I would modify this statement. Agricola is not “pulling rank,” since that phrase implies that he reverses a subordinate’s decision. But since, as Woodman and Kraus themselves note, taxes fall outside the governor’s authority, Agricola actually appropriates the procurator’s power, ostensibly for noble ends. As Dean Hammer notes, Augustus too subdued “the people with cheap corn, a purchase of tyranny.”⁸²

The start of the *Annals* illustrates the importance of this consolidation of power. After Augustus’ death, Tacitus posits an imaginary debate on Augustus’ legacy. Both sides of the debate conceded that Augustus’ power came through consolidating roles that previously checked each other (*Ann.* 9–10). His supporters conceded that the state was organized under the name of *princeps* (*principis nomine constitutam rem publicam*), but this was because the state was thrown into such internal strife (*discordantis*) due to others’ neglect (*scordia*)

⁸⁰ Mann (1985: 22); Woodman and Kraus (2014: 195).

⁸¹ Mann (1985: 22); Woodman and Kraus (2014: 195–6).

⁸² Hammer (2014: 329) is generally referring to the *Annals*; see also Eder (2005: 26) for Augustus’ control of the grain supply specifically as well as generally for overriding Republican norms.

and caprice (*libidines*) that rule by one man (*ab uno*) was required (*Ann.* 9). Augustus' detractors further observed that "he had usurped the praetor's office and legal powers" (*fascis et ius praetoris invaserit*) (*Ann.* 10). Augustus' growing power is also noted at the very start of the *Annals*: "He consolidated in himself the powers of the Senate, the magistrates, and the laws" (*munia senatus magistratuum legum in se trahere*) (*Ann.* 2). The important takeaway from this is that Augustus took over powers that under the Republic were meant to check each other.⁸³ In the *Annals*, Tacitus implies that Augustus' justification for this consolidation, the poor condition of the state (*tempora rei publicae*), was a pretext (*obtentui*); he was motivated by a desire to rule absolutely (*cupidine dominandi*) (*Ann.* 10).⁸⁴ But in the *Agricola*, Tacitus seemingly attributes no motive to Agricola's consolidation of power over the Britons.

We can see how the Britons are meant to stand in for Romans vis-à-vis Agricola.⁸⁵ Tacitus frames the Britons' first speech in such a way that aligns the recently-conquered Britons with Roman characteristics.⁸⁶ To give the background of the speech, Tacitus notes that with the absence of the legate, the

⁸³ See Wirszubski (1950: 133–5); Syme (1958: 408–9).

⁸⁴ Atkins (2018b: 30); see generally Eder (2005) for Augustus' ruling like a monarch but appearing as a Republican.

⁸⁵ This comparison is much commented on, see, e.g. Haynes (2006); Lavan (2011); Liebeschuetz (1966); Syme (1958: 528–9); Kennedy (1972: 525); see also Boesche (1987: 194). But see Woodman and Kraus (2014: 22–3), who, however, do not read the *Agricola* as dialogical and nuanced as I do.

⁸⁶ I do not follow Syme (1958: 528–9) and Kennedy (1972: 525) who argue that the Britons voice Tacitus' opinions about Roman power. I do not view the purpose of the Britons' two speeches as intend mainly at criticism of Roman imperialism, rather I see them as a tool to compare Agricola to other Romans; cf. McGing (1982: 23).

Britons' fear had been removed (*remoto metu*), and so they feel free to begin discuss (*agritare*) their situation (*Agr.* 15.1). Woodman and Kraus argue that *remoto metu* is an echo of Tacitus' use of the same phrase at the start of his *Histories*, when Sallust discuss Roman society after their fear of Carthage had been removed (*remoto metu Punico*) (*Sall. Hist.* 1.12).⁸⁷ Woodman and Kraus further note that Sallust also uses this same phrase in the *Jugurthine War*, noting that, when fear is removed (*remoto metu*), many Romans act more openly and freely (*laxius licentiusque*) (*Sall. Jug.* 87.4). In both instances, Tacitus is aligning the Britons with the Romans and noting a change in their behavior.⁸⁸ Additionally, Tacitus frames the Britons' motivation in Roman terms. For the Britons observe that the invaders would flee “only provided that the Britons emulated the *virtus* of their ancestors” (*modo virtutem maiorum suorum aemularentur*) (*Agr.* 15.4). As Woodman and Kraus observe, “The Britons speak as though they were quintessential Romans, having *maiores* who epitomize *virtus* . . . and who invite emulation.”⁸⁹ Woodman and Kraus observe other places where the Britons assume Roman features, such as when “the Britons resemble the tribune of the plebs” in Livy, who argues against two overweening consuls, and when the Britons reference their need for greater resolution (*constantia*), which “is another Roman characteristic.”⁹⁰

⁸⁷ Woodman and Kraus 2014: 166

⁸⁸ See generally Jens (1956).

⁸⁹ Woodman and Kraus (2014: 166).

⁹⁰ Woodman and Kraus (2014: 167, 170).

Additionally, understanding Britain as a stand-in for Rome is in keeping with Tacitus' use of Germania to explore the applicability of political schemes affecting Rome. In the chapter on the *Germania*, we saw how Tacitus' knowledge of the land was not vital to the project's analysis of variations on monarchy. As Ellen O'Gorman generally notes about the *Germania*, it "is an exploration of a country (Germany) in search of the ideological (Roman) self. *Germania*, in other words, is a creation of a Roman writer, through which vestiges of Rome are traced."⁹¹ So it is with *Agricola's* Britain. It is doubtful whether Tacitus ever set foot in Britain.⁹² As Syme notes: "Tacitus professed an undertaking to supply fresh facts now accruing about the geography of the island (to surpass earlier writers), the performance seems to fall short."⁹³ Even if Tacitus did spend time in Britain, his description belies a thorough factual knowledge of the island. For instance, Tacitus only mentions only three tribes and three rivers.⁹⁴ About the geography of "Germany or Britain, Tacitus shows little interest in it."⁹⁵ This is because accurate geographic and ethnographic descriptions are intended to serve the works' political analyses. Britain, rather, is a tool with which to view how monopolistic power affects a ruler.

⁹¹ O'Gorman (1993: 135); see also Tan (2014).

⁹² See Woodman and Kraus (2014: 13) for an overview of the discussion.

⁹³ Syme (1958: 122).

⁹⁴ Woodman and Kraus (2014: 13–14).

⁹⁵ Syme (1958: 126).

4.2.1 Agricola's Dissimulation

Ronald Syme's overall view is that the *Agricola* is the defense of senators'—Tacitus' included—actions during Domitian's reign.⁹⁶ This view opens space for a more nuanced approach to Agricola's actions, since some will invariably have a negative connotation, as well allows an investigation into his psychological motivations. Far from being a foil to Domitian as many scholars contend, I suggest Agricola takes on a few of Domitian's characteristics.⁹⁷

Like Domitian, Agricola is attended by flatterers. Tacitus reports that “so-called experts were noting that no other leader had been wiser in choosing advantageous ground” (*adnotabant periti non alium ducem opportunitates locorum sapientius legisse*) (*Agr.* 22.2). As Ogilvie and Richmond note, the phrase *adnotabant periti* appears in the *Annals* and *Histories*.⁹⁸ Both times the phrase is used, the *periti* give opinions after the fact, motivated by political considerations.⁹⁹ Even more than this, Gwyn Morgan correctly reads *periti* ironically, calling them “so-called experts.”¹⁰⁰ And Ronald Syme has also called into question the statement's sincerity by focusing on Tacitus' use of the comparative adverb, *sapientius*. True, Agricola may have chosen wisely, but

⁹⁶ Syme (1958: 25–6); see also Gallia (2012: 132–3).

⁹⁷ Recent scholarship tends to see Agricola as exemplifying virtues that stand opposite to Domitian's vices; see e.g., Kapust (2012); Hammer (2014).

⁹⁸ Ogilvie and Richmond (1978: 230). The phrase appears at *Ann* 12.25 and *Hist.* 3.37.

⁹⁹ For instance, at *Hist.* 3.37,

¹⁰⁰ Morgan (2006: 216) on *Hist.* 3.37.

“other governors may have been no less prudent in choosing the site of a fort.”¹⁰¹

In other words, Agricola’s subordinates were flattering him. Tacitus’ assertion about Agricola’s choice of land is instead a subtle nod to the appearance flatterers around the locus of power in Britain.

4.2.1.1 Caesar’s Influence

Hints of dissimulation also become apparent in Agricola’s statements. Caesar’s *Commentarii de Bello Gallico*, especially his invasion of Britain, informs the *Agricola*. Agricola told Tacitus that he could have subdued Ireland: “I often heard from him that Ireland was able to be defeated and captured with a single legion and a few auxiliaries” (*saepe ex eo audivi legione una et modicis auxiliis debellari obtinerique Hiberniam posse*) (*Agr.* 24.3). On its face, subduing an entire island with barely more than a legion seems like wishful thinking. Indeed, Ogilvie and Richmond note that Agricola has “grossly underestimated the difficulty of conquering Ireland.”¹⁰²

Rather than dismiss Tacitus’ statement, the reader must read it as part of the ambiguity that informs the *Agricola* as a whole. To see that this is the case, it is necessary to first note Caesar’s influence on the *Agricola*. For it is well established that Agricola was aware of Caesar’s invasion and that Caesar’s *Bellum*

¹⁰¹ Syme (1958: 123) is referring to this line from the *Agricola*. Syme further questions how much of Agricola’s decisions actually belong to “personal initiative” rather than “normal military routine” or “deliberate imperial policy.”

¹⁰² Ogilvie and Richmond (1978: 238).

Gallicum was a literary work that shaped Tacitus' own approach to the subject.¹⁰³ As Marion Lausberg has pointed out, Agricola's contemplated invasion of Ireland is supposed to mirror Caesar's attempted invasion of Britain.¹⁰⁴ But how Tacitus portrays Agricola and how Agricola differs from Caesar are key. Specifically, though Agricola seems to contemplate an invasion of Ireland, a close reading of Tacitus' prose and his use of Caesar's invasion of Britain shows that though Agricola said an invasion might be easy, he himself actually did not believe or act like that was the case. Agricola's actions are due in part to the fact that Agricola must present the façade of being a great general, otherwise others might try to rival him.¹⁰⁵ If he invades Ireland and gets repulsed, as Caesar did with Britain, Agricola's favor with the army (*favor exercitus*) might fade—and it was that fame that kept Domitian from acting against him (*Agr.* 39.3).

Caesar's invasion of Britain permeates the *Agricola*. It is first explicitly mentioned at 13.1:

Therefore, since the Divine Julius was the first of all the Romans to cross into Britain with an army, although he cowed the inhabitants in a successful battle and took the shore, he is able to be seen as to have shown it to posterity, rather than handed it over.

Igitur primus omnium Romanorum divus Iulius cum exercitu Britanniam ingressus, quamquam prospera pugna terruerit incolas ac litore potitus sit, potest videri ostendisse posteris, non tradidisse (Agr. 13.1).

¹⁰³ See Kraus (2017: 282–8) on *Agricola* and Pitcher (2009: 267–8) on Tacitus' work generally.

¹⁰⁴ Lausberg (1980: 414).

¹⁰⁵ This was not an unreasonable worry, as the revolt in Pannonia at the start of the *Annals* shows (*Ann.* 1.16–17). There, a common soldier, sensing that Junius Blaesus was weak, led a revolt against him.

As Christina Shuttleworth Kraus has noted, this passage is indicative of *Bellum Gallicum*'s influence on the *Agricola* generally, since it casts Julius Caesar as Agricola's military–political predecessor and notes that Caesar is a source of information as well.¹⁰⁶ A key theme of Caesar's invasion of Britain is his ability to gather information and discern his opponents intentions. Caesar's invasion of Britain was based on unreliable intelligence from merchants (*mercatoribus*) (*BGall.* 4.20.4). Caesar knew nothing of the island's size, how many inhabitants it had, nor how they waged war (*BGall.* 4.20.4). It is no surprise, then, that Caesar was eventually forced to quit Britain (*BGall.* 4.35–6), a fact well known by Tacitus' time. As Strabo notes, Caesar left Britain in haste (διὰ ταχέων) and accomplished nothing important (οὐδὲν μέγα διαπραξάμενος) (Strabo 4.5.3).¹⁰⁷ This lack of foresight contrasts with Caesar's ability to see through enemy plans on other occasions.

While in Britain, Caesar emphasizes that his assumptions about the enemy actions were correct and averted disaster. After Caesar landed in Britain and defeated the enemy, they sued for peace. They promised to hand over hostages as well as follow Caesar's dictates (*BGall.* 27.1–2). Eventually, a storm destroyed a large part of Caesar's fleet, stranding his army in Britain without many resources (*BGall.* 4.29.3–4). Upon learning this, the Britons formed a conspiracy (*coniuratione facta*) (*BGall.* 4.30.3) to gather their forces, break the peace, and

¹⁰⁶ Kraus (2018: 284–5).

¹⁰⁷ See also Toher (2009: 234, 236–7).

attack the Romans. Even though Caesar was not yet informed of the Britons' plans (*etsi nondum eorum consilia cognoverat*) (*BGall.* 4.31.1), from the circumstances—the wrecked fleet and the fact the Britons had not handed over any hostages—he was expecting dishonesty. Caesar wrote that “Caesar was expecting that would happen which did in fact happen” (*fore id quod accidit suspiciabatur*) (*BGall.* 4.31.1). As a result, by looking beyond the promises of the Britons as well as examining his own situation, Caesar recognized that he must prepare his forces for upcoming hostilities. Likewise, before hostilities began, when there was not yet any indication of war (*neque ulla . . . belli suspicione interposita*) (*BGall.* 4.32.1), Caesar sent a legion foraging for food. Soldiers on guard duty, nevertheless, reported that they saw a greater than usual cloud of dust (*pulverem maiorem quam consuetudo*) (*BGall.* 32.1) in the area where the legion was foraging. Based on this information and a reasonable assessment of his own situation, Caesar recognized that the Britons were attacking the legion since it was alone. Caesar emphasizes his correct conjecture: “Caesar—as was in fact the case—suspected a start of a new plan by the Britons” (*Caesar—id quod erat—suspiciatus aliquid novi a barbaris initium consilii*) (*BGall.* 4.32.2). Caesar's use of *suspicio* and *consilium* or their cognates underscores his attempt to read both events together to highlight his prowess in divining enemy plans.

Scholars have recognized that Agricola is portrayed as a more able commander than Caesar.¹⁰⁸ We see this even more not just in what actions Agricola took, but in what actions he did not take. Whereas Caesar invaded Britain based on unreliable information, when faced with a similar choice, Agricola declined. Agricola had gotten his information about Ireland from a single source, a minor king (*unum ex regulis*) (*Agr.* 24.3). Moreover, the source was heavily biased, since he had been expelled from Ireland due to an internal rivalry (*seditione domestica*) (*Agr.* 24.3) and would have profited from a Roman invasion putting him back in power. Nevertheless, Agricola still knew more about Ireland—its size, its inhabitants—than Caesar did about Britain. But to give the impression that he might still invade, Agricola “under the guise of friendship was keeping him [the minor king] for the right opportunity to invade” (*specie amicitiae in occasionem retinebat*) (*Agr.* 24.3). As Woodman and Kraus observe, Tacitus uses *specie amicitiae* “with the implication that the appearance is false.”¹⁰⁹ Agricola exhibits Caesar’s foresight but applies it to wider strategic posture rather than the tactical waging of battles.

One last point: by comparing Caesar’s and Agricola’s statements regarding *libertas*, we can see that Tacitus paints Agricola as exceedingly hostile to the *libertas* of the Britons. When Caesar discusses how Roman occupation will extinguish *libertas*, he casts it in a positive light by showing that the Britons can

¹⁰⁸ Kraus (2018: 287); Lausberg (1980: 418–9).

¹⁰⁹ Woodman and Kraus (2014: 216).

preserve their *libertas* by defeating the Romans. Caesar notes: “The Britons would be given the means of being free forever if they expelled the Romans from their camp” (*in perpetuum sui liberandi facultas daretur, si Romanos castris expulissent*) (*BGall.* 34.5). Caesar could have, alternatively, reframed the situation by stating that if the Romans remained, they would destroy the *libertas* of the inhabitants. Such a formulation would put the mode of action on the Romans and portray them as being the destroyers of *libertas*. This is what Tacitus did: “I often heard from him [Agricola] that it would also be a good thing for Britain if Roman arms were everywhere and *libertas*, as it were, were removed from sight” (*Saepe ex eo audivi . . . idque etiam adversus Britanniam profuturum, si Romana ubique arma et velut e conspectu libertas tolleretur*) (*Agr.* 24.5). More than just casting Agricola’s actions in an ambiguous light, Tacitus is further emphasizing connections between Domitian and Agricola; namely that each wished to banish *libertas*.

Agricola’s adversative nature to *libertas* parallels Domitian’s. Domitian had banished “the pursuits of the forums and the honor of the civil professions” (*studia fori et civilium artium*) “into silence” (*in silentium*) (*Agr.* 39.2). He did this so that there was little political activity that was independent of the *princeps*. Domitian’s actions and the society they engendered allowed Tacitus to start the *Agricola* by noting that Domitian’s reign was the nadir of *libertas*, for those alive saw the extreme of slavery (*ultimum . . . quid in servitute*) (*Agr.* 2.3). Whereas Caesar’s account was in the third person, while Tacitus imputed motives to

Domitian (for Domitian has no direct speech), Tacitus collapses this objective distance by noting that Agricola had actually told him that he had wished to banish *libertas* from sight.¹¹⁰ So by recounting that Agricola admitted that he sought to banish *libertas* from the Britons—much like Domitian among the Romans themselves—Agricola is seen to take on characteristics of the *princeps* while he is in Britain.

4.2.2 Agricola's Administration

We have seen that at the court of the *princeps*, Domitian's chief qualification was loyalty and, as a result, he was surrounded by flatterers. Since we have touched on the presence of flatterers around Agricola, it is necessary to turn to Agricola's insistence on loyalty as the prime qualification for those around him. Tacitus notes that Agricola "did not employ a centurion or soldiers as members of his staff from personal inclination nor from the recommendation or requests of colleagues" (*non studiis privatis nec ex commendatione aut precibus centurionem militesve adscire*) (*Agr.* 19.2). Agricola himself, however, advanced in part due to personal connections. In fact, Tacitus describes Agricola's marriage in such terms. Tacitus recounts that Agricola married a woman born of a distinguished family (*splendidis natalibus ortam*) and that the marriage gave "distinction and substantial help" (*decus et rubor*) to Agricola (*Agr.* 6.1).¹¹¹ On the culture at this time, Syme notes "to make his way, a man required support

¹¹⁰ W. Liebeschuetz (1966: 135) notes, especially with regard to the Britons, "Tacitus was interested in the consequences of the loss of liberty."

¹¹¹ I use Ogilvie and Richmond's (1978: 148) translation of *decus et rubor*.

and patronage.”¹¹² For this reason, Syme further notes, Agricola married the daughter of a Narbonensian senator “of some distinction,” and “the match contributed powerfully to his advancement.”¹¹³ This was the general practice among Roman elites wishing for advancement.

As we have seen in the *Dialogus*, advancement through various connections, specifically tutelage through apprenticeship, was tied to the Republic. As we saw, a youth with family connections was attached to a prominent citizen to shadow and receive one-on-one instruction; this ensured that respect for Republican customs and institutions were instilled in the youth.¹¹⁴ It was further a way that men of talent would be cultivated and promoted. In the Principate, this system was severed. In the *Dialogus*, Messalla implies that this system helped to prevent young men from becoming corrupted. For in this system, by not only being mentored by an elder but also by associating with young men of the same age (*eiusdem aetatis*), one would see in each person what is approved and what displeases (*Dial.* 34.4). In this way, young men would imbibe “uncorrupted eloquence” (*incorrupta eloquentia*). Messalla is making a larger point, not just about style, but about the culture this system breeds. And *incorrupta eloquentia* stands opposite the culture the Principate fosters. In the *Annals*, Tacitus notes that Seneca envied those who had an “uncorrupted eloquence which they used to defend their fellow citizens” (*incorruptam*

¹¹² Syme (1958: 21).

¹¹³ Syme (1958: 21).

¹¹⁴ See Van den Berg (2014: 185–6).

eloquentiam tuendis civibus exercerent) (*Ann.* 13.42.3).¹¹⁵ Seneca, however, was not able to attain this because he was in bed with the Principate—since he has corrupted (*corrumpere*) imperial ladies and used his friendship with the *princeps* (*regiae amicitiae*) to amass a personal fortune while disregarding his own teachings (*Ann.* 13.42.3). *Incorrupta eloquentia*, then, refers to a style untainted by association with the Principate.

Agricola, however, did not choose his subordinates based on recommendation from those who could attest to the protégé’s skill, as was common among the elite. Agricola, like a *princeps*, placed his emphasis on personal loyalty: “He thought best for the job whomever he thought was the most faithful to him” (*optimum quemque fidissimum putare*) (*Agr.* 19.2). As Woodman and Kraus note, “Loyalty was Agricola’s primary requirement in his staff.”¹¹⁶ This is a move away from the Republican practice, putting Agricola in line with the Principate and, more specifically, Domitian’s practice.¹¹⁷ In fact, Agricola’s view echoes Brian W. Jones’s observation of Domitian: “Domitian believed that administrators should be appointed on the basis of neither birth nor efficiency, but on trust.”¹¹⁸ Moreover, Tacitus’ use of *putare* is vital to help emphasize Agricola’s mindset. We have seen that, when loyalty is the primary criterion, the *princeps* can be persuaded to make poor choices. In other words,

¹¹⁵ See Mayer (2001: 194) for noting the phrase is used in the *Annals*.

¹¹⁶ Woodman and Kraus (2014: 193).

¹¹⁷ Cf. Wilkinson (2012: 150–3).

¹¹⁸ Jones (1992: 170).

putare—as opposed to *esse*—shows that Agricola’s decision-making might not accord with the truth.

Agricola’s time as a quaestor in Asia demonstrates the importance the Principate placed on trustworthiness and how a system, even if one does not actively partake in its crimes, forces a person to be complicit by silence. Agricola served under the proconsul Salvius Titianus in Asia, a rich province lain bare for plunderers (*dives ac parata peccantibus*) (*Agr.* 6.2). Due to its wealth, Asia did indeed have a history of being plundered by Romans.¹¹⁹ And Salvius was inclined to every type of greed (*in omnem aviditatem*) (*Agr.* 6.2). Tacitus informs us that Agricola was corrupted by neither the province nor Salvius’ (*neutro corruptus est*) (*Agr.* 6.2) offer to partake in the plunder.¹²⁰ Nevertheless, Tacitus states that the proconsul encouraged Agricola to plunder the province they could have a mutual concealment of the crime (*mutuam dissimulationem mali*) (*Agr.* 6.2). In other words, if both were guilty, there was no fear one would tell on the other. After this sentence, Tacitus abruptly switches to the domestic front, mentioning that Agricola’s daughter—Tacitus’ future wife—was born there (*Agr.* 6.3). Tacitus never returns to Agricola’s time in Asia. This abrupt switch in the narrative forces the reader to consider Agricola’s and Salvius’ positions vis-à-vis each other.

Tacitus’ emphasis is not on Salvius’ greed or possible repercussions he might suffer for it. His greed was well known at the time, and, as the reader

¹¹⁹ Woodman and Kraus (2014: 109).

¹²⁰ We have seen how Roman administrators would abuse the tax system for their own gain (*Agr.* 19.4); see Mann (1985: 22).

would have known, did not hinder him.¹²¹ Tacitus' emphasis is rather on the system in which Salvius and Agricola operated. This system placed a premium on staff members' discretion. Though we know Agricola did not partake in looting Asia, that does not mean he spoke out against Salvius' actions. It is likely he did not. Daniel Kapust aptly notes: "Agricola understands the world in which he lives," a world in which passivity took the place of wisdom (*inertia pro sapientia fuit*) (*Agr.* 6.3).¹²² Salvius, who had been consul and would be consul again, was unquestionably powerful and influential. With a well-placed remark, he could stall Agricola's career. Nor does the nature of the governor's actions matter. A pretext could be found to impugn an honest one. Having observed the importance of discretion, Agricola realized that the only way to ensure such conduct from his subordinates was by prizing loyalty.

We can further see how Agricola imitates the *princeps*' administration in his ability to monitor all. In recounting Agricola's administration in Britain, Tacitus partially credits his effectiveness to his information, since Agricola "knew everything, but did not follow up on everything" (*omnia scire, non omnia exsequi*) (*Agr.* 19.3). A leader's comprehensive knowledge—*omnia scire*—fits the description of a *princeps*. Similar phrases have been used by other authors in

¹²¹ Syme (1958: 21).

¹²² See Kapust (2012: 520). Lavan (2011) also argues that compliance and passivity mark the system in which Agricola lives.

connection with the Principate.¹²³ For instance, in his *Panegyricus*, Pliny portrays Trajan as the omniscient ruler:

Whatever was done well by anyone in the provinces, you knew it all.

quidquid a quoque in provinciis bene fieret, omnia te scire (Plin. *Pan.* 70.3).

Consider also:

You saw all, you heard all, and at once you were present to assist in the legal issues no matter where you were called upon.

omnia invisere, omnia audire, et undecumque invocatum, statim velut adesse et adsistere (Plin. *Pan.* 80.3).¹²⁴

In regard to the parallels between Tacitus and Pliny, both use *omnia* as the object and the infinitive *scire* as the verb. In the second example, to avoid repetition, Pliny conveys the idea of *scire* with two other infinitives, *invisere* (you saw) and *audire* (you heard). These two verbs, when taken together, approximate the meaning of *scire*. What is all the more remarkable about these examples is their parallel use of a subject-accusative-and-infinitive combination, despite the fact that Tacitus is referring to Agricola in the third person and Pliny is directly addressing Trajan in the second person.

Nor is it a coincidence that the phrases are similar. There are similarities elsewhere. Where Tacitus recognizes a duty for Agricola's descendants to reflect

¹²³ Horace *Carm.* 4.4.22 (*nec scire fas est omnia*), see Ambrose (1973: 28 n.7) for its relationship to Augustus' reign.

¹²⁴ Though Ogilvie and Richmond (1978: 214) pointed out these similarities between the *Agricola* and the *Panegyricus*, they did not delve into its political significance.

on the form and figure of Agricola's spirit (*formamque ac figuram animi*) (*Agr.* 46.3), Pliny too notes that a *princeps'* form and figure (*formam principis figuramque*) is best preserved through the love of his subjects (Plin. *Pan.* 55.11).¹²⁵ Tacitus and Pliny were well acquainted, and Tacitus' *opera minora* were being composed at the same time as Pliny's *Panegyricus*.¹²⁶ It is likely that Pliny had even commented on Tacitus' works during their development or *recitations*, and Tacitus on Pliny's.¹²⁷ In the *Panegyricus'* first excerpt, Trajan is aware of his administrators' successes and ready to reward them (Plin. *Pan.* 70.2–3); in the second example, Trajan is eager to settle disputes among his subjects. But in both cases, Pliny makes it a point to intertwine Trajan's imperial duties with his omniscience. In a similar mold, when discussing Agricola's duties as governor, Tacitus too emphasizes Agricola's omniscience.

Agricola's power over those under him extends to his overriding the law. This dissertation has explored how the fair application of laws to wrongdoers was a mark of a just state. The legal system of the Germani in the *Germania* illustrates how radical Agricola's system is. In the Germani's monarchical society, a council (*concilium*), or local nobles selected by a council (*eliguntur in isdem conciliis et principes*) (*Germ.* 12.3), settled legal matters—not the

¹²⁵ Josef Mesk (1911: 91–4) has convincingly shown many literary parallels and echoes between the two works—too many to be a coincidence—including this one.

¹²⁶ See Güngerich (1956).

¹²⁷ See also Murgia (1985: 2005–6); Mayer (2001: 24). Though scholarly commentary has focused on the possibility that Pliny commented on the *Dialogus*, the same assumption holds true for the *Agricola*, which was composed contemporaneously with the *Dialogus* and *Germania* and also was echoed in Pliny's works, see Whitton (2010); see also Edwards (2008: 37–9) for the publication process.

monarch. And the nobles relied on the advice of one hundred common citizens (*centeni . . . ex plebe comites*) (*Germ.* 12.3). The Germani see a crime as an offense against both the king and state as well as the individuals injured. For this reason, all crimes are punished, and compensation is due to both the state and the injured party (*Germ.* 12.2). As Tacitus notes, “In fact, even lighter offenses have penalties proportionate to the act” (*sed et levioribus delictis pro modo poena*) (*Germ.* 12.2). When we turn to Agricola, however, Tacitus tells us that “Agricola handed out pardons for lesser offenses, harshness for greater ones; nor was he always satisfied with a penalty, but more often with contrition” (*parvis peccatis veniam, magnis severitatem commodare; nec poena semper, sed saepius paenitentia contentus esse*) (*Agr.* 19.3). As we have seen with Livy and Cicero, a necessary condition for a just legal system is equal application of the laws. Agricola, however, rules arbitrarily.

The legal system under Agricola has similarities to the unjust system of the Principate. First, the entire legal system is in Agricola’s hands. Agricola alone decides cases; he does not consult others, like the Germani. In the Principate, the *princeps* believed that the gods anointed him to reign, so any crime or offense was an offense against him, not the people.¹²⁸ In contrast to the Germani, who saw wrongdoing as an act against both the state (or king) and the injured party, Agricola only viewed it in personal terms. Tacitus frames the sufficiency of punishment into what satisfied (*contentus*) Agricola. Unlike the *Germania*, the

¹²⁸ See Atkins (2018b: 32).

Agricola ignores the injured party. Second, a hallmark of the legal system in Britain is *Agricola*'s ability to dispense pardons (*veniae*). As we have seen, the ability to grant a pardon is associated with a monarch, and clemency is associated with Julius Caesar especially.¹²⁹ The granting of a pardon is based on the inequality between two individuals.¹³⁰ More specifically, pardons are rooted in the idea that the ruler is beyond the law, and he may exempt others from the law according to his will.¹³¹ At the start of the *Agricola*, Tacitus recalls that he asked the *princeps* for a *venia* to write about *Agricola* (*Agr.* 1.4). Even the Germani, who lived in a monarchical society, excluded the *rex* from the legal system and had no need of *veniae*. A legal system in which a ruler grants *veniae* can still be just as long as they are not granted indiscriminately but on the basis of each person's situation (*Sen. Clem.* 1.2.2; 2.7.4). *Agricola*, however, categorically grants pardons based on the classification of the crime, not based on the wrongdoer's situation. In other words, he ignores an individual's specific circumstances and the will of the people who implemented the class of laws he chooses to neglect.

4.2.3 Education Under *Agricola*

Finally, when we look at how *Agricola* framed education in Britain, we see that he directed education to the same ends as the Principate generally did. On arriving in Britain, *Agricola* found that the inhabitants were "scattered and

¹²⁹ Kapust (2018: 43–4).

¹³⁰ See Kapust (2018: 43).

¹³¹ Zarecki (2014: 115–7).

uncultivated and therefore easily inclined toward conflict" (*homines dispersi ac rudes eoque in bella faciles*) (*Agr.* 21.1). Agricola's goal was to curb the Britons' hostility and make sure they became accustomed to quiet and leisure through pleasure (*quieti et otio per voluptates adsuescerent*) (*Agr.* 21.1). We have seen *quietem et otium* before: Domitian's intimates note that Agricola would have to give up *quietem et otium*—his retirement from political and public life—if he were to take a proconsulship (*Agr.* 42.1). For Tacitus *quies et otium* indicate political passivity, even slavishness.¹³² Myles Lavan has noted that the end result of the Britons' quiet and leisure is "their enslavement" (quoting *Agr.* 21.2), and that "Agricola's policy of withdrawing himself from public life aligns him to some extent with the provincials who slavishly submit to Roman rule."¹³³ In a similar manner, Christopher Krebs observes, "The binomial *quies et otium* . . . stands in opposition to *libertas* . . . and that its eviscerating force appears equally in Rome's dealing with foreign enemies as in the emperors' dealings with Romans."¹³⁴ In other words, Agricola was imitating the Principate's methods of removing *libertas*.

Part of Agricola's plan was the forcing of Britons into political inactivity through their education. Tacitus notes the connection between education and

¹³² Krebs (2012: 339), remarking on *quies et otium* (*Agr.* 42.1), writes that "silent passivity thus characterizes Agricola near Nero and Domitian."

¹³³ Lavan (2011: 305). See also Hammer (2014: 329), who notes "for Tacitus . . . the *quies* created by Augustus recalls an unhealthy calm that gradually spreads throughout the community."

¹³⁴ Krebs (2012: 340). He also writes, "Agricola . . . followed up on his military success in Britain with a domestic program intended to impose on the Britanni the *quies et otium* the Gauls had already suffered, thus accustoming them to servitude."

slavery: “And this among the ignorant is called culture, when in fact it is part of their slavery” (*Idque apud imperitos humanitas vocabatur, cum pars servitutis esset*) (*Agr.* 21.2). Scholars have generally read *humanitas* as referring to Roman culture generally.¹³⁵ This reading, however, overlooks the passage’s larger context, which marks education as the chief component of *humanitas*. On this point, Aulus Gellius notes that *humanitas* is what the Greek call παιδεία or, among the Romans, what is called “instruction and education in the studies befitting a free Roman (*eruditionem institutionemque in bonas artes*)” (*Gell. NA* 13.17).¹³⁶

Furthermore, by recognizing that *humanitas* chiefly refers to education, we can observe that Agricola’s approach was modeled on the Principate. Agricola took the sons of the chiefs (*principum filios*) and instructed them in studies befitting a free Roman (*liberalibus artibus erudire*) (*Agr.* 21.2). These studies, however, were not the type that were prominent during the Republic, or even the type to which Agricola’s father applied himself, since they did not include philosophy. As Heinrich Lausberg has noted, “As the program and content of learning, the *artes liberales* are contrasted with philosophy.”¹³⁷

The study of philosophy encouraged dissension against the ruling power and status quo.¹³⁸ As we have seen, this why Agricola’s mother turned his

¹³⁵ See e.g., Jens (1956: 337–8); Boesche (1987: 194); Lavan (2011: 296); Sailor (2012: 30–1).

¹³⁶ See, e.g., Cic. *De or.* 2.72 for a similar understanding of *humanitas*.

¹³⁷ Lausberg (1998: 10).

¹³⁸ Wilkinson (2012: 121–2).

passions away from philosophy. Tacitus elliptically refers to philosophy as a source of political resistance, remarking that philosophers make useless appeals to *libertas* (*inani iactatione libertatis*) (*Agr.* 42.3).¹³⁹ Though in the Principate they were often exiled or executed, philosophers nevertheless represented a group of opposition.¹⁴⁰ So Agricola made the decision to banish philosophy from his educational scheme and focus on eloquence to further secure his power: “The Britons who recently despised Romans’ language were now desiring its eloquence” (*qui modo linguam Romanam abnuebant, eloquentiam concupiscerent*) (*Agr.* 21.2). These Britons, instead of rejecting Roman power, were now enjoying parts of its culture that were structured in such a way as to preclude *libertas*.

Throughout this chapter, we have generally seen that *libertas* was exhibited differently at Rome than within Britain. Jed Atkins has written that “Republican freedom . . . flourish[es] at the boundaries of the Roman order,” though it “exists neither at Rome under Domitian nor for the nations subject to Rome,” which presumably includes the parts of Britain under Rome’s control.¹⁴¹ I would, however, nuance this statement and complicate the free/not-free dichotomy, as I have done throughout this dissertation. As I have indicated so far,

¹³⁹ For this phrase referring to philosophers—and the Stoics specifically—see Woodman and Kraus (2014: 303).

¹⁴⁰ For instance, Mucianus persuaded Vespasian, a more lenient ruler than Domitian, to exile many philosophers from Rome because they opposed the regime (Cass. Dio 65.13); see Syme (1958: 212).

¹⁴¹ Atkins (2018b: 175).

and will flesh out in the next section, though Tacitus presents Rome as lacking *libertas*, his depiction of Britain is more complex.

4.3 Space, Time, and Memory

This section will argue that various parts of the *Agricola*'s geography represent three different stages of domination, and that, through these different parts, Tacitus explores domination's relationship to memory. The Caledonians represent people untrammelled by Roman power; the Britons under Agricola's control—the recently-conquered Britons—represent a step toward domination; Romans at Rome represent a dominated people. In this investigation, we will see that government power affects not only speech and action, but also memory.

Though scholars have noticed that Rome exists as a separate political entity from Britain, they have generally framed Britain as one society.¹⁴² This amalgamation of Britain overlooks the nuanced differences between the Caledonians and those already under Agricola's control, the recently conquered Britons. Tacitus notes that the attendant circumstances of Roman rule occur not at once, but over time:

¹⁴² See, e.g. Liebeschuetz (1966: 135–6); McGing (1982: 19–23); Sailor (2012); Jens (1956); Lavan (2011).

We know that the Gauls were once outstanding in war; but when they lost their *virtus* along with their *libertas*, apathy crept over them along with inactivity. This is in the process of happening for the already-conquered Britons: the others remain as the Gauls once were.

*nam Gallos quoque in bellis floruisse accepimus; mox segnitia cum otio intravit, amissa virtute pariter ac libertate. quod Britannorum olim victis evenit: ceteri manent quales Galli fuerunt (Agr. 11.5).*¹⁴³

In this passage, Tacitus is noting that Roman rule, accompanied by the loss of *libertas*, starts a gradual process toward slavery. The verbs *intravit* and *evenit* show the process takes time from subjugation to loss of *libertas*. For this reason, Woodman and Kraus rightly argue that *evenit* should be translated as “is <in the process of> happening.”¹⁴⁴

As Myles Lavan has stated: “In Tacitus, the degeneration into slavishness is gradual, not instantaneous.”¹⁴⁵ So the *Agricola* portrays the recently conquered Britons as in the midst of the process. But the *Agricola* also demarcates a second group in Britain, those who remain as the Gauls once were: those who still retain their *libertas*, the Caledonians. By recognizing this difference, we can see that the Britons represent important Roman political concepts. Caledonia sits beyond the grasp of Roman power and is meant to symbolize a land untouched by Roman force.¹⁴⁶ Some scholars, however, have

¹⁴³ Tacitus uses *segnitia* in this manner at *Hist.* 1.49.

¹⁴⁴ Woodman and Kraus (2014: 19, 148); I have adopted this rendering.

¹⁴⁵ Lavan (2011: 299). Though Lavan correctly sees that subjugation and slavery is a gradual process, he nevertheless collapses the Britons under Roman power and the free Caledonians into a single “British narrative.”

¹⁴⁶ See Tan (2014) for this view of Germania.

argued that the uncivilized Britons were meant to represent man in nature. In discussing Roman contact with the Britons, Woodman and Kraus write:

Tacitus' account takes the form of the history of civilization—like those found in Book 5 of Lucretius and elsewhere—in miniature and he projects it onto the Britons, who, described at the start in terms of primitive man, quickly acquire the characteristics of civilized (that is to say, Roman) life¹⁴⁷

This view, in short, suggests that the unconquered Britons lacked the hallmarks of civilization.¹⁴⁸ As a whole, the Britons did lack temples and law courts (*Agr.* 21.1), which, as Greg Woolf notes, “are quintessential public buildings, located at the center of a Roman city, the setting for the political and religious activity that binds the community together.”¹⁴⁹ There is, also, little to suggest that there were similar Roman indicators of civilization, such as public games. This understanding of civilization, however, contradicts the broader approach we saw Tacitus paint in the *Germania*. There, Tacitus showed that the political sophistication of a society does not necessarily lie in imitating Roman forms. For instance, Romans were able to curtail a magistrate’s arbitrary punishment of a Roman citizen through a citizen’s right to appeal to the tribunes (*appellatio*) or the people (*provocatio*).¹⁵⁰ The Germani, however, guard against arbitrary punishment, placing this power in the hands of either a council, rather than a single magistrate, or of a tribal chief advised by one hundred common

¹⁴⁷ Woodman and Kraus (2014: 199).

¹⁴⁸ See also Woolf (1998: 69–70); Braund (1996: 162).

¹⁴⁹ Woolf (1998: 70).

¹⁵⁰ Atkins (2018b: 47).

citizens (*Germ.* 11.1–12.3). Rather than relying on remedial rights to cure a magistrate’s arbitrary punishment after the fact, the Germani sought to prevent the arbitrary punishment in the first place by emphasizing group consensus.

What is remarkable, given the Britons’ supposed lack of civilization, the major speech in the work is attributed to a Briton chieftain—a Caledonian who has had no formal contact with Roman politics—and has been widely observed as a masterpiece (*Agr.* 30–2). This fact alone should call attention to its commentary on Roman civilization. George Kennedy says that, of all his historical writing, that speech is Tacitus’ “most remarkable oratorical effort.”¹⁵¹ Much of the speech’s praise, however, lies in its form. Woodman and Kraus note that “there is a profusion of alliteration, assonance, and other kinds of verbal play . . . together with various types of mannered word order such as chiasmus and synchysis.”¹⁵² George Kennedy, among others, notes that it is a prime example of a rhetorical school’s *suasoria*, in which the student was supposed to argue the opposite side of an issue.¹⁵³ And Ronald Mellor observes that “it is a brilliant performance, more suitable to a Roman rhetorical school than a Scottish battlefield.”¹⁵⁴ Following in this vein, to the extent that Calgacus’ arguments are analyzed, they are often seen as arguments against imperialism.¹⁵⁵

¹⁵¹ Kennedy (1972: 525).

¹⁵² Woodman and Kraus (2014: 237).

¹⁵³ Kennedy (1972: 525), see also Woodman and Kraus (2014: 237); Ogilvie and Richmond (1972: 253–4).

¹⁵⁴ Mellor (1992: 107).

¹⁵⁵ See, e.g., Liebschuetz (1966: 137–8).

Recently, scholars have begun to examine the arguments in Calgacus' oration as more than Tacitus writing a "speech that echoes the familiar accusations of Rome's greed, cruelty, and love of power," which previous Roman historians had covered.¹⁵⁶ Dylan Sailor has observed that, more than just repeating familiar tropes, Calgacus' speech questions the role of *obsequium ac modestiam* as virtues that lead to success in the Principate.¹⁵⁷ True enough, they are "required of good subjects of the empire," but Agricola's success as a governor—and therefore what defines him—is not at all due to *obsequium*, Sailor argues, but his *industria ac vigor*.¹⁵⁸ And Jed Atkins notes, in a speech "that exhibits all the virtues of Republican rhetoric," Calgacus "contrasts 'peace' with the liberty enjoyed by the Britons."¹⁵⁹ Calgacus' speech, however, does more.

His speech reorients *libertas*. Calgacus defines *libertas* in a way that links it with one's family. The overall theme of Calgacus' speech is *libertas*.¹⁶⁰ At the start of his speech, Calgacus notes that the Caledonians are fighting for "*libertas* for all of Britain" (*libertatis toti Britanniae*) (*Agr.* 30.1). He reiterates this point by noting "they are warring for their *libertas*" (*in libertatem . . . bellaturi*) (*Agr.*

¹⁵⁶ Mellor (1992: 12); see also Woodman and Kraus (2014: 237), who note that Tacitus' is writing in "an established convention whereby Roman historians put anti-Roman sentiments into the mouths of their barbarian characters."

¹⁵⁷ Sailor (2008: 98); see Jens (1956: 334–5) and Atkins (2018b: 83) on these as virtues in the Principate.

¹⁵⁸ Sailor (2008: 98).

¹⁵⁹ Atkins (2018b: 175).

¹⁶⁰ See Lavan (2011: 296–7); Atkins (2018b: 175).

31.5).¹⁶¹ As we have seen throughout this dissertation, *libertas* is freedom from the possibility of oppression.¹⁶² *Libertas* is often associated with political institutions, such as the Senate. Tacitus makes this point at the start of the *Agricola*, when he notes the loss of the Senate's *libertas* during the Principate (*Agr.* 2.2). But Calgacus, and those living at the ends of the earth and *libertas* (*terrarum ac libertatis extremos*) (*Agr.* 30.4), lack these social and political institutions¹⁶³ For this reason, Calgacus' speech focuses on family integrity.

Because the Caledonians lack Roman institutions, like the Senate, they have to reframe *libertas*. So, Calgacus emphasizes the centrality of the family to his conception of *libertas*:

Nature intends that each man's children and kin be dearest to him: the men are carried off through conscription to be slaves elsewhere; our wives and sisters, even if they escape the violent lust of the Romans, are defiled under the name of friendship and hospitality.

Liberos cuique ac propinquos suos natura carissimos esse voluit: hi per dilectus alibi servituri auferuntur; coniuges sororesque etiam si hostilem libidinem effugerunt, nomine amicorum atque hospitem polluuntur (*Agr.* 31.1).

By noting that the dearest things (*carissimos*) to a man are his family, he marks family as the cause for which all Britons are fighting. More specifically, they are fighting to keep the family intact, something Roman domination would not allow. The preservation of the family, then, becomes the wellspring for Caledonian

¹⁶¹ See Woodman and Kraus (2014: 249) for *in libertatem* denoting a "way of expressing hope that the actions of the Caledonians will result in their continued freedom . . .) for *bellaturi* instead of *laturi*.

¹⁶² Atkins (2018: 37–40).

¹⁶³ Woodman and Kraus (2014: 201).

libertas. This understanding of *libertas*, however, is not utterly foreign to the Romans. Calgacus places his speech in the context of nature, and therefore roots it outside of formal Roman institutions. But as commentators have noted, Calgacus' emphasis on the family is generally echoing an idea prominent in Cicero's *De Officiis*.¹⁶⁴

At the start of *De Officiis*, Cicero describes the foundation of a state according to Stoic οἰκείωσις.¹⁶⁵ He observes that nature (*natura*) compels man to both form society (*societatem*) and, as part of this process, protect (*tueri*) his family members who are dear (*caros*) to him (*Off.* 1.12).¹⁶⁶ To ensure that a man provides for his family, nature implants a special love (*quondam amorem*) in him (*Off.* 1.12). Conversely, in these situations, a man would dread his family members being taken from him and subjected to outrages. In this instance, Tacitus vividly paints what would happen to the female family members: even if they are not subject to the Roman conquerors raping them (*hostilem libidinem*), they would then be their unwilling mistresses (*nomine amicorum atque hospitem polluuntur*) (*Agr* 31.1). Tacitus uses *polluere* to heighten the emotive affect, since *polluere* ensures that the “sexual act may be emotively spoken of as an act of violence or corruption.”¹⁶⁷ Likewise, *libido* denotes both excessive and

¹⁶⁴ Ogilvie and Richmond (258); Woodman and Kraus (244)

¹⁶⁵ Dyck (1999: 173).

¹⁶⁶ Dyck (1999: 90–1).

¹⁶⁷ Adams (1982: 198–9).

forceful sexual conquests, as well as lack of freedom from a master's arbitrary will, an indicator of the absence of *libertas*.¹⁶⁸

Calgacus also argues that family is society's major stimulus. As noted above, Cicero locates the foundation of society in man's love (*amorem*) of his offspring. He states that "Man's love for his children compels him to want there to be a gathering and assemblage of men and to attend himself" (*amorem in eos, qui procreati sunt, impellitque ut hominum coetus et celebrationes et esse et a se obiri velit*) (Cic. *Off.* 1.12). Furthermore, Cicero notes that this "care in fact rouses men's spirits and makes them more capable to complete deeds" (*cura exsuscitat etiam animos et maiores ad rem gerendam facit*) (*Off.* 1.12), such as the establishment of political communities (Cic. *Off.* 1.54). And so, procreation and offspring are the origin of states (*propagatio et suboles origo est rerum publicarum*) (Cic. *Off.* 1.54). In fact, Cicero says there is no bond more important or dearer (*societatum nulla est gravior, nulla carior*) than one's relationship with the state (Cic. *Off.* 1.57).

Calgacus picks up on these themes but uses the invading Romans' situation to further explore them. This exploration, given the nature of the work and setting—the eve of battle—is framed in military themes. Calgacus, in short, says that the Romans soldiers have no motivation for victory because they have no family connections: "No wives motivate the Romans, no parents will reproach

¹⁶⁸ See, e.g., Suet. *Aug.* 71 (an old man's desire to deflower girls), Tac. *Ann.* 11.16 (a barbarian's excessive lust); see also Atkins (2018b: 43).

them for retreating” (*nullae Romanos coniuges accendunt, nulli parentes fugam exprobraturi sunt*) (*Agr.* 32.2). This alone could just be a nod to the fact that many Roman soldiers did not have a family on campaign. But Tacitus connects it more generally with one’s home. For “many either have no homeland, or it is somewhere else” (*aut nulla plerisque patria aut alia est*) (*Agr.* 32.2). Because the Roman soldiers lacked family and were absent from their homeland, if they had one, they lacked that necessary stimulus.

Tacitus also explores this theme in *Germania* by linking the Caledonians with the Germani. For Tacitus notes the Caledonians and the Germani share a common ancestry: “The reddish hair and great limbs of the inhabitants of Caledonia strongly point to a Germanic origin” (*rutilae Caledoniam habitantium comae, magni artus Germanicam originem adseverant*) (*Agr.* 11.2). The common ancestry invites comparison.¹⁶⁹ On marriage (*matrimonia*) among the Germani generally, Tacitus notes that “you would be able to praise no custom more highly” (*nec ullam morum partem magis laudaveris*) (*Germ.* 18.1). This is because husband and wife share the greatest bond (*maximum vinculum*) (*Germ.* 18.2). The wife is the husband’s companion in his works and dangers (*laborum periculorumque sociam*) (*Germ.* 18.3). The parent-child bond is likewise close. For the newborn is nursed at the mother’s breast, not at a wet nurse’s (*Germ.* 20.1), which Tacitus portrays as custom in the Principate (*Dial.* 28.4). The bonds

¹⁶⁹ See Woodman and Kraus (2014: 144), who also note that though “the Gauls were often described in precisely the same way,” Tacitus does not give a physical description of them, “despite his preference for them as the origin of the Britons.”

extend beyond the nuclear family, for a maternal uncle holds his nephew in the same high esteem (*honor*) as a father does his son (*Germ.* 20.3).

Conversely, a people who lack a family connection also lack a society. Cicero makes this point when he notes that by murdering one's child, not only does the murderer steal away a family's heir (*heredem familiae . . . sustulisset*) but also a citizen beneficial to the state (*designatum rei publicae civem*) (*Cic. Clu.* 32). Tacitus echoes this sentiment in the *Germania*. Consider the Fenni, a Germanic tribe that has no strong connection with its children. Because the women accompany the men everywhere and get their own share of the prey (*passim enim comitantur partemque praedae petunt*) (*Germ.* 46.3), they leave their infants home defenseless: "Nor is there any refuge for infants from wild animals and storms other than that they are covered in some web of branches" (*nec aliud infantibus ferarum imbriumque suffugium quam ut in aliquo ramorum nexu contegantur*) (*Germ.* 46.3). This lack of a parent-child bond is illustrative of a larger issue. Tacitus notes that the "Fenni are remarkably uncivilized and shamefully impoverished: they have not arms, horses, or household gods; they have grasses for food, animal skins for clothing, and the dirt for a bed" (*Fennis mira feritas, foeda paupertas: non arma, non equi, non penates; victui herba, vestitui pelles, cubile humus*) (*Germ.* 46.3). The lack of family connections is indicative of a lack of a society.

The importance of family to the Briton's conception of *libertas* continues to be apparent when we examine the situation of the recently conquered Britons

(*Britannorum olim victis*), since they have not yet completely lost their *libertas* (Agr. 11.5). Like the Caledonians, *libertas* is their motivation as well. More specifically, Tacitus notes that “Britons deliberate on the evils of their slavery” (*Britanni agitare inter se mala servitutis*) (Agr. 15.1).¹⁷⁰ As we have seen, slaves are those in the power of another and therefore not free (*liberi*).¹⁷¹ Like in Calgacus’ speech, these Britons conceptualize their *libertas* and *servitus* around the family. For they link their *servitus* to the breakup of their families. They note: “Our homes are confiscated, our children are seized, conscription is imposed” (*eripi domos, abstrahi liberos, iniungi dilectus*) (Agr. 15.3).¹⁷² The three items in this tricolon all refer to the Romans breaking down parts of the Britons’ families. The physical center of the family is taken away; the parent–child bond, which Cicero locates as the emotional center of the family (Cic. *Off.* 1.12), is broken, and adult men are also removed and placed into the Roman military. The Britons discuss the women indirectly, indicating that there is no exception to the Romans’ violent lust (*nihil libidini exceptum*) (Agr. 15.3). That

¹⁷⁰ Elsewhere, Tacitus notes these Britons “have been dominated to obey, but not yet to be slaves” (*iam domiti ut pareant, nondum ut serviant*) (Agr. 13.1). Lavan (2011: 299–300 & fn. 19) sees no contradiction between Tacitus’ comments that the same Britons are not yet slaves (*serviant*) (Agr. 13.1) but they nevertheless complain about the evils of their slavery (*mala servitutis*) (Agr. 15.1). Lavan tries to find a distinction between the two cognates by stating the latter refers to the outward condition of slavery and the former the inner condition, the mental acceptance of it. Lavan, however, points to no text in these sections that shows Tacitus is making such a distinction. And there is an easier explanation for the discrepancy, the second section is reported speech, and the Britons are using hyperbole to emphasize the corrosive effects of Roman rule; see Whitton (2010: 125) for hyperbole elsewhere in the *Agricola*.

¹⁷¹ See, e.g., Wirszbuski (1950: 1–2); Atkins (2018b: 41).

¹⁷² They further note that the governor tyrannizes their family (*legatus in sanguinem . . . saeviret*) (Agr. 15.2).

is to say, the Romans either rape the women in their villages or keep them as mistresses, as Calgacus notes is the Roman practice.

Moreover, these Britons tie closely their *servitus* to their family as the primary motive for rebellion: “Our homeland, wives, parents are our motives for war” (*patriam coniuges parentes . . . causas belli esse*) (*Agr.* 15.4). That *patria* is included in this same tricolon with wives and parents demonstrates how important the family was to the Britons’ conception of their homeland. Additionally, like the Caledonians, the recently conquered Britons conceptualize *libertas* as familial integrity.

The Britons’ oratory illustrates a step in the progression toward the Principate’s domination. The *Agricola* makes this point when it compares the recently-conquered Britons to the Gauls, who had been conquered several generations previously: “The Britons display more spirit, since a long peace has not yet weakened them” (*plus tamen ferociae Britannii praeferunt, ut quos nondum longa pax emollierit*) (*Agr.* 11.4). The weakening does not occur instantly. On oratory specifically, these Britons note: “Already we ourselves have done the most difficult part: deliberated. Afterwards, in discussions of this type, it is more dangerous to be caught than to venture forward” (*iam ipsos, quod difficillimum fuerit, deliberare. porro in eius modi consiliis periculosius esse deprehendi quam audere*) (*Agr.* 15.6). *Deliberare* is “the technical verb for deliberative speech”—that is to say, speech that discusses policy and might occur

in an assembly or a senate.¹⁷³ The Britons note that public discussion of political issues has been suspended. But public deliberation has not been suspended long enough that it is unable to be revived. This places the freedom of speech between the Caledonians, where oratory was not stifled, and Rome, where even the interchange of speech was taken away (*adempto . . . commercio*) (*Agr.* 2.3).

This speech also begins to show the very small signs of speech removed from truth. W. Liebeschuetz has notes that certain “faculties [are] numbed by submission to tyranny, such as independent judgment and freedom of speech.”¹⁷⁴ Above it was shown that Tacitus modeled Agricola’s contemplated invasion of Ireland on Caesar’s invasion of Britain. The Britons note, “If only we emulate our ancestors’ *virtus*, the Romans will retreat as the divine Julius Caesar did” (*recessuros, ut divus Iulius recessisset, modo virtutem maiorum suorum aemularentur*) (*Agr.* 15.4). Woodman and Kraus also note that “comparison is somewhat tendentious: Caesar had withdrawn, but not in defeat.”¹⁷⁵ But that is the point. The recently conquered Britons misremember, or misstate, an important fact to encourage themselves to resist the Romans. Moreover, this is a fact well known to the *Agricola*’s readers, in part because Caesar’s invasion of Britain is elsewhere important for understanding Tacitus’ construction of Agricola’s time in Britain. So, by reshaping memory to serve a political purpose, Tacitus is illustrating how speech can slowly change in monopolistic systems.

¹⁷³ Woodman and Kraus (2014: 171).

¹⁷⁴ Liebeschuetz (1966: 133).

¹⁷⁵ Woodman and Kraus (2014: 170).

Rome represents a despotic system. We have already seen how the *princeps* used dissimulation to mask his true intentions. Since the opening of the *Agricola* has already told us that oratory is dead at Rome, one observation will suffice.¹⁷⁶ So far, this section has argued that the closer one gets to Rome, spatially and politically, the less vibrant oratory is. It is no surprise, then, that Calgacus' speech covers three sections and the recently-conquered Britons' occupies less than a section. But the most interesting exchange in the whole work, Agricola's audience with Domitian, contains no reported speech.

At Rome, Tacitus suggests that the lack of speech warps memory.¹⁷⁷ In the *Agricola*'s prologue, Tacitus suggests that political regimes may affect even personal memory, though scholarship on the *Agricola* has viewed memory as immutable. Dylan Sailor writes that memory's "fidelity to reality is certain," since memory "is the imprint of events left on the mind as they occur."¹⁷⁸ Accordingly, memory was outside the realm of political power: "What lay outside Domitian's grasp was memory."¹⁷⁹ Holly Hanes assumes *memoria* cannot be changed, though it can be purposefully forgotten.¹⁸⁰ The *Agricola*, in this sense, was Tacitus' task as an historian to "commemorate an era too unbearable for those who survived it to remember or record."¹⁸¹ Other scholars suggest memory may

¹⁷⁶ See also Atkins (2018b: 128).

¹⁷⁷ Marchetta (2002: 211) rightly notes that speech is connected with memory.

¹⁷⁸ Sailor (2008: 62; 68)

¹⁷⁹ Sailor (2008: 62).

¹⁸⁰ See generally, Haynes (2006); see Woodman and Kraus (2014: 128) for Tacitus' inability to forget.

¹⁸¹ Haynes (2006: 170).

fade or be suppressed.¹⁸² As Harriet Flower notes, “in Roman thought, memory was not taken for granted as a natural state or product. Rather, oblivion was considered the more normal condition, as the past receded from the present and was simply no longer connected to it.”¹⁸³ This was in part due to the shorter life spans of Romans, which caused memory to fade more easily. On this point, Flower observes that part of Tacitus’ goal in the *Agricola* is to ensure that oblivion (*oblivio*) does not erase Agricola’s own deeds.

I am suggesting that Tacitus recognizes the mutability of memory. Andrew Gallia has generally noted in his book on the different ways in which the Roman Republic was remembered under the Principate, what is remembered changes overtime to fit the narrative an author wishes to present.¹⁸⁴ Modern research has shown that even memories are unreliable. A recent National Institute of Health paper observes: “It is now widely recognized that human memory is not an exact reproduction of past experiences but instead an imperfect process that is prone to various kind of errors and distortions.”¹⁸⁵ After-the-fact bias may alter a memory: “Bias can be defined as retrospective distortions composed by current knowledge and beliefs.”¹⁸⁶ Bias may cause an individual to

¹⁸² See, e.g., Strunk (2017: 82, 165) on Agricola specifically; Hammer (2014: 354–5) on Tacitean thought more generally.

¹⁸³ Flower (2011: 2–3).

¹⁸⁴ Gallia (2012: 6–7, 251). In a not dissimilar vein, Marchetta (2002: 211–2), referring to the *Agricola*, suggests that under a tyranny, an individual’s ability to think (*la proria facoltà di pensare*) may be distorted.

¹⁸⁵ Schacter et al. (2011: 467).

¹⁸⁶ Schacter et al. (2003: 233).

unconsciously remember an event in such a way as to place that person in a more favorable light. A real example will help flesh this out:

[There was] a case involving a young woman who had killed her boy friend. The prosecutor called it first-degree murder, but her lawyer claimed she acted in self-defense. What was clear was that during an argument, the defendant ran to the bedroom, grabbed a gun, and shot her boy friend six times. At the trial, a dispute arose about the time that had elapsed between the grabbing of the gun and the first shot. The defendant and her sister said two seconds, while another witness said five minutes. The exact amount of elapsed time made all the difference in the world to the defense, which insisted the killing had occurred suddenly, in fear, and without a moment's hesitation.¹⁸⁷

Both the defendant and her sister (two seconds) and the other witness (five minutes) could not have been correct; nor could such time disparities be harmonized. One or both accounts were incorrect, affected by the traumatic events.¹⁸⁸ Biased memories can be created consciously, but also unconsciously, such as by “feelings about politics, government, and current events.”¹⁸⁹

Advocates at Rome were aware of memory's malleability. At the start of the *Agricola*, Tacitus mentions that he recorded the “memory of his generation's previous slavery and evidence of their current good fortune” (*memoriam prioris servitutis ac testimonium praesentium bonorum*) (*Agr.* 3.3). Tacitus couples *memoria* with *testimonium* so the reader will not take for granted his memory, just as an advocate would not take for granted *testimonium*. *Testimonium* is generally a legal term that refers to evidence given by a witness either in person

¹⁸⁷ Loftus (1978: 46).

¹⁸⁸ Loftus (1978: 46): the jury believed the defendant's version; she was acquitted.

¹⁸⁹ See Teff (2004: 40).

or in written form by an affidavit (Quint. *Inst.* 5.5–7).¹⁹⁰ As Quintilian notes, an advocate’s greatest labor concerns *testimonia* (*maximus tamen patronis circa testimonia sudor est*) (Quint. *Inst.* 5.7.1). This is because *testimonium* is often biased (Quint. *Inst.* 5.7.12–16).¹⁹¹ Even favorable *testimonium* requires sharpness and watchfulness (*acumen ac vigilantiam*) (Quint. *Inst.* 5.7.10) on the part of the advocate not to assume that *testimonium* is reliable or true, but to find its inherent gaps and inconsistencies; it is also necessary to examine (*explorandum*) the witness’s motives for injuring the opposing party (*causas laedendi adversarium*) (Quint. *Inst.* 5.7.13).

By invoking *testimonium* alongside *memoria*, Tacitus is hinting that just like *testimonium*, his *memoria* about what occurred during their *prioris servitutis* might be flawed.¹⁹² In this way, Tacitus’ observation—“we would have completely lost our memory along with our voice, if it had been in as much in our power to forget as to remain silent” (*memoriam quoque ipsam cum voce perdidissemus, si tam in nostra potestate esset oblivisci quam tacere*) (*Agr.*2.4)—can be understood. Tacitus’ memory of the events exists, and its

¹⁹⁰ Woodman and Kraus (2014: 91–2) suggest that *memoria* means memorial and *testimonium* “suggests praise, ‘testimonial.’” This argument overlooks memory’s mutability as well as how *memoria* is used elsewhere in the *Agricola*. Additionally, it suggests Tacitus is offering clear-cut opinions, when this dissertation has been arguing that Tacitus is more nuanced and constantly invites pushback against such assertions.

¹⁹¹ For instance, in *Pro Caelio*, Cicero argues that the testimony (*testimonium*) of the prosecution’s witnesses is biased due to their relationships with Clodii, the prosecuting family; see Riggsby (1999: 98–9).

¹⁹² Tacitus makes a corollary point in the *Dialogus*. Maternus says that one’s *testimonia* given in court had to be carried by the witness’s *ingenio et eloquentia* (*Dial.* 36.7)—Maternus tellingly says nothing of its truthfulness; see Van den Berg (2014: 202). This is because *testimonium* has its own inherent flaws that might be pulled out by cross examination, which makes witness confused (*turbantur*) (Quint. *Inst.* 5.7.11); cf. (Mayer 2001: 202).

accuracy is in doubt. This, in turn, compels the reader to question the accuracy of Tacitus' assertions.

More generally, Václav Havel has noted the correlation between political regimes and memory. Some regimes stifle the personal recognition of time:

In our own country, too, one has the impression that for some time there has been no history. Slowly but surely, we are losing the sense of time. We begin to forget what happened when, what came earlier and what later, and the feeling that it really doesn't matter overwhelms us.¹⁹³

The lack of history in despotic regimes is rooted in the blurring of individual memory; the lack of history is the collective manifestation of personal issues. The lack of personal memory stems from the government's control of public information and events. The more structured and predictable this information, the less dynamic a society: "Wherever there is room for social activity, room is created for a social memory as well. Any society that is alive is a society with a history."¹⁹⁴ But when a society is not socially and politically dynamic, and instead relies on political rulers to dictate their political and social fates, individuals' memories are also shaped accordingly.

What is more, when individuals are placed in environments that distort the past, those individuals may begin to have false memories. This phenomenon has been most studied in police interrogations, where individuals falsely but

¹⁹³ Havel (1985: 73).

¹⁹⁴ Havel (1985: 73).

voluntarily confess to crimes they come to believe they actually committed.¹⁹⁵ In these situations, the individuals are confused and isolated from social support.¹⁹⁶ The authorities, however, appear supremely confident. They distort facts, invent details, and repeat, time and again, an alternative narration of events, often peppered with misinformation and lies.¹⁹⁷ As one expert recounted, “During a subtle and manipulative form of questioning my client began to doubt his own memory of events and accepted a false but a plausible scenarios. What the agents did was to suggest to him different scenario.” Despite giving a confession, an individual still retains an element of doubt about it.¹⁹⁸

In a similar way, Havel saw that individuals may convince themselves that they had no part in a previous despotic regime. Speaking after the end of communism in Czechoslovakia, he states,

It would be very unreasonable to understand the sad legacy of the last forty years as something alien, which some distant relative bequeathed to us. On the contrary, we have to accept this legacy as a sin we committed against ourselves. . . . We cannot blame the previous rulers for everything, not only because it would be untrue, but also because it would blunt the duty that each of us faces today: namely, the obligation to act independently, freely, reasonably and quickly.¹⁹⁹

¹⁹⁵ These are called coerced-internalized confessions. It is not coercion in the traditional sense of threats and harm, physical or otherwise, but rather legally permissible coercion; see generally Chapman (2013); Gudjonsson (1989).

¹⁹⁶ Chapman (2013: 171).

¹⁹⁷ For instance, the police may say a witness saw the individual commit the crime, or that the individual failed a polygraph that is one hundred percent accurate at detecting crime (a polygraph only detects changes in a few physical indicators to questions and is not even admissible in court); see Gudjonsson (1989: 102).

¹⁹⁸ Chapman (2013: 170).

¹⁹⁹ Havel (1990).

The risk that Havel is pointing to is that individuals may begin to distance themselves from the past, to view its horrors as something visited upon them, and to entertain false memories, all to lessen culpability and assuage guilt. This is a political version of the exaggerated hunting tale. As one psychologist noted, “There are not a few who finally believe their hunting stories after they have told them repeatedly.”²⁰⁰

4.4 Conclusion

Scholars have argued that Tacitus wrote the *Agricola* not only to defend Agricola’s conduct under Domitian, but his own. “It is one of the tenets of Agricolan scholarship that, in writing the biography of his father-in-law, Tacitus was at the same time presenting a defence of his own career under Domitian.”²⁰¹ But in defending his father-in-law and himself, Tacitus implies that the defense of his father-in-law may not be completely accurate, since his own memory may not be completely accurate. Rather, Tacitus seems to imply that his father may have shared more characteristics with a *princeps* than he was able to openly admit. When the reader recognizes subtle similarities between Agricola and the *princeps*, the similarities compel the reader to begin to ask a fundamental question about the Principate: how does it affect those under it? This question requires an understanding of the form of the Principate and how various

²⁰⁰ Münsterberg (1908: 116).

²⁰¹ Woodman and Kraus (2014: 9); see also e.g., Syme (1958: 25), who said by writing the *Agricola* “Tacitus defends his father-in-law—and shields his own conduct under the tyranny of Domitian.”

monopolistic forms affect individuals and their *libertas*. So, understanding the *Agricola* required the *Germania*.

Conclusion

In this dissertation, I have argued that Tacitus' *opera minora* is an experimental project that seeks to provide a new framework for understanding the Principate. To do this, it moves beyond the constraints that Republicanism has imposed on individuals wishing to understand political life at Rome. Tacitus reveals these constraints most clearly in the *Dialogus* in both form and content. There, Tacitus uses the form of the Ciceronian dialogue to ground his inquiry in Republicanism. He does this because the Ciceronian dialogue is a form that tends to emphasize an argument *pro* and *contra*. It, in other words, suggests a binary choice reinforced by the Ciceronian Republican conception of *libertas* as non-domination. This conception rested on the dichotomy of non-monarchy/free and monarchy/unfree. The content of the *Dialogus*, too, is most tightly tied to the Republic since it explores how Republican rhetoric changed from the Republic to the Principate. Furthermore, we have seen that combination of form and content of the *Dialogus* limit this exploration since they together restrict a full, wide-ranging investigation to a binary discussion.¹

The *Germania* signals a move away from Republic-era form and content prominent in the *Dialogus*. The *Germania*'s form is an ethnography. This form permits Tacitus to survey different tribes of the Germani. In this way, he can investigate each tribe's variation of monarchic rule and its effect on *libertas*. In

¹ Consider, for instance, that Maternus and Secundus argue certain points handed to them (*eas partes, quas . . . reliquisse*) and Aper argues against them (*in contrarium*) (*Dial.* 16.3).

other words, instead of approaching an issue as a binary—such as the approach of the *Dialogus* to examining an issue *in utramque partem*—the *Germania* permits a more open-ended investigation. A more open-ended form is needed for the *Germania*'s content. The *Germania* rejects the idea prominent in Ciceronian Republican thought that monarchy necessarily precludes *libertas* (Cic. *Rep.* 2.43).² In doing so, Tacitus observes that political culture cannot be separated from political form, and so to examine the effect monarchy has on an individual's *libertas*, he must examine various parts of Germanic society, including seemingly unconnected parts such as weddings and feasts (*Germ.* 18–19, 21). In examining the Germanic tribes' variations of monarchy, some of which permit *libertas*, Tacitus shows that monarchy does not *ipso facto* prevent *libertas*. The *Germania*, then, signals a break with the approach that the Ciceronian Republican tradition takes.

This break is widened in the *Agricola*. The *Agricola* is the most experimental of the works. It is a *mélange* of various genres, including history, biography, ethnography, philosophy, oratory, and encomium. By using such a range of genres, Tacitus is able to move further beyond Republic-era constraints and investigate the monopolistic power system at the heart of the Principate. But he does so not by examining political form. Rather, Tacitus examines his father-in-law Agricola's life and his tenure in Britain. But it should not come as a surprise that the “last” work of the *opera minora* focuses on an individual.

² Atkins (2018b: 42–3).

Václav Havel observed outsiders and politicians were misguided in analyzing political life in Czechoslovakia. They focused on institutions and political factions. To begin to understand the post-totalitarian system in Czechoslovakia, one had to turn to the individual. Havel wrote in the *Power of the Powerless*,

the real sphere of potential politics in the post-totalitarian system is elsewhere: in the continuing and cruel tension between the complex demands of that system and the aims of life, that is, the elementary need of human beings to live, to a certain extent at least, in harmony with themselves, that is, to live in a bearable way, not to be humiliated by their superiors and officials, not to be continually watched by the police, to be able to express themselves freely, to find an outlet for their creativity, to enjoy legal security, and so on.³

To understand an oppressive political system, one has to examine its impact on the individual. Put differently, to understand the political form, one must understand the accompanying political culture in which an individual lives. A variation on this theme is present in Tacitus' major works.

I have suggested that the *Annals* is most closely related to the *opera minora*. Like the *opera minora*, the *Annals* examines Rome's transition from a Republic to a monopolistic system. I suggest that Tacitus retains his focus on political culture but that he further nuances his characterization of important individuals. This greater nuance allows Tacitus to explore more fully the subtleties of the Principate. Only consider Tacitus' treatment of Augustus at the start of the *Annals*. In the *Agricola*, Domitian is drawn as a flat image representing the dangers of monopolistic power, and Agricola himself is a

³ Havel (1985: 51).

painting that gives just enough form to its subject that its outlines can just barely be discerned.⁴ But in the *Annals*, Augustus is depicted as both a fearful creature and a pitiable old man. The *Annals* begins when Augustus is at the end of his life (*aderatque finis*) (*Ann.* 1.4). Tacitus does readily admit that Augustus' reign had changed both the organization and culture of the state: "when the form of the state was recast, nothing remained of the former virtuous customs" (*verso civitatis statu nihil usquam prisci et integri moris*) (*Ann.* 1.4.). But aside from a short nod to the fact that Augustus consolidated various political powers in his position as *princeps* (*Ann.* 1.2), Tacitus' analysis is on Augustus the individual. When he was younger (*aetate validus*) (*Ann.* 1.4), Augustus had been formidable: he had killed many through proscription (*proscriptione*) (*Ann.* 1.2) and had preserved himself, his home, and public concord (*seque et domum et pacem sustentavit*) (*Ann.* 1.4).

Nevertheless, the portrait Tacitus draws of Augustus is almost sympathetic. At the end of his life we are told that he was worn out by his failing body (*aegro et corpore fatigabatur*) (*Ann.* 1.4). And through Livia's machinations (*Liviae dolus*), Augustus exiled his only grandson and heir apparent, clearing the way for Livia's son from her first marriage to assume the throne after Augustus' death (*Ann.* 1.3). To further evoke pity on the part of Augustus, Tacitus gives credence to the rumor that Augustus died while on a visit

⁴ Syme (1958: 122) says that Tacitus uses "wilful vagueness" to describe part of Agricola's life.

to an exiled grandson, a visit he did not want Livia to know about.⁵ In fact, during this visit, Augustus and his grandson both shed many tears and showed proof of their love for each other (*multas illic utrimque lacrimas et signa caritatis*) (*Ann.* 1.5). But before the full reconciliation could be completed—bringing the grandson back into his grandfather’s house—Augustus dies, possibly due to Livia’s poisoning (*Ann.* 1.5).

Tacitus gives Augustus a much fuller portrait than he had given to Domitian or Agricola. Augustus is the supremely able *princeps* who remade the Roman constitution but also the feeble grandfather separated from his only grandson. Augustus created the political form that concentrated political power in his own *domus*.⁶ Yet it was the political culture that he created—one that encouraged intra-family intrigue—that ultimately doomed him. I suspect that by creating more nuanced portraits in his major works, Tacitus is better able to investigate the nuances of a seemingly contradictory political regime. This moves beyond the dichotomy that seemed to plague the *Agricola*’s rendering of Domitian, as one “swift to anger, implacable in revenge.”⁷ Domitian was a wooden portrait of outward stability and malice. He had no redeeming qualities and was not able to evoke empathy. Because the portrait of the *princeps* is a window to understanding the upper echelons of the Principate, a wholly unfavorable portrait of Domitian limited Tacitus to portraying the *princeps* and

⁵ See Syme (1958: 306–7) for the story as a rumor.

⁶ Atkins (2018b: 30b).

⁷ Syme (1958: 24).

his circle in a wholly negative light. By portraying Augustus in various lights, Tacitus is able to investigate the change from the Roman Republic to Principate with greater precision.

In this dissertation's prologue, I asked why an investigation of Tacitus' minor works is necessary today. I suggested that it was because Tacitus questioned the applicability of his contemporary approach to understanding political life. And such questioning and his focus on political culture is ever necessary.

Such a view finds purchase even in the practice of politics. It is not rare for intellectuals to serve in a deliberative body, such as Danial Patrick Moynihan's tenure in the Senate, or to take on an advisory role in the government, such as Arthur M. Schlesinger Jr.'s position in the Kennedy administration. But it is rare for an intellectual to be the head of government. Havel was the President of Czechoslovakia and then of the Czech Republic, for a total of fourteen years. Tacitus only served as a suffect consul for a few months. Havel then spoke with rare authority when, near the end of his tenure in 2003, he was confronted with the question of what were the great issues of the world. He replied,

the moral order and its sources, human rights and the sources of people's right to human rights, human responsibility and its origins, human conscience and the penetrating view of that from which nothing can be hidden with a curtain of noble words—these are, in my deepest convictions and in all my experience, the most important political themes of our time.

Havel's emphasis on the government's respect of individual dignity was not, as we have seen, novel for him. But what was novel was how he ended: the need of

the “penetrating view” of human conscience, which would allow “nothing [to] be hidden with a curtain of noble words.” Even though the Soviet Union had fallen a dozen years earlier, Havel still recognized the need to look beyond political forms and political façades—what he terms “a curtain of noble words,” a reference to the false promises made by the countries behind the Iron Curtain—because political situations are ever evolving.

The commitment of the *opera minora* to looking beyond political form to political culture, and its impact on the individual, is as relevant today as it was twenty centuries ago.

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