

# I T E R U M

## I

To record observed effects, and to trace the causes operative in producing them, is the main business of historians. And nothing more surely provokes further inquiry than the conviction that an admitted effect has hitherto been assigned to insufficient causes. I utter these platitudes by way of introduction to the consideration of some particular circumstances to which, as it appears to me, insufficient attention is generally given as an important contributory cause of the failure of the imperial system of Rome. That this system was in essence municipal, under a highly centralized control, is I think agreed. That in the period after the reforms of Diocletian we find it steadily going to ruin, in spite of legislative efforts that serve to record their own futility, is a commonplace of histories. Some writers wisely detect a prelude to this distressing scene in the events of the preceding century. To judge from our imperfect accounts of the hundred years following the death of Marcus in 180 AD, it seems amazing that the Empire should have survived the shocks, internal and external, to which it was subjected. Civil wars, foreign invasions, economic distress intensified by debased currency and by plague and famine,—surely these disasters are enough to account for the enfeeblement and decay that no Diocletian or Constantine could arrest.

Yet in blaming the calamitous third century for the incurable evils of the fourth we do not advance far in our

search for causes. On further inquiry we are met by the remarkable fact that the first half of the third century was the classical age of Roman jurisprudence. So far as imperial machinery was concerned, the legal department was evidently in full vigour. Jurists helped in developing the Principate into an absolute Monarchy. Legislation by imperial rescripts or 'constitutions' gave prompt effect to the views of jurists. The murders of Papinian in 212 and Ulpian in 228 mark the military reaction against the great Civilians as Ministers. It would seem that under Emperors good bad or indifferent the nucleus of central authority remained in function, though probably at times hampered by the vagaries of individuals on the throne. Failure at the centre is not by itself an adequate explanation of the revolutionary movements of the age. Bankrupt finance and Provincial rebellions of military Pretenders are phenomena that invite us to look away from the centre; and this must lead us to turn our eye to the municipalities.

Now it can hardly be denied that the municipalities were severely damaged by the troubles of the third century, and that no measures of later Emperors availed to restore them to a healthy and prosperous condition. But, one asks, how came that period of troubles to arise? Was it a sudden result due to no apparent cause? Had the municipalities themselves<sup>1</sup> no part in producing it? It may seem so, if we are content to take the usual picture of their prosperity in the 'Antonine' period at its face value without question or reserve. This is just what I am not content to do. I am convinced that the municipal system deserves

<sup>1</sup> Even so admirable a work as Sir S Dill's *Roman Society in the last century of the Western Empire* does not seem (see pp 204—9) to face this question.

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praise only in so far as its manifold varieties of detail<sup>1</sup> serve to illustrate the wise reluctance of the imperial government to impose a rigid uniformity of structure and status on these local units. We must not forget that the local governments had nothing whatever to do with imperial affairs. They were not constituent parts, the union of which built up an imperial whole, and gave to that whole a character compounded of their several characteristics. They were passive parts, subordinate to a central power based on former conquest and present prestige; their rights rested on grants from that power, and by its leave they continued in function. With their local doings Rome interfered seldom and unwillingly: any trace of such interference suggests on the face of it that something was felt to need amendment. If therefore we find the central power intervening in municipal administration during the second or even the first century, we have *prima facie* ground for believing that all was not well with these local governments at a time when the *municipia* are supposed to have been in their glory.

That there was such intervention is certain. The imperial officers known as *curatores* were appointed by Trajan<sup>2</sup> to check mismanagement of municipal affairs, a step surely not taken without good reason by so careful an Emperor. And it seems that they remained in function, gaining power at the expense of the local authorities. It is there-

<sup>1</sup> See Reid, *Municipalities of the Roman Empire*, where this is fully brought out.

<sup>2</sup> It has been thought that they were of earlier date. But the words quoted from Nerva (Dig XLIII 24 § 3<sup>4</sup>) do not seem clearly decisive on the point, unless we hold with Bremer that this jurist was definitely referring to the *curator*. In that case we get back to the time of Tiberius.

fore no wonder that we find frequent reference to them in the jurists of the Digest. Moreover it so happens that in the correspondence of Pliny with Trajan we get some notion of the sort of matters in which local authorities were liable to go wrong and to stand in need of imperial supervision. The chief points of mismanagement<sup>1</sup> were as follows. The borough accounts were badly kept, and the finances often in disorder. This was an old evil, dating from the times before the municipal system had become general, as we know from the letters<sup>2</sup> of Cicero. Public works were undertaken without due consideration of the suitability of a site or the use of proper materials, and the evidence of local experts sometimes indicated that the available technical advice had been ignored. Great sums had in some cases been spent to no purpose. Meanwhile services of obvious public utility, such as provision<sup>3</sup> for the extinction of fires, were apt to be neglected, and further damage resulted from such neglect. In one town Pliny's Roman eye and nose detected an insanitary nuisance, which he was eager to abate, if only the money could be found for the job. This last condition was generally a difficult problem. The slackness of the municipalities, even in so plain a duty as the recovery of sums owing to the *civitas* by its debtors, was scandalous. In one case<sup>4</sup> a rent-charge on a town property had been allowed to lapse, apparently for lack of repairs to the

<sup>1</sup> Plin *epist* x 17, 18, 23, 24, 37, 38, 39, 40, 41, 42, 43, 44, 47, 48, 61, 62, 70, 71, 75, 76, 84, 90, 91, 98, 99, 108, 109, 110, 111, with Dr Hardy's notes.

<sup>2</sup> See Tyrrell and Purser's edition, Introduction to vol III.

<sup>3</sup> Plin *epist* x 33, 34.

<sup>4</sup> Plin *epist* x 70.

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building. Testators left bequests<sup>1</sup> to the towns, but it is remarkable that one man, a stranger to Pliny, chose to leave his money to Pliny upon trust<sup>2</sup> to employ the bulk of it at his discretion for the benefit of two *civitates* expressly named. In short, slovenliness and extravagance went hand in hand. There cannot be much doubt that these cities in Bithynia were nests of jobbery, and that the public chests were robbed by contractors corruptly appointed and protected by influential magnates. I need hardly cite instances of this form of corruption in Great Britain and the United States.

But it may be thought that the case of Bithynia was peculiar, and that things were better elsewhere. I know of no reason for such a belief. And in one of his private letters<sup>3</sup> Pliny shews that he had no such favourable opinion of some of the municipalities of his own neighbourhood in Northern Italy. A friend inquired how he could best secure the permanence of a benefaction made by him to a *municipium* (probably Comum). Pliny in reply points out that to make payment in cash will most likely end in the disappearance of the money: to do it by conveyance of real property (*agros*) means that the land, being town property, will not be carefully managed. He gives his own device for insuring the perpetuity of income from a trust. This plan he has found effective as a precaution against municipal mismanagement: but it necessitates a further sacrifice on the part of the donor. In such circumstances it is clear that the local patriotism of benefactors was exposed to severe strain. Yet this evidence comes

<sup>1</sup> Difficulties in the way of such *legata* had been removed by Nerva. Ulpian *reg* xxiv 28, cf *Dig* xix i § 13<sup>6</sup>, l 8 § 6.

<sup>2</sup> *Plin epist* x 75.

<sup>3</sup> *Plin epist* vii 18.

from a period in which the *municipia* were generally flourishing, when personal ambitions found vent in local politics, and popularity<sup>1</sup> was courted by benefactions of all sorts; a state of things of which numerous inscriptions still preserved supply an imposing record.

It is not irrelevant to note that the epigraphic record of benefactions, which constitutes the most important evidence of municipal wellbeing, belongs mainly to the first and second centuries, and refers almost exclusively to boons conferred on urban populations. That this was the line taken by most of such interested or disinterested beneficence seems also to be suggested by the prominence given by jurists<sup>2</sup> to the privilege of *inscriptio nominis*. Among the duties of a Provincial governor was that of seeing to the proper practice of this coveted distinction, in conformity with definite principles. The *opera publica* on which such inscriptions would appear were evidently for the most part buildings designed for the comfort and pleasure of the townsfolk, baths theatres amphitheatres colonnades and so forth; above all, aqueducts. The rivalry of neighbour cities, sometimes intense, stimulated extravagance outrunning the municipal resources. A *res publica*<sup>3</sup> fell into debt, and men of money could win no small local glory by coming to its aid. For contributions to the cost

<sup>1</sup> Tacitus *ann* IV 62 uses the actual expression *municipali ambitione*.

<sup>2</sup> See the title *de operibus publicis* Dig L 10 §§ 2, 7.

<sup>3</sup> O Seeck, *Untergang* II pp 162—3 has an excellent criticism of the benefaction system, pointing out that the temptation to rely on irregular windfalls was very demoralizing to local finance. On pp 169, 528, he insists on the prohibition of state-borrowings. Such were, he maintains, not allowed, the latest known being under Tiberius. State-debts arose from balances due to contractors and so forth.

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of a work begun with public money entitled the donors to have their names inscribed on it, provided the amount of the gift was in each case stated on the record.

The urban character of Roman political institutions, clearly marked in the history of the Republic, was stamped on the municipalities. Therefore we can hardly wonder, if we find in them public and private munificence directed mainly or wholly to satisfying the requirements and desires of townsmen. But as we become more and more conscious of them as territorial units, actual owners of considerable landed estates, with jurisdiction over their several *territoria*, we are reminded that each of these units comprised also a rustic population. It comes home to us that here is a side of municipal administration of which we hear practically nothing from inscriptions, very little (until a later period) from literary sources, and only a few significant items from the jurists. Now to anyone who will but consult the indices of the Corpus this deficiency of epigraphic evidence bearing on agriculture will cause no surprise. Inscriptions relative to a vast number of professions and crafts survive in thousands, and are for the most part of urban origin. Those who seek records bearing on rural conditions will find but a sorry gleanings when they try to add anything of value to the selections of Dessau. A moment's thought will perhaps convince the inquirer that this is just what was to be expected from the nature of the case. The town is ever articulate: not so the countryside. Moreover, if urban elements dominated municipal life (as they surely did), what was there for them to put on record in connexion with their administration of the rural area of their territory? They would hardly record misdeeds or blunders of their own, and the rest

would be mere routine, of no particular interest. As to literature, ancient writers are notoriously silent as to the lives and feelings of the free labouring poor. In a slaveholding world such indifference was natural. The poor rustic invited attention if and when he rose in arms to redress his grievances. But in the ‘Antonine’ period things seem to have been generally quiet, until we hear of a serious rising<sup>1</sup> in Gaul and Spain under Commodus. And this event, whatever the circumstances may have been, is not likely to have been due to trivial causes.

From the jurists we do get enough details to furnish some sort of picture of the relations of municipalities to their several land-areas. Thus we learn<sup>2</sup> that of estates owned by *civitates* some were let to tenants in perpetuity at a fixed rent (*vectigal*), a form of lease known later as *emphyteusis*. These are *vectigales*, and the rent therefrom is due so long as the lessees or their assigns enjoy security of tenure. The object of this arrangement is evidently to insure a safe and steady income for the state. Other municipally-owned lands are put in the hands of cultivators on the same terms as are usually granted by private landowners. These are not styled *vectigales*. That is to say they are not leased in perpetuity, but for an agreed term, and the instalments of an agreed rent (*pensiones*) are due at agreed dates, according to the conditions of letting. They are governed by the ordinary rules of law and local custom. For instance, the tacit assumption of renewal

<sup>1</sup> The *bellum desertorum* of Lamprid *Commod* 16 § 2, Spart *Pescenn* 3 §§ 3, 4, Herodian 1 10.

<sup>2</sup> Dig VI 3 § 1 (Paulus). See also III 5 § 7<sup>1</sup> (Ulpian), XVIII 5 § 9 (Scaevola), XIX 2 § 53 (Papinian), L 16 § 219 (Papinian). Gaius III 145.



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(*reconductio*)<sup>1</sup> by bare agreement (*nudo consensu*) is operative, as in dealings between individuals. The amount of landed estate owned by the *civitas*, and turned to account by it in these ways, no doubt varied greatly in different cases. But that it was an important part of local finance seems to be beyond doubt. Nor do we I think wrong the local magnates by suggesting that they sometimes used their powers for their own personal profit. Trajan at least refers<sup>2</sup> to their playing into one another's hands as a matter of course. In the case of land we must remember that a long lease tends to be 'beneficial': that is, in favour of the lessee. He has the upper hand in the bargain, since the lessor is primarily concerned to secure a stable income rather than large returns combined with risks. In perpetual leases these considerations are too obvious to escape notice. That members of corporations are tempted to grant beneficial leases to each other, English experience attests: and the appropriation of capitular emoluments used to be carried out thus. If then I am judging the municipal senates fairly, I proceed to inquire what would be the practical effects of such a policy of mutual complaisance in the earlier centuries of the Roman empire.

The cultivation of land went on in three varieties of system. A small owner might work his own farm with his own hands. A tenant farmer might manage a farm or farms of which he was lessee. A landowner might farm his own land through the agency of a steward (*vilicus*, generally a slave) in command of a staff of slave labourers. The first case seems to have been rare and unimportant in the second century; and it is not likely that municipal

<sup>1</sup> Dig XIX 2 § 13<sup>11</sup> (Ulpian).

<sup>2</sup> Pliny *epist* X 38 *dum inter se gratificantur*.

senators were content to live so toilsome and penurious a life. The third plan was common enough, but it had two drawbacks. It could only be profitable on condition of watchful and intelligent supervision by the master, which was too burdensome to suit many landlords; and slaves were less plentiful in a time of peace. So the general drift of things was in the direction of letting to tenants, though this system too involved no small difficulties. The employment of servile labour in a greater or less degree was of course possible in any of the three cases. In this classification I am including the estates of individuals as well as those owned by a municipality. Landlords resident in the town were an important and influential class<sup>1</sup> from the days of the later Republic. Speculation in Provincial land was only one of their lines of enterprise, combined with banking and usury. As we now speak of the ‘British Colony’ in a foreign city, these *conventus civium Romanorum* recognized certain common interests, and tended to pursue them by mutual support. Out of such informal unions developed the oligarchic senates which were a standing feature of municipal constitutions under the Empire. At first mainly composed of Italians, this Provincial nobility became in course of time more and more local in blood and traditions, owing to the effect of extension of the Roman franchise, intermarriages, and manumissions. But there is no reason to doubt that in general they retained the hard-fisted grasping ways of Roman thrift. Some, transplanted to Rome as imperial senators, are said<sup>2</sup> to

<sup>1</sup> A point well emphasized by Kuhn, *Städtische Verfassung* p 68.

<sup>2</sup> Tacitus *ann* III 55. We must bear in mind that by this movement the local senates probably lost some of their best men. O Seeck II p 167 seems also to have this consideration in mind.