Imperial Inquisitions

PROSECUTORS AND INFORMANTS FROM TIBERIUS TO DOMITIAN

STEVEN H. RUTLEDGE

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FOR MY WIFE,
LORI,
AND FOR MY PARENTS,
FRED AND JANET RUTLEDGE

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PREFACE AND ACKNOWLEDGEMENTS

In the year AD 16 M. Scribonius Libo Drusus, a young man closely connected to the imperial family and recently promoted to the office of praetor by Tiberius, took his own life. He had been accused of, among other things, necromancy – always a very serious legal offense during the Principate. There was never any telling, after all, what mischief could occur when spirits were summoned from the dead. So it has been with this work. There was no way of knowing, when I first commenced research on this project, where the end might lead. *Delatores*: their name is a seemingly indelible stain, after all, on the annals of imperial Rome, one that summons up lurid images of secrecy, repression, and betrayal. But impression rarely has a very harmonious relationship with reality, and it is that reality that this book seeks to excavate. When I first started this project in the fall of 1997, I thought that I was destined to enter a Hobbesian and sinister universe – the Roman Empire's own brand of the Gestapo, à *la* the first century AD. Yet as I proceeded in my research a very different picture of *delatores* and their activities emerged. Rather than simply accepting our sources as honest representatives of the first century AD and understanding *delatores* purely as instruments of repression, should they not be comprehended in larger terms? Ought they not to be set in their deeper cultural and historical context? The approach subsequently led me to a more sympathetic and generous assessment of these characters than scholars have hitherto been willing to give them. While I never intended to write a revisionist history, the sources led me to produce something approximate to one in the final analysis. In the end, the dead had worked their mischief once again.

It would not be easy to thank all of those who helped to make this work possible: all of my colleagues in the Department of Classics at the University of Maryland are owed a great debt of gratitude for their patience and encouragement, particularly Professors Judith Hallett and Gregory Staley. Professors Arthur Eckstein and Kurt Raaflaub had invaluable insights in the beginning stages of this project on how to approach the work, and Mr William Carey, Esq., a good friend and excellent student, offered a lawyer's insights on the Roman legal profession. I would also like to thank Professors Ronald Mellor, John Bodel, and Victoria Pagan for their advice and encouragement in the course of

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ABBREVIATIONS

The following is a list of abbreviations used throughout this study and in the bibliography. Abbreviations for journals are in accordance with those found in *L'Année Philologique*; abbreviations for ancient works follow those found in the *Oxford Latin Dictionary*, the Liddell and Scott *Greek–English Lexicon*, or the *Oxford Classical Dictionary* unless noted otherwise. Citations for *AE* and *SEG* give the year followed by the entry number for the inscription in the given volume.

AC	*Acta Classica. Proceedings of the Classical Association of South Africa*
AE	*L'Année épigraphique*
AHB	*Ancient History Bulletin*
AHR	*American Historical Review*
AJAH	*American Journal of Ancient History*
AJP	*American Journal of Philology*
AncSoc	*Ancient Society*
ANRW	H. Temporini and W. Haase (eds), *Austief und Niedergang der römischen Welt. Geschichte und Kultur Roms im Spiegel der neueren Forschung* (Berlin and New York, 1972–)
Aq.	Frontinus, *de Aquis Urbis Romae*
Ath. Mitt.	*Athenische Mitteilungen*
BAGB	*Bulletin de l'Association Guillaume Budé*
BASP	*Bulletin of the American Society of Papyrologists*
BC	Appian, *Bellum Civile*
BIDR	*Bulletino dell' Istituto di Diritto Romano*
Caes.	Sex. Aurelius Victor, *de Caesaribus*
CAH	*Cambridge Ancient History*
CB	*Classical Bulletin*
CIA	W. Dittenberger, A. Kirchhoff, J. Kirchner, and U. Koehler, *Corpus Inscriptionum Atticarum* (Berlin, 1873–95)
CIG	A. Boeckh, *Corpus Inscriptionum Graecarum* (Berlin, 1828–77)

CIL	T. Mommsen *et al.*, *Corpus Inscriptionum Latinarum* (Berlin, 1863–)
CJ	*Classical Journal*
CodJ	*Codex Justinianus*
CP	*Classical Philology*
CQ	*Classical Quarterly*
CRAI	*Comptes rendus de l'Académie des inscriptions et belles lettres*
CSCA	*California Studies in Classical Antiquity*
CTh	*Codex Theodosianus*
CW	*Classical World*
Dig.	*Digesta Justiniana*
EA	*Epigraphica Anatolica*
EMC	*Études du Monde Classique*
Epit.	*Libellus de vita et moribus imperatorum breviatus ex libris Sexti Aurelii Victoris*
FIRA	S. Riccobono *et al.*, *Fontes Iuris Romani Anteiustiniani* (2nd edn, Florence, 1940–3)
Flac.	Philo, *in Flaccum*
G&R	*Greece and Rome*
HA	*Scriptores Historiae Augustae*
HRR	H. Peter, *Historicorum Romanorum Reliquae*
HSCP	*Harvard Studies in Classical Philology*
IG	A. Kirchhoff *et al.*, *Inscriptiones Graecae* (Berlin, 1875–)
IGRR	R. Cagnat *et al.*, *Inscriptiones Graecae ad res Romanas pertinentes* (Paris, 1901–27)
ILS	H. Dessau, *Inscriptiones Latinae Selectae* (3 vols, Berlin, 1892–1916)
Inst.	Gaius, *Institutiones*
IRT	J. M. Reynolds and J. B. Ward-Perkins, *The Inscriptions of Roman Tripolitania* (Rome, 1952)
JRS	*Journal of Roman Studies*
Just. *Inst.*	Justinian, *Institutiones*
LCM	*Liverpool Classical Monthly*
Leg.	Philo, *Legatio ad Gaium*
M	Tacitus, *Annales* manuscript edition, *codex Mediceus primus*
MAAR	*Memoirs of the American Academy in Rome*
ML	R. Meiggs and D. Lewis, *A Selection of Greek Historical Inscriptions to the End of the Fifth Century B.C.* (Oxford, 1962)
MRR	*Magistrates of the Roman Republic*
NTS	*New Testament Studies*
OCD	*Oxford Classical Dictionary*
OGIS	W. Dittenberger, *Orientis Graeci Inscriptiones Selectae* (4 vols, Leipzig, 1903–5)
OLD	*Oxford Latin Dictionary*

ORF	H. Malcovati, *Oratorum Romanorum fragmenta* (3rd edn, Turin, 1967)
PBSR	*Papers of the British School at Rome*
PCPS	*Proceedings of the Cambridge Philological Society*
Per.	Livy, *Periochae*
PIR	E. Klebs *et al.*, *Prosopographia Imperii Romani* (Berlin 1897–8; 2nd edn 1933–)
PP	*La Parola del Passato*
P&P	*Past and Present*
pr.	*praefatio*, or preface
q.v.	*quem vide* "whom see"; used for cross-referencing in the individual *vitae* to direct readers to other pertinent *vitae* or information in the prosopographical survey
RBPh	*Revue belge de philologie et d'histoire*
RE	A. F. von Pauly *et al.*, *Real-Encylopädie der klassischen Altertumswissenschaft* (Stuttgart 1894–)
REA	*Revue des études anciennes*
RHDFE	*Revue historique de droit français et étranger*
Rhet. Lat. Min.	*Rhetorici Latini Minores*, ed. Halm
RhM	*Rheinishes-Museum für Philologie*
RIDA	*Revue internationale des droits de l'antiquité*
RRC	M. H. Crawford, *Roman Republican Coinage* (Cambridge, 1976)
RSA	*Rivista storica dell' antichità*
SC	*senatus consultum*, a decree of the senate
SEG	*Supplementum Epigraphicum Graecum*
Sent.	Paulus, *Sententiae*
SO	*Symbolae Osloenses*
StClasice	*Studii Clasice*
SZ (also *ZRG*)	*Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*
TAPA	*Transactions of the American Philological Association*
VA	Philostratus, *Vita* of Apollonius of Tyana
Vir. Ill.	*de Viris Illustribus*
WS	*Wiener Studien*
YCS	*Yale Classical Studies*
ZPE	*Zeitschrift für Papyrologie und Epigraphik*

Part I

1

INTRODUCTION

> And when they had bound him, they led him away, and delivered him to Pontius Pilate the governor. Then Judas, which had betrayed him, when he saw that he was condemned, repented himself, and brought again the thirty pieces of silver to the chief priests and elders, saying, I have sinned in that I have betrayed the innocent blood. And they said, What is that to us? see thou to that. And he cast down the pieces of silver in the temple, and departed, and went and hanged himself.
>
> (Matthew 27.2–5)

One would be hard pressed to find a better or more significant example of an informant under the Roman Empire than Judas Iscariot. By denouncing Jesus before the local authorities in Jerusalem, Judas unwittingly planted a seed that was fundamentally to change western society. Yet Judas was only part of a much larger phenomenon, for it was during Tiberius' reign (AD 14–37), according to our sources, that informants and accusers – *delatores* and *accusatores* – began to ply their trade as they viciously attacked those suspected of disloyalty towards their emperor. If Roman authors portray the Early Principate as the establishment of the repressive rule of one man, then *delatores* were the instruments through which Rome and the emperors actively implemented that suppression. The primary aim of the present study is to examine the function and role of *delatores* and *accusatores* under the Early Principate from Tiberius to Domitian. Our sources depict them as a phenomenon unique to the Early Principate, an important part of the terror and despotism Tiberius, Gaius, Claudius, Nero, and Domitian imposed. Yet scholars, with few exceptions, have neglected to undertake any closer examination of this phenomenon, and no work, to date, has subjected the oft-distorted picture our sources draw of *delatores* and *accusatores* to a close and general scrutiny. Nor have they thought to place them in their larger historical, social, and political context.

The central premise of this study is that *delatores* and *accusatores* are reflective of enduring cultural and political values in Roman society; often their actions and motives would have been perfectly understood by Cicero and his republican counterparts. What had changed was the political and legal structure

under which prosecutors worked: the shift to an autocratic form of government, new laws, the makeup of the courts, these were the new structures under which prosecutors functioned. The chief aims of the present study, therefore, are twofold: the first is to offer the reader a particular perspective on Roman history which has not been offered before, that of the Roman who collaborated with the regime and who felt his own interests were closely tied to the imperial court. The second aim is to throw into relief deeper and more enduring aspects of Roman society and politics which, I believe, inevitably leads us to modify the picture of *delatores* and *accusatores* as presented by our sources. Certain aspects of their behavior reflect deeper cultural and political dynamics little changed from the Republic, and both the motives and actions of numerous prosecutors would have been perfectly familiar to their republican forebears. While *delatores* certainly were, at times, a manifestation of the servitude apparently inherent in the Early Principate and sought to curry imperial favor, many who acted as *delatores* and *accusatores* under the early emperors were by no means purely the instruments of tyranny; other factors were at work. The ethos and social forces which drove this activity, including personal enmity (*inimicitia*), a sense of duty towards one's friends or family (*pietas*), the client–patron "system," and the desire for political and social clout and authority (*auctoritas* and *dignitas*), were deeply embedded in Roman society, during both the Republic and the Principate, as were the social prejudices and ethical reservations which lead our sources to depict *delatores* so negatively.[1] Of these, *inimicitia* had a particularly stubborn presence in Roman politics, and was to be a significant factor in prosecutions throughout the course of the Principate.[2] Moreover, the need for oversight in the workings of government and for state security always created a demand for the prosecutor's services throughout Rome's history. The Principate, however, brought with it its own changes which naturally facilitated the activity of *delatores*: the princeps' (i.e. emperor's) assumption of patronage, the need to protect his person, dynastic politics, a superabundance of new legislation, new legal prerogatives bestowed on the senate along with a changing set of demographics in that body, and other factors, introduced a set of new dynamics for the prosecutor. Such a reassessment cannot help but to highlight the palimpsest of social and political considerations which could potentially impel the *delator*'s activity. More importantly, *delatores* are generally considered to have contributed significantly to making the Principate a repressive institution. Yet, even given the significant changes within the changed structural contexts in which Roman prosecutors now worked, a closer examination of the activity of *delatores* shows that during the Early Principate the *delator* played only a limited part in curtailing the freedoms of others – political or civic – over what they were during the Republic.

Despite the vast output of material on Roman history and society of the Principate, scholars to date have not given *delatores* as comprehensive an examination as is warranted for so significant an aspect of Roman culture. The innumerable works on Roman law and history (in particular those studies

dealing with the *lex maiestatis* and Augustus' social legislation) tend to deal with *delatores* only peripherally, although a number of studies, notably Bauman's contributions on Roman law, have helped to fill in some of the gaps.[3] Several recent imperial biographies give *delatores* only a cursory examination, with the distinguished and important exception of Rudich's study of dissidents under Nero (1993), although a number of studies, including Jones's on Domitian (1992), Levick's on Claudius (1990), Barrett's on Caligula (1989) and Agrippina the Younger (1996), and Bauman's on women in Roman politics (1992), include sober and thoughtful treatments of various trials as they relate to their subjects. More recently, Patrick Sinclair's work on Tacitus (1995) has helped somewhat to place *delatores* in their social and cultural context. Rogers' study of criminal trials under Tiberius (1935) still stands as an important resource, though his focus is almost entirely political; his study is lacking in detailed source criticism and he does not set this phenomenon in its larger cultural context. Schumacher's recent work, *Servus Index*, is an excellent (and exhaustive) study, though, as the title of this magisterial book implies, it is limited in its scope. Then there are the numerous works, the *disiecta membra*, as it were, offering scattered bits and pieces analyzing the individual lives and careers of *delatores*, and the trials in which they were involved; as many of these have been brought together as were felt likely to prove useful to the reader, and as were deemed pertinent in reconstructing the individual biography of a particular *delator*. To date, there exists no detailed study in English of *delatores*, and the French and Italian studies which have treated this subject are almost exclusively legal in focus (and Boissier's studies are now rather out of date).[4] Moreover, the studies of Fanizza and Boissier omit any source criticism. The present study, therefore, is primarily a social and political history, which also makes use of literary and source criticism to reconstruct this activity; it is only tangentially a legal study.

The course and context of the study

This study has two parts. The first part constitutes a social and political history of *delatores*. The subject is structured thematically, with each chapter presented chronologically in order to follow the development of this phenomenon. The present chapter introduces the study, examining problems in our sources, and difficulties in defining and identifying just who would be considered a *delator* by a Roman. The difficulty is that we are frequently dealing with a rhetorical construct as much as a historical phenomenon. How do we recognize our subject? Chapter 2 examines delation as a means of social and political advancement: we first examine the social prejudices that inform our sources' depiction of delation. We then look at the financial and political rewards available to accusers with a view to placing the activity in its larger historical context, under both the Republic and the Empire. Set against one another, the Republic and Empire show a general continuity in the rewards – both political

and economic – available to prosecutors throughout Rome's history. In Chapter 3 we argue that imperial *accusatores* were necessary for the smooth and effective workings of government, such as law enforcement at home or checking corruption in the provinces. *Delatores* are much maligned for their prosecution of cases for extortion in the provinces (*repetundae*), yet the numerous accusations under this charge during the Early Principate represent a genuine improvement from the Republic, as Tacitus himself acknowledges. In this chapter, too, we examine the *delator*'s role in implementing Augustus' social legislation; while we do not take exception to the fact that laws such as the Julian law concerning adultery (*lex Julia de adulteriis*) meant that the state intruded into private life as never before, we do try to set such legislation in its larger cultural and historical context. The fourth and fifth chapters consider the role of *delatores* in meeting opposition and resistance to the princeps in the senate and how *delatores* functioned in the context of "factional" politics, such as it was, during the Principate. In these areas the *delator*'s role is difficult to assess, often because the nature and aims of what little opposition there was elude us. What these chapters do show, however, is that there tends to be a general lack of serious organized opposition to the princeps within the senate, and that the attempts of *delatores* to "create" opposition, particularly early in the reigns of Tiberius and Nero, generally fail. Political opponents who do fall by the accuser's sword often do so with good reason. Powerful connections (sometimes with entire provinces or armies) which threaten the princeps, inherited enmities, attempts to destabilize the emperor's regime through various means, and political allegiances contrary to imperial interests, could all mark a man if he did not watch his step. The sixth chapter looks, similarly, at the role the *delator* had as a partisan player in the factional strife that could sometimes tear at the fabric of the imperial house, as was the case during the protracted conflict which set Tiberius and Sejanus at odds against Agrippina the Elder and her family in the late 20s, or the rivalry for succession which caused innumerable difficulties under Claudius. The seventh chapter looks at the *delator*'s role in protecting the emperor's personal security (and by connection the Empire's stability) by uncovering immediate threats to the princeps' life; conspiracies such as those of Libo's in 16, Camillus Scribonianus' in 42, or Piso's in 65, all had to be checked. Readers with some familiarity with this subject will note that this study does not attempt to set *delatores* – some of whom were orators of great repute – in the context of the development of Roman oratory; the reason for this is that we have already discussed in detail *delatores* as orators elsewhere (Rutledge 1999: 555–73). It suffices to point out that it has long been held that *delatores* established a new, more violent type of oratory in the first century. Set in their larger context, however, the style of oratory attributed to them in the first century AD differed little from that of their republican forebears. In the Epilogue we look briefly at the continuation of delation under the later Empire, and touch on points of contact between delation and analogous forms of

behavior in other societies, including our own, with a view to setting this subject in its larger ethical, historical, and political context.

The second part of this work is a prosopographical survey of those who acted or may have acted as *delatores* from the reign of Tiberius through Domitian.[5] This is intended primarily to be a reference guide for the reader, and will be cited frequently throughout the course of this study.[6] In the interest of reducing excessive inter-textual references, I advise readers that any information or assertion not documented in the course of the first part of this study can be found complete with source citations in the individual *vita* of a *delator*. Throughout the whole of the study all translations are my own, with the exception of translated passages from the King James version of the Bible. Some, but not all, of the Latin and Greek has been translated in the notes, and passages left in the original Greek have been transliterated. The reason for this is that while the body of the work as a whole is aimed at a general audience, footnotes are directed at a more specialized reader. Dates, unless otherwise noted, are AD.

We concentrate on this time period (AD 14–96) not only because of the relatively abundant documentation for it, but because our sources, such as Tacitus, Pliny, and Dio, give particular attention to the activities of *delatores* throughout their works. There are instances, however, where this chronological framework will be broken; this is necessary, most obviously, because one of the central premises of this study is that the activities of *delatores* and *accusatores* reflect abiding cultural and political trends in Roman society. In revising our view of their activities, it is necessary not only to look occasionally at their forebears under the Republic, but also to consider this activity under so-called "good" emperors, such as Augustus and Trajan. It should be noted, however, that this work will not attempt to analyze the vast number of criminal prosecutions from the Republic, many of which were politically inspired; nor will it attempt to scrutinize the scope of *maiestas* (treason) laws in both periods, unless immediately relevant to our discussion, since these areas have received ample (not to mention recent) attention.[7] It will be necessary, however, to make periodic references to the republican period, and occasionally detailed discussion will be required. Finally, it must be noted that this study is not a comprehensive survey of all the criminal trials that took place during the Early Principate. We will only investigate those depicted as *delationes* or in which *delatores* or *accusatores* took part, i.e. prosecutions which our sources depict as in some way malicious or vindictive, or which supposedly contribute in some way to the repressive nature of the Early Empire.

Sources

Our sources for *delatores* and *accusatores* are numerous, diverse, and often far from well disposed towards them; each of these sources and the problems they

present will be discussed at the relevant points of this study, but some initial words of caution are necessary. For the Republic our major sources include Cicero, Livy, and Sallust. Each of these writers has certain encumbrances of a political, historical, or literary nature. There is no doubt, for example, that Cicero's depiction of accusers from the time of Sulla in his rhetorical treatise, the *Brutus*, was influenced by his own experiences with certain characters from that period, such as Chrysogonus and Erucius. Livy's representation of informants in the Early Republic is generally anachronistic, at times clearly influenced by more recent events; hence the conspiracy to recall Tarquin in 509 BC reveals the influence of both Cicero's and Sallust's depiction of the Catilinarian conspiracy of 63 BC (see Appendix 3, p. 308). Other sources for the period, including Dio, Appian, Asconius, Plutarch, Valerius Maximus, and Plautus, tell us something concerning this phenomenon; again, each of these sources presents its own set of difficulties which will be addressed as they occur.

For the Principate our situation becomes still more complicated. We have no direct sources from those who are noted as *delatores* in the historical and literary record – no memoirs, no rhetorical treatises, and no speeches survive directly from the hand of a *delator*, even though they did circulate. Recourse to secondhand accounts is necessary. Among these, Tacitus, Pliny, Juvenal, Dio Cassius, Plutarch, Quintilian, both the elder and younger Seneca, Martial, Velleius Paterculus, and Suetonius are the most important, especially given that they were contemporaneous (or closely contemporaneous) with *delatores*. The difficulties these sources present, however, are manifold, particularly Tacitus, Pliny, Juvenal, and Suetonius, all of whom have a particular agenda and are generally hostile to *delatores*. Caution is therefore necessary, particularly in the case of Tacitus. The recent discovery of the *Senatus Consultum De Cn. Pisone Patre* (the decree of the senate concerning Cn. Piso Pater), for example, has revealed the extent to which Tacitus will manipulate the presentation of a trial to further vilify the princeps.[8] In addition, Tacitus' presentation of court cases is not infrequently vague, and he sometimes deliberately suppresses details or emphasizes them according to his own interests and biases in such a way as to hinder our understanding of individual prosecutions. For all that, he is an invaluable witness who tells us more than any other source about the progress and development of this activity. However, he needs to be used at times with circumspection, especially in light of other sources which tend to give certain *delatores* (relatively) more favorable press, such as Quintilian (in the case, e.g., of Domitius Afer), or Seneca the Elder (in the case of Junius Otho or Bruttedius Niger). The sources demand scrutiny, caution, and vigilance.

In addition to the literary and historical sources, there is also the occasional inscription that tells us something about the course of a *delator*'s career. Such is the case with Eprius Marcellus; we would have no knowledge of his exceptional tenure in the province of Asia and his holding of three priesthoods were it not for the discovery of an account inscribed on stone (*ILS* 992). And, not least, there are the vast *codices* of Roman law, the most important of which is the

Digest of Justinian, which gives us a record of the laws that regulated and enabled both informing and prosecuting under the Empire. The use of our legal sources, however, is not without its problems, given that most of these are late, composed (or compiled) well after the period with which we are concerned; they must not be used without some reservations.[9]

The subject: defining the *delator*

It is important to note from the start how fluid and amorphous the term *delator* is, encompassing not only *accusatores* who prosecute in the senate, but the backroom courtier or freedman who denounces an individual privately to the princeps, the witness (*testis*) willing to embellish testimony, the informant (*index*) who names names with particular relish, and the numerous anonymous accusers who will have taken advantage, for example, of the *lex Papia Poppaea* to denounce others and about whom we know virtually nothing. Yet despite the amplitude of sources attesting to the activity of *delatores*, there is nonetheless no simple dictionary term for whom the Romans considered a *delator* or *accusator* in the sense that students of Roman history have come to know the word, and this creates a methodological difficulty for our study; the term needs discussion. The word *delator* comes from the phrase *nomen deferre*, meaning either to lay information or to accuse, since the individual who initially denounced another individual before a magistrate (that is, who informed against an individual) could also be (but was not necessarily) the one who conducted the prosecution. In general, during the Republic, the verb referred to the initial presentation of the defendant's name before the appropriate magistrate, or to the actual prosecution itself.[10] The noun *delator* does not appear at any time under the Republic with the sense that it did during the Empire; instead *quadruplator* and *index* were the words used to describe infamous informants and accusers. The *quadruplator* is initially attested to in Plautus (*Pers*. 61–74), and, while its meaning is controversial, seems to refer to an accuser who made a habit out of this activity and prosecuted others for the sake of gain.[11] An *index*, on the other hand, almost always refers strictly to an informant, such as Vettius or Q. Curius, both of whom were involved in the Catilinarian conspiracy. The *index* has direct information, is himself actually involved in the crime, and denounces but does not prosecute it – unlike the prosecutor who could, but did not necessarily initiate a case by a preliminary denunciation before the appropriate magistrate, and who had no involvement in the legal transgression he prosecuted.[12] It should be noted that while the word *index* tends to be relatively neutral *quadruplator* tends to have a distinctly negative value, as did the term *delator* later on, although this is not always the case. It is apparent that our imperial sources sometimes thought of an *index* as a *delator*.[13] Because the *delator* could often operate both as an informant and as a prosecutor, I have felt it necessary, at certain points in this work, to include a discussion of both the *quadruplator* and *index* under the Republic, since both their behavior and function in Roman

society could sometimes be reflected by *delatores* during the Principate. But how did Romans understand the term *delator*? And what criteria did the Romans use for recognizing someone as such?

Delator as a noun does not appear until the time of Augustus, where Livy uses the word in reference to Roman officials sent to Greece to gather intelligence (45.31.10); the word, as Livy uses it, has an apparently neutral value. After Livy the word virtually disappears for a time – it is found nowhere in the Augustan poets, just once in Seneca – and only re-emerges towards the end of Domitian's reign, in Martial, Quintilian, Tacitus, Pliny, Suetonius, and Juvenal.[14] Scholars have used the word almost universally without any attempt to define what our sources understood by it, though some, such as Syme (1958: 326–7) and Sinclair (1995: 12–15), rightly note that *delatores* and *accusatores* must be understood on Roman terms, not our own. Few scholars, however, have ever bothered to define the term or consider its meaning more closely. Avonzo attempts to distinguish between the terms *accusator* and *delator* in our sources, arguing that, strictly speaking, a *delator* lays information before the magistrate, while an *accusator* prosecutes.[15] The difficulty with such a distinction is that our imperial sources use the two words synonymously and never rely on strict legal terminology. For Tacitus the *delator* and *accusator* are synonymous and both terms could apply to any number of activities.[16] Either word could refer to one who denounces or lays information, the one who prosecutes, or both; indeed, the term can arguably be extended to include those acting as a witness against someone with whom our sources sympathize.[17] In our own investigation of this phenomenon we shall approach our subject on the same terms as did our sources, which generally used these terms not as legal ones, but rather as encoded terms understood to include a certain recognizable type of behavior or individual. There is, consequently, no set of objective criteria with which to classify an individual as a *delator* or *accusator* – both words are loaded and imprecise. Indeed, it is more a matter of how our sources present a particular accusation than an accusation *per se* that defines for us who was considered a *delator*.[18] We are forced, consequently, into the realm of rhetoric in reconstructing this phenomenon, since the term is subject to "polemic, abstraction, and ideological manipulation," a not infrequent problem faced by the legal profession in more than one society.[19]

We are certainly not the first to recognize this. Mommsen noted (1899: 493 n. 2) that *delator* and *accusator* were, in part, rhetorical terms loaded with negative connotations. Walker (1960: 101) has identified the typological nature of these words, noting three distinctly negative character "types" under which she categorized Tacitean *delatores*: "the corrupt noble, the man too impatient for an honest career, and the lowborn hanger-on." Martin has also remarked that there is a decidedly rhetorical coloring to the word and that Tacitus uses it polemically when the text simply will not support the sinister twist he tries to impose on events.[20] Tacitus appears to support the claim that the *delator* must be understood to be as much a rhetorical construction as a historical phenome-

non; this point is perhaps best illustrated through his characterization of Caepio Crispinus, who provides a virtual textbook example of a *delator*. Early in Tiberius' reign Caepio, Tacitus tells us, created a pattern of life that was to be followed by others:

> Not much later Caepio Crispinus accused Granius Marcellus, the former praetor of Bithynia under whom Granius had served as quaestor, of treason, with Romanus Hispo acting as supporting prosecutor: this man entered upon a form of life which the miseries of the times and the daring of men afterwards made famous. For without means, unknown, restless, while he wormed his way into the princeps' cruelty by secret letters, he soon endangered each man of most illustrious rank. Having obtained power with the princeps, he won hatred among all. He gave an example which made those who followed it rich men from poor, men to be feared instead of despised; they destroyed others and afterwards themselves. But he was accusing Marcellus of having held sinister conversations about Tiberius, an inescapable charge, since the accuser chose the most vile aspects of Tiberius' character to cast against the defendant.
>
> (*Ann.* 1.74.1–3)

There, in Tacitus' description of Caepio, is the archetypal *delator*.[21] He is one who is a fierce opportunist, a ruthless careerist who will climb to the top and create peril for all who cross his path, who disregards danger to himself, who gains access to the princeps' ear. He is lowborn, advances from poverty to wealth, and is a threat to those of high rank (*clarissimo cuique*). In short, *delatores* constitute a negative social category, often constructed based on the social and political prejudices, as well as the status-conscious nature of Roman society; it was a way Romans communicated with one another concerning perceived abuses of the legal system and of political privilege as well. Tacitus' presentation communicates a complex nexus of social, ideological, and political values through which his readers would readily identify certain behavioral patterns as constituting a negative character portrayal. Tacitus intended his portrayal as a guide for recognizing this type of character, and therefore helps us to define our subject, although some modification is necessary.

I have used Tacitus' depiction of Caepio, in part, as criteria in picking and choosing those I include for analysis in this study, and for inclusion in Part II. It is worth noting that our reliance on Tacitus for a definition by no means confines us exclusively to Tacitus, and that this character type is recognizable elsewhere, in sources ranging from Philo to Juvenal. One of the reasons we rely on this particular example is that Tacitus and our other sources do not always use the word *delator* (or even *accusator*) to describe an individual as such, instead letting their actions or their presentation speak for themselves. Any number of criteria may be used to categorize an individual as a *delator*. First, as

the case concerning Caepio above shows, anyone of lower status or *dignitas* than the accused could potentially be considered a *delator*.[22] One of the essential rubrics for recognizing *delatores* is profit motive – in the form of either financial gain, political advancement, or both; *de facto* the *delator* works against senatorial interests (see below, p. 22). These rubrics appear in Tacitus' portrayal of Caepio and present little difficulty in helping us to identify individuals as *delatores*. The accusation must also be cast in a sinister or malicious light, and need not always entail success. Here we meet the sources on their own ground, including individuals whom our sources clearly considered *delatores* but were not necessarily deserving of the name. In such instances presentation becomes everything.[23] Not infrequently the term *delator* can even encompass one who steps beyond the bounds of a *delator* and into the role of *calumniator*, a false accuser, who simply assists in setting up the legal fiction of a kangaroo court (see e.g. Eucaerus' *vita*). A *calumniator*, however, *de facto* starts off as a *delator*, only to end up as a *calumniator* when his case is lost.[24] Consequently, the status of a *delator* is far from static; it is fluid, prone to external conditions that are subject to change. As such, scholars mislead when they refer to the "profession" of *delatores*; as Rudich (1993: 241) has noted, "today's dissident could tomorrow play the *delator*" (see e.g. the *vitae* of Aemilius Scaurus and Antistius Sosianus).[25] Moreover, one may have an otherwise illustrious career, yet leave a blot on it by a single prosecution which could be perceived as unbecoming to one's *dignitas* (see e.g. the *vitae* of Cornelius Dolabella and Plancius Varus). Taking our cue from Rudich (1993: 240), who notes that "One cannot classify dissident individuals on any formal principle except that of their external circumstances," we might easily note the same of their opposites who collaborated with the court. In summation, the term *delator* is one our sources used broadly, and it is sometimes difficult to apply a strict set of principles that will encompass all of the rubrics set forth, or that will satisfy all critics. Rudich sagely noted in his study of Neronian dissidents that the dissident's definition as such was, in essence, a matter of attendant and external circumstances. A variant of this truth obtains for *delatores*, who frequently defy classification on the basis of any strict formal principle except that of rhetorical presentation. Because *delatores* represent a distinct social category, it is apparent, for the most part, which individuals would be considered as such in our sources.

The *delator*, then, is a negative construction; it is a term of abuse for those involved in some capacity in the Roman legal system, similar to our own derogatory terms such as "shyster" or "ambulance-chaser" for those who practice law.[26] We can base our definition of the *delator*, for the most part, on the above considerations. But the *delator* is arguably as much deconstructed as constructed by our sources through the use of heavily rhetorical language to make *delatores* appear "un-Roman," to show that they stand in opposition to the ethos of the senate, even to Rome itself. In so doing, our sources call into question not only the legitimacy of *delatores* themselves, but by implication the legitimacy of the power structures with which they collaborate. Our sources, moreover, not

satisfied with merely depicting the *delator* as going against the current of the senatorial or Roman ethos, in addition depict *delatores* as "the Other," as something which stands even outside of human society. A selective array of images and metaphors are used to delegitimize and dehumanize, to make the *delator* "not one of us."

One of the ways this is achieved is to make the *delator* stand on the boundaries of society, to portray him as one who does not recognize traditional Roman mores and violates the social bonds which hold society together. Hence, in the *Dialogus*, Tacitus remarks that neither Eprius Marcellus nor Vibius Crispus were outstanding for their character (*neuter moribus egregius*, 8.3), and Tacitus mentions Vibius in the *Historiae* as ranked "among the distinguished rather than among the good" (*inter claros magis quam inter bonos*), and, significantly, as one of the "few and powerful" (*pauci et validi*) who stand opposed to the "many and the good" (*multi bonique*). The use of *mos* and *boni* surely indicates that Tacitus sees both as standing outside the traditional (perceived) ethos of senatorial solidarity, setting them apart on account of their collaboration with the imperial court. Tacitus' negative portrayal of Antistius Sosianus (*Hist.* 4.44.2), whose depravity of character (*pravitas morum*) is duly noted, again recalls his portrayal of Eprius and Vibius (*Hist.* 4.43.2). The *delator* is also made to stand outside the senatorial tradition which takes pride in its freedom (*libertas*), as was the case when Salienus Clemens attacked Junius Gallio, an action Tacitus views as motivated, in part, by flattery (*adulatio*), hence servility (*Ann.* 15.73). Again, the *delator* violates the nobility and traditions of his family, as was the case when Dolabella joined Domitius Afer in his prosecution of Claudia Pulchra in 27, who, asserts Tacitus, was going to destroy his own blood kin (*suum sanguinem perditum ibat*, *Ann.* 4.66.2). Even outside the senate, *delatores* of lower status are no less prone to depiction as creatures who break the strict social bonds that govern Roman society, something to which Pliny alludes again and again in his *Panegyricus* (see below, p. 33). Most striking in this regard is Egnatius Celer, whose ability to dissimulate bears a stark resemblance to Tacitus' portrait of Tiberius (*Ann.* 1.4.4; 11.4), and thereby sets him in direct opposition to senatorial interests: "In his demeanor and in his face he was skilled in expressing the image of a good man, but he was utterly treacherous in his mind, deceitfully hiding his greed and lust" (*Ann.* 16.32.3).

The attempt to delegitimize the *delator* takes on a much more dramatic form in our sources, since his behavior is often equated with lawbreaking; prosecutions are frequently referred to as crimes (*scelera*), and *delatores* are depicted as destroying, rather than enforcing, the very legal bonds they in theory ought to protect.[27] The equation of *delatores* with criminal and even (to the Romans) sexually deviant behavior appears to have been a common and natural one, and the term itself was clearly one of abuse, as Martial's epigram against a certain Vacerra attests (11.66):[28] "You are a *delator* and false accuser, / And you're a swindler and a dealer, / And you're a cock-sucker and gladiator trainer. I wonder / Why you don't have cash Vacerra." When not depicted as blatantly criminal,

the *delator* is at least portrayed as rash or shameless, as is the case with Junius Otho and Cossutianus Capito.[29] Finally, it is worth noting that many of the terms Tacitus uses for *delatores* and *accusatores* have contemptuous associations that border on the criminal, such as *condemnator* (a procurer of condemnations), *criminator* (slanderer), or *calumniator* (false accuser).[30]

Perhaps the most striking imagery deployed against *delatores* is that of delation as a disease, or as something emblematic of filth, pollution, or madness.[31] The image of disease first arises in the metaphor Tacitus uses to describe the denunciation of Scribonius Libo Drusus in 16. Introducing the case, Tacitus remarks that, "Then for the first time were discovered things which ate away (*exedere*) at the state for so many years"; the word *exedere*, "to eat away," is generally used for wasting disease, and here refers to Firmius Catus' alleged entrapment of Libo (*Ann.* 2.27.1).[32] Again, when Tacitus introduces Domitius Afer's and Cornelius Dolabella's attempt to prosecute Quintilius Varus he uses pointed medical terminology stating that "In such a way did the violence (*infestior vis*) of the accusers proceed (*grassabatur*) daily greater without alleviation (*sine levamento*)" (*Ann.* 4.66.1).[33] Making a similar comparison, Pliny uses the image of surgery to describe the punishment of *delatores* in his address to Trajan: "You have cut out (*excidisti*) an internal evil and taken precautions with providential severity that the state founded on laws not appear ruined by them" (*Pan.* 34.2). The image of defilement and filth to describe *delatores* is more common still. Thus Tacitus stated that Junius Otho polluted (*propolluebat*) his already obscure origins through delation (*Ann.* 3.66.4), and the lowborn Vatinius (*Ann.* 15.34.2) is remarked as among the foulest things (*inter foedissima*) at Nero's court.[34] Imperial authors also draw on the image of madness or mental instability. Hence Tacitus' depiction of Caepio as restless (*inquies*) is echoed again in his presentation of Antistius Sosianus, who is referred to in similar terms (*Ann.* 16.14.1).[35]

Finally, the *delator* is portrayed as a destructive force in general. Tacitus therefore includes the activities of *delatores*, along with civil wars and natural disasters, as among the more horrific events of his *Historiae* (1.2.3): "Nor were the *delatores*' rewards hated any less than their crimes, since some having obtained priesthoods and consulships as spoils, others procuratorships and access to the imperial court, they conducted and swayed all things through hatred and terror." Considering that in this particular passage Tacitus puts *delatores* at the end of the list of disasters his *Historiae* will encompass, including Vesuvius' eruption and the burning of the Temple of Jupiter on the Capitoline, building as it were to his final crescendo, it is not unthinkable that he believed *delatores* the most destructive element of all, surpassing the horrors of war and natural catastrophe. *Delatores* are consequently elevated to a vast, destructive force. It is not surprising, then, that Tacitus and other Roman writers frequently used images of violence or destruction to describe them; hence Baebius Massa is destructive for every man of the highest rank (*optimo cuique exitiosus*, *Hist.* 4.50.2). Juvenal describes Valerius Catullus Messalinus as deadly (*mortifer*), a

word rarely used for people, more often describing weapons, disease, and war (4.113).[36] Sometimes the image was expressed in quite vivid terms, as when Curiatius Maternus described *delatores* as employing "gain-getting and bloody eloquence" (*lucrosae huius et sanguinantis eloquentiae*, Tac. *Dial.* 12.2), or when Marcus Aper compared contemporary oratory to a full panoply of military equipment (Tac. *Dial.* 5.5–7). More ghoulish is Curtius Montanus' portrayal of Regulus' *delationes* under Nero, in which he accused him of "seizing the spoils of consular victims from the corpse of the state" (*ex funere rei publicae raptis consularibus spoliis*, Tac. *Hist.* 4.42.4).[37] This element of destruction is developed further in the almost bestial qualities that our sources attribute to *delatores*. Tacitus' depiction of Eprius Marcellus as violent and threatening (*torvus et minax*) is exemplary, since the adjective *torvus* in particular summons up images of a fierce animal.[38] Any one of these images could serve to delegitimize, dehumanize, and denigrate *delatores*, to differentiate further, in other words, the *delator* from his non-*delator* counterpart. Most important of all, by calling into question the legitimacy and legality of their activities, our sources are at the same time calling into question the legitimacy and authority of the regime which they serve.[39]

There are numerous reasons for the negative presentation of *delatores* in our sources, including questions of status, class, and senatorial solidarity against the princeps, and these questions will be explored as they arise in the course of the study. One of the most fundamental reasons for the dim view Tacitus, Pliny, and others take of prosecution is simply a matter of morality. Accusation appears to have always been an ethically dubious undertaking and the revulsion felt by Tacitus and Pliny under the Empire at those who pursued it "professionally" was by no means unique to their age. Cicero, our main source for this activity during the Late Republic, by all indications, felt accusation generally unethical and something to be avoided, for while he noted that it could indeed make a reputation, he also remarked that prosecution ought to be undertaken only under certain circumstances.[40] Pursuit of such activity could become an embarrassment for the accuser's family, as Cicero indicates it was for M. Brutus', if it was turned into a habit (*Brut.* 130). But even if it was not the habit of an individual to accuse, it was necessary to justify at length the acceptance of a case for the prosecution, as Cicero illustrates by his apology for taking up the accusation against Verres in his *Divinatio in Caecilium* (*passim*). That prosecution was a questionable activity is by no means in doubt; there is an inherent bias against the accuser in Rome in Cicero's day that was carried over into the Empire and left its mark on our sources.[41] Quintilian expressed similar moral reservations concerning prosecution, although whether, as some have contended, his reaction was in response to the activities of *delatores* in his own day is difficult to say, since, as Cicero seems to show, the concern was one apparently embedded in the Roman psyche. Quintilian's insistence that the orator be a man of integrity, his diatribes against those who employ violence, his inveighing against those who are harsh in their attacks and employ a purchased

voice (*mercennariam vocem*, 12.1.25), and against those who use eloquence to destroy their fellow man (2.20.2), all seem to point to contemporary concerns over the activities of prosecutors.[42] It is only on rare occasions, however, that Quintilian addresses the ethics of accusation explicitly.[43] Hence in book eleven he remarks that the orator who prosecutes needs to show that he does so only with the greatest reluctance (*Inst.* 11.1.57). In addition, any concerns Quintilian had over accusation were qualified by his own admission that it was a necessary and important activity for the welfare of the state (12.7.1–3), and warns that an orator should not shudder so much at taking up an accusation that he neglects his private and public duty, and that the laws themselves will not prevail unless protected by a man of suitable skill. He further admonishes that not to seek punishment for crimes is virtually to permit them, as though good men were giving license to the wicked; the orator will not suffer the complaints of allies, of friends, the deaths of loved ones, or conspiracies about to erupt against the state to go unavenged. But, he qualifies, to live the life of an accuser and to be induced to denounce defendants for a price is akin to banditry (*latrocinio*).

There were, however, exceptional circumstances when prosecution was certainly acceptable. During both the Republic and the Principate it was generally permissible for a young man, trying to make a name for himself, to act as prosecutor.[44] *Pietas* in avenging the wrongs done to friends and family was yet another acceptable motive.[45] Senators who were appointed by the princeps or senate to prosecute stood on potentially more dubious ground, but still, such prosecutors appear to have been generally tolerated; a prosecution enjoined on a senator simply did not carry the stigma of one voluntarily undertaken.[46] Thus Pliny, when relating the case of Marius Priscus which he prosecuted with Tacitus, is careful to note that it was not a case the two took up of their own accord, even though the provincials had been seriously wronged (*Ep.* 2.11.2).[47] Prosecution on behalf of clients, including provincials, was also an acceptable motive for prosecution, though the ethics of such prosecutions as our sources present them are not infrequently situational, depending on the accuser and the accused. Tacitus and Pliny both have a tendency to suppress these exceptions in their portrayals of individual trials, even though both acknowledge their place in the motives of prosecutors. Tacitus, for example, as much as he excoriates those who prosecute *de repetundis* (see e.g. *Ann.* 3.66), elsewhere remarks that such prosecutions add to the *clientelae* and *auctoritas* of the orator (see e.g. *Dial.* 5.4). It is therefore important to do what Tacitus does not – to examine prosecutions in light of their larger cultural and political dimensions.

The process

It was noted at the outset of this chapter that this is, above all, a political and social, not legal study. Nonetheless, it will be useful to review in brief the actual steps of a "typical" prosecution, to appreciate how someone such as Vibius

Crispus or Fulcinius Trio pursued his case. During the Republic trials for senators had taken place before individual courts (*quaestiones*), depending on the offense, and juries consisted of senators, *equites*, and *tribuni aerarii*, although some offenses were tried before a people's court (*iudicium populi*). In the time of Augustus, the jurisdiction for senatorial offenses was transferred to the senate itself, which became responsible for trying its own members. Individual *quaestiones* continued to exist for certain offenses, but this did not prevent the senate from taking up charges that belonged, strictly speaking, to those courts.[48] Senators, their wives, and others of high status (*inlustres*) prosecuted for adultery, for example, appear to have been tried, for the most part, before the senate despite the existence of a separate *quaestio* set up by the *lex Julia de adulteriis*.[49] What steps did a *delator* take to prosecute a case in the senate? His first step was to approach the magistrate with authority to summon the senate, either one of the consuls or the princeps himself (see e.g. Tac. *Ann.* 3.10.1), who then decided whether or not to refer the matter to the senate and considered whether there was enough information against the accused for a case to proceed (see e.g. Tac. *Ann.* 3.12.10). A *subscriptor*, or fellow prosecutor, could be joined to the prosecution, and a *divinatio* (a pre-trial hearing) held which decided who had the greatest claim to undertake the prosecution, what charges the individual accusers would prosecute, and occasionally how the rewards would be divided. If there was more than one charge the main *accusator* and *subscriptores* handled them separately, as in the case of Cn. Calpurnius Piso, in which Fulcinius Trio attacked his previous career, while the other prosecutors handled the case for treason and murder. The *delator* who initially denounced an individual before a magistrate did not necessarily obtain the *ius perorandi* (right of speaking first against the accused); it was not, for example, Firmius Catus or Fulcinius Trio who spoke first against M. Scribonius Libo Drusus despite their initial involvement in the case, but Vibius Serenus (Tac. *Ann.* 2.27–30). After the *delator*'s denunciation, an investigation (*inquisitio*) followed, during which the prosecution gathered evidence for the case, a process which could take from several days up to several months (see e.g. Tac. *Ann.* 3.38.1; cf. 3.70.1). With some exceptions, during this period the accused was rarely imprisoned. The case was then tried before the senate sitting as a court of law, with the consuls, princeps, or city praefect as the presiding magistrate. The prosecution generally began with a statement of the charges (Tac. *Ann.* 2.29; Dio 60.16.3), and a decision was then made whether to handle the charges separately (if they were multiple) or not, as was the case in C. Junius Silanus' trial in 22 (Tac. *Ann.* 3.66–9). In *repetundae* cases provincials would sometimes speak alongside the accusers (see e.g. Tac. *Ann.* 13.33). A certain amount of time was allotted to the defense and prosecution (which spoke first) to state their cases, but this was at the discretion of the magistrate (see e.g. Tac. *Ann.* 3.13.1). After opening speeches, documentary evidence was then brought forward, such as the documents in Libo Drusus' hand containing "alarming and secretive marks" (*atroces vel occultas notas*) next to the names of the Caesars and

certain senators (Tac. *Ann.* 2.30.2); in addition, there were also statements extracted from witnesses of lower status which could be presented in evidence (Tac. *Ann.* 2.30.3). The consequences could be severe if at any time the *accusator* abandoned or lost his case.[50] Once the prosecution was finished the senate voted openly as a court concerning condemnation or acquittal. If there was a condemnation, rewards could be voted by the senate or bestowed by the princeps. It is important to note that there were occasional and important exceptions to the procedure just outlined above; most notably, trials were on some occasions conducted not before the senate, but before the princeps himself within his imperial residence (most infamously under Claudius), and trials were sometimes very summary in nature (as in the case of Titius Sabinus). These and other exceptions will be noted as they occur in the course of the study.

Finally, it must be emphasized that the *delator* – as was the case for any advocate during the Republic as well – could and did make his case without adhering to strictly legal arguments. Cases were argued from probability, and the defendant's entire life was fair game for the Roman prosecutor to exploit. A good lawyer could acquit his client by introducing a myriad of details not immediately relevant to the case. Cicero gives us numerous examples of how this was achieved, the *pro Caelio* being the example *par excellence*, in which Cicero dismissed in a few short paragraphs the charges with which Caelius was accused (and of which he was probably guilty), and spent the remainder of the oration attacking the character of Clodia, who had brought up the prosecution. The nature of Roman prosecution, therefore, in which intangibles such as character and probability come into play, and in which the whole life of the accused is fair game, should make us cautious about judging imperial prosecutors' cases with strictly legal criteria. The strengths and weaknesses of a case would occasionally depend not on how well a *delator* could prove legal transgressions, but on how effectively he could impugn the character and life of the defendant, and argue based not on fact but on probability that the defendant was guilty as charged.

Conclusion

For Tacitus, Pliny, and others, the *delator* was not a complex creature; Tiberius, Nero, Domitian, all supposedly went, in one way or another, against senatorial interests. The *delator* sided with the princeps and was one of the *pauci et validi* who stood in full panoply against the *multi bonique*; *libertas* was set against "tyranny without end" (*dominatio sine fine*), the powerful (*potentes*) against those "from that senate which was subservient together" (*ex illo senatu qui simul servierit*, Tac. *Hist.* 4.8). Even when these clearly-set terms become blurred, as in Eprius Marcellus' apologia for his collaboration with Nero, or Tacitus' own confession in the *Agricola*'s peroration to siding with the *delatores*, the *delator* remains a force for destruction, which sucks the senate with him into a moral abyss, firmly planting his heel on liberty's neck. A closer scrutiny reveals a much

more complex reality; cultural and political structures deeply embedded in Roman society, often neglected or elided by our sources, are frequently at work. While there is no denying that the principate of a Gaius was indeed harsh and the behavior of a Nero offensive, the level of involvement of *delatores* in the implementation of any repressive measures during the regimes of the Early Principate is very much open to question. Against the senatorial claims of liberty in our sources stand charges of genuinely criminal behavior – fomenting sedition and discord within the senate, plotting revolution, violence against provincials – on the part of individual senators, while behind the claims of free expression there conceivably lurk deep enmities and crimes against the princeps which potentially threatened his security – and *de facto* the stability of the state. Contrary to the presentation of our sources, the *delator* is generally neither a criminal element nor a force for destruction, but one that maintains stability through law enforcement and service to the princeps. If we are to abide by the claim that the Early Principate was repressive or tyrannical in nature, we must perhaps look for the instruments of that tyranny elsewhere.

2

POLITICAL AND SOCIAL ADVANCEMENT

> There was more savage cruelty in the city: noble birth, wealth, offices not held and held were subject to a criminal charge, and virtue brought most certain destruction. Nor were the *delatores*' rewards hated any less than their crimes; with some having obtained priesthoods and consulships as spoils, others procuratorships and access to the imperial court, they conducted and swayed all things through hatred and terror.
>
> (Tacitus, *Historiae* 1.2.3)

> The old Stoic *delator*, nurtured on that shore
> Where the Gorgon's winged steed fell to earth,
> Slew his friend and pupil, Barea.
> There is no place here for any Roman, where
> Some Protogenes or Diphilus or Hermarchus rules.
>
> (Umbricius in Juvenal, *Satire* 3.116–20)

As the man made his way through the huddled throng outside the theater his attendants parted the crowds for him. Those in the know paused and put their hands to their mouths, pointing at the man and his retinue, and whispering to one another in tones ranging from admiring awe to bitter disapproval. To be the object of such attention was a new experience for Fortunatus, a man born into servitude who had made his way in life and eventually purchased his freedom. Now, as he entered with his attendants, the theater was humming, and many eyes were upon him as he took his seat among the official attendants of the tribunes (*inter viatores tribunicios*) for the first time – a seat Fortunatus had purchased with blood. Fresh in the crowd's mind was Fortunatus' betrayal of his former master, turned patron, L. Antistius Vetus, a well-connected man of consular standing whom he had charged with conspiracy against the princeps.[1] In the back of the theater a disgusted and resentful Umbricius, having seen enough, went home to pack his belongings: "There is no place for an honest living in this city!" (*artibus honestis nullus in urbe locus*, Juv. 3.21–2).

The previous scenario is admittedly a composite fiction, but has a social and historical basis that was all too real. The lament over lucrative eloquence (*eloquentia lucrosa*) and the low status of those who profited from it is a collectively recurring mantra in Tacitus, Pliny, Quintilian, Juvenal, and Seneca the Elder. Throughout our sources the *delator* is generally depicted as lowborn, clawing his way to the top from an ignoble start in life, gaining wealth along the way through sordid means; the attitude is typified by a scholiast's note to Juvenal 3.29.[2] There Umbricius bids farewell to a city where the likes of Catulus, a *delator* under Domitian, thrive; the scholiast describes Catulus as lowborn and base (*ignobiles et sordidos*), as one who lives by means of evil occupations (*malis artibus*), and who had become rich through disreputable means (*ex sordidis rebus divites*). The general impression is supported by imperial authors such as Pliny, and by Tacitus in particular, whose typological depiction of the *delator* has already been discussed in the introduction (see above, p. 11). Yet whether our sources realized it or not, they were not referring to a strictly imperial phenomenon. Throughout Rome's history prosecution could prove an attractive proposition: it could lead to financial enrichment, further one's career through offices or insignia, restore civic status, and, perhaps most importantly, give a generous boost to one's *auctoritas* (prestige) and *dignitas* (honor) in the senate, while under the Empire it could, in addition, procure access to and influence with the princeps.[3] Even for the lowest orders, it could mean freedom (for slaves), or power beyond what one's status would normally allow (as in the case of freedmen).[4] The *ad hoc* nature, however, of cash and official rewards made prosecution a less than certain guarantee of profit; as is still the case today in our own society, the rewards for prosecution were contingent, depending very much on the nature of the offense prosecuted, and, for the Romans, also on the status of the accuser and the wealth of the accused. What this chapter will show in part is that, in this sense, neither the superficial economic motives nor certain of the deeper social dynamics driving this activity had changed substantially between the Republic and Empire.

There were, however, two significant changes which did transform the nature of accusation between these two periods, and these surely affect how our sources perceived and presented prosecutors during the Principate. First, under the Principate legal jurisdiction over transgressions by *honestiores* (men and women of high standing), was transferred, for the most part, from the individual courts (*quaestiones*) to the senate; the transference was completed, with some exceptions (e.g. the referral in 15 of Granius Marcellus' case for *repetundae ad reciperatores* [to the official assessors] Tac. *Ann.* 1.74.7), by Tiberius' reign, with accusations lodged before the consul or emperor (rather than the praetor).[5] For the most part, the individual *quaestiones* in charge of *adulterium* (adultery), *repetundae* (maladministration of office), and *maiestas* (treason) were underused.[6] This now meant that senators were prosecuting members of their own order for crimes previously in the hands of separate courts (with juries consisting of men of varying status); the change resulted in occasional strains in

relations within that body. Not that senators had not prosecuted one another in the past, to be sure, but now there was an element of compulsion, since the interests of the princeps had to be looked after. Moreover there were those as well who hoped to curry favor with the emperor, and were only too happy to work on his behalf. In addition, there was now increased opportunity for prosecution, with a greater profusion of laws (such as those concerning adultery) and with more legal jurisdictions (e.g. the *quaestiones de repetundis*) now falling into senatorial hands – although the proliferation of legislation was a trend already well under way during the Republic, picking up momentum with the establishment of the *repetundae* court in 149 BC. The trend arguably reached its peak with Augustus, and the early emperors had little to add. Intersecting with this new development was a second change of a demographic nature, and one that is largely responsible for how our sources depict delation. Under the Principate the presence of "new men" (*novi homines*) who were the first in their family to enter the senate increased in that body. In addition, freedmen gained a great deal of power in the imperial household. Both developments were something the senatorial elite deeply resented. Moreover, while class unity against those from the lower orders who prosecute (and profit) accounts for much of the resentment against *delatores* in our sources, senators who cannibalized members of their own class, thereby betraying chinks in the wall of senatorial solidarity, are stigmatized as well. As concerns financial gain and political profiteering under the Principate, the negative perception held by both our contemporary sources and modern scholars alike is, in part, the result of a convergence of the old means by which social and political advancement was achieved through oratory with the changes in the demographics of the political landscape, whereby men who were considered, relatively speaking, of low status, rose above the rank and estimation of the ancient and exalted families of the Republic.[7] Numerous *delatores* were political aspirants in pursuit of fame (*gloria*), prestige (*auctoritas*), and influence (*potentia*), or eager to show their loyalty (*fides*) to their patron, the emperor; consequently much of their activity constitutes something, one suspects, that would have been readily appreciated by any number of republican orators and politicians, who climbed the political and social ladder in the same way. Finally, it is worth noting that in terms of actual names, numbers, and statistics, relatively few men prospered politically or otherwise as a direct result of *delatio*. The political environment was always competitive, and there were, as always, more men with the desire to rise to the top than those with the ability to do so; again, our sources are responsible for an exaggerated impression.

Political and social advancement: who advanced?

As the character of the *delator* or *accusator* was constructed to make him appear as something alien and criminal (see above, p. 12), so, too, do our sources present him in social terms as one who stands very much on the margins of

Roman society. *Delatores* are generally depicted as either lowborn or of poor moral character, and often this depiction emerges as an aspect of class polarization and antagonism.[8] The *delator* is one who, through nefarious means, assaults the "legitimate" members of society, forcing them into exile or worse, and acting as a disruptive force within the state. What our sources do not tell us is that frequently at issue were basic values concerning political competition and social advancement. Moreover it is important to note that *delatores* most certainly did not see themselves as a class of underprivileged upstarts assaulting the bastion of senatorial and upper-class privilege. There was no conscious "class" sentiment among *delatores*; that impression is rather one left to us by our sources. In a society that was simultaneously status conscious and highly competitive – and where the elite was very jealous of its privileges and clout – the neophyte, especially one of low or dubious origin, was bound to excite resentment, and, more than that, cause a great deal of anxiety amongst the ruling class, since that class stood the most to lose from their activities, as Pliny and Tacitus both attest.[9] Tacitus and Pliny, however, stand (for us) at the end of a long tradition of advancement through oratory. Well before them, under Augustus, and during the proscriptions of the second triumvirate, there were already hints of the place class prejudice and concern for status was to have in our sources.[10] That prejudice was deeply ingrained in Roman society, the result of a highly stratified social hierarchy which encouraged conflict between the *humiliores* and *honestiores*, and was long-standing, abiding before and after our period. Indeed, as was the case with the Sullan proscriptions (see Appendix 4), the leaders of the second triumvirate were able to exploit this underlying class antagonism. Thus, Appian presents the activities of accusers and informants in that period very much in terms of class: creditors feared debtors, and masters feared their slaves.[11] Again, the Augustan orator and pamphleteer Cassius Severus could attack the founding member of the Vitellian family as a shoemaker, whose son made a living through informing (*sectionibus*) and dealing in confiscated property (Suet. *Vit.* 2.1) – although all of this is highly suspect as rhetorical exaggeration. Such social prejudice was to last into the reign of Trajan, when Pliny, in his *Panegyricus*, looked back on Domitian's regime as a servile war (*bellum servile*), with slaves suborned against their masters and clients against their patrons (*Pan.* 42.4). The question arising from all of this is to what extent our sources exaggerate the low social standing of *delatores*? Surely there is occasional embellishment, and some sources are more reliable than others. One suspects, for example, that Juvenal consistently exaggerates the Greek origins of *delatores* in his effort to develop Umbricius' case against the city of Rome in Satire three. Tacitus, on the other hand, never one to let a *delator* get away with anything, appears more credible: he attacks the *delator* whether he is rich or poor, new man or noble. The broad spectrum of *delatores* from various classes one finds in Tacitus renders him more reliable in assessing their social standing.

Novi homines *and* senatores

Our sources are generally impatient of new men who tried to make their mark and advance themselves through prosecution. A central reason for this is that the senate jealously guarded its privileges from new men and provincials, something which Augustus had also taken pains to safeguard by limiting their numbers in the senate.[12] Another reason for the hostility our sources show to such men is that a "new man" embarking on a senatorial career depended on the patronage of the princeps – as did knights (*equites*) and freedmen. One could hardly expect them, consequently, always to align themselves with the senate, which was protective of its members.[13] Raaflaub (1987:19) was indeed correct to note that, were one to undertake a prosopographical study of those involved in *delatio* under the Empire, one would find *novi homines* quite prominent among them. Increasingly under the Julio-Claudians, new men, provincials, and equestrians came to play an important role in the senate, and their numbers swelled; while this is reflected most starkly in the likes of a Sejanus or Seneca, it is no less evident among *delatores*.[14]

Numerous instances of *novi homines* who tried to make their reputation through *delatio* under Tiberius (and even before, as with Cassius Severus under Augustus) are attested in our sources (see Table 2.1). Among these there were some who were notable successes, and who provoked the animosity of men such as Tacitus, who resented advancement through such means.[15] Tacitus' initial presentation of a *delator* in the *Annales* is characteristic of the type of class prejudice which surely informed senatorial opinion. The *delator*, a *novus homo* (either Romanus Hispo or Caepio Crispinus), accused Granius Marcellus, a corrupt governor of Bithynia, of *maiestas* and *repetundae* in 15; Tacitus describes the *delator*, in this instance, as poor (*egens*), obscure (*ignotus*), and restless (*inquies*).[16] He endangers the most illustrious members of society (*clarissimo cuique periculum facessit*) and rises from poverty to wealth in the process (*ex pauperibus divites*). As Sinclair has recently remarked (1995: 11–13), Tacitus' depiction of the *delator* here is intentionally typological. The *delator* becomes a *genus*, readily identifiable as a marginalized individual out to destroy his betters. Similarly, Tacitus portrays Bruttedius Niger, a client of Sejanus', as a rising star who, involved in 22 in the case against Silanus, a corrupt governor of Asia, advances at the expense of his betters:

> Haste was inciting Bruttedius Niger, well endowed with noble qualities and, had he but followed a straight course, destined to achieve everything that was most honorable, until he made ready to outstrip his equals, then his superiors, and finally his own hopes: this was a thing that destroyed many who, rejecting the slow but safe path, hurried along a road which bears immediate but destructive fruit.
>
> (Tac. *Ann.* 3.66.5–6)

Table 2.1 Novi Homines ("New Men") as *Delatores**

Accusator/Delator	Office held in wake of prosecution
Abudius Ruso	
Ancharius Priscus	
C. Anicius Cerialis[?]	
Annius Faustus	
Antistius Sosianus	
Antonius Natalis	
Arrius Varus	*primum pilum* (?)
(L?) Aruseius	
Avillius Flaccus	praefect of Egypt (32/3–40)
Baebius Massa	
Bruttedius Niger	
(C?) (Magius?) Caecilianus	
Caelius Cursor	
Caepio Crispinus	
Cassius Severus[?]	
Ti. Catius Silius Italicus	consul *suffectus* (68) (?)
Cervarius Proculus	
C. Cestius Gallus	consul *suffectus* (35)
Cestius Severus	
T. Clodius Eprius Marcellus	
Considius (L. Gallus?) (Proculus?)	
Considius Aequus	
Cornelius (Crispus?)	
Cossutianus Capito	
Cn. Domitius Afer	praetor (26)
Fabius Romanus	
A. Didius Gallus Fabricius Veiento[?]	
Firmius Catus	praetor (17)
Fonteius Agrippa	praetor (17)
Julius Celsus	
Julius Marinus[?]	
Junius Lupus	
Junius Otho	
L. Lucanius(?) Latiaris	
Mettius Carus	
Nonius Attianus	
M. Opsius	
Ostorius Sabinus	*quaestoria insignia* (66)
C. Paccius Africanus	
Petillius Rufus	
L. Pinarius Natta	
M. Plancius Varus	
M. Pompeius Silvanus Stabirius Flavinus[?]	
M. Porcius Cato	consul *suffectus* (36) (?)
Publicius Certus	*praefectus aerarii Saturni* (96) (?)
Romanus Hispo	
Rufrius Crispinus[?]	*insignia praeturae* (48) (?)
Salienus Clemens	

Accusator/Delator	Office held in wake of prosecution
Sanquinius(?)	
Sariolenus Vocula	
Satrius Secundus	
Servilius (Tuscus?)	
(L.?) Sextius Paconianus	
P. Suillius Rufus	
Tarquitius Priscus	propraetor of Bithynia-Pontus (ca. 60) (?)
Terentius Tullius Geminus	
Valerius Largus	
Valerius Ponticus[?]	
Q. Veranius	
Vibius Crispus	
(C?) Vibius Serenus	
(N.?) Vibius Serenus	
L. Vitellius the Elder[?]	

* Blank spaces in the above table indicate that no office was known to have been held in the wake of a prosecution.

Bruttedius, a young man fresh from the aedileship and hoping to advance his career, had to look to a patron who was sympathetic and from whom he could expect promotion. Sejanus, himself an *eques* and a *municipalis* (i.e. from a city in provincial Italy), was a natural place to seek such patronage.[17] The case was no doubt the same for Bruttedius' partner in prosecution, Junius Otho. Tacitus paints him as a mere schoolmaster who, also looking to Sejanus for advancement, besmirched his already obscure origins by what Tacitus viewed as a rash undertaking (*Ann.* 3.66.4). Tacitus goes out of his way to marginalize both Bruttedius and Otho, in terms of class, status, profession, and ethos. Domitius Afer is a similar case in point. Tacitus introduces him during the prosecution of Claudia Pulchra, Agrippina the Elder's cousin, in 26; he presents him as one of modest means, who undertook accusations because of his poor economic circumstances, and who, like Hispo, was poor (*egens*).[18]

Our sources for *novi homines* involved in this activity under Gaius and Claudius are virtually non-existent, but the situation was likely unchanged, since during the reigns of Nero and the Flavians we continue to find men of low status rising through the ranks, much to the chagrin of our sources.[19] Two of the most famous instances of *novi homines* progressing through the *cursus honorum* (i.e. the series of offices a young and rising Roman senator was expected to hold) include Eprius Marcellus and Vibius Crispus, who made their names under Nero and continued to flourish afterwards. Their obscure origins are noted, with a certain sense of pride, by M. Aper, himself a *novus homo*, in Tacitus' *Dialogus*:[20]

> I would dare to state that this Eprius Marcellus whom I just now discussed, and Vibius Crispus … are no less known in the furthest regions of the earth than they are at Capua or Vercellae where they are said to

> have been born … For the more lowly and abjectly they were born and the more noteworthy their poverty and the straitened circumstances that surrounded them at birth, the more distinguished and illustrious examples they make for showing the usefulness of oratorical eloquence, because without birth to recommend them, without material resources, with neither outstanding for moral character and one despised for his physical demeanor as well, already they have been for many years the most powerful men in the state and – as long as they have liked – the leading men of the forum, they now as the foremost men in Caesar's friendship perform and conduct all things, and are esteemed with a certain reverence by the princeps himself.
>
> (8.2–3)

The passage is an important one. It reveals not merely the prejudices of the author, but, very likely, the opinion current among senators concerning Eprius, Vibius, and their kind. Aper commended them precisely because of the prejudicial circumstances both had overcome to rise to the very top of society. Their contemporary, M. Aquilius Regulus, who started his long career under Nero and continued to thrive under the Flavians, offered his enemies with yet another example of how *delatio* could exalt a man of allegedly low birth to a much higher level. The words of Pliny are telling:

> Look at Regulus, who proceeded through disgraceful means from poor and modest circumstances to such great wealth that he said to me, when he was reckoning how quickly he would be worth 60,000,000 sesterces, that he had found a double set of entrails, which he took to portend that he would be worth 120,000,000.
>
> (*Ep*. 2.20.13)

A similar imputation of humble origin is made against the Domitianic *delator* Baebius Massa; himself an *eques*, Juvenal's scholiast lampoons him as a buffoon at Nero's court, who later rose to the top under Domitian (*schol. ad Juv*. 1.35). An element of class conflict also surely enters into Tacitus' description when he describes Massa as destructive to anyone of outstanding character (*optimo cuique exitiosus*, *Hist*. 4.50.2). Of equally low birth were the Neronian *delatores* P. Egnatius Celer and Antistius Sosianus; Tacitus refers to both as base (*vilis*, *Hist*. 4.10; cf. 4.44.3).

The satirist Juvenal, similarly, attacked P. Egnatius Celer, not so much for his low as for his foreign birth (as a Greek from Syria), who profited from Barea Soranus' fall in 66 (3.116–18): "An old Stoic *delator* who was raised on the bank of that river where Pegasus' wing descended, killed his friend and pupil Barea." The important point for Juvenal, and one that puts Celer into the category of lowborn *delatores*, is that his Greco-Syrian origins reduce him to an outsider. Provincials, in particular Greeks, who made their way by such means were

notorious and invariably evoke the displeasure of our sources, although most were freedmen working for the imperial household (and in Juvenal's case the "Greekness" of some *delatores* may be a mere rhetorical flourish playing on Roman prejudices). Some, however, must have worked on a more independent level, like Celer. The numerous Greek *delatores* active in Rome in the middle of the first century were enough to provoke the ire of Umbricius in Juvenal's third satire, where he rails against Greek *delatores* on the make at the expense of "real" Romans (3.119–25). It is hard not to believe, even in the face of Juvenal's rhetorical exaggeration, that he is not reflecting, like Aper, a genuine (and pervasive) social bias.

Although the *delatores* noted here are admittedly few, the actual numbers of *novi homines* involved in this activity were, relatively speaking, by no means small (see Table 2.1). There was an important dynamic behind the response to men such as Romanus Hispo and Eprius Marcellus who were fortunate enough to further their careers. To help themselves along within the new system, the likes of Junius Otho and Romanus Hispo will have conformed to it in order to advance or even simply to maintain their position under the new order.[21] This is not to excuse the occasionally malicious behavior of *delatores*. It is merely to note that ultimately, as the role *novi homines* played as *delatores* shows, purely political or financial explanations do not adequately explain why new men undertook accusation.[22]

Senatorial feeling against *delatores* of lower status was indeed harsh, yet if Pliny could speak of a servile war (*bellum servile*) based on ingrained class prejudices against slaves who informed against their masters, Seneca the Younger could speak in terms of a *bellum civile* within the senate after Sejanus' fall (*Ben.* 3.26.1). There is no doubt that senatorial unity in the face of the emperor, the senate's occasionally putative enemy, was a significant concern for the likes of Tacitus and Pliny. Under Augustus, it was thought that the senate would stand shoulder to shoulder when it was turned into a court with the mistaken expectation that senators would protect their own; indeed, senatorial solidarity and protection against members of the lower orders appears to have been a significant concern in transforming that body into a legal institution, if we can trust Dio.[23] The move had unintended and unforeseen consequences, with senator attacking senator for numerous reasons; in the process, the notion of the senate as a unified body was at times seriously challenged.[24] Paradoxically, at the same time a myth of senatorial solidarity (which on a certain level never did or could exist in the fiercely competitive environment of Roman politics) was established with a view to confronting the common opponent(s) of all, the princeps and his helpers.[25] Those who broke the façade of senatorial unity are generally (and often unfairly) excoriated.[26] Time and again, however, the ancient dynamics motivating the prosecution of senator against senator in the Republic – enmity, factionalism, and political advancement – reared their ugly heads. As such, the senate played into the hands of the princeps, since he could deflect resentment away from himself onto members of the senate.[27] Yet an

emperor had to conduct a careful balancing act: he had to protect the senate from itself, to prevent many internal conflicts and petty quarrels from decimating the talent pool from which the emperor drew imperial administrators.[28]

This is something we find in particular under Tiberius. Tacitus expresses shock that Aemilius Scaurus, of ancient and aristocratic family, besmirches his ancient lineage by assisting in the prosecution of a fellow senator, Junius Silanus, in 22. His lead was followed by P. Cornelius Dolabella, who was one of the accusers of Quintilius Varus (in 27), and Tacitus (*Ann.* 4.66.2) expresses disgust that he would attack a member of his own class (not to mention family).[29] The numerous recriminations within the senate late in Tiberius' reign led Seneca the Younger to refer to Tiberius' post-Sejanus period as a civil war (*bellum civile*); Tacitus does not paint as dark a picture, but he certainly indicates that cannibalization took place, with even the foremost men of the senate (*primores senatus*) undertaking the most degrading accusations (*infimas delationes*, *Ann.* 6.7.4). It was Claudius who next tried to reestablish both internal concord within the senate and concord between senate and princeps. To that end, he started his reign by ordering the burning of documents preserved from the time of Gaius to prevent further denunciations against senators, canceled Gaius' acts including the *lex maiestatis*, recalled exiles, and restored property to those from whom it had been confiscated.[30] He tried to check animosity further by conducting accusations in the imperial bedchamber (*intra cubiculum*), something which, while it may have promoted senatorial solidarity, did not, ultimately, make for good relations between senate and emperor. Levick traces a hardening of relations between Claudius and the senate back to the accusation of Valerius Asiaticus, an ex-consul, *intra cubiculum*, where Suillius Rufus, *inter alios*, acted as prosecutor.[31] Similarly, as Nero's relations with the senate deteriorated towards the end of his reign, senatorial operatives took advantage to attack fellow members; hence Curtius Montanus, in his invective against Regulus in 70 (while he intimates that the desire of a senator to maintain his status is an acceptable excuse for the accusation of a fellow senator), assails Regulus as having gone too far, since Regulus chided Nero with chipping away at the senatorial order, rather than eliminating it at a single blow (Tac. *Hist.* 4.42.4). In the passions that swept through the senate in the wake of Nero's fall after Vespasian's succession, those involved in the prosecutions of their fellow senators and who had not stood with the senate as a body against Nero were duly punished.[32] Known *delatores* who swore on oath that they had not willingly prosecuted fellow members were expelled, an episode revealing the value the senate put on class solidarity.

It is not hard to understand why senators would be sensitive to class unity. Emperors could give senators a chance to show their loyalty by giving them the opportunity to accuse their fellow senators, something Suetonius notes Domitian had done (*Dom.* 11.2). It was risky business. We need only look at the case of Publicius Certus, whom Pliny prosecuted in the wake of Domitian's demise on the grounds that, through his denunciation of Helvidius Priscus the