

THE LATER ROMAN EMPIRE 284-602

A SOCIAL ECONOMIC AND ADMINISTRATIVE
SURVEY

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VOLUME I



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PREFACE

THIS book is not a history of the later Roman empire. It is a social, economic and administrative survey of the empire, historically treated. I have therefore little to say about wars, but much about the organisation, recruitment and conditions of service of the army. I do not concern myself much with politics, but discuss the character of the governing class, the administrative machine and the structure of the civil service. Again I have little to say about doctrinal controversies, but much about the growth of the ecclesiastical hierarchy. I ignore the two major intellectual achievements of the age, theology and law, but discuss the organisation and finances of the church, the administration of justice, and the social status of the clergy and of lawyers. Similarly there is little about literature and education, art and architecture, but something about universities and schools, architects and artists and the building industry.

My opening date, the accession of Diocletian, is a conventional one but marks a real change. It is more difficult to find a satisfactory terminal date. There is none in the West; in the East the Arab conquest of Syria and Egypt would ideally be the best. I have stopped at the death of Maurice for two reasons. The collapse of the East began at that date and Heraclius' restoration of the empire was very transient. Secondly the evidence, full and contemporary up to that date in both East and West, abruptly fades out. I have not hesitated, however, to use such evidence (the *Life of John the Almoner*, the *Doctrina Iacobi*, Moschus' *Pratum Spirituale*, some conciliar acts and the papyri) as falls in the next generation.

My theme is the Roman empire, and the barbarian successor kingdoms of the West therefore fall outside my scope. It would, however, have been pedantic to ignore the interludes of Vandal rule in Africa and Ostrogothic rule in Italy. I have also said something about the survival of Roman institutions in other barbarian kingdoms. I have also used evidence from the German kingdoms to illustrate my principal themes.

I have had great difficulty in marshalling and presenting my material. Ideally an historical work should be written chronologically, so as to show not only the development in time of each element in the whole structure but their mutual interaction. In my field this procedure proved practically impossible. In many departments of life conditions were virtually static—or seem to have been so for lack of detailed evidence. In most the movement was so slow that the thread of continuity in each would become imperceptible, if in each decade, reign or even century I discussed the whole field. I have therefore arranged my material by topics, treating each topic chronologically as far as is practicable. I came to realise, however, that to the reader not familiar with the period this treatment would obscure the general course of development, and I have compromised by prefacing my analytical chapters by a series of brief narrative chapters. In these I give an outline of the political, military and ecclesiastical history, stressing the social and economic factors. This arrangement has necessarily involved some duplication, but not, I hope, on a scale to weary the reader.

It is only fair to tell the reader on what information this book is based and how far I have covered the ground. I early realised that if in a field so vast I tried to read the modern literature exhaustively and keep abreast of current scholarship, I should not have time to read the sources. I therefore abandoned the former attempt. This is not to say that I have not read and profited from many modern books and articles (particularly those whose authors were so kind as to send me offprints), but I have undoubtedly missed much of value, and must have unwittingly reproduced some exploded errors. I must also seem discourteous in failing to acknowledge indebtedness when I have arrived independently at the same conclusion that another scholar had previously reached. In these circumstances it would be dishonest to compile a bibliography, and I have not done so. I have only cited at the beginning of each chapter of notes such general modern works as I have read and found useful, and in the appropriate place in the notes books and articles which treat exhaustively a topic marginal to my theme.

As I explored the ancient sources I regretfully came to the conclusion that a lifetime would not suffice to read them all; anyone who surveys only the relevant shelves of Migne's *Patrologiae* will understand. I soon decided to abandon theological treatises and commentaries on the Scriptures and secular *belles lettres* (with obvious exceptions such as Ausonius and Claudian). There are a few grains of wheat in these, but the quantity of chaff (from my point of view) is overwhelming, and many of the best grains have been winnowed by earlier scholars, particularly those of the

seventeenth and eighteenth centuries, whose editions of patristic literature are a mine of curious information. I next, after reading a fair sample, abandoned sermons, having discovered that most consisted of exegesis of the Scriptures or of vague and generalised moralisation. On the other hand I have read secular speeches, even panegyrics, and found some, notably those of Libanius, very useful. I have tried to cover completely all historians, secular and ecclesiastical, in Greek, Latin and (where translated) Syriac. I have read and re-read the Codes and Novels, the *Notitia Dignitatum* and similar official documents. I have read all collections of letters, whether of laymen or churchmen (skipping theological controversy and scriptural exegesis in epistolary form). I have tried to read all contemporary biographies, notably lives of saints, and the hagiographical literature of an anecdotal kind, like the *Lausiaca* History and Gregory's *Dialogues*. I have read the Acts and Canons of church councils, omitting purely theological matter. I can claim to have at least looked at every published papyrus of relevant date (and by courtesy of its editor, Mr. T. C. Skeat of the British Museum, the unpublished P. Beatty Panop.). I have tried to do the same by inscriptions, but my coverage is here much less complete, since many are so cunningly concealed in the *corpora* and periodicals.

My most lamentable gap is the archaeological material. I have not read the excavation reports on late Roman sites. I depend for my knowledge of the coins on the published catalogues and even more on the help of kind numismatic friends, notably Mr. Philip Grierson of Gonville and Caius College, and Mr. J. P. C. Kent of the British Museum. On the other hand I have visited 94 of the 119 provinces of the Roman empire; my omissions are the Mauretaniae and Numidia (owing to the recent troubles), Valeria, Dacia Ripensis, Moesia II, Scythia, Thracia and Epirus Nova (beyond the Iron Curtain), Osrhoene, Mesopotamia, the Armenias, Pontus Polemoniacus, Helenopontus and Paphlagonia (mostly in a Turkish military zone), Syria II, Euphratensis and Phoenice Libanensis (frontier temporarily closed), and Corsica, Sardinia, Balears Insulae and Cyprus (merely because they are islands). Wherever I have gone I have inspected the Roman sites, ruins and still surviving buildings, and have studied the character of the countryside and the contents of local museums. In some areas, notably southern Asia Minor, Syria and North Africa, many Roman cities, villages, fortresses and monasteries still stand, apart from deterioration by earthquakes and the weather, much as they were left in the sixth or seventh centuries A.D.

I must also confess that I know little about technology, except from watching how Near Eastern craftsmen still turn pots on the

wheel and hammer out copper dishes, how weavers operate hand looms and women spin with distaff and spindle, how peasants still plough with ox teams and thresh the corn on threshing floors with sledges and winnow it with shovels, work *shadufs* by hand or *sakkiyas* by oxen to raise water, and take their produce to market on donkeys, camels or ox-carts.

From the point of view of the social and economic historian the great defect of the evidence is the total absence of statistics. There are quite a number of isolated figures—far more than for the Principate—which are individually reliable, but no groups or sequences which are statistically significant. I have used the available figures, perhaps overworked some of them. The reader will have to judge how far my judgment is sound in drawing conclusions from them.

The abundant legal material presents many difficulties of interpretation. There are some technical problems. The dates of many laws are wrong in the Codes; one often cannot tell from the address whether a given enactment was a general circular applicable to all the empire (or rather to that part of it which the emperor who issued it ruled), or special to a particular diocese or province, whether it represented general policy or was evoked by a particular scandal. But a more substantial difficulty is to estimate whether a law was enforced or remained a pious aspiration. Many modern historians, it seems to me, have too readily assumed that Roman citizens obeyed the law, and that everything was done as the imperial government directed. My own impression is that many, if not most, laws were intermittently and sporadically enforced, and that their chief evidential value is to prove that the abuses which they were intended to remove were known to the central government. The laws, in my view, are clues to the difficulties of the empire, and records of the aspirations of the government and not its achievement.

I am indebted to many scholars for their comments, corrections and criticism. Mr. Russell Meiggs of Balliol College read the whole work at an early stage of its composition. Mr. Keith Hopkins of London University read Part II, Professors Anastos and Downey of Dumbarton Oaks Part I at its later stage. The Regius Professor of Civil Law at Cambridge read Chapter XIV, Professor White of the University of Ghana read Chapter XX, Mr. Moses Finley of Jesus College, Cambridge, Chapter XXI, the Regius Professor of Divinity at Oxford Chapters XXII and XXIII.

A devoted band of ex-pupils performed more exacting tasks. Mr. G. E. C. de Ste Croix of New College read the first proofs of the text and second proofs of the notes. Mr. J. Martindale checked all

dates and all references to the Codes and Novels. Mr. W. Liebeschütz compiled the Index.

Finally I owe a profound debt of gratitude to my publisher, Sir Basil Blackwell. These are no mere idle words. Sir Basil agreed to accept the work piecemeal, thus enabling me to complete the notes while the text was being printed. This was of great convenience to me, and expedited the publication of the book.

A. H. M. J.

Jesus College,
Cambridge,
August, 1963

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NOTE ON WEIGHTS, MEASURES AND CURRENCY

I use Roman weights and measures throughout. The modern equivalents are approximately as follows:

- 12 inches (*uncia*) = 1 foot (*pes*) = $11\frac{2}{3}$ inches = 29.6 centimetres
 1 mile (*mille passus*) = 4855 feet = 1480 metres
 1 *ingerum* = $\frac{5}{8}$ acre = .25 hectares
 1 *arura* = $\frac{2}{3}$ acre = .27 hectares
 1 *centuria* = 200 *ingera* = 125 acres = 50 hectares
 1 *millena* = $12\frac{1}{2}$ *ingera* = $7\frac{3}{4}$ acres = 3.25 hectares
 24 scruples (*scripuli*) = 1 ounce (*uncia*)
 12 ounces (*unciae*) = 1 pound (*libra*) = $11\frac{1}{2}$ ounces = 321 grammes
 1 *sextarius* = 1 pint = .57 litres
 16 *sextarii* = 1 *modius*
 1 *modius* = 1 peck = 9 litres
 1 *artaba* = $3\frac{1}{2}$ pecks = 30 litres

For the currency see pp. 438-45, and for the purchasing power of the solidus see pp. 445-8.

In gold the following denominations were used:

- 24 carats (*siliquae*) = 3 *tremisses* = 2 *semisses* = 1 solidus
 72 solidi = 1 lb. gold (*libra auri*)
 7200 solidi = 1 cwt. gold (*centenarium auri*)

PART I

NARRATIVE

B

CHAPTER I

THE PRINCIPATE

THE reigns of Trajan, Hadrian, Pius and Marcus were, according to our historical tradition, the golden age of the empire. That tradition, it is true, is not a very good one. No contemporary historian of the period survives, and the relevant books of Cassius Dio are preserved only in a meagre Byzantine epitome, and that which covered Pius' reign is missing. Apart from jejune chroniclers, none of whom wrote earlier than the middle of the fourth century, we have to rely on the biographies of the *Historia Augusta*, whose authors probably wrote under Diocletian or Constantine. Trajan's reign is illuminated by the letters and the panegyric of Pliny, but after him there is little contemporary literature of any kind which throws light on the history of the age. The authors of the lives of Hadrian, Pius and Marcus in the Augustan history had, however, good sources to draw upon, and reproduced them to the best of their ability, and it is probable that the favourable verdict which they pronounce was derived from contemporary opinion.¹

In one respect certainly the age was fortunate, in that the empire was ruled by a series of emperors who, whatever their merits as administrators, both were acceptable to the senate and commanded the unquestioning allegiance of the armies. The senate's attitude is abundantly testified by the literary tradition, which reflects the views of the senatorial class: all the emperors receive very good characters, with the partial exception of Hadrian, whose relations with the senate were sometimes strained. The army's loyalty is attested by the rapid collapse of the one attempt at a military rebellion, that of Avidius Cassius in 175. This happy result seems to have been achieved by a compromise on the question of the succession, whereby the elective principle, dear to the senatorial class, was combined with a fictive hereditary descent, which satisfied the sentiments of the army.

The feelings of the rank and file of the army—and probably of the great mass of the population, citizens and provincials alike—are clearly demonstrated by their conduct. They cared nothing for republican principles or constitutional rules. Their allegiance was

to the person of their emperor and his family, and the annual oath which they swore to be loyal to him and to his sons and descendants, to hold his friends as their friends, and his enemies as their enemies, probably reflected their real feelings. Such an hereditary allegiance was traditional and natural not only to the mass of provincials, used to hereditary monarchies, but to the humbler sort of Roman citizens, who had normally been clients of some great family generation after generation. To the armies the character of an emperor was of little concern, provided that he was the legitimate heir, and they were ready to give their loyalty to children and to men who possessed no soldierly qualities. So long as the family of Caesar lasted they remained faithful to his adoptive or fictive descendants. When Caligula was assassinated and the senate planned to restore the republic, they proclaimed the timid and ungainly scholar Claudius, because he was a Germanicus. When Furius Scribonianus attempted a rebellion against Claudius in the name of the Republic, they promptly deserted him. They tolerated Nero, who never showed his face to the armies, and whose artistic tastes can hardly have commanded their respect, for fourteen years, and were in the end induced against their true sentiments to rebel from him. Again, once Vespasian had established himself in their regard, they remained loyal to his sons, and bitterly resented the assassination of Domitian. An hereditary line of emperors was then, it would seem, what the stability of the empire demanded in order to hold the loyalty of the rank and file of the army.

The sentiments of the senatorial class were very different. Republicanism was, it is true, dead, though senators still nostalgically cherished the memory of Cato, Brutus and Cassius. An emperor, they regretfully admitted, was necessary, but he should be one of themselves, first among his peers, and should show due deference to their advice, and respect their privileges. It was in the senate's eyes an ignominy that the empire should be handed on from father to son like a private inheritance. The chief citizen should be selected for his merits, and not succeed by the accident of birth. Such are the sentiments enunciated by Tacitus in the speech in which he makes Galba announce his adoption of Piso, and by Pliny in his Panegyric on Trajan, recently adopted by Nerva. Senators did not go so far as to claim the right of electing the emperor, though they were insistent that they only could confer upon him his constitutional prerogatives. Their desire was that the emperor should select his successor from the whole body of the House, and be guided in that choice by its sentiments. Their objection to the hereditary succession was partly a matter of principle, but was more due to their suspicion that a prince, bred in

the purple, would be less amenable to their influence and less respectful of their dignity than a man who had been brought up in the traditions of the House.

The vital importance of the loyalty of the armies is immediately apparent. The goodwill of the senate might seem at first sight to be a matter of little moment. An emperor secure in the loyalty of his troops was *de facto* supreme, and could ride rough-shod over senatorial opposition. Emperors who did so, however, made life uncomfortable and dangerous not only for senators but also for themselves, and few of them died in their beds. The recurring tension between the senate and the emperor for the time being, which is a leading theme in the history of the empire, is hardly explicable unless senatorial opinion was a powerful and enduring force. It is worth while to analyse the character of the senate, and try to discover wherein lay the secret of its persistent opposition.

The senate was a body of about six hundred men. It was a co-optative body, since it was the senate itself which elected the twenty annual quaestors who supplied its ranks. Membership was hereditary, in that every senator's son had the right of standing for the quaestorship, but as the senatorial families persistently tended to die out, in the male line at any rate, sons of senators had to be supplemented by outsiders on a considerable scale: it has been calculated that in the second century close on a half of the senators at any given time would have been new men. To stand for the quaestorship an outsider required the licence of the emperor, who also possessed the power of adlecting outsiders directly into the senate with appropriate seniority. It might be thought that the emperors would have used their powers to pack the senate with their own supporters. There is, however, very little evidence that they did so. The power of adlection was very sparingly used, usually to promote men of marked ability, particularly soldiers, into the grade appropriate for an important military command. The *latus clavus*, the licence to stand for the quaestorship, seems to have been given fairly indiscriminately, not only to sons of military officers and civilian officials of equestrian rank, but also to local notables of wealth and good family.

The senate was still predominantly, though not exclusively, an Italian body. It has been calculated that on the accession of Trajan nearly three-quarters of the members were of Italian origin, and at the death of Marcus between a half and two-thirds. The remainder was drawn mainly from the strongly Latinised Western provinces, Gallia Narbonensis, eastern and southern Spain, and Africa. Few senators came from the outlying Western provinces, and the Greek East, though its contribution rose during the period, was at the end

of it still very poorly represented; only about one senator in ten came from an area which in wealth, culture and population must have substantially surpassed the West. In tone the senate must have been even more strongly Italian than these figures suggest. Senators were expected to attend meetings, and needed special leave of absence to travel farther than Sicily or Narbonensis. Moreover by a ruling of Trajan they had to invest one-third of their property in Italian land; Marcus maintained the rule but reduced the proportion to one-quarter. Many families of provincial origin would, after a generation or two, have become Italian by domicile and sentiment.²

Senators were a very wealthy group and grew steadily wealthier. Senatorial families tended to intermarry, and on the extinction of a family its fortune normally passed through an heiress or by adoption to another member of the order. The gaps were filled by wealthy men from outside, and the order thus steadily accumulated an ever-growing concentration of wealth, that is to say of land, mainly in Italy but also in the provinces from which senators were drawn.

It is understandable that a body of this type, with a strong hereditary nucleus, drawing its members from areas and classes with a social background very similar to its own, should have maintained a uniform tradition from generation to generation. It was natural that the newcomers should have absorbed the traditions of the House and many of them were, like Tacitus and Pliny, their most ardent supporters and eloquent exponents. Inevitably too the senate, composed as it was in the main of rich men of good family and standing, was a highly conservative body, tenacious of its dignity and jealous of its privileges.

It was a more difficult matter for it to enforce its views and maintain its position against an emperor who chose to flout them. The emperor was not obliged to consult the senate, and he probably rarely did so on important questions of policy. He could choose his own advisers, and they need not be senators. The senate was moreover a far from heroic body, and could be easily terrorised into voting for any motion which it was given to understand the emperor wished to have passed: its record during reigns of terror, when it obediently condemned its own most respected members on trumped-up charges, is lamentable. Its only effective weapons were assassination or military rebellion.

For the latter the senate was strongly placed. By constitutional convention the emperor was obliged to employ senators of praetorian rank to command all his legions save the one in Egypt, and consulars to govern the major frontier provinces and command their armies. Such men were naturally hand-picked, but as appoint-

ments were for a short term, usually three years, there were many places to fill, and the emperor could not always find senators of the requisite standing and qualifications on whose loyalty he could absolutely depend. In fact emperors whose relations with the senate were hostile are often known to have been nervous about the allegiance of their legates.

The senate also possessed assets of a more imponderable kind. Most senators were influential persons, patrons of their native cities and of others where they held property; they also had opportunities of acquiring the patronage of provincial communities in the course of their official careers. Taken together the whole senatorial order must have possessed influence in every province of the empire. Finally the senate still preserved something of its traditional prestige, at any rate among the educated class who knew their Roman history, as the heir of the great council of state whose wisdom had guided Rome to her imperial destiny, and whose resolution had preserved the liberty of the Roman people. The senate was able to make or to mar the posthumous fame of an emperor; our list of 'good' and 'bad' emperors is in fact the index of which emperors found favour with the senate. It was no less able to mould contemporary educated opinion.

The senate was in fact powerful enough to cause disquiet to an emperor who did not keep on good terms with it. In such a situation there were periodic plots and occasional military rebellions, countered by trials and executions, which might assume the proportions of a reign of terror. The stability of the empire demanded that not only the armies but the senate should support the emperor.

This state of affairs was achieved in the second century. It so happened that none of the emperors from Nerva to Pius left sons, and they were therefore able to select their successors from the senate, and to choose men who would be acceptable to that body. Each adopted his chosen successor as his son, and this satisfied the dynastic sentiment of the army. The system was excellent so long as it could be preserved, but it depended on the chance of the emperors always remaining childless. Marcus had a son, Commodus, and, even had he wished to do so, he could hardly have passed him over; the rank and file of the army would have rallied to Commodus, and a conflict would have been inevitable. So Commodus, unsuited though he was, had to reign despite senatorial disapproval.

The second order of the Roman state, the *ordo equester*, was a much larger, more scattered and more amorphous body than the senate. In its widest sense it comprised all Roman citizens of free descent who possessed property assessed at over 400,000 sesterces

(100,000 denarii). In a narrower sense it consisted of those amongst them upon whom the emperor had bestowed the *equus publicus*, a body of several thousands. From this body the emperor selected the officers of middle grade, the tribunes of the legions and the prefects of the auxiliary units, and recruited the majority of his higher officials except provincial governors—his financial officers in the provinces, the procurators, the heads of the secretariats at Rome, and his chiefs of staff, the praetorian prefects. The normal equestrian career was three military appointments, followed by procuratorships, but Hadrian allowed barristers who rose to be crown counsel (*advocati fisci*) to omit the military posts. The military commissions were usually given to civilian applicants, but there was a regular channel of promotion for centurions, who were gazetted to tribunates in the urban troops, and thence passed to administrative posts, and sometimes reached the praetorian prefecture.

The equestrian order, like the senatorial, acquired its semi-official titles of honour. Senators were known as *virii clarissimi*. *Equites* were all entitled to be called *virii egregii* but officials of the higher salary grades preferred to be known as *centenarii*, *ducenarii* or *tricenarii*, so that *egregius* was in effect limited to *sexagenarii* and under. In time a new title *vir perfectissimus* was adopted by the *tricenarii*. The praetorian prefects and they alone were known as *virii eminentissimi*.³

The social complexion of the order was very varied. Its upper stratum differed little from the senatorial order in wealth, status, culture and political outlook; it was from this class that new senators were mainly drawn. On the other hand the order contained men who had risen through the army and the bar. It was widely diffused through the empire, though markedly stronger in the West, where the proportion of Roman citizens was higher. It was largely for historical reasons that men of this class monopolised so large and important a range of military and administrative appointments, but the emperors regarded them as more reliable servants than senators, as being *prima facie* less inclined to political ambitions; it was certainly for this reason that key posts like the prefecture of Egypt and the praetorian prefecture were reserved for them.

The multitude of surviving monuments and thousands of inscriptions give the impression that the age was prosperous. In every province the cities vied with one another in building splendid temples, baths, gymnasia, theatres and amphitheatres, and in laying out spacious markets and streets flanked with colonnades. Monumental aqueducts supplied abundant pure water, both to private houses and to ornate public fountains. Triumphal arches

and city gates on a magnificent scale adorned the approaches of the towns. The cities competed with one another in the magnificence of their games, chariot races, athletic contests, gladiatorial shows and displays of wild beasts, and of their musical, dramatic and oratorical competitions. Hundreds of new games were established in honour of the emperors, scores of old games were raised to the level of international competitions on a par with the Olympia and the Pythia. By far the greater part of this expenditure was financed not from public funds but by the munificence of the magistrates and decurions. The class from which these were drawn, the landed aristocracy of the cities, had evidently plenty of money to spare.

Yet there are signs that the economic condition of the empire was not altogether healthy. The imperial government could not always pay its way. In time of peace its receipts seem to have exceeded its necessary expenditure; Antoninus Pius after a peaceful reign of twenty-three years left 675,000,000 denarii in the treasury. But Marcus' accession donative and the Parthian war seem to have exhausted this reserve, for he was reduced to auctioning imperial property to meet the demands of the Marcomannic war. His circumstances at this time, it is true, were particularly difficult, as repeated bad harvests and the plague, which the armies returning from the East had brought with them, made it impossible to collect the current revenue in full. But it is clear that the expenses of a prolonged war exceeded the resources of the exchequer. Not only Marcus but Trajan before him had to debase the denarius. The reduction in the silver content of the coin was not great, from 90 per cent. to 75 per cent., but it indicates that taxation did not at times produce enough money to cover outgoings.⁴

This was partly due to the inelastic fiscal structure of the empire. Taxes were not adjusted to meet the fluctuating needs of the government. They were levied at fixed rates, which had never been altered since the foundation of the empire. The customs remained fixed at 2 per cent. or 2½ per cent. in the various provinces. The tax on manumissions and the inheritance tax on Roman citizens continued to be levied at 5 per cent. The same seems to have applied to the main taxes, the *tributum soli* and the *tributum capitis*, levied in the provinces. Vespasian had indeed radically revised the scales of these in some provinces in his great financial rehabilitation of the empire. But it was only, it seems, on such critical occasions that the rates of tax were varied, and in general the tribute was regarded as a fixed charge. Since the propertied class was able to spend lavishly at the same time as the imperial government found difficulty in paying its way, it might be inferred that the taxes were unduly light. There is evidence, however, that some taxpayers

found them excessive. Hadrian on his accession thought it wise to remit outstanding arrears; he was the first emperor to do so, and they amounted to the formidable sum of 225,000,000 denarii. Marcus remitted arrears of taxation towards the end of his reign; the remission extended back forty-five years to the fifteenth year of Hadrian, but we are not told the amount written off. Both these remissions occurred after periods of heavy warfare, when military requisitions had no doubt added to the normal burden of taxation; and in the former case the Jewish revolt, and in the latter famines and the great plague, had caused distress in some provinces. But the very large sum involved in Hadrian's remission, and the long term of years in Marcus', suggest that the trouble was widespread and persistent.⁵

A passage in Galen also reveals serious distress in the middle of the century. Speaking of the widespread and prolonged famines which had recently occurred, he writes: 'The city dwellers, as it was their practice to collect and store enough corn for all the next year immediately after the harvest, carried off all the wheat and barley and beans and lentils, and left what remained to the country people, that is pulses of various kinds, and they took a good deal of these too to the city. The country people finished the pulses during the winter, and so had to fall back on unhealthy foods during the spring; they ate twigs and shoots of trees and bushes, and bulbs and roots of indigestible plants; they filled themselves with wild herbs and cooked fresh grass.' As a result, he goes on, practically all of them developed ulcers, which in the majority of cases proved fatal.⁶

Once again we have an anomaly, that while the urban population is not only well fed, but is in enjoyment of ever increasing amenities and luxuries, the peasants are starving. Here again the taxation system was partly at fault. The old system of tithes had been grossly abused under the Republic, but it had had the merit that the tax varied with the yield. The fixed tribute of the Principate gave less scope for extortion, but it made no allowance for a series of bad years. And secondly the tribute was not a progressive tax, but tended to burden the poor man more heavily than the rich. It appears to have consisted of two elements. *Tributum capitis* was a poll tax. Its incidence was different in various provinces; in Egypt for instance it was levied on males only, from fourteen to sixty, in Syria on both sexes, on females from twelve, and on males from fourteen to sixty-five. The rate also varied from province to province, and in Egypt even from nome to nome. But it was a flat rate on all persons liable to the tax, and exemption was given not to the poor but to privileged, usually urban, categories. *Tributum*

soli was assessed on the land, which was valued according to its agricultural use as arable, meadow, rough pasture, vineyard or oliveyard; other assets such as slaves, fishponds or salt pans were also taken into account. The tax was a fixed percentage—in Syria and Cilicia 1 per cent. of the capital valuation—which was the same for the great landowner and for the peasant proprietor. Under this system a small-holder with a large family was obviously much harder hit than a great landed proprietor, who would often be excused or partially exempt from the *tributum capitis*. It is not surprising that arrears should have piled up at the same time that the city notables were spending lavishly on games and buildings.⁷

When the peasants sold the whole of their crops except for a meagre residue of inferior pulses, inadequate to feed their families till the next harvest, they did so not only to raise enough money to pay their taxes, but, many of them, to pay their rent. We have no means of estimating the proportion of small freeholders to tenant farmers, and it certainly varied greatly from province to province. What is certain is that the wealth of the upper classes, from Roman senators to the many thousands of decurions, was almost exclusively invested in land, and that it was agricultural rents therefore that ultimately paid for the buildings and the games and all the other amenities and luxuries of the cities, just as it was taxes, which in the main fell on the land and its cultivators, that paid for the upkeep of the imperial administration.

So long as conditions were normal agriculture could carry this double burden, but the margin was, it would seem, small. The empire, as Hadrian recognised, could not stand the burden of ambitious wars of conquest such as Trajan had waged. These could be avoided, but no one could guarantee that the neighbours of the empire would remain quiescent for ever, and there was always the danger of civil wars and rebellions should the delicate political equilibrium of the Principate be upset. Any prolonged war compelled the imperial government either to realise capital assets or to debase the currency, and at the same time exhausted the taxpayers, who fell into arrears. A permanent increase in the military establishment would impose as severe a strain on the economy of the empire. But it was becoming doubtful if the army was strong enough to secure the defence of the empire. Trajan had raised the number of legions to thirty; his successor had allowed it to fall to twenty-eight; but Marcus had been obliged to raise two new legions to reinforce the thinly held western section of the Danube frontier, now under heavy barbarian pressure.

There were signs too, faint as yet but ominous for the future, that all was not well in the cities of the empire. The welfare of the

cities was a vital matter, for not only did they provide the amenities of civilisation for their populations, they were also indispensable to the smooth functioning of the imperial administration. The empire could be run with a small and relatively inexpensive civil service because the central government delegated to the city magistrates and councils, who were unpaid, the greater part of the routine work. It was the local authorities who collected, and probably assessed, the tribute; they raised recruits when conscription was applied, and through them the military requisition of food-stuffs, clothes and transport was levied; they were responsible for the maintenance of roads and bridges, and supplied the relays of animals and the hospitality required for the imperial post.⁸

The reckless extravagance of the cities and their resulting financial embarrassment had for some time been causing the imperial government anxiety. The phenomenon is a curious one and not altogether easy to explain, seeing that the expenditure was due to the voluntary munificence of the local aristocracies. It may be attributed to two main causes.

One was exaggerated rivalries between cities; the deep-seated sentiment of civic patriotism, which now could no longer find expression in war and politics, ran to seed in an inane competition in magnificence. The bitterness of local rivalries was displayed in the civil war of 193, when a city would fight fiercely for one of the rival emperors for no other reason, as Herodian tells us, than that its neighbour was on the other side. This rivalry found another, and relatively harmless, outlet in embittered squabbles over precedence and honorific titles. But its chief manifestation was in competitive extravagance in games and buildings.

The second reason was the degeneration of local politics. Here again healthy rivalry had run to seed. A modern city politician, as Plutarch regretfully admits, had no chance of winning fame by war or diplomacy. There was little scope for ability, and the local notables could only compete for public favour with their purses. These two causes had a cumulative effect. The munificence of one magistrate set a standard which his successors could hardly reduce without incurring odium, and the scale of expenditure expected of the city magistrates thus tended steadily to rise. The cities embarked on vast building projects, and committed themselves to huge expenditure on games, without counting how much it would cost to complete the one and maintain the other, and many as a result found themselves saddled with commitments which they could not afford.

The imperial government viewed with alarm the growing financial embarrassment of the cities. It endeavoured to curb their

extravagance by regulations, requiring imperial licence for establishing or up-grading of games, and for the erection of public buildings out of public funds, or even, if the building were on a large scale, by private munificence. In many cases it went further, appointing an auditor for a city or a group of cities, vested with wide powers to curb expenditure and control the whole city budget. These auditors, the *curatores civitatis*, who first appear in Domitian's and Trajan's reigns, became gradually a universal standing institution.

The government seems to have been actuated by a desire not only to keep the cities solvent, but to reduce the heavy load of expenditure with which the upper classes had burdened themselves, and of which they were now beginning to complain. Marcus reduced the price of gladiators, at a sacrifice to the imperial revenue of some twenty or thirty million sesterces a year, thereby lightening the expenses of the provincial notables who served as high priests of the imperial cult. We possess the speech of a senator welcoming this reform, whereby, he says, the emperors have restored the tottering position of the cities, and the fortunes of their principal men, already on the brink of disaster.

The expenses of the high priesthood had been so great, this senator declares, that many a one elected to this high office considered himself a ruined man, and appealed to the emperor to be relieved of it. This reluctance to hold office was not confined to such highly expensive honours as the provincial high priesthood. It was becoming increasingly difficult to find candidates for ordinary civic offices, and some rich men endeavoured to evade them by legal subterfuges; Hadrian, Pius and Marcus had to issue successive rulings to combat the abuse whereby wealthy men, who should have served as city magistrates, secured exemption by enrolling themselves in the guilds of shippers in the service of the state, and this without investing a significant part of their property in the shipping business. It was even becoming difficult in some cities to keep up the numbers of the council; Tergeste petitioned Pius to allow wealthy members of the two Alpine tribes subject to the city to be admitted through the office of aedile to the city council, and thanked the emperor profusely for thus filling up the council and distributing more widely the financial burden of the decurions.⁹

It would seem that the propertied classes were beginning to jib at the high scale of expenditure that their predecessors had foisted on them, and that civic magistracies and membership of the city council were coming to be regarded as more of a burden than an honour. The evil was not yet serious or widespread, but the symptoms were

dangerous. Local government could not be allowed to break down for lack of persons willing to shoulder its financial burdens, but to keep it going by compelling those financially qualified to serve would greatly complicate the problems of administration.

With the accession of Commodus we enter upon one of the better illuminated tracts of Roman history. The narrative of Cassius Dio is still much abbreviated and in parts fragmentary, but substantial sections are preserved, and are all the more valuable in that Dio, who entered the senate in Commodus' reign, now speaks as a contemporary witness of events, carrying down his story to his own second consulship in 229. In addition to Dio we have another contemporary historian, Herodian, who covers the period from the death of Marcus to the fall of Maximinus in 238; his work is rather jejune and rhetorical, but he like Dio was well placed to view events, having occupied, as he tells us, official positions during most of the period. We are therefore much less dependent on the *Historia Augusta*, which is, however, for some of the earlier reigns, based on good material. In addition to the historians, we possess, preserved in the *Digest*, extensive extracts from the writings of the great Severan jurists, Papinian, Paulus and Ulpian, to name the three most illustrious only, which throw much light on the social conditions of the age.

Commodus was, according to Dio, a simple harmless youth when he came to the throne at the age of nineteen, but he was supremely unfitted for imperial responsibilities, being stupid and obstinate and taking no interest in public affairs; his one passion was gladiatorial shows, and he fancied himself as a gladiator. He alienated the senate at once by flouting the advice of his father's counsellors and patching up peace on the Danube instead of fighting the war to a finish. On his return to Rome a senator attempted to assassinate him, declaring as he brandished his dagger, 'Look, this is what the senate has sent you!' It is not surprising that Commodus thereafter waged ruthless war on the senate, and entrusted the government to his praetorian prefects or less worthy favourites. After a twelve years' reign he was at length assassinated in 192.

The assassins selected as his successor a very elderly senator, Helvius Pertinax. He was of humble origins, but had had a very distinguished military career, and had held the senior senatorial office of prefect of the city. It was apparently hoped that his military reputation would commend him to the armies, while his high offices, his respectable character, and above all his advanced age would in the eyes of senators compensate for his lowly birth: it is noticeable that the senate, whenever it had any choice, normally

elected an octogenarian, but preferably one of noble birth. Pertinax reigned less than three months before he was lynched by the praetorians. There ensued an informal auction of the empire by the praetorians, the two bidders being the prefect of the city and another immensely wealthy senator, Didius Julianus, who secured the prize by the promise of a fabulous donative.

It was unlikely that other ambitious senators, who commanded the major provincial armies, would acquiesce in this choice, and now that the line of the Antonines had been broken, the armies had no focus for their loyalty and could be induced to back their own generals against the candidate of the praetorians. Three men were in the running, Clodius Albinus, legate of Britain, a man of family and the senatorial favourite, Pescennius Niger, legate of Syria, a new man, but popular with the humbler classes at Rome, and Septimius Severus, legate of the Pannonias, another new man, little liked in the senate. Niger was proclaimed at Antioch, but while, over-confident of success, he remained inactive, Severus struck. Proclaiming himself the avenger of Pertinax, whose name he adopted, and thereby cultivating the goodwill both of the Danube armies, whose popular commander Pertinax had been, and of the senate, he marched rapidly on Rome, which he captured without a struggle. The senate duly elected him, and he announced that, following the example of Marcus, he would respect its prerogatives. Having appointed Albinus Caesar, with the prospect of succeeding him, he marched east to deal with Niger, and defeated him after a severe struggle. Returning west again he picked a quarrel with Albinus, and after another severe struggle conquered him also. Severus found that a number of prominent senators had been intriguing with Albinus against him, and on his second appearance at Rome he abruptly changed his tone to the senate, executing twenty-nine of its leading members for treason, and confiscating their property. He now moreover, to the senate's horror, proclaimed himself not only son of Marcus but brother of Commodus, and honoured the latter's memory.

Severus had apparently been willing enough at first to conciliate the senate, but when he found that he could not trust them, he determined to cow them, and to rely for support on the armies alone. As he was not the legitimate heir, his hold on their loyalty was insecure, so in an effort to secure it he affiliated himself to the Antonine dynasty, and in particular restored the memory of Commodus, who had, it would seem, been popular with the troops. He also strove to win the loyalty of the army by more tangible benefits, allowing soldiers to marry while on service and increasing their pay for the first time since Domitian, as well as paying them donatives

of unprecedented magnitude. This was expensive, and the treasury was in very low water at his accession; Pertinax had found only a quarter of a million denarii at Commodus' death. Severus, however, by his vast confiscations was able to restore the position; from their proceeds he established a new financial department, the *res privata*, which soon rivalled the old *patrimonium* in importance. Despite this, however, he had to accelerate the debasement of the denarius, whose silver content now sank to 50 per cent.¹⁰

Severus, as an able general and administrator, and a just if harsh master, seems to have earned the grudging respect of the senate. His son, Marcus Aurelius Antoninus, commonly known by his military nickname of Caracalla, earned its venomous hatred. He exaggerated his father's policy, treating the senate with contumely and establishing a reign of terror, while he sedulously cultivated the loyalty of the troops, whose idol he became, by ostentatiously fraternising with the rank and file, and raising their pay again, this time by 50 per cent. The cost of this concession was, according to his successor, Macrinus, 70,000,000 denarii a year, and to meet it Caracalla, besides intensifying confiscations, took two important steps. To replace the denarius he issued the Antoninianus, which weighed about half as much again as the denarius, but was tariffed at two denarii. And having doubled the rate of the *vicesima hereditatum*, the 5 per cent. inheritance tax which was paid by Roman citizens only, and abolished all exemptions, by the *Constitutio Antoniniana* of 212 he made all the free inhabitants of the empire Roman citizens, and thus liable to the tax.¹¹

There can be little doubt that the main motive for the *Constitutio Antoniniana* was, as Dio states, fiscal. Its importance has been both unduly exaggerated and unduly minimised. The number of persons who at one stroke acquired the citizenship must have been immense. For although in the more civilised parts of the West, southern Gaul, Spain and Africa in particular, the Roman citizenship was very widely diffused, and the number of colonies and *municipia* had grown considerably even in the more backward parts, in the populous Greek-speaking provinces there had been very few block grants of citizenship, and though many leading families had been enfranchised by individual grants the mass of the population remained peregrine.¹²

On the other hand the distinction between citizen and peregrine had ceased by this time to mean very much. A foreigner could not, it is true, enter the equestrian career or become a senator, but most men in a position to aspire so high would already be citizens or would find no difficulty in securing a grant. Technically only citizens were admissible to the legions or the praetorian cohorts,

and foreigners had to be content with service in the less privileged auxiliary units. But in fact citizens often did serve in the auxiliary forces, and foreigners were not excluded from the legions, being granted the citizenship on recruitment. The only important privilege of a citizen was that he could not be flogged or tortured, nor, unless he were a soldier, be put to death without appeal to the emperor, except for certain statutory crimes.

Even this distinction was by the beginning of the third century becoming blurred, giving way to a social distinction between *honestiores* and *humiliores*: these terms are never precisely defined by the jurists, and much was no doubt left to the discretion of the judge, but decurions and veterans appear to have been the lowest classes automatically ranking as *honestiores*. The social distinction first appears in the rulings of Hadrian, Pius and Marcus, who lay down severer penalties for *humiliores* than for *honestiores*; the former could be executed or sent to the mines; the supreme penalty for the latter was *relegatio*, that is exile to an island with loss of property. This penalty could moreover be inflicted only by the emperor, and capital charges against decurions had therefore to be referred to him. *Honestiores*, whether citizens or not, had thus, it would seem, an automatic appeal to the emperor against capital charges. On the other hand provincial governors were sometimes given a *merum imperium* (often, it would seem improperly, called *ius gladii*), against which even Roman citizens of lower degree had no appeal. After the whole population of the empire became citizens, such a *merum imperium* was regularly given to every provincial governor, and *humiliores* thus became universally liable to flogging and summary execution, and also, it would seem, to torture.

The *Constitutio Antoniniana* thus completed, or at any rate accelerated, two important changes. On the one hand it formally eliminated all geographical distinctions in the empire. Britons and even Egyptians were legally henceforth as good Romans as were Italians, and lived under the same laws. It naturally took some time for Roman law to establish itself in all parts of the empire, for there were not enough notaries and lawyers everywhere who knew it, and in the process certain Hellenistic legal practices found their way into Roman law. But eventually a uniform legal system was established. What is more important, unity of sentiment was achieved. By the fourth century at any rate, the provincials thought of themselves as Romans, and there was in fact no preferential treatment of one area, or discrimination against another; a man had the same opportunity of advancement whether he lived in Gaul, Italy, Thrace or Cappadocia. On the other hand the *Constitutio* confirmed and made universal a sharp legal distinction between the

upper ranks of society, down to decurions and veterans, and commoners, reserving for the former privileges analogous to those of the early Roman citizens, and degrading the latter to a status similar to that of the old *peregrini*.

Caracalla lasted six years, being eventually assassinated in Syria by his praetorian prefect Macrinus, who, carefully concealing from the troops his part in the death of their favourite, managed to get himself acclaimed as emperor. This was something of a portent, for it was the first occasion on which a man who was not even a senator had risen to the throne. Macrinus tried hard to make himself acceptable to the senate, writing to them in most respectful terms, and reducing the inheritance duty to 5 per cent. once more. His accession was greeted with relief that Caracalla was dead, rather than with any positive satisfaction; Dio is highly critical of many of his appointments. Moreover Macrinus was unable to satisfy the senate by a downright condemnation of Caracalla and a reversal of his acts for fear of the troops, who were devoted to his memory. His position was equally weak with regard to the army, which had no particular reason to like or respect him, and he made himself unpopular by his conscientious financial policy. The treasury could not stand the strain of Caracalla's pay increases, he informed the senate, and he proposed gradually to get back to Severus' scale of army pay by putting new recruits on the old rates.¹³

At Emesa lived Julia Maesa, Septimius Severus' sister-in-law. She introduced to the army one of her grandsons, Elagabalus, who was high priest of the local god, putting round the story that he was an illegitimate son of Caracalla. The troops rapidly rallied to this representative of the old dynasty, who was proclaimed as Marcus Aurelius Antoninus, like his alleged father, and Macrinus was abandoned and killed. Elagabalus, as he is generally called, proved a fantastic emperor, devoted only to the glory of his god, and so completely alienated public sentiment at Rome that before four years were out his grandmother, having induced him to nominate as Caesar his young cousin Alexander, had him murdered.

Severus Alexander was only fourteen when he ascended the throne, and the real direction of affairs rested with his grandmother, till she died, and then with his mother, Julia Mamaea. These ladies decided that the situation called for a reconciliation with the senate; sixteen eminent senators were selected as a council of state, and, in the enthusiastic words of Herodian, the monarchy was transformed from a brutal tyranny into the shape of an aristocracy. Secure in the dynastic loyalty of the troops, to whom he was the son of the deified Antoninus the Great (Caracalla), and

the grandson of the deified Severus, and basking in the approval of the senate, Alexander reigned peacefully for thirteen years. The memory of this Indian summer of senatorial rule seems to have been cherished by the order, for when a century later the writers of the Augustan History wished to present a picture of the perfect emperor to Constantine, they chose as their model Severus Alexander. The biography is almost pure romance, for Alexander seems, from the contemporary account of Herodian, to have been an amiable nonentity, who never succeeded in freeing himself from his mother's apron strings. As long as peace prevailed things went smoothly, but when he was compelled to take the field against a Persian invasion, he showed an incompetence and cowardice which disgusted his troops, and during a second campaign on the Rhine in 235 one of his officers, Maximinus, organised a mutiny, and was himself proclaimed emperor.¹⁴

Up to this point the Severan dynasty had succeeded in maintaining its hold on the loyalty of the armies and thus keeping the empire relatively free from civil war and rebellion. Its position was, however, owing to senatorial hostility, never very secure. The Severan emperors could not entirely trust their senatorial army commanders. Severus took the precaution of dividing Syria and Britain into two provinces, and Caracalla of adjusting the frontier of the two Pannonias, so that henceforth no governor commanded more than two legions. Severus, moreover, when he raised three new legions, placed them under equestrian prefects, and put an equestrian prefect in charge of the reconquered province of Mesopotamia with two of the new legions. This had never been done since Augustus created the prefecture of Egypt, and was in marked contrast to the policy of Marcus, who, when he placed his new legions in Raetia and Noricum, replaced the procurators of these provinces by legates of senatorial rank. The Severan emperors also began the practice of keeping senatorial governorships vacant, and ruling a province through its procurator as acting governor (*agens vices praesidis*). These breaches in the senatorial monopoly of provincial governorships and commands were slight, it is true, but significant.

The Severan emperors felt it necessary moreover to bribe the troops with larger and more frequent donatives, privileges, and increased pay. Some of the concessions were certainly eminently reasonable; permission to marry during service, for instance, remedied a legitimate grievance, and in fact only gave legal sanction to a long prevailing practice. But it is very questionable whether the increases in pay were justified. The pay sheets of two Egyptian legionaries show that even before Domitian increased it by one-

third, a soldier could, after all deductions, put by a substantial proportion of his pay, and prices had not risen significantly during the second century. Nor is there any sign that, except when, as during the Marcomannic war, large numbers of men had to be hurriedly raised to replace heavy casualties, there was any difficulty in securing a sufficient flow of recruits. The increase in pay was made for political reasons.

The increased military expenditure, due partly to the increase in the size of the army, but mainly to the higher rates of pay, was met partly by the large confiscations, for which plots, real or alleged, mainly of wealthy senators, gave the opportunity, and out of which the great department of the *res privata* was built up. Apart from Caracalla's extension of the scope of the inheritance tax by the *Constitutio Antoniniana*—his doubling of the rate of tax remained in force for five years only—regular taxation was not, it would seem, increased, and the deficit was met by successive depreciations of the denarius, which must have caused an inflationary rise in prices.

To all appearances the prosperity of the empire suffered no serious check in the Severan period. The cities continued to build and to found new games, and civic extravagance still caused anxiety to the government. Cassius Dio in the speech on imperial policy which he puts into the mouth of Maecenas—a speech which seemingly embodies his own views on contemporary problems—devotes a long chapter to civic extravagance, and recommends several drastic remedies, which were never carried out, such as the total prohibition of chariot racing except at Rome, and the abolition of pensions for victors in the games, save for the Olympia, Pythia and those of Rome itself. The Severan lawyers also report repeated rulings on this problem. The jurists further reveal a marked increase of that reluctance of the propertied classes to undertake the financial burdens of civic office, of which some signs had already appeared in the second century. Election of voluntary candidates seems to be a thing of the past. Magistrates and decurions are nominated, and must serve unless they appeal and establish to the satisfaction of the provincial governor some legal exemption. These exemptions are elaborately codified, and the rules of origin and domicile, which bind a man to serve the city of his birth and that in which he resides, are worked out in detail. It was evidently becoming increasingly difficult to keep the wheels of civic government revolving, and compulsion had regularly to be applied to fill the magistracies, and even to keep the council up to strength. Provincial governors must have been kept hard at work hearing appeals, and sometimes had to intervene personally, themselves nominating candidates for vacancies.

Maximinus was a peasant who had risen from the ranks by his vigour and efficiency. He could hardly hope for senatorial approval, even if he had desired it, and he made no attempt to placate the senate, dismissing Alexander's counsellors and condemning some of them for alleged misconduct. At the same time his hold on the troops was by no means secure; not only were there plots against him amongst the centurions and officers, but some of the oriental troops actually mutinied and acclaimed one of Alexander's friends. Conscious of his weakness Maximinus promised to double their pay, and to raise money he carried out a systematic campaign of confiscation, (not only encouraging informers to bring charges against wealthy men,) but seizing the civic and sacred funds of the cities. He thus made himself very unpopular not only with the upper classes throughout the empire, but with the commons, whose dissatisfaction infected his own troops.

Three years later a group of landowners in the province of Africa proclaimed the proconsul, an aged nobleman called Gordian. He unwillingly assumed the purple, associating with himself his middle-aged son, Gordian, who was serving as his legate, and then duly informed the senate. The senate gladly acknowledged him, and acted with unexpected vigour, sending deputations on his behalf to all provincial governors, and securing the adherence of many. The legate of Numidia, however, was loyal to Maximinus, and promptly marched on Carthage and crushed the two Gordians. Nevertheless the senate, having burnt its boats, kept up the fight. It elected two emperors, both as usual very elderly men, Maximus, a new man who had risen through his military ability, and Balbinus, a noble of some administrative experience. The introduction of the collegiate principle, which according to Herodian was deliberately adopted to check any tendency towards autocracy, is an interesting proof of the survival of republican sentiment in the senate. Another manifestation of the same spirit was the appointment of a board of twenty consulars to assist the emperors in organising the defence of Italy. The senate, however, did not have it all its own way even in Rome, where the populace, loyal to the dynastic principle, demanded a Gordian as emperor. A grandson of the old proconsul, a child of twelve, was elected Caesar to placate them. The defence of Italy was vigorously conducted. Levies of Italians were raised; the cities were put into a state of defence; and all supplies were removed from the countryside and stored within their walls. Maximinus, who was on the upper Danube whilst all this was happening, promptly marched on Italy, and crossing the Julian Alps laid siege to Aquileia. The town resisted obstinately, and Maximinus' army began to starve. Soon the second Parthian

legion mutinied, and lynched the emperor, and the Danubian legions with some reluctance laid down their arms, and acknowledged the senate's emperors. Maximus sent them back to their stations, and with the praetorian guard returned to Rome to rejoin his colleague Balbinus. The two emperors did not last long. The praetorians, most of whom were drawn from the Danubian legions, with whom Maximinus had been popular, mutinied and lynched them, proclaiming the boy Caesar, Gordian III, as emperor.

These remarkable events are a striking testimony to the prestige which the senate still enjoyed in the empire, and to the constitutional ideals which it still cherished. The senate was by this time a somewhat more representative body than it had been in the second century. The proportion of Italians had sunk to under half, and Greek speaking senators, mainly from Greece proper and Asia Minor, had risen to over a fifth of the total; under Caracalla some Alexandrians were enrolled, the first Egyptians to enter the House. Despite these statistical changes the senate probably, for the reasons already stated, kept a preponderantly Italian, or at any rate Western, tone. The confiscations of Commodus, Severus and his successors must have made a considerable hole in the corporate wealth of the order, but this would have been compensated by the estates of the new members.¹⁵

The events of 238 illustrate the precarious hold which a military usurper had upon the loyalty of his troops, and the growing indiscipline in the armies, to which the absence of an established dynasty gave rise. This indiscipline, however, of which both Dio and Herodian complain, can easily be exaggerated. There is no sign that, given effective leadership, the troops did not respond, and even during the anarchy which followed the armies retained a high fighting spirit. [The trouble was rather that the armies were imbued more with professional *esprit de corps* than with devotion to the empire.] This was largely due to the system of recruiting. Even during the second century a high proportion of the intake had been sons of serving soldiers, born in the camp (*castris*), and sons of veterans, and the remainder was usually drawn mainly from the district in which the unit was stationed. [Soldiers thus tended to form a separate caste, divorced in sympathy from the general civil population, and liable to sack Roman cities and villages and to maltreat the peasants when opportunity offered.] The armies, moreover, since units were rarely transferred but remained from generation to generation in the same quarters, tended to fall into regional groups—the army of Britain, of the Rhine, of the Danubian provinces and of the East. This tendency had emerged as early as 69, and reappeared in 193. In the succeeding period it would

make possible the long survival of a series of Gallic emperors.

The next half century is in both senses of the word one of the darkest in the history of the empire. Herodian closes his narrative in 238, and thereafter we have to rely upon such meagre late fourth or fifth century chroniclers as Aurelius Victor, Eutropius and Zosimus, and on the biographies of the *Historia Augusta*. Even in these latter there is a hiatus between the death of Gordian III in 244 and the capture of Valerian in 260. The loss is not, however, greatly to be deplored, as during all this period the authors for lack of material are reduced to romancing. The Digest contains no extract from any jurist between the Severan lawyers and Hermogenian and Arcadius Charisius, who wrote under Diocletian, and very few imperial constitutions of the period have been preserved in the Code. There is some contemporary Christian literature of historical importance, notably the works of Cyprian, but though it throws a brilliant beam of light upon the great persecutions of the middle of the century, it illumines the surrounding scene but little.

For contemporary documents we are left with the coins, the Egyptian papyri and a rather meagre crop of inscriptions. With the aid of these modern scholars have succeeded in reconstructing with fair certainty the chronological sequence of events, but their appreciation of the leading characters of the age and of the political issues remains of necessity highly subjective, depending as it does on late and tendentious sources; for economic and social history there is very little material. The period is like a dark tunnel, illumined from either end, and by rare and exiguous light wells in the interval. One cannot do much more than follow out the known tendencies of the Severan age, at the same time looking forward to the state of affairs which appears under Diocletian, and thus hope to grope one's way through the intervening darkness.

Defective though our information is, it is abundantly clear that the period was profoundly troubled. In the first place it was a period of violent political instability. In the fifty years between the death of Severus Alexander and the accession of Diocletian there were about twenty emperors who may be styled legitimate, without counting the nominal co-regents that some of them created, still less the host of usurpers who from time to time ruled parts of the empire, usually for brief periods only, but sometimes, like Postumus in Gaul, for almost a decade. Postumus' nine years are in fact a record, the longest legitimate reigns being the seven years of Valerian and the eight of his son Gallienus: the average, counting legitimate emperors only, is about two years and six months. With the exception of Claudius, who died of the plague, and Valerian, who was captured by the Persians, every emperor—and nearly

every usurper—died a violent death; one, Decius, fell fighting a foreign enemy, the Goths, the rest were all assassinated, lynched, or killed in civil wars.

The reasons for this instability are not altogether clear. Our sources tend to blame the armies, whom they sometimes represent as forcing loyal generals to revolt; but this looks rather like an attempt to save the reputation of the emperor concerned. The allegiance of the armies was undoubtedly very capricious. No emperor succeeded in reigning long enough to establish a tradition of loyalty, still less to found a dynasty, and in the absence of a dynastic tradition the troops could be readily seduced by any ambitious general. Instability was also enhanced by periodic friction between the senate and the emperor for the time being. This friction appears to have reached a crisis under Gallienus, who is represented in our sources, with their senatorial bias, as a frivolous poltroon. Attempts to make him into a hero are not very convincing, but he must have had some good qualities to reign eight years, even though during most of this period Gaul and Britain were ruled by a rival emperor, Postumus, and the Eastern provinces were controlled *de facto* by Odenath, prince of Palmyra, who owed a very nominal allegiance to Rome. Gallienus may very well have incurred the hostility which the senate usually displayed towards a son who succeeded his father, more particularly as he did nothing to avenge his father's capture by the Persians, and reversed his policy of persecuting the Christians; Valerian, to judge by the laudatory notices he receives despite his extremely disastrous reign, seems to have enjoyed senatorial approval, and Gallienus' neglect of his memory and reversal of his policy may well have been resented.

Gallienus countered the senate's hostility, we are told by Aurelius Victor, by excluding senators from military commands. The scanty epigraphic evidence partly bears out this statement. From Gallienus' reign no senatorial *legati legionis* are known, and legions are commanded by a *praefectus agens vices legati* of equestrian rank, probably in most cases a promoted centurion. It is also increasingly common to find provinces commanded by a *procurator agens vices praesidis*, but there are cases after Gallienus of senatorial *legati* governing military provinces. It may be that in such cases the senatorial legate was a civil governor only, and that the military command was either left to the legionary prefects, or entrusted to a forerunner of the Diocletianic *dux*, who has left no trace in an admittedly scanty record. But it is perhaps more likely that the exclusion of senators from military posts was not quite so systematic as Aurelius Victor states. The policy was evidently pursued un-

obtrusively; the equestrian provincial and legionary commanders were technically, as their titles show, only of acting rank, and a normal senatorial legate could at any time be appointed, and no doubt sometimes was. There can, however, be little doubt that senators were henceforth rarely given military commands, and that the senate thereby lost a great part of its power. It still possessed prestige, as is proved by the appeal of the army to the senate after the assassination of Aurelian to appoint his successor. The senate as usual appointed an aged nobleman, Tacitus, who did not long survive in those troublous times.¹⁶

Racked as it was by constant civil wars, the empire was the less able to resist foreign aggression, and unluckily its enemies were at this time particularly active. On the eastern frontier the Parthians had offered no serious threat, but during the reign of Alexander Severus a revolution took place, and the Persian dynasty of the Sassanids established itself. The Sassanids were much more efficient rulers than the Arsacids, and moreover revived the national pride of the Persian people, restoring the old faith of Zoroastrianism and recalling the glories of the Achaemenids. The new dynasty nursed irredentist ambitions of recovering all the territories which the ancient Persian kings had ruled, Syria, Egypt and Asia Minor, and the Roman empire was henceforth continually menaced by an aggressive eastern neighbour, who on several occasions during this period invaded Mesopotamia and Syria. On the Danube old enemies like the Marcomanni and the Quadi were reinforced by immigrant German tribes, like the Goths and the Vandals, who not only repeatedly ravaged Illyricum and Thrace and even Greece and Italy, but taking to the sea, carried their devastations into Asia Minor. On the Rhine new confederations of tribes, the Franks and the Alamans, appeared and invaded Gaul, and even penetrated into Spain. In the growing weakness of the empire unruly peoples long under control, like the Berber tribes of Africa or the Isaurian highlanders of Asia Minor, broke loose again and raided their settled neighbours.

The destruction caused by the continued civil wars and barbarian invasions must have been immense. Cities were sacked and burned, crops destroyed, cattle driven off, and the population carried away into slavery by the barbarian raiders. The Roman armies were almost as destructive; they too sacked cities and requisitioned crops and cattle for food and transport. In the track of a Roman army, as of a barbarian horde, the population must often have starved, and it is not surprising that in the circumstances the plague, which had first invaded the empire under Marcus Aurelius, continued periodically to ravage the provinces. It is very

likely that the population sank substantially. Depopulation seems to have begun as early as the reign of Marcus, who settled thousands of Marcomannic prisoners in Italy. By the death of Commodus so much land in Italy and the provinces had gone out of cultivation as to disturb Pertinax, who offered a secure title and ten years' immunity from tribute to anyone who would bring deserted estates—even imperial property—into cultivation again. (There is some evidence that the conditions of the third century aggravated these problems.) Several emperors, notably Probus, are recorded to have settled large groups of barbarian prisoners on the land; and Aurelian, in order to protect the revenue, ordered that in each city the council should be corporately responsible for the tribute due on the deserted lands in its territory.¹⁷

The coins show that the depreciation of the currency gained momentum, and reached its climax under Gallienus, whose Antoniniani are not only short weight and vilely minted, but have become virtually copper coins, containing less than 5 per cent. of silver. Aurelian carried through some kind of reform, calling in the mixture of issues, bad and less bad, which were current, and substituting for them two uniform series of fairly respectable silver-plated copper coins, the larger marked XX.I or XXI or XX (in Greek KA), and the smaller VSV. The meaning of these marks is unfortunately very disputable, and the true character of Aurelian's reform thus remains uncertain. It has been observed that in Gaul and Britain, which Aurelian brought under his authority after the reform, there seems to have been great reluctance to accept the new coins, and it may be inferred that the government tariffed them at an exaggerated value. Aurelian seems to have repeated Caracalla's manoeuvre in creating the Antoninianus, using the issue of a new and slightly superior coin to put upon it a higher nominal value. In that case the marks on the larger coin (which was in weight and silver content a little superior to the current Antoninianus) may be interpreted as meaning one *nummus*, worth twenty sesterces (sesterces were still the official basic unit of the currency), that is five denarii. The mark on the smaller coin, which weighs about half the larger, may stand for 'usualis', indicating that it was the normal or standard piece, the Antoninianus of two denarii. It was perhaps at this period that a new monetary denomination was introduced, the *foliis*, or purse, probably containing 1,000 of the new XX.I coins, and therefore worth 5,000 denarii. Some such unit must have been highly desirable for making large payments in the absence of gold and silver coins.¹⁸

The object of the depreciation of the coins was of course to enable the government to issue more denarii from the same amount

of silver. The mints during this period were increased in number and enlarged in size, and were kept very busy issuing floods of bad coins. The resulting inflation of the currency was further enhanced, and more rapidly, by the manoeuvres described above, whereby the nominal value of the coins was arbitrarily raised. The result was a steep rise in prices. The intermediate stages cannot be traced, but it is known that the price of a *modius* of wheat, which in the second century in normal conditions cost half a denarius or little more, was in 301 fixed at 100 denarii; and Diocletian's prices were certainly below current levels. Wheat is a fairly good index of the general level of prices, and such few other prices as we possess show comparable increases. It would seem then that the real value of the denarius sank during the third century to about 0.5 per cent. of what it had been before the inflation.¹⁹

The depreciation of the denarius naturally killed the old copper coinage, which the imperial government and many eastern cities had issued as small change. When the denarius itself became virtually a copper coin, it was no longer economic to issue true copper coins with a lower nominal value, and both the imperial and civic issues cease with Gallienus. The depreciation of the denarius also upset the long standing stable relation between the gold and silver currency, and virtually destroyed the former. Since the reign of Augustus twenty-five denarii had gone to one *aureus*, and since the time of Nero, who had slightly reduced the weight of both coins, the *aureus* had been struck at 45 to the pound. Caracalla slightly reduced it, striking at fifty to the pound, but made no attempt to adjust its relation to the already heavily depreciated denarius; we know on the unimpeachable testimony of Cassius Dio that, officially at any rate, twenty-five denarii still went to the *aureus*. The reasons for this curious policy are unknown. It may be that the imperial government hoped, by pegging the debased denarius to a sound *aureus*, to maintain the value of the former. It is perhaps more probable that no policy was involved at all. The troops were paid in denarii, and the government had therefore a pressing need for more denarii to cover pay increases; it accordingly reduced their silver content in order to mint more. There was no such regular and pressing need for *aurei*, and it therefore did not debase them. The old relation between the two coins remained unaltered because the consequences were not foreseen.

The result must have been that a black market in *aurei* grew up, where they could be sold for more than their theoretical value of twenty-five denarii: this state of affairs is implied by a document of the reign of Elagabalus, which shows that it was a privilege for an officer to draw his salary in gold coins. No taxpayer was going

to pay his taxes in gold, if the treasury would accept his *aurei* as being worth only twenty-five denarii each, when he could pay in debased denarii. *Aurei* went into hoards or were melted down. Gold issues did not actually cease altogether, but they became rare and sporadic, and the coins were moreover minted at very varied weights. It is probable that they were issued only for donatives (for which it was customary to use gold, as the sums involved were large), and that the coins were not intended to bear any fixed relation to the standard denarius currency, but were in effect pieces of bullion, which could be sold at current rates. The gold for these issues was obtained by concurrent levies of *aurum coronarium* from the cities. It was a very ancient practice that on joyful occasions, such as the accession or jubilee of an emperor, the cities of the empire should offer him gold crowns, and these levies of bullion had long been *de facto* compulsory. Cassius Dio complains that Caracalla multiplied the occasions on which crowns had to be offered by proclaiming fictitious victories, and the rapid succession of emperors in the third century must have made levies very frequent.²⁰

The economic results of the inflation can only be conjectured. For the majority of the inhabitants of the empire they were not catastrophic. Merchants and craftsmen naturally increased the price of their wares as the currency fell in value, and wages also went up, doubtless after a time lag; under Aurelian we find the weavers of Oxyrhynchus demanding a higher price for their product 'because of the increased price of the raw materials, and the increased wages of the workmen'. Peasants could sell their produce at enhanced prices, and those of them who were tenants may even have gained, if they held leases at money rents. Landowners would not have suffered if they drew their rents in kind, a practice which, it seems, was not uncommon, and doubtless became commoner. Those of them who drew money rents, who were probably the majority, would sometimes have lost by a sudden change; but the standard lease under Roman law was for five years only, and in some areas, Egypt for instance, tenancies usually ran for one, two, or at most three years, so that rents could be adjusted at frequent intervals. As land was by far the most important form of investment, the property-owning classes on the whole suffered little. Most other forms of property, buildings, slaves, and even cash, kept their value: for old coins retained their bullion value, and could be melted down, even if they did not—as they probably did—pass current in private transactions at an enhanced nominal value.²¹

Long-term mortgages and fixed rent charges on land would have been virtually wiped out. The chief sufferers here were the city

governments, whose endowments often took these forms; the imperial alimentary foundations in Italy must also have disappeared, so that Constantine had to make a fresh start. But the main victims of the inflation were those who depended on fixed cash incomes, and these were the government itself and its employees. How the government coped with the problem is an obscure question, and it is impossible to trace with any accuracy the stages through which its policy moved, though the final result is tolerably clear.

It has already been remarked that the fiscal system of the Roman empire was unduly rigid. It seems to have remained so through the inflationary period. [Customs, the inheritance tax, the manumission tax, and other *ad valorem* levies of course automatically adjusted themselves to rising prices, and the revenue from them would have risen in nominal value.] Rents of imperial lands could also have been adjusted. But these items formed a small part of the imperial revenue. The taxes at fixed rates do not seem to have been increased. Our only contemporary evidence is from Egypt, and here a detailed study has shown that rates of money taxes remained with a very few exceptions unchanged so long as they continued to be levied. In many cases the evidence for the exaction of taxes fades out as the inflation reaches its climax, and it would seem that, having become almost worthless, they were allowed to lapse. Elsewhere we have no evidence, but by the time of Diocletian it is evident that the money taxes were a relatively unimportant item in imperial finance and it may reasonably be inferred that in the other provinces as in Egypt they had not been raised in accordance with the rise in prices.²²

The government did not substantially increase its nominal revenue, and the real value of its receipts sank. It resorted, as we have seen, to depreciating the currency at an increasing tempo, thereby decreasing the real value of its revenue more rapidly. We do not know if the emperors after Maximinus increased military pay yet further, but pay certainly ceased to keep pace with the rise in prices, and by Diocletian's time the money pay was a small item in the soldier's income. Diocletian indeed declares—no doubt with exaggeration—that owing to the rise in prices 'a soldier is sometimes by a single purchase robbed of his *stipendium* and *donativum*': in this context *donativum* apparently means an annual bonus in denarii, not the accession donative which was paid in gold. [The troops nevertheless had to be fed, clothed and armed, and the cavalry had to be supplied with remounts and fodder as well. In the first and second centuries rations, uniforms and arms had been issued against stoppages of pay; it is not known whether remounts and fodder were charged to the trooper. By the time of Diocletian

they were all free issues.) The intermediate stages are not known. It has been argued from a phrase in Cassius Dio that Caracalla made rations a free issue, and that the others may have followed. The interpretation of Dio's words, however, is by no means certain, and it is possible that the deductions from pay were merely not increased with the rise in prices, and so ultimately became negligible items.²³

In the first and second centuries the government had normally obtained supplies for the army by compulsory purchase through the city authorities. The price paid, being more or less arbitrary, naturally varied according to the honesty of the government: Pliny contrasts conditions under Domitian, when 'the crops were snatched from our groaning subjects like booty from enemy territory, and all to no purpose, to rot in the granaries', with those under Trajan, when 'they themselves offer what the land has produced, the sky has nourished, the year has yielded, and no longer let the old tribute fall into arrears, exhausted by fresh exactions', and 'the treasury buys what it purports to buy'. The Severan emperors, hard pressed as they were for money, made an exacting use of their powers of requisition. Dio indeed, protesting against the fiscal policy of Caracalla, speaks of 'the supplies which were exacted from us in large quantities everywhere, some without payment, some with additional expenses, all of which he gave to the troops or even resold'. This is no doubt an exaggeration, or may refer to special 'free gifts' extorted from senators. But the Severan lawyers speak of requisitions (*indictiones*) as a burden on landowners analogous to the regular taxation, thus implying that the price paid was normally inadequate. By the time of Diocletian in nearly all cases no payment was made for requisitions; clothing is the only known exception. The intermediate stages are once more obscure. The Egyptian papyri have produced definite records of treasury payments for military supplies in 220 and 240-1, and for clothing in the reign of Aurelian; in the last case the price was woefully inadequate. On the other hand we also find cities paying for requisitions, in part at least, out of their own funds, and we hear of special levies to cover the cost of military supplies. It would seem that payments from the treasury became more and more irregular and inadequate, especially in view of rising prices, until eventually they were abandoned altogether.²⁴

The ultimate result of the inflation was that the government and its employees to a large extent abandoned a money economy. The government, it is true, still exacted many taxes, but met the bulk of its requirements by levies in kind. Soldiers and officials still received money pay, but the more important part of their income

consisted of issues of foodstuffs and clothing. By the beginning of the fourth century promotion to higher rank was rewarded by double and multiple issues of rations, and this practice may very well go back to the third century. These conditions, it may be noted, only applied to government employees. In private transactions the depreciated currency continued in full use.

The soldiers certainly lost by the change. A private soldier in the second century received 300 denarii from which were deducted 60 for rations, 9 for boots and straps, $7\frac{1}{2}$ for bedding; for clothing the deductions varied according to what the men drew—in the two cases known to us they came to 50 and 60 denarii; the stoppage for arms also varied, and after initial equipment was probably not high—neither of our two men paid anything. A soldier might therefore have up to half his pay to save or spend after his food, clothing and arms had been provided. By the end of the third century he had his rations, uniform, arms and very little else, for his money pay, whatever its nominal amount, was of very little value. His only compensation was that in these troubled times donatives were more frequent occurrences. Nor did promotion bring him so much advantage as in the past; for whereas in the old days a *duplicarius* earned double pay, 600 denarii, under the new regime a *circitor* enjoyed only double rations.²⁵

Officers and higher officials suffered even more severely. Procurators had enjoyed very substantial salaries, starting at 15,000 denarii rising to 25,000, 50,000 and finally 75,000. Senatorial governors were even better paid; the proconsul of Africa drew 250,000 denarii. These salaries were not increased in the third century; a *magister memoriae*, a man of the highest equestrian grade, under Diocletian still drew 75,000 denarii, which were by now only worth about 400 pre-inflation denarii. In compensation, it is true, officers and higher officials received multiple allowances of rations and fodder (*annonae* and *capitus*), but not it would seem, on a scale to make up their loss of money income. We have no figures for the fourth century, but even in the sixth the basic salary of the Augustal prefect of Egypt and of the *dux* of Libya was only fifty ration allowances and fifty fodder allowances, which would have been worth about 6,000 pre-inflation denarii.²⁶

The government thus ultimately considerably reduced its real expenditure, seeing that in effect it paid its soldiers (and its lower civil servants, who were graded as soldiers) only about half what they had received in the second century, and its higher civil officials and military officers only a fraction of their earlier salaries. This saving may have been counterbalanced by an increase in the size of the army, but here we are completely in the dark. New units

are known to have been raised, but on the other hand many old units had disappeared by the end of the period. All that can be affirmed with fair certainty is that the cavalry was greatly strengthened by the formation of new units, *vexillationes*, which ranked on a par with the legions, in addition to the old auxiliary *alae*.

The taxpayers ought to have gained in proportion as the troops lost, and it may be doubted whether the actual bulk of taxation was excessive, though it was levied from a shrunken population, impoverished by the destruction of constant wars. But the burden was aggravated by its uneven incidence. The requisitions which in effect superseded the regular taxation were arbitrarily levied where and when they were required, and might prove ruinous to some provinces, while others escaped lightly. Furthermore neither soldiers nor officials were content with their meagre incomes. Soldiers recouped themselves by plundering when on campaign, and by extorting free maintenance whenever they travelled about the country. A number of inscriptions record the complaints of villages about the exactions of travelling soldiers and officials. It was probably also during this period that officials began systematically to exact from the public those fees (*sportulae*) which later became a standing institution.

On one aspect of the history of the period we are relatively well informed, the great persecution of the Christians by Decius in 250-1 and by Valerian in 257-60, of which we possess contemporary accounts by Cyprian, bishop of Carthage, and Dionysius, bishop of Alexandria. These persecutions mark a new era in the relations of the government and the Christian church. Christianity, it is true, had been a banned religion from an early date, probably from the reign of Nero. The mere profession of Christianity, the *nomen*, without any aggravating offences, was punishable by death. Christians were, however, pardoned if they renounced their faith, and by a ruling of Trajan governors were forbidden to take active measures to hunt them down, and were only to try such as were denounced by private informers. The result of this policy was that persecutions were local and sporadic, due usually to an outburst of popular indignation against the sect.

It would be out of place to discuss the tangled questions raised by the persecutions. The Christians were undoubtedly unpopular, basically no doubt because they were an unsociable and rather self-righteous sect, whose members kept themselves to themselves, and ostentatiously refrained from participating in the social life of their town, the games and festivals, and even private entertainments, which in their view were all, if not wicked in themselves, sullied by pagan rites. Two specific charges were popularly brought against

them. They were accused in the first place of perpetrating horrid orgies of incest and infanticide at their secret meetings. The origin of these stories is fairly obvious. The Love Feasts could readily be misinterpreted, and the fact that Christians habitually called one another brother and sister gave an even more sinister twist to rumours; and the Christians on their own admission ate the flesh and drank the blood of a son of man. Such fantastic charges, however, would hardly have been so persistently believed, unless the Christians had been for other reasons unpopular.

[The second charge was that the Christians were atheists, which was from the pagan point of view true enough, since they ostentatiously rejected all the recognised gods, and indeed denounced them as evil demons.] It was naturally felt that this contumacious atheism gave offence to the gods, who might and sometimes did visit their wrath upon the whole society which tolerated it. Hence divine visitations, such as earthquakes, famines and plagues, led to demonstrations against the Christians and demands that the government should take action against them.

The attitude of the government is more difficult to divine. It was in general tolerant of the established religious practices of communities, though they might seem outlandish and degraded, provided that they did not, like Druidism, involve such barbarities as human sacrifice. This attitude originated in the belief that the gods of various communities were best pleased by their traditional cults, and that the prosperity of the empire, in so far as it was dependent on divine goodwill, the *pax deorum*, was thus best served by general toleration. It was maintained, as religious belief waned, by indifference and inertia. The Roman government, however, had always viewed with suspicion religious propaganda which disturbed existing beliefs. The *pax deorum* might be disturbed by such movements and, on a more mundane level, they were often suspected of immoral tendencies, and thought likely to lead to commotions and breaches of the peace. Such being the general attitude it is not altogether surprising that Christianity, which preached an open contempt for the gods, and was suspected of the most heinous forms of immorality, was banned outright. It is, however, clear that the second century emperors had misgivings about this decision, and endeavoured to mitigate its effects, notably by forbidding their officials to take any active steps against Christians on their own initiative.

There can be little doubt that Decius, on the contrary, made a deliberate attempt to stamp out Christianity. The ostensible occasion was a general sacrifice and libation to the gods by all the inhabitants of the empire, which might be taken at its face value

but that everyone was ordered not only to sacrifice, but to obtain a certificate from specially constituted boards of inspection in each city, that he had on this occasion made sacrifice and libation, and had always done so in the past. The edict achieved a considerable success. Vast numbers of Christians, as both Cyprian and Dionysius testify, especially members of the upper classes, whose absence would excite notice, crowded to sacrifice. On the other hand large numbers of humbler people held back, hoping to evade the test, and the steadfastness of a small number of confessors and martyrs, who refused to abjure under torture and even underwent the death penalty, roused and maintained the spirit of the rest. Decius was soon involved in the Gothic war in which he met his death, and the persecution lapsed. The final result was rather to strengthen the church than to weaken it. There were strong differences of opinion on the treatment of the lapsed, but eventually generous counsels prevailed, and they were re-admitted.

Valerian's purpose was even more evidently to destroy the church; but he adopted a different line of attack. Persons of high degree, senators, Roman knights and imperial freedmen, were ordered to abjure under penalty of confiscation and, as a final resort, death. The clergy, if they refused to abjure, were deported, religious meetings were banned, and church buildings, burial grounds and other property confiscated: the ordinary Christian was left undisturbed. Later severer measures were taken against members of the clergy who proved obdurate, and several, including Cyprian, were executed. This attempt to break up the organisation of the church seems to have met with little success. The persecution dragged on for three or four years, but was eventually called off, when Valerian was captured by the Persians, by his son and successor, Gallienus. Gallienus not only released the clergy, but also restored its property to the church, thus initiating a policy of toleration, which was to last for forty years.

While we know much of the Christian reaction to the persecutions, we can only infer the motives which led Decius and Valerian to break with the traditional policy of the imperial government. Christianity had been spreading, and in particular, as Valerian's edict shows, had been infecting the higher ranks of society. It could no longer be ignored. The unceasing series of disasters, the civil wars, barbarian invasions, plagues and famines, which afflicted the Roman world at this time, led to a widespread belief that the gods were gravely angered against the empire. The conclusion was to many obvious, that it was the spread of atheism that provoked the increasing anger of the gods: Cyprian endeavoured to rebut this conclusion, arguing that the world was suffering from

senile decay. There was at the same time a marked growth of religiosity amongst pagans, due no doubt in part to the sombre character of the times. This particularly affected the upper classes—the masses had probably always preserved religious belief—among whom the easy agnosticism or thoughtless conformity of the first and second centuries began to give way to a more serious religious attitude. Philosophy, which had been the guide of more earnest spirits, became impregnated with religious ideas, and struck up an alliance with popular religion: philosophers no longer ignored the popular cults of the masses, but defended them as allegorical versions of philosophical truth. It is probable that in this changed climate of opinion the governing class of the empire tended increasingly to share the popular belief that Christianity was an offence to the divine powers on whom the fate of the empire depended, and that this accounts for Decius' and Valerian's apparently abrupt reversal of the half-hearted policy of toleration hitherto pursued by the imperial government.

In the 270's things began to take a turn for the better. Aurelian succeeded in restoring the unity of the empire, suppressing the rival line of emperors which had for more than ten years ruled Gaul and Britain, and crushing the now openly rebellious empire of the Palmyrene Queen Zenobia in the East. He and his vigorous successors, Probus and Carus, also succeeded in beating back most of the barbarian invaders, and in inflicting a severe defeat on Persia. The area between the upper Rhine and the Danube which the Flavians had conquered was abandoned, it is true, and Aurelian found it necessary to evacuate Trajan's conquest, Dacia, transferring the name of the province and its garrison, and no doubt many of its civilian population, to an area south of the Danube on the border of the two Moesias. But with these exceptions the empire was restored to its second century boundaries.

[The condition of the empire nevertheless remained precarious in the extreme.] There were still many local disorders, such as the devastations of the Berber tribes in Africa, and the widespread peasant revolts of the Bacaudae in Gaul. The land continued to go out of cultivation. The finances remained chaotic, the inflation of the currency gathered momentum, and the government lived from hand to mouth by requisitioning supplies. The city governments on which the administration depended showed signs of breaking down under the strain. Above all it seemed impossible to achieve political stability. Gallienus' exclusion of senators from military commands, if it was intended to reduce the possibility of rebellions, proved markedly unsuccessful. Aurelian was assassinated by a conspiracy of his officers after a five years' reign. Tacitus, whom

the senate at the army's request nominated as his successor, lasted only six months, and his half-brother and successor, Florian, was defeated within three months by another pretender, Probus. Probus during his six years' reign had to deal with four rebellions, and eventually was killed by his praetorian prefect, Carus. Carus in turn, after a reign of less than a year, died in mysterious circumstances, probably at the hands of his praetorian prefect, Aper, who next made away with Carus' son Numerian. Aper did not profit by his murders, for on the discovery of Numerian's death he was executed by the emperor whom the army acclaimed, Diocletian.

CHAPTER II

DIOCLETIAN

WITH the accession of Diocletian we move out of darkness into a relatively well illuminated twilight. We still, it is true, lack a contemporary historian for secular affairs, but the Ecclesiastical History of Eusebius of Caesarea, besides describing the Great Persecution which broke out towards the end of Diocletian's reign and continued under some of his immediate successors, throws a good deal of light on contemporary conditions. An even more valuable source is Lactantius' treatise *On the Deaths of the Persecutors*, since its author, who was professor of Latin at Diocletian's favourite residence, Nicomedia, during the last decade of his reign, and later lived at Constantine's court, made full use of his position to acquire material. The work is a highly polemical tract, and Lactantius' judgments must be treated with reserve; but it is based on first-hand information, and is all the more useful as it castigates the secular as well as the religious policy of the persecuting emperors. A few of the acts of the martyrs are genuine records of events which really took place, and shed light not only on the persecutions but on contemporary civil and military institutions.

In these circumstances we need not so greatly regret that the reign of Diocletian has mostly vanished in a lacuna in the text of Zosimus. Aurelius Victor and Eutropius become slightly less arid as they draw nearer to their own day. The only other literary documents are a few panegyrics delivered by Gallic orators in honour of Maximian and his Caesar Constantius and the young Constantine. These highly rhetorical effusions are not very informative, but contain some useful allusions to contemporary events and institutions.

The legal sources are considerably fuller than for the previous fifty years. Justinian's Digest contains substantial extracts from two jurists, Hermogenian and Arcadius Charisius, who seem to have written at this time, and Justinian's Code and other minor collections preserve about thirteen hundred constitutions of Diocletian. These are the less useful as historical material because they include very few administrative enactments, but are for the

most part rescripts to individuals on points of private law. They nearly all, moreover, belong to the first decade of Diocletian's reign. Finally inscriptions become relatively plentiful again in the more settled conditions, and it so happens that a large number of papyri of the reign have been discovered.¹

From Diocletian's reign it also begins to be possible to use the *Notitia Dignitatum* as evidence. This great list of all the higher offices, civil and military, of the empire is as we have it a composite document. The basic text was probably drawn up about 408. Our *Notitia* is certainly the copy belonging to the Western court, and as a result, the *Notitia in partibus Orientis* has been but little revised, and represents approximately the state of affairs prevailing at the beginning of the fifth century. The *Notitia in partibus Occidentis* has, on the other hand, been subjected to frequent partial revisions; the latest changes probably date from about 420. Such a document needs to be used with very great caution, but it does yield some information even about periods antecedent to the redaction of the master copy. For in some departments and in some areas very little was changed in the century following Diocletian, and even where great changes had taken place, vestigial remnants of the Diocletianic order survived. Where contemporary evidence gives a fragmentary picture of Diocletianic institutions, it is often possible to fill in the gaps from the *Notitia*, when its evidence, after known later changes have been discounted, is found to coincide with and complete the earlier data.²

Diocletian was proclaimed at Nicomedia on 20 November 284. He still had a rival in Carinus, Carus' elder son, who had been left in charge of the empire during his father's absence in Persia. Diocletian crushed him next spring at the battle of Margus in Pannonia, and forthwith appointed a Caesar, Maximian, a military man like himself and an old friend. Maximian was despatched to the West with the special mission of quelling the *Bacaudae*, the insurgent peasants of Gaul, who had raised a regular revolt under two leaders, Amandus and Aelianus. Next year, on 1 April 286, Maximian was raised to the rank of Augustus. He thus became constitutionally the equal of Diocletian, who only claimed superior authority as Senior Augustus. In actuality the relationship of the two is better expressed by the divine names which they assumed, *Iovius* and *Herculius*. Diocletian was the representative and vicerent upon earth of *Jupiter Optimus Maximus*, king of gods and men; Maximian of *Hercules*, his heroic agent in rooting out the evils which oppressed the world.³

Maximian was soon faced by a rebellion. In 287-8 Carausius, a Gallic officer who had been charged with the suppression of the

Saxon pirates in the Channel, being suspected of collusion with the enemy and threatened with disgrace, proclaimed himself Augustus in Britain. Maximian built a fleet and launched an attack in 289, but his fleet and army suffered heavily in storms, and the only result of the war was that Carausius obtained a foothold in Gaul at Gesoriacum. For the moment he had to be left to rule Britain, where he claimed to be the colleague of his 'brothers' Diocletian and Maximian. Maximian meanwhile fought the Franks and re-established order in Gaul, while Diocletian conducted campaigns against the Alamanni, and farther down the Danube against the Sarmatians and Goths, and also in Syria against the Saracens.

In 292 there was a serious revolt in Egypt. Diocletian decided that two men were not enough to cope with the multifarious difficulties which beset the empire, and on 1 March 293 two Caesars were proclaimed, Constantius in the West and Galerius in the East; both were experienced military men. Constantius' assignment was to subdue Carausius. He forthwith captured Gesoriacum, and about this time Carausius was murdered by one of his officers, Allectus, who succeeded him in Britain. The final attack, which was not launched until 296, was at last successful in reuniting Britain to the empire. Constantius thereafter continued to look after Gaul and Britain, while Maximian, who had been standing by in Gaul, moved to Africa, where during 297-8 he fought a series of campaigns against rebellious Moorish tribes.⁴

Meanwhile Diocletian spent the years 293 and 294 traversing the Danubian provinces—we have a very full record of his movements in the dates of his laws preserved in the Code; it is not known what Galerius was doing at this time. In 295 Diocletian went into Syria while Galerius conducted a war against the Carpi on the Danube. In the summer of 296 there was another revolt in Egypt, headed by a certain Domitius Domitianus, who was proclaimed emperor, but apparently effectively led by his chief minister, styled *corrector*, Aurelius Achilleus. Diocletian dealt quickly with this revolt, capturing Alexandria in the winter of 296-7, but the Persian king Narses took advantage of the situation to expel Tiridates, the Roman protégé who was king of Armenia. On Diocletian's orders Galerius invaded Persia in 297, but was defeated. Next year, however, with more reinforcements from the Danube armies, he won a decisive victory over Narses, who was compelled in the peace treaty which followed to surrender seven satrapies north of the upper Tigris. After this date we hear of no more rebellions or foreign wars, and it would seem that the authority of the tetrarchy was well established within the empire, and that its external foes had been for the time being quelled.

During the last years of his reign Diocletian was occupied with his struggle with Christianity, which will be described later in this chapter. He appears to have spent the summer of 303 in Illyricum, making his way slowly to Rome, which he visited briefly—perhaps for the first time—in order to celebrate his *vicennalia* in the autumn. By January 304 he was in Ravenna, whence he travelled slowly to Nicomedia; he suffered during this year from a severe illness. Next year, on 1 May 305, he abdicated, proclaiming his Caesar Galerius Augustus in his place, and appointing a new Caesar, Maximian, to replace Galerius. On the same day Maximian—much against the grain, as later events proved—also abdicated, making his Caesar Constantius Augustus and appointing Severus as Caesar.⁵

It is perhaps Diocletian's greatest achievement that he reigned twenty-one years and then abdicated voluntarily, and spent the remaining years of his life in peaceful retirement. How he achieved this remarkable result it is more difficult to divine. It is easy to say that the empire was weary of civil war. It had long been weary of civil wars, but they had continued unabated, and Diocletian himself had to deal with two serious rebellions, that of Carausius and Allectus in Britain and that of Domitius Domitianus in Egypt. Stress has been laid on Diocletian's introduction of oriental court ceremonial and his claim, in the assumption of the title *Iovius*, to quasi-divinity. He was, according to Aurelius Victor and Eutropius, the first Roman emperor to demand *adoratio*, like a god or a Persian king, from those who approached him, instead of the customary *salutatio*, and he probably introduced the practice, castigated by one of the authors of the *Historia Augusta*, of living in seclusion and only rarely appearing to the public, vested in the gorgeous robes which Victor describes with disapproval.⁶

Subsequent history, however, proved that such an attempt to invest the person of an emperor with an aura of sanctity was a very poor guarantee against military revolts. The new arrangements may have been some practical safeguard against assassination, which becomes rarer. The claim to divinity was also a poor protection against rebellion and murder. In this Diocletian had been anticipated by Aurelian, Probus and Carus, whose title *dominus et deus* had not served to protect them. It is very difficult to understand how seriously these claims were taken. In official language 'sacred' and 'divine' had long been synonyms for 'imperial', and the panegyrists take a delight in weaving elaborate conceits around the theme, now openly greeting the emperor as a god on earth, at other times subtly averring that his mind is more intimately infused with the supreme divinity than those of ordinary

mortals. All this, however, did not in practice secure an emperor ordinary loyalty.

Diocletian's survival has also been attributed to his constitutional and administrative reforms. A critical analysis of the latter will show that they had little if any bearing upon the problem of security; in particular it may be noted that Diocletian did nothing to reduce the vast concentration of authority in the hands of the praetorian prefects, who had four times in recent history—in the persons of Macrinus, Philip, Carus and Aper—proved over-mighty subjects. The constitutional scheme elaborated by Diocletian is more relevant. The four emperors theoretically formed a college, all laws being issued in their joint names, and all official communications being addressed to all four. Even their praetorian prefects were theoretically a college, and their edicts and letters were issued in their joint names. In practice the emperors, as we have seen, took responsibility for separate areas. Maximian ruled the empire West of the Adriatic and the Syrtis, and within that area Constantius ruled Gaul and Britain. In the Eastern half of the empire Diocletian and his Caesar seem to have adopted more flexible arrangements. Victor, it is true, assigns Illyricum to Galerius (to which Praxagoras adds *Asiana*) and the rest—Asia Minor, Syria and Egypt—to Diocletian; and Galerius certainly did much fighting on the Danube and may have spent much of his time there. Diocletian is known, however, to have spent the whole of the years 293-4 and the greater part of 303-4 in Illyricum, and in 297-8 Galerius was summoned to the Eastern frontier to fight the Persians.⁷

This team of four emperors was an admirable safeguard against rebellion, so long as they remained loyal to one another, for the members of the college could between them keep in touch with all the armies, securing their loyalty by personal leadership, and in the event of a rebellion one member could act promptly to suppress it, secure in his knowledge that his colleagues would hold the front elsewhere. All depended, however, on the concord of the colleagues, and this was only secured by Diocletian's moral dominance over his team.

There can be no doubt that Diocletian also hoped by his new system to solve the problem of the succession. The Caesars, who were adopted by their chiefs, becoming *Iovii* and *Herculii* respectively, and married to their daughters, were obviously intended eventually to succeed. Diocletian thus broke away from the hereditary principle and reverted to the second century system of adoption. Whether he originally contemplated the final stage in the design is more doubtful: but when he himself decided to

abdicate in 305, he compelled his colleague Maximian to do likewise, so that the two Caesars could be promoted Augusti simultaneously. In the appointment of the two new Caesars' hereditary claims were once again ignored, Maxentius, the son of Maximian, and Constantine, the son of Constantius, being passed over. This highly artificial scheme very rapidly broke down in practice. First, Constantius died only a little over a year after becoming Augustus, and his armies promptly proclaimed his son Constantine as his successor. Galerius was obliged to accept Constantine as Western Caesar, promoting Severus to succeed Constantius. Then, encouraged by Constantine's success, Maxentius also made a bid for the throne and was acclaimed by his father's armies, while old Maximian gladly resumed the purple in his son's interest. Severus, when he attempted to suppress the rebellion, was deserted by his troops and captured, and Galerius himself nearly met the same fate.

The story of these years vividly illustrates the strength of the dynastic sentiment of the troops. They could always be relied upon to back an emperor's son against an outsider, and as the sons of emperors could hardly be expected to efface themselves voluntarily, Diocletian's neat theoretical scheme for the succession was doomed from the start. The story also demonstrates that war weariness was no guarantee against civil wars, and that a team of emperors was not necessarily harmonious. In fact it shows up strongly that it was Diocletian's dominating personality that gave the empire twenty years of comparative peace. His achievement was all the more remarkable in that he was, though a competent soldier, not a great general and wisely entrusted major military campaigns to his colleagues. His genius was that of an organiser, and during his twenty years' reign he built up a solid administrative structure which gave the empire a fresh lease of life.

One of the counts in Lactantius' denunciation of Diocletian is that 'the provinces were chopped into slices' ('provinciae quoque in frusta concisae'). The charge is certainly true. There had been a gradual tendency to multiply provinces by subdivision since the beginning of the empire, and their number had probably by Diocletian's accession reached fifty, counting Italy as one. Inscriptions, papyri and imperial constitutions preserved in the Codes from the reigns of Diocletian and his immediate successors prove the creation of many new provinces during this period. In Africa, for instance, inscriptions show that under Diocletian Valeria Byzacena was detached from the Proconsular province, and Mauretania Sitifensis from Caesariensis, while Numidia was divided into Cirtensis and Militiana; under Maxentius Tripo-

litania is also recorded as a separate province. In Egypt inscriptions and papyri show that the Thebaid was detached before 302 and Libya before 308; both these changes probably date from the reorganisation in 297, after the suppression of the revolt of Domitius Domitianus. Later, apparently in 313, what remained of Egypt, Aegyptus, was split into two provinces, Iovia and Herculia. In Asia Minor inscriptions of Diocletian's reign attest the provinces of Caria and of the Islands, detached from the great proconsular province of Asia, and under Galerius and Maximian a province of Pisidia, cut out of the old Galatia, already existed. Along the Danube Scythia was certainly detached from Lower Moesia under Diocletian, and Noricum had been bisected by 311. In Gaul a constitution probably to be dated 313 shows Lugdunensis divided into two provinces, and under Constantine an inscription attests a province of Flavia Viennensis, carved out of Narbonensis.⁸

This evidence, so far as it goes, agrees very closely with a manuscript list of provinces, known as the *Laterculus Veronensis*. In particular this list records some provinces which are known to have had a short life—Aegyptus Iovia and Herculia, created in 313 and reunited in 324, and Numidia Cirtensis and Militiana, first attested in 304-5 and, it would seem, amalgamated again by Constantine in 314—and preserves the old name of one province, Diospontus, which was certainly renamed Helenopontus before the end of Constantine's reign.⁹

The *Laterculus Veronensis* seems in fact to be a more or less accurate record of the state of affairs prevailing a few years after Diocletian's abdication, and it shows that he pursued a drastic policy of subdivision. Many small provinces, like Sicily or Cyprus, he naturally left untouched, but he bisected over twenty of medium size, and divided Narbonensis, Africa, Cappadocia and Egypt into three each, Thrace into four, and the great province of Asia into seven. He also divided Italy into eight or more districts which were provinces in all but name. Altogether he approximately doubled the number of provinces.)

In most of the provinces, which were ungarrisoned, the governor had civil functions only. In some which had garrisons Diocletian separated the military command from the civil government, but this was by no means a universal rule. In the *Acta* of the centurion Marcellus, dated 298, the *praeses* (of Gallaecia) is still in command of Legio VII Gemina. An inscription honours Aurelius Litua, *praeses* of Mauretania Caesariensis, who, after crushing the Berber tribes, 'returned safe and sound with all the soldiers of our lords Diocletian and Maximian, the Augusti'. Numerous inscrip-

tions record the erection and repair of frontier fortresses by *praesides*, in Britain, in Maxima Sequanorum, in Numidia, in Tripolitania, in Mauretania Sitifensis and Caesariensis, in Arabia and in Augusta Libanensis.¹⁰

Military commanders (*duces*) of the Diocletianic period are in fact rarely attested. One Valerius Concordius put up a dedication to Constantius Caesar at Trier (Augusta Trevirorum); he may be presumed to have commanded the army of one of the Germanies. Carausius is said by Eutropius to have been entrusted with coastal defence 'per tractum Belgicae et Armoricae', and may have been the first 'dux tractus Armorici et Nervicani'. On the Danube a 'dux limitis provinciae Scythiae' is attested under the tetrarchy, and *duces* in Valeria in 303 and in Noricum in 310-11. A constitution of 311 indeed implies that by this date all troops in Illyricum were commanded by *duces*. In Egypt there was by 308-9 a *dux Aegypti Thebaidos utrarumque Libyarum*, Aurelius Maximinus. In Africa M. Cornelius Octavianus, *dux per Africam Numidiam Mauretanium*, may belong to this period, but if so it must have been a temporary appointment, since the local *praesides* are all found fulfilling military functions at various times in the reign. The institution of the *dux* seems to have been a late development in Diocletian's policy and was not consistently carried through. It may be noted that the zone of a *dux* often covered several civil provinces. This is definitely attested for Carausius and Aurelius Maximinus—and perhaps for Cornelius Octavianus—in the early period. At a later date several *duces* commanded the armies of two provinces; Armenia and Pontus, Syria and Euphratensis, Pannonia Prima and Noricum Ripense, Pannonia Secunda and Savia, went together, and the *dux Britanniarum* is implied by his title to have controlled more than one British province. It is likely that these arrangements date from the first institution of these commands.¹¹

On the other hand, if in some provinces the military command was separated from the civil government, it is probable that in most the governor became responsible for both jurisdiction and finance. In the second century there had in most provinces been a proconsul or legate whose main function was jurisdiction, and a procurator who managed finance; only in the few provinces governed by a procurator were these functions united. In the third century jurisdiction and finance had often been *de facto* united by the appointment of a *procurator agens vices praesidis*, and legates and proconsuls had acquired financial duties, since they were responsible for assessing and levying requisitions in kind.

Diocletian virtually completed these processes. On the one hand the hitherto irregular requisitions were reorganised and largely

superseded the old money taxes. On the other, senatorial governors were almost eliminated. There were still a few proconsuls and legates at the beginning of his reign. By the end of it there were no legates, and only the two consular proconsulships of Asia and Africa, both greatly reduced in territory, still survived, and were still filled by senators. Over the provinces into which Italy was divided Diocletian placed *correctores*, who were normally senators, but might be of equestrian rank. Two old proconsular provinces, Sicily and Achaëa, were also placed under *correctores*, so far as we know, senators. All the other provinces of which we have any record were governed by equestrian *praesides*. This title, which had been a general term used unofficially and semi-officially to denote governors of all ranks, now becomes technical for the lowest grade of governor, always equestrian, as opposed to a proconsul, who constitutionally must be a senator, or a *corrector*, who might be one.¹²

It seems likely that in the great majority of provinces the procurator was thus merged in the governor, the *procurator agens vices praesidis* becoming the *praeses*. But if this was the general rule Egypt formed an exception. Here the newly created provincial governors seem under Diocletian to have been responsible for justice and military affairs only, and finance was handled by newly created procurators, each controlling half a province. Whether *correctores* originally had financial duties we do not know, but by Constantine's reign even proconsuls were responsible for taxation, and the Egyptian procurators seem to have been abolished.¹³

It has often been stated that the object of the provincial re-organisation was to reduce the possibility of military rebellions. The separation of the military command from the civil government seems *prima facie* a step in this direction, but this change apparently came late in the reign and was only partially completed. Moreover some at any rate of the new *duces* commanded far larger concentrations of troops than any provincial governor had had at his disposal for generations. The *dux* of Egypt, the Thebaid and the two Libyas is a striking case in point, for Diocletian trebled or quadrupled the modest garrison which the prefect of Egypt had commanded in the second and third centuries.

The subdivision of the unarmed provinces, whose governors had never been a political danger, must be due to other reasons; and it was unarmed provinces, it may be noted, like Thrace and in particular Asia, which were most drastically treated. The true reason for the policy is correctly, if unkindly, stated by Lactantius—'multi praesides et plura officia singulis regionibus et paene iam

civitatibus incubare'. The object was to tighten up the administration by giving each governor a smaller area to control.¹⁴

A governor now had to divide his time between jurisdiction and finance. The latter had become a much more complicated and troublesome matter, since besides the old money taxes, a multitude of requisitions in kind had to be organised. The result was that jurisdiction tended to be neglected, which was all the more serious as the city magistrates had by now lost all but a few vestigial remnants of formal jurisdiction and all cases went to the governor. Diocletian was insistent that the taxes should be both fairly assessed and rigorously levied, and he also attached great importance to the administration of justice. He ordered that governors should no longer delegate their jurisdiction to *judices pedanei*, but personally try all cases, or if too much occupied by other business, or overwhelmed by the volume of litigation, appoint judges to decide the issue of fact after themselves giving a ruling on the law (*indices dare*); and even this procedure was not to be used for important cases. Diocletian seems to have been much concerned that correct Roman law should be universally enforced; the vast number of his rescripts on often elementary points suggests that more than two generations after the Constitutio Antoniniana Roman law was imperfectly known in many provinces, and that Diocletian was resolved to remedy this state of affairs.¹⁵

In addition to finance and jurisdiction governors had a heavy burden of administrative work. There was much activity in the reign in repairing the long-neglected roads, and probably also in building posting stations and reorganising the public post, which was subjected to heavier strains by the new fiscal system. Above all the governor had to keep a constant eye on the city councils of his province. Not only did he have to hear appeals against nominations to the decurionate and the regular magistracies and the extraordinary offices, now regularly required for the collection and delivery of requisitioned foodstuffs, clothing, remounts, recruits for the army and labour for the public works. He also often had to intervene personally or through his officials to enforce the collection of arrears or actually to collect them. In the circumstances it is little wonder that the proconsul of Asia, even with his three legates, found it impossible to cope with the 250 cities of the old province; the thirty or forty cities of the new provinces were a full-time job for their *praesides*.

Having created so many provincial governors, Diocletian evidently found that their supervision too severely taxed the central government, even though this was divided into four sections. To deal with this difficulty he grouped the provinces

into larger circumscriptions, called dioceses, each of which was directed by a deputy of the praetorian prefects, *vices agens praefectorum praetorio*, or *vicarius* for short. The Laterculus Veronensis shows the diocesan organisation at an early stage. In the West there are six dioceses, the Britains (four provinces), the Gauls (eight provinces, corresponding to the old Belgica and Lugdunensis, with the two Germanies and the Poenine Alps), Viennensis (seven provinces, corresponding to the old Aquitania and Narbonensis with the Maritime Alps), the Spains (six provinces, including Mauretania Tingitana across the Strait), Africa (six or seven provinces) and Italy. Italy actually, though not officially, consisted of two dioceses, Italy proper, which included Raetia and the Cottian Alps besides Italy north of the Apennines, and the Suburbicarian diocese, which comprised southern Italy with the islands of Sicily, Sardinia and Corsica. For a *vicarius praefectorum in urbe Roma*, the title borne by the vicar of the Suburbicarian diocese, is known in the early fourth century, and an *agens vices praefectorum praetorio* resided at Rome in 293-6. In the peninsula of Illyricum there are three dioceses, the Pannonias (seven provinces, carved out of the old Pannonias, Dalmatia and Noricum), the Moesias (ten provinces from Upper Moesia and Dacia on the Danube down to Macedonia, Epirus, Achaea and Crete) and the Thraces (six provinces answering to the old Lower Moesia and Thrace). In the East there are also three dioceses, Asiana (nine provinces, corresponding to the old Asia and Lycia-Pamphylia), Pontica (seven provinces, comprising the old Bithynia-Pontus, Galatia and Cappadocia) and Oriens (eighteen or nineteen provinces, from the Taurus down to Egypt and Cyrenaica).¹⁶

Not many early *vicarii* are known, but they represent more than half the above dioceses: all whose rank is known were equestrian. The vicar seems to have deputised for the praetorian prefects in all their manifold functions. In particular he controlled the troops—those at any rate commanded by *praesides*, for his relations with a *dux* are unknown. Thus the centurion Marcellus in 298 was committed by the *praeses* (of Gallaecia) for trial before Aurelius Agricolanus, *agentem vicem praefectorum praetorio* (the vicar of the Spains, then at Tingi), for military indiscipline. In 303 a frontier fort was built in Numidia by a military officer (a *praepositus limitis*) on the orders of the vicar and the *praeses*. The proconsuls of Africa and Asia were, doubtless in deference to constitutional principle, not subject to the vicars of Africa and Asiana, nor for that matter to the praetorian prefects themselves—a fact which may help to explain Diocletian's abolition of the other proconsulates.¹⁷

Lactantius associates with the vicars *rationales* and *magistri* ('item *rationales multi et magistri et vicarii praefectorum*'), and the rather meagre contemporary evidence of the inscriptions and imperial constitutions bears out this suggestion, that in each diocese there were besides the vicar at least one representative of the *rationalis summarum* and of the *magister rei privatae*; one early *rationalis* styles himself *rationalis vicarius per Gallias*, which suggests that the office was originally conceived as a vicariate of the supreme *rationalis* at the emperor's court. Early *rationales* are known for Gaul, the Spains, urbs Roma, Africa and Asiana, but also for the Three Provinces (Sicily, Sardinia and Corsica), for Numidia and Mauretania, and for Egypt. It would appear that normally each diocese had one *rationalis*, but that some were divided into two for fiscal purposes—the Suburbicarian diocese into the mainland and the islands, Africa into the old proconsular province and Numidia with Mauretania, while Egypt was separated from the rest of Oriens. These arrangements correspond so closely with those shown in the Notitia Dignitatum in the West—no details are given in the East—that it is reasonable to infer that the Diocletianic organisation had been little if at all altered. If so the Pannonias were also divided into two districts.¹⁸

The *magistri rei privatae* are associated with the *rationales* in several early constitutions, but very few individuals are attested in inscriptions or laws: we hear of Domitius Dracontius, *magister rei privatae Africae*, and Valerius Epiphanius, *magister privatae Aegyptae et Libyae*, both under Constantine. The Notitia again seems to preserve the early organisation in the West. It shows a *rationalis rei privatae* (as the *magistri* were by now called) for each diocese, and one extra (probably a later innovation) for Sicily. The known early *rationales* and *magistri* are all of equestrian rank.¹⁹

It is plain that Diocletian had very little use for senators. He systematically eliminated all *legati pro praetore* and of the proconsulates he spared only the two traditionally reserved for ex-consuls; and of these Africa was reduced to a third and Asia to a seventh of its ancient extent. Senators, *virii clarissimi*, were still employed—side by side with men of equestrian rank—as *correctores* in Italy and in two former proconsular provinces. Beyond this they had no share in the administration of the empire except the largely ornamental office of *praefectus urbi*. It was to men of equestrian rank that Diocletian entrusted not only his finances, according to ancient custom, but the command of the armies and the civil administration of the dioceses and of all but a handful of the provinces. (Not only *rationales* and *magistri* but *duces*, *vicarii* and *praesides* were all *virii perfectissimi*.) The supreme direction lay with the praetorian

prefects, who still alone held the highest equestrian rank of *virii eminentissimi*.

We know little of the men whom Diocletian employed to fill the new posts. The *duces* were doubtless usually promoted army officers, and so were some *praesides*; for the military career was not yet sharply divided from the civil, and some *praesides* still commanded troops. Thus M. Aurelius Decimus, *praeses* of Numidia (under Carus), was *ex principe peregrinorum*, and Aurelius Maximianus, *praeses* of Numidia in Diocletian's reign, may well be the same man recorded earlier as *ex praefecto legionis* in Moesia Superior. The Caesar Constantius is said to have risen from *protector* to *tribunus* and thence to *praeses* of Dalmatia, while Valerius Concordius was successively *praeses* of Numidia and *dux* of one of the Germanies.²⁰

But the majority of the posts required civilian rather than military talents—capacity to deal with papers, accountancy, and above all some knowledge of law—and a distinction is already made in a panegyric delivered in 289 between *duces* and *iudices*. These qualifications were sometimes found in clerks of the *officia*, men like Flavius Flavianus, who rose from *cornicularius*, or chief judicial clerk, of the praetorian prefects to be *praeses* of Numidia. But the majority were probably promoted direct from civil life, particularly from the bar. It was naturally lawyers who largely staffed the secretariats of the *comitatus*: Eumenius, professor of rhetoric at Augustodunum, praised the Caesar Constantius for fostering that liberal education whereby young men were trained for practice at the bar, and sometimes for the service of the imperial chancery, and even for ministerial posts in the palace. But a liberal education was also a preparation for a provincial governorship. The same Eumenius or his successor in 310 recommended to Constantine's favour not only his five sons, one of whom had already risen to be *advocatus fisci*, counsel for the crown in treasury matters, but also his past pupils, many of whom governed the emperor's provinces.²¹

In the central administration Diocletian is not known to have made any innovation, except that he doubled and redoubled it to serve his colleague and then the Caesars. Since most emperors from the middle of the third century had been constantly on the move campaigning—and Diocletian himself went regularly on tour, inspecting and organising—the central administration which served the emperor had come to be a migratory body, and was known as the *comitatus*. It comprised not only the emperor's personal household, his bedchamber (*cubiculum*) as it was called, which was served by eunuch *cubicularii* and a numerous subordinate staff, and his bodyguard of praetorians and other troops,

of which more will be said presently, but also the imperial council or *consistorium*, the praetorian prefect with his staff, the two finance ministries, and the secretariats.

The praetorian prefecture had at this period reached the zenith of its development. In addition to his original function as commander of the praetorian guard, the prefect had in the second century, and even more under the Severi, acquired extensive judicial functions as the emperor's deputy; in particular he normally heard appeals from provincial governors. As the emperor's chief of staff he was responsible for the recruitment, discipline and supply of the armies. With the growth of the requisition system this last function increased in importance, and the praetorian prefect became in effect the principal finance minister of the empire, assessing and levying, through his *vicarii* and the provincial governors, the requisitions in kind which formed the bulk of the revenue. Finally he was, as the hierarchical chief of the vicars and governors, ultimately responsible for the general administration, including public works, roads and the imperial post. Diocletian's early praetorian prefects, Asclepiodotus and Hannibalianus, were primarily soldiers, trained in the school of the emperor Probus; Asclepiodotus is recorded to have commanded in the field, taking charge of part of Constantius Caesar's expedition against the British usurper Allectus. After Diocletian's abdication we once again find praetorian prefects, Rufius Volusianus and Rusticius Pompeianus, commanding Maxentius' forces in the field. But the praetorian prefects must have been primarily men of administrative ability.²²

Of the finance ministers, the *rationalis rei summae* or *summarum*, despite the reduced value of the money revenue, retained some importance. He controlled the mines and the mints, and was responsible, through his *rationales vicarii* and the governors, for the collection and expenditure of money taxes. The *magister rei privatae*, through his diocesan *magistri* and their subordinate procurators, collected the rents of imperial lands and claimed lands accruing to the crown. There seems, however, to judge by the imperial constitutions, to have been a good deal of co-operation or overlapping between *rationales* and *magistri* at diocesan level at any rate. This might be explained on the hypothesis that the *res privata* was subject to the supreme authority of the *rationalis rei summae*, and that diocesan *rationales* might sometimes as his agents act with the diocesan *magistri*, or even take action themselves in matters affecting the *res privata*.

The various secretariats (*officia* or *scrinia*) were controlled by *magistri*. Of these the most important was the *magister memoriae*;

it was a holder of this office, Sicorius Probus, who negotiated the treaty with Persia after Galèrius' victory in 298. There were also the *magistri epistolarum* (*Latinarum*, and in the East *Graecarum* also) and *libellorum*, who survived into a later period, and one other who did not, the *magister studiorum*. Officials styled *a consiliis sacris* probably served as a secretariat to the consistory.²³

The two Augusti, Diocletian and Maximian, must each have possessed a full *comitatus*. It is less certain that each Caesar had a full establishment. Asclepiodotus certainly served as praetorian prefect under Constantius' command, having previously been Maximian's prefect. It has been suggested that he was merely lent by Maximian to Constantius, but it is more probable that he was definitely transferred to the new Caesar on his creation, and that Maximian appointed another to serve himself. It is indeed difficult to conceive how the Caesars can have managed their armies without the assistance of prefects of their own. We know that Constantius also had his own *magister memoriae*, Eumenius, and presumably therefore the other secretaries. It is less certain that the Caesars had finance ministers. Later Constantius II's two Caesars, Gallus and Julian, had praetorian prefects and secretaries but no finance ministers, and it may well be that Constantius II was following precedent. He appointed his Caesars' ministers, and Diocletian and Maximian may have done the same.²⁴

These reforms certainly made the administration of the empire more efficient, but at a considerable cost. The ministers of the *comitatus* had been quadrupled in number, or nearly so; provincial governors had been doubled by the creation of about fifty new posts; the new diocesan officials totalled between forty and fifty; the number of *duces* is uncertain, but may have reached twenty by the end of the reign. Each officer, it is true, cost relatively little. In money even so important a minister as the *magister memoriae* received only the old maximum salary for equestrian officials (excluding the praetorian prefects) of 300,000 sesterces, now worth only about 400 second century denarii. If *duces* and *praesides* received fifty ration and fodder allowances each, and other officers were paid on a corresponding scale, the cost of salaries in kind will have been more considerable, but still far below second-century scales; fifty ration and fodder allowances were worth less than half the 60,000 sesterces which the lowest grade second-century procurator received. Nevertheless the total cost of the new offices will have been roughly equivalent to that of two legions, a heavy burden on the exhausted empire.²⁵

This was not the end of the story, for as Lactantius complains, *multi praesides* meant *plura officia*; each of these new officers had his

staff of clerks and orderlies. The numerical strength of the *officia* is not known in Diocletian's time, but in the latter half of the fourth century three hundred was the standard establishment for a vicar, and one hundred for a *praeses*. If the numbers were on this scale under Diocletian, his administrative reforms will have added the equivalent of two or three legions to the total of officials.²⁶

In a well-known passage Zosimus contrasts the army reforms of Diocletian and Constantine. 'By the foresight of Diocletian', he writes, 'the frontiers of the Roman empire were everywhere studded with cities and forts and towers, in the way I have already described [the passage is lost], and the whole army was stationed along them, so that it was impossible for the barbarians to break through, as the attackers were everywhere withstood by an opposing force. But Constantine ruined this defensive system by withdrawing the majority of the troops from the frontiers, and stationing them in cities which did not require protection.'²⁷

This is too absolute, for there were under Diocletian, and almost certainly had been before him, mobile forces under the immediate command of the emperor, which, since they accompanied him on his movements, were called the *comitatus*. The clearest evidence comes from three inscriptions which record the careers of soldiers who served first in the legions and were then promoted to the *Lanciarrii*; two were next promoted to the praetorian guard (which was disbanded in 312), the third, who later became an officer, states that he served as a *Lanciarrius* in the imperial mobile army ('in sacro comitatu'). Clearly there was a unit or units of *Lanciarrii*, which under Diocletian ranked higher than the legions and only below the praetorians, and was part of a *comitatus*: regiments with this name appear later with the highest precedence in the field army as recorded in the *Notitia Dignitatum*. A unit styled *Comites* appears in a large concentration of troops, whose requisitions of chaff are recorded in a papyrus dated 295, probably an expeditionary force led by Diocletian to Egypt. The very name of this unit implies its character; cavalry regiments styled *Comites* rank high in the field armies of the *Notitia*. The *comitatus* certainly was an established institution in 295, for in that year the proconsul of Africa, endeavouring to break down the resistance of the Christian conscientious objector Maximilian, argued, 'There are Christian soldiers serving in the sacred *comitatus* of our Lords Diocletian and Maximian, Constantius and Maximian [i.e. Galerius].'²⁸

Its origins can be carried yet further back. Zenophilus the consular of Numidia in 320, interrogating one Victor, asked: 'Of

what condition are you?' Victor replied: 'I am a professor of Latin literature, a Latin grammarian. . . . My father was a decurion of Constantina [Cirta], my grandfather a soldier; he had served in the *comitatus*, for our family is of Moorish origin.' Victor had already been a grammarian, and a reader in the Christian church, in the year of the Great Persecution, 303; so his grandfather must have served in the *comitatus* before Diocletian's accession. Victor's reply is further interesting in that it implies that Moorish units, presumably the *Equites Mauri* of the *Notitia*, were well known as belonging to the *comitatus*.²⁹

Other units which may have belonged to the Diocletianic *comitatus* are the legions of the *Ioviani* and the *Herculiani*, which were in the fourth century the crack regiments of the field army, and head the list of the Palatine legions in the *Notitia*. They may, as is generally assumed, have originated as detachments from the two legions of the province of Scythia, I *Iovia* and II *Herculia*, but they seem early to have achieved independent status as legions of the *comitatus*. The *Equites Promoti*, who immediately follow the *Comites* in order of seniority among the later *vexillationes palatinae*, may also have belonged to the Diocletianic *comitatus*: the name *Promoti* was given to legionary cavalry detached from their legion.³⁰

The *comitatus* also included another corps of a peculiar type, the *protectores*. The earlier history of this body is obscure. The title of *protector divini lateris*, imperial bodyguard, seems to have been invented by Gallienus, who bestowed it on high-ranking officers, prefects of legions and praetorian tribunes. Later it was given to selected centurions, and apparently became a stepping stone to officer posts of the equestrian grade. By Diocletian's time there was certainly a corps of *protectores* which accompanied the emperor. He himself is stated by Aurelius Victor and the author of the *Vita Numeriani* to have been commander of the *domestici* at the time of his acclamation as emperor, and though the term used is anachronistic, the additional title of *domestici* not having been given to the *protectores* until later, the fact may be true. The tombstone of Valerius Vincentius, *actuarius protectorum*, at Nicomedia, which is probably of Diocletianic date, proves that the *protectores* were by then a corps, for the *actuarius* was the quartermaster of a unit, who distributed its rations, and suggests that they were in the *comitatus*; for Diocletian resided frequently at Nicomedia. Two *protectores Augusti* or *Augustorum* also appear amongst the officers who make requisitions of chaff for the Egyptian expeditionary force mentioned above.³¹

The corps was formed of picked men, who after a few years'

service in it were then posted to equestrian commands; the career of Valerius Thumpus, who after serving in Legio XI Claudia was picked for the Lanciarii of the *comitatus*, then was *protector* for five years and was finally appointed prefect of Legio II Herculia in Scythia, is probably typical of many. The *protectores* may thus be regarded as officer cadets and the corps was no doubt in part a training school.³²

It is possible that Diocletian also formed the *scholae*, the imperial bodyguard proper. These units are first definitely attested in the latter part of the reign of Constantine, who is stated to have allotted rations from the civic supply of Constantinople to the Scholae Scutariorum and Scutariorum Clibanariorum. Sergius and Bacchus are, however, stated in their Acta (which, though rhetorical, seem to be accurate in their factual detail) to have been senior members of the Schola Gentilium at the time of their martyrdom, which took place during the Great Persecution under an emperor called Maximianus. He must presumably be Galerius (who was officially known as Maximianus), as Caesar before his proclamation as Augustus in 305; for the incident took place in Syria, which passed in 305 to the rule of Maximinus. Another hint is provided by Lactantius, who, commenting on the rapid rise of Maximinus, declares that from being a shepherd he was 'immediately a Scutarius, next a *protector*, soon a tribune, and the next day Caesar'. The implication of these words is that it was exceptional to be drafted into the Scutarii straight away, and that the corps was therefore a select one. Many units of Scutarii are known, but the Schola Scutariorum seems to be alluded to here. If this evidence is accepted, there will have been under Diocletian at least a Schola Scutariorum and a Schola Gentilium. The Gentiles, to judge by their title, must have been recruited from barbarians, the others presumably from Romans.³³

In spite of this there is some substance in Zosimus' remarks. The *comitatus* seems to have been a very small body under Diocletian. In the later lists of the *comitatus* the Comites and Promoti are immediately followed by vexillations which were very probably first raised by Constantine, and the Lanciarii, Ioviani and Herculiani by Gallic legions which Constantine enrolled in the army which he led against Maxentius. In Diocletian's day, when an important expeditionary force was required, it was formed in the manner habitual in the second century by assembling detachments drawn from the frontier legions and auxiliary troops. The papyrus which records the requisition of chaff illustrates this. Among the units it names are the legions IV Flavia and VII Claudia, of the province of Moesia I, commanded by the *praepositus* Julianus, and the legion

XI Claudia with another which is doubtless I Italica, of the province of Moesia II, under the *praepositus* Mucianianus. Seven other *praepositi* are named, who each presumably commanded detachments from the two legions of a province; one pair of legions was fairly certainly V Macedonica and XIII Gemina of Dacia, detachments from which became a permanent part of the garrison of Egypt. The papyrus also mentions an Ala II Hispanorum, which probably had been stationed in Moesia I, and stayed on in Egypt.³⁴

It is furthermore noticeable that in Diocletian's legislation on the privileges of veterans two classes of units are alone recognised, legions and vexillations of cavalry, which are the superior service, and cohorts, which (with *alae*) are the inferior. It is not until Constantine that a yet higher group, the *comitatenses*, appears in the laws.³⁵

It may even be that Diocletian was somewhat reactionary in his military policy, decreasing the *comitatus* which he inherited by drafting units to the frontiers. This is suggested by an inscription dated 311, which records a squadron of Equites Dalmatae Aque-siani Comit. under the command of a *dux* (of Pannonia I and Noricum). It looks in this case as if a squadron of Dalmatian horse, which had served as *comites*, had been later stationed at Aquae under the local *dux*. An undated but probably early inscription speaks of a Vexillatio Equitum Dalmatarum Comit. Anchialitana, which again suggests that a once mobile unit had been permanently stationed, this time in Thrace. The Notitia contains similar hints. Among the *pseudocomitatenses* of Illyricum are the Lanciarii Comaginenses and the Lanciarii Lauriacenses: that is two legions of Lanciarii, which seem to have been specifically units of the *comitatus*, had at one time been stationed in two frontier towns of Noricum. Other legions of Lanciarii among the *comitatenses* bear similar local names, Stobenses, Savarienses and Augustenses, which suggest that they had at one time been garrison troops. It is also noticeable that the Dalmatian and Moorish cavalry which appear to have been part of Aurelian's mobile field army are in the Notitia mostly stationed among the *limitanei* along the Danube and the Eastern frontier. They may have been placed there by Aurelian, but it is equally possible that it was Diocletian who thus strengthened the frontier armies at the expense of the *comitatus*.³⁶

Be that as it may, Diocletian was mainly interested in strengthening the frontiers. There is ample archaeological and epigraphic evidence for his activity in building strategic roads and fortresses; his work is best preserved on the desert frontiers of Africa, Syria

and Arabia, but excavation has revealed traces of his work on the Rhine and the Danube.

Any estimate of Diocletian's achievement in strengthening the frontier armies is beset by two major difficulties. In the first place we do not know in what condition he found the armies. There is virtually no evidence for changes in the military establishment after the reign of Alexander Severus, and in the troubled half century between then and Diocletian's accession much must have been changed; many units must have been lost and many new formations raised. Moreover, even for the Severan period our information is incomplete; we can be sure about the legions, but we have no full record of the auxiliaries, the cohorts and *alae*, and very scrappy knowledge of more recent formations such as the *numeri*.

In the second place, our contemporary evidence about the Diocletianic army is very weak, only a few inscriptions, tile stamps and papyri. His army can only be reconstructed from an analysis of the lists in the Notitia Dignitatum, drawn up over a century later. The task is not altogether impossible, for there is good evidence for believing that on some fronts Diocletian's arrangements remained very little changed, and on most the legions can be traced. It should however be emphasised that in some areas the Roman army suffered grave losses in the century and more which intervened between Diocletian's abdication and the Notitia, and the Notitia does not record these losses. We can form some estimate of what remained of the Diocletianic army in the early fifth century, but we can only conjecture how much had perished and been replaced by later formations.

In effect, then, we can estimate the minimum size of the Diocletianic army, in particular the number of its legions, which are more easily recognisable and were less liable than the smaller units to disappear without trace. We can make no comparison save with the Severan army, and here too our only relatively complete and certain figures are for the legions. In any comparison account must be taken of the strength of the units. There is no reason to believe that the cohorts and *alae* in Diocletian's time differed from those of the principate, which were 500 strong, except for the few units styled *milliariae*, which were of double strength; a few *alae* and *cohortes milliariae* survive in the lists of the Notitia. We have no information about the new cavalry units, the *vexillationes*, but they too were probably 500 strong. The legion of the principate numbered about 6,000, and there is good reason for believing that the new legions which Diocletian raised were of the same strength. They, like the old legions, later contributed detachments to the

comitatus, and in those areas, the Danubian province and Egypt, where the frontier legions were later broken up into a number of detachments, the Diocletianic legions were divided in the same way as were the older legions.³⁷

The armies of the Eastern frontier from the Black Sea to Egypt show a marked uniformity of structure in the Notitia. They consist of legions and cavalry *vexillationes*, and, ranking below these, *alae* and cohorts; there are only two formations of later type, two *cunei equitum* in the Thebaid. This structure corresponds so exactly with the classification of units found in Diocletian's laws that it seems likely that the disposition of the troops on the Eastern frontier had remained substantially unaltered since his time. The addition of sixteen units under Theodosius I and Arcadius can be readily detected, and a few other units bear dynastic titles which show that they were raised by Valens or by Constantius II or Constantine. When these are deducted the remainder probably all belonged to the Diocletianic armies; but these armies would originally have been larger, for some of the later units were certainly replacements of older units which had been destroyed, and some destroyed units may not have been replaced.

On this front there were twelve legions in the Severan period: all these survive except one (VI Ferrata), and II Parthica has been transferred to this front from Italy. In addition there are three new legions in Egypt and the Thebaid, one each in Pontus, Mesopotamia, Phoenice and Arabia, and three in Isauria (one later withdrawn to the *comitatus*). This does not complete the tale, for among the *pseudocomitatenses* of the field army of the East there are, besides the Severan IV Italica, three new legions, I and II Armeniacae and VI Parthica, which Diocletian probably raised to garrison his Persian conquests; and another, V Parthica, existed until 359, when it was destroyed at Amida. Finally the *dux Libyarum*, whose page is missing from our copy of the Notitia, must have had two legions like his colleagues. (In legions, then, the Severan garrison of twelve had been more than doubled by Diocletian's time by the addition of fourteen or more probably sixteen new units.)

There are altogether seventy *vexillationes* of cavalry on the Eastern front. Each of the six provinces from Mesopotamia to Arabia has four units of what are called Equites Illyriciani, one of Promoti, one of Dalmatae, one of Mauri and one of Scutarii; these are evidently regiments brought in from Illyricum to strengthen the Eastern front, perhaps by Aurelian, after the defeat of Zenobia; his army is known to have included Dalmatian and Moorish cavalry on that occasion. The others are native (*indigenae*) regiments, and include twelve units of *promoti*, the cavalry components

detached from the local legions. With the exception of these twelve the vexillations are all additional to the strength of the Severan army.

There are finally fifty-four *alae* and fifty-four cohorts which can be reasonably assumed to have existed in Diocletian's time; a certain number go back to the army of the second century, fourteen have titles which mark them as creations of the tetrarchy. Comparison with the army of the principate is only possible in two areas, Armenia and Egypt. In the former the old garrison was four *alae* and ten cohorts, the Diocletianic six *alae* and eight cohorts. In the latter the figures are four and twelve for the principate, twenty-seven and nineteen for the reign of Diocletian. Egypt is certainly not typical, for Diocletian greatly increased the garrison of legions also, but the figures (which take no account of the missing page of the *dux Libyarum*) suggest that the number of *alae* and cohorts was in general at least not lower than that of the Severan age, and probably was increased more or less proportionally with the legions.

Along the Danube there were under the Severi twelve legions. These all survive in the Notitia together with five new legions, four of which are certainly Diocletianic and the fifth probably so. In Raetia the typical organisation of the tetrarchy—three vexillations, three *alae* and seven cohorts—survives; the numbers of the *alae* and cohorts have dropped considerably from the four and thirteen recorded from the second century. In the remaining Danubian provinces the Diocletianic formations (other than the legions) have been largely replaced by units of later types.

In Britain very little has been altered since Diocletianic and indeed earlier times. Of the three old legions, XX Valeria Victrix has gone, but II Augusta and VI Victrix survive. Along Hadrian's wall there are four *alae*, sixteen cohorts, a *numerus* and a *cuneus*, all old formations, with one additional *ala* formed by Diocletian; on the south coast is another old cohort. Apart from these there are four vexillations of cavalry (one certainly Constantinian) and fourteen *numeri*, of uncertain date. The second and third century garrison of Britain ran to three legions, some nine *alae* and thirty-six cohorts, besides sundry *numeri*. The garrison as recorded in the Notitia has therefore sunk considerably, but it was probably a good deal higher under Diocletian. XX Valeria Victrix certainly existed under Carausius, and may have survived to the days of Stilicho, who according to Claudian withdrew a legion from Britain. In general the garrison of Britain probably tended to shrink in the fourth and early fifth centuries, as troops were withdrawn either by the successive usurpers, Maximus and Constantine,

who were proclaimed in the island and invaded the continent, or by the central government, which had more pressing need for troops than the protection of an outlying and not very profitable diocese.

In Spain there are still, as in the second century, one legion, VII Gemina, and five cohorts (four of them old formations); the two *alae* have vanished. In the African provinces there had been under the Severi one legion, III Augusta, stationed in Numidia, and numerous auxiliary units, mostly in the two Mauretanas. For the patrol of the frontier there had been developed at least as early as the reign of Philip (244-9) a system of *praepositi limitum*, who were apparently commanders of local levies of tribesmen. It can be deduced from the data provided by the Notitia that the legionary garrison was enormously reinforced, probably by Maximian, who spent two years campaigning against the Moorish tribes. Seven new legions are recorded, one in Tingitania, one in Tripolitania, and five (together with III Augusta) in Africa, Numidia and the Mauritanias. There were also some eighteen vexillations in the African provinces. One *ala* and seven cohorts survive in Tingitania; elsewhere there are only *praepositi limitum*.

In Gaul the Notitia records the debris of the armies which survived the great barbarian invasions and the civil wars of the early years of the fifth century. There is, however, no reason to believe that Maximian did not reinforce the Gallic armies at least on the same scale as Diocletian reinforced those of the Danubian provinces; the increase was probably larger, for the Severan garrison was small in Gaul. Of the four old Rhine legions three at any rate survived long enough to contribute contingents to the later *comitatus*. Tile stamps on the upper Rhine reveal the existence of two new legions, XII Victrix, of which no other trace survives, and I Martia, scattered detachments of which are recorded in the Notitia. The Notitia also contains a III Herculia, which implies a lost IV Iovia, and three Flavian legions probably named after Constantius Caesar, as well as two named after Sol and Diana, which very probably date from before the conversion of Constantine.

Lactantius castigates the multiplication of the armies under the tetrarchy, 'since each of them strove to have a far greater number of men than earlier emperors had had when they were sole rulers of the commonwealth'. The suggestion that the army was more than quadrupled is, of course, a fantastic exaggeration, but the facts adduced show that Lactantius had some solid ground for this complaint. Under the Severi there had been thirty-four legions in all, of which all but one or two survived in Diocletian's day. To these had been added before his abdication some thirty-five—it is

impossible to be exact in view of the many individual doubtful cases, but the figure is more likely to err on the low side. How many of these legions were raised by Diocletian and his colleagues it is impossible to say for certain. Only a dozen are guaranteed by their dynastic titles, but it seems improbable that many of the others were raised in the anarchic period between the death of Alexander Severus and the accession of Diocletian. For the other units it is impossible to give even tentative figures, but from the example of the Eastern front it would appear that they were increased proportionally to the legions. The evidence suggests that the army was approximately doubled between the Severan period and the reign of Diocletian, and that the greater part of the increase was due to Diocletian himself.

Whatever the actual figures, Diocletian certainly increased the army so substantially as to put a strain on the manpower of the empire. Like his predecessors, he made some use of barbarians from without the frontiers, whether prisoners of war or volunteers. Among the *alae* and cohorts of the Eastern frontier, including Egypt, there are over twenty units named after barbarian tribes, including Franks (three *alae* and one cohort), Alamanni (one *ala* and two cohorts), Saxons, Vandals, Goths, Sarmatians, Quadi, Iuthungi, Sugambri and Chamavi from Europe, and Tzanni and Iberians from the Caucasus, not to speak of Assyrians, Cordueni and Zabdeni from the territories conquered in 298. The system of *laeti* is also spoken of by a Gallic orator in 296 as if it were an established institution. Under this system, as we know it later, certain lands (*terrae laeticae*) in Gaul and Italy were set apart for the settlement of barbarians from outside the empire, who were, with their descendants, liable to military service.³⁸

The bulk of recruits, however, had to come from the natives of the empire. Diocletian may well have enforced the rule which is first mentioned, as already established, in a law of Constantine probably to be dated 313, that the sons of veterans were obliged to serve. It would not have done more than partially meet wastage, and the bulk of the recruits must have been raised by the new and drastic system of conscription of which Lactantius complains bitterly. A constitution dating from the beginning of the reign already speaks of the *protostasia*, and the Christian conscientious objector, Maximilianus, was called up in Africa in 295 by the agency of a *temonarius*. Both these are technical terms of the system which operated in the fourth century, whereby recruits were assessed and levied on the same basis as the *annona*. This system then certainly goes back to the early years of Diocletian, and can hardly be older, since it is closely linked with his new fiscal arrangements.³⁹

The new armies had not only to be recruited but maintained. It must again be emphasised that owing to the inflation the cost of each soldier, as compared with the second and early third century, was very low. The common soldiers, who formed the great majority, received little more than their rations, clothing and arms, and, in the case of troopers, horses and fodder. Non-commissioned ranks got from double up to perhaps quintuple rations, while officers had lost even more by the depreciation of their once substantial money pay. Nevertheless even to feed, clothe, arm and mount so large an army was a heavy burden, and Lactantius was not entirely unjustified in complaining that the number of those in receipt of payment began to exceed that of the taxpayers.⁴⁰

Diocletian made valiant efforts to re-establish a sound currency and thereby to stabilise prices. He issued good gold and silver coins clearly marked with their weight, and a larger silver-washed copper *nummus* of superior quality. He no doubt intended to create a unified currency of gold, silver and copper coins like that of the pre-inflation period. He certainly failed. His issues of gold and silver must have been small, and he continued to mint *nummi* in vast quantities. Prices therefore continued to rise, and the gold and silver coins commanded a premium above their nominal value.⁴¹

In 301 Diocletian attempted to stem the tide by his famous Edictum de Pretiis, which fixed maximum prices and wages in the utmost detail and threatened with the death penalty any who exceeded them or withheld their goods from the market. Despite ruthless executions this measure was, according to Lactantius, an utter failure: goods simply vanished and the edict was soon allowed to become a dead letter.⁴²

If he was unsuccessful in coping with the currency problem, Diocletian did a great service to the empire by rationalising the requisitions in kind which were in practice the most important form of revenue. These requisitions had originated as *indictiones extraordinariae*, and were apparently still levied in an arbitrary and inequitable way, when and where required. Diocletian in the first place made them a regular annual event: in Egypt a quinquennial cycle of indictions was instituted in 287—the well-known cycle of fifteen years was not introduced till after Diocletian's time in 312. And in the second place the burden was equitably distributed between provinces, cities and individuals. As Aristius Optatus, prefect of Egypt, announced in 297, 'Our provident emperors, Diocletian and Maximian the Augusti, and Constantius and Maximian the Caesars, have learned that the assessment of fiscal burdens takes place in such a manner that some taxpayers are

undercharged and others overburdened. They have decided in the interests of the provincials to stamp out this detestable and pernicious practice, and to publish a salutary edict, in conformity with which the taxes are to be fixed.⁴³

To provide a basis for the new assessment a series of censuses was held throughout the empire. The work seems to have been carried out gradually, province by province, and diocese by diocese, and not on uniform lines throughout the empire. *Censitores* were active in Syria and Arabia (in the diocese of Oriens) even before the proclamation of the Caesars in 293. From Egypt (also in Oriens) there comes a group of declarations of land to *censitores* dating from 298 to 303; declarations of persons follow in 309-10. At Nicomedia (in the diocese of Pontica) Lactantius witnessed a census held by Galerius after his accession as Augustus in 305. From the provinces of Lydia, Caria and the Islands (in Asiana) comes a group of inscribed census records, but none of them are dated. In Gaul we know that the census had been completed by 311.⁴⁴

The objects assessed were land, stock and the rural population, slave and free. For the land the most elaborate system was that applied in Syria, where the reckoning was in ideal units called *ingae*, which were equivalent to 20 *ingera* of the best arable or 40 *ingera* of second-class arable or 60 *ingera* of third-class arable, or to 5 *ingera* of vineyard or 220 *perticae* of old olive trees or 450 *perticae* of mountain olive trees. A similar but simpler system was applied in Asiana. One inscription from Lesbos reckons arable, vineyards and olives in two classes each, but in all the other records this refinement is abandoned. Here, as in Syria, the *ingera* of arable and vineyard and the olive trees are reduced to *ingae*, but apparently of a very different value from those used in Syria. In Egypt, on the other hand, the *ingum* system was never introduced, the assessment being based on the traditional *arura* of arable and vineyard, and on olive trees. We know little in detail about the Western dioceses, but in Africa the unit of assessment was the *centuria* of 200 *ingera* (no distinction apparently being drawn between different types of cultivation) and in Suburbicarian Italy the *millena* (also probably a crude area). All these units were probably based on local customary measures. All are in later legislation either equated with or alluded to as *ingae*, which was used as a general term to denote the local fiscal unit of land, however constituted and whatever its size. It is to be observed that the accuracy of the assessment varied greatly in different parts of the empire, allowance being made in some places for different types of cultivation, and even for varying quality within these types, whereas in others crude area only was counted. More-

over the value of the *ingum* differed in the several dioceses, being for instance much higher in Asiana than in Syria.⁴⁵

There were similar variations in the assessment of the population. In Egypt, according to ancient practice, only males were counted. In Syria and in Illyricum both males and females were reckoned a full *caput*. In Pontica and Asiana, on the other hand, it would appear that a woman counted as only half a *caput*. There were age limits for liability to tax, which also varied from district to district. In Syria males were chargeable from 14 to 65, females from 12 to 65; in Egypt the lower age limit (for males) was certainly below 14, for a boy aged 12 is entered as chargeable. The animal population of the land was assimilated to the human, being assessed at fractions of a *caput*.⁴⁶

In the Eastern provinces Diocletian seems to have registered only the rural population, the 'rusticana plebs, quae extra muros posita capitacionem suam detulit', as he puts it in a constitution addressed to the governor of Syria; in Egypt similarly the prefect published in 297 'how much has been imposed on each head of the peasants, and from and up to what age'. Galerius, on the other hand, included the urban population also; at Nicomedia, Lactantius reports, 'the heads of the people were counted, the urban and rural population were assembled in the cities, all the market squares were packed with crowds of families; everyone was there with his children and slaves'. In Egypt a group of four receipts, dated 301, 305, 308 and 314, record the payment of an urban poll tax of which there is no trace at any other time. Here it would seem that Diocletian, perhaps under Galerius' influence, did include the urban population towards the end of his reign, and that Maximin continued this practice during his reign (305-13). On Galerius' death Maximin enacted that the city population in Asia Minor (the surviving copy of the decree, dated 311, is addressed to the governor of Lycia-Pamphylia), 'as is the practice in the provinces of Oriens also', should be exempted 'as also the same urban plebs had been immune under our lord and parent Diocletian, the senior Augustus'; and it would seem that the urban poll tax was abolished in Egypt by Licinius after Maximin's fall.⁴⁷

This remained the rule in the East henceforth. In the West the position is more doubtful. Severus is said by Lactantius to have begun registering even the plebs of Rome in 305-6 under Galerius' orders: this move provoked the revolt of Maxentius and was never repeated. In Africa, however, a law of 374 implies that at that time the urban population, both slave and free, was enrolled in the census and paid poll tax, and in Gaul the *capitatio plebeia* may have included town dwellers as well as peasants.⁴⁸

Under Diocletian the *annona*, the requisitions in kind, seem to have been assessed on land only, while the *capitatio*, the poll tax, was paid in money. In the law of 290 addressed to the governor of Syria the peasants are said to pay 'capitationem suam . . . et annonam congruam'. The jurist, Arcadius Charisius, distinguishes between the curial officers 'who collect or exact or pay out requisitions in kind, and the exactors of money on heads'. Lactantius likewise states that after Galerius' census 'money was paid on heads', and in Egypt the urban poll tax at any rate was paid in cash.⁴⁹

Very soon, however, a different system was introduced, in some dioceses at least, whereby the *ingra* and *capita* of each taxpayer were aggregated, a *ingrum* being counted as equal to a *caput*, and the *annona* was assessed on the combined total, the money poll tax being apparently dropped. This system is first definitely attested in a constitution addressed in 311 to Illyricum, whereby serving soldiers and veterans who have served their full time are excused four *capita* 'from the census and the regular payments of the *annona*', whereas a veteran who has received an *honesta missio* only is excused 'two *capita*, that is his own and also his wife's, from the *annona* tax'. It is also assumed in a similar law addressed in 325 to the diocese of Oriens, in which a soldier is granted exemption for four *capita*, his own and his wife's, his father's and his mother's, and is allowed, if any of them should have died, to claim exemption for an equivalent of his other (real) property.

The inscribed registers from Asia Minor and the Islands also show *ingra* and *capita* in parallel columns, and in one case they are totalised. In Egypt, on the other hand, there is no record of this system, and *annona* payments are always assessed on land only. For the West we have no early evidence, but later legislation implies the prevalence of the new system except in Africa and Gaul (there is no evidence at all for Spain or Britain), where perhaps a money poll tax was maintained. In the language of the later laws *capita* or *capitatio* and *ingra* or *ingratio* are often used as equivalent terms, and the first pair are frequently applied to land (the second pair are never applied to persons). The two schedules were however separately assessed, so that any given levy could be imposed or exemption granted on *ingra* or *capita* alone, or on the two combined.⁵⁰

A by-product of the reform was that Italy—and the provincial cities which enjoyed the *ius Italicum*—lost its ancient fiscal immunity. Italian landowners had always been liable to *indictiones*, compulsory purchase of supplies, and when *indictiones* became the regular land tax they paid like the rest. *Capitatio* apparently was not imposed on Italy until after Diocletian's abdication; discontent at the enumeration of the population by Severus' *censitores* was, as we have seen,

one of the contributory causes of Maxentius' rebellion. The *ius Italicum* was not abolished, but it only meant that the rules of conveyancing were different in Italy and the *coloniae iuris Italicis*; this obsolete anomaly was at length swept away by Justinian.⁵¹

The virtue of the new system lay in its simplicity. [It provided a ready means of assessing the incidence of the diverse levies which the government required to raise, in wheat, barley, meat, wine, oil, clothing, horses, camels, mules, oxen, recruits, labourers and what not. [Each taxpayer was assessed at so many *ingra* and so many *capita*, the assessment of each city comprised the total of its taxpayers, that of each province the total of its cities, and that of each diocese the total of its provinces.] When the praetorian prefecture had calculated that the army required so many *modii* of wheat and of barley, so many pounds of meat, so many *sextarii* of wine and of oil, so many cloaks and tunics, it involved only a simple arithmetical calculation to determine how much each *ingrum* (or in the developed system each *ingrum* or *caput*) must produce, and to draw up the demand notes for each province, city and individual taxpayer accordingly.]

There were of course certain complications. Indivisible objects, such as recruits and labourers, animals and garments, which were required in relatively small quantities, could not be assessed on individual *ingra* or *capita*. For recruits (and no doubt for labourers) larger groups of *ingra-capita*, called *capitula*, were formed, so that while a great landowner might be responsible for producing more than one recruit, according to his assessment, the humbler taxpayers clubbed together to produce one man: the precise arrangements are only known for a later period. For animals for the *cursus publicus* we find a money commutation being paid in Egypt in 310-12. The government in 314 paid in cash for garments in Egypt (the prices correspond to those of the Edict of 301), so that theoretically (for the price was no doubt by now inadequate) the requisition of clothes was not a financial burden, and did not need to be exactly assessed between taxpayers. This system still prevailed in the diocese of Oriens (except for the provinces of Osrhoene and Isauria) in 377; by this time payment was made in gold, and a countervailing gold tax was levied *per ingrum*. It may well be that Diocletian levied a similar special tax in denarii in the areas where requisitions for clothing were paid for in money.⁵²

By his new system, whereby multifarious requisitions could be assessed equitably on every taxpayer, [Diocletian made it possible for the state to dispense with the use of money, except for such minor adjustments as those mentioned above, and to rely almost entirely on requisitions in kind. The system was carried very far,

not only for articles like food and clothing but, as we have seen, for animals (for the army and the *cursus publicus*), for recruits for the army, and for labourers for public works. Lactantius makes a particular complaint of the last practice. 'To this was added an unbounded passion for building and a corresponding exaction from the provinces in supplying workmen and craftsmen and wagons and everything that is required for building operations. Here a basilica was built, there a circus, here a mint, there an armament factory, here a house for his wife, there one for his daughter.' (A number of papyri attest the application of the same methods to quarrying; villages were required to send year by year one or more workmen or craftsmen, with beasts of burden, to work in various quarries). Diocletian was certainly a great builder, but though some of his works—his great palace at Spalato, for instance, and the large-scale improvements in Nicomedia, his favourite residence, which Lactantius declares he rebuilt to rival Rome—can be classed as luxuries, most of his buildings were utilitarian and necessary, the mints and factories which Lactantius mentions, and frontier forts and roads and bridges.⁵³

Finally the new system made it possible for the first time for the Roman empire to have a budget in the modern sense, an annual assessment of governmental requirements, and an annual adjustment of taxes to meet these requirements. The indiction for each year was calculated by the praetorian prefects in accordance with estimated needs. The calculations naturally became after a while fairly stereotyped, but adjustments were regularly made and usually, as was natural, in an upward direction. It was in fact a fault of the system that it was too flexible. It was fatally easy to add a little more to the indiction instead of trying to reduce expenditure.

Diocletian did not rely only upon requisition to meet the needs of the state. He also instituted a number of state factories. Lactantius speaks of his building armament works (*fabricae*), and a constitution of Constantine issued in 326 mentions the state weaving establishments (*gynaecia* and *linyphia*); it is to be presumed that the dyeing works (*baphia*) were also started by Diocletian. The weaving and dyeing works were manned by imperial slaves, as were the mints; the above-mentioned edict of Constantine frees Christians who had been made slaves of the treasury and drafted into the weaving mills during the persecution. They were directed by procurators under the control of the *rationalis summarum*. The armament workers, on the other hand, were soldiers. Each factory was commanded, like a regiment, by a tribune or *praepositus*, under the supreme control of the praetorian prefects.⁵⁴

The new fiscal system must have put a severe strain upon the public post, especially upon the heavy wagon service (*cursus clabularis*), for the army on the frontiers was now supplied by requisitions which were often made in the provinces of the interior. The jurist Arcadius Charisius speaks of the requisitioning of horses and mules for the post, and of the curial officers who had charge of the wagon post and were responsible for requisitioning teams and conducting government convoys, but no details are known. The obscure institution of the *primipili pastus* dates from before Diocletian, who cites a constitution of Aurelian on the subject, but seems to have become more important in his reign. From later legislation it would appear that it was the duty of the *centurio princeps* of each provincial *officium*, on being promoted *primipilus*, to convoy to a *dux* on the frontier the *annona* levied in his province. The task seems to have been an expensive burden, and often left the *primipilus* concerned in debt to the treasury: three constitutions of Diocletian deal with legal questions arising out of such debts. In this way the once honourable rank of *primus pilus*, which is still under Valerian spoken of as a source of profit, became a burden to be if possible evaded.⁵⁵

By his administrative, military and fiscal reforms Diocletian gave security and order to the empire. The huge army which he built up effectively defended the frontiers and suppressed internal disorders. His enlarged bureaucracy administered justice more promptly and vigorously, saw to the execution of much-needed public works, and collected the necessary revenue with ruthless efficiency. The new fiscal system ensured that the burden was more or less equitably apportioned. As against this the increased army and civil service imposed a heavy burden on the already strained economic capacity of the empire. Lactantius declares that the burden was intolerable: 'the number of recipients began to be so much greater than that of the taxpayers that the resources of the cultivators were exhausted by the enormous levies, and the fields were abandoned and cultivation returned to woodland'.⁵⁶

Lactantius' words are echoed by the orator who in 311 thanked Constantine for remissions to the *civitas* of the Aedui in Gaul. (He laments the ruin of agriculture, citing the flat land along the Saône, which had once been vineyard, and was now a marsh, and as the reason states that 'land which never meets its expenses is inevitably deserted, owing to the poverty of the country people, who, staggering under a load of debt, cannot carry out the drainage work and cut back the growth of bushes'. The orator, however, claims that his city laboured under special disabilities; it possessed no navigable rivers, and roads with such severe gradients that wagons

had to be unloaded or sent only half full, and the transport charges of the *annona* were therefore excessive. He contrasts with the territory of the Aedui the flourishing fields of the Remi, Nervii and Tricassini. The truth would seem to be that the rate of taxation was such as to make the cultivation of some marginal land unprofitable, but not too high for that of average quality the crude system of assessment in many dioceses made no allowance for differences of productivity. Aurelius Victor, writing two generations later, could say that the taxation of Diocletian's day was tolerable, owing to the moderation of that period, and had only become ruinous in his own day. If, as Themistius states, it had doubled in the interval, the original rate cannot have been very excessive.⁵⁷

Diocletian's fiscal reforms had one by-product which was to prove of far-reaching importance. It was a common administrative practice in Egypt, and probably in other provinces also, when a census was to be taken, to order the population to return to their own place (in Greek *idla*, in Latin *origo*). A typical edict of a prefect of Egypt runs: 'As the house to house registration is in progress, it is necessary to warn all persons who are for any reason absent from their own homes that they must return to their domicile to complete the usual operation of the registration and devote themselves to their agricultural duties.' The primary object was no doubt to facilitate the compilation of the lists on which the poll tax was based, but the government took the opportunity of the census to recall peasants to their land. Diocletian appears to have reinforced this rule and made it universal. In 307-8 the *praepositus* of the fifth *pagus* of the Arsinoite territory wrote to a colleague in a neighbouring *pagus* reminding him of 'the order of the divine and celestial August fortune of our lords the emperors' that strangers found in the villages should be restored to their homes under penalty of five *folles*, and requesting that certain villagers of Caranis reported to be in his correspondent's *pagus* should be returned. A generation later we find the surviving inhabitants of Theadelphia appealing to the prefect of Egypt to repatriate their errant fellow villagers, whom they had tried in vain to round up by their own efforts.⁵⁸

It henceforth became illegal for a peasant—the rule applied only to the rural population, since they alone were registered in the census and paid the poll tax—to leave his registered domicile. How that domicile was defined depended on the form of the census records. In Egypt the rural population was registered by villages, and a man's legal *origo* was therefore his village. Elsewhere also freeholders were normally registered in their villages, but tenants

in many provinces by their farms under the heading of the land-owner: this is the system found in the epigraphic census records of Asia Minor. This meant in effect that the tenant was bound to his particular farm and thus to his landlord. The tie was hereditary, for *origo* had always been determined by paternity and not by residence: in the census records children, even infants, are registered, although they paid no poll tax, with the evident implication that they belonged to their parent's place of registration and would in due course pay their poll tax there.⁵⁹

[Twenty years of peace from civil wars and barbarian invasions and the gradual suppression of local disorders must have brought some renewal of prosperity to the cities of the empire, and there are signs of it in the greatly increased number of public dedications and some revival of building activity. But the financial exigencies of the government increased the burdens of the decurions, who had to shoulder the task of collecting the recurrent levies and to make good from their own fortunes the deficits which were more likely to occur as the rate of taxation rose.] There was as a result a growing reluctance of sons of decurions to follow in their fathers' footsteps, and of other financially qualified persons to accept nomination: Diocletian had to inform a certain Protus that neither a grant of immunity from the governor, nor the fact that he was over the age of fifty, nor that he had the gout, were valid excuses.] In some respects Diocletian maintained old standards: he did not relax the ban on the admission of freedmen to the *curia*. But others of his laws suggest that in some cities it was difficult to find satisfactory recruits. He ruled that illiteracy was no bar to the decurionate, and that *infamia* (which followed on conviction for offences such as fraud), while it debarred a man from *honores*, did not excuse him from *munera*.⁶⁰

The shortage of decurions was no doubt in part due to impoverishment following on the troubles of the third century. But it was greatly increased by the wide range of alternative careers thrown open to decurions and their sons and other potential members of the *curia* by Diocletian's expansion of the army and the civil service. It is a measure of the gravity of the situation that Diocletian, despite his urgent need for military manpower, had to debar from the army 'not only sons of decurions, but all who offer their names for armed service to the prejudice of civic burdens'.⁶¹

This prohibition will have affected only the humblest strata of *curiales*: no man of substance would have wished to enlist as a common soldier. A greater leniency was shown with regard to officer posts in the army. Diocletian, at a consistory to which the *principales* (leading decurions) of Antioch were summoned, ruled:

'We have granted indulgence from personal and civic *munera* to certain dignities, viz. to those who are either former *protectores* or former *praepositi*. They will therefore not be called to personal or civic *munera*.' This ruling led to abuse. Constantine thundered: 'It is not to be borne that those who have never seen a battle, nor set eyes on the standards, nor handled weapons, should creep into titles of military distinction. Accordingly those who have received letters bestowing the rank of former *protectores*, former *praepositi*, or former *tribuni* are not to have the privilege which is earned by those who reach this rank after completing the regular course of service under arms.'⁶²

Decurions were similarly not debarred from the equestrian grades of the civil service, which, like officer posts in the army, carried immunity from civic burdens for life. In a curiously outspoken petition Aurelius Plutarchus, *alias* Atactius, states in 299 that 'endeavouring to secure release from civic *munera*, he had long ago petitioned the Divine Fortune of our Lords the Augusti and Caesars to grant him the dignity of the *egregiatus*, and their Divine Fortune consented and granted it, and he now enjoys it'. He proceeds to recite public functions which he had undertaken on the orders of the prefect and the *rationalis* of Egypt, and to complain that he has been nominated to a curial office at Oxyrhynchus, though 'he holds a greater dignity, which frees him from civic *munera*'.⁶³

The government could hardly bar *curiales* from these ranks, for it needed men of education and standing to fill the numerous posts which carried them, and men of these qualifications were hard to find outside the ranks of the curial class. Provided that they had previously performed all their curial offices, no harm was done by their obtaining equestrian rank, for they would only enjoy personal immunity for the rest of their lives, and their sons would take over their curial duties. The privileges were, however, liable to abuse. In the first place decurions and their sons, or persons liable for nomination to the *curia*, might obtain an equestrian dignity before completing, or even before beginning, their civic career. And secondly they might through interest or bribery acquire titular equestrian dignity without performing any service to the state. Both these abuses had appeared before 317, when both Constantine and Licinius issued constitutions to check them. Constantine insisted that no decurion was to be appointed a *praeses* until he had filled all his civic offices. Licinius ruled that decurions, who had by corrupt practices obtained codicils of the *perfectissimatus*, *ducena*, *centena* or *egregiatus*—the four grades of the equestrian hierarchy—should forfeit them, and be restored to their councils.⁶⁴

For the first fourteen years of his reign Diocletian maintained the tacit toleration of Christianity which Gallienus had inaugurated. As the memories of persecution faded, the Christians gained self-confidence, and ventured to build fine churches in conspicuous positions: the church at Nicomedia faced the imperial palace, and was an edifice of some architectural pretensions. Many Christians served in the army and in the civil service, and some reached positions of importance, such as provincial governorships: we hear of one Adauctus who was *magister rei privatae* and *rationalis summarum*. The membership of the church increased, and more persons of the upper classes joined; a Christian council in Spain had to rule how far a Christian might conform to pagan usage, if he became *duumvir* of his city, or was elected to the high-priesthood of the provincial imperial cult.⁶⁵

It was probably in 298 that an incident occurred which broke the peace. At a sacrifice held in the presence of Diocletian and his Caesar Galerius the *haruspices* were unable to obtain the desired omens, and attributed their failure to Christians present, who were averting the power of the demons by making the sign of the Cross. Diocletian, who seems to have been a man of rather old-fashioned piety—he had adopted the old Roman god Jupiter Optimus Maximus as his patron—was naturally infuriated by this insolent interruption of the traditional rites of the Roman state, and issued an order that all soldiers must sacrifice to the gods or be discharged. This order created little stir—the numbers involved were probably relatively small—and nothing further happened for five years. Then in 303 the storm broke. It is somewhat mysterious why action should have been so long postponed, or why such strong measures should have been taken after the long delay. Lactantius is probably right in regarding the Caesar Galerius, who was a rabid pagan, as the prime mover in the affair, and it would seem that he had some difficulty in inducing Diocletian to take action.⁶⁶

On 23 February 303 an edict was published at Nicomedia ordering all copies of the Scriptures to be surrendered and burnt, all churches to be demolished or dismantled, and forbidding meetings for Christian worship. The church at Nicomedia was promptly demolished by a squad of troops. Next day a supplementary edict was posted depriving all Christians who failed to conform of any rank that they might hold (thus making them liable to torture and summary execution), and debarring all Christian from bringing actions in the courts; imperial freedmen who remained Christian were reduced to slavery. These edicts were promulgated in the West also, and were strictly enforced by

Maximian in Italy, Spain and Africa. In Gaul and Britain the Caesar Constantius, who was sympathetic to the Christians, contented himself with demolishing the churches.⁶⁷

As a result of fires which broke out in the imperial palace—alleged to have been arranged by Galerius—and hostile demonstrations in Syria and Armenia Minor, another edict went out for the arrest of all bishops and clergy. After a while, however, the government tired of holding so many prisoners and decided on a dramatic stroke. The clergy were to be released—with other minor malefactors—on the occasion of Diocletian's *vicennalia*, but first they must be made to sacrifice. They were accordingly bullied or flogged or tortured into submission. If this failed, they were physically constrained to go through the motions of sacrifice, or in some cases merely issued with certificates that they had sacrificed, after which they were released. There is no evidence that these measures were taken in the West. Finally, about a year after the opening of the persecution, an edict was issued ordering everyone to sacrifice. There is no convincing evidence that this edict was promulgated in the West.⁶⁸

About a year later, on 1 May 305, Diocletian and Maximian abdicated and were succeeded by Galerius and Constantius. For about a year the persecution seems to have hung fire throughout the empire, and in the West it was never resumed. Constantine continued the tolerant policy of his father, and Maxentius made peace with the church and even restored its confiscated property. In the East the persecution was revived under Galerius and his Caesar Maximin, both ardent pagans, and dragged on for four years in the European provinces until Galerius' death in 311, and for two years longer, until Maximin's fall in 313, in the dioceses of Pontica, Asiana and Oriens. We have a full account of events in Oriens, where Eusebius lived throughout the whole persecution. Here another general sacrifice was ordered in the spring of 306, and yet another in the autumn of 308. They were more efficiently organised than that of 304, for which no administrative preparations seem to have been made: in 306 lists were drawn up and individuals called up by name to sacrifice, and in 308 the *curator* and *duoviri* of each city, with the *tabularius*, who kept the census records, were instructed to enforce the edict. Food put out for sale in the market was hallowed by libations, while sentries were posted at the doors of the baths to compel all entrants to sacrifice. Executions were relatively few, for from 307 onwards Maximin no longer imposed the death penalty save in exceptional cases of contumacy, but sent obstinate recusants to the mines, having first blinded them in one eye and severed the tendons of one foot.⁶⁹

In Galerius' dominions the persecution, which was doubtless as rigorous, was abruptly called off on 30 April 311, when the emperor, who had contracted a painful disease which he apparently attributed to the vengeance of the Christian God, issued an edict explicitly granting toleration to the Christians. He died a few days later, but his edict was observed both by Licinius in the European provinces which he occupied, and by Maximin in Asia Minor; the latter extended its application to his own original dominions, the Oriental diocese. The convicts were released and the churches reopened, and the Christians joyfully celebrated their victory.⁷⁰

They were, however, premature in their rejoicings, for before six months were out Maximin, who had evidently accepted Galerius' edict of toleration with reluctance, was reopening hostilities. This time the campaign was more subtle. In the autumn of 311 the authorities of Nicomedia, the imperial residence, petitioned the emperor that no Christian might be allowed to live in their territory. Maximin graciously acceded to their request, and other cities followed suit, including Antioch and Tyre. Soon whole provinces were making similar petitions; we possess a copy of that drawn up by the provincial council of Lycia and Pamphylia. Maximin also waged a vigorous propaganda campaign against Christianity, posting up in public places the spurious Acts of Pilate, and instructing that they be taught in all schools, and publishing the confessions of formerly Christian women that they had taken part in incestuous orgies. He furthermore endeavoured to revivify paganism by appointing a high priest for each city to supervise the other priests and see that sacrifices were daily offered to the gods, and in each province a superior high priest to supervise those of the cities. These official priests had authority to ban Christian worship, public or private, and to arrest Christians and hand them over to the provincial governor if they refused to sacrifice. Maximin at first enforced these measures by hard labour in the mines, but later re-introduced the death penalty. This persecution was relaxed by an edict issued in the winter of 312-13, and finally called off in the spring of 313, immediately before Maximin's defeat and death.⁷¹

There is no reason to doubt that the motive of the persecution was, as Galerius and Maximin state in several edicts, religious. Both these two emperors, who were the prime movers of the policy, were by all accounts convinced and fanatical pagans, and no doubt sincerely wished to restore the traditional worship of the gods in accordance with 'the ancient laws and public discipline of the Romans'. They do not seem, however, to have had much popular

support. We hear of no public demonstrations against the Christians during this period and no popular demands for their punishment; the official petitions of Nicomedia and other cities were clearly stimulated by Maximin himself.

Some governors, such as Florus of Numidia, are branded by the Christian sources as ruthless persecutors, but the majority seem to have been content to do their strict duty. Anullinus, proconsul of Africa, who figures prominently in the acts of the martyrs, is revealed by one story to have been far from enthusiastic. Information was lodged that the books which he had seized and burnt in the church of Carthage were not really the Scriptures, but heretical texts; Anullinus refused to take any action against the bishop, Mensurius—the Scriptures had been officially burnt, and that was enough. At a lower level the city magistrates were equally accommodating: at Tigisis in Numidia they pressed the bishop, Secundus, to give them any literature to burn, so that they could say that they had obeyed the edict. In the East officials were willing (for a consideration) to register as having sacrificed any Christians who were reluctant to do so but wished to avoid the penalties. Even more obligingly they would arrange bogus tortures for clerics who, having sacrificed once, wished to rehabilitate themselves as confessors. The public, it would seem, had got used to Christians and their peculiar ways—which were gradually becoming less peculiar—during the forty years of toleration, and now had little persecuting zeal.⁷²

The severity of the persecution differed very greatly in the various parts of the empire. There was no persecution in Gaul or Britain, and in Italy, Africa and Spain it lasted for little more than a year, and moreover, since only the first edict seems to have been promulgated, affected mainly the clergy, including readers, who had to surrender the Scriptures and church property; the laity were only involved if they attended illicit services. There seems to have been very little resistance except in Africa, where Christianity had spread to the peasantry, who were fanatically devoted to their new faith, and were of tougher stuff than the townspeople. The records show that large numbers of the clergy tamely surrendered the Scriptures, others went into hiding, and many compromised by surrendering secular books, heretical works, or worn-out copies of the Scriptures. But a considerable number openly defied the government, and some of them were executed.⁷³

In the East the test was much more severe, lasting eight years in the European provinces and ten in the Asiatic. Here again there seems to have been no mass resistance except in Egypt, where Christianity had spread to a peasant population which was notorious

for its fanaticism and stubborn defiance of authority; 'amongst them', as Ammianus remarks, 'a man blushes if he cannot show many scars on his body, earned by refusing his taxes'. How many were executed is unknown, but very large numbers must have been condemned to the mines and quarries; those of Egypt did not suffice to hold them, for Eusebius records that two batches, of 97 and 130 respectively, were transferred to the copper mines of southern Palestine, and even farther afield to Cilicia. We possess accurate statistics for one province only, Palestine, where Eusebius kept a careful count. Here during the whole course of the persecution thirty-seven persons were executed, apart from eight Egyptians, who were caught carrying comforts to their fellow countrymen in the mines, and forty-three convicts, also probably Egyptians for the most part. There is no reason to think that Palestine had a smaller Christian population than most provinces, or that its percentage of martyrs was lower.⁷⁴

The actual number of executions, therefore, would seem to have been low in the East, except perhaps in Egypt, despite the length of the persecution. This is, of course, no measure of the suffering inflicted. Many more were maimed and sent to the mines, and many underwent flogging and torture. The government was not out to kill Christians, but to make them conform, and it was only as a last resort that the death penalty was inflicted. In a very high proportion of the recorded cases, indeed, it appears that the martyrs brought their fate upon themselves by deliberate acts of contumacy. In Palestine, for instance, the first martyr, Procopius, provoked the governor by reciting the Homeric verse, 'A multitude of lords is not good: let there be one lord, one king', an obviously seditious reflection on the tetrarchy; six others presented themselves before the governor with hands bound, shouting that they were Christians; and four interrupted the governor at a public sacrifice.⁷⁵

The mild scale of penances laid down by Peter, bishop of Alexandria, and by the council of Ancyra, suggests that very large numbers of Christians lapsed, or had resort to more or less dubious compromises, such as getting a pagan friend—or, less creditably, compelling a Christian slave—to impersonate them. Many, including Eusebius himself, succeeded in lying low, without either compromising themselves or suffering arrest. As with the Decian and Valerianic persecutions the general effect was to strengthen the Church. Its morale was enhanced by the valour of the martyrs and confessors, and as the lapsed hastened to be readmitted when the storm had passed, its numbers were not reduced. The only permanent damage done to the Church was the formation of two

dissident sects, the Donatists in Africa and the Melitians in Egypt. In these areas, where resistance had been strong, mainly amongst the lower classes, there was bitter feeling against those who had compromised or lapsed, and large numbers of rigorists refused to readmit them or to submit to clergy whose record they regarded as suspect. Of these rigorist sects the Melitians certainly, and the Donatists probably, survived the Arab conquest.⁷⁶

CHAPTER III

CONSTANTINE

CONSTANTINE'S reign is well documented on the religious side. Lactantius, it is true, only carries his narrative down to the battle of the Milvian Bridge in 312. Eusebius' Ecclesiastical History, which was originally planned to end with Galerius' recantation in 311, was later extended to the fall of Maximin in 313. Though, as finally published, it was brought down to Licinius' defeat in 324, it is very summary towards its close. At the end of the fourth century Rufinus translated Eusebius into Latin, and added a very sketchy continuation down to 395, but apart from this the history of the Church was not taken up again until the middle of the fifth century, when Socrates, Sozomen and Theodoret wrote Ecclesiastical Histories covering the same ground, starting with the conversion of Constantine.

We have, however, from the pen of Eusebius a panegyric on Constantine, delivered at his thirtieth anniversary in 336, and what is commonly called the 'Life of Constantine', which is in fact a long obituary notice dwelling particularly on his religious achievement. The authenticity of this work has been challenged, but there is no good ground for doubting that it was written by Eusebius. The most valuable element in the Life is the great series of lengthy imperial edicts and letters, which it cites *in extenso*. These are certainly genuine; a fragment of a contemporary official copy of one has been preserved in a papyrus, and agrees verbatim with Eusebius' text. A younger contemporary of Eusebius, Athanasius, wrote a number of polemical tracts on the religious controversies of the last decade of Constantine's reign; he too cites a number of original documents. Other Greek documents, imperial letters on religious questions, letters of bishops and canons of councils, are preserved by various ecclesiastical historians of a later date and in collections. A particularly valuable dossier of Latin documents, comprising imperial letters and minutes of legal proceedings, is preserved in an appendix to Optatus' history of the Donatist controversy, and in Augustine's works on the same subject. The contemporary life of Antony by Athanasius and the life of Pachomius, compiled later but based on sound traditions, throw light not only

on the origins of the monastic movement but on the secular life of the age.¹

For secular history the sources are less satisfactory. Apart from brief chapters in Aurelius Victor, Eutropius and other minor chroniclers, there is no narrative of the reign earlier than that of Zosimus, who wrote in the fifth century, and drew on Eunapius, who wrote at the end of the fourth: both were ardent pagans, and the resultant picture of Constantine is very unfavourable. There is also an anonymous Latin chronicle of the reign, probably written in the fifth or sixth century, but containing some useful details.

On the other hand with 312 begins the Theodosian Code. This collection of imperial constitutions was published in 438, and its compilers were ordered to insert in it all extant constitutions of legitimate emperors from 312, whether they were still in force or obsolete. By the time that the collection was made much of Constantine's legislation, enacted more than a hundred years before, had perished, but over four hundred laws or fragments of laws survive in the Theodosian Code or in that of Justinian, which supplies some *lacunae* in the text of the earlier collection. This number is less than a third of Diocletian's total, but for the historian they are far more useful, since they are mainly administrative enactments. Unfortunately many of the laws cannot be securely dated. The copies which the compilers of the Code utilised seem in many cases to have had defective or abbreviated dates, which they expanded or restored rather arbitrarily. The many imperial consulates of Constantine and his sons have caused particular confusion, and it is sometimes impossible to say whether a law belongs to the earlier part of Constantine's reign or to the latter part of that of Constantius II, nearly half a century later. Inscriptions and papyri continue to be plentiful, and provide much useful material.²

Constantine is revealed by his actions and recorded utterances an impulsive man of violent temper, strongly religious in a somewhat crude fashion, but above all things ambitious for power and supremely confident in his star. When he hastened to his father's death-bed in 306 he must have calculated that if he were on the spot at this crucial moment, his father's troops would be likely to acclaim him emperor; and he was not disappointed. He was grudgingly acknowledged as Caesar by Galerius the surviving Augustus, but next year the revolt of Maxentius offered him an opportunity for higher things. Maxentius naturally wooed him as a potential ally, and his father Maximian promised him the hand of his daughter Fausta and the title of Augustus. Constantine was thus affiliated to

the Herculian house. Shortly afterwards Maximian quarrelled with his son, and having unsuccessfully attempted to depose him, fled to his son-in-law. Yet another rebellion broke out in the West, when Domitius Alexander, the vicar of Africa, was proclaimed Augustus by his troops.

At this juncture Galerius called a conference at Carnuntum, to which he invited the two retired Augusti. He pressed Diocletian to resume the throne in order to quell the growing anarchy, but Diocletian refused, and also persuaded Maximian to abdicate once more. Galerius then appointed a second Augustus, Licinius, assigning him, pending the recovery of Italy and Africa, the diocese of Pannonia: he himself governed Asia Minor, Thrace and Moesia. Constantine and Maximin were recognised as Caesars, ruling the Gauls and Oriens respectively. Maxentius and Alexander were denounced as rebels. Neither Maximin nor Constantine was content with his junior status, and Galerius, after attempting to placate them with the title of 'sons of the Augusti', was obliged to recognise them as equal colleagues. There were thus now six Augusti in the Roman empire.

In 310 old Maximian, who had retired to Constantine's court once more, attempted to seize the throne: the revolt misfired and, according to the official version, he committed suicide. Constantine now cut his connection with the Herculian dynasty and revealed the fact, hitherto strangely neglected, that he was descended from Claudius Gothicus. His official panegyrists extolled the hereditary principle, emphasising that 'it was no chance agreement of men, no sudden outburst of popular feeling' that had made Constantine emperor: the reference to Maxentius is obvious.³

In 311 Galerius died, and his two neighbours Licinius and Maximin raced to occupy his dominions. Maximin seized Asia Minor, Licinius the European provinces; their troops faced one another across the straits, but there was no conflict. Constantine and Licinius drew together, and it was arranged that the latter should marry the former's sister. In the face of this coalition Maximin and Maxentius also drew together. In 311 Maxentius reconquered Africa, and this success seems to have determined Constantine to strike quickly before his rival became too strong. The odds were, according to our sources, which tell the story from Constantine's point of view, heavily against him and since he could not leave the Rhine unguarded, he could employ only a small proportion of his troops in the civil war—his panegyrists declared he used only a quarter. Nevertheless he determined to attack.

It was at this time, so he told Eusebius under oath many years later, that he saw a sign in the sky, a cross of light superimposed on the sun. There is no reason to doubt his word: a cross, though rare, is a well-attested form of the 'halo phenomenon'. He took this for a promise of victory—his statement that he saw the words 'Hoc signo vince' written in stars around the cross is doubtless a product of his imagination—from the God whose symbol was the cross. The vision may explain his bold decision to attack. He certainly put his faith to the test in the final battle of the campaign, when he ordered his men to paint a monogram of Christ on their shields. His victory convinced him that he was indeed the favourite of the Highest Divinity whom the Christians worshipped, and that this Highest Divinity was the arbiter of victory.⁴

Maxentius perished at the battle of the Milvian Bridge and the senate duly acknowledged Constantine as senior Augustus, and dedicated to him a triumphal arch, 'in as much as by the prompting of the Divinity and the greatness of his soul he with his armies avenged the Commonwealth with just arms on the tyrant and all his faction'. In the following winter we find Constantine not only restoring their property to the churches of Africa, and doubtless of other provinces, but making huge donations to them from the imperial treasury, and granting to the Christian clergy immunity from curial duties. The reason which he assigned for the last measure is significant. It was, as he wrote to Anullinus, the pagan proconsul of Africa, in order that the clergy 'may not be diverted by any sacrilegious error or slip from the service which is owed to the Divinity, but rather may without disturbance serve their own law, since their conduct of the greatest worship to the Divinity will in my opinion bring innumerable benefits to the Commonwealth'.⁵

In February 313 Constantine and Licinius met at Milan. Licinius' marriage with Constantia was celebrated, and the two emperors discussed their policies, particularly, as appeared later, on the religious issue. The conference was interrupted by the news that Maximin had invaded Europe and invested Byzantium. Licinius hastened eastwards and inflicted on him a decisive defeat near Adrianople. Maximin retreated into Asia Minor, but at Tarsus gave up the struggle and committed suicide. Licinius entered Nicomedia in triumph and on 15 June issued an edict in which he informed his new subjects that he and Constantine had at Milan agreed to grant full toleration to Christianity as to all other religions, and to restore all Christian property which had been confiscated. The wording of the edict suggests it was a compromise, and if so

there can be little doubt that it was Constantine who pressed the claims of the Christians. Licinius was indeed acclaimed at the time by both Lactantius and Eusebius in language which suggests that they regarded him as a convert, and he was apparently sufficiently convinced by Constantine's arguments to prescribe to his armies a monotheistic prayer addressed to the Highest Holy God. But his later career shows that he remained a pagan at heart.⁶

The motives and character of Constantine's conversion have been a subject of infinite debate. It has been assumed that he must have been swayed by prudential motives of a worldly character and that he wished to secure for himself the support of the Christian church. To this it must be answered that the church was not at this time worth courting. Christians were still a tiny minority, especially in the West, and they were on the whole people of no importance. The senate was and long remained a stronghold of paganism, the vast majority of the upper classes were pagans, and, what was more important, the army was pagan. Twelve years later, after intensive propaganda for the new faith, the veterans discharged after the defeat of Licinius shouted: 'The gods preserve you, Constantine Augustus.'⁷

Constantine's position was, it is true, at this early period somewhat ambiguous. He continued for some years to issue coins in honour of the Unconquered Sun, and in 321 he issued a constitution forbidding legal proceedings on 'the day celebrated by the veneration of the Sun'. The idea of the Sunday holiday is distinctively Christian, but the words quoted suggest that Constantine believed that the Christians observed the first day of the week as being sacred to the Sun. It is possible that Constantine's beliefs passed through a syncretistic phase, when he regarded the Highest Divinity who had sent him the sign of the cross as identical with the Sun, but his actions and his public pronouncements make it abundantly clear that from 312 he regarded himself as a worshipper, and moreover the chosen servant, of the Divine Power whom the Church worshipped.⁸

This attitude is further illuminated by his dealings with the Donatists. In Africa a schism had developed after the Great Persecution, one party recognising Caecilian as bishop of Carthage, while the other declared that he had been consecrated by a *traditor*, a bishop who had surrendered the Scriptures to be burnt, and elected a rival, Majorinus. Even when he first sent his gifts to Africa Constantine had been aware of this division in the church, and on the advice of Hosius, bishop of Corduba, who was already his principal spiritual adviser, had reserved his favours to those

called Catholics who acknowledged Caecilian. When, however, the party of Majorinus petitioned that the dispute be submitted to bishops in Gaul, he accepted their plea and ordered Miltiades, bishop of Rome, to investigate the case with the assistance of three Gallic bishops whom he nominated. Miltiades added fifteen Italian bishops to the court, which pronounced in favour of Caecilian. The opposition, now led by Donatus, who had succeeded Majorinus as the rival bishop of Carthage, again appealed, and Constantine, though impatient of their obstinacy, summoned a larger council of bishops to Arles.⁹

All this implies that he thought the matter important, and he reveals the reason in a postscript to a letter which he wrote to Aelafius, the official in Africa charged with sending representatives of the two parties to Arles. 'Since I am informed', he wrote, 'that you too are a worshipper of the Highest God, I will confess to your gravity that I consider it absolutely contrary to the divine law that we should overlook such quarrels and contentions, whereby the Highest Divinity may perhaps be moved to wrath not only against the human race but also against me myself, to whose care he has by his celestial will committed the government of all earthly things.' Constantine had evidently been convinced, presumably by Hosius, that discord in the church was highly displeasing to the Highest Divinity, and that if he was to retain his favour he must resolve or suppress it.¹⁰

It would be tedious to pursue the history of the Donatist controversy in detail. The council of Arles decided against the Donatists, but they appealed to Constantine himself. He at first refused to take the case, but later gave judgment against them. By investigation on the spot it was proved that Felix, bishop of Aptunga, who had consecrated Caecilian, was not a *traditor*, and later evidence emerged that some bishops of the Donatist party were themselves *traditores*. Feeling that the issue was clear Constantine endeavoured to suppress the dissidents by force, but the Donatists remained unconvinced by facts or arguments and gladly faced martyrdom. Constantine soon sickened of persecuting Christians, and granted them toleration, explaining that he left them to the judgment of God.¹¹

Meanwhile relations with Licinius had deteriorated. As the result of an obscure quarrel Constantine invaded Illyricum in 314 and after some rather indecisive fighting Licinius agreed to surrender the Pannonian and Moesian dioceses. There followed an uneasy peace, but it became increasingly obvious that Constantine would never be content with half the empire. Licinius grew suspicious of his Christian subjects, whom he no doubt rightly

believed to be praying for his rival's victory, and opened a rather half-hearted persecution. Confident in the support of the Highest Divinity Constantine launched his attack in 324. His troops fought under the protection of the Labarum, the imperial standard carrying the monogram of Christ, and many tales were told of its miraculous power. Licinius carried into battle the emblems of the old gods, but they proved ineffectual. After a great naval battle in the straits Byzantium was captured, and at Chrysopolis on the Asiatic shore Licinius was finally defeated. He, with Martinianus, the Caesar whom he had appointed, surrendered: they were executed shortly afterwards, according to the official version because they had endeavoured to raise a revolt.

It was apparently immediately after the defeat of Licinius that Constantine was inspired to rebuild Byzantium and give it his own name, and the new city may be regarded as a memorial of the final victory whereby God had consummated his great design of granting dominion over the world to his servant. In the one passage in his surviving laws in which Constantine alludes to his new foundation, he states that he had 'bestowed upon it an eternal name by the commandment of God'. Since the Supreme Power, to quote the emperor's own words in another edict, 'sought out and judged fitting for his own purpose my service . . . thrusting aside by some mightier power all the dangers that beset me, that the human race might be recalled to the worship of the august law', it naturally followed that Constantinople should be dedicated to the new faith, and there is no reason to doubt Eusebius' assertion that it was never sullied by pagan worship. The city was provided with a galaxy of magnificent churches, and Eusebius of Caesarea was specially commissioned to provide fifty finely written and gorgeously bound copies of the Scriptures for their equipment.¹²

According to Socrates Constantine enacted that his city should have the official style of the second Rome. Constantinople did not, however, share the constitutional position of Rome. It had no prefect of the city, being subject to a proconsul. It had no quaestors, tribunes of the plebs or praetors. And it had no senate in the proper sense of the word: the members of its so-called senate were given the style of *clari*, not *clarissimi* like Roman senators. Constitutionally Constantinople was no more than an imperial residence, like Trier, Milan, Sardica or Nicomedia, which all had their palaces, though it was more magnificent than any of them, and was no doubt from the first intended to be what it soon became, the normal residence of the emperor in the Eastern parts.¹³

The work was pressed forward with great haste—so much so that many of the buildings were shoddily constructed and soon required repair—and was formally inaugurated on 11 May 330. The temples of the empire were stripped of their finest columns and marbles, of bronze doors and roof tiles, to adorn its public buildings, and scores of the masterpieces of ancient Greek art were carried off to decorate its streets and squares. The emperor encouraged private building by granting lands from the imperial patrimony in Asiana and Pontica on condition that the grantee built and maintained a house in the new city. Many substantial residents were thus attracted, and the members of the imperial *comitatus* no doubt built themselves houses in the new capital. As a further attraction to settlers, Constantine inaugurated on 18 May 332 regular distributions of bread (and no doubt of other food-stuffs) on the model of those at Rome, diverting from the old to the new capital the produce of Egypt. Some civic bread rations (*annonae civicae*) were allocated to builders of houses, and remained attached to the house in perpetuity, whoever came to own it. Others were apparently granted to two of the regiments of the guard, the *scholae*. In addition to these special allocations rations were distributed to the humbler citizens. The amount is stated to have been 80,000 loaves (or perhaps rations) per day.¹⁴

We know very little of the secular history of the last thirteen years of Constantine's reign, when he was sole Augustus. He resided in the East, latterly at Constantinople, paying only one visit to the West, to celebrate the *vicennalia* at Rome in 326. He seems to have become more and more absorbed in the difficult ecclesiastical problems which he encountered in the East and, if Eusebius is to be believed, he devoted more and more of his time to the study of the faith which he had adopted; as time went on he spoke with more authority on theological issues. (To an increasing degree he entrusted the administration and military defence of the empire to his sons and nephews, whom he successively promoted to be Caesars and thus marked out as his heirs.)

As early as 317 he had proclaimed as Caesars, in concert with Licinius, who simultaneously promoted his son Licinianus, his eldest son Crispus and his eldest son by Fausta, Constantine. Crispus was shortly afterwards put in charge of the Gauls, probably under the tutelage of an experienced praetorian prefect, and in 320 was acclaimed for a victory over the Franks. Constantine himself at this period normally resided in Illyricum, making Sardica his capital, and took charge of the Danube frontier,

where he inflicted several defeats on the Sarmatians and Goths.

Crispus played a brilliant part in the victory over Licinius as commander of the fleet, but in 326, while accompanying his father to Rome for the *vicennalia*, he was suddenly executed at Pola: the reasons are unknown, and the later story which associated his execution with that of Fausta in the same year is probably mere gossip. He may have been succeeded in Gaul by Constantine Caesar, who won the honorific cognomen of Alamannicus. The young Constantine next took charge of the Danube front, where in alliance with the Sarmatians he defeated the Goths in 332. Two years later the Sarmatians, faced by a rising of their subject peoples, sought refuge in the empire, and more than 300,000 of them are said to have been settled in Thrace, Macedonia and Italy. Meanwhile Constantine's third son Constantius, who had been proclaimed Caesar in 324, was put in charge of Gaul when still, as Julian tells us, a mere boy. In 333 Constantine's youngest son, Constans, was made Caesar and in 335 his nephew Dalmatius was accorded the same rank. At some period late in the reign the younger Constantine was transferred back to Gaul, and Constantius to the Eastern front. Constans was assigned Italy with Africa and Pannonia, and Dalmatius the lower Danube front with Thrace, Macedonia and presumably Dacia.¹⁵

Relations with Persia had been quiet since the peace of 298. Tiridates, who had then been restored to the Armenian throne by Diocletian, had early in the fourth century been converted to Christianity and had enthusiastically imposed his new faith on his subjects. Constantine naturally favoured a fellow Christian monarch, and renewed the old alliance with him. He also wrote to Sapor, the Persian king, reciting the victories which the Christian God had granted to him and the disasters which he had inflicted on those who opposed his worship, and urging Sapor to win his favour by treating his Christian subjects with kindness. This letter naturally had the effect of making Sapor suspect the Christians in his kingdom as his enemy's protégés, and perhaps provoked him to seize the Christian king of Armenia, Tigranes, and occupy his kingdom. The Armenian nobles, or at any rate the pro-Roman and pro-Christian party, appealed to Constantine and offered him the kingdom. He accepted and crowned another of his nephews, Hannibalianus, as king of kings of Armenia and the neighbouring countries. This of course meant war with Persia, but Constantine died before it broke out.¹⁶

Constantine had cherished hopes that the wisdom and authority of the Eastern bishops might solve the still intractable Donatist

problem. But no sooner had he arrived at Nicomedia than he found to his horror that the Eastern churches were riven by a dispute more widespread than the Donatist quarrel. A priest of Alexandria named Arius had been preaching novel doctrines which shocked old-fashioned Christians. He was a pupil of Lucian of Antioch, the great Origenist scholar who had been martyred in 312, and proceeding from the philosophical premise that God is the eternal and unknowable monad argued that the Son could not be God in the same sense. Though created or begotten before all ages, he was posterior to the Father, who, since his own being is indivisible, must have created him out of nothing. Arius was excommunicated by Alexander, bishop of Alexandria, with the almost unanimous support of the other Egyptian bishops, but leaving Egypt he found considerable support among the more intellectual bishops, who were, like him, pupils of Lucian and followers of Origen: in particular he gained to his side Eusebius, bishop of Nicomedia, the imperial residence, and the historian Eusebius, bishop of Caesarea in Palestine, a learned and highly respected scholar. There followed a war of pamphlets, and the bishops of the East divided into two parties.¹⁷

Constantine's first reaction was that of the plain man: surely such recondite metaphysical points were not of importance, and could not Alexander and Arius, like pagan philosophers, agree to differ? He wrote a letter in this sense, addressed to them jointly, and dispatched it by the hand of Hosius. Both parties remaining obdurate, Hosius took advantage of the death of Philogonius, bishop of Antioch, to convene a large council of bishops from all the provinces which regarded Antioch as their spiritual capital, from Cilicia and Mesopotamia in the north to Palestine in the south. The council elected Eustathius, a violent opponent of Arius, as Philogonius' successor, condemned the Arian doctrines, and redri-manded those bishops, including Eusebius of Caesarea, who had supported Arius.¹⁸

Constantine, however, no doubt forewarned by his experience with the Donatists, was not satisfied with a local council, however large. He had already planned to hold a greater council, probably including all the bishops of the East, at Ancyra; this was already known to the bishops at Antioch, who had accordingly made their decisions provisional and subject to confirmation by the emperor's greater council. Constantine now went a step further. He decided to make his council representative of the whole church, calling in bishops from Italy and the West also, and to attend it himself. He accordingly altered the place of meeting to Nicaea, which would be more convenient for himself and the Westerners.¹⁹

The council of Nicaea met on 20 May 325. Only half a dozen bishops came from the Latin West; the bishop of Rome excused himself but sent two deacons to represent him. But it was a representative gathering of the Eastern churches, comprising 250 to 300 bishops from all the Greek-speaking provinces. Constantine himself presided at the crucial debates on the doctrinal issue, and took an active part in guiding the discussion. His prime object was to obtain a unanimous decision, and he asked Eusebius of Caesarea, whose views had recently been provisionally condemned, to propose to the council a statement of the faith. Eusebius produced the traditional creed of his church of Caesarea, which was a perfectly orthodox and scriptural document, but did not satisfy the opponents of Arius because it was compatible with his doctrines. They therefore proposed additional clauses, but could find none that the Arian party were not willing to accept. Finally the emperor himself suggested the addition of the words 'consubstantialem patri' (*ὁμοούσιον τῷ πατρὶ*). There is strong reason for believing that this was a Western formula, suggested to him by Hosius. It was certainly deeply distasteful to the great majority of Eastern theologians and was only welcomed by the opponents of Arius because it was utterly unacceptable to him. Constantine by strong personal pressure induced Eusebius to accept this amendment, and eventually all the bishops were pressed into signing, with the exception of two strong supporters of Arius, who with Arius himself were excommunicated.²⁰

The council also dealt with a number of minor schisms and heresies. The Melitians, an Egyptian sect similar to the Donatists, and the Novatians, another rigorist sect which had broken away after the persecution of Decius and Valerian for similar reasons, were offered generous terms, their bishops and clergy being allowed to retain their orders provided that they rejoined the communion of the Catholic church. The Paulianists, or followers of Paul of Samosata, who had been condemned for heresy in 268, were more severely treated, having to submit to rebaptism before being accepted back into the fold. The council also passed a number of canons on the treatment to be given to those who had lapsed in the persecutions, and ordained that Easter should be celebrated by all the churches on the same day, that fixed by the churches of Rome and Alexandria. It also legislated on the constitution of the church, defining and probably strengthening the authority of the bishop of the metropolis of each province over the other provincial bishops. It furthermore confirmed the traditional authority of the bishop of Alexandria over all the provinces of Egypt and Libya, that of the bishop of Rome over all the provinces

of the suburbicarian diocese, and the rather vaguer primacy of the bishop of Antioch over the East, that is the diocese of Oriens excluding Egypt.²¹

Constantine was jubilant at his success. The creed produced by the council was to his mind an inspired document, 'for the decision of 300 bishops must be considered no other than the judgment of God'. He forthwith issued an edict banning various minor heresies, the Valentinians, Marcionites, Cataphrygians (or Montanists), Paulianists and Novatians—the Melitians had accepted the Council's terms—confiscating the churches of these 'enemies of the truth, foes of life and counsellors of destruction' and forbidding them to meet in private houses: he shortly afterwards restored their churches to the Novatians, whose stern piety and orthodox beliefs apparently impressed him. His final ambition was to reconcile the few remaining Arians, and particularly Arius himself, to the church. He at length extracted from Arius and his friends a vaguely worded confession of faith which seemed to him adequate and, when Alexander of Alexandria refused to receive Arius back on the strength of this document, reassembled the council of Nicaea in 327. Arius was readmitted to communion, as were two bishops who had supported him, Eusebius of Nicomedia and Theognius of Nicaea.²²

Constantine's work might now seem to have been accomplished: unity was at length established in the church. The next ten years were, however, anything but harmonious. For one thing, Athanasius, who was elected to succeed Alexander in 328, was an utterly intransigent character. He stubbornly refused to take Arius back, and he soon fell foul of the Melitian bishops. On the other side the Origenist bishops, led by Eusebius of Caesarea, though they dared not touch the creed of Nicaea, looked out for every opportunity of discrediting the more extreme adherents of the homoousion. They succeeded in getting a number of them condemned for heresy or uncanonical conduct, amongst them Eustathius of Antioch and Marcellus of Ancyra. They made a succession of charges against Athanasius, and eventually persuaded the emperor to summon a council at Caesarea to investigate them. Athanasius refused to attend, but next year in 335 he yielded to the emperor's command and presented himself before a council held at Tyre under the presidency of an imperial commissioner, the *comes* and consular Dionysius. He was condemned, and rushed to Constantinople to appeal personally to the emperor. But Constantine had at last lost patience with his obstinacy and banished him to Trier. Meanwhile he had invoked a great council at Jerusalem. It was his *tricennalia* and he intended to celebrate it by the consecration of the great

church which he had built on the site of the Holy Sepulchre and by the final reconciliation of Arius and his remaining supporters to the church. In response to an assurance from the emperor that he had personally examined Arius in the faith and found him orthodox, the assembled bishops readmitted him to communion; he actually died before being received, a judgment of God in which the homoousian party found much satisfaction. The unity of the church was now at last complete, if one might forget the Donatists, who were still as rebellious as ever, and the Novatians, who were still tolerated in spite of their dissidence.²³

Constantine from his conversion onwards showered privileges and money on the church. As we have seen, one of his first acts after the battle of the Milvian Bridge was to grant immunity from curial charges to all the clergy, in order that nothing might distract them from the service of the Highest Divinity. The result seems to have been that decurions, and others qualified by their wealth to become such, flocked into holy orders. Some twelve or fifteen years later Constantine was compelled to limit his generosity. He ordered that henceforth clergy were not to be ordained indiscriminately, but only to fill vacancies caused by death, and that no person of curial family or fortune was to be ordained at all; 'for the rich ought to support the needs of this world, the poor be maintained by the wealth of the churches'.²⁴

Another of his earliest actions was to order the *rationalis* of Africa to pay to Caecilian, bishop of Carthage, 3,000 *folles*, to be distributed amongst the clergy of the diocese of Africa; this order was no doubt matched by others to the remaining diocesan *rationales*. Later regular annual subsidies of corn and other foodstuffs were paid in every city to the churches, for the use of the clergy, widows and the poor. These payments were cancelled by Julian, and when revived by Jovian were reduced to a third of their original amount.²⁵

After the defeat of Licinius in 324 Constantine circularised all Eastern metropolitans, authorising them to draw from the provincial governors or the office of the praetorian prefects any sums which they required for repairing or enlarging the churches in their provinces, or for building new churches. This was a temporary measure, designed to make up arrears caused by Licinius' persecution. Constantine also built a considerable number of magnificent new churches as his personal contribution. At Rome the Liber Pontificalis records the Basilica Constantiniana of the Lateran and its Baptistery, the Fons Constantini, St Peter's on the Vatican hill, St Paul's, the Church of the Holy Cross of Jerusalem, St Laurence,

and SS Peter and Marcellinus, besides churches at Ostia, Albanum, Capua and Naples. In Africa we hear incidentally that Constantine built a basilica at Constantina, as Cirta was renamed, and that when it was forcibly seized by the Donatists, he gave orders to build another for the Catholics, rather than enter into a wrangle.²⁶

In the East he was particularly active in the Holy Land. He or his mother, Helena, built churches at Jerusalem on the site of the Holy Sepulchre, and on the Mount of Olives at the place of the Ascension, at Bethlehem over the cave of the Nativity, and at Mamre at the place where according to tradition Abraham had entertained the Son of God with two angels. No expense was spared to make these worthy memorials of their imperial founder. In a letter to Macarius, bishop of Jerusalem, about the projected church of the Holy Sepulchre, Constantine authorises him to obtain craftsmen, labourers and materials without stint from the provincial governor and the vicar of Oriens, asks him to specify what columns and marbles he requires from other parts of the empire, and suggests the desirability of a gilded and coffered ceiling. Constantine naturally adorned his new capital, Constantinople, with a magnificent group of churches, of which three, the Holy Wisdom, the Holy Apostles, and the Holy Peace, are the most celebrated. He also endowed Nicomedia with a grand new church to replace that destroyed by Diocletian, and began the famous Golden Church of Antioch, which was only completed after his death.²⁷

The emperor not only built these, and no doubt many other churches, but endowed them with vast estates. The rents of the lands granted to the various Roman churches, of which a detailed schedule is given in the *Liber Pontificalis*, totalled over 30,000 *solidi* a year, or well over 400 pounds of gold. The endowments of the other Italian churches were much more modest, 1,890 *solidi* for Albanum, 1,018 for Ostia, 710 for Capua, and 673 for Naples. The emperor's example was followed by his friends; Gallicanus, probably the consul of 330, gave lands with a rental of 869½ *solidi* to the church of Ostia. In 321 Constantine issued a constitution legalising and encouraging bequests to the church, and with the increasing number of wealthy converts a stream of gifts and legacies began to flow in, which soon made many churches wealthy corporations.²⁸

The clergy gained not only in wealth but in prestige and status. They became honoured guests at the court, and were freely granted warrants to travel by the public post to the *comitatus* or to ecclesiastical assemblies. They were also given legal authority. In 321 bishops were authorised to manumit slaves in church with full

validity, a privilege hitherto confined to provincial governors. Later Constantine gave an even more extraordinary privilege to bishops, ruling that in any lawsuit either party might at any stage before final judgment transfer the case to the local bishop's jurisdiction, and that the bishop's judgment should be inappellable and be executed by the civil authorities. In 333 Ablabius, Constantine's Christian praetorian prefect, ventured to ask the emperor if this really was his intention, and Constantine confirmed the law in most explicit terms.²⁹

Constantine was zealous in propagating his new religion. Eusebius draws a glowing picture of the emperor delivering sermons to his court, and describes the measures whereby he endeavoured to christianise the army. Christian soldiers were allowed time off to attend Sunday services, and the rest were meanwhile paraded and made to repeat a monotheistic prayer closely resembling that which Licinius had dictated to his troops in 313. The emperor also recommended his religion to his subjects in edicts which Eusebius has preserved.³⁰

Constantine showed marked favour to Christian individuals and communities. He was naturally obliged to employ pagans for the most part in his service, but his preference was for men of his newly adopted faith. Ablabius, the greatest of his praetorian prefects, was a Christian of very humble origins, and no doubt owed his advancement in some part to the fact that he shared the emperor's faith. According to Eusebius Constantine showered money and honours upon prominent converts; we know of a specific instance, Joseph, an apostle of the Jewish patriarch, who was rewarded with the rank of *comes* with a salary attached. Communities which had favours to ask of the emperor also found it profitable to mention that they were predominantly Christian. Thus the villagers of Orcistus in Phrygia, when they petitioned to be detached from Nacoleia and granted a charter as a separate city, included in their plea that they were mostly Christians, and the emperor took favourable note of the fact in his reply. Similarly the inhabitants of Maiuma, the Christian port of pagan Gaza, and those of Antaradus, the mainland suburb of Aradus, obtained city status on this score. The result of imperial favour was that converts began to pour in, many, as Eusebius regretfully admits, from interested motives.³¹

Towards the pagans who formed the vast majority of his subjects Constantine's attitude stiffened as he became increasingly impatient of their obstinate blindness in not appreciating the moral of his own victorious career. In a long edict issued shortly after the defeat of Licinius he urged them to adopt the true faith, but expressly

allowed them to carry on their cult, and indeed forbade Christians to interfere with them. But there is no doubt that he later prohibited sacrifices. Eusebius' vague and rhetorical statements to this effect are not indeed good evidence, and no constitution survives in the Code, but only four years after Constantine's death Constans issued a constitution, which is preserved, citing the 'law of the late emperor, our father' which prohibited sacrifices.³²

Constantine demolished a few famous temples, that of Asclepius at Aegae in Cilicia, famous for its miraculous cures, and those of Apheca and Heliopolis in Phoenicia, which were particularly offensive to Christian sentiment as centres of ritual prostitution; but in general he left the buildings undisturbed. He did, however, systematically despoil them of their treasures, not only seizing their accumulated dedications, but even stripping the gold plate from the cult statues, leaving only the wooden armature. He thus acquired a vast stock of gold and silver bullion, of which, as will be seen, he made use in his currency reform. It is also probable that it was Constantine who confiscated the temple estates, which after being restored to them by Julian, later became once more an important category in the lands held by the imperial *res privata*; this measure was apparently not extended to the ancient endowments of the Vestal Virgins and the ancestral cults of the city of Rome.³³

Constantine's legislation shows some traces of Christian influence. His laws on the observance of Sunday have already been mentioned. In 320 he abolished the disabilities which Augustus had imposed on celibates of both sexes and on childless couples. In 326 he enacted a savage law against abduction, inflicting frightful penalties not only on the man but on the woman if a willing victim. In 331 he severely tightened up the rules governing divorce: he also penalised bastards. In 325 he prohibited gladiatorial combats. In Italy and Africa—and no doubt in other dioceses—he ordered that grants of money, food and clothing be made from public funds to poor parents who might otherwise be tempted to sell or expose their children. But whether these measures were prompted by Christian motives is more doubtful. Christian charity was mainly directed to widows, virgins and orphans, and a more direct precedent is to be found in the alimentary foundations of the second century emperors.³⁴

His attitude to the Jews was more certainly influenced by his Christian belief. In the edict in which he promulgated the decision of the council of Nicaea on the date of Easter he took the opportunity of denouncing the wickedness of the Jewish people, who had murdered the Lord. His actual legislation was, however, not

unreasonable. He prohibited proselytism, and penalised Jews who circumcised their pagan or Christian slaves, and menaced the Jewish authorities with severe penalties should they injure converts to Christianity. On the other hand he confirmed the immunity from curial duties of synagogue officials.³⁵

Constantine's conversion necessarily had repercussions on the imperial cult. He could no longer be a god, but he suffered little thereby in his own estimation or in that of his subjects, whether pagan or Christian. In his own eyes Constantine was the man whom the Supreme Power had 'sought out and judged fitting for his own purpose, starting from the sea which laps distant Britain and from those quarters where the sun is commanded by an ordinance of fate to set'. Pagan panegyrist who had been used to addressing the emperor as a god upon earth took refuge in the vague monotheism or pantheism which was prevalent in educated circles: 'Surely, Constantine,' said one, 'you have some secret communion with that Divine Mind which, delegating our care to lesser deities, deigns to reveal itself to you alone.' To Christians Constantine was the agent, even the representative, of God upon earth. In the panegyric which he delivered before the emperor at the *tricennalia*, Eusebius of Caesarea elaborated on this theme. It was, he declared, from and through the Word of God that 'in the likeness of the kingdom on high, the emperor, the friend of God, holds the tiller of all earthly things and steers them in imitation of the Mighty One'.³⁶

The emperor and everything connected with him remained sacred and divine, and opposition to him was still sacrilege. Even the imperial cult continued in an emasculated form. The provincial assemblies still elected high priests who celebrated games in honour of the emperor and even built temples to his name. We have curious evidence of this in an inscription from Hispellum in Umbria. The cities of Umbria, which had hitherto been grouped with those of Tuscia, asked leave to build a temple of their own and to hold theatrical and gladiatorial games under their own high priest. Constantine graciously assented, only stipulating that 'the temple dedicated to our name shall not be polluted with the falsehoods of any contagious superstition'. Nor did Constantine—or for that matter his Christian successors for two generations—feel any qualms about holding the pagan title of Pontifex Maximus. It was a traditional part of the imperial titulature, and involved no participation in pagan cult.³⁷

The conversion of Constantine raised a problem which was to trouble the empire for the rest of its existence, the proper relation

of a Christian emperor to the church. Constantine himself had no doubts on this matter. It had always been the function of the Roman government to maintain the *pax deorum*, to ensure the continued goodwill of the gods towards the empire by maintaining their regular cult, and when they showed signs of displeasure, to take appropriate steps to placate them. Constantine perfectly naturally assumed that it was his duty as emperor to secure the favour of the Highest Divinity for the empire, and his feelings were all the stronger since he believed that he personally had been chosen and raised to power by God! As he wrote to Domitius Celsus, the vicar of Africa, in 316: 'What higher duty have I in virtue of my imperial office and policy than to dissipate errors and to suppress rash indiscretions, and so to cause all to offer to Almighty God true religion, honest concord and due worship.'³⁸

In carrying out this duty Constantine, like his pagan predecessors, took expert advice. As they had consulted the *haruspices*, the Sibylline Books or the oracles, he consulted the bishops. When the Donatists appealed to him, he appointed the bishops of Rome, Cologne, Autun and Arles to investigate the facts and report to him. When the Donatists appealed against the verdict, he summoned a larger council of bishops at Arles. But when the Donatists refused to accept the decision of this council either, he finally gave judgment himself. In dealing with the Arian controversy, in the hope of securing an absolutely unquestionable verdict, he took the unprecedented step of summoning a universal council of the whole church at which he himself presided. When the schism remained unhealed, he summoned further councils at Caesarea, Tyre and Jerusalem, the last another universal gathering of the church.

These councils bear a superficial resemblance to those which the metropolitan regularly held for each province to deal with current affairs, or to the larger gatherings which were sometimes held to settle important issues. But the imperial church councils were summoned by the emperor, who fixed the date and place of meeting, laid down the agenda and selected the participants. He himself presided at Nicaea, and at the subsequent councils appointed as presidents imperial commissioners, supported by a staff of officials—Athanasius complains bitterly of the presence at Tyre of a *commentariensis* and *speculatores*. Constantine, moreover, reserved the final decision to himself; he received an appeal from Athanasius against the verdict of the Council of Tyre, though he ultimately decided against him.³⁹

It was naturally difficult for Constantine to know exactly where to draw the line in his intervention in ecclesiastical affairs. He

clearly felt strongly that it was his duty as emperor to take the initiative in resolving schisms in the church. At the same time he professed, and probably sincerely believed, that the decisions of councils were inspired. He speaks of the decision of the Council of Arles as 'the judgment of Christ: for I say—and it is the truth—that the judgment of priests ought to be regarded as if the Lord himself sat in judgment'. And of Nicaea he declares that 'the Holy Spirit, dwelling in the hearts of so many men of such character, brought to light the Divine Will'. It was naturally his function to take the necessary executive action to enforce conciliar decisions, and it was by imperial edict that heretical or schismatic bishops were exiled, and the churches of the sectaries confiscated and their meetings banned. But it was also tempting to influence conciliar decisions in the cause of unity, and in his anxiety to secure Arius' readmission to the church Constantine took it upon himself to pass judgment upon his orthodoxy, and to recommend the Council of Jerusalem to receive him into communion. Constantine even on one occasion intervened in an episcopal election. After the Council of Nicaea there was serious party strife at Antioch and the emperor not only appointed two imperial commissioners to preside over the council which was summoned to fill the vacancy, but recommended two candidates between whom it should choose.⁴⁰

The church had always been used to settling its own disputes, and it might have been expected that it would have resented imperial interference. This was far from being the case. The Christians seem to have thought it quite natural and proper to invoke the judgment of a Christian emperor in their disputes. The Donatists originally called in Constantine against their Catholic rivals, and persistently appealed to him personally against the decisions of the bishops whom he appointed to investigate the issue. It was only when Constantine finally gave judgment against them himself that they accused the Catholics of invoking the secular power in an ecclesiastical dispute. The Melitians and Eusebians made frequent charges against Athanasius to the emperor, and Athanasius himself appealed to Constantine against the Council of Tyre: it was again only when the decision had gone against him that Athanasius raised the cry against imperial interference in church affairs. Only once did the bishops manifest some uneasiness at the growing tendency to call in the emperor on all occasions. The Council of Antioch mentioned above passed two canons against this practice, one forbidding bishops or priests to go to court without the prior consent of the metropolitan and the provincial synod, the other condemning deposed bishops and

priests, who instead of appealing to a greater council invoked the emperor.⁴¹

Constantine's conviction that he was God's servant impelled him to intervene in ecclesiastical disputes with conviction and energy, and he established a number of important precedents. In particular as the first to convene an oecumenical council he established the rule that only an emperor could convoke such a council. In some ways he went further than his successors. His intervention in episcopal elections, for instance, was not followed up, and except for the see of the imperial capital, Constantinople, it seems to have been unusual for the emperor to dictate the choice of bishops. The general principle, however, that it was the right and duty of the imperial government to suppress heresy and schism was firmly established.

The conversion of Constantine effected a revolution in the fortunes of Christianity, and of the church. Christians had hitherto enjoyed at best a precarious toleration, and were liable at any moment to persecution. There were by this time very many who were Christian by family tradition, and whose faith was, as the number of the lapsed showed, not very ardent, but no one would have had any motive for joining the church but sincere conviction. Christians were certainly a small minority in most parts of the empire; we have no statistical material for estimating even approximately how small a minority. They belonged, moreover, predominantly to the lower middle classes. They included, it would seem, a substantial number of decurions, even some who could aspire to the expensive honour of the provincial high-priesthood, and some members of the equestrian class, and even a few senators. But the bulk of them seem to have belonged to the lower classes in the towns. Only in a few areas, notably in Africa and Egypt, had Christianity spread to the countryside, and Christians were therefore sparsely represented in the army. The churches, though they owned some property, were scantily endowed and the clergy were mostly humble folk.

With Constantine's conversion the situation was completely changed. Wealth poured in on the church, and the middle classes began to press into holy orders. It was no longer a social disadvantage and a slight risk to be a Christian. Converts could not only feel secure, but might hope to gain material advantages from their conversion. As a result the number of Christians grew, especially among the middle and upper classes.

On a long view it is probably no exaggeration to say that Constantine's conversion was decisive for the future fortunes of Christianity. He enjoyed a prosperous and victorious reign of

twenty-five years after his conversion, and left the empire to sons who had been brought up as Christians, the last of whom reigned for a further twenty-four years. During this half century Christianity became the dominant religion of the empire, and Julian's attempt to re-establish paganism was probably doomed to failure, even if he had not been killed after a reign of barely eighteen months. But for the chance of Constantine's conversion Christianity might have remained a minority sect, as it did in the neighbouring empire of Persia, where no king was converted, and Christianity continued, as in the pagan Roman empire, to enjoy long periods of *de facto* toleration, broken by occasional persecutions.

In the military organisation of the empire Constantine made an important change by the creation of a large-scale field army, a central striking force, which he placed under the command of two newly created officers, the *magister peditum* and the *magister equitum*. No *magistri* of Constantine's reign are known, but under his sons several were decorated with the ordinary consulship, and the office must from the first therefore have ranked high, almost, if not quite, on a par with the praetorian prefecture. The field army itself is first attested in a law issued in 325, in which its members, the *comitatenses*, are given superior privileges to the *ripenses*, the soldiers of the frontier legions and vexillations, and the *cobortales* and *alares*. There is, however, good reason to believe that the formation of the *comitatenses* goes back to Constantine's campaign against Maxentius in 312, for a high proportion of the leading units of the later field army had evidently been originally drawn from Gaul and western Germany.⁴²

We have no direct information on the *comitatenses* of Constantine's own day; indeed we know nothing of them until Ammianus mentions a fair number of units in his accounts of the wars of Julian as Caesar and of Constantius II at the same period. For a full list we have to wait till the *Notitia Dignitatum*, and by that time many new units had been raised, and many old ones had no doubt dropped out. It is, however, legitimate to assume that from the beginning the field army consisted as later of vexillations of cavalry and of legions of infantry, and also of infantry formations of a new type, *auxilia*. Among the legions the *Lanciarrii* and the *Ioviani* and *Herculiani*, which had all probably belonged to the Diocletianic *comitatus*, are followed by the *Divitenses* and the *Tungri-cani*. The full name of the former, as we happen to know from epigraphical evidence, was *Legio II Italica Divitensis*; it was a detachment of II Italica, the legion of Noricum, stationed at Divitia

on the right bank of the Rhine opposite Agrippina. The inscriptions further suggest that this unit took part in the war against Maxentius. The Tungricani were doubtless another legionary detachment, taking their name from their station in the territory of the Tungri. Other senior legions of the *comitatus*, such as the Primani and Undecimani, are more obviously derived from the old legions, while others like the Pannonici and Moesiaci take their name from the provinces from which they were drawn.⁴³

The *auxilia* on the other hand seem to be new formations. Some of the senior, and presumably oldest, units bear fancy names, such as Petulantes or Cornuti or Brachiati (the last two apparently from the ornaments on their helmets), and of their provenance nothing can be said. But a substantial number are named either from the warlike tribes of eastern Gaul, the Batavi, Tungri, Nervii or Celtae, or from the German tribes across the Rhine, like the Heruli, Salii or Tubantes. Among the vexillations the Comites and Promoti, who belonged to the Diocletianic *comitatus*, are followed by units with the same names as the *auxilia*, Batavi, Brachiati, Cornuti, and presumably like them new formations.⁴⁴

Zosimus' charge that Constantine merely withdrew units from the frontiers into the interior of the empire is therefore only partially true. Constantine somewhat weakened the frontier armies, but a substantial proportion of the *comitatenses* were new units. The total numbers of the army must thus have been increased but not perhaps very greatly. The original *comitatenses* were not very numerous: for his campaign against Maxentius Constantine is stated by a contemporary orator to have used a bare quarter of his total strength. The overall rise must have been well under 25 per cent., since many of the units forming the field army were old formations transferred from the frontier army.⁴⁵

Constantine has been charged with barbarising the Roman army. He certainly did raise some vexillations and *auxilia* from the German tribes, but this was nothing new, and the numbers involved do not seem to have been large. There is perhaps more truth in the allegation that he favoured German troops, and gave high promotion to German officers. A Frank, Bonitus, is known to have been one of his generals, and, if as Julian later said, he raised barbarians even to the consulate, it is likely that some of his *magistri* must have been Germans, for officers of lower rank would hardly have received the highest of all honours.⁴⁶

Constantine does not seem to have neglected the frontier in favour of his new field army. It is rather difficult to distinguish his work in the Notitia, as many of the dynastic titles characteristic of

the Flavian family are equally appropriate to Constantine himself, his father, and his sons, and furthermore a Constantinian title may in many cases conceal a unit raised by one of the 'tyrants' whose memory Constantine condemned. Three legions, I, II and III Iulia Alpina, which were once frontier legions—for two of them are recorded as *pseudocomitatenses*, while one has been promoted to be *comitatensis*—probably owe their name to one of Constantine's sons, Julius Crispus, Julius Constantius or Julius Constantine, who successively ruled Gaul as Caesars. They may perhaps have belonged to a military district obsolete by the time of the Notitia called Gallia Riparensis, which included the Rhone valley and the adjacent Alpine provinces, and have been intended to secure the important lines of communication through this area against the local Bacaudae. Another legion recorded as *comitatensis* in the East, Iulia Alexandria, may have been a Constantinian addition to the Egyptian garrison. The Equites Crispiani of Britain must certainly be a Constantinian creation, and so no doubt are some of the other fairly frequent Flavian formations in various provinces.⁴⁷

On one frontier, the middle and lower Danube, it is probable that a major re-organisation is due to Constantine. In Scythia, Dacia and the two Moesias the vexillations of cavalry familiar on the Eastern frontier are completely replaced by units with another title, *cunei equitum*. In Valeria and the two Pannonias vexillations and *cunei* are found side by side. No *alae* survive in any of these provinces. The legions are throughout divided into three or more detachments. Very few cohorts survive, mostly in rear areas, and in their place appear new infantry units called *auxilia*.⁴⁸

It is difficult to date this re-organisation precisely. The order of battle depicted in the Notitia certainly existed as early as 375, when a law of Valens alludes to those 'qui in ripa per cuneos auxiliaque fuerint constituti'; the *ripa* can only be that of the lower Danube. There is probably—making due allowance for the rhetorical vagueness of the language of the Code—an earlier allusion to the new formations in a law which speaks of *auxiliares cunei* under the command of *duces*: unfortunately this law is one of a group which may equally well belong to Constantine or to Constantius II. A number of the *cunei* and *auxilia* bear such titles as Constantiniani or Constantiani. Serious wars were fought against the Goths and the Sarmatians on the lower Danube in the latter part of Constantine's reign, and there was thereafter no great activity on this front till the reign of Valens. It seems likely therefore that the Diocletianic system of defence was badly damaged under Constantine, and the frontier re-organised by him on new lines.⁴⁹

The nature of the re-organisation is also difficult to define. The great majority of the *cunei* bear the same titles as the older vexillations—Promoti, Dalmatae, Stablesiani, Sagittarii and so forth; it would seem that they are old units re-organised. But the cavalry has also been reinforced by new *cunei*—those with dynastic names, and others such as the Dalmatae Divitenses, which have clearly been brought in from Gaul or elsewhere. The *auxilia*, except the few which bear dynastic titles, are mostly named after the station which they occupied; a few like the Dacisci, Moesiaci and Scythici are called after their provinces; some others have fancy titles—Superventores, Praeventores, Insidiatores. They would seem to be local irregulars, not unlike the *auxilia* which were drafted into the *comitatus* in Gaul.

The pagan Zosimus holds Constantine responsible for the military debacle of the Western empire in his own day. His version of Constantine's reforms is that by withdrawing the best troops to the *comitatus* he weakened the frontier army, which in Diocletian's day had provided an impregnable defence, so that the barbarians could easily break through, while the units withdrawn to form the field army were corrupted by the luxury of the cities in which they were stationed. This criticism is obviously the fruit of religious prejudice. It is true that Constantine somewhat reduced the numbers of the frontier army and lowered its quality and morale. But it is highly questionable whether the empire could have supported a frontier army strong enough to hold a barbarian attack at any point until reinforcements could be sent from the other frontiers; and a static army would probably in any case have gradually sunk in efficiency, even if it had not lost its best troops and been starved of good recruits.

In the *comitatenses* Constantine formed a striking force which could immediately be marched to any threatened point, or could at the worst oppose an enemy who had broken through: and despite the luxurious billets which according to Zosimus ruined its discipline and morale, it remained an efficient force so long as it was kept up. In the West it disintegrated, owing to lack of recruits and money, but in the East it retained its high traditions; it was with armies of which regiments of *comitatenses* formed the core that Justinian reconquered Africa and Italy.

It is not clear whether the *magistri peditum* and *equitum* from the first assumed authority over the *duces* of the frontier armies, as they did in the 360s, but it is certain that the praetorian prefects now lost their military functions; their immediate command, the praetorian guard, had been disbanded in 312 after the defeat of Maxentius.

The prefects remained responsible for recruitment, supply of rations and the armament factories, but ceased to have any operational or disciplinary control. The same naturally applied to their vicars, and it is probable that by now military and civil command were separate in nearly all provinces. There always remained a few exceptions; in Isauria, for instance, the offices of *dux* and *praeses* were normally combined, and from time to time there was a temporary union of powers in other provinces, such as Arabia and Tripolitania. The *dux* continued often to command the army of several civil provinces; in Egypt, for instance, the *dux* under Constantine as under Diocletian commanded Egypt, the Thebaid and both the Libyas.⁵⁰

The effect of these changes was to complete the growing cleavage between the civilian and military careers. There were henceforth two quite separate ladders of promotion, and it was almost unknown for a man to switch over from one to the other. The *magistri* and *duces* were selected from the tribunes who commanded the regiments, and were men with a purely military background, often uneducated and not infrequently barbarians. The *praesides*, vicars and prefects, on the other hand, were drawn mainly from the educated classes, and were frequently lawyers. It is often argued that Constantine's primary object in these reforms was to weaken the over-powerful praetorian prefecture. It seems more probable that he realised that the office had come to demand a combination of abilities and experience, military, judicial, financial and administrative, difficult to find in one man.

According to Zosimus, Constantine also created the four territorial praetorian prefectures of the Gauls, Italy, Illyricum and the East, which existed in his own day. This is certainly untrue, but it does appear that Constantine did break with the tradition that a praetorian prefect was always attached to an emperor's person, and appointed some prefects to govern fixed areas. The evidence is so slight that it is difficult to be more precise. After the defeat of Maxentius and Maximin there were only two praetorian prefects in the empire, serving Constantine and Licinius respectively. It is possible, and indeed probable, that when Crispus became Caesar in charge of the Gauls in 317, a third prefect was appointed to assist him. After the unification of the empire in 324 down to Constantine's death in 337, thirteen prefects appear in the Code or in inscriptions—and there is no reason to believe that our list is complete—and moreover many of these prefects, according to the dates given in the Code, held office for considerable periods. It seems certain that several must have held office simultaneously.⁵¹

There is explicit evidence for prefects of Africa. As early as 320-2 Menander held authority over all the provincial governors of Africa, including the proconsul. He is, however, never given the title of praetorian prefect, and may have been a temporary commissioner with special powers; even a praetorian prefect normally had no jurisdiction over a proconsul. Some years later Lucius Aradius Valerius Proculus describes himself in verse as 'praefectus Libyae' and more precisely in prose as 'having fulfilled the office of the praetorian prefecture throughout the proconsular province and Numidia, Byzacium, Tripolis, and also Mauretania Sitifensis and Caesariensis'; this office he apparently held concurrently with the proconsulship of Africa. Felix (333-6), who published several laws in Carthage and dealt with the complaints of the African *curiales*, is instructed to communicate a law about the Jews to the governors 'throughout the diocese entrusted to him'. Gregorius (336-7) published at Carthage a law which contains a special reference to that city, and is also known to have been an object of hatred to the Donatists.⁵²

Apart from Africa there is no probant evidence of regional prefects, and Africa was obviously a special case. It cannot have been normal to appoint a praetorian prefect to rule one diocese only, and it seems likely that it was the persistent trouble with the Donatists, which Constantine took so much to heart, which led him to appoint so high-ranking an official to govern this small area. It would seem not impossible that the other praetorian prefects were attached to Constantine himself and to his sons and nephew, who were successively proclaimed Caesars, and who by the end of the reign were all ruling various parts of the empire.

An inscription at Tubernuc in Africa, probably to be dated immediately after Constantine's death, proves that there were then four prefects. Of these Annius Tiberianus is said by Jerome to have ruled the Gauls, the share of Constantine II, Papinius Pacatianus is known from the Code to have been active at Rome, the capital of Constans, and Flavius Ablabius was at Constantinople soon after Constantine's death; he was probably the prefect of Constantius II, who was in charge of the East. The fourth, Nestorius Timonius, is otherwise unknown. He might have been the prefect of Africa, having just succeeded Gregorius, who still held that office on 4 February 337; but it is more likely that the African prefecture, which never reappears, had already been abolished. On the whole it seems more probable that he was prefect to the fourth Caesar, Dalmatius, who was ruling eastern Illyricum and Thrace. Constantine himself presumably had his own prefect, but with his death the post would have lapsed; he was perhaps Evagrius,

who is recorded as praetorian prefect in a law dated 22 August 336.⁵³

A number of innovations appear in the Constantinian period in the secretarial departments of the *comitatus*: some are definitely attributed to Constantine, others are found both under him and under Licinius, and may be of earlier origin. Among the latter group is the corps of notaries, who kept the minutes of the imperial consistory. The first notary of whom we know is Auxentius, who suffered in the Licinian persecution, the second Marianus, who convened the Council of Jerusalem in 335. From later evidence we know that they held military ranks, starting as *protectores* (or *domestici*), and rising to be tribunes, and finally praetorian tribunes. The senior notary, the *primicerius notariorum*, came to be a very important person, having under his charge the *laterculum maius*, or *notitia omnium dignitatum et administrationum tam militarium quam civilium* and issuing their codicils of office to all the higher officials from *duces* and *praesides* upwards, and their commissions to the tribunes of the *scholae*, legions, vexillations and *auxilia*.⁵⁴

Another innovation was the *magister officiorum*. Two, both bearing the title of tribune, are recorded in the Code in Constantine's service, Heraclianus in 320, and Proculeianus in 323; another, Martinianus, served Licinius, and must have been a person of consequence, since he was promoted to be Caesar in 324. The title implies that the primary function of the *magister* was to control the *officia*, or as they were by now more commonly called, the *scrinia*, the secretarial departments of *memoria*, *epistolae* and *libelli*. The master of the offices also probably from the beginning, as in the Notitia, controlled the *officium admissioinum*, which is first mentioned in a Constantinian law. He thus regulated audiences with the emperor, a function which he certainly fulfilled when Athanasius interviewed Constans about 345.⁵⁵

An important corps which probably from the beginning came under the control of the master of the offices was the *schola* of the imperial couriers, the *agentes in rebus*. According to Aurelius Victor, they replaced the *frumentarii* of the Principate, who were abolished by Diocletian, and though first mentioned in a Constantinian law, must presumably have existed earlier. They were organised as a cavalry regiment, starting as troopers (*equites*) and passing through the usual non-commissioned grades up to *ducenarius*. They thus ranked much lower than the notaries, who started as officer cadets (*protectores* or *domestici*) and rose to be tribunes. In their humbler sphere however they too became important as confidential agents of the imperial government,

especially the senior members of the corps who were sent out to the provinces as inspectors of the post (*curiosi*). The *curiosus* of Egypt was already in 335 regarded by the provincials as an important person: the clergy of Alexandria and of Mareotes sent him copies of the protests which they addressed to the Council of Tyre and the prefect of Egypt on the conduct of the Mareotic commission.⁵⁶

Another innovation which is attributed to Constantine by Zosimus—no holder of the office is known till the middle of the fourth century—is the quaestor of the sacred palace. His main function was to draft imperial constitutions, in which service he was assisted by clerks drawn from the three *scrinia*. As legal learning and eloquence were demanded from him, he was often a barrister or a rhetorician. The curious title is probably an antiquarian reminiscence of the *quaestores Augusti* of the Principate, who used to read the emperor's speeches in the senate.⁵⁷

Constantine showered privileges on his *palatini*, the staffs of the various ministries of the *comitatus*, including immunity from curial burdens for themselves and their sons and grandsons, exemption of their property from all *munera sordida*, and of themselves from all personal or corporal *munera*. He also gradually assimilated their status to that of soldiers. Thus in 326 he granted them the military privilege of *peculium castrense*, justifying this step by the argument that 'they are not strangers to the dust and toil of the camp, who follow our standards, who are always present at our acts, who, intent on their learned studies, are tried by long marches and difficult expeditions'. These words show clearly that the *palatini* were not soldiers then, and a later constitution still distinguishes their privileges from those of the *agentes in rebus*, who 'rely on their military merits'. Eventually the *palatini* came to enjoy the status of soldiers, wearing military uniform and receiving rations and fodder. Their assimilation, however, was never complete. They did not, for instance, hold military ranks, but retained the old grades characteristic of the equestrian and freedman and slave services.⁵⁸

Constantine was the creator of what may be called the Order of Imperial Companions. Those who accompanied the emperor on his journeys had always been semi-officially styled his *comites*, but Constantine was the first to bestow the title by official codicil, and to classify the *comites* into three grades (*ordinis primi, secundi* and *tertii*). The position of *comes* at first, in principle at any rate, involved some form of service, and was held during the emperor's pleasure, so that the rank of retired companion (*ex comitibus*) was an

honourable one. The title, however, seems from an early date to have been given as a mere honour, and it was from the first divorced from its etymological meaning: for *comites* who were really members of the *comitatus* distinguish themselves as *comites intra palatium*, or *intra consistorium*, or *domestici*.⁵⁹

The rank of *comes primi ordinis* was naturally given *ex officio* to the principal ministers of the *comitatus*, and in some cases came to supersede their original title. Whether this happened seems to have depended on popular usage rather than on any official ruling. The master of the offices and the quaestor were regularly *comites*, but are not so called except in formal documents. The *magistri equitum* and *peditum* usually retain their original title, but in some authors, Ambrose for instance, are regularly called *comites*. The *rationalis* on the other hand ceased to be so called, becoming (before 345) the *comes sacrarum largitionum*, and the *magister* became (before 340) the *comes rei privatae*. The commander of the *protectores*, whose original title is unknown, had by the middle of the fourth century become the *comes domesticorum*. In addition to the ministers, members of the consistory without portfolio naturally bore the title of *comes (intra palatium or consistorium)*.⁶⁰

Outside the court *comites* were employed for a variety of miscellaneous tasks. We hear of them in ecclesiastical affairs, presiding over episcopal councils. Constantine also quite frequently appointed one of his *comites* to take charge of a diocese, as a substitute for, or over the head of, the normal vicar of the prefects. We hear of Octavianus, *comes* of the Spains in 316-17, Tiberianus, *comes* of Africa in 326-7 and later in 332 of the Spains, Severus, who succeeded him in Spain in 333-4, Acacius *comes* in 327 of Macedonia, Tertullianus in 330 of the diocese of Asiana, and Lollianus *comes Orientis*. As a class they are styled *comites provinciarum* or *comites qui per provincias constituti sunt*. They seem to have performed the normal functions of vicars, but were specially charged to investigate complaints of judicial corruption and extortion by provincial governors. This innovation proved transitory except in one diocese, Oriens, where for reasons unknown, the vicar was permanently replaced by the *comes Orientis*, who ranked higher than a vicar, but apparently did the same work. Soon after Constantine's death we also hear of military counts (*comites rei militaris*), commanding detachments of the field army in the provinces.⁶¹

Constantine seems to have been fond of pomp and circumstance. He was evidently concerned to invest the service of the empire with more glamour by the grant of grandiloquent titles to the members of his *comitatus*. At the same time he was attracted by the traditional

splendours of the Roman senate, and did not share Diocletian's hostility to the senatorial order. He seems to have aimed rather at bringing together and to some extent fusing the old senatorial and the new imperial aristocracies. The creation of the order of imperial *comites* may be regarded as a step in this direction. For it was thrown open to senators and to the *perfectissimi* of the imperial service alike, and both classes were thus united in a new aristocracy dedicated to the person of the emperor. Another move in the same direction was the revival in a new form of the ancient title of patrician. This had been under the Principate a hereditary title granted to the older noble families. From Constantine's day it became a personal distinction, granted by the emperor to his nearest friends and highest officials. The distinction was given by Constantine to some men of quite humble origin, like Optatus, who had risen in his service; it always remained a very select order.⁶²

Constantine is also stated by Eusebius to have been liberal in granting senatorial rank, and there is no reason to doubt the statement, though there is too little evidence to substantiate it. It had long been a standing practice, maintained by Diocletian, to nominate the praetorian prefects as ordinary consuls during their office, and thus to enrol them in the senate with the highest seniority. Constantine seems to have sometimes made his officials senators at an earlier stage in their careers. Thus C. Caelius Saturninus, after a long official career culminating in the posts of vicar of the praetorian prefects (twice), vicar of the urban prefect, and *comes* of the emperor, was adlected among the consulars on the petition of the senate, and only later became praetorian prefect. The sons of Constantine's officials were similarly honoured. Thus L. Nonius Verus, son of Caecilianus, who died still a *vir perfectissimus*, was a *vir consularis*, when he had only been *corrector* of two Italian provinces and *comes*.⁶³

While equestrian officials and their sons were freely adlected into the senate, senators began to be appointed to equestrian posts. Thus we find *virii clarissimi* holding the offices of *praefectus vigilum* and *praefectus annonae* at Rome, and Aradius Valerius Proculus, a senator by birth, became *praeses* of Byzacium. It was, however, evidently felt to be rather beneath a senator's dignity to serve as a *praeses*, and Constantine met the difficulty by upgrading a number of provinces, giving their governors the title of *consularis*: this was in effect reviving the old *legati Augusti pro praetore*, who had been unofficially known as *consulares*. *Correctores* were also replaced by consulars in several provinces—Campania, for instance, and Sicily—and the *corrector* of Achaëa was raised to proconsul; C.

Vettius Cossinius Rufinus seems to have become 'proconsul of the province of Achaëa by lot', according to the antique rule, as soon as Constantine acquired the province in 314.⁶⁴

In this way an increasing number of provincial governorships were thrown open to senators, and indeed reserved to them; for only a senator could be a proconsul or consular. Senators also began to penetrate into the diocesan administration. Aradius Proculus combined the vicariate of Africa with the proconsulate. Septimius Acindynus became vicar of the Spains, and Maesius Lollianus *comes Orientis*. [The increased range of appointments thrown open to senators is probably to be linked with the expansion of the senatorial order. Sons of ennobled equestrian officials were thus enabled to follow in their fathers' footsteps.] But members of the old senatorial families also took advantage of the new policy, and the Roman aristocracy thus began to recover the political power which it had lost under the emperors of the late third century.⁶⁵

In the diocesan organisation Constantine made one change, splitting the Moesias into two, Dacia and Macedonia. This change was probably made before 327, when Acacius is recorded as *comes Macedoniae*. On the other hand he reunited a number of provinces which Diocletian and his successors had split. Thus Numidia Cirtensis and Militiana were amalgamated in 314, and Aegyptus Iovia and Herculia in 324. In several instances consulars were appointed to the reunited provinces and Constantine's motive may have been to enhance the dignity of the new senatorial governors rather than to improve administrative efficiency. Few of these unions proved permanent, several being dissolved by Constantine's sons.⁶⁶

In the financial sphere Constantine's greatest achievement was the creation of the solidus, the famous gold coin which was to maintain its weight and purity down to the eleventh century. The solidus was struck at 72 to the pound; this figure was presumably chosen to enable fractions of the pound, which was divided into 12 ounces, each of 24 scruples, to be readily made up into solidi, which weighed 4 scruples each. Constantine began to mint solidi quite early in his reign, but his issues, like his contemporaries' issues of *aurei*, were on a small scale owing to lack of bullion. Diocletian and his successors all tried to build up a coinage in the precious metals, and from Egyptian papyri we know how some of them obtained the necessary bullion. Diocletian made regular compulsory purchases of gold from the cities, paying (in 300) 60,000 denarii per pound. One of his successors paid 100,000 denarii; on

this occasion the allocation of one city, Oxyrhynchus, was 38 pounds. In 306 and 307 we find Maximin imposing a surcharge in silver (which was partly paid in gold coin) on the wheat tax, at a rate of $1\frac{1}{2}$ ounces to 100 *artabae*; we hear of a similar surcharge again in 311. Constantine also apparently levied a gold and silver surcharge on the land tax; it is alluded to in a law issued immediately after his death. He also collected the rents on imperial lands in gold, and instituted new taxes payable in gold and silver.⁶⁷

A certain amount of gold and silver was withdrawn from hoards by these taxes, and by the *aurum coronarium* which continued to be levied, but what enabled Constantine to launch a gold and silver coinage on a large scale was the confiscation of the temple treasures towards the end of his reign, which put into his hands a great accumulation of bullion. As an anonymous writer of about a generation later puts it: 'In the time of Constantine there was lavish expenditure: he assigned gold to mean transactions, instead of bronze, which formerly used to be held of high value. The origin of this avarice is believed to have come from the following cause. When gold and silver and a great quantity of precious stones which had been stored in ancient times in the temples came into public use, it inflamed the desire of all for giving and possessing. And whereas the expenditure even of bronze . . . already seemed heavy and excessive, nevertheless owing to a kind of blindness there was a more lavish zeal for expenditure in gold, which is considered more valuable.'⁶⁸

This author's economic theory is crude; he seems to think that using a more precious metal for the currency makes things dearer. But there is no doubt that there was a steep rise in prices—as reckoned in denarii—such as he implies to have taken place. Even before the minting of the temple treasures the continued reckless issue of copper *nummi* and their progressive debasement—by the early 320s they had sunk to less than a third of their original weight—had caused prices to go on rising. By Constantine's time the *capitatio* was no longer a cash tax levied in denarii, but was conflated with the *ingatio* as the basis for levies in kind. This meant that the government collected no important tax in denarii. On the other hand it still paid the annual *stipendium et donativum* of troops in denarii; we possess the pay statement of a *praepositus* in Egypt in Constantine's reign—he received 36,000 denarii in *stipendium* and 2,500 in *donativum*. The government must therefore have annually minted enough *nummi* to cover army pay, and since it did not recall any of this new money through taxation, the amount of copper in circulation rapidly swelled. On top of all this a large

quantity of gold and silver, hitherto sterilised, was now minted and put into circulation. Prices in denarii rose fantastically. A modius of wheat, priced in Diocletian's edict of 301 at 100 denarii, was being sold in Egypt for over 6,000 denarii in 335 and had by 338 risen to over 10,000. The price of gold in denarii rose similarly. In 324 a solidus was worth about 4,250 denarii, by the end of the reign it seems to have reached about 250,000.⁶⁹

Important as were the ultimate results of the creation of a sound gold currency for the economy of the empire, its immediate effect must not be exaggerated. The finances of the empire continued throughout the fourth century to be mainly based on levies and issues in kind, and it was only gradually, and mainly during the fifth century, that these were commuted into gold. Under Constantine and for two or three generations later gold was mainly used by the government for paying the quinquennial donatives to the troops, and for other more casual benefactions, rarely for regular expenditure. The only known example of the latter in Constantine's reign is afforded by a law of 334, which fixes the freight payable to the shippers (*navicularii*) of the Oriental diocese at the rate already paid to the shippers of Egypt, 4 per cent. of the grain carried and one solidus per 1,000 *modii*. In private transactions the solidus quickly came into general use where large sums were involved, as in the purchase of real property or slaves. For everyday purposes the gold coins were too valuable.⁷⁰

Constantine was of a lavish disposition; a later chronicler declares that 'in his last ten years he was called "the prodigal" owing to his unbounded profusion'. He must have spent vast sums on his new capital. He built and endowed a large number of magnificent churches in the chief cities of the empire. He subsidised all the churches on a scale which later emperors had to cut down to a third. But above all he was profuse in his gifts to his friends and courtiers. According to Eutropius he 'let pass no opportunity to make them richer and grander', and Eusebius insists on the indiscriminate generosity of his hero: 'no one who hoped to receive a benefit was disappointed of his expectation, some receiving quantities of money, others of land'. Ammianus puts the same point from another angle: 'for, as manifest proofs have demonstrated, it was Constantine who first of all opened the throats of his friends, but Constantius who stuffed them with the marrows of the provinces'.⁷¹

Some part of this lavish expenditure came out of the reserve accumulated by Licinius, who had been not only ruthless in extracting the revenue but economical, not to say parsimonious, in spending it; and, when this reserve was exhausted, from the vast quantity of bullion which Constantine secured by the confiscation of the temple treasures. But these two windfalls evidently did not suffice for Constantine's extravagance, for he invented two new taxes. The first, the *collatio lustralis*, was a quinquennial levy of gold and silver, evidently designed to cover the quinquennial donatives to the army, on merchants in the widest sense, including craftsmen who sold their own products. Since the urban population, in most provinces at any rate, had hitherto paid no taxes, the impost seems reasonable enough. In the event it not only proved grossly oppressive but raised a negligible revenue; the urban traders and craftsmen were on the whole very humble folk, and even a modest tax was ruinous to them. The other new tax, the *collatio glebalis* or *folles*, was a surtax on senators graded at three rates, eight, four or two *folles*, according to the amount of their landed property. In principle it was an excellent tax, for the great fault of the Roman fiscal system was that taxation was not progressive, and the rich paid too little in proportion to their incomes. But the *collatio glebalis*, though it occasioned much grumbling among poorer senators, was so modest an impost as to be of very little help to the treasury.⁷²

It would seem that Constantine also annexed to the *largitiones* the local customs and other dues (*vectigalia*) which were levied by the cities of the empire. This change, while it did not increase the total tax burden, impoverished the cities, and in particular the decurions, who had to make good the deficit in the civic revenues. Furthermore it is probable that Constantine substantially increased the rate of the indiction. We have no figures, but it is perhaps significant that Themistius in 364 states that in the last forty years the rate had by a series of gradual rises been doubled in the Eastern parts; for it was in 324 that Constantine became ruler of the East.⁷³

Shortly after Easter 337 Constantine fell ill. Feeling that his end was near he received baptism from Eusebius, bishop of Nicomedia. It has been thought strange that one who for many years had regarded himself as the Servant of God and as 'appointed by God to be bishop of those without' the Church, should have remained to his dying day a catechumen. But Constantine was merely following the practice of many serious Christians, who fearing that they could not avoid mortal sin in the course of an active secular life postponed baptism until they could sin no more.⁷⁴

Constantine has many great 'achievements' to his credit. He firmly established Christianity as the religion of the empire. He built a new capital, which was to outlive the old Rome by nearly a millennium. He organised an efficient mobile army, and laid the foundations of a sound gold currency. But he set a standard of extravagant expenditure and reckless fiscality, which undermined the economic stability of the empire.

CHAPTER IV

THE HOUSE OF CONSTANTINE

AFTER the death of Constantine there was a curious interregnum of over three months: it was not until 9 September 337 that his three sons declared themselves Augusti. The reason is not far to seek. During the interregnum or immediately after it the army at Constantinople mutinied, declaring that it would have none but the sons of Constantine to succeed him, and lynched the Caesar Dalmatius, Hannibalianus, recently crowned king of Armenia, the elder Dalmatius and Julius Constantius, the dead emperor's half brothers, and several elder statesmen, including the patrician Optatus and the praetorian prefect Ablabius. Constantius and Constans partitioned Dalmatius' zone, the former adding Thrace to Pontica, Asiana and Oriens, which he already ruled, the latter taking Dacia and Macedonia in addition to Pannonia, Italy and Africa; Constantine, the eldest, only kept Britain, Gaul and Spain, but was apparently given some precedence. This arrangement did not last long. In 340 Constantine, complaining that Constans had flouted his authority, invaded Italy, but was killed at Aquileia. The youngest brother thus came into possession of two-thirds of the empire, from Britain to the borders of Thrace.¹

We know very little of secular affairs during the next decade. In Constans' dominions there were apparently serious troubles in Britain. There were disturbances in Africa also, where military forces had to be used to suppress the bands of Donatist circumcellions who waged a guerrilla warfare against the catholics, especially the rich landlords and moneylenders. In the East Constantius was kept busy by the Persian war which his father had bequeathed to him. The Persian king took the offensive, besieging the frontier fortress city of Nisibis on three occasions (338, 346 and 350); the one pitched battle at Singara in 348 was costly to both sides but indecisive.

In January 350 Constans was overthrown by a palace revolution promoted by Marcellinus, his *comes rei privatae*, and Magnentius, an officer of Germanic descent (a *laetus*) who commanded the Ioviani

and the Herculiani, was proclaimed Augustus. This happened in Gaul, where Constans was resident at the time. On 1 March following, Vetranio, the *magister militum* in Illyricum, was proclaimed Augustus by his troops, and on 3 June Nepotianus, a nephew of Constantine, succeeded in seizing Rome and proclaiming himself emperor there. Nepotianus was suppressed by Magnentius within a few weeks. Magnentius and Vetranio both angled for Constantius' recognition, but Vetranio was apparently persuaded to withdraw from the struggle. At any rate he allowed Constantius to address his troops, and when they returned to their allegiance to the house of Constantine, abdicated and was rewarded with an ample pension. With his brother's murderer, Magnentius, Constantius refused to treat and both sides prepared for war. Magnentius nominated his brother Decentius as Caesar to take charge of Gaul during his absence, while Constantius similarly nominated his young cousin Gallus, the elder son of Julius Constantius, to be Caesar in charge of the East.²

Constantius met Magnentius at Mursa on 28 September 351. Constantius prevailed but the battle was stubbornly fought, and, according to a contemporary, Eutropius, casualties were very high. Magnentius retreated into Italy and thence into Gaul, where in the summer of 353 he was finally defeated at the battle of Mons Seleucus. The Roman empire was once again united under one emperor.³

The three sons of Constantine had been brought up from infancy as Christians, and they followed faithfully in their father's footsteps. They maintained and exaggerated his later hostility to paganism. Constans in 341 reiterated his father's decree against sacrifices; Constantius in 353 once again banned the nocturnal sacrifices which Magnentius had permitted, and three years later reaffirmed the death penalty against all who sacrificed or worshipped idols, and moreover ordered all temples to be closed so that 'all abandoned persons be denied the opportunity of offending'. Many temples were demolished, being granted to private persons who pulled them down for building material. In 342 Constans had to write to the prefect of the city that 'although all superstition is to be utterly blotted out, we nevertheless wish the fabrics of temples which lie outside the walls to remain intact and undamaged. For whereas the inauguration of games, chariot races or athletic contests starts from some of them, it is unseemly to demolish buildings from which the celebration of ancient entertainments is provided for the Roman people.' If things had gone so far in Rome itself that its ancient public monuments were threatened, many obscurer temples must have perished. Constantius when he visited Rome in 357 went so far as to remove from the senate house the famous altar of

Victory on which senators had offered incense since the reign of Augustus.⁴

In their dealings with the church the sons of Constantine were faced with very different situations. In the West opinion was practically unanimous in favour of the Nicene formula of faith, and Athanasius, in exile at Trier, was acclaimed as a hero. Constantine and Constans naturally conformed with the wishes of the church, and Constantine's first act when he heard of his father's death was to send Athanasius and the other exiles back to their sees in Constantius' dominions. In the East opinion was divided on the doctrinal question, but the majority of the intellectual leaders were, though not Arians, gravely dissatisfied with the Nicene formula. Constantius took his theology from them, and shared their hostility to the uncompromising Athanasius.

By returning to Alexandria Athanasius laid himself open to attack. He had been duly condemned and deposed by an ecclesiastical council at Tyre, and he had accepted reinstatement by the emperor. By the canon laid down by the council of Antioch he had forfeited his see. In 339 a group of hostile bishops met at Antioch and acted on this canon, consecrating a Cappadocian named Gregory as bishop of Alexandria. Constantius appointed another Cappadocian, Philagrius, prefect of Egypt, and he saw to it that Gregory was installed at Alexandria. Athanasius went to Rome and appealed to the pope, Julius, who, glad of an opportunity to assert the traditional claim of his see to be the ultimate arbiter of all ecclesiastical disputes, warmly took up his cause, and demanded that Athanasius' accusers should come to Rome so that he could give judgment on the issue. The Eastern bishops naturally ignored his summons, and at a council held at Rome in 340, Julius declared Athanasius and various other appellants, including Marcellus of Ancyra, innocent of the charges brought against them.⁵

The Eastern bishops took no notice of this decision and began to try to devise a creed which would better express their beliefs than that of Nicaea. The task was difficult, for there were many gradations of opinion, from the extremists on the Arian side, who declared that the Son was unlike the Father (the Anomoeans), to those who held that Father and Son were like (Homoeans), or were of like substance (Homoiousians): but most preferred to avoid the unscriptural term substance, and all alike detested the Nicene formula 'of one substance', which they considered dangerous as encouraging Sabellianism. Meanwhile Pope Julius urged upon Constans the necessity of a general council to settle the affair of Athanasius and the other exiles, and Constans persuaded his brother to co-operate.

The council was held in 342, or more probably 343, at Sardica, just within Constans' dominions on the border of Thrace. It proved an utter fiasco. The Western delegation insisted that Athanasius and the others, whose cases were at issue, should sit as members of the council. The Eastern delegation then withdrew to Adrianople in Constantius' dominions, and the two halves of the council proceeded to make diametrically opposed decisions, the Westerners in favour and the Easterners in condemnation of Athanasius and the other exiled bishops. The Easterners also promulgated a creed: the Westerners eventually decided to remain content with the creed of Nicaea, but passed a number of canons conferring appellate jurisdiction on the bishop of Rome: these canons were never accepted in the East and had very little influence in the West.⁶

In 345 Gregory of Alexandria died, and Constantius, probably under pressure from his brother, invited Athanasius to resume his see. After some hesitation Athanasius agreed and re-entered Alexandria in triumph on 21 October 346.⁷

Up to the death of Magnentius our sources are as meagre as for Constantine's reign. Among the secular historians Eutropius and Aurelius Victor acquire more value as being by now contemporary, but their narrative remains very brief, and for a fuller account we have to fall back on Zosimus. The only other secular sources are a few flowery and uninformative panegyrics on Constantius by Themistius, a pagan philosopher who enjoyed the emperor's high favour, by Libanius, professor of rhetoric at Constantinople, Nicomedia and Antioch, also a pagan, and by Julian when recently appointed Caesar. About a hundred laws have been preserved in the Codes. For ecclesiastical affairs we are rather better placed, having besides the church histories of the late fourth and the fifth centuries, Rufinus and Sulpicius Severus, Socrates, Sozomen and Theodoret, the contemporary polemical treatises of Athanasius and his great Western champion Hilary of Poitiers. Between them these authors have preserved a large number of original documents, and others, including the canons of Sardica, survive in independent collections.

From the commencement of Constantius II's sole reign the situation changes utterly, for at this period begin the surviving books of Ammianus Marcellinus. Ammianus was an Antiochene who served as *protector* on the staff of the *magister equitum* Ursicinus from 353 to 360 both on the Eastern front and in the *comitatus* in the West, and subsequently took part in Julian's Persian expedition.

A full and detailed narrative by a well-informed contemporary is in itself a priceless boon, but Ammianus is also a great historian, a man of penetrating intelligence and of remarkable fairness, a pagan who could appreciate the virtues of Constantius and criticise Julian. For the last years of Constantius, and for Julian's reign, the material becomes even more abundant. On the Christian side we have Gregory Nazianzen's orations against Julian, on the pagan a number of speeches written by Libanius at Antioch during and shortly after the reign. We also have Libanius' voluminous correspondence for the decade 355 to 365, and above all many writings of Julian himself, including his letters and the *Misopogon*, the ironical tract which he wrote to defend himself against the attacks of the Antiochenes. Eunapius in his *Lives of the Sophists* gives a very interesting picture of the leading pagan intellectuals of the time, and Jerome's *Life of Hilarion*, a Palestinian hermit whose active career fell mainly in this period, throws some light on contemporary conditions. The legal material also increases in quantity; about a hundred and sixty laws survive for the ten years 353 to 363.

Constantius II appears in the pages of Ammianus as a conscientious emperor but a vain and stupid man, an easy prey to flatterers. He was timid and suspicious, and interested persons could readily play on his fears for their own advantage. The first execution of the sole reign seems, however, to have been justified. The Caesar Gallus had had a relatively easy task, for the Persian war had petered out, and he was faced only with minor troubles; a revolt of the Jews in Galilee, which he suppressed ruthlessly, destroying one of its chief towns, Diocaesarea, a recrudescence of piracy and brigandage among the Isaurians, and food riots in Antioch. In dealing with the last Gallus showed a violence and cruelty which suggested that he was unfit for authority. Constantius gradually changed his ministers and withdrew his troops, and finally in the autumn of 354 recalled and executed him. The case of Silvanus, on the other hand, illustrates Constantius' unduly suspicious character and its unhappy results. Silvanus was a Frankish officer, who as a reward for deserting Magnentius had been promoted to *magister peditum* and placed in command of the troops in Gaul. A treasonable letter was forged over his signature by his enemies and produced before the emperor, who immediately assumed its truth. Warned by his friends, Silvanus, knowing the emperor's character, decided that his only chance was to raise a real rebellion, and was proclaimed Augustus by his troops on 11 August 355. Constantius, however, feigning ignorance, sent him a reassuring letter by the hand of Ursicinus, the *magister equitum*, who

having won over a number of Silvanus' officers effected his arrest. The rebellion was thus quelled without bloodshed, but it need never have occurred.⁸

During these years, 354 and 355, Constantius conducted two campaigns against the Alamans, who with the Franks had taken advantage of the civil war to create havoc in Gaul. It became evident however that he could not spare the time to complete the long task of pacifying Gaul, and, warned by the example of Silvanus, he determined to delegate the task to a member of the imperial family. He accordingly summoned the last surviving male relative of Constantine, Julian, the younger half brother of Gallus, from Athens, where he was completing his education, and on 6 November 355 proclaimed him Caesar.⁹

He conducted a third campaign against the Alamans in 356, paid his first and only visit to Rome in 357, and in the following years conducted successful punitive expeditions against the Sarmatians, Quadi and Limigantes on the middle Danube. Hence he was summoned by bad news to the East. After fruitless negotiations Sapor had resumed the offensive and in 359 captured Amida, and in the following year Singara and Bezabda. Constantius established his headquarters at Antioch and prepared for a counter-offensive.

During all these years Constantius had been working patiently to solve the problems of the church. Like his father he considered it his duty to restore unity, and having been brought up in Eastern theological circles he naturally regarded the Western bishops as the dissidents who were responsible for the prevailing discord. Until the fall of Magnentius his hands had been tied because he did not control the whole empire. No sooner had he gained control of the West than in 354 he called a council of Gallic bishops at Arles, which condemned Athanasius, and next year a larger council at Milan, which confirmed this verdict. The few recalcitrant bishops, Hilary of Poitiers, old Hosius of Corduba, and Liberius, who had succeeded Julius at Rome, were deposed and banished. There was now no question that Athanasius was in illegal occupation of his see, and on 7 February 356 Syrianus the *dux* of Egypt surrounded the church where he was celebrating with 5,000 men (or so Athanasius alleges). Athanasius escaped and went into hiding, and George, a Cappadocian who had been consecrated in his place, soon took possession of Alexandria.¹⁰

A series of councils were now held at Sirmium to work out a creed on which unity might be based. Liberius and Hosius both made their submission. The way was clear for the first act. It was decided in order to save unnecessary travelling to hold two great

councils simultaneously, one in the West and one in the East. In 359 more than 400 bishops from all the Western provinces met at Ariminum under the presidency of Taurus, a trusted minister of Constantius who had been appointed praetorian prefect of Italy. The majority of the bishops did not like the creed presented to them, but eventually their resistance was worn down and all signed. The Eastern council, held at Seleucia on the Calycadnus under the presidency of another trusted minister, Leonas the quaestor, assisted by Lauricius, the *comes rei militaris* of Isauria, was smaller, comprising only about 150 bishops. It proved more troublesome than the Western, but here again the opposition was gradually worn down and a unanimous vote was obtained. Finally in 360 a council at Constantinople confirmed the decision of the two regional councils.¹¹

Constantius had performed his imperial duty and given unity to the church. Unfortunately for his memory the theologians whose advice he took were ultimately discredited and the malcontents whom he pressed to conform emerged victorious. The creed accepted at Ariminum and Seleucia, a Homoean document, to which both moderate Homoeousians and moderate Arians could conscientiously subscribe, was eventually condemned by the intransigent Homoeousians, precisely because it did not exclude Arians. The great councils of 359-60 are therefore not reckoned oecumenical in the tradition of the church, and Constantius II is not remembered as a restorer of unity, but as a heretic who arbitrarily imposed his will on the church.

Constantius enlarged the privileges of the clergy, with due regard to the interests of the treasury. In 346 he exempted them from all supplementary taxes and *corvées* (*extraordinaria et sordida munera*) and from requisition of beasts for the postal service (*parangariae*). They and their men, if they practised a trade or kept a shop, were to be immune from the *collatio lustralis*, and they themselves and their wives, children and slaves were to be struck off the census and thus freed from the *capitatio*. These privileges were promulgated in Western parts also in 356. The clergy were not satisfied and at the council of Ariminum put forward a claim for total exemption from the regular land tax, both for church property and their own estates. Constantius granted immunity for church lands; this concession is never heard of again and must have been revoked by Julian. He rebuffed the second demand, and restricted the scope of his previous remission of the *collatio lustralis*. Only poor clergy and grave-diggers, who scraped a bare living by trades and crafts, were to be immune: regular merchants who were on the *matricula negotiatorum* and had subsequently taken orders were still to pay.¹²

Constantine's law completely forbidding the ordination of men of curial family or equivalent fortune was apparently later modified by a rule that such persons could be ordained if they surrendered their property. Constantius relaxed this rule considerably in 361. Those consecrated bishops were allowed to retain all their property. Those ordained priests, deacons, or subdeacons were also exempted from the rule, provided they were publicly chosen in the presence of the provincial governor and the *curia* with the approval of the people. Only those who were ordained surreptitiously were obliged to cede their property to their sons, if any, or two-thirds of it to relatives who would take up their curial duties, or in the last resort to the *curia* itself.¹³

Meanwhile the Caesar Julian, raised abruptly to power at the age of 24 without any previous experience of war or public affairs, was showing remarkable talents as a general and administrator. In a succession of victorious campaigns he cleared the barbarians out of Gaul and re-established Roman authority over the tribes beyond the Rhine. By sharing their dangers and hardships he made himself the idol of his troops. During the winters he carried through a thorough overhaul of the administration of Gaul and in particular of its finances. In 357 Florentius, the praetorian prefect appointed for him by Constantius, informed him that the current indiction was inadequate and that an additional levy would be required. Julian refused to sanction it, and going through the figures in detail proved that the original indiction provided for a small surplus. Florentius complained to Constantius that Julian was throwing doubts on his good faith, and produced the order for a supplementary levy for Julian to sign. Julian threw it on the floor and asked that he might be allowed to conduct the levy personally in one province, Belgica II. Here he successfully demonstrated his thesis that if the taxes were fairly collected there would be no arrears and the yield would be sufficient. Tax collecting was a profitable occupation for those who were in a position to bring undue pressure on the taxpayers, and the officials of the provincial governor and even of the praetorian prefect had formed the habit of meddling with the levy, which properly fell to the *susceptores* appointed by the *curia* of each city. They lined their pockets and the taxpayers fell into arrears. Julian, by forbidding any *praefectianus* or *praesidialis* to intervene, successfully got the whole amount collected with no arrears.¹⁴

In other ways Julian reformed financial methods, for the benefit

of both the humble taxpayer and the treasury. It was the practice to let arrears accumulate for a while, and periodically write them off by a general indulgence; meanwhile deficits were covered by supplementary levies. Julian refused to issue indulgences: they profited the bigger taxpayers, who had sufficient influence to postpone payment, while the small man was ruthlessly compelled to pay on the nail. By this equitable but strict fiscal policy, combined no doubt with economies on the spending side, Julian was able during five years to achieve the extraordinary feat, incredible if it were not vouched for by Ammianus, of reducing the standard levy on each *caput* in Gaul from the value of twenty-five to seven *solidi* a year.¹⁵

The reports of Julian's success and popularity alarmed Constantius' suspicious mind, and in the winter of 359-60 he sent a notary to Gaul with orders that Julian should send to the East four *auxilia palatina*, the Heruli and the Batavi, the Celtae and the Petulantes, 300 men from each of his other regiments, and the pick of his two *scholae*, the Scutarii and Gentiles. The ostensible reason was the needs of the Persian war, but the move was suspiciously like the opening move against Gallus. Julian did not object, but the troops, reluctant to leave their beloved commander and their families, mutinied and declared him Augustus on a February day of 360. Julian, after a show of resistance, accepted and paid the usual donative. He then endeavoured to secure Constantius' recognition, offering a number of concessions, but Constantius would accept no compromise. Eventually in 361 Julian marched East, but before he reached Constantinople Constantius had died in Cilicia (3 November 361).¹⁶

Julian had long been a secret pagan. Reacting violently against the Christian teaching that he had received in a lonely and miserable childhood, he had developed a passionate interest in the art, literature and mythology of Greece and had grown to detest the new religion which condemned all he loved as pernicious vanity. He was of a strongly religious temperament, and found solace in the pantheistic mysticism which contemporary Neoplatonist philosophers taught. Philosophy had by now long come to terms with popular religion, whose myths and rites it interpreted symbolically, and Julian was thus able to indulge to the full his antiquarian passion for the old ritual. Philosophy was also impregnated with asceticism, which appealed to Julian's puritanical temper, and with magic; it was the miracles of the philosopher Maximus—who

seems from the accounts of him given by his admirers to have been more than half a charlatan—that finally converted Julian.

Now that he was sole Augustus he was able to come out into the open. General toleration was proclaimed for all, pagans, Jews and Christians—including heretics, whose quarrels with the orthodox and with each other Julian watched with pleasure. The privileges given by Constantine to the church were withdrawn: the state grant was discontinued and the clergy were no longer exempted from curial duties. On the other hand, the temples were reopened, and where they had been demolished the beneficiaries were compelled either to rebuild them or to pay an indemnity. The temple lands were restored and the public cult of the gods was reinstated.¹⁷

Julian naturally weighted the scales in favour of paganism. He preferred pagans in his service, he praised cities that restored the ancient worship with enthusiasm, and punished those that were recalcitrant. He introduced pagan rites and emblems into all public functions. The troops when they received their pay were marched up to an altar, and most of the men made an offering of incense. The emperor's picture in official buildings showed him surrounded by gods and goddesses, and it was difficult to pay respect to the emperor without including them. Official sacrifices were celebrated on a large scale for the army, who were thus gorged with meat.¹⁸

Julian fully realised the weakness of paganism, the lack of a professional organised priesthood, and taking a leaf out of the book of Maximin, fifty years ago, appointed a priest for each city and a high priest for each province. Several letters of Julian survive giving instructions to these pagan bishops and metropolitans. They are to lead a holy and austere life, obeying the laws of the gods and the state. They are not to attend theatres, chariot races or hunts of wild beasts, nor consort with actors and charioteers. They are to maintain their dignity before the provincial governor, waiting for him to call on them in their temples. They are to show universal benevolence, and practise and preach charity to prisoners and the poor. Julian had been greatly impressed by the organised charity of the Jews and Christians, and ordered that hostels be opened for poor strangers. He hoped that rich pagans would be persuaded to contribute and pagan villages to offer first fruits, but like Constantine he supplemented private enterprise by a state grant; Galatia received annually 30,000 *modii* of wheat and 60,000 *sextarii* of wine, a fifth of which was earmarked for the indigent assistants of the priests and the rest for strangers and beggars.¹⁹

Julian's final and most controversial step was the edict forbidding Christians to teach literature in the schools. The edict is logical enough. A teacher must instruct his pupils in the content

as well as the form of literature; a Christian cannot honestly expound pagan thought when he believes that the gods whom the classical authors worshipped are devils. Christians should go to the churches and teach the gospels in which they believe. The edict aroused the impotent fury of educated Christians by its superficial logic. They knew that upper-class Christian parents would not send their children to receive a Christian education based on the Scriptures. They wanted them to be educated as gentlemen and be prepared for the bar and the civil service, and they would continue to send them to the regular schools, whether the professors were pagans or not. The younger generation would be exposed to pagan propaganda, which was of course exactly what Julian wanted. Two Christian professors endeavoured to save the situation by translating the Scriptures into Homeric epics, Pindaric odes, comedies, tragedies, and Platonic dialogues, and thus making them a suitable vehicle for a classical education. It may be doubted whether these bogus classics would have caught on as textbooks; in fact their authors' labour was wasted since Julian's death almost immediately restored to Christian teachers the right to teach the real classics.²⁰

The sudden change of policy naturally gave rein to popular passions, and a good many old scores were paid off. The Alexandrians rose and lynched their hated bishop George. At Arethusa in Syria all classes united in hounding to death the bishop Marcus, who had recently demolished one of their temples. At the strongly pagan city of Gaza the authorities arrested two men who had unsuccessfully tried to get their temples destroyed; but the crowd refused to wait and lynched them. Sometimes Christian fanatics were the aggressors. At Merus in Phrygia three men, thirsting for martyrdom, smashed up the statues in a newly opened temple; they achieved their ambition. The enthusiastically Christian people of Caesarea, who had already in the past reign demolished their two chief temples of Zeus and Apollo, chose this moment to destroy their third and last shrine, that of Fortune. At Edessa, on the other hand, the Christian community, which was Arian, was moved to assault the local heretical conventicle of Valentinians, who had no doubt taken full advantage of the imperial decree of toleration.²¹

In other minor ways there was petty persecution by provincial governors and local authorities. Libanius, an enthusiastic supporter of the pagan revival, was obliged to write a number of letters deprecating the vexatious pursuit of inoffensive Christians who had bought stone from demolished temples and were now threatened with the demolition of their houses, or were unable immediately to pay the indemnities they owed and asked for time; as he reminded

Belaesus, the over-zealous *praeses* of Arabia, the last thing Julian wanted was another Marcus of Arethusa.²²

Julian was far from impartial in the way he punished these disorders. He imposed a fine of 300 pounds of gold on Caesarea, besides confiscating the property of the church, enrolling the clergy as officials of the *praeses*, and putting the laity of the town on the rural census, so as to make them liable to *capitatio*. At Edessa he confiscated the lands of the church to the *res privata* and its money to the *largitiones*. At Alexandria, on the other hand, he contented himself with giving the citizens a mild reprimand for their precipitancy in taking vengeance on George; and he is said to have cashiered the consular of Palestine for dealing too drastically with the ringleaders of the antichristian riots at Gaza. This was as near to persecution as he got. Gregory of Nazianzus, indeed, in his two diatribes against Julian, almost accuses him of unfairness in not allowing any Christians to enjoy martyrdom. His methods, he complains, were subtle and underhand, and thereby all the more pernicious. He devotes more than half his space to the edict against Christian professors, which, though unfair, and admitted as such by moderate pagans like Ammianus, hardly amounted to persecution.²³

Julian stopped only five months in Constantinople, moving on in May 362 to Antioch, where he wintered. During these fifteen months he was feverishly active, not only promoting his religious campaign, but carrying through many administrative reforms. He conducted a drastic purge of the *comitatus*, cutting down the domestic staff of the palace to a level so austere as to be in Ammianus' opinion beneath the proper dignity of a Roman emperor, and reducing the swollen number of notaries, *protectores* and *agentes in rebus* to a bare minimum. He also made great economies in the public post, and took active steps to restore the finances of the cities and to fill up their councils, showing in this last matter a severity which Ammianus thought excessive. In addition to all this he was busy preparing for the invasion of Persia. Neither he nor his historians have left any clear explanation of the motives which prompted this invasion. The war had recently gone badly for the Romans, and a victorious campaign was doubtless desirable to secure a favourable peace. But Julian, inspired by memories of Alexander and Trajan, seems to have envisaged something more spectacular than a punitive expedition.²⁴

He left Antioch on 5 March 363. Detaching a small force under a kinsman, Procopius, to cross the northern Mesopotamian plain and invade Adiabene, he himself marched with the main body down the Euphrates. He defeated the Persian army covering Ctesiphon,

the capital of the kingdom, but did not attempt to capture the city. Burning the fleet which had convoyed the army down the Euphrates, he marched northward to make a junction with Procopius, but found progress increasingly difficult through a devastated countryside with a mobile and elusive enemy hanging on his flanks. In one of the engagements he was wounded and died.

The three sons of Constantine were virtually independent monarchs, and each had his own share of the *comitatenses*, and very probably his own *magister peditum* and *magister equitum*. The field army thus ceased to be a unified force and fell into three regional groups. With the elimination of Constantine II the major groups were reduced to two, but each was soon yet further subdivided. When in 342 disturbances arose at Constantinople, Constantius, who was at that time on the Eastern frontier with the bulk of his army, ordered Hermogenes, his *magister equitum*, who was in Thrace, to restore order. It would appear then that Constantius kept a portion of his mobile forces stationed in Thrace, as a support for the Danube frontier, even when he was fighting with most of his forces in Mesopotamia, and further that he employed his *magister equitum* not to command the cavalry under his own direction, but as an independent commander of a regional group of infantry and cavalry. Little is known of Constans' arrangements, but it is clear that after Constantine's fall there were at least two major army groups in the West, for at the time of his death Constans was in Gaul with one group and Vetrician, his *magister peditum*, commanded another in Illyricum.²⁵

It is under Constans also that we first meet with *comites rei militaris*: Gratian, the father of the future emperors Valentinian and Valens, had served as *comes* in Africa, and then after an interval held the same office in Britain, and was already living in retirement at the time of Magnentius' rebellion. The title seems to have been given to officers commanding groups of *comitatenses*, ranging from substantial army corps to a couple of regiments, allocated to a special task or assigned to a particular area.

The field army thus tended to split into an increasing number of local groups, some larger under *magistri*, some smaller under *comites*. When Constantius reunited the empire under his rule this practice continued. There was a substantial part of the army which was attached to the emperor's person, and was commanded by a *magister peditum* and a *magister equitum*, who to distinguish them from the regional commanders were styled *in praesenti* or *praesen-*

tales. But wherever the emperor might be there was a large body of the field army permanently stationed on the Eastern frontier under a *magister equitum*, and another large body in Gaul under another *magister equitum*. There were also substantial groups in Illyricum and Thrace; their commanders normally bore the lower title of *comes*. And there were smaller groups in Africa and elsewhere, also under *comites*. The system was still at this date flexible. The ranks of the various group commanders were not rigidly fixed, and the *comes* of the army of Illyricum might be promoted to *magister*. A temporary need might demand the despatch of field army units to some province, and a *comes* might replace the local *dux* for the time being but the troops and their commander later be withdrawn. Thus in Britain Gratian's appointment seems to have been temporary, and we later find the *dux* again in supreme command. The office of *comes Africae* on the other hand became permanent: here, it would appear, the local garrison of *limitanei* was permanently reinforced by regiments of *comitatenses*, and their commander, hitherto a *dux*, was therefore upgraded to *comes*.²⁶

Units of the field army remained in theory fully mobile, and could be transferred from one end of the empire to the other. In practice, however, units long stationed in one region formed local attachments. The regiments of Julian's Gallic army ordered to the Eastern front by Constantius were very reluctant to move, leaving their families behind them, and were not placated even when Julian gave them the use of the public wagon post to take them with them. There were moreover in the Gallic army Germans who had enlisted on the specific understanding that they were not to serve beyond the Alps.²⁷

It must have been in this period that there grew up the distinction, first recorded in a law of 365 and fully set out in the Notitia Dignitatum, between *palatini* and other *comitatenses*. In the Notitia all *auxilia* are graded as *palatina*, legions and vexillations are divided between the two classes. In the Eastern parts the palatine units are with a few exceptions under the command of the *magistri praesentales*, the *comitatenses* under the regional *magistri*. The same distinction, though sometimes blurred, is observable in the Western parts, where a majority of the palatine units are under the *magistri praesentales* in Italy. The titles thus gave official recognition to the distinction which had grown up in practice between the inner core of the field army, which remained at the immediate disposal of the emperor, and the regional field army groups. The distinction between *palatini* and *comitatenses* had already become stereotyped by the time the lists in the Notitia were drawn up, for in these lists a few units graded as *comitatenses* are in the central

armies and conversely a few palatine units in the regional armies. That is to say units did not now automatically change their status when transferred from the central to the regional armies or *vice versa*.²⁸

The same law of 365 which first mentions the *palatini* also contains the first mention of the *pseudocomitatenses*. These are found in the Notitia almost exclusively in the regional armies, and are fairly clearly units of *limitanei* which have been transferred to the field army. Here again distinctions have hardened and become stereotyped. A unit no longer automatically acquired the status of *comitatensis* by being drafted in the field army, and the law of 365 suggests that it did not obtain the privileges attaching to that status; for the law lays down a lower rate of pay for the *actuarii* of *pseudocomitatenses* than for those of *palatini* and *comitatenses* (who receive equal treatment).²⁹

Each of the three sons of Constantine naturally had his own *comitatus* and his own praetorian prefect. When Constantine II was eliminated his *comitatus* was disbanded, but Constans continued to appoint a praetorian prefect to administer his former dominions, which had probably been under the charge of a separate prefect ever since Crispus had been appointed Caesar in 317. A territorial praetorian prefecture of the Gauls thus grew up, comprising the dioceses of Britain, Gaul, Viennensis and Spain, and became a standing institution, independent of the division of the empire between emperors. In the East similarly the dominions of Constantius II, comprising the dioceses of Thrace, Asiana, Pontica and Oriens, became a standing territorial prefecture. When Constantius, about to move against Magnentius, appointed Gallus Caesar of the Eastern parts, he appointed for him a *comitatus* and a praetorian prefect, and though on his execution his *comitatus* was disbanded, a separate prefect for the East continued to be appointed. Constans' dominions likewise remained a prefecture after the reunification of the empire under Constantius. Constantius towards the end of his reign divided this rather unwieldy area between two prefects, assigning to one Italy and Africa, and to the other the three Illyrican dioceses of Pannonia, Dacia and Macedonia. This division did not however prove permanent, and Illyricum, Italy and Africa continued normally to be one prefecture till the division of the empire between the sons of Theodosius the Great.³⁰

There were no formal innovations in the organisation of the *comitatus* during this period, but some important developments

took place. Notable is the emergence into the political limelight of the eunuch staff of the Sacred Bedchamber. Constantius II was notoriously under the thumb of his eunuchs, and in particular of his Grand Chamberlain (*praepositus sacri cubiculi*), Eusebius. Lesser members of the staff of the bedchamber were employed on confidential missions. The eunuch Arsacius assisted Philagrius, prefect of Egypt, in installing Gregory at Alexandria in 340, and Hesychius the *castrensis*—the controller of the household, who ranked third among the eunuchs after the *praepositus* and the *primicerius*—was one of the two imperial commissioners who controlled the Eastern contingent of bishops sent to the Council of Sardica in 342-3. Julian also employed his *praepositus*, Eutherius, as ambassador to Constantius when he was endeavouring to obtain recognition as Augustus. It is strong evidence of the power of the bedchamber staff that Liberius, when in 357 he assented to the condemnation of Athanasius, sent copies of his recantation to Hilarius, 'the faithful eunuch of the emperor'.³¹

Another corps of palace functionaries first achieved prominence in this period. These were the thirty silentiaries who, bearing white rods, served as gentlemen ushers in the consistory. They were under the command of three decurions: one of these, Eusebius, was sent by Constantius to Alexandria in 346 to remove all documents derogatory to Athanasius from the records of the prefect of Egypt and the governors of Augustamnica, the Thebaid and Libya.³²

These were also the great days of the corps of tribunes and notaries. Constantius constantly employed them for the most important and confidential missions. Two of them, Hilarius and Diogenius, were sent to Alexandria in 355 to eject Athanasius and install George as bishop. In two missions to Sapor, king of Persia, in 358, one of the three envoys was a notary. Another notary, Decentius, was sent to Julian in Gaul in 359 to demand from him and forthwith take over the troops which Constantius had decided to withdraw from his command. Above all they were employed for spying on and rounding up political suspects. Paulus, who won for himself the grim sobriquet of the Chain, was particularly notorious for his ingenuity and ruthlessness in this task: he was sent to Britain after Magnentius' fall to arrest his supporters, was employed in tracking out the accomplices of Silvanus, and in 359 was dispatched to Egypt to investigate another alleged plot. Gaudentius was sent to Gaul to keep an eye on Julian, and later, when Julian rebelled, to Africa to secure that province for Constantius.³³

Many members of the corps received signal promotion. Felix was appointed master of the offices. Domitian became *comes*

sacrarum largitionum and then praetorian prefect of the East. Taurus was promoted quaestor, and then in 355 praetorian prefect; he held the consulate in 361 and was made a patrician. Philippus rose to be praetorian prefect in about 345 and consul in 348. Yet another member of the corps, Elpidius, became praetorian prefect of the East in 360. Another, Dulcitus, rose to be consular of Phoenice and proconsul of Asia, and yet another, Datianus, though he held no office, became one of Constantius' most influential *comites*, and was raised to the patriciate and the consulate in 358.³⁴

These men were all of humble origin, as were no doubt most members of the corps at this date: Domitian's father according to Libanius had been a manual worker, Philip's a sausage maker, Dulcitus' a fuller, while Datianus' had served as a cloakroom attendant in a public baths. It is not surprising that gentlemen of the old school like Libanius detested the notaries, and accused them of exercising a reign of terror, enriching themselves by blackmail, extortion and delation. The corps swelled greatly in numbers under Constantius, and Julian carried through a drastic purge; he kept only four, according to Libanius, and evidently relegated them to their primary function of shorthand writers to the consistory. Here Julian showed an exaggeratedly puritanical spirit, and his reform proved short-lived. Less than twenty years later the notaries numbered 520, and Libanius was complaining again of their undue influence and extravagant promotion.³⁵

In their humbler sphere the *agentes in rebus* also flourished, and it was during this period that they acquired their sinister reputation as informers. Ammianus singles out two who were particularly notorious for nosing out real or alleged plots, Apodemius and Gaudentius: the latter was rewarded by promotion to the rank of notary, and continued his activities in that capacity.³⁶

It was probably during this period that the curious practice was introduced of appointing senior *agentes in rebus* as *principes* in the *officia* of the praetorian prefects and other important officers. The system had two objects. In the first place it gave to the *magister officiorum* at the court a certain control over the prefects: for the *principes* occupied a key position, having to countersign every document, and would naturally report back to his old master any irregular conduct by his new one. In the second place it was highly profitable to the *agentes in rebus*, since the post of *princeps* was not only responsible but lucrative, every signature carrying a fee. The post was normally held for one year and formed the culmination of an official's career, after which he could retire in affluence.³⁷

From several constitutions dating from the beginning of Valentinian's reign it appears that it was by then the established

practice that the *principes* of the praetorian prefects were drawn not from their own *officia* but from the *agentes in rebus*. The same rule is later known to have applied in the office of the prefect of the city of Rome, where it is first attested in 385, and in those of vicars, the *comes Orientis* and the proconsuls of Africa and Achaëa (Asia was for reasons unknown exempted). In the *Notitia Dignitatum* it also applies to all the *duces* of the Eastern frontier.³⁸

In a law dated 359 Constantius II speaks of the *principatus* as being the culmination of the career of an *agens in rebus*. An incident recorded by Ammianus for the year 354 suggests that the system was already in operation then; the *agens in rebus* Gaudentius, having nosed out a plot, reported the case to Rufinus, *princeps* of the *officium* of the praetorian prefect, who promptly carried the news to the *comitatus* and was rewarded with a second year in his post: the natural inference is that Gaudentius reported to a senior member of his own corps. The system accords well with the suspicious temperament of Constantius, who would thus have had senior members of his trusted corps of *agentes in rebus* as watchdogs in the office of every important civilian officer in the empire; it also accords well with the lavish generosity of Constantius to his palatine officials; for the *agentes in rebus* acquired a fine series of lucrative jobs.³⁹

The corps of *agentes in rebus* naturally swelled in numbers, and in 359 Constantius ordered a purge. The master of the offices was to weed out 'all who, of unworthy birth and bad character, have aspired to or been transferred to the school of the *agentes in rebus*', and promotion was to be according to work and seniority, not by interest. Julian was far more drastic when he came to the throne three years later, reducing the corps, if Libanius is to be believed, to seventeen members. If the figure is correct, Julian must have abolished the system of *principes* described above, and also the much hated *curiosi* or inspectors of the post, for whom a recent law had laid down an establishment of two per province. Even for their primary purpose as couriers the number seems very inadequate. Here again Julian's austerity went beyond the mark, and his reform was short-lived. The *curiosi* and the *principes* reappear forthwith, and the number of the corps swelled till Libanius in about 380 could say they were 'ten thousand'. The exaggeration is obvious, but not utterly fantastic, for later evidence shows that the corps was with difficulty kept below 1,200 or 1,250 in the Eastern parts alone.⁴⁰

Julian also purged another palatine corps which had apparently grown to excessive size—the *domestici et protectores*. Here we have the good evidence of an imperial constitution. An establishment of

fifty for each *schola*, that is two hundred in all, was fixed; all above that number were to have their rations and fodder stopped and be sent to their homes.⁴¹

Another extravagance which Julian sharply curbed was the abuse of the public post. Constantius grossly overloaded it, and thereby threw an additional burden on the provincials, who had to replace worn-out beasts and supply emergency mounts. In particular he is blamed for the indiscriminate issue of warrants to hordes of bishops attending one council after another. The charge is brought not only by pagans like Ammianus, whose judgment might be biased, but by Christian bishops themselves—who blame, it is true, not the emperor but their theological opponents who provoked the need of councils, but admit the ruinous effect. Julian naturally had pleasure in abolishing this practice: it must, however, be admitted that he was very lavish in grants of warrants to philosophers whom he invited to court.⁴²

The main trouble lay, however, in the large number of authorities entitled to issue warrants. Constantius had appreciated this, and had deprived provincial governors of their right to do so. The prohibition seems however to have been ineffective, for Julian, finding that not only vicars but consulars and *praesides* continued to overburden the post, introduced a new and most rigorous system. Henceforth only the emperor himself and the praetorian prefects could sign warrants. The emperor provided each vicar with ten or twelve signed warrants, and each provincial governor with one. The praetorian prefect gave each governor two, for use within his province only. All warrants were renewable annually. The system proved too rigid, and Julian had to amend it himself, allowing provincial governors to issue warrants for the conveyance of money taxes to the *comitatus* if the vicar should be absent. But the effect according to Libanius was magical: in Julian's reign one saw the managers of the postal stations actually exercising their horses to keep them in condition.⁴³

The growing extravagance of the government inevitably meant heavier taxation. Constantius according to Ammianus 'took no thought for the relief of the provinces when they were oppressed by multiplied levies and imposts'. This is unjust, for a constitution issued to the praetorian prefects and posted as an edict in 356 shows that Constantius was disturbed by the growth of supplementary levies. He insists that the budget must be accurately prepared, so that the annual indiction will cover all foreseeable expenses. If a local emergency arises a vicar or governor must in no circumstances

exact a supplementary levy himself, but apply to his praetorian prefect, who is authorised to sign, but must report immediately to the emperor for confirmation of his action. It is doubtful, however, if these good principles were put into practice; in the very next year Constantius supported Florentius' demand for a superindiction in Gaul against Julian's protests. Nor did Julian have time to reduce the indiction during his brief reign as Augustus; his ruthless economies in the *comitatus* will have been more than outbalanced by the expenses of his Persian campaign. Themistius is explicit that the indiction continued steadily to rise till Valens' first year, and Libanius is only able to claim for his hero that he would have reduced taxation after a Persian victory.⁴⁴

Constantius seems towards the end of his reign to have appropriated to the crown the landed endowments of the cities of the empire. The confiscation is recorded in none of our sources, but it had certainly been carried out by the end of Constantius' reign: on the other hand, Libanius in a speech delivered in 355 speaks of the city of Antioch as being still in possession of considerable landed properties. The civic lands and house property formed henceforth a special schedule (*fundi iuris reipublicae*) in the *res privata*, and were managed by its *comes*.⁴⁵

The cities had, it would seem, already lost their revenue from taxes (*vectigalia*) under Constantine. The appropriation of their lands, whose rents were probably a much more important item in their budgets and covered a large part of the expenses of local government, must have been disastrous for the life of the cities. All local services had now to be financed either by the decurions, who already bore a considerable share, or by extraordinary levies, supplementary to the imperial indiction. The result must have been that the already difficult problem of keeping the city councils up to strength was gravely aggravated, and not only the amenities of urban life but even the essential services were scamped or abandoned. Julian resorted their lands and taxes to the cities, but this, like so many of his reforms, was speedily revoked by his successors.⁴⁶

The other great financial abuse of Constantius' reign, on which Ammianus insists far more strongly than on the excessive taxation, was the immense growth of *petitio*, or in other words the lavish grant of lands to the emperor's *comites* and *palatini*. This of course did not affect the ordinary taxpayer, nor did it greatly diminish the revenue. For the lands granted were not normally already in the possession of the *res privata*, although a good deal of the recently acquired *fundi iuris templorum* and *fundi iuris reipublicae* were in this way alienated. Usually the lands were *bona damnatorum*, the estates

of persons condemned on a capital charge, usually treason. The treasury thus lost only potential increase of revenue from the rents of these lands, and in fact gained by the grants, since Constantius imposed a special tax in gold and silver on granted lands. The evils of the practice are underlined by Ammianus. (It gave a pecuniary motive to the emperor's entourage to stimulate his too ready suspicion of plots.⁴⁷)

On 9 September 340 Constantius addressed a constitution to the senate, establishing three annual praetorships, the Flavialis, the Constantiniana and the Triumphalis, and laying down the sums which the holders were to spend on the production of games. The senate thus addressed was evidently a new creation, and had probably been recently called into being by Constantius himself, who was perhaps jealous of his younger brother Constans, in possession of Rome, the ancient capital, with its senate, and craved to raise the prestige of his capital, the New Rome. Even when Rome had fallen under his rule Constantius continued to foster the Constantinopolitan senate. In 356 he allowed it to choose the praetors, laying down a quorum of fifty for the election meeting. On 11 December 359 Honoratus was created the first prefect of the city of Constantinople, replacing the proconsuls who had hitherto governed the city and presided over its senate. In 361 a comprehensive constitution augmented the status of the prefect of the city, regulated once more the election of praetors and their financial obligations, and granted to senators sundry fiscal privileges. The prefect of the city was to receive appeals from nine neighbouring provinces. The praetors, now five in number, were to be elected by a select group including ten who had been ordinary consuls, prefects or proconsuls, and those who had already held the praetorship. Of the five praetors three were still to give games, but the other two to subscribe to the public works of the city. The senate was authorised to elect *defensores* to protect the fiscal interests of its members in each province. Senators were to pay the regular indiction only, as fixed by the praetorian prefect and countersigned by the emperor, and were expressly exempted from charges levied for public works by provincial governors.⁴⁸

The nucleus of the new senate was presumably formed by the Roman senators domiciled in Constantius' dominions. In 357 the emperor transferred to the Constantinopolitan senate *clarissimi* resident in Achaëa, Macedonia and all Illyricum, ruling at the same time that those who had given games at Rome were not to be com-

pelled to repeat the performance at Constantinople. Numbers were swelled by the accession of new men who acquired senatorial rank by holding the offices of proconsul or consular of a province, or were created senators by codicil on appointment as vicars, as was by now the usual practice. The emperor's more distinguished *comites* were also naturally enrolled. The senate of Constantinople, however, remained under Constantius a small body; it numbered scarcely three hundred in 357, according to Themistius.⁴⁹

Though legally equated with the Roman senate in status, the senate of Constantinople always remained very different from it. It lacked that nucleus of ancient families of vast inherited wealth which dominated the Roman senate. Consisting as it did in the main of men who had risen, sometimes from quite humble origins, in the imperial service, and of their descendants, it was far less aristocratic and more official in tone than the Roman senate. In wealth too there was a marked contrast between the two senates, as is shown by the scale of expenditure expected for the games which the praetors had to produce. Not that the new men who rose to senatorial rank in the East did not make handsome fortunes; but even the most successful could not compete with men who had inherited the fruits of many generations of accumulation.

In the second place the senate of Constantinople was from its inception and throughout its history closely linked with the *comitatus*. The emperor, and the praetorian prefect of the East, normally resided in the city. The same men served as the emperor's ministers and sat in the senate. The membership of the senate and the consistory must have overlapped to a large degree; the senate was a considerably more numerous body, but its more influential and active members are mostly likely to have belonged to the smaller group. In the West the emperor paid only brief ceremonial visits to Rome; he often lived in Gaul, at Trier, or in Illyricum, at Sirmium, and when in Italy normally resided at Milan. The senate and the *comitatus* were therefore out of touch, and at times suspicious and hostile to one another. The senate of Constantinople could hardly develop any corporate sentiment as distinct from the imperial government; the Roman senate had its old traditions, which were not altogether friendly to the imperial government, and maintained them.

The contrast between the two senates is reflected in the composition of the official aristocracy. In the East the great majority of the men whom Constantius promoted to the praetorian prefecture

were parvenus. Only one, Septimius Acindynus, is known to have been of senatorial birth. Philippus, Taurus, Domitian and Elpidius were, as we have seen, of humble origin, and Strategius Musonianus was an Antiochene, who had risen to power under Constantine because through his proficiency in both Latin and Greek he had been useful to the emperor in his negotiations with eastern bishops.⁵⁰

In the West, on the other hand, senators, often members of highly aristocratic families, almost monopolised the praetorian prefecture of Italy under Constans, and held office frequently under Constantius too. Aco Catullinus was succeeded by M. Maecius Memmius Furius Baburius Caecilianus Placidus, whose many names proclaim his noble lineage. There followed Vulcacius Rufinus, Maecilius Hilarianus, Rufius Volusianus and Q. Flavius Maesius Egnatius Lollianus. The same applied to offices of the second grade. The proconsulate of Africa was regularly filled by Roman aristocrats, and senators frequently served as *vicarii* in Western dioceses. In the East, by contrast, Constantius in 359 had to insist on former vicars and proconsuls holding the praetorship. 'Facundus ex-proconsul and Arsenius ex-vicar', he reminds the senate, 'were invested with the insignia of the praetors; neither of them thought the praetorship beneath his dignity. What example more illustrious than these can be found? Surely this fact ought to have convinced others too possessed of the office of proconsul or the vicariate of the prefecture that the praetorship was not below their merits.' It thus appears that at Constantinople a man was not infrequently gazetted a senator only on becoming a vicar or proconsul; if he had been a senator born he would have performed his praetorship long ago, as soon as he came of age if not earlier.⁵¹

The palatine ministries—the quaestorship, the mastership of the offices, the two financial *comitivae*—do not appear to have been thrown open to the nobility at this period even in the West. Or perhaps it may be truer to say that Roman aristocrats still considered such posts, involving the personal service of the emperor, as beneath their dignity. At any rate the holders of these offices were all, so far as is known, new men. Some, like the quaestor Taurus, the master of the offices Felix and the *comes sacrarum largitionum* Domitian, are recorded to have risen from the corps of notaries, while another *comes sacrarum largitionum*, Nemesianus, was a promoted diocesan *rationalis*. These men were often rewarded with a seat in the senate, but such promotion was not automatic. Nemesianus was still a *vir perfectissimus* as *comes sacrarum largitionum* in 345, and in the official minutes of a consistory held at Constantinople in 362, of the three ministers present only Jovius the

quaestor is styled *vir clarissimus*; Anatolius, the master of the offices, and Felix, the *comes sacrarum largitionum*, were presumably not senators.⁵²

Nor did the nobility during this period aspire to the military offices. All the generals were genuine soldiers, and a substantial number were barbarians. Of the *magistri* Silvanus is known to have been a Frank, Agilo an Alaman, Nevitta a German of some kind, Victor a Sarmatian, and Hormisdas a Persian, and several others bear patently barbarian names. Many rose from the *scholae*, where barbarians to judge by the names were predominant. Thus Silvanus owed his promotion to having betrayed Magnentius at the battle of Mursa as tribune of the *Armaturae*, and Gomoarius, who rose to be *magister*, had similarly betrayed Vetricianus as tribune of the *Scutarii*. Agilo was promoted direct from tribune of the Gentiles and *Scutarii* to *magister peditum*: this was unusual, some intermediate command as *comes rei militaris* or *comes domesticorum* being normally held.⁵³

Barbarians, however, did not monopolise either the *scholae* or the higher commands. The future emperor Valentinian and his runner-up Equitius, both Pannonians, were tribunes of the *scholae*, and many *duces*, *comites* and *magistri* bear Roman names. This is not proof of Roman birth, as the cases of Silvanus the Frank and Victor the Sarmatian show, but is presumptive evidence in its favour. Two generals, Valentinian's father Gratian, who rose to be *comes* of Africa and of Britain, and Arbetio, for many years Constantius' *magister equitum praesentalis*, are recorded to have risen from the ranks, but such cases aroused comment and were presumably rare. More usually no doubt a future general started as a tribune or at any rate a *protector*. In many cases they were probably given a flying start by a father who had achieved high rank. Jovian is unlikely to have reached the post of *primicerius domesticorum* by the age of thirty-two, had not his father Varronianus been *comes domesticorum*.⁵⁴

Magistri were by this time no doubt normally promoted to the senate—five, Sallustius, Eusebius, Salia, Arbetio and Nevitta, were awarded the consulate. Constantius is, however, recorded by Ammianus to have been sparing in awarding senatorial rank to military men: he never gave the *clarissimate* to *duces*.⁵⁵

The promotion of new men into the senatorial order began during this period to have its repercussions on the problem of the city councils; for the new men would often be of curial status. The main problem was still the purchase of titular equestrian dignities, and now also of the honorary rank of *comes*. No less than nine constitutions are preserved in which the sons of Constantine

fulminate against this abuse, whereby they complain the *curiae* of the empire are utterly denuded. As early as 340, however, Constans assured the council of Cirta in Numidia that none might abandon their local council and enter the senatorial order before they had held the city magistracies and fulfilled all their duties. Other laws, not securely dated but probably later, forbade access to the senate to *curiales*, though confirming the rank of those who had already got in. In 361 Constantius issued an even more severe law to the senate of Constantinople, ordering all former decurions to be expelled, even if they had held the praetorship: the problem was doubtless more pressing in the Eastern parts, where the senate was expanding rapidly. The infiltration of *curiales* into the senate was a more dangerous development than their acquisition of equestrian rank or the *comitiva*. For the latter were personal honours, which did not affect the status of the recipient's sons, whereas senatorial rank was hereditary.⁵⁶

The sons of Constantine carried on their father's policies, and under their rule the empire developed on the lines that he had set. They continued to favour Christianity, increased the privileges of the clergy, and carried much further the campaign against paganism which he had initiated. As a result the number of Christians rapidly increased, especially among the new aristocracy. Like their father, too, they regarded themselves as responsible for the unity of the church, and they intervened even more actively than he, if less successfully, to promote that unity. They likewise carried on the tradition of lavish munificence and conspicuous spending which Constantine had set. The luxury and splendour of the court increased, and palatine services swelled in numbers and received mounting pay and privileges. Taxation naturally continued to rise, and the confiscation of the treasures and estates of the temples was followed by the seizure of the lands of the cities.

In more ways than one Julian attempted to stem the tide, and to put things back as they had been before the reign of the uncle whose memory he loathed. He swept away the ostentatious splendour of the court and drastically pruned the palatine services. He endeavoured to reduce the burden of taxation and to revivify the cities. Above all he strove to restore the worship of the ancient gods.

His secular reforms seem to have been effective for the time being, though few had any lasting results. How successful his pagan revival was during the eighteen months that it lasted it is impossible

to say. There was, of course, a powerful body of opinion ready to welcome it—the old senatorial families at Rome, and many, if not most, of the cultured classes throughout the cities of the empire. In a letter to the philosopher Maximus written soon after his entry into Constantinople Julian claims that 'the majority of the army which marches with me is god-fearing', and this was probably true, for Gregory is obliged to admit 'that no small part' of the army yielded to his wiles. This was to be expected, since the rank and file were mainly recruited from the peasantry or from barbarian tribes, where Christianity had made little progress as yet. But it is impossible to generalise. From city to city the reception given to Julian's campaign varied enormously. In the diocese of the Orient, where we happen to have most information, Gaza, Anhedon, Heliopolis and Arethusa welcomed it warmly, but Julian was bitterly disappointed with the sullen response he got from Antioch, and in one of his last letters deplores the stubbornness of Beroea, where a personal address to the council left them unmoved.⁵⁷

The shrillness of the Christians' protest, however, betrays their alarm. What they professed to fear was that Julian, on his victorious return from Persia, would launch a genuine persecution. What they had more reason to fear was that Julian, with all the prestige of a conqueror, should have continued during a long and prosperous reign the insidious policy whose deadly effect Gregory of Nazianzus so well appreciated.

CHAPTER V

FROM JOVIAN TO THEODOSIUS I

WHEN Julian was killed, the situation was perilous in the extreme. The house of Constantine was extinct; no successor was designated. The generals, with the higher officers of the regiments, met in conclave to choose an emperor. Those generals who owed their promotion to Constantius could not agree with the newer group appointed by Julian, and as a compromise the purple was offered to the aged praetorian prefect of the East, Salutiarius Secundus, a cultured pagan whom both sides could trust. He refused, and, as so often happens in bitterly disputed elections, the choice fell on a nonentity, Jovian, a genial and popular young man of little over thirty, who was no more than the senior member of the corps of *domestici et protectores*: he was a Christian. Jovian was naturally very anxious to lead his army back within the empire in order to confirm his title, and to extricate it signed a highly disadvantageous treaty with the Persian king, whereby he ceded not only five of the Transtigritane satrapies which Diocletian had annexed, but the two cities of Nisibis and Singara which had belonged to the empire since the reign of Septimius Severus. Jovian's claims were actually acknowledged by the other armies for the moment. How long he would have retained their allegiance was not put to the test, for he died near Ancyra on 17 February 364 after a reign of less than eight months.¹

That the succession should have been settled in so quick and orderly a manner on Julian's death is hardly surprising. The army was in a difficult situation in hostile territory, and self-preservation demanded a speedy choice. It is a testimony to the growing stability of the empire that on Jovian's death, when the immediate danger had passed, the succession was again settled by peaceful debate. The great officers of the empire, military and civil, met at Nicaea. Again the parties compromised on a very junior officer. Equitius, a Pannonian promoted *comes rei militaris* from *tribunus scholae* by Jovian, was thought of, but was rejected as too boorish and brutal. Jovian's brother Januarius, *comes rei militaris* in Thrace,

was also considered. Eventually, on 26 February, a unanimous vote of the conclave elected another Pannonian officer, Valentinian, recently promoted by Jovian to be tribune of one of the *scholae*. Valentinian was forty-three years of age, the son of a peasant who had risen from the ranks to be *comes rei militaris*. He was an earnest Christian, and had offered to resign his commission under Julian rather than assist at pagan ceremonies. Though less of a boor than his runner-up, Equitius, he was of a violent and brutal temper, and not only uncultivated himself, but hostile to cultivated persons: as Ammianus tell us, 'he hated the well-dressed and educated and wealthy and well-born'. He was, however, an able soldier and a conscientious administrator, and took a real interest in the welfare of the humbler classes, from which his father had risen. Unfortunately his good intentions were often frustrated by a bad choice of ministers, and an obstinate belief in their merits despite all evidence to the contrary.²

Directly he was proclaimed the army demanded that he choose a colleague. A month later he nominated his younger brother, Valens, aged thirty-six, as Augustus. The choice had very little to commend it, save that Valens' loyalty could be depended upon. Valens was utterly undistinguished, still only a *protector*, and possessed no military ability: he betrayed his consciousness of inferiority by his nervous suspicion of plots and savage punishment of alleged traitors. But he too was a conscientious administrator, careful of the interests of the humble. Like his brother, he was an earnest Christian.³

The two brothers parted in August at Sirmium, Valentinian going on to take charge of Illyricum, Italy, Africa and the Gauls, while Valens returned to rule the Eastern prefecture. A year later he was challenged by a revolt. The usurper was Procopius, a relative of Julian: he claimed that the late emperor had designated him as his successor by the gift of a purple robe. He had not had a very distinguished career, having after long service as a tribune and notary only recently been raised by Julian to the rank of *comes rei militaris*, but as a cultivated man he had the sympathy of the educated classes in the East. He managed to rally a few regiments in Thrace and to seize Constantinople, but the German generals whom he appointed, Agilo and Gomoarius, successively betrayed him, and his troops melted away. Valens took ruthless vengeance on his real or supposed supporters.⁴

Atharic, king of the Tervingi or Visigoths, who occupied the land north of the Lower Danube, had sent a contingent to support Procopius. Valens determined to punish this and earlier misdemeanours of the tribe, and for the next three years (367-9) con-

ducted a number of campaigns north of the Danube, eventually compelling Athanaric to make peace on favourable terms; the subsidy which the Roman government had hitherto paid to him was stopped and commerce was confined to two towns on the Danube. Meanwhile Sapor, king of Persia, had taken the opportunity to depose the king of Armenia and install a nominee of his own on the throne of another Roman client kingdom, Iberia. In 370 Valens moved to Antioch, where he spent the greater part of the next eight years, conducting through his generals rather ineffective military interventions in Armenia and Iberia and pursuing inconclusive negotiations with Sapor.⁵

Meanwhile Valentinian had moved West into Gaul, where he resided from 365 to 375, mainly at Trier, conducting a long series of campaigns against the ever-troublesome Alamanni on the upper Rhine. There were also serious disturbances in Britain, where Picts and Scots from beyond the Wall, and Frankish and Saxon pirates and Attecotti from Ireland, created havoc, killing Nectaridus, the *comes litoris Saxonici*, and capturing the *dux Britanniarum*, Fullofaudes. In 367 an expeditionary force was despatched to the island under a *comes rei militaris*, Theodosius. He returned victorious next year, and was promoted *magister equitum*. Africa also had its troubles. The cities of Tripolitania suffered severely from the raids of the Moorish tribes of the desert owing to the negligence and corruption of Romanus, the *comes Africae*, and in 372 Firmus, a Moorish chieftain with whom Romanus had quarrelled, raised a revolt, winning several Roman regiments to his side. Theodosius was sent to quell this rebellion, a task which he successfully carried out. Not long after he was executed in mysterious circumstances.⁶

In 375 Valentinian moved to Illyricum, which had been overrun by a sudden attack of the Quadi and Sarmatians. On 17 November, while he was receiving a deputation of Quadi at Brigetio, he became so violently enraged at the insolence of the barbarians that he had a stroke and died. He had already eight years before made provision for this eventuality. During a serious illness in 367 he had learned that names were being canvassed for the succession, and he had promptly proclaimed his eight-year-old son Gratian Augustus. Gratian, who had been left behind at Trier, now at the age of sixteen took over the government. But meanwhile, on 22 November, the ministers of the late emperor in concert with the *magister militum* in Illyricum, Merobaudes, proclaimed as Augustus Valentinian the second son of the late emperor, who was a child of four and was staying near Sirmium with his mother Justina. The object of this move was to secure the loyalty of the Illyrian army, which had seen little of Valentinian, against a possible usurper, and

Gratian accepted it with a good grace. Valentinian II remained for the time being a sleeping partner in the college of the Augusti, as Gratian had been in his father's lifetime.⁷

The two brothers naturally promoted their Pannonian friends; the process had indeed begun under Jovian, who was likewise of Pannonian origin. Those who thus came to the front were of a very different type from the men of letters whom Julian had favoured, and were highly distasteful to cultivated men like Libanius and Ammianus, who frequently characterise them as boorish and bloodthirsty. Many were of humble origins. Two successive masters of the offices, who had great influence with Valentinian, Remigius and Leo, had both started as financial clerks in the office of one of the *magistri militum*. Maximinus, for the latter part of the reign praetorian prefect of the Gauls, where Valentinian resided, and the emperor's right-hand man, was the son of a *cohortalis*, one of the despised officials who served a provincial governor: he went to the bar, rose to be *praeses* of Corsica and of Sardinia, *corrector* of Tuscia, and *praefectus annonae* at Rome, where he won favour by his ruthless investigation of crime among the aristocracy and was promoted vicar of the city and finally praetorian prefect. A friend of his, a fellow barrister named Festus, rose to be consular of Syria, *magister memoriae* under Valens, and finally proconsul of Asia, despite the fact that he knew no Greek.⁸

This is not to say that the two brothers employed Pannonians to the exclusion of all others. Modestus, praetorian prefect of the East during most of Valens' reign, was a lawyer from the province of Arabia, who had risen under Constantius to be *comes Orientis*; dismissed by Julian, he regained his favour by being converted to paganism and was promoted prefect of the city of Constantinople; under Valens he became a Christian again and praetorian prefect. Tatian, a pagan lawyer from Lycia, also rose high in Valens' service. His career, which is recorded in detail in a metrical inscription, is of interest. He started by serving as assessor successively to a *praeses*, a vicar, a proconsul and two prefects; then he became himself *praeses* of the Thebaid, next prefect of Egypt from 367 to 371. During his term of office Egypt was constituted a separate diocese, and the prefect received the title of Augustalis, taking rank as a vicar. Tatian passed on to be consular of Syria and *comes Orientis*, and from 374 to 379 *comes sacrarum largitionum*. Nor did Valentinian eliminate Roman senators from the administration. At the beginning of his reign he reappointed Vulcacius Rufinus praetorian prefect of Italy, Africa and Illyricum, and another great Roman noble, Petronius Probus, governed the same vast prefecture for the remaining seven years of the reign.⁹

The high military offices fell to much the same mixture of Romans and Germans as under the Constantinian dynasty. Equitius, the Pannonian who had been suggested for the purple, was *comes* and then *magister equitum* in Illyricum. Theodosius, who as *comes* and *magister* successively restored order in Britain and subdued the rebellion of Firmus in Africa, was a Spaniard of good family. Of Valentinian's other generals Jovinus and Severus appear to have been Romans, Dagalaifus was clearly a German, and Merobaudes a Frank. Of Valens' generals Trajan, Sebastian, Lupicinus and Julius had Roman names: Arinthaeus was presumably a German and Victor despite his name a Sarmatian.¹⁰

Despite the signal favour shown to Petronius Probus Valentinian had little liking for the aristocrats of the Roman senate, and they had still less for him. Relations were embittered by a long series of trials at Rome, in which large numbers of senators were accused of magic, poisoning, adultery and similar offences. The trials were conducted by Maximinus, one of Valentinian's brutal Pannonian friends, promoted for that purpose to vicar of the city, and continued to be pressed by him when he rose to be praetorian prefect at Valentinian's side. They are represented by Ammianus as amounting to a reign of terror.¹¹

Another cause of discontent was the high favour shown by Valentinian to military men. This was strikingly shown by the awards of the consulate: of the eight consuls who were not members of the imperial family six were generals, and only two, Petronius Probus and Modestus, civilians, and only Probus a senator by birth. How bitter a grievance this was to the aristocracy can be seen from the speech delivered by Symmachus in the senate shortly after Valentinian's death, thanking the House for proposing and the young Gratian for bestowing a consulship on his father. Concord once more reigns between the emperor and the senate and true merit is rewarded, is his theme, and the implicit contrast with Valentinian's régime is obvious. Ammianus also contrasts with later practice the good old days under Constantius II when military men were kept in their place: 'under him no one was promoted *dux* with the *clarissimatus*: they were, as I myself remember, *perfectissimi*. The governor of a province did not advance to greet a *magister equitum*, or allow him to meddle in civil affairs. All the military and civilian offices always looked up to the praetorian prefects as the highest of all dignities, according to the ancient order of precedence'.¹²

It was evidently with the object of securing proper recognition for the military offices, and also those of the *comitatus*, that Valentinian laid down elaborate rules fixing the precedence in the senate

and the consistory of actual or past holders of imperial offices. Precedence was defined by reference to the civil offices normally held by senators; the praetorian and urban prefects ranked highest, next proconsuls, next vicars, and finally consulars of provinces. Valentinian ruled that ex-prefects of the city and of the praetorium and masters of the infantry or cavalry should be equal in rank, taking precedence by seniority of appointment. The four *comites consistoriani*, that is the quaestor, the master of the offices and the *comites sacrarum largitionum* and *rei privatae*, were graded above proconsuls. *Comites rei militaris* and honorary *magistri equitum* or *peditum* ranked below proconsuls, and the *magistri scriniorum* above vicars. There are obvious gaps in Valentinian's rules as preserved in the Code. No mention is made of the *comitiva domesticorum*, an important office, often the stepping-stone to the mastership of the soldiers; its holder probably, as later, ranked with the *comites consistoriani*. Nor is anything said of *duces*, who in Valentinian's reign regularly became *clarissimi*, and probably as later ranked above *consulares*.¹³

From laws of the next reign it would appear that the *primicerius* of the notaries in Valentinian's time ranked like the *magistri scriniorum* above vicars, and that the ordinary tribunes and notaries were graded as consulars. The once lowly corps of the notaries had risen in the world. The opportunities of promotion which it offered made it attractive to men of higher social status than Philip the sausage maker's son. Libanius complains that wealthy parents, who ought to have sent their sons to study literature and rhetoric under him, had them taught shorthand instead. Even humbler palatine ministries rose in status. The chief clerks (*proximi*) of the three *sacra scrinia* and the *magister dispositionum* would seem by Valentinian's reign to have retired with the rank of consulars.¹⁴

The various grades of senators had already before Valentinian's day begun to be distinguished semi-officially by special titles, and under him the practice became more stabilised. Praetorian prefects were already in the 350s addressed as *clarissimi et illustres*: under Valentinian all officers of the same group, the urban prefects and the masters of the soldiers, are fairly regularly so styled. The grade of proconsulars began under Valentinian to be called *spectabiles*; the four *comites consistoriani*, though ranking above proconsuls, originally received this title, but soon became *illustres*, as did the *comes domesticorum*. The title of *spectabilis* eventually was attached to all grades from *proconsul* to *dux*, only consulars still ranking as simple *clarissimi*. The use of these titles still remained fairly fluid till the end of the century, by which time it had become stereotyped.¹⁵

Old senators may well have felt that the order was being vulgarised by Valentinian. It was henceforth flooded by *duces* of barbarian birth or, what was hardly better, of peasant origin. Mere clerks like the notaries or the *proximi* of the *scrinia* regularly became senators. With this regular inflow of new members the senate steadily expanded in numbers. Many more provinces also had by this time become consular, and as the men appointed consulars were frequently not senators, this again increased the numbers of the senate. Numerous grants of titular dignities and of the *clarissimate* to wealthy and ambitious provincials swelled the total. In a letter to Festus, proconsul of Asia, Valens allowed the annual high priests of the province to become senators if they so wished. If this privilege was accorded to many provinces it must have involved a considerable annual intake of new senators. The senate of Constantinople, which had numbered barely three hundred towards the end of the reign of Constantius, had by 385 reached two thousand.¹⁶

The expansion of the senatorial order greatly aggravated the problem of the *curiales*. In the first year of their reign the emperors enacted a new principle, that decurions who became senators could transmit their new rank only to sons born after their promotion, and must have a son or sons to carry on their duties in their native city. In 371 Valens regulated the admission of *curiales* to the senate by a long and comprehensive constitution. All who had obtained the rank before 360 were confirmed. As from that date no *curialis* was admissible unless he already had at least one son, whom he left in his *curia*. By way of compensation a man who already had two or more sons might hand on his senatorial rank to one of them, dividing his property equitably between them. In principle only men who had held administrative posts were eligible, but retrospectively so many exceptions were allowed that few can have been excluded. All who had held the praetorship or the tribunate of the *plebs* were confirmed, as were all who had received honorary dignities down to the *consularitas* inclusive. These rules were satisfactory in so far that they ensured—if they could be enforced—that for the future every ennobled curial family must leave a branch to carry on its service to its native city.¹⁷

Valentinian's care for the humbler classes is most notably exemplified in his treatment of the office of *defensor civitatis*. This office is not mentioned in the Codes till Valentinian's reign, but it is recorded in inscriptions as early as 322 in Arabia, and papyri attest that it already existed in Egypt in the 330s and that its holders had the same functions as did Valentinian's *defensores*. It may have been an institution local to the Oriental diocese, or it may have lapsed since Constantine's reign. Valentinian appears, from the

language he uses, to have introduced it afresh into Illyricum, and a constitution of his brother shows that it was introduced or revived in his dominions: it was henceforth universal throughout the empire.¹⁸

The function of the *defensor* is stated in general terms to be patron of the *plebs* against the injuries of the powerful. More specific instructions to a *defensor*, Seneca, state that he is to decide minor cases of debt or restitution of runaway slaves, or claims of over-exaction of taxes, and to remit more important cases to the governor. Another constitution of Valens to the senate of Constantinople stresses the value of the office in assuring cheap justice to the peasantry. 'We have provided by a useful plan that the innocent peace of the peasantry shall enjoy the benefit of special protection, to prevent its being wearied and troubled by the tricks of legal controversy even when it demands redress; while a grasping advocate is briefed, the *princeps* who guards the door of the court is softened by large bribes, the record of the trial is sold by the shorthand clerks, those who administer justice demand more in fees from the successful litigant than his opponent is going to pay him.'¹⁹

The praetorian prefects were instructed to select a *defensor* for each city and to submit his name for the emperor's personal approval. On the principles of selection Valentinian laid down careful rules. The *defensores* were to be chosen among ex-provincial governors, former *agentes in rebus*, who had been *principes* in the offices of the praetorian prefects or vicars, other retired palatine civil servants, and retired barristers. Valentinian expressly debarred ex-officials of the praetorian prefects, vicars and governors, and, with emphasis, decurions. The former are clearly excluded as being the persons who oppressed the poor by extortionate collection of taxes and judicial fees, and it seems likely that the emperor regarded the decurions too as among the 'powerful persons' from whose injuries the *plebs* required protection. The classes he selected were perhaps the best that could be found, but neither provincial governors nor *palatini* were very likely to be very sympathetic to the wrongs of the humble, and *agentes in rebus* had a bad reputation: nor do Valens' own words quoted above suggest that advocates were friends of the poor. The whole plan is very typical both of Valentinian's good intentions and of his unwarranted faith in his personal subordinates. The institution probably did not fulfil its founder's high hopes, but it proved of lasting use in providing a cheap and accessible court of justice for poor litigants, who had hitherto had to take their complaints to the provincial governor.²⁰

At the beginning of their joint reign the two brothers enacted a

radical change in the system of tax collection. The collectors (*susceptores*) of the various levies and the managers of the depots in which they were stored (*praepositi horreorum*) were no longer to be decurions, nominated by the city council, but, as a general rule, retired officials nominated by the provincial *officiarius*. The grades of officials liable are not specified, but *palatini* (with the exception of the *largitionales civitatum*, who were only technically palatine) were exempt, as were *apparitores* of the masters of the soldiers: officials of the praetorian prefects were apparently liable unless they had reached the rank of *cornicularii*. For the levy of uniforms (*vestis*) the *susceptores* were to be selected from the *principales*, or leading decurions, and *honorati*, those who had received codicils of the *comitiva* or equestrian rank. A similar change was made in the administration of the wagon post (*cursus clavularis*). According to a constitution issued to the praetorian prefect of Italy and Illyricum the managers of the posting stations were to be selected from those who had received honorary codicils as *comites*, *praesides* or *rationales*.²¹

These reforms have been interpreted as a move to relieve the overburdened decurions of the onerous duty of tax collection. It would be more in accord with Valentinian's known sentiments to regard them as intended to deprive the decurions of opportunities for extortion. In point of fact the emperor's motive is stated in one law: 'The reason why we have ordered that the collectors of taxes in kind should be nominated from the body of officials in the provinces of Illyricum is that it is known that they are more suitable than those who used to be appointed collectors in the city councils, both in property and in reliability.' The object was in fact merely fiscal, to secure collectors who would not cheat the government or could pay up if they did. The reform proved difficult to operate because there were not enough qualified persons to fill the posts, or so at any rate it was alleged: more probably the persons concerned were difficult to catch. Almost from the start exceptions had to be made. The governor of Cilicia was allowed to revert to the old practice and the vicar of Africa was permitted to employ *curiales* as *susceptores*, the emperor consoling himself that, if they were less suitable, the results of their negligence or fraud would have to be made good by their *curia*. The praetorian prefect of Italy and Illyricum was allowed to appoint *curiales* again to the posting stations. The reform probably did not outlive its creators.²²

Valentinian and Valens once again confiscated the lands and revenues of the cities, which Julian had restored to them, but after a few years refunded to them a proportion of the rents to enable them to repair their public buildings. A letter of Valens to Eutropius, proconsul of Asia in about 370, reveals that various amounts

had already been refunded to different cities according to their needs. From 374 a fixed proportion, one-third, of the rents was refunded to all cities; if one city had exceptional needs, they had to be met from the thirds of its neighbours. The same rule seems to have been applied in the civic taxes. A constitution of 374, placed in the Code under the title 'de vectigalibus et commissis', speaks of the division being made 'ex redditibus rei publicae omniumque titulorum ad singulas quasque pertinentium civitates'.²³

The two brothers thus mitigated to some extent the disastrous effects of the confiscation of the civic lands and revenues, though they were unable to maintain Julian's more generous policy. Both are praised for their fiscal policy by Ammianus. Of Valentinian he says that he was 'extremely sparing in his demands on the provincials, everywhere relieving the burden of the tribute', of Valens that he was 'a very just protector of the provinces, each one of which he guarded from harm like his own house, relieving the weight of the tribute with a singular care, admitting no addition to the taxes'.²⁴

Ammianus' eulogy of Valens is borne out by Themistius, who in a panegyric delivered on the emperor's fifth anniversary cites some useful facts. For the last forty years before Valens' accession the annual indiction had steadily mounted. Valens stabilised the figure during his first three years, and in his fourth reduced the indiction by half: in view of what Julian achieved in Gaul this reduction is not incredible, though attested only by a panegyric. Valens, as Themistius says, had been a private householder before he became emperor, and knew the value of money. He was sparing in his gifts, but this, Themistius hastens to explain, was not meanness but true economy: lavish gifts made higher taxation necessary. Ammianus also records that Valens was strictly fair in dealing with petitions for *caduca* and *vacantia*, allowing the occupant of the property a full opportunity to disprove the claim. Moreover, where a claim was proved, he would often share the property between the petitioner and three or four others who had made no claim; this practice must have discouraged *petitio* by greatly reducing the profits.²⁵

Valentinian's record is less good. He may have kept taxation under control with the help of Maximinus in the Gauls, but in the great prefecture of Illyricum, Italy and Africa he allowed Petronius Probus a free hand. Here too his intentions were excellent: in the poor and much ravaged provinces of Illyricum he abolished the *capitatio*, which weighed particularly heavily on the peasants. He does not seem, however, to have admitted the corollary that the revenue from that area must be reduced, but supported Probus'

ruthless exaction of additional *iugatio*, which brought many landowners to ruin, ignoring all complaints 'as if his ears were sealed with wax'. Ammianus gives a lurid picture of the havoc wrought by Probus' constant superindictions among the gentry of the area, many of whom fled to other provinces, while those²⁵ that remained languished in gaol. When Valentinian personally visited Illyricum in 375 his eyes were opened. Among a delegation sent by the province of Epirus to thank the emperor for the benefits of Probus' administration was a philosopher named Iphicles. Asked by Valentinian what the provincials really thought of Probus, Iphicles spoke up boldly and revealed to the emperor that many of his old friends had fled the province or been driven to suicide or flogged to death: Valentinian suddenly died very shortly after, fortunately for Probus. Illyricum was the worst scandal, but the success of the rebel Firmus in Africa was, we are told, largely due to the ruthless fiscal exploitation of the provincials, who rallied to him in despair.²⁶

Both the brothers made a concerted attempt to increase the production of gold. In 365 it was enacted that gold miners should pay a tax of 8 scruples per annum, and sell the rest of their product to the *largitiones*, from which they would receive 'an equitable price', presumably in debased denarii. Valentinian hoped that on these terms volunteers would take up the trade, but compulsion was soon required to recall workers who had strayed from the industry into agriculture. In 370 Valens ordered all runaway miners to be combed out throughout his dominions, even from the lands of the *res privata*, and his brother loyally ordered Petronius Probus to track down and return all Thracian miners who had found refuge in Illyricum and the Macedonian diocese. Similar measures were taken in the West, where for reasons unknown miners attempted to escape to Sardinia: the praetorian prefects of Italy and Gaul were instructed to order the governors of maritime provinces to keep a strict watch on the coast, and masters of ships were to be fined 5 solidi for every miner to whom they gave a passage.²⁷

Another sign of the interest which Valentinian and Valens took in augmenting their gold currency is that from 372 they collected the *collatio lustralis* no longer in gold and silver, as hitherto, but in gold alone. It would seem to have been the deliberate policy of the government to establish one gold currency for imperial purposes.²⁸

Both the brothers were soldiers by profession and took a great interest in the army. Valentinian was, according to Ammianus, a ruthless disciplinarian, but, while very hard on the common soldier, was too lenient with his officers. Valens, according to Themistius, cared for other ranks, seeing to it that they really

received their rations, arms and uniforms, and severely checked the peculations of officers. In particular he curbed the common abuse whereby officers allowed their units to fall under strength, pocketing the pay of the non-existent soldiers. Both brothers were extremely active in fortifying the river frontiers along the Rhine and Danube, and Valens at any rate reinforced his armies with several new units: none can be certainly attributed to Valentinian, but this is due to our defective record of the Western armies.²⁹

Strenuous efforts were made to maintain and increase the numbers of the army. Sons of veterans were combed out of the *officia*, and the conscription was regularly carried out every year. Valens systematically reformed its machinery. The custom had apparently grown up whereby landowners, reluctant to part with an agricultural worker, bribed some tramp to enlist by a large bounty, and provincial governors had taken advantage of this custom to supply the recruits themselves and charge the landowners exorbitant sums, as much, we are told, as 80 solidi per man. Valens ordained that in each consortium of landowners liable for the production of a recruit the members should supply a man in rotation annually, but that, to even things out between rich and poor members, a levy should be raised from all members in proportion to their *iugatio* to provide compensation—at the rate of 30 solidi—to the landowner who provided the recruit. Recruits were encouraged by tax exemptions for themselves and their families and veterans rewarded by more liberal grants of land tax free, and gifts of seed corn and stock and money to give them a start.³⁰

There are signs that the demands of conscription were more than the agricultural population could easily support. It is worthy of note that Valentinian had to reduce the minimum height required of recruits to 5 feet 7 inches and that Valens exempted the lands of the *res privata* from furnishing recruits. The levy of recruits was moreover in certain provinces from time to time commuted for a gold tax, the *aurum tironicum*. The principle does not seem to have been to draw recruits from the areas which produced the best material, and money from the rest. A constitution addressed to the vicar of the city shows that men were levied from the Suburbicarian diocese, which had not the reputation of a good recruiting ground, while the papyri prove that in some years men were levied from Egypt and in some years money. The motive behind the system was probably partly fiscal, but partly to give all areas an occasional respite.³¹

Julian's pagan revival was not altogether fruitless; it won for paganism nearly thirty years of toleration. The temple lands were once again confiscated, but the temples were not closed and the

pagan cult was not prohibited. Jovian issued an edict of general religious toleration; only magic and divination were banned, as they had been by pagan emperors. Valentinian and Valens renewed this edict, and, as far as pagans were concerned, both brothers observed it. Valentinian was generous in his interpretation of it. When Agorius Praetextatus, the pagan proconsul of Achaëa, protested against the ban on nocturnal sacrifices, which as being usually associated with magic and divination were still prohibited, pointing out that it made impossible the celebration of ancient mysteries on which the Greeks set great store, Valentinian allowed the law not to be enforced in these cases. He also sanctioned the old and respectable Italian form of divination, *haruspicina*, which Constantine and his sons had banned: 'I do not consider', he wrote, 'any rite permitted by our ancestors to be criminal. The laws issued by me at the beginning of my reign are witnesses, whereby everyone was granted a free choice of practising whatever religion his mind determined.'³²

Under Valentinian most heretics also enjoyed toleration. Only Manichees, whom pagans and Christians alike held to be a dangerous and antisocial sect, were banned. Rebaptism, which was practised by the Donatists, was also prohibited. Valentinian was one of the few emperors who firmly refused to take sides in theological controversies. When at the very beginning of his reign, while he was still in Thrace, a group of oriental bishops approached him, asking for a synod on the faith to be summoned, he replied: 'It is not right that I, a layman, should meddle in such things: the bishops, whose business it is, may meet on their own as they wish.' In his own dominions he was little troubled by theological disputes, as the West was almost solid in favour of the Nicene formula, in which he himself believed: a council held at Paris in the first year of Julian's reign had already disavowed the creed of Ariminum.³³

The main ecclesiastical controversy of the reign was a disputed election for the Roman see, which the two candidates, Damasus and Ursinus, conducted with such vigour that on one day a hundred and thirty-seven corpses were counted in the basilica of Sicininus, 'a meeting place of Christian worship', as Ammianus drily remarks. 'Nor do I deny,' he goes on, 'considering the ostentation of life in Rome, that those desirous of these things should struggle with all their might to attain their ambition: since, when they have gained it, they will be sure of being enriched by the offerings of ladies, and riding in their carriages and wearing fine clothes and giving magnificent dinners, so much so that their entertainments surpass imperial banquets.' Constantine's donations had made the bishop of Rome a very wealthy man, and since then gifts and legacies had

flowed in fast: one of Rome's richest aristocrats, the same Agorius Praetextatus who saved the mysteries of Greece, used jokingly to say to Damasus: 'Make me bishop of Rome and I'll be a Christian tomorrow.' Much of the wealth of the Roman see came from pious ladies of the aristocracy, and Valentinian was so disgusted by the way in which their piety was exploited that in 370 he directed a constitution to Damasus prohibiting ecclesiastics or monks from entering the houses of widows or unmarried girls, and declaring void all gifts or legacies which they received from them.³⁴

It was another sign of the times when in 374 Aurelius Ambrosius, the son of a praetorian prefect, and at the time consular of Aemilia, was elected by acclamation bishop of the metropolis of that province, Milan. Ambrose was without doubt selected for his high character, and accepted the nomination from a sense of duty. But the incident nevertheless bears witness to the growing prestige of the episcopacy. A generation earlier it would have been unthinkable that a senator should become a bishop, even of so important a city as Milan.³⁵

On the ordination of *curiales* both brothers took a firm line. A constitution issued in the first year of their joint reign ordered that a *curialis* on being ordained must surrender all his property either to a relative who would replace him on the council or to the council itself corporately, and forbade absolutely the ordination of rich plebeians. The enforcement of this law was in 370 limited by Valens to clergy ordained within the last ten years: his brother in 371 more equitably limited it to those ordained since his accession.³⁶

Valens had a more complicated theological situation to deal with in the East, where opinion was still much divided. He took the correct line of insisting on subscription to the creed established by the councils of Ariminum, Seleucia and Constantinople, and issued an edict exiling once more all bishops who had been exiled by Constantius II and recalled by Julian; only Athanasius was spared, technically on the ground that he had again been exiled by Julian, and recalled by Jovian, but really because it was evident that there would be serious commotions in Alexandria if he were expelled. Valens' rigid adherence to official orthodoxy was unfortunate, for a large body of moderate opinion was by now becoming reconciled to Nicaea: the novelty of the formula was wearing off, and many Eastern theologians now interpreted it in a sense which did not conflict with their principles. This group, led by Basil, bishop of Caesarea in Cappadocia, were negotiating with the bishops of the West, and working toward an agreement with them.³⁷

During the first years of his reign Valens had no time to spare for ecclesiastical affairs, but from 371, when he moved to Antioch, until

378 he conducted a veritable persecution against the recusants. He came into violent conflict with Basil of Caesarea, who definitely refused to accept the official creed, but in the end, impressed by his strong personality, the emperor let him be. On Athanasius' death in 373 he attacked the Nicene stronghold of Egypt, deposing Peter, Athanasius' brother, whom he had consecrated as his successor, and installing a conformist bishop, Lucius. We possess Peter's account of the operation. He is able to make much play of the fact that of the government officials involved, Palladius, the prefect of Egypt, was a pagan, and Magnus, the *comes sacrarum largitionum*, who was specially sent down with Lucius, had burnt down a church at Berytus in Julian's reign, and been compelled by Jovian to rebuild it at his own expense. The soldiers were seconded by a large pagan mob, who evidently took great pleasure in the opportunity offered to them of desecrating a Christian church and stripping, insulting and raping Christian virgins. Having duly installed Lucius, Magnus put under arrest nine priests and deacons who refused to subscribe to the official faith, and having vainly tried, by the third degree methods habitual in the Roman courts, to break them down, shipped them to exile at Heliopolis in Syria, a rabidly pagan city. Twenty-three monks who demonstrated against this action were condemned to the mines of Phaeno and Proconnesus, as was a deacon of the Roman church, sent by Damasus, who tried to intervene. Magnus next rounded up the bishops of Egypt. Some he was able to enrol in the city councils to which they rightfully belonged. Eleven were exiled to the Jewish city of Diocaesarea.³⁸

In 376 Valens was faced with a crisis. The Huns, advancing westwards across the plains of South Russia, had spread panic among the Sarmatian and German tribes of that area. The powerful Gothic kingdom of the Greuthungi (or Ostrogoths) had fallen, and its king, Hermanric, committed suicide in despair. Athanaric, king of the Thervingi (or Visigoths), endeavoured to organise the defence of his kingdom, but was deserted by his people, who, terrified at the Huns' approach, petitioned Valens to be received within the empire, promising to serve in its armies. It was a tempting offer, and flattering to Valens' pride. It was represented to him by his advisers that such a vast accession of manpower would make his armies invincible, and that he would be able to suspend the conscription in the provinces, and thereby greatly augment his revenue from the *aurum tironicum*. Fritigern and Alavivus, the Gothic chieftains, were accordingly given a favourable reply, and promised lands to cultivate in the Thracian diocese—presumably the deserted lands which abounded in this area. In the late autumn of 376 the Goths were ferried across the Danube.³⁹

The reception of this vast body of immigrants was an operation which required very careful handling if things were not to get out of hand. Unfortunately the decision was taken hurriedly, before supplies of food had been assembled to support the newcomers. The situation was not utterly mishandled. A considerable number of Goths were marched off to the Eastern frontier, where they were drafted into new units under Roman officers by Julius, the *magister militum per Orientem*. A beginning was made with dispersing the remaining tribesmen, a large group being sent to winter at Adrianople. But the bulk of the immigrants remained north of the Haemus and food soon ran short. The situation was made worse by the officers on the spot, Lupicinus, the *comes rei militaris per Thracias*, and Maximus, the local *dux*, who were of the type castigated by Themistius a few years earlier, as 'rather slave merchants and dealers, whose only activity was buying and selling on the largest scale possible'. They shamelessly exploited the starving Goths, selling them even dogs' meat, at the rate of one man per dog, and made a vast profit from selling the Goths thus enslaved throughout the diocese.⁴⁰

Disturbances naturally arose, and the remnants of the Ostrogoths, who had been refused admission to the empire, took advantage of the confusion to cross the Danube, under the leadership of two nobles, Alatheus and Safrax, guardians of their young king, Viderich. Lupicinus put a spark to the powder barrel by massacring the escort of the two Visigothic chiefs while they were dining with him at Marcianopolis. The Goths rose in revolt and began plundering the villas of the Thracian countryside. They were soon joined by the group of their countrymen at Adrianople, where the civic authorities had refused them food supplies and eventually levied the townsmen to attack them—with disastrous results. The recently enslaved Goths naturally rejoined their tribesmen, and numbers of the Thracian gold miners, shortly before dragged back to the mines, deserted to the Goths, and by their knowledge of the country proved very useful guides and scouts.⁴¹

Valens, who was at this time at Antioch, sent up reinforcements, and eventually in the spring of 378 himself marched west, reaching Constantinople on 30 May. Gratian had also been asked to send troops, and some Pannonian and Gallic units were marching eastwards under the *dux* Frigerid, followed by another force under Richomer, *comes domesticorum*. But Frigerid moved slowly, making his gout an excuse for frequent stops, and was denuded of most of his troops by Merobaudes, the *magister per Illyricum*, who feared for the safety of his own area. Valens in any case was over-confident and wished to gain the sole glory of another Gothic triumph. The

Roman army met the Goths at Adrianople on 9 August 378 and suffered a shattering defeat. Valens himself and many high officers were killed. The slaughter was immense.⁴²

The Goths, now joined by bands of Huns and Alans, moved against Constantinople, but were beaten off by a contingent of Saracen cavalry sent by their queen, Mavia, who had arrived too late for the battle. Ammianus declares that they were frightened by these naked savages, who drank the blood of their slaughtered enemies, but the attack was probably only a demonstration, for the Goths were not trained or equipped to storm walled cities; as Fritigern had earlier put it, when he abandoned an attack on Adrianople, 'we are at peace with walls'. A potential danger in the East was averted by the prompt action of Julius, the *magister per Orientem*, who sent sealed orders to all the Roman officers commanding the recently enrolled Gothic units to order them out on the same day to a pay parade outside the cities where they were billeted, and to massacre them. The operation was carried out without a hitch.⁴³

Ammianus Marcellinus brings his history to a conclusion with the battle of Adrianople, and thereafter we have once more to rely on the very inferior narrative of Zosimus, eked out by the three Greek ecclesiastical historians, Socrates, Sozomen and Theodoret. These are supplemented by some Latin historians, who lived nearer to the events which they describe, but are wretchedly meagre in content. For secular affairs there are the last two chapters of the *Epitome de Caesaribus*, and the rhetorical and tendentious *Historia Contra Paganos*, written by Orosius in 417; for the story of the church the ecclesiastical history of Rufinus and the chronicle of Sulpicius Severus, which gives an illuminating glimpse of the reign of Maximus in Gaul.

If the historical sources for Theodosius' reign are weak, the codes are rich in laws for the whole period. The contemporary literature is also abundant. In the East Themistius delivered a series of fifteen orations, ranging from 364 to 385, which though panegyric in character contain some factual information. Libanius was silent during Valens' reign, but under Theodosius produced a long series of speeches on current topics of the day which throw a very valuable light on contemporary conditions; his correspondence from 388 to 393 is also preserved.

The sermons and letters of Basil, bishop of Caesarea from 370 to 379, of his brother Gregory, bishop of Nyssa from 372 to about 394, and of his friend Gregory of Nazianzus, whose episcopal career ranges from 372 to about 390, are valuable not only for the history

of the church, but for the incidental light which they throw on contemporary secular affairs. Basil's correspondence is particularly illuminating, since he took an active interest in the welfare of his city and province. Gregory of Nazianzus has also left us a large number of poems of topical interest, including a metrical autobiography. John Chrysostom's earlier sermons, while he was still a priest at Antioch, give some interesting pictures of the life of the great city and the surrounding countryside. Epiphanius, bishop of Salamis in Cyprus from 367 to 403, has left us a work on the heresies which is a mine of curious information.

There is finally a large mass of literature describing the lives of the monks of Egypt in the last decades of the fourth century. The earliest document is an account in Greek of a tour of Egypt made in 394-5 by a party of seven persons: this was later translated into Latin by Rufinus under the title *Historia Monachorum*. Palladius, who spent the years 388 to 400 in Egypt, wrote up his reminiscences in the *Lausiaca History* in 417-18. John Cassian, who was in Egypt at about the same period, later described the monastic life as he had known it in his *Institutes* (420) and *Collationes* (c. 429). The travel record of Postumianus, a Gaul who visited Egypt in 401-2, was worked up by Sulpicius Severus in his first *Dialogue*.

For the West our most important source is the correspondence of Ambrose, bishop of Milan from 374 to 397. His intimate relations, friendly or hostile, with the court under Gratian, Valentinian II and Theodosius give his letters a peculiar value, but his funeral orations and moral treatises also throw much light on the times. His life, written by his secretary Paulinus, also contains much useful information. Sulpicius Severus' *Life of Martin*, bishop of Tours from 372 to 397, and his second *Dialogue*, devoted to anecdotes of Martin, give a vivid picture of Gaul. Augustine's *Confessions* record his life as student and professor at Tagaste, Carthage, Rome and Milan up to his conversion in 387. The earlier part of Jerome's vast output, including about fifty of his letters, falls in this period.

The secular authors of this period are also copious. From Ausonius, the professor of Bordeaux who became Gratian's tutor, we have a panegyric on his pupil delivered in 379 on his elevation to the consulship, and a mass of light verse, which tells us much about his own family and academic and social circle in Gaul. Another Gallic rhetorician, Drepanius Pacatus, wrote a panegyric to Theodosius after his defeat of Maximus. The vast correspondence of Quintus Aurelius Symmachus, which ranges from 364 to 402, tells us less than might have been expected of the events of the day, but is revealing of the life of a great Roman noble; his official

dispatches (*relationes*) as prefect of the city in 384-5 give a valuable insight into the administration of Rome.

On his uncle's death Gratian immediately realised that he could not manage the whole empire alone; he had enough on his hands in his own dominions, which were threatened, both on the upper Danube and the Rhine, by the Alamans and by other tribes set in motion, directly or indirectly, by the Huns. To cope with the disastrous situation in Thrace he recalled Theodosius, the son of Valentinian's *magister equitum*, who had retired to his estates in Spain on his father's execution, and on 19 January 379 proclaimed him Augustus at Sirmium. He was given charge not only of the regions which Valens had ruled, but also of the dioceses of Dacia and Macedonia.⁴⁴

Theodosius was faced with a very difficult task. The depleted ranks of the army had to be rapidly filled up, and the laws of the Code show that conscription was rigorously applied. Throughout the Eastern parts sons of soldiers and veterans were combed out of the *officia* or called up from their fathers' farms. The new emperor had to impose penalties on those who offered slaves or other unsuitable persons, such as cooks, bakers, shop assistants or bartenders, to his recruiting officers. Recruits who amputated their thumbs were no longer, as Valentinian had ordered, to be burned alive; even they must serve, but those who offered them to the army must give two mutilated men for one recruit. Theodosius also, according to Zosimus, freely enrolled barbarians, and to attract them offered very easy conditions: a man might return to his tribe when he wished, providing a substitute. The troops so raised were not only quite undisciplined, but of very dubious loyalty, as several incidents proved. Theodosius tried to mitigate the evil by sending newly raised barbarian units to the East, and bringing to the front old Roman units: Zosimus records a fracas which arose at Philadelphia in Lydia when some regiments marching from Egypt met barbarian troops moving eastwards.⁴⁵

It is impossible from our miserable sources to draw any coherent picture of the course of the war between 379 and 382. Theodosius made Thessalonica his headquarters for the first two years, moving to Constantinople in November 380. Gratian gave active aid to his colleagues, sending an army under Bauto and Arbogast to Macedonia. The barbarians broke up into several bands. The Ostrogoths and other tribes moved westwards and invaded Pannonia, but Gratian appears to have bought them off with subsidies. A civil war broke out among the Visigoths between Fritigern and the

old king Athanaric, who in January 381 took refuge with his followers at Constantinople. The honourable welcome which Theodosius accorded to their king, and the magnificent funeral which he gave him when he died shortly afterwards, are said to have created a great impression on the Visigoths, but it was not until nearly two years later, on 3 October 382, that a treaty of peace was signed.

The negotiator of the peace, Saturninus the *magister militum*, was rewarded with the consulship of 383, and Themistius delivered a panegyric to celebrate the occasion. He praises the wisdom and humanity of the emperor in filling Thrace with men rather than with tombs, and in populating the country with former enemies rather than transplanting Phrygians and Bithynians to its desolated fields. In another speech delivered two years later he avers that the emperor has gained men whom he may use either as cultivators or as soldiers, and that the Thracians and Macedonians have received the Goths to share their homes. This, apart from later events, is the only evidence that we have of the terms of the treaty. It would appear that the main body of the Visigoths received lands along the Danube in the two northern provinces of the dioceses of Thrace and were perhaps billeted on the local population, and that they were liable to fight for the empire. But Themistius veils the important point that the settlement was made by a treaty with the Visigothic people, who continued to be governed by their own chiefs and fought under their command as allies (*foederati*) of the empire.⁴⁶

(The settlement was, in fact, a grave breach with precedent. Barbarians had served in large numbers in the Roman army, but under Roman officers and discipline.) Barbarian refugees and prisoners had been settled in the provinces, but they had either been planted in small groups as *laeti* under Roman prefects, or assigned individually to landowners. Barbarian contingents, sent by foreign kings, had fought side by side with the Roman army in individual campaigns, but had returned to their homes when the war was over. Now a foreign people of substantial numbers—the Goths are said to have contributed a contingent of 20,000 men to Theodosius' forces in 393—was given a home within the empire but was still allowed to retain its political and military cohesion.⁴⁷

The results proved disastrous and it is easy, after the event, to criticise Theodosius' lack of foresight. But we do not know enough of the facts of the time to judge. After three or four years of inconclusive warfare it may have seemed hopeless to prolong a struggle which must have been terribly costly in manpower. It may have been thought that the Visigoths had been taught to respect the

authority of Rome, and that they would, as Themistius prophesied, beat their swords into ploughshares and settle down quietly on their new farms. And it was no doubt true enough that Thrace and Macedonia were gravely depopulated.

Four years later, in 386, the Ostrogoths or a party of them, led by a chieftain named Odotheus, appeared north of the Danube and attempted to force a crossing. They were intercepted by Promotus, *magister militum per Thracias*, and large numbers were killed or captured. It was perhaps the Ostrogoths taken on this occasion who are later found settled in Phrygia.⁴⁸

At about the same time a peace treaty was signed with Persia, whereby the kingdom of Armenia, so long a bone of contention, was partitioned between the two powers. The Roman share was by far the smaller, only about the fifth of the kingdom, but the six satrapies which it comprised filled the deep re-entrant between the upper Euphrates and the upper Tigris, and apart from this strategic gain, peace with Persia was worth paying for. The annexed area was not brought under the normal provincial system. The hereditary satraps continued to rule their people according to Armenian law, and to maintain their own armies. Their new status was marked by the fact that on accession they received the insignia of their office, a purple cloak and silken tunic embroidered with gold, a golden brooch set with precious stones, and purple boots, from the Roman emperor instead of from the Armenian king.⁴⁹

Meanwhile in the West the empire had been troubled by civil war. Valentinian had not reigned long enough to establish a firm dynastic loyalty in the army, and his son Gratian not only succeeded very young—he was only sixteen when his father died—but was unfitted for his responsibilities. He had received a good classical education from Ausonius and could write admirable poems and compose eloquent speeches. He was also a keen sportsman, and practised throwing the spear day and night. His personal character was without blemish. In fact 'he would have been filled with every virtue if he had put his mind to learning the art of government, from which he was alien both by temperament and training'. He alienated the goodwill of the armies by the extravagant favour he showed to a newly raised regiment of Alans, and when an officer of Spanish birth, Magnus Maximus, was proclaimed Augustus by the army of Britain and invaded Gaul, Gratian was deserted by his troops and killed (25 August 383).⁵⁰

Maximus did not push on beyond the Alps, and Italy, Pannonia and Africa maintained their allegiance to Valentinian II, who had been Augustus in name since 375. He was still only thirteen, and his mother Justina appears to have taken over control in his name.

Theodosius made no move to avenge Gratian. He seems to have paid a visit to Italy in the summer of 384, and it was doubtless on his advice that Maximus was officially recognised as Augustus. To compensate Justina for this concession Theodosius apparently ceded the dioceses of Dacia and Macedonia to the government of Valentinian.⁵¹

Maximus kept the peace for three years. After his fall he was denounced by Pacatus for his ruthless fiscal policy, and Sulpicius Severus admits that he was prone to accept capital charges with an eye to confiscating the accused's property, but excuses him on the ground that his predecessors had left the treasury empty, and that he was financially hard pressed by his heavy military expenditure. Otherwise he receives a good character both from Sulpicius and from Orosius—'a vigorous and honest man, worthy to be Augustus had he not risen by usurpation contrary to his oath of allegiance'. But the prefecture of the Gauls did not satisfy his ambitions, and in 387, after vain attempts to inveigle Valentinian into his power, he invaded Italy. Valentinian and his mother fled to Thessalonica. Theodosius yielded to their appeals and next year marched West. Defeated in two battles at Siscia and Poetovio, Maximus retreated to Aquileia, where he capitulated and was executed.⁵²

Theodosius stayed in Italy for three years, leaving the East under the nominal rule of his elder son Arcadius, already proclaimed Augustus in 383, and dispatching Valentinian to Gaul, under the care of the Frankish *magister militum* Arbogast. In 391 he returned to Constantinople, leaving Italy and Illyricum under Valentinian's rule. But in the next year Valentinian quarrelled with his overbearing *magister militum*, who killed him and proclaimed as Augustus one Eugenius, a Roman professor of rhetoric, who then occupied the relatively humble position of *magister* of one of the *scrinia*. In 394 Theodosius reluctantly marched West again and defeated Eugenius and Arbogast at the battle of the Frigidus on 6 September. Less than five months later he died at Milan, leaving the empire to his two sons, Arcadius, whom he had left at Constantinople, and Honorius, whom he had proclaimed Augustus in 393 and brought with him to Italy.⁵³

In both these civil wars the growing importance of federates as against regulars is notable. Pacatus waxes lyrical over the hordes of barbarians, Goths, Huns and Alans, who followed the standards of Theodosius when he marched against Maximus, and Maximus boasted to Ambrose that 'thousands of barbarians fight for me and receive rations from me'. In the second civil war Eugenius employed hordes of federate Franks and Alamans and Theodosius again made large use of Gothic contingents, whom he put in the

forefront of the battle; he cannot have been unduly distressed when ten thousand of them fell in the first engagement.⁵⁴

Theodosius did not, however, neglect the regular army. He seems to have reinforced the *comitatus* with upwards of twenty new regiments: many of these were no doubt replacements for units destroyed in the Gothic wars. He also strengthened the frontier garrisons of Armenia, Mesopotamia, Osrhoene, Egypt and the Thebaid with a number of new regiments: these again no doubt replaced units withdrawn from these provinces to reinforce the *comitatus*. It is less easy to detect the work of Gratian and Valentinian in the West, but three or four units in the field army can be assigned to them.⁵⁵

Among the generals Germans came very much to the front in the West under Gratian and Valentinian II; a leading role was played by two Franks, Bauto and Arbogast, and most of the other *magistri* have German names. In the East Theodosius kept a better balance. He employed a number of Romans, Majorianus, Saturninus, Timasius, Promotus, Abundantius, as well as Germans, such as Richomer and Hellebich, two Goths, Modares and Butheric, and the Vandal Stilicho, who became his right-hand man at the end of his reign. He also promoted orientals: Sapor, by his name a Persian, and Addaeus, whose name is again oriental, were successively masters of the soldiers in the East, and Bacurius, the king of Iberia, rose from *dux* of Palestine to *comes domesticorum* and took part in the campaign against Eugenius.⁵⁶

In the civilian offices the accession of Gratian marked a great change. Valentinian's Pannonian friends did not long survive him, Maximinus the praetorian prefect of the Gauls and Leo the master of the offices being disgraced within a few months. In their place Gratian gave extravagant promotion to his tutor Ausonius and his family and literary circle in Gaul. Ausonius himself, quaestor at the beginning of the reign, became praetorian prefect of the Gauls and then of all Gratian's dominions, with his son Hesperius as his colleague. Hesperius had before this been made proconsul of Africa, and Ausonius' son-in-law Thalassius was made vicar of Macedonia, and then succeeded Hesperius as proconsul. A nephew, Arborius, became prefect of the city. From the same circle came Syagrius, who had served as a notary under Valentinian and been cashiered, but now rose to be master of the offices and praetorian prefect.⁵⁷

Gratian also showed favour to the senatorial aristocracy of Rome. Petronius Probus, after a brief check following the revelation of his misdeeds in Illyricum, went on to hold the prefecture of the Gauls in 380 and that of Italy in 383. Under Valentinian II also the old

senatorial families were favoured. In 384 the great pagan aristocrat Agorius Praetextatus, who had held no office since he was proconsul of Achaëa in 362 and prefect of the city in 367-8, was made praetorian prefect of Italy. In 387 Probus again held the same office—his fourth and last prefecture—and in 391-2 another great Roman noble, Nicomachus Flavianus, held the Italian prefecture: the latter was reappointed to the same post by Eugenius.⁵⁸

Theodosius followed the same general line as Valens and the other emperors who had ruled in the East, employing as praetorian prefects men who had proved their efficiency in lower offices. He promoted two of Valens' men, Eutropius, the historian, who had served him as *magister memoriae* and been proconsul of Asia, and Tatian, the Lycian lawyer whose long administrative career has already been recorded. Others he brought in from the West: Neoterius, who had started as a tribune and notary under Valentinian, the Spaniard Cynegius, who was *magister scrinii* before becoming praetorian prefect, and a Gaul from Aquitania, Rufinus, who gained a great ascendancy over Theodosius towards the end of his reign. He served as master of the offices, probably from 388, and perhaps secured the transfer of the *fabricae* from the department of the praetorian prefect to his own; he was certainly in charge of them in 390. In 392 he procured the disgrace of Tatian, who had been praetorian prefect of the East during Theodosius' absence in the West (388-91), and succeeded to his office, which he still held on Theodosius' death.⁵⁹

Gratian and Theodosius continued Valentinian's work of regulating senatorial precedence; Theodosius in particular issued an immensely complicated constitution fixing the relative rank of those who had actually held dignities and those who had received honorary codicils of dignities, including, to add to the complexity, those who had held a lower dignity with a high titular rank. The four *comites consistoriani* were promoted to form a lower grade of the highest class of prefects and *magistri militum*, and thus acquired the title of *illustres* instead of *spectabiles*. By mutual agreement, or in mutual rivalry, the emperors created three new proconsulates. A proconsul is recorded in Spain and the consular of Campania became a proconsul, both in the latter years of Gratian's reign. Shortly afterwards in 383-5, we find three successive proconsuls of Palestine. This move to vulgarise the proconsulate was however shortlived: in Spain the office was abolished before Gratian's death and only one proconsul of Campania is known.⁶⁰

Gratian and Theodosius also carried further the practice begun by Valentinian of granting senatorial rank to the higher palatine civil servants. In their joint reign all notaries, even the *domestici et*

notarii, became senators. The *proximi* of the *scrinia* were raised from the grade of consulars to that of vicars, and *agentes in rebus* became senators of consular rank on holding the post of *princeps officii*. One of the results of this practice was to bring relatively poor men into the senate, and they complained that they were unable to pay the senatorial surtax, the *collatio glebalis*, even at the lowest rate of two *folles*. It was accordingly ruled that the poorest senators should pay only seven *solidi* a year, but that anyone who regarded this modest contribution as above his means must renounce his senatorial rank.⁶¹

The influx of *curiales* into the senate of Constantinople continued to give the imperial government concern. At first decurions were permitted to enter the senate, provided that they performed their civic offices first and left a son or other substitute to fulfil their duties in their native cities: in 383 this rule was enforced retroactively on all senators enrolled since 360. But in 386 a more drastic policy was initiated. It was then ruled that a decurion who became a senator, leaving a substitute in his city, remained fully responsible for his curial burdens as well as for the burdens of a senator. In 387 senators of curial origin were ordered to return to their cities even when they had left sons there. Finally in 390 it was enacted that *curiales* to whom the emperor had 'granted splendid magistracies' or whom he had 'adorned with the insignia of dignities', should continue to hold the rank so conferred, 'but should remain in the bosom of their native city, and as it were dedicated to a priesthood keep guard over a perpetual mystery', and their sons likewise. Later laws waver as to whether they were technically senators or not. A constitution of 392 declares expressly that they are not to aspire to membership of the senate. Another of 393 allows them to be senators themselves and if they have three sons to make one a senator, provided that all their property remains liable to civic burdens.⁶²

Theodosius' financial position must have been difficult. The ravages of the Goths caused a loss of revenue. In 384 he remitted their *collatio glebalis* to the senators of the Macedonian as well as of the Thracian diocese, and he also abolished the *capitatio* in Thrace, as Valentinian had done in the Illyrican dioceses a few years earlier. On the other hand his military expenditure must have been heavy throughout his reign. On his personal habits we have two entirely contradictory verdicts. Pacatus in his panegyric goes out of his way to praise Theodosius' abstemious habits and to contrast his frugality with the luxury of previous emperors. Zosimus on the other hand declares that his luxury was unprecedented, and that cooks and eunuchs swarmed in his palace. Both versions are suspect, for Pacatus was writing a panegyric and Zosimus hated the great Christian emperor; but both may be true, and Theodosius on

campaign may have been a very different man from Theodosius at Constantinople. Other accounts represent him as lavish: 'he made great gifts in a great-hearted fashion, he loved his fellow citizens and the friends he had known in private life, and bestowed on them offices, money and other benefits', says a contemporary author. Libanius in 381 complained of the prodigious expansion of the palatine services—five hundred and twenty notaries, and *agentes in rebus* beyond counting. All this must have cost money, and there is some evidence apart from Zosimus' rather conventional diatribes that Theodosius' taxation was severe. In 387 the announcement at Antioch of a fresh levy of *aurum coronarium* or *collatio lustralis*, or more probably both, provoked riots in which the emperor's statues were destroyed. Such an unprecedented defiance of imperial authority can only have been the fruit of utter desperation.⁶³

On Valens' death Gratian, as sole emperor in the interval before the appointment of Theodosius, issued from Sirmium a general edict of toleration. In this same period (autumn 378) he received a petition from a council of bishops held by Pope Damasus at Rome, complaining that despite imperial orders Damasus' old rival Ursinus and other bishops of his party were still at large, and openly flouted the pope's jurisdiction: they accordingly requested that the praetorian prefects and vicars should be instructed to arrest and dispatch to Rome bishops who contumaciously refused to appear when summoned. Somewhat inconsistently Gratian granted this request, and next summer he formally abrogated his edict of toleration, and prohibited all heretical conventicles. This constitution was issued from Milan, where he stopped on his way back from Sirmium to Trier, and it may be suspected that it was inspired by Ambrose, the bishop of that city.⁶⁴

From 381 Gratian resided fairly regularly at Milan, and his religious zeal increased. He dropped the pagan title of Pontifex Maximus, and even went so far as to remove the altar of Victory from the senate house once more, and to confiscate the revenues of the Vestal Virgins and other ancient Roman priesthoods. In 382 the senate petitioned for these measures to be reversed, but Pope Damasus organised a counter-petition of Christian senators, and Ambrose was able to hold Gratian to his decision.⁶⁵

After Gratian's death another petition was organised in 384. Symmachus, the prefect of the city, voiced the opinions of the pagans in his famous *Relatio*, but Ambrose's counter-plea prevailed with the young Valentinian II. His relations with the government were, however, soon clouded. Valentinian II's mother Justina was an Arian, and the court at Milan was served by an Arian bishop, Auxentius, whom Theodosius had expelled from

his see of Durostorum in Moesia. Auxentius having requested Ambrose for the use of a church and been refused, Justina in 386 got her son to issue a constitution granting freedom of assembly to those who held the faith declared orthodox under Constantius II at the councils of Ariminum and Constantinople, and proceeded to make an official demand that Ambrose surrender one of his churches. There followed the famous struggle in which Ambrose, supported by his flock, was ultimately victorious. This was the last occasion on which the imperial power was exercised in favour of Arianism, and the heresy fairly soon faded away within the empire. Unfortunately, however, a number of East German tribes, including both branches of the Goths, the Vandals and the Burgundians, had been converted to Christianity while Arianism was the official doctrine of the Eastern empire under Constantius and Valens, and they clung to the faith as they had received it.⁶⁶

Maximus' reign is chiefly notable for his ruthless suppression of the Priscillianists, an esoteric sect given to extreme ascetic practices which had gained considerable strength in Spain. Though condemned by a local episcopal council and rebuffed by Damasus and Ambrose, the leaders of the sect, who were influential persons, succeeded under Gratian in securing through the master of the offices an imperial rescript in their favour. They also gained the support of the local proconsul and the vicar of Spain to such good effect that their principal opponent, Ithacius, bishop of Ossonoba, had to withdraw to Trier, where he tried to enlist the support of the praetorian prefect of the Gauls.

At this juncture Maximus overthrew Gratian, and Ithacius appealed to him. He ordered that a council be held at Burdigala to settle the matter. The sect was condemned, but Priscillian, its leader, appealed to the emperor. He was tried before the praetorian prefect, Ithacius being his accuser, and was convicted of magic and of studying obscene doctrines, frequenting nocturnal meetings of infamous women, and praying naked. The case was reheard by Maximus himself: on this occasion Ithacius was not the formal accuser, the prosecution being entrusted to the *patronus fisci*. Priscillian was condemned and executed, as were four of his principal adherents, including a woman, and but for the insistence of Martin, bishop of Tours, tribunes would have been sent with military forces to Spain to track out and execute the remaining sectaries. Though Priscillian and his followers were technically condemned for secular offences, they were regarded as martyrs by the sectaries, and many catholics strongly deplored the infliction of the death penalty on an essentially religious issue and in particular the vindictive conduct of Ithacius.⁶⁷

Theodosius was a pious, not to say fanatical, Christian, and having spent all his life in the Western provinces where Arianism was universally abhorred, he naturally accepted without question the faith of Nicaea. Very early in his reign, while he was still at Thessalonica, having fallen gravely ill, he summoned Acholius, the bishop of that city, and, having ascertained that his doctrine was sound, was baptised by him. Henceforth his natural piety was reinforced by fear of the dread consequences of sin.⁶⁸

On 27 February 380 Theodosius issued a constitution recommending all his subjects to adopt the faith delivered by St Peter to the Romans, which was now followed by Pope Damasus and by Peter, bishop of Alexandria: the adherents of this faith he declared to be the only catholics, and all others heretics, subject to divine vengeance and, in due course, to his own chastisement. On entering Constantinople later in the year he deposed Demophilus, the bishop of the city, who was an Arian, and recognised Gregory Nazianzen, the leader of the Nicene conventicle. On 10 January 381 he fulfilled the threat contained in his previous constitution, ordering that all churches should be surrendered to bishops of the Nicene faith, which he defined in his own words, and forbidding all whose beliefs were different to hold religious meetings.⁶⁹

Having thus settled the issue on his own authority, he summoned a general council of 150 bishops, drawn from the dioceses of Thrace, Asiana, Pontica, Oriens and Egypt, to meet at Constantinople in May 381. There was in fact little opposition. A great majority of the Eastern bishops was now willing to accept the Western position, and had indeed done so already at a council held at Antioch in the autumn of 379. The council of Constantinople therefore found no difficulty in drawing up a satisfactory definition of the faith. It was also called upon to fill the see of Constantinople, which Gregory Nazianzen resigned, and submitted a list of candidates to the emperor. Theodosius unexpectedly chose an aged and pious senator of Constantinople, named Nectarius, whose name had been added as an afterthought to the list: it caused some embarrassment when it was found that he had not yet been baptised. Finally the council enacted two important canons on the organisation of the church. One declared that in Egypt the bishop of Alexandria should have sole control, and that in Thrace, Asiana, Pontica and Oriens the bishops of each diocese should manage their own affairs without external interference. In the last diocese the primacy of Antioch was confirmed but not defined, but in the others no see was specified as holding authority over the rest. The other canon declared that 'the bishop of Constantinople should

have the primacy of honour after the bishop of Rome, because it was the New Rome', but gave him no sphere of authority.⁷⁰

In accordance with the spirit of these canons Theodosius on 30 July 381 handed over the churches to those bishops who demonstrated their orthodoxy by communion with Nectarius of Constantinople, with Timothy of Alexandria in Egypt, and with selected bishops in Oriens, Pontica, Asiana and Thrace; Antioch was not mentioned because there was an unresolved dispute between two rival claimants to the see.⁷¹

Theodosius was implacable against heretics: no less than eighteen constitutions directed by him against them are preserved in the Code. In general he went no further than to bar their meetings and confiscate their churches or the private houses in which they held their conventicles. Towards Manichaeans he was severer, depriving them of the right to make wills or receive inheritances. Against certain obscurer sectaries, the Encratites, Saccophori and Hydroparastatae, he enjoined utterly ruthless measures; they were to be hunted down and executed. He was also the first emperor to penalise Christians who reverted to paganism, inflicting on them the same penalties as on Manichaeans; in this he was followed by Gratian and Valentinian II.⁷²

Despite his piety Theodosius did not relax the rules governing the ordination of *curiales*. In a constitution dated 383 he re-enacted the rule that *curiales* who wished to take orders must surrender their property, remarking rather sarcastically that it was unfitting that the minds of those devoted to the worship of God should be filled with thoughts of their patrimony, and in 386 he reminded clergy of curial origin that they must endow with their property substitutes to carry their civic burdens. Later he appears to have combed out clergy who had evaded the law, for in 388-9 Ambrose complained that priests and other clergy of thirty years' standing and more were being dragged back to serve on the city councils. Theodosius was evidently moved by this complaint, for in 390 he enacted that priests, deacons or exorcists ordained before 388 might retain their property. Theodosius also shared Valentinian I's distaste for legacy hunting by the clergy, and in 390 enacted that all bequests by deaconesses and widows to the church, individual clerics or the poor should be null and void: this law, however, he rescinded two months later, doubtless under pressure from Ambrose.⁷³

Towards the Jews Theodosius was tolerant, enacting in 392 that governors were not to force the synagogues to receive back members who had been expelled, but to leave all such matters to the heads of the Jewish communities, who were authorised by the Jewish patriarch to settle religious disputes. In 388, on receiving

information that the Christians at Callinicum in Euphratensis had burnt down the local synagogue, he gave orders that the bishop must rebuild it. In this case he was bullied by Ambrose into rescinding the order, but in 393 he instructed the master of the soldiers in the East to punish anyone who destroyed or looted synagogues or prevented Jews from holding their services.⁷⁴

For the first twelve years of his reign Theodosius pursued an ambivalent policy towards paganism. In 381 and again in 385 he enacted severe penalties against sacrifices, whether by day or by night, for purposes of divination. The effect of these laws was that pagans did not venture to offer sacrifices at all: indeed Libanius in his speech on behalf of the temples, written probably in 384, regards them as legally banned. But he insists that other forms of pagan cult, including the offering of incense, were still permitted, and his claim is borne out by a law of 386, which directs that pagans only should be appointed to the high priesthood in Egypt, as they alone would look after 'the temples and the solemn rites of the temples'. No general order for the closure or destruction of temples was issued, but petitions for the demolition of individual temples or their conversion into churches were favourably received, and a blind eye was turned on unauthorised attacks upon them.⁷⁵

The result was that a large number of temples was destroyed, with or without official sanction. We know most of events in the diocese of Oriens. At Antioch Libanius complained bitterly of the groups of monks who were allowed to destroy the rural shrines in the surrounding countryside. The campaign received encouragement from Cynegius, praetorian prefect of the East, who toured Oriens and Egypt in 385. Zosimus is doubtless exaggerating when he states that he had received instructions to close all temples and suppress pagan cult altogether, but he certainly lent official support to Marcellus, bishop of Apamea, in the destruction of the great temple of Zeus, putting at his disposal two regiments of troops to overawe the pagan population. Marcellus was a very active destroyer of temples not only in Apamene territory but further afield, employing troops and hiring gladiators to quell the resistance of the peasantry; he was eventually killed in an attack on a temple in the Massyas valley. Disorders are also recorded at Heliopolis, Gaza, Raphia, Petra and Areopolis, where the local population, who were strongly pagan, vigorously defended their temples against Christian aggressors.⁷⁶

In Alexandria bishop Theophilus obtained permission from Theodosius to convert a temple of Dionysus into a church. He took advantage of this grant to parade the secret paraphernalia of the Dionysiac mysteries through the streets. Rioting between

pagans and Christians followed, and the pagans, led by a philosopher, Olympius, occupied the Serapeum and from this fortress conducted raids on the Christians. Evagrius, the Augustal prefect, and Romanus, the *dux* of Egypt, reported to the emperor, who ordered all the temples of Alexandria to be demolished. Resistance forthwith collapsed, but the pagans still hoped that the divine vengeance would descend on those who laid sacrilegious hands on the colossal bronze statue of Serapis. When, however, Theophilus himself struck the first blow, there only emerged a swarm of rats. The successful destruction of the Serapeum, one of the most sacred shrines of the East, created a great impression, and many pagans were converted.⁷⁷

It was not until 391, when he had been over two years at Milan after the defeat of Maximus, that Theodosius declared open war on paganism: the influence of Ambrose may be suspected. In a constitution dated 24 February all sacrifice was prohibited and the temples closed to the public; magistrates who took advantage of their official position to enter them were made liable to heavy fines. This law was promulgated throughout the empire. After returning to Constantinople Theodosius issued a yet more drastic law on 8 November 392. The ban was extended even to the domestic worship of the lares and penates, to lighting lamps, burning incense or hanging up garlands. If a man did any of these things on his own premises, the house or farm was confiscated: if in a public place or on another's property, he was fined 20 pounds of gold. The *defensor* and *curiales* of each city were ordered to inform the provincial governor of all infractions of the law, and the governor was threatened with a penalty of 30 pounds of gold, and his *officium* with the same fine, if he failed to follow up such information.⁷⁸

By the time that the second law was issued Theodosius was no longer in control of the West. Here Eugenius, whose Christianity seems to have been somewhat superficial, made some rather half-hearted attempts to win the support of the pagans without alienating the church. Petitioned by the senate he at first refused but later consented to restore the altar of Victory. He would not go so far as to return their endowments to the Vestals and priestly colleges, but he granted them to prominent pagan senators—who could put them to their proper use. His principal supporters, however, his *magister militum*, Arbogast, and his praetorian prefect, Nicomachus Flavianus, were both overt and zealous pagans, and the latter ostentatiously revived the pagan cults of Rome. Three contemporary poems testify to the alarm which Christians felt at these hints that Eugenius might prove a new Julian, and Paulinus reports that Arbogast and Flavianus swore that on their victorious return

from the war with Theodosius they would stable their horses in the churches and conscript the clergy into the army.⁷⁹

It was, however, Theodosius who won the day, and the ban on pagan cult was never lifted after 391. Paganism was not killed by the blow. The law was not very efficiently enforced—there were too many pagans or sympathisers with paganism in high places for that—and the cult continued overtly in some places for several generations, and secretly for some centuries. There was moreover as yet no ban on pagan beliefs, and no penalties or disabilities attaching to the open profession of them. Overt pagans could still gain high preferment in the state service, and many long continued to do so. Nor did the pagans utterly lose heart. Nearly a hundred years after the final closing of the temples the pagans of the East still hoped and the Christians still feared that a new Julian would restore the ancient gods.

Theodosius I has been dubbed the Great by posterity, but it is questionable how far he deserves the title. It is difficult to judge between the panegyrics of the ecclesiastical historians, and the venomous prejudice of the pagan Zosimus. The success of his ecclesiastical policy was largely due to the happy chance that the church had already by the beginning of his reign achieved substantial unity, and that his theological views happened to coincide with those of the winning side. His bigoted and fanatical piety was thus directed only against minor groups of sectaries and against the pagans. His piety and his premature baptism made him very vulnerable to the spiritual sanctions with which Ambrose more than once threatened him. Ambrose sometimes acted in a good cause. In 390 Theodosius punished the city of Thessalonica for the lynching of his *magister militum* Butheric by an indiscriminate massacre of its citizens. For this he was compelled by Ambrose to do penance, and it was doubtless on Ambrose's advice that he ruled that death sentences should be stayed for thirty days to allow of second thoughts. In 388, on the other hand, in the affair of the synagogue at Callinicum, Ambrose forced Theodosius into an unjustified breach of the old established policy of the Roman government, which had always recognised and protected Jewish worship. It was fortunate for the empire that the conjunction of a pious emperor and a masterful bishop did not recur.⁸⁰

In the field of finance Theodosius reverted, after the parsimony of Valentinian and Valens, to the lavish extravagance of Constantine and his sons. In the grave military problem which faced him at the beginning of his reign he may be suspected of having shown insufficient resolution and of having with too little thought adopted the line of least resistance.

CHAPTER VI

THE HOUSE OF THEODOSIUS

THE sons and grandsons of Theodosius the Great reigned for more than half a century, until 450 in the East and until 455 in the West. We possess a fairly full and accurate narrative for the first fifteen years of this period in the last two books of Zosimus, who down to 404 is following Eunapius, and thence till 410, when his work breaks off abruptly, Olympiodorus of Thebes. Thereafter our historical record becomes extremely thin. Olympiodorus, whose work covered the years 407 to 425, has survived only in the use made of him by Zosimus and Sozomen, and in meagre excerpts. Of Priscus of Panium, who wrote the history of the years 433 to 474, only fragments—a few substantial—are preserved. The loss of these two histories is greatly to be regretted, as, to judge by the scraps which have come down to us, both were of good quality: Olympiodorus in particular displays an uncommon interest in economic history and a welcome taste for precise facts and figures. For secular affairs—apart from the notices in the ecclesiastical historians, which are abundant in the concluding books of Socrates and Sozomen—we are reduced to Orosius, but his narrative, which becomes more interesting as it reaches his own times, stops in 417. Thereafter we possess only the baldest annalistic chronicles, and the picturesque but highly unreliable narratives of the sixth-century Malalas and later Byzantine historians. For ecclesiastical history we are not much better served. Theodoret's work tails off after the accession of Theodosius II in 408. Sozomen carried his narrative down to 425, and Socrates his down to 439. For the later period there is no historian until Evagrius, who in the last years of the sixth century wrote a work covering the years 431 to 594.

By contrast the legal sources are well preserved. The compilers of the Theodosian Code, which was published in 438, naturally found it easy to obtain copies of constitutions issued during the previous forty years, and their collection is probably fairly complete with one small exception: the Code includes no Western laws sub-

sequent to 432. For the period after the publication of the Code we have forty-six novels (new constitutions) issued by Valentinian III between 438 and 454, and thirty-four novels issued by Theodosius II between 438 and 447, and communicated by him in the latter year to his Western colleague. These novels are of particular interest historically in that they are preserved in full with their preambles, which often give valuable clues to the circumstances which provoked their issue and to the motives of the ministers who drafted them. The novels of Valentinian III are probably a nearly complete record of his legislative output. The Theodosian novels, on the other hand, are not: they are only those laws which Theodosius II communicated to Valentinian III and which the latter promulgated in his dominions. The Justinian Code incorporates (in summarised form) forty-eight laws of Theodosius II issued between 438 and 450 which are not preserved in the collection of Theodosian novels.

The *Notitia Dignitatum* acquires particular value for this period as a contemporary source. The lists for the Eastern parts seem to have been drawn up at the beginning of Theodosius II's reign and to have undergone little if any revision thereafter. Those for the Western parts were probably drawn up at the same date, but were kept up to date in a very unsystematic fashion down to the end of Honorius' reign. Their inconsistencies provide some clues to the changes in the military organisation of the Western empire during the period.

For the years 395 to 404 a certain amount of information can be gleaned from the poems of Claudian in praise of his patron Stilicho and in defamation of his patron's enemies, Rufinus and Eutropius. The fragments of the verse panegyrics of another poet, Merobaudes, shed a little light on the early part of Valentinian III's reign. The address delivered to Arcadius in 399 by Synesius of Cyrene and his curious allegory *The Egyptian Tale* give valuable information about the revolt of Gainas and the party politics of the day.

Synesius' letters, especially those written later, when he was bishop of Ptolemais (410-13), illuminate the troubled state of Cyrenaica. There survive several other collections of correspondence which throw valuable light on contemporary conditions in various parts of the empire. The letters written by John Chrysostom during his exile (404-7) give a vivid picture of the ravages of the Isaurians in eastern Asia Minor. From the correspondence of Augustine when he was bishop of Hippo (395-430), and his polemical writings on the Donatist controversy, we learn much of Africa in the generation which preceded the Vandal con-

quest. Jerome continued until his death in 420 to pour out a steady stream of letters from Bethlehem to correspondents all over the empire, and particularly to his aristocratic friends in Rome. The voluminous correspondence of Paulinus of Nola (394-431) contains less of interest to the secular historian, but the letters of Theodoret, bishop of Cyrthus from 423 until 457, tell us much about life in Syria.

There exist a number of contemporary biographies. Possidius, bishop of Calama, wrote a life of Augustine which adds something to what we know of its hero from his own writings. The biography of Melania the younger, a lady of a great Roman family, and of her equally noble husband, Pinianus, who in 404 decided to sell all their goods and give the money to the poor, and who later settled in Palestine, gives a vivid and circumstantial picture of the immense wealth of the senatorial aristocracy of Rome. In his metrical autobiography Paulinus of Pella tells of his youth as a wealthy landowner in Aquitania and of the troubles which overwhelmed him when the Visigoths invaded the country. The life of Germanus of Auxerre, who after practising at the bar and governing a province became bishop of his native city in 418, and died in 448 on a mission to Ravenna, though it was not written until a generation later, is of particular interest as giving a glimpse of life in northern Gaul and even Britain (which Germanus twice visited) in the first half of the fifth century.

In the Eastern half of the empire the biography of Porphyry, bishop of Gaza, by his deacon, Mark, gives a vivid picture of the pagan city of Gaza and of the court and government at Constantinople in the reign of Arcadius. The *Dialogus* of Palladius, bishop of Helenopolis, contains a detailed and interesting first-hand account of John Chrysostom's tenure of the see of Constantinople and of his fall from power. Useful information is also to be found in the life of Hypatius, who became a monk in Thrace in 386 and early in Arcadius' reign founded a monastery near Chalcedon, where he died in 426. Theodoret's *Historia Religiosa*, a series of short biographies of the holy men of Syria before and in his own day, not only throws light on the eremitic and monastic movements, but contains much anecdotal material illustrative of the social and economic history of the age.

Much light is thrown on the organisation and discipline of the church by the canonical letters of the popes from Siricius to Leo I, and by the acts of numerous councils. Of particular value are the verbatim records of the First Council of Ephesus in 431, and those of the Second Council of Ephesus in 449, and of other lesser councils, which are incorporated in the *Acta* of Chalcedon. These

include a number of petitions and complaints which vividly depict the seamier side of clerical life.

Sermons and moral treatises on the whole yield disappointingly little material of historical interest. A notable exception to this rule is Salvian's *De Gubernatione Dei*. His denunciation of the sins of the Romans, though rhetorical and exaggerated, gives nevertheless a striking picture of the social evils of the Western empire in the middle of the fifth century.

None of the male descendants of Theodosius the Great inherited his ability or force of character: they reigned rather than ruled the empire. Most of them suffered from the disadvantage of succeeding to the throne at an immature age. Arcadius was seventeen or eighteen when his father died and left him to reign in Constantinople. His brother Honorius, who inherited the West, was only ten. Arcadius died in 408, leaving the throne to his son Theodosius II at the age of seven. Honorius survived till 423, but his nephew Valentinian III was only six when he was installed in his place as Augustus in 425. There was thus a series of long minorities, and not one of the four emperors succeeded in later life in emancipating himself from the tutelage of ministers or favourites. Arcadius and Honorius were personally decent, respectable men, but weak and sluggish. Valentinian III seems to have been idle, irresponsible and dissolute. Theodosius II received high praises from contemporary Christian writers for his devout piety. His palace was like a monastery, we are told: he and his sisters rose early every day and sang psalms together. The emperor fasted frequently, especially on Wednesdays and Fridays; he knew the Scriptures by heart and collected a huge library of theological works: and he made a practice of pardoning all criminals condemned to death. Such amiable qualities did not make a good emperor.

The women of the family had more character and some of them played an important part in politics. Pulcheria, Theodosius II's elder sister, was even more pious than he—his piety indeed was largely the fruit of her resolute training—but she had strength of character, and seems during the middle years of her brother's reign to have directed affairs in his name. Galla Placidia, half-sister of Honorius and mother of Valentinian III, ruled the empire for some ten years during her son's minority.¹

Nevertheless, though they did not rule, simply by reigning the emperors performed a useful function. As descendants of the great Theodosius and legitimate heirs to the throne they attracted the loyalty of their subjects, and in particular of the army, and their existence acted as a check against usurpations and civil wars. In

the East the child Theodosius II succeeded without question to Arcadius, and the authority of both was unchallenged. By the time that Theodosius II died, leaving no male heir, a strong dynastic sentiment had grown up, and his successor, Marcian, thought it wise to strengthen his position by marrying Pulcheria. In the West the military disasters which overwhelmed the empire, and the inability of the legitimate government to cope with the situation, produced a crop of 'tyrants' between 407 and 413, but they all proved ephemeral. As soon as Honorius' armies appeared on the scene they were quickly subdued and their troops returned to their lawful sovereign's command.

When Honorius died in 423 there was no male member of the Theodosian house on the spot, for Honorius had recently quarrelled with Galla Placidia, and she had taken refuge in the Eastern parts with her little son. In these circumstances an outsider, John, the *primicerius notariorum*, was proclaimed, but his rule was short. When the government of Theodosius II decided to back the claim of the young Valentinian III, a brief campaign sufficed to suppress the pretender and to install the legitimate heir, whose authority thereafter remained unchallenged.

In the West the men who actually ruled the empire in the name of the fainéant monarch were almost always generals. In the East the generals played no prominent role and the reins of power were usually held by civilian ministers, the praetorian prefects or the masters of the offices, or by eunuchs of the palace. The contrast was in part due to the circumstances in which Theodosius I died. He had just conquered the usurper Eugenius, and the bulk of the field armies of the entire empire were in the West, under the supreme command of Stilicho, his chief *magister militum*. Stilicho was, moreover, a trusted friend of the late emperor, who had given him his niece Serena in marriage and had charged him on his death-bed to protect the interests of his heirs. Stilicho's authority was thus unchallenged, and he naturally made use of it to make permanent the temporary concentration of military power which circumstances had put into his hands.

The precise constitutional forms are not altogether clear. In the Notitia Dignitatum there are two *magistri praesentales* in the West. The *magister peditum* commands all the infantry units of the field army in whatever province they are stationed: the *magister equitum* commands all the cavalry units. The *magister peditum* has also under his command all *comites rei militaris* in charge of regional groups of the field army, and all *duces* of the frontier troops. Furthermore in nearly all the *officia* of the *comites* and *duces* the *princeps, commentariensis* and two *numerarii* are men annually seconded from the

officia of the two *magistri praesentales*. This last arrangement was certainly an innovation due to Stilicho, for a law of 398 enacts its introduction into the *officium* of the *comes Africae* as in the remaining military *officia*: up to then Gildo, who was already before Theodosius' death in command of the troops in Africa with the exceptional rank of *comes et magister utriusque militiae per Africam*, had been too powerfully entrenched to meddle with, but after the suppression of his revolt the office which he had held was brought under the same centralised control as the rest.²

The arrangements in the Notitia seem scarcely workable. On the one hand the *magister peditum* has authority over all regional army commanders, on the other the *magister equitum* is his equal in rank, commands the cavalry regiments in the regional armies, and shares with the *magister peditum* the control of the regional military *officia*. The system could only work if the *magister equitum praesentalis* was a subordinate of the *magister peditum*, and in fact he certainly was so. The *magistri equitum praesentales* of this period are very obscure characters: Jacobus is known to history only because Claudian wrote an epigram about him in 401, and Vincentius because he was lynched in 408. The laws and inscriptions show how the apparent difficulty was solved. Stilicho is always styled (*comes et*) *magister utriusque militiae*: he united both offices in his person, and had a subordinate colleague as *magister equitum*.³

Stilicho fell abruptly from power in 408. The chief author of his fall was Olympius, master of the offices, who spread rumours amongst the troops that the great general was a traitor who was planning to usurp the throne. Olympius for a brief while controlled Honorius, and to secure his power appointed two nonentities, Varanes and Turpilio, to be *magistri peditum* and *equitum* respectively. Varanes was shortly afterwards dismissed and replaced by Turpilio, and an equally obscure Vigilantius was made *magister equitum*. It is probable that Olympius separated the infantry and cavalry commands which Stilicho had united. Olympius' failure to cope with Alaric soon discredited him and the palace eunuchs secured his dismissal.⁴

Jovius, the praetorian prefect of Italy, now had the ear of Honorius, and he engineered a mutiny in which the troops demanded the removal of the two generals whom Olympius had appointed and also of the two eunuchs who had brought about his fall. Jovius in his turn appointed two nonentities, Valens and Allobich, to be *magistri*, but gave the former the powers of *magister utriusque militiae*. At this point (410) our narrative fades out, but the interlude of civilian control of the government was brief. In 411 Constantius appears as master of the soldiers conducting a

campaign against the usurpers in Gaul, and for the next ten years, until his death in 421, he ruled the Western empire. By 415 he enjoyed the rank of patrician. This rank, which was rarely, if ever, granted to other generals, henceforth became a normal distinction for the supreme commander, who was thus differentiated from the other *magistri*, even when they also received the title of *magister utriusque militiae*. Henceforth the emperor normally spoke of his commander-in-chief as 'our patrician' or 'our parent and patrician', and 'the patrician' was his usual everyday title. Constantius, on 1 January 417, married Galla Placidia, the emperor's half-sister, and on 8 February 421 was crowned Augustus by his brother-in-law. He died a few months later, however.⁵

Constantius was succeeded as *magister utriusque militiae* by Castinus, who probably also succeeded to his power; at any rate he was suspected of having promoted the proclamation of John and shared the usurper's fate. The next few years saw the rise to power of Aetius, but unfortunately our sources are too meagre and fragmentary to trace the process with any accuracy. Aetius' power seems to have been based not so much on his military ability, which was undeniably great, as on the close relations which he had formed with the royal family of the Huns, in whose court he had spent some years as a hostage in his youth. In virtue of this connection he was dispatched by the usurper John to solicit aid from the Huns. Before his return John had been defeated, but Aetius arrived with 60,000 Huns (the number may be taken with a grain of salt) at his back and was thus able, despite having taken the wrong side, to force Galla Placidia to condone his treason and to make him *magister equitum* in Gaul. As *magister utriusque militiae praesentalis* Placidia appointed Felix, a dim figure whose chief merit was probably submissive loyalty.

Four years later Felix was granted the rank of patrician, but Aetius was moved to Italy as the second master of the soldiers, and next year Felix was killed; the chronicles suggest that Aetius was behind the murder. Placidia retorted by summoning Boniface, who was an old and loyal supporter of hers, from Africa and making him patrician. There followed an open battle between Boniface and Aetius in which the latter was defeated, but Boniface soon died from wounds received in the battle and was succeeded by his son, Sebastian. Aetius had meanwhile once again sought aid from his Hunnic friends, and returning to Italy was able to force Placidia to dismiss Sebastian and reappoint himself as *magister utriusque militiae* and patrician. From this year (probably 433) Aetius ruled the Western empire for over twenty years, until in 454 he was treacherously assassinated by Valentinian himself, aided by his chief eunuch.⁶

Towards the end of his career Stilicho had been suspected of collusion with Alaric and had incurred the hostility of the Roman troops by his reliance on German federates, and after his fall he was branded as a traitor who had deliberately betrayed the interests of Rome to his German kinsfolk. It is evident that this propaganda campaign had its effects. After Stilicho's fall the supreme command was never, so far as we know, held by a German. The commanders-in-chief all have Roman names, and those whose origins we know were certainly Romans: the two greatest were of Illyrian birth, Constantius coming from Sirmium in Pannonia, and Aetius from Durostorum in Moesia. Even in the lesser commands Germans are rarely found during this period. Allobich was *magister equitum* for a brief period shortly after Stilicho's fall. The Goth Ulfilas held the same office under Constantius in 411, and Gaiso is recorded in 413: Sigisvult, another Goth, was second in command as *magister utriusque militiae* to Aetius during most of his period of ascendancy. The other *magistri* recorded all appear to have been Romans.⁷

Under Honorius the higher civilian offices seem for the most part to have been filled by men who had worked their way up from modest beginnings, and had acquired some administrative experience in the process. But from the accession of Valentinian III the praetorian prefecture of Italy was almost monopolised by members of the great senatorial families, Flavius Anicius Auchenius Bassus, Rufinus Antonius Agrypnius Volusianus, Caecina Decius Acinatius Albinus, Anicius Acilius Glabrio Faustus, Nicomachus Flavianus and Petronius Maximus. Such men were obviously not chosen for their ability, and were unfitted by their whole upbringing for the laborious work of administration. They were, moreover, often given high offices in extreme youth—Petronius Maximus was made *comes sacrarum largitionum* in his early twenties and held the praetorian prefecture without any serious administrative experience, and Anicius Faustus had previously occupied only the more or less ornamental office of prefect of the city.⁸

At the death of Theodosius the Great the situation in the East was quite different. When he marched against Eugenius, Theodosius had taken the bulk of the field army with him and had left Rufinus, the praetorian prefect, in charge of affairs under the nominal rule of Arcadius. Rufinus' ascendancy was brief, for when the Eastern troops were recalled at the end of 395 he was assassinated, probably at Stilicho's suggestion, by Gainas, the Gothic officer who led them. Gainas, however, did not step into Rufinus' shoes. The *praepositus sacri cubiculi*, Eutropius, had already under

Rufinus' rule gained the confidence of Arcadius, and he now assumed the control of affairs. He was naturally suspicious of generals—he secured the disgrace and exile of two of Theodosius' leading commanders, Timasius and Abundantius—and it was he, no doubt, who created the organisation of the military commands which we find in the *Notitia*.⁹

This followed the same general lines which had hitherto prevailed in the East. There were two *magistri praesentales*, and *magistri* commanding the armies of the Eastern frontier and of Thrace, and also of Illyricum, which was now attached to the Eastern empire. What was perhaps a novelty was that five commanders all held the same rank of *magistri utriusque militiae*, and each commanded a mixed army of horse and foot of approximately the same size. A balance of power was thus established, the central army being divided into two parts, each equivalent to a regional army. The system worked well in that it was difficult for any general to acquire undue power, and it remained unchanged until Justinian's day.¹⁰

Despite these precautions Eutropius' fall was brought about by a general, Gainas the Goth, who had been rewarded for his services by being appointed one of the *magistri militum*. The story of his revolt, though told in considerable detail by Zosimus (following Eunapius), by Socrates (who apparently used two epic poems written to celebrate Gainas' fall), by Sozomen, and in an allegorical form by Synesius in his *Egyptian Tale*, is highly involved and most obscure.¹¹

Gainas took advantage of the revolt of a body of Goths settled in Phrygia under the leadership of their commander, Tribigild, who had a personal grudge against Eutropius. Charged, with an incompetent colleague, Leo, to suppress this rising, he allowed it to grow to formidable proportions, and eventually declared that he could not control the situation unless Tribigild's demand for the dismissal of Eutropius was satisfied. This demand caused little difficulty. Eutropius had recently fallen foul of the empress Eudoxia, and he was hated by the senatorial aristocracy: powerful eunuchs were always disliked, and Eutropius increased his unpopularity by flaunting his power, having gone so far as to nominate himself consul for 399. He was duly disgraced and exiled. But Gainas was again foiled. Apart from their common hostility to Eutropius the senators were divided. There was a group led by Caesarius, who were prepared to use Germans to attain power, and another group, led by Caesarius' brother, Aurelian, who regarded the Germans in the service of the empire as the major menace to its integrity. The latter group prevailed, and it was Aurelian who

was appointed praetorian prefect to succeed Eutychianus, who had served under Eutropius.

Gainas was now forced to come into the open. He overtly joined forces with Tribigild and marched on Constantinople, demanding that Aurelian and others of his enemies be surrendered to him. Arcadius yielded: Caesarius became praetorian prefect, and Gainas entered the capital with his Gothic followers—federates who had formed part of his original army and Tribigild's men. Gainas' supremacy only lasted about six months. Though he took the precaution of stationing the Roman regiments of his army at a distance from the capital, he was apparently nervous of his security in the hostile city, and eventually in a moment of panic he withdrew. The cause of his alarm, we are told by the Christian historians, was the appearance of a host of angels, who were mistaken for Roman troops. Gainas left instructions for his Goths to follow him unobtrusively in successive small detachments. But a chance fracas between a party of retreating Goths and some citizens provoked a popular rising, in which the remaining Goths, trapped in the city, were massacred. Arcadius recalled Aurelian to the praetorian prefecture, and a new *magister militum* was appointed to succeed Gainas. He was oddly enough another Goth, named Fravitta, who had seen long service under Theodosius I in the East.

Our detailed record ceases at this point, and we do not know who held the reins of power during the rest of Arcadius' reign. But it is probable that from 405, when he became praetorian prefect of the East, Anthemius, who had already been *comes sacrarum largitionum* and master of the offices, controlled affairs. He is recorded as a patrician from 406, and was certainly well in the saddle when Arcadius died in 408, and was virtual regent, as Socrates tells us, for the infant Theodosius II for the first six years of his reign. Altogether he held the prefecture for nearly ten years continuously, a most exceptional tenure. When he disappeared from the scene in 414, probably by death, it would seem that Pulcheria, who was proclaimed Augusta in that year, took over the control of affairs. The praetorian prefects from now onwards were changed every two or three years, and none of them seems to have been influential. On the other hand Helio, who became master of the offices in the same year, continued to hold that post for the unprecedented period of at least thirteen and perhaps for fifteen years: he, like Anthemius, was honoured with the patriciate. Though little is known of him except that he went to Rome in 425 to crown Valentinian III as Augustus, it seems likely that he was, under Pulcheria, the effective prime minister during all his period of office.¹²

It is not clear who, if anyone, succeeded to Helio's position. Pulcheria continued for another ten or twelve years to be influential, and the empress Eudoxia, who had a mind of her own, seems also to have played some part in politics. Her brother Valerius was consul in 432 and master of the offices in 435, and her friend the poet, Cyrus of Panopolis, held the combined offices of prefect of Constantinople and praetorian prefect of the East from 439 to 441, holding the consulship in the last year. Soon after this Chrysaphius, one of the palace eunuchs, succeeded in disgracing Cyrus and in alienating the emperor from his sister and his wife. Chrysaphius exercised the supreme power for the rest of Theodosius' reign, apparently in conjunction with Nomus, who was master of the offices during the same period. In a petition addressed to the Council of Chalcedon the nephews of Cyril, patriarch of Alexandria, attribute their woes to Chrysaphius and Nomus 'who held the affairs of the world in his hands at that time', that is, shortly after Cyril's death in 444. According to Theodore Lector 'Chrysaphius and the party of Nomus the consul, being violent partisans of Eutyches, persuaded Theodosius to call the council of Ephesus' in 449.¹³

In the reigns of Arcadius and Theodosius II a hereditary aristocracy was beginning to form from the sons and grandsons of the new men who had risen to the top in the fourth century. Caesarius and Aurelian, who alternately held the praetorian prefecture of the East in the early years of Arcadius, were the sons of Taurus, the humbly born notary who had been promoted by Constantius II, and in the next generation Aurelian's son Taurus was *comes rei privatae* in 416 and praetorian prefect of the East in 433-5. The great Anthemius was grandson of another of Constantius II's new men, Philip. His son Isidore was proconsul of Asia, prefect of the city, praetorian prefect of Illyricum (423-4), and finally praetorian prefect of the East (435-6). Such men, however, by no means monopolised the high civilian offices. We know too little of the origins and careers of the praetorian prefects and other great officers of state in this period to speak with any certainty, but the list includes many otherwise unknown names, and we can infer from the laws that men of curial origin were still in this period rising to illustrious offices in some numbers.¹⁴

The government, it is true, made many efforts to stem the indiscriminate admission of decurions to the senate. In 398 it forbade them to aspire to provincial governorships, which all by this time carried senatorial rank, even *praesides* having become *clarissimi*. In 416 and again in 418 it prohibited the grant of codicils of the clarissimate to them. These laws did not however debar *curiales* from the two higher grades of the senatorial order, and in 436 it

was enacted that *spectabiles* and *illustres* of curial origin already in the senate should retain their privileges, but that in future decurions who became *spectabiles* should remain personally responsible for their curial duties, while those who obtained honorary illustrious offices should perform them by deputy. In 439 an absolute ban was placed on decurions entering the senate, but it was evidently not maintained, for in 444 honorary illustrious offices were forbidden to decurions. It is significant that in the laws of 436 and 444 no mention is made of the position of *curiales* who held active illustrious offices. From a law of Leo it appears that not only were they permitted to hold them, but that by so doing they, with their sons born after their tenure of office, were freed from their curial obligations.¹⁵

After the fall of Gainas there was, it would seem, a revulsion against the employment of Germans in the high military commands. Even Fravitta, Gainas' conqueror, was shortly cashiered and executed, and thereafter for about twenty years we hear of no German generals in the East. Our information is admittedly very incomplete, but we know that in 415 the two *praesentales* were Florentius and Sapricius, while in the Eastern command Lupianus (412) was followed by Hypatius (414-15), and in Thrace Constans was *magister* in 412.¹⁶

By the 420s the feeling against German *magistri militum* had evidently waned. In 421-2, of the generals who conducted the operations against Persia two, Areobindus and Ardaburius, were Germans and two, Vitianus and Procopius, Romans. In 425 Ardaburius was entrusted with the campaign against the usurper John, together with his son Aspar and a Roman general, Candidianus. In 431 Aspar commanded an expedition to Africa. In 441 the two *praesentales* were both Germans, Areobindus and Aspar; in that year Areobindus operated against the Vandals, assisted by one German, Ansila, and one Roman, Germanus. Aspar continued to be *magister militum praesentalis* until 471, and it was not until the last years of Theodosius II's reign that the other praesental command was filled by Romans, Apollonius and Anatolius. Other German *magistri* who figure in the history of these years are Plinthas, a Goth, who was consul in 419 and still an important figure in 434, John the Vandal and Arnegisclus, who were successively *magistri* in Thrace in 441-7, and Agintheus, *magister* in Illyricum in 449. On the other hand the Eastern command seems to have been reserved to Romans: we know of Procopius (422-4), Dionysius, a Thracian (428-33), Anatolius (438-43) and Zeno, an Isaurian (449).¹⁷

There was in point of fact no political objection to the appointment of German generals during the last thirty years of Theodosius

II's reign, when the principal enemies of the empire were the Huns, whom the Germans had every reason to hate as much as the Romans. Moreover, since the expulsion of the Goths in 400 there was no large homogeneous block of Germans in the service of the empire on whom an ambitious general could base his power. The barbarian *magistri*, so far as we know, served the empire to the best of their ability, and there is no hint that their loyalty was suspected. Some of them held office for very long periods—Areobindus already held a high command in 422 and was still in office as *praesentalis* in 441, while Aspar, who first appears as his father's lieutenant in 425, was *praesentalis* down to the end of the reign. Moreover the leading German generals formed a close-knit family group—Aspar was not only the son of Ardaburius, but a kinsman of Plinthis and Areobindus. Nevertheless they seem during Theodosius' reign to have exercised no political influence: it was not until the Theodosian house was extinct that Aspar's ambitions for power became evident. They seem during the long years that they spent in Roman service to have become thoroughly assimilated, and several of them founded families whose members blended with the senatorial aristocracy.¹⁸

From the death of Theodosius the Great the Eastern and Western halves of the empire were not reunited under a single ruler until Justinian reconquered the greater part of the Italian prefecture from the barbarians. The significance of this fact can be exaggerated, for in the 110 years since Diocletian had handed over the rule of the West to Maximinian in 285 the empire had been united only for brief periods—in the latter part of Constantine's reign (324-37), from the death of Magnentius to the division of the empire between Valentinian and Valens (353-64), and for the last few months of Theodosius the Great's life. During most of the period when the sons and grandsons of Theodosius ruled the two halves of the empire relations between East and West were as close as they had hitherto normally been, and on several occasions the Eastern government gave military support to the Western. Anthemius sent 4000 men to aid Honorius against Alaric in 409; Theodosius II's government sent a large expedition to crush the usurper John and install Valentinian III in 425; and on two occasions, in 431 and 441, it sent important forces against the Vandals in Africa. But for the first thirteen years after Theodosius' death, while Stilicho ruled the West, there was friction between the two governments which had serious results.¹⁹

Stilicho claimed that Theodosius the Great had on his death-bed commended to his care both his sons. He furthermore claimed that the dioceses of Macedonia and Dacia belonged to Honorius' share of the empire: the rights and wrongs of the dispute are most obscure, but it would seem that the two dioceses had normally hitherto belonged to the Western Augustus, but had during Theodosius' campaign against Eugenius been administered from Constantinople, and were retained by Arcadius' government on the grounds that no express change had been ordered by Theodosius. In the circumstances it was inevitable that Rufinus and his successors should have regarded with deep suspicion any intervention by Stilicho in Arcadius' dominions, and especially in the disputed dioceses.²⁰

This situation gave Alaric, king of the federate Visigoths, who had been settled in the northern part of Thrace, an admirable opportunity to advance his own interests and those of his people by playing off one government against the other. The early stages of the story are obscure. Alaric started by ravaging southern Thrace and threatening Constantinople, but soon marched westwards to Greece. Stilicho promptly moved against him with the united forces of East and West, and had him at his mercy in Thessaly, if Claudian is to be believed, when he received orders from Arcadius to return the Eastern army to Constantinople, and himself withdraw. Stilicho obeyed, but saw to it that Rufinus, who had dictated Arcadius' message, was removed. He now had at his disposal only the Western army, which must after its recent defeat under Eugenius have been in a poor state. Recruits were conscripted on a large scale and deserters rounded up, and in 397 Stilicho felt strong enough to send a force by sea to Greece. Again, according to Claudian, he had Alaric at his mercy, but once again he was ordered to withdraw. Eutropius was as unwilling as Rufinus to allow Stilicho to establish himself in eastern Illyricum, and preferred to use the Visigoths against him rather than see them destroyed. He now appointed Alaric *magister militum per Illyricum*, thereby allowing him to build up his strength and above all to arm his followers from the Roman arsenals.²¹

Another malcontent who exploited the tension between the Eastern and Western governments was Gildo, the Moorish chieftain who had ten or twelve years previously secured the post of *magister utriusque militiae per Africam* as a reward for the help which he had given to the Roman government in suppressing his brother Firmus' revolt. In 397 he withheld the corn which fed the city of Rome, and transferred his allegiance to Constantinople. Eutropius perhaps instigated and certainly welcomed his adhesion and issued

edicts in Arcadius' name giving him moral support, though he sent him no material aid. To meet this emergency there was another call-up, in which not even the tenants of the *res privata* were allowed to commute the recruits due from them for gold, and senators were called upon to surrender some of their slaves for military service, a most exceptional step. Actually, in deference to the protests of the senate, neither provision was enforced, and senators were allowed to pay gold in lieu both of the *coloni* and of the slaves who should have been levied from them, and the tenants of the imperial lands were also let off with a money payment. In the event a very small force, seven regiments or perhaps 5,000 men, sufficed to reduce Gildo. The victory was due to his own brother Mascazel, but Stilicho did not repeat the mistake of his predecessors. Mascazel was fêted for his achievement, but was killed in an opportune accident. The African command was reduced to its previous status of a *comitiva rei militaris* and brought under the control of the *magister praesentalis*: in 401 it was entrusted to a brother-in-law of Stilicho, Bathanarius.²²

After five years Alaric had probably sucked the poverty-stricken Dacian and Macedonian dioceses dry, and he turned his eyes westwards for opportunities of richer booty or blackmail. In the autumn of 401, taking advantage of Stilicho's absence in Raetia, he marched into Italy and besieged Milan. Next year Stilicho, having collected reinforcements from Gaul and even from Britain, defeated him at Pollentia and again at Verona, and Alaric, having suffered heavy losses by casualties, disease and large-scale desertions, was allowed to withdraw; where he spent the next few years is not recorded.²³

Three years later, in 405, another barbarian chief, Radagaesus, invaded Italy from the north with a huge horde of Germans of various tribes, causing vast destruction and even greater panic. In face of this peril very exceptional measures were taken to reinforce the army. The provincials were invited to enlist as volunteers, apparently on a temporary basis, and were offered a bounty of 10 solidi, 3 on joining up and the rest on discharge. Slaves also were urged to join the colours, being promised their freedom and a bounty of 2 solidi. Next year Stilicho, having collected thirty regiments at Ticinum, and reinforced them with bands of Alan, Gothic and Hunnic federates, decisively defeated Radagaesus at Faesulae. Vast numbers of his men were killed or enslaved, and 12,000 were enrolled in the Roman army.²⁴

During the following winter Stilicho, encouraged by these successes, determined to make good his claim on Dacia and Macedonia by force of arms. Jovius was appointed praetorian prefect of

Illyricum, Alaric was given the rank of *magister militum* and ordered to occupy Epirus and there await the arrival of Roman troops from Italy. But during the same winter hordes of Vandals, Sueves and Alans crossed the Rhine and, sweeping over Gaul, created a desolation of which lurid accounts have come down to us; and what was even more alarming, the army of Britain proclaimed a series of pretenders, Marcus, Gratian, and finally Constantine, who crossed over to Gaul in 407 and endeavoured to round up the barbarian invaders. In these circumstances the Illyrian expedition had to be postponed and Alaric saw an opportunity for blackmail. Complaining that he and his force, having occupied Epirus, had been left in the lurch and obliged to retire, he claimed 4,000 lb. gold as compensation. The demand was outrageous, but the sum was not an exorbitant price to pay in order to retain Alaric in Roman service at this critical juncture; 4,000 lb. gold was the annual income of a wealthy senator. Stilicho put the proposition to the indignant but submissive senate and, having made them share the odium by their agreement, paid up.²⁵

Next year the pretender Constantine extended his rule to Spain, where one of his *magistri militum*, Gerontius, and his son Constans, whom he had proclaimed Caesar, established his authority. In the same year the news of Arcadius' death reached Italy. Honorius was anxious to go to Constantinople and exert his authority as uncle of the infant Theodosius II, but Stilicho, who wished to undertake the mission himself, urged that the situation in the West, with a usurper in Gaul and Alaric ready to pounce, required the emperor's presence. He accordingly suggested that Honorius should stay in Italy, that he himself should go to Constantinople, and that Alaric should be sent with his Visigoths, and other generals with Roman troops, to subdue Constantine. But by now Stilicho's favour with the emperor and his prestige and popularity with the troops had waned, and Olympius was able to instigate a mutiny and finally to secure Stilicho's arrest and execution.²⁶

The Roman troops, who had long been jealous of the barbarian federates, now wreaked their spite upon them by massacring their families, and the federates, over 30,000 strong, we are told, marched off to join Alaric. Despite this accession of strength Alaric was prepared to come to terms with the imperial government. He demanded only a moderate sum of money (we are not given the figure) and leave to transfer his tribe from Noricum to Pannonia. Honorius, advised by Olympius, haughtily refused this offer, but made no preparations to meet the attack which his refusal would provoke. Alaric marched swiftly on Rome and blockaded the city. The senate, left to its own devices, eventually had to buy him off

with 5,000 lb. gold, 30,000 lb. silver, and other gifts in kind, including 3,000 lb. pepper, on receipt of which Alaric agreed to withdraw, on condition that the senate induced the emperor to renew his alliance with him.²⁷

Olympius, though pressed by two successive embassies from the senate, postponed negotiations, but took no effective steps to retrieve the military situation. He endeavoured to garrison Rome with five regiments withdrawn from Dalmatia, but they were intercepted by Alaric and destroyed. He failed to prevent Alaric's brother Athaulf from bringing in reinforcements. Olympius fell from power, and Jovius, his successor, decided to treat. Alaric now demanded a grant of gold and of corn and the settlement of his men in the provinces of Venetia, Noricum and Dalmatia. Jovius recommended Honorius to conciliate him by making him *magister utriusque militiae*, but Honorius rejected this suggestion in insulting terms, which Jovius unfortunately read aloud to Alaric. Alaric again marched on Rome, but alarmed by the news that Honorius had secured the aid of 10,000 Huns, renewed negotiations through Innocent, bishop of Rome. His terms were now much more modest, an annual grant of corn only and no gold, and only the two provinces of Noricum, which as he pointed out, were greatly devastated and paid little revenue. Jovius, however, to atone for his previous undue weakness, had sworn by the emperor's head never to treat with Alaric, and refused the offer.²⁸

Since Honorius could not be induced to treat, Alaric decided to create another emperor who would give him what he wanted. By the threat of starvation the senate was persuaded to elect his nominee, Attalus, then prefect of the city, and Attalus duly appointed Alaric his *magister militum*. It remained to assert the authority of the new emperor in the provinces and to dispose of Honorius. Neither task proved easy. An expedition to Africa, control of which was vital to Rome, was defeated, and Honorius, who had received a reinforcement of 4,000 men from the Eastern government, held out obstinately in the almost impregnable city of Ravenna. Alaric found that he had gained nothing by creating an emperor, and decided to see what he could secure from Honorius by deposing Attalus. An interview took place near Ravenna, but unfortunately it was interrupted by Sarus, a Gothic chieftain who had deserted Alaric for the imperial service. Infuriated, Alaric for the third time marched on Rome, and this time entered into no negotiations, but sacked the city (410).²⁹

The sack of Rome sent a thrill of horror throughout the empire, but it was Alaric's last achievement. In the same year he died at Consentia after a vain attempt to cross into Sicily, and his brother

Athaulf, who was elected his successor, decided in 412 to abandon Italy and try his fortune in Gaul. Here in the meanwhile the situation had become chaotic. Gerontius, who had been left in Spain, had unwisely entrusted the defence of the Pyrenees to barbarian federates, and owing to their negligence or treason in 409 the hordes of Vandals, Sueves and Alans, who had exhausted the plunder of Gaul, penetrated into Spain. The Caesar Constans cashiered Gerontius as being responsible for the disaster, but Gerontius retorted by proclaiming a rival emperor, Maximus, at Tarraco. He next marched into Gaul, defeated and killed Constans, and finally besieged Constantine in Arles.³⁰

During all this confusion a large section of the Burgundians had established themselves in Roman territory on the west bank of the middle or lower Rhine, and the provincials of Britain and Armorica, left to defend themselves, took up arms and expelled the barbarian invaders and then, in Zosimus' words, 'expelled the Roman magistrates and set up a government of their own choice'. From the words used by Rutilius Namatianus to describe the subsequent pacification of Armorica in 417, 'Exuperantius now teaches the shores of Armorica to love the return of peace, he restores the laws and brings back freedom, and does not suffer them to be the slaves of their own servants'—it would appear that in Gaul this revolt was followed by a rising of the *coloni* and slaves against their landlords.³¹

At this point Constantius and Ulfilas, the generals of Honorius, led an army into Gaul. On their approach many of Gerontius' Roman troops deserted him and rallied to the legitimate emperor. Gerontius was forced to withdraw to Spain, where he soon perished in a mutiny of his remaining troops: Maximus, the emperor whom he had set up, fled to the Vandals, and was eventually rounded up and executed in 418. Constantine held Arles against Honorius' forces in the hope of relief by his general Edobich, whom he had sent to collect forces from the Franks and Alamans, but Edobich was defeated by Constantius and Ulfilas. Arles fell and Constantine was captured and sent off to Italy.³²

Scarcely had Constantine been reduced when another usurper, Jovinus, was proclaimed on the Rhine. He owed his elevation to Gundahar, king of the Burgundians, and Goar, king of a body of Alans who had settled in the same area. Athaulf, king of the Visigoths, who had just moved into Gaul, also offered his services to Jovinus, but soon quarrelled with him and, transferring his allegiance to Honorius, subdued Jovinus. Gaul and Spain were now at last rid of tyrants, but most of the barbarian invaders remained at large. In Gaul the imperial government had to

acquiesce in the settlement of the Burgundians on the west bank of the Rhine; their position was probably regularised by a treaty recognising them as federates. Athaulf soon quarrelled with the imperial government. In return for his services, and for the release of Galla Placidia, who had been a prisoner of the Visigoths since the capture of Rome, Honorius had promised corn supplies to Athaulf. When they failed to arrive—the rebellion of Heraclian, *comes Africae*, at this juncture must have made it difficult for the imperial government to fulfil its promises—Athaulf seized Narbo, Tolosa and Burdigala, himself married Placidia, and once again proclaimed as emperor Attalus, who had followed the Visigoths in their wanderings. Constantius, however, by a naval blockade reduced the Goths to starvation, and they evacuated Gaul and moved into Spain. Goar's Alans, who had attached themselves to Athaulf, now deserted him and entered the Roman service.³³

In Spain the barbarian invaders had partitioned the country by agreement. The Siling Vandals took Baetica as a plundering ground, the Alans Lusitania and Carthaginensis. The Sueves and the Asding Vandals both settled in the north-west, whence they no doubt raided Tarraconensis, but the eastern parts of the province seem to have remained under Roman control until the Visigoths moved in. Here also they were reduced to starvation, and when Athaulf was assassinated at Tarraco in 415, his successor Wallia agreed to surrender Galla Placidia and enter the Roman service in return for 600,000 *modii* of corn. Wallia was commissioned to subdue the other barbarians in the name of Rome, and in the next two years annihilated the Silings and decimated the Alans, the survivors of whom joined the Asdings. The greater part of Spain was thus cleared of barbarians, and only the Asdings and the Sueves were left in Gallaecia, where they were probably given the status of federates.³⁴

Wallia and his Visigoths were now (418) ordered to evacuate Spain, and were given a home in south-west Gaul. The six *civitates* of Aquitania Secunda and some others adjacent to the province, including Tolosa, were assigned to them, a broad belt of country running along the Atlantic coast from the lower Loire to the valley of the Garonne. In the previous year the Armorican Bacaudae had been reduced and Roman rule re-established north of the Loire. Both Gaul and Spain appeared to be pacified.³⁵

For the remainder of Honorius' reign we have no information about Gaul. Peace may have been maintained, but it was precarious, depending as it did upon the dubious loyalty of the barbarian federates settled in this area. Early in Valentinian III's reign Aetius as *magister militum* in Gaul had to relieve Arles, which the

Visigoths were besieging, and twice to fight the Franks, who were encroaching in the north. In 435 the Bacaudae of Armorica again broke into revolt under the leadership of a certain Tibatto, and maintained their resistance for two years. Both the Burgundians and the Visigoths took advantage of the situation to attack the cities adjacent to them. The Burgundians were drastically punished. Aetius commissioned his allies the Huns to subdue them, and they are said to have massacred 20,000 of them (436). The Visigoths proved more difficult to deal with. In 436 Litorius, Aetius' successor as *magister militum per Gallias*, succeeded in relieving Narbo, which they were besieging. The war continued in 437 and 438, on the whole to the advantage of the Roman side, and in 439 Litorius attacked Tolosa. But with the victory almost in his grasp, he was defeated and taken prisoner. Peace was made with the Visigoths in the same year; the terms can hardly have been favourable to Rome.³⁶

In the next few years a number of new federate settlements were made in Gaul. In 440 a group of Alans, commanded by one Sambila, were planted in the territory of Valentia, and in 442 Goar's group of Alans in the Civitas Aurelianorum. In 443 the chastened remnant of the Burgundians were assigned a new home in Sapaudia. The Armorican Bacaudae continued to give trouble. Goar and his Alans were commissioned to crush them, but Germanus, bishop of Auxerre, intervened and persuaded Goar to hold his hand, while he went to Ravenna to plead the rebels' cause. He obtained their pardon, but news then arrived that the revolt had broken out again under the leadership of Tibatto. Germanus' attempt to make peace was thus frustrated: the Bacaudae were ruthlessly suppressed and Tibatto killed.³⁷

In Spain conditions were even more troubled. No sooner had Wallia and his Visigoths been withdrawn than the Vandals and Sueves came to blows. The Vandals won the upper hand, and had penned the Sueves in the Nervasian mountains, when Asterius, *comes Hispaniarum*, intervened on behalf of the defeated party. Baulked of their prey the Vandals abandoned the area to which they had been assigned and marched southwards to Baetica. In 421 Castinus, the *magister militum*, attacked them with a large force of Roman troops and Gothic federates, but was betrayed by the latter and had to retire to Tarraco. The Vandals now extended their ravages as far as Nova Carthago and Hispalis and in 428 captured the latter city. Next year they moved on to Africa, and southern Spain enjoyed a few years of peace. But in the north the Sueves remained to plague the country.³⁸

We possess a contemporary chronicle written by a Spaniard,

Hydatius, and his notices, though so brief as to be scarcely intelligible, give some impression of the unending troubles which a barbarian people settled in their midst caused to the provincials. Time and again the Sueves broke the treaty and plundered their Roman neighbours. Time and again envoys were sent to complain to the Suevic king, and peace was renewed; but a few years later the raids began again. At first they were confined to Gallaecia, but when Rechila took over the leadership of the tribe from his ailing father, Hermeric, their range was extended. In 439 Rechila forced his way into Emerita, in 441 he captured Hispalis, and is said to have brought Baetica and Carthaginiensis under his sway. Meanwhile in the north peasant revolts had broken out, and between 441 and 443 two successive *magistri militum*, Asturius and Merobaudes, were occupied in reducing the Bacaudae of Tarraconensis. In 446 a third *magister militum*, Vitus, endeavoured to expel the Sueves from the south, but he was defeated and had to withdraw, and the only result was that both sides ravaged Baetica and Carthaginiensis.³⁹

Down to 429 Africa had been spared invasion. The only disturbances were caused by the rebellions of successive military commanders, Gildo in 397-8 and Heraclian in 413. In 427 Boniface, *comes Africae*, was suspected of similar disloyalty and was recalled. He refused to obey and troops were sent to Africa to depose him. The first expedition was unsuccessful, but the second under Sigisvult occupied Carthage and Hippo. The Vandals in Baetica seized this opportunity to cross the straits and ruthlessly plundered the Mauretanian provinces. Galla Placidia, to unite the Roman forces, hastened to pardon Boniface, more troops were sent from Italy, and an expeditionary force from Constantinople arrived under the command of Aspar, but all to no effect. The Vandal advance continued, and eventually in 435 the Roman government had to agree to cede to them the territory which they had already conquered, the Mauretaniae and Numidia.⁴⁰

Gaiseric, the Vandal king, probably never intended the settlement to be final: the rich provinces of Proconsularis and Byzacena were his goal. In 439 he took Carthage. There was panic in Rome, where an imminent Vandal attack was anticipated, and the Italian coasts were put in a state of defence. A large fleet and army were once again sent from Constantinople. Gaiseric did in fact attack Sicily, and the Roman forces do not seem to have ventured to land in Africa. Eventually in 442 peace was made. By this agreement the Vandals occupied Proconsular Africa, Byzacena and Tripolitania, and retroceded Mauretania and Numidia to the emperor.⁴¹

The fate of Britain at this period is an unsolved problem. In

about 409 the provincials, as we have seen, had expelled the imperial magistrates and organised their own defence. Since it was the representatives of the tyrant Constantine who were expelled, this move received Honorius' official approval. There is no record that imperial authority was ever thereafter restored, but it would seem inherently probable that after the suppression of the tyrants of Gaul and the reduction of the rebellious Armoricans Constantius would have brought Britain under the authority of Honorius. What is certain is that in the chapter in the *Notitia* which gives the distribution of the troops—a chapter which seems to have been kept more or less up to date down to the end of Honorius' reign—three regiments of infantry and six squadrons of cavalry are shown in Britain under the command of the *comes Britanniarum*. In 429 when Germanus, bishop of Auxerre, visited the island, a great victory was won over the Picts and the Saxons, and there is no indication that at the time of his second visit about 440 Britain had ceased to be part of the empire. Under the year 442 a Gallic chronicle records that 'the Britains hitherto troubled by various events and disasters were subjected to the sway of the Saxons', and according to Gildas the Britons wrote appealing for aid to 'Aetius for the third time consul', that is in or after 446. It is unlikely that any reinforcements were sent at this or any later date, and in the confusion that followed the deaths of Aetius and Valentinian III Britain was doubtless forgotten. How long the inhabitants maintained their resistance to the invading Saxons remains doubtful.⁴²

To meet the changing military situation the system of command was considerably modified, but the exact history of the successive changes cannot be reconstructed with certainty. Under Stilicho there were, besides the two *magistri praesentales*, the *magister equitum per Gallias*, commanding a large force of horse and foot, and the *comes Africae* and the *comes Tingitaniae*, each with a few units only. There was also a regional commander, probably a *comes rei militaris*, in Dalmatia. On the occupation of Gaul by the barbarians and the tyrants, the *magister equitum per Gallias*, Chariobaudes, withdrew to Italy, and after his death in 408 the post seems to have been abolished. To maintain a foothold in Gaul and defend the north-western approaches to Italy a new command was created, that of the *comes tractus Argentoratensis*, whose duty it was to guard Sequanica, whence he would have been supplied. Shortly after Stilicho's death the command of the *comes Dalmatiae* was enlarged to embrace Noricum and Raetia, including the Alpine passes. This command seems to have been short-lived. The defence of the Alps was later entrusted to a *comes Italiae*, whose zone no doubt

included Raetia and Noricum, and Dalmatia seems to have been temporarily abandoned.⁴³

Constantius, the *magister praesentalis*, expelled the tyrants and conducted the war against the Visigoths until 416, and it was probably shortly after that date, when Gaul was temporarily pacified; that a *magister equitum per Gallias* was once again appointed: the post of *comes tractus Argentoratensis* was no doubt now suppressed. At about the same time a *comes Hispaniarum* was created to command a newly formed army group of Spain; the first recorded occupant of the post was Asterius, who in 420 intervened in the war between the Vandals and the Sueves. About the same time, it would seem, the post of *comes Illyrici* was created to protect the diocese of Pannonia, and the post of *comes Italiae* was suppressed. Later the commander in Gaul was promoted to the rank of *magister utriusque militiae*, and we find officers of the same rank operating in Spain in 441, in 443 and in 446. These may have been *magistri praesentales* or *per Gallias* transferred to Spain, but it seems more probable that the Spanish command was upgraded.⁴⁴

After the expulsion of Gainas and his Goths the Eastern empire enjoyed a respite from major wars for twenty years. In 408, it is true, the Hunnic king Uldin invaded Thrace, but the Roman commander in the course of parleys managed to lure several of his chieftains from their allegiance, and Uldin had to beat a hasty retreat across the Danube, abandoning many thousands of Scirae, one of his subject peoples, to be captured by the Romans. Apart from this incident there were only local disturbances. Synesius as bishop of Ptolemais (410-13) complains bitterly of the raids of the Austurians in Cyrenaica. The Isaurians also got out of hand, extending their raids far and wide. The letters of John Chrysostom, written during his exile in 404-7, show that Cucusus and Arabissus in Armenia Secunda lived virtually in a state of siege, and that a great city like Caesarea of Cappadocia was in terror of the raiders, who burnt the surrounding villages. Theodoret in his lives of the Syrian hermits alludes to the devastations of the Isaurians in Syria, and Jerome in a letter dated 405 reports an Isaurian raid as far south as Phoenicia and Galilee. To deal with the menace many cities were garrisoned—John Chrysostom mentions a tribune leading out his men from Caesarea, and congratulates himself that he is at any rate safe at Cucusus, owing to the presence of a garrison—and a new command was created, that of the *comes dioeceseos Ponticae*, first mentioned in 413.⁴⁵

In 421 the Persian king Varanes, incensed at the refusal of Theodosius II to surrender his Christian subjects who had taken refuge from persecution in Roman territory, declared war. The Roman armies took the offensive, ravaging Persian Armenia and besieging Nisibis. Next year after a severe defeat in Mesopotamia Varanes made peace. In the same year another invasion of Thrace by the Huns is recorded. It was perhaps now that the Roman government, to secure immunity from further raids, agreed to close its frontiers to rebel subjects of the Hunnic king and pay him a modest subsidy of 350 lb. gold a year.⁴⁶

In 425, as we have seen, the armies of Theodosius overcame the usurper John and installed Valentinian III in Italy. Six years later another expeditionary force was sent to the West to combat the Vandals: it suffered a disastrous defeat. Taking advantage of this, Rua, the king of the Huns, became aggressive in 434, demanding the extradition of several tribes which had rebelled against him and which the Roman government had, contrary to the treaty, taken into their service. During the negotiations Rua died and Attila succeeded. He proved a tough bargainer, and in return for peace the Romans had not only to promise to extradite the rebels they had received and to admit no more, but also to return escaped Roman prisoners, or to pay a ransom of 8 solidi per head for them, and to allow trade to be conducted on equal terms at certain fairs on the frontier. Finally they had to agree to raise the subsidy from 350 to 700 lb. gold.⁴⁷

In 441 Theodosius II sent a large expeditionary force to assist Valentinian III against the Vandals, and in the same year the Persian king again attacked the Eastern frontier. On the Eastern front the Roman armies were successful, and peace was soon restored. But Attila took advantage of the situation to complain that the terms of his treaty had not been fulfilled, and receiving no satisfaction, crossed the Danube and destroyed Viminacium, Margus, Singidunum and Sirmium. After a pause in 442, he moved eastwards in 443 and destroyed Ratiaria, Naissus and Sardica. At length the Roman armies attempted to stem his advance, but they were disastrously defeated. Attila's terms had to be accepted—the immediate payment of 6,000 lb. gold (which included arrears of the subsidy), and a future annual payment of 2,100 lb. gold: the ransom of escaped Roman prisoners was also raised from 8 to 12 solidi. This treaty brought peace for four years.⁴⁸

In 447, on what pretext is unknown, Attila again crossed the Danube. On this occasion the Roman armies opposed him on the frontier, but with as disastrous results as before. After Thrace and Illyricum had been ruthlessly ravaged, the imperial government had

again to accept Attila's demands. These included the evacuation of a strip of territory five days' journey in depth along the southern bank of the Danube from Singidunum to Novae. In 449 Chrysa-phius endeavoured to secure Attila's assassination. The plot was bungled and Attila was able to confront the Roman embassy entrusted with its execution with evidence of their guilt. Strange to say, however, he was induced next year to sign a treaty more favourable than the last, agreeing to make no further demands for the return of rebellious Hunnic subjects already under Roman protection, and to withdraw from the zone south of the Danube which the Romans had evacuated.⁴⁹

It would appear that Attila was losing interest in the Eastern empire, from which he could hardly expect to extract much more blackmail, and wished to establish good relations with it while he turned to the West. He was given a pretext by the folly of Honoria, the sister of Valentinian III, who in resentment at being compelled to marry the husband chosen for her by her brother, wrote to Attila imploring his protection and sending him her ring. Attila on the strength of this message claimed Honoria as his affianced bride, and demanded half the empire as her rightful inheritance. When his demands were refused, he marched westwards into Gaul with a vast army of Huns and subject peoples. Aetius met him with as large an army as he could muster from the regular Roman troops and the *laeti* and federates of Gaul, and in 451 on the Catalaunian plains a battle was fought which, if not decisive, made Attila withdraw. Next year he invaded Italy, but, though he met with no serious resistance, again withdrew. Next year he died and the Hunnic empire fell to pieces. The subject German peoples rebelled and defeated their overlords. The Huns broke up into small hordes and never regained the unity which had made them a serious menace to the empire.⁵⁰

The story summarised above raises many questions, but our meagre sources unfortunately do not provide materials adequate for answering them satisfactorily. How large in the first place were the barbarian hordes that the Roman armies were incapable of crushing? The ancient authors give us figures from time to time, but they are almost all worthless, for the very good reason that no one at the time possessed any reliable information. With one exception the figures are estimates, or rather guesses, and are naturally for the most part grossly exaggerated. The one exception is the figure recorded for the Vandals in 428-9, on the eve of their

crossing to Africa. According to Victor Vitensis Gaiseric took a census of his people, who included not only the Asding Vandals but the remnant of the Alans, and they amounted to 80,000 persons, including old men and children, free men and slaves. Victor does not mention women, but as the census was evidently taken in order to estimate the amount of shipping which would be required to transport the tribe to Africa, they were presumably included in the count. If 80,000 was the gross total, one may estimate that the fighting men would have numbered about a quarter of this number, or perhaps, since during their recent migration old men, women and children may have suffered abnormal losses, a rather larger proportion, say 25,000.⁵¹

Jerome in his chronicle under the year 373 gives the same figure of 80,000 for the Burgundians. How he arrived at the number is not known, but it has at least the merit of plausibility as a gross total. Orosius, using this passage of Jerome, gives 80,000 as the number of the Burgundian fighting men. This is a good example of the reckless way in which numbers were exaggerated by historians, and is a warning against accepting their inflated figures. The Goths when they crossed the Danube in 376 are said by Eunapius to have numbered close on 200,000 fighting men. If the figure really represents the gross total of both the Visigoths and the Ostrogoths, it is a not improbable estimate. The fighting strength of either tribe would have been 25,000. In 393 the Visigoths are said to have contributed a force of 20,000 to Theodosius' army.⁵²

The difficulty of making any reliable estimates is increased by the fact that the tribes fluctuated very greatly in size from time to time. Even the settled German tribes were very loosely knit agglomerations of clans, whose chieftains often fought one another, and only on rare occasions obeyed a single leader. In their migrations the precarious unity of the tribal groups was put to great strains. Sometimes part of a tribe moved and part remained at home: sometimes it split into several groups under rival leaders. The cohesion of a group depended very largely on its leader's success. If he were defeated not only individuals but whole groups deserted him, and either took service under the Roman government or joined another more successful tribal group, or pursued an independent career under their own leaders.

The story as we have it from the ancient historians is clearly much simplified and schematised and it is only occasionally that we catch a glimpse of the complicated realities. The Burgundians are said to have crossed the Rhine and to have established themselves in Roman territory on the left bank; but after this date we hear casually of a substantial group of Burgundians still living east of

the Rhine. The Alans are said to have passed from Gaul into Spain in 409, and there certainly was later a strong group of Alans in Spain. But other Alans appear in 412 under their king Goar with the Burgundians, and a few years later with the Visigoths in Aquitania, and in the early 440s not only Goar's group but a third, under another king, were settled in Gaul.⁵³

Not only did tribal groups break up. Conversely a successful leader attracted to his standard members of other tribes. Thus the broken remnants of the Alans in 418 united themselves to the Asding Vandals, and Alaric's Visigoths were in 408 joined by barbarian federates who deserted the Roman government after Stilicho's fall, and by barbarian slaves who escaped from Rome. Thus Alaric's army is said by Zosimus to have reached the figure of 40,000.⁵⁴

It seems likely, then, that the barbarian tribes were relatively small groups, which could normally have put into the field about 20,000 men, and in the most favourable circumstances about double that number. But it must be remembered that the Roman government had to cope with quite a number of these groups, and that on occasion they temporarily combined. The barbarian horde which Radagaesus led into Italy in 405 was apparently composed of many tribes, and in the winter of 406-7 at least four tribes simultaneously crossed the Rhine into Gaul. Attila, moreover, who ruled a large empire of subject peoples, was probably able to put very large armies into the field for a major campaign.⁵⁵

The *Notitia Dignitatum* enables us to make some estimate of the Roman forces during this period. In the West the lists show the state of the army about 425. The Western army then comprised about 375 units, probably rather under 250,000 men. This seems at first sight an adequate force to deal with the barbarian tribes, but only a small fraction of these forces could be concentrated for a campaign. In the first place 195 regiments, perhaps 135,000 men, were *limitanei*, garrison troops which could not be withdrawn from their posts without exposing the frontiers. Of the *limitanei* the bulk were stationed along the Danube (117 units) and in Britain (43 units). In Africa there were very few, only 8 units in Tingitania and 2 in Tripolitania. In Gaul too the number was very low, only 14 units in the four *ducatūs* of Sequanica, Moguntiacum, Belgica and Armorica.⁵⁶

The reason for this curious distribution becomes apparent when one examines the lists of the *comitatus*. They show the field army of 181 regiments divided into seven groups, 44 units in Italy under the *magistri praesentales*, 58 in Gaul under the *magister equitum per Gallias*, 22 under the *comes Illyrici*, 16 under the *comes Hispaniae*, 31

and 5 in Africa and Tingitania under their respective *comites*, and 5 with the *comes Britanniae*. Of the 36 units in north Africa, 30 are regiments of local *limitanei* which had been upgraded at the end of the reign of Honorius. Of the 58 units in Gaul, 26 are likewise recently promoted regiments of *limitanei*, mostly from Gaul itself, a few from Britain, Spain and the Danubian provinces. The Italian and Illyrian armies also include some 10 regiments of *limitanei*, drawn from Gaul, Spain and the Danube.

From the grand total of the *comitatus*, say 113,000 men, the armies of Africa and Tingitania, about 23,000 men, must be written off. They were not available for use elsewhere, being in fact garrison troops, fully occupied in maintaining internal security against the Moors. Even if they could have been concentrated against the Vandal attack, they would have been barely a match for the invading horde, and in fact they must have been dispersed over seven provinces. The little British army of about 3,000 men must also have been fully occupied by local needs. In Spain 10,000 to 11,000 men were clearly inadequate to deal with both the Sueves and the Vandals, and the 13,000 to 14,000 men in Illyricum could not protect the area against any major invasion. Only the armies of Italy (nearly 30,000) and Gaul (about 35,000) were of a size to cope successfully with a barbarian tribe, and the Gallic army had to control the Visigoths, Burgundians and Franks as well as the Armoricans. Only the army of Italy could spare reinforcements for other areas. In these circumstances it is remarkable that during the reign of Valentinian III Aetius was as successful as he was in keeping the empire together.

The strategical problems which faced Stilicho at the beginning of Honorius' reign were less difficult. Apart from a few units in Africa and Britain the bulk of the *comitatus* would then have been concentrated in the two armies of Italy (which also had to cover Illyricum) and Gaul. Unfortunately we do not know how large an army Stilicho had at his disposal. The gross total may well have been larger than in 425, but a much higher proportion would have been *limitanei*, since at that date the African and Gallic provinces would have had their full complement of garrison troops, and the *comitatus* may not have been larger than that of the Eastern parts at that date, that is about 150 units or 100,000 men. This would allow about 60 regiments, say 40,000 men, in Gaul and a similar number in Italy with Illyricum.

The largest force that Stilicho is recorded to have mustered for a single operation, the battle of Faesulae against Radagaesus in 405, was 30 regiments. This is compatible with the figures suggested above, for not only must he have left some forces in Illyricum, but

he must have maintained garrisons in the cities of northern Italy to protect them against the roving bands of barbarians which detached themselves from Radagaesus' main horde. Stilicho thus had a very narrow margin of superiority over the barbarian invaders of Italy, and deserves some credit for twice defeating and expelling them. That his less able successors were utterly helpless against Alaric is hardly surprising, for Alaric's forces had now swelled to 40,000 men. But their impotence was partly due to their incompetence, for in their hands the Roman army was apparently dispersed in garrisons. Zosimus justly criticises Honorius for not concentrating all Roman regiments against Alaric in 408. Orders were issued in 409 to 'all the troops, infantry and cavalry, which were distributed in the cities' to assemble in order to resist Athaulf, but these orders were apparently never executed.⁵⁷

It is often stated that in order to save Italy Stilicho stripped Gaul of its troops, and that this accounts for the collapse of Gaul in 407. It is true that Stilicho did withdraw some units from Gaul—and even a legion from Britain—to reinforce the Italian army against Alaric in 402. But there is no reason to believe that he permanently depleted the Gallic field army. Even at full strength it could hardly have resisted the combined attack of the four or five tribes which swept across the Rhine in the winter of 406-7.⁵⁸

The *Notitia Dignitatum* reveals one startling fact about the history of the Roman army of the West during the reign of Honorius. An analysis of the lists shows that of the 180 units which the field army comprised in 425, only about 85 had belonged to the *comitatus* before 395. Of the remainder about two-thirds were regiments of *limitanei* which had been drafted into the field army, and about one-third were new units which had been raised since 395. These figures indicate what terrible losses the Roman army must have suffered in the barbarian invasions and civil wars in Honorius' reign: even if the *comitatus* in 395 numbered only about 150 units, as suggested above, it lost nearly half its effectives in thirty years. The army of the Gauls shows, as might be expected, the heaviest losses. It contained only 21 old units out of 58; to these 11 new formations had been added, and the remaining 26 units had been scraped together from what survived of the *limitanei*.⁵⁹

These tremendous losses must have been increasingly difficult to replace. The empire's resources of manpower were limited, and the conscription put a heavy strain on them. Landlords could ill spare their agricultural labourers, and the great senatorial magnates occasionally exercised political pressure, as in 397, to avoid surrendering their *coloni* as recruits, and regularly offered passive resis-

tance to the levy. Furthermore as outlying districts ceased to be under effective administrative control, the burden fell the more heavily on those which remained, and especially on Italy.⁶⁰

In these circumstances it was natural that the government tended to rely more and more on federates. Such a policy spared the manpower of the empire, and the barbarians were good fighting material ready to hand, whereas the process of training Roman recruits was slow and painful.

The barbarian troops employed by the Roman government during this period fall into many categories. There were in the first place contingents obtained under treaty or by negotiation from barbarian kings outside the empire. The leading instance is the Huns. Stilicho was aided in his campaign against Radagaesus by a force of Huns under their king Uldin. Honorius in 409 attempted to hire 10,000 Huns against Alaric: great preparations were made to feed them by levies of corn, sheep and oxen from Dalmatia, but they did not materialise. We have seen how Aetius in 424 raised a large force of Huns for the usurper John, and in 433 again retrieved his position by the use of Hunnic auxiliaries, and for the next five or six years he employed them regularly. Not only did they crush the Burgundians on Aetius' request, but they served, apparently in considerable force, under Litorius against the Bacaudae and the Visigoths. They are not mentioned after 439.⁶¹

Secondly there were the tribal groups which had been admitted within the empire, or had forced their way in. Their employment was not entirely a matter of choice. The Roman government was faced with the alternative of either crushing them completely or taking them into its service, and the former alternative was costly and hazardous, and as a general policy beyond the resources of the empire. Some tribes, the Siling Vandals and the Alans in Spain, for instance, were destroyed, and the Burgundians were so thoroughly crushed that they long ceased to be formidable. But it is noteworthy that Constantius and Aetius employed other barbarians, the Visigoths and the Huns, for these operations: where its own troops were concerned the Roman government did not risk a fight to the finish.

It would seem, however, that the government regarded the intrusive tribes as potential sources of manpower which would be useful, if they could be brought under control, and may sometimes have deliberately spared them for this reason. Stilicho, when he obeyed Arcadius' orders to withdraw from Thessaly and from

Greece, may have reflected that Alaric might some day fight on his side, and again, when he allowed the Visigoths to retire from Italy in 402, may have anticipated that he might find occasion to employ them in the future, as he in fact did in 407. Constantius' motives in recalling the Visigoths from Spain before they had subdued the Sueves and the Asdings may also have been mixed. On the one hand it might have been dangerous to allow the Visigoths to absorb all the remnants of the barbarian tribes in Spain; but he may also have hoped—mistakenly as the event proved—that the Sueves and the Asdings, having been duly chastened, would be useful auxiliaries. The larger tribes proved in fact to be more of an embarrassment than an asset. Knowing their power their kings treated their contracts very lightly. They constantly raided the neighbouring country, annexed adjacent cities, and extracted heavy blackmail from the imperial governments as a price for their intermittent services.

Thirdly there were small groups which followed minor chieftains. There seem to have been many little bands of barbarians who for one reason or another had in the confusion of the times broken away from the larger tribal groups. Sometimes a chieftain quarrelled with his king for personal reasons and marched off with his following. The Visigothic noble, Sarus, who pursued an unrelenting vendetta against Alaric and Athaulf, is a well-known example. In particular after a defeat, when the prestige of a tribal king was shaken, large groups would desert the main body under their own chieftains: after the battle of Verona Claudian speaks of whole blocks and squadrons abandoning Alaric. Stilicho readily took such bands into his employment, and by the time of his death there were, as we have seen, nearly 30,000 barbarians in Roman service in Italy. These also included prisoners of war; after the defeat of Radagaesus Stilicho is said to have enrolled 12,000 of his captured followers. A legal distinction was apparently drawn between prisoners, who were styled *dediticii*, and barbarians who had enlisted voluntarily and served under contract, who were, like the large tribal groups, called *foederati*. But there seems to have been little practical difference between the two categories. Sometimes these barbarian bands were converted into regiments of the Roman army; Orosius records that the defence of the Pyrenees was in 409 unwisely entrusted to 'some barbarians who had at one time been received on contract, and had been enrolled in the army and called Honoriaci'.⁶²

It is impossible from our scanty sources to draw any clear picture of the changes which the Roman army underwent during the reign of Valentinian III. The meagre notices in the chroniclers show that

in all major campaigns barbarian auxiliaries were used, and apparently on a large scale. The Huns played a large part in Litorius' campaigns in Gaul in the 430s, and the Goths in operations in Spain in the following decade. The absence of any laws relating to the conscription may indicate that the regular army was allowed to run down. In 440 and the following years levies of recruits are recorded, and an effort was apparently made to build up the Roman forces again. This was no doubt partly due to the alarm caused by Gaiseric's occupation of Carthage, partly perhaps to the withdrawal of the Hunnic auxiliaries on which Aetius had hitherto so greatly relied. But the army which Aetius mustered to meet Attila in Gaul was a very motley host. In the account given by Jordanes the Visigoths play the most prominent role, but even when his patriotic bias has been discounted the Roman troops seem to have been in the minority. In the order of battle the Visigoths held the right wing, the Romans the left, while the centre was held by a variety of federates—Salian and Ripuarian Franks, Burgundians, Alans, Saxons—and Sarmatian and other *laeti*, together with the Armoricans, who appear to have become a virtually independent people.⁶³

The failure to build up or even to maintain the strength of the Roman army at this period was probably partly due to financial difficulties. In a novel of 444 Valentinian III openly admits that his plans for a larger army are being frustrated by the fact that the revenues do not suffice to provide food and clothing for the existing forces, much less for the new recruits who are being enrolled. Financial shortage probably explains why a number of federate groups were settled on the land at the same period.⁶⁴

We unfortunately know little of the terms on which the federate tribes served the imperial government. Alaric appears to have expected to receive a regular annual subsidy of corn (and of gold too, if this could be squeezed out of the government), and in addition a group of provinces where the Visigoths could make their homes; these provinces were apparently to pass under his rule, and the Roman government would have had to forfeit their revenue. These were probably extravagant demands. At any rate Honorius' government rejected them, and later Athaulf and Wallia took service under the empire in return for a subsidy of corn only. When the Visigoths had subdued the other barbarians in Spain and their services were no longer required for the time being, they were, as we have seen, granted an area in Gaul to occupy. We have no contemporary evidence about this settlement, but it is probable that the Visigoths were not only billeted as *hospites* on the local landlords, but were also allocated a proportion of their estates.

Thus the government was rid of the burden of feeding the Visigoths, mainly at the expense of the local landlords, though it had to forgo a part of its revenue, since the barbarians' allotments were, it seems, tax free.⁶⁵

No further settlements of this type are known to have been made until the 440s, when two groups of Alans and the remainder of the Burgundians were planted in Valence, Orleans and Savoy respectively: in the first case deserted lands were utilised, but in the second and the third the landlords had to surrender a share of their estates. It is possible that the same economical policy was applied to regular Roman troops also. A letter of Honorius to the troops in Spain, preserved in an extremely corrupt and almost unintelligible mediaeval transcript, appears to hold out to them the prospect of becoming *hospites* when the conquest of Spain has been completed, and among those who fought on the Roman side against Attila Jordanes mentions 'the Olibriones, once Roman soldiers, but then already counted as auxiliaries'.⁶⁶

In the Eastern parts the lists of the *Notitia Dignitatum* give the state of the army at the end of Arcadius' reign. They show a total of about 495 units, perhaps 350,000 men. Of these over two-thirds, about 340 units or nearly 250,000 men, are *limitanei*, 158 regiments on the Eastern front, 88 along the Danube, and about the same in Egypt and Libya. The *comitatus*, comprising 157 units, or rather over 100,000 men, is divided into five roughly equal groups, two praesental, and one each for Illyricum, Thrace and the East.⁶⁷

If the government had all these troops at its disposal it is at first a little difficult to see why it was so impotent in face of Gainas. At the height of his power, when he had not only his own federates but Tribigild's men under his control, he seems to have commanded only about 30,000 Goths: Zosimus tells us that 7,000 were trapped and massacred in Constantinople, and according to Synesius these were rather over a fifth of his total strength. But it must be remembered that Gainas was himself in command of one of the praesental armies, and after the death of the incompetent Leo of both, and deliberately dispersed their strength. It is not clear why the government did not call in the Thracian or Eastern armies, but having failed to do so, it was helpless for the moment. When, however, it at length resolved to resist Gainas, it found no difficulty in placing sufficient troops at Fravitta's disposal.⁶⁸

The programme of Aurelian, as enunciated by Synesius in his

speech on the Imperial Office, was to expel the Germans from the army and from the empire and by drastic application of the conscription to build up a powerful Roman army. It would seem that for a few years the first item of this policy was maintained. The Goths were expelled, and when in 408 large masses of Scirae were captured in Thrace, they were not, as they would have been in the West, enrolled in the army, but either sold as slaves or given away to landowners as *coloni*, and exempted from conscription for twenty years. How far the second item was realised we cannot say. No Eastern laws about the conscription are preserved in the Code during this period, but this does not prove that it was not applied; we happen to hear that the regiment which effected John Chrysostom's arrest in 404 consisted of newly conscripted Thracians.⁶⁹

The ban on barbarian federates does not seem to have been long maintained. In about 412 a squadron of Unigardi was sent to Cyrenaica to stiffen the local *limitanei* against the attacks of the Austurians: Synesius, forgetting his principles, gave them the highest praise and urged that they should be reinforced, barbarian federates though they were. The frequent and apparently justified complaints of Rua and Attila that the Roman government was harbouring rebel Hunnic subjects suggest that from the 420s barbarian recruits were welcomed in the Eastern empire, but the numbers involved were probably small, and the Roman government during this period must have largely relied on internal resources. There is a hint that it made use of the Isaurian mountaineers, whose warlike habits had of late years been so destructive to the Eastern provinces. In 447 we are told that Zeno with a large force of Isaurians was entrusted with the defence of the capital, and when two years later he was *magister militum per Orientem* he used the same Isaurians to defy the government. It is not clear from the brief notice that we have whether these Isaurians were Zeno's personal bodyguard or regular troops, but the latter seems more likely.⁷⁰

Two laws show that during the same period the government was anxious to improve the quality of the *limitanei*. One issued on the suggestion of Anatolius, *magister militum per Orientem* in 438, ordered that they should not be distracted from their military duties by being summoned to distant civil courts. The other, issued in 443, was evidently inspired by Nomus, the all-powerful master of the offices. It directs that the *limitanei* on all the frontiers are to be brought up to full strength and to receive their pay with only the lawful deductions and are to be drilled daily. Furthermore, to ensure that these instructions are carried out, the master of the offices is to submit to the consistory an annual report on the state of the *limitanei*.⁷¹

The strategic problems facing the Eastern empire, though serious, were simpler than those which proved too much for the Western. Throughout the period peace was broken only twice on the Eastern frontier. On both these occasions, the brief Persian wars of 421-2 and 441-2, it was possible to reinforce the Eastern army from the praesental armies, and the Roman forces were fully adequate to cope with the enemy. The government was thus able to concentrate the bulk of its forces for the defence of the Danube frontier, and even found it possible to intervene in the West to suppress the usurper John, and to assist Valentinian III against the Vandals in 431 and 441. Despite this it was utterly incapable of preventing Attila from overrunning Illyricum and Thrace whenever he chose, but this is hardly surprising, for even if the two praesental armies and those of Illyricum and Thrace were concentrated, they were probably hardly a match for the vast hordes which Attila could, when he wished, assemble. Attila's success, however, was limited. He could lay waste the Thracian and Illyrian provinces, or alternatively extract vast sums of gold as blackmail, but he could not penetrate farther into the empire. Constantinople had received a new line of walls from Anthemius in 413, and these walls, strengthened by Cyrus in 439 and by Constantine in 447, proved impregnable. Holding Constantinople the Roman armies barred access to Asia Minor, and from Constantinople they could always recover Thrace and Illyricum when the Hunnic forces were withdrawn.⁷²

The military disasters of the Western empire seriously weakened its finances. Not only did the government lose the revenue from regions which, like Spain or Africa, were temporarily or permanently occupied by the invading tribes, or which like Armorica threw off Roman rule; it also had to make very substantial remissions to devastated areas. In 413, after the final withdrawal of the Visigoths from Italy, Honorius reduced the land tax of all the Suburbicarian provinces to one-fifth of what they had paid before: the remission was initially for five years only, but at the end of that time the taxes of Picenum and Tuscia had to be further reduced to one-seventh, and those of Campania to one-ninth. In 440, after Gaiseric's invasion of Sicily, the taxes of the island were reduced to one-seventh, and when by the treaty of 442 the Vandals evacuated Numidia and Mauretania Sitifensis, the taxes of these provinces were reduced to one-eighth. There must have been similar reductions, of which we have no record, in Gaul and Spain when they were recovered from their tyrants and the barbarian invaders.⁷³

The government made various sporadic attempts to remedy the situation by special levies. In 405 one year's rent was exacted from owners of houses and shops, and in 423 it was enacted that those who had received grants of imperial lands should be liable to a levy of two years' rent, if they had enjoyed the gifts for over ten years, or of one year's rent if they had held them between five and ten years. In 444, when the situation had become desperate, the government of Valentinian III devised a new permanent tax, the *siliquaticum*, a payment of 1 *siliqua per solidus* (that is a twenty-fourth) on all sales.⁷⁴

The government's difficulties were partly of its own making, for it seems to have been culpably lavish in granting fiscal immunities of all kinds to wealthy and influential petitioners. It was not until the position was critical that steps were taken to remedy this abuse. In 440 a law issued on the suggestion of Maximus, the praetorian prefect of Italy, noted the obvious fact that 'the burden of tribute which is withdrawn from individuals falls on the rest' and ordered the cancellation of all privileges which conflicted with the general rules of law. In the following year a second law, after again explaining at length that 'the burden which the powerful refuse and the rich reject' was imposed on a decreasing number of poorer taxpayers, abolished further exemptions. Many persons had obtained land by grant, purchase or exchange from the *domus divina* of the emperor and his family, and claimed its exemption from gold levies and superindictions. Others had cunningly made a nominal cession of their own lands to the *domus divina*, retaining the usufruct and enjoying the privileges. Others again, churches or illustrious persons, had secured for their lands the same privileges as the *domus divina*. All were now ordered to pay taxes at the normal rates.⁷⁵

By the same law the government abolished the many exemptions from *sordida munera* which had been granted to holders of illustrious dignities, palatine civil servants and the church. In the old days, the emperor explained, such privileges had been invidious and unfair, but not injurious to the public interest. Now it was essential that all without distinction should share in the repair of the military roads, the manufacture of arms, the rebuilding of fortifications, the production of military supplies and other tasks necessary for the defence of the empire.⁷⁶

The government was lax in granting general remissions of arrears. On 8 July 438, to celebrate his marriage, Valentinian III remitted all arrears of taxation up to 31 August 436: this was not merely writing off bad debts, but allowing wealthy taxpayers who had postponed payment to get off scot free. On 5 March 450, evidently

yielding to strong pressure from the senate, the emperor cancelled all arrears up to 31 August 447; at this date, when the financial position was admittedly desperate, such wholesale generosity was culpable weakness.⁷⁷

By contrast the finances of the Eastern empire were sound during this period. This was partly due to its more favourable military position. Thrace and Illyricum were, it is true, much ravaged, at first by the Visigoths and later by the Huns, and can have yielded little revenue. But Asia Minor, Syria and Egypt, the richest parts of the empire, were untouched save by the raids of the Isaurians and the nomads of the desert, and must have yielded a steady flow of taxes. The finances seem to have been on the whole carefully managed. The usual routine remissions of arrears were made, but they were so calculated as merely to write off debts which were virtually irrecoverable: in 414 the arrears of 368-408 were cancelled, and in 433 those of 408-28. In 424 the Eastern government followed the example of the Western in mulcting grantees of imperial lands of part of their rents; the Eastern law was stricter, compelling those who had held such lands for three years only to pay six months' rent, and exacting one, two and three years' rent from those who had enjoyed theirs for three to five, five to ten and for over ten years.⁷⁸

In 430 Antiochus, praetorian prefect of the East, made a great attack on fiscal privileges. In the first place he compelled the beneficiaries to refund to the treasury one-fifth of the sums which they had gained as a result of rebates of taxation during the last thirty-five years, since the accession of Arcadius. In the second place he made a drastic cut in all rebates granted since the accession of Theodosius I. The law was evidently aimed at wealthy tax evaders. When the rebate did not exceed 400 *inga* or *capita*, half was allowed to stand; where it exceeded that figure, only the first 200 *inga* or *capita* remained exempt. On the rest the landowner had henceforth to pay the full rate. In 443, in order to raise the large sums payable to Attila, those who had received fiscal rebates were again compelled to disgorge a proportion of their past gains. The measure caused such protests that the end of 444 the government remitted whatever sums remained outstanding from the levy and gave a guarantee that it would not repeat such a measure. But the cut in rebates made by Antiochus was specifically reaffirmed.⁷⁹

A levy of gold was also extracted from senators in 443, and these two special taxes seem to have sufficed to meet Attila's demands: at any rate Priscus, who protests violently against these two exactions, mentions no others nor any rise in the general rate of taxation. It would seem that by its relatively firm attitude about

tax exemptions the government of Theodosius II was able to meet Attila's ruthless exactions without increasing the burden on the ordinary taxpayer. In so far as its normal resources were inadequate it placed the additional load on the shoulders of those best able to bear it, the senators.⁸⁰

There is some evidence that the financial administration was far more efficient in the East than in the West. By 458 the various perquisites payable to the officials concerned with the collection of the taxes had been consolidated at 2 *solidi per iugum* in Italy. We have no contemporary figure for the East, but a prefectorial edict which probably dates from the end of the fifth century limits the perquisites of officials to 1 *siliqua* (one twenty-fourth of a *solidus*) *per iugum*.⁸¹

The greater firmness and efficiency of the Eastern government in finance were probably in large measure due to a better choice of praetorian prefects. The great aristocrats who held the office in the West, often without previous administrative experience, must have been very much at the mercy of their officials and were evidently unable to control their extortions and peculations. Being great landowners themselves they must have been unduly sympathetic to the complaints of the landed interest and found it difficult to resist their pleas for immunities and tax concessions. The praetorian prefects in the East, on the other hand, were either new men who had risen by ability and gained experience on the way, or came from families with a tradition of administrative service: they too normally served in a number of lesser offices before promotion to the prefecture. Such men were better qualified to control their staffs, and would be more inclined to regard the interests of the government, to whose service they or their families owed their advancement, than those of the great landowners.

From 395 both the Eastern and Western governments abandoned the issue of any copper coinage except tiny *nummi* weighing about 1 scruple (288 to the pound). Issues of silver also became very sparse and irregular, and were probably made only for special occasions when custom demanded the distribution of silver coins; the accession donative of the troops, for instance, was traditionally fixed at 5 *solidi* and a pound of silver. On the other hand gold, in the form of *solidi*, *semisses* (half *solidi*), and *tremisses* (which from the reign of Theodosius I weighed a third of a *solidus*), continued to be minted in large quantities, and there was by now a gold coinage amply sufficient to meet the economic needs of the empire.⁸²

As a result levies and payments in kind were progressively commuted to gold. The process had begun in a small way under

Valentinian and Valens, and had been gradually extended by Gratian and Theodosius I. Under the successors of Theodosius I commutation was carried much further. The Western government seems to have been more thoroughgoing than the Eastern in making the changeover. From a novel of Valentinian III it appears that before the Vandal invasion of 429 the taxes of Numidia amounted to 33,600 solidi, 9,600 *annonae* and 1,600 *capita*, and those of Mauretania Sitifensis to 40,000 solidi and 400 *capita*, and that the *annonae* had already been commuted to gold: the rate, which had probably hitherto varied, was fixed in 445 at 4 solidi for each *annona*. From a law of 458 it is evident that the land tax of Italy was by that time paid entirely in gold. The troops, the civil service and the officers of state must presumably have been paid in gold, and when the government required foodstuffs to supply an army in the field it obtained them by compulsory purchase.⁸³

In the East the policy of commutation was less consistently applied. In 423 the *annonae* of civil servants were commuted to gold, and in 439 the *annonae* and *capitus* of officers of the rank of *spectabilis* and *clarissimus*. In some provinces the *limitanei* were paid entirely in gold—this was already the rule in Palestine by 408—but normally, it would seem, troops actually present at their stations received rations in kind, and money *annonae* were paid only to officers and to men detached for special service or on leave. The land tax was still assessed in kind, and most of it apparently still paid in kind. Payment in gold was a special concession made to individual landowners, and was assessed on average prices over a period of five years: this concession seems to have been sparingly granted—out of 62,000 *iuga* at Cyrrhus only 15,000 paid in gold in 435.⁸⁴

The death of Theodosius the Great brought no relief to paganism. The temples remained closed—officially at any rate—and the cult forbidden. Honorius in 408 went further and debarred pagans from the imperial service, and in 416 Theodosius II, or rather his pious sister, Pulcheria, enacted the same rule in the East. Honorius' law was, however, withdrawn within a year, and in the East the corresponding law seems to have been laxly observed. Nor were the rules against the pagan cult strictly enforced. Arcadius was, it would seem, of a tolerant character; though pressed by the empress Eudoxia he flatly refused to order the destruction of the pagan temples of Gaza, on the ground that the Gazans were dutiful subjects who paid their taxes regularly. His pious son re-enacted the penalties against sacrifice in 423 and 435. Honorius in 407

ordered strong measures to be taken against the still flourishing pagan temples of Africa, and in 415 re-enacted this law and made it of general application throughout his half of the empire.⁸⁵

In the West the church was troubled by no major controversy, and its relations with the state were harmonious. Only one doctrinal question threatened for a time to disturb the peace. Pelagius, a lay theologian, whose lectures attracted large audiences at Rome, in his zeal to inculcate the practice of the Christian virtues tended to overstress the importance of the human will and to slur over, if not to deny, the necessity of divine grace. His views were widely accepted not only in Italy but in Gaul and even in distant Britain. But in Africa they met with disapproval, and in 411 one of his disciples, Caelestius, was officially condemned by an episcopal council at Carthage. Pelagius himself, who had left Rome at the time of Alaric's attacks on the city and had migrated to Palestine, was there challenged by a young Spanish priest, Orosius, who had come under the influence of Augustine. But the attack misfired: Eastern theologians were little interested in the issue, and a council held at Diospolis in 415 acquitted Pelagius.⁸⁶

Alarmed by this, the Africans, inspired by Augustine, took up the question seriously, and in 416 in two councils, held simultaneously at Carthage and at Milevis, the bishops of Africa and Numidia reaffirmed their condemnation of Caelestius and asked the pope to condemn Pelagius' views. Innocent I, pleased by the rather unusually deferential tone of the African church, readily concurred, but on his death in the following spring his successor, Zosimus, having reviewed the case, declared Pelagius orthodox. On 30 April 418, however, the emperor issued an edict ordering the expulsion of the Pelagian leaders, and on 1 May a united council of the African bishops pronounced a reasoned condemnation of their doctrines: the coincidence of the dates can hardly be accidental. The stage seemed set for a major conflict between the Roman and African churches, and between the emperor and the pope, but Zosimus thought it wisest to retract. Pelagianism was thus in the last resort officially and unanimously condemned, and though it still had its adherents in Britain in 429 and in Istria in 440, it ceased to be a serious problem.

The normal penal laws against heretics continued to be issued. But the main struggle, or at any rate that on which our documentation is most complete, was against the Donatists in Africa. Here, inspired by Augustine, the Catholic bishops, supported by the imperial government, waged a determined campaign to crush their adversaries once and for all. Augustine at first deprecated the use of the secular arm, and throughout the campaign made valiant

efforts to convince the Donatists by reason, writing voluminous tracts to expose their errors, and arranging public debates with their leaders. But in a few years he had convinced himself that penal laws were an effective aid to moral suasion. In 405 the imperial government finally declared that Donatism was not merely a schism but a heresy, and inflicted particularly severe penalties on the Donatist habit of rebaptising converts from the Catholic church. Further penal laws followed in 407 and 408, and in 411 the imperial government made a final effort to settle the long controversy by summoning a plenary council of all the Catholic and Donatist bishops at Carthage under the presidency of the tribune and notary, Marcellinus.⁸⁷

Both parties regarded the council as a trial of strength, and the Catholics managed to whip up 286 bishops to the Donatists' 284. Despite persistent obstruction by the Donatists the arguments of the Catholics were eventually heard, and Marcellinus gave judgment in their favour. Fortified by this verdict the government issued yet more drastic penal laws, inflicting crippling fines, graduated according to the offender's rank, on Donatist recusants. For a time the Donatist church seemed to have been crushed, but it was scotched, not killed, and after a long period underground, re-emerged in the open once again in the sixth century.

The most important development in ecclesiastical affairs during the reigns of Honorius and Valentinian III was the growing success with which the Roman see asserted its authority over the Western churches. The popes of this period were for the most part men of ability and determination, and two of the ablest, Innocent I (401-17) and Leo I (440-61), had the good fortune to enjoy long reigns, while the tactless and blustering Zosimus fortunately died after less than two years of office (417-18). The papal elections, moreover, with one exception were conducted in a seemly fashion. On the death of Zosimus two parties amongst the Roman clergy simultaneously elected and consecrated two rival popes, Eulalius and Boniface. The prefect of the city, who happened to be a pagan, Symmachus, the nephew of the great orator, found great difficulty in curbing the disorders which ensued, and appealed for guidance to the emperor. The patrician Constantius at first took a correct line; both candidates were removed from Rome pending the convocation of a large council of bishops to decide the issue. Eulalius, however, put himself out of court by returning to Rome without permission to celebrate Easter, and the imperial government, without waiting for the proposed council, declared Boniface duly elected. This incident might have proved a dangerous precedent for imperial interference, and Boniface, when he felt his end was

near, was unwise enough to request the emperor to maintain the peace at the forthcoming election. Honorius, however, refrained from exploiting the opportunity, and contented himself with ruling that if two popes were elected both would be disqualified.⁸⁸

After the death of Ambrose in 397 and the removal of the court to Ravenna in 401-2 the see of Milan lost the position of authority which it had enjoyed when its great bishop had dictated to emperors. The bishop of Rome had now no rival in the West. It was to him that the other churches applied for guidance in their difficulties: the defeated party in any controversy appealed to him for redress, provincial councils sought his approbation for their decisions, and ambitious provincial prelates invoked his support in their schemes against their neighbours. The successive popes of this period made good use of their opportunities, laying down the law to the churches of Italy, Gaul, Spain, Africa and Illyricum, and demanding obedience as the successors of Peter. Their claims were not always unchallenged. The African church, under the leadership of the bishop of Carthage, had always had a mind of its own, and was jealous of its autonomy. Over the Pelagian controversy it had decided views, and it did not hesitate to call Pope Zosimus to order when he disregarded them. Soon afterwards it was able to administer another snub to the Roman see. An African priest named Apiarius, who had been excommunicated by his bishop, appealed to Rome. Zosimus eagerly received his appeal, acquitted him, and sent him back to Africa with an Italian bishop and two Roman priests armed with instructions to reinstate him. The African bishops were eventually able to prove that the alleged canons of Nicaea, on which Zosimus had based his interference, were not genuine—they were in fact canons of the Council of Sardica—and to request Pope Caelestine not to receive appeals from African bishops or lower clergy, nor to send judges to Africa, as such acts were infringements of the rights of the African church.⁸⁹

In the dioceses of Dacia and Macedonia, which in 395 had passed under the government of the Eastern empire, Rome was faced with the competition of Constantinople. To counter this threat Siricius renewed the alliance which Damasus had formed with the bishop of Thessalonica, and gave him as papal vicar the right of consecrating all bishops in the two dioceses. The bishop of Thessalonica naturally welcomed papal support in increasing the authority of his own see, and the pope profited by acquiring a local agent whose loyalty was assured. This arrangement, which was renewed by successive popes and became a standing institution, proved highly successful. In 421 the Eastern government instructed the praetorian prefect of Illyricum to see that the prerogatives of the New Rome

were respected in that area, but Boniface was able to persuade Honorius to issue a protest to his nephew, and the decree was withdrawn.⁹⁰

An attempt by Zosimus to create a similar papal vicariate in Gaul, on the other hand, proved a fiasco. In this affair Zosimus appears to have been the dupe of Patroclus, the ambitious bishop of Arles, who designed to use papal authority to increase the prerogatives of his own see. The metropolitans of the three provinces which he wished to bring under his sway were so recalcitrant that Zosimus' successors dropped the scheme, and Leo I in 445 made a complete *volte face*, energetically defending the rights of the three metropolitans against the encroachments of another ambitious bishop of Arles, Hilary. On this occasion again the papacy persuaded the imperial government to enforce its pretensions, and Valentinian III instructed the patrician Aetius to exercise compulsion against any Gallic bishop who defied a papal summons to come to Rome.⁹¹

Despite occasional blunders and rebuffs papal authority grew. In the end even the African church ceased to give trouble. When Proconsularis and Byzacena were ceded to the Vandals, the bishops of Carthage were reduced to impotence, and in 446 Leo the Great had the satisfaction of issuing authoritative instructions to the bishops of Mauretania Caesariensis, which had been retroceded to the empire by the treaty of 442.⁹²

In the East the reigns of Arcadius and Theodosius II saw a similar growth of the power and pretensions of the see of Constantinople. The bishop of Constantinople had much weaker canonical claims. The oecumenical council of 381 had, it is true, accorded to the New Rome a primacy of honour second only to that of old Rome, but it had assigned to it no specific jurisdiction, but had on the contrary declared that the bishops of each diocese should manage their own affairs without outside interference. Nevertheless the prestige of the see as that of the imperial capital stood high, and as the bishop of Constantinople could generally rely on imperial support, and reinforce his spiritual authority by summoning *ad hoc* councils of the numerous bishops who flocked to the capital, there was a natural tendency to refer disputes, grievances and claims to him, more especially from the three neighbouring dioceses of Thrace, Asiana and Pontica, where there were no outstanding sees to challenge his claims. Within these areas the growing authority of Constantinople met with little resistance except from Ephesus, whose bishops had somewhat ill-defined claims over Asiana. But the bishops of the great sees of Rome, Alexandria and Antioch resisted any encroachments on their

spheres of influence, and watched the growing ascendancy of Constantinople with a jealous eye.⁹³

Rivalry was keenest between Constantinople and Alexandria, which had hitherto taken the lead in the East, and the successive controversies which rent the Eastern church in the first half of the fifth century have been interpreted as battles for power between these two sees. Such a view is exaggerated, for there were genuine doctrinal differences involved in two of the disputes. In the first clash, however, it is difficult to see anything but an attempt by Theophilus, bishop of Alexandria, to crush what he regarded as the arrogant pretensions of John Chrysostom, bishop of Constantinople. The dispute arose from an appeal to John by four Egyptian monks who had been excommunicated for heresy by Theophilus. John very properly refused to accept this appeal, as according to the canons of the Council of Constantinople he was forbidden to interfere in the affairs of another diocese. The monks, however, interested the empress Eudoxia in their cause, and an imperial order was issued summoning Theophilus to Constantinople to stand his trial before John.⁹⁴

Theophilus was naturally infuriated by what he must have regarded as an attempt by John to interfere in his diocese, and he determined to take his revenge. He sailed for Constantinople with a group of Egyptian bishops, and proceeded to rally round himself all who had grievances against John. This task was easy, for John's tactless zeal had raised up many enemies amongst his own clergy and the bishops about the court, and he had recently provoked the fury of the empress. Theophilus was able to get together a council in a suburb of the capital, and summoned John to answer the charges brought against him. John refused to appear and was condemned for contumacy, and the emperor was persuaded to decree his exile. Riots followed, and Eudoxia changed her mind and John was recalled, but not for long. He again aroused the empress's rage, and on the ground that he had resumed his functions, though his condemnation by an episcopal council had never been rescinded, he was again exiled.

This struggle did nothing to diminish the prestige of the Constantinopolitan see. John's sufferings excited general sympathy outside Egypt, and his name was soon vindicated officially by its insertion in the diptychs. Atticus, who filled the chair of the capital from 406 till 425, quietly consolidated the authority of his see in the three neighbouring dioceses; an attempt to annex Illyricum to his see was, as we have seen, foiled by Pope Boniface.

The next clash with Alexandria came under Nestorius, who was summoned from Antioch by Theodosius II to fill the chair of Con-

stantinople. Nestorius was an opinionated and intolerant character, and carried to an extreme views current in Syria, which were highly distasteful to Alexandrian theologians. His sharp separation of the divine and human natures of Christ, and in particular his objection to calling the Virgin Mary the Mother of God, seemed to Cyril, who had succeeded Theophilus as bishop of Alexandria, to be heretical. Cyril prepared the ground carefully. He wrote in a flattering fashion to Pope Caelestine, expounding the iniquity of Nestorius' doctrine and asking for the pope's decision. Caelestine, gratified by this deference and not understanding the question at issue, summoned a Roman council which condemned Nestorius, and sent Cyril a letter authorising him to depose him unless he retracted his errors within ten days. Cyril in the meantime was busy framing Twelve Anathemas, which set out his view of the orthodox position, and did not hurry to execute the pope's mission. Nestorius took advantage of the delay to persuade the emperor to summon a general council to Ephesus. Cyril's bombshell having thus misfired, he determined to win the day at the council at all costs. The pope also consented to be represented at the council, though he insisted that it should only register his prior decision.⁹⁵

The council had been convoked for Whit Sunday (7 June) 431. Nestorius arrived in time with his adherents from Constantinople, but he soon found himself in a minority. Memnon of Ephesus, animated rather by jealousy for the prerogatives of his see than by zeal for orthodox doctrine, had mustered a large body of the bishops of Asiana, and Cyril soon arrived with fifty-odd Egyptian bishops. Five days after the council should have begun Juvenal, bishop of Jerusalem, arrived with fifteen Palestinian bishops: his subsequent career proves that he was an unscrupulous opportunist, bent only on becoming a patriarch, and, as John of Antioch, who was the principal obstacle to his scheme, was on Nestorius' side, he ranged himself on Cyril's. Cyril was now anxious to proceed at once, without even waiting for the Roman delegates, seeing that the Syrian contingent, who had been delayed on their journey, would substantially reinforce Nestorius' party. Overruling the protests of Candidianus, the *comes domesticorum*, whom the emperor had charged with the maintenance of order in the council, he convoked the bishops. Nestorius and his supporters refused to attend, and Cyril and his partisans promptly condemned and deposed him. John and the Syrians now at length arrived and joined forces with Nestorius and his friends. Under the presidency of Candidianus they held a council, in which they condemned the Twelve Anathemas and deposed Cyril and Memnon. Finally the Roman

legates arrived and gave their approval to the verdict of Cyril's council.

Theodosius, apparently baffled by the contradictory reports which he had received from the two parties, impartially confirmed the deposition of Nestorius, Cyril and Memnon, and condemned any deviation from the faith of Nicaea. Cyril now got to work at Constantinople, laying out vast sums in bribes to the principal eunuchs and the chief ministers, and inciting the monks in the capital to demonstrations. Eventually he got his way. He and Memnon were allowed to resume their sees, Nestorius resigned and retired to his monastery at Antioch. It still required long negotiations to heal the breach between the Alexandrian and Antiochene sees, but eventually Aristolaus, the tribune and notary entrusted with the task, succeeded in arranging a compromise whereby John condemned Nestorius' doctrine but Cyril tacitly abandoned his Twelve Anathemas. It was not until 435 that the imperial government officially declared Nestorius' views heretical.

The compromise achieved was, however, uneasy, and relations were strained between those who, like Theodoret of Cyrrhus, condemned only the more extreme deviations of Nestorius' doctrine, and those who revered Cyril's Twelve Anathemas. Among the latter was a highly respected abbot of Constantinople named Eutyches, who carried the Cyrillic doctrine to an extreme, teaching that Christ had only one nature, the divine having absorbed the human. This doctrine caused scandal to some, and in 448 Eusebius, bishop of Dorylaeum, lodged a formal charge of heresy against Eutyches before Flavian, bishop of Constantinople. Flavian was most reluctant to take action, but Eusebius insisted. Eutyches was eventually persuaded to appear before a small council, held under the presidency of Florentius, the former praetorian prefect of the East, and was condemned. He appealed to Rome, and Flavian sent a full dossier of the controversy to Leo, who confirmed his decision. Eutyches, however, enjoyed the favour of the all-powerful eunuch Chrysaphius, who persuaded the emperor to convoke a general council at Ephesus, under the presidency of Dioscorus, bishop of Alexandria, to reconsider the whole matter. Leo consented to this course and sent three legates to represent him.⁹⁶

The decisions of the council were a foregone conclusion. Not only was Dioscorus in the chair with two imperial commissioners to back him. Of the 130 bishops summoned, the majority, notably the Egyptians and the Palestinians under Juvenal, were committed to support Eutyches. Eutyches was duly declared orthodox, and Flavian and Eusebius of Dorylaeum were deposed; their fate was

shared by a number of prominent divines objectionable to Dioscorus, such as Theodoret of Cyrthus, Ibas of Edessa, and Domnus of Antioch himself. The theology of Alexandria appeared to have triumphed, but less than a year later Theodosius II died, Chrysaphius was executed, and under a new emperor the case was reopened.

CHAPTER VII

THE EASTERN EMPIRE FROM MARCIAN
TO ANASTASIUS

OUR sources for the reigns of Marcian, Leo, Zeno and Anastasius are as unsatisfactory as they are for that of Theodosius II. From the last part of Priscus' history, which came down to the death of Leo in 474, only fragments survive, and very little is left of the work of Candidus the Isaurian, who covered the reigns of Leo and Zeno (457-91). There are more substantial remains of Malchus of Philadelphia, who told the story of the years 474-80. For the rest we are reduced to the unreliable narratives of John Malalas, John of Antioch and later historians, or to chronicles which, though contemporary, are extremely bald. An exception is the Syriac chronicle of Joshua the Stylite, which gives a detailed and interesting first-hand account of events in Mesopotamia between 494 and 506. For ecclesiastical history we have Evagrius, and a Syriac summary of the work of Zacharias of Mitylene, a monophysite who during the reign of Anastasius wrote a church history covering the years 450 to 491.

The legal sources are also somewhat meagre for this period. Five novels of Marcian are preserved in full. For the rest we have only the Codex Justinianus, which incorporates some twenty laws of Marcian, and fifty or sixty each of Leo, Zeno and Anastasius. This must be a very small proportion of the legislation of these emperors, and the editors of the Code have preserved only very summary versions of those laws which they selected. By contrast the documentary sources for ecclesiastical history are extremely voluminous, including the Acta of the Council of Chalcedon, and a large body of correspondence between the popes, from Leo the Great to Hormisdas, and the successive emperors of the East and the Eastern patriarchs.

There are some useful contemporary biographies, notably the life of Daniel the Stylite, who stood upon a pillar in the vicinity of Constantinople from 460 to 493, and was frequently visited by the emperors Leo and Zeno and the great men of the capital, and that

of Severus, the monophysite theologian who became bishop of Antioch in 512: the latter, written by his friend Zacharias of Mitylene, survives only in a Syriac translation. The letters of Severus when bishop of Antioch are also preserved in a Syriac version, and throw valuable light on the state of the church in this period. Cyril of Scythopolis in Justinian's reign wrote the lives of a number of Palestinian monks who played a prominent part in the doctrinal controversies which followed the Council of Chalcedon: those of Euthymius and Saba are particularly valuable. Other miscellaneous literary sources include two panegyrics on Anastasius, a poem in Latin by Priscian and a Greek oration by Procopius of Gaza, and the *De Magistratibus* of John Lydus, who served in the praetorian prefecture of the East from 511 to 551, and not only describes in great detail the organisation of the department, but includes a number of useful personal reminiscences. Embedded in the *De Cerimoniis* of Constantine Porphyrogenitus are the official records of the election and coronation of Leo and of Anastasius.

According to late and not very reliable sources Theodosius II on his death-bed indicated that he wished Marcian to be his successor. This is probably a reflection of contemporary propaganda. What is significant is that Marcian was a retired military officer of no distinction—he had only achieved the rank of tribune, having risen from the ranks—who had been domestic to Aspar, and that one of his first acts was to appoint one of Aspar's sons, Ardaburius, *magister militum per Orientem*. There can be little doubt that Aspar arranged Marcian's election by the senate and the army, probably with the co-operation of Pulcheria Augusta, who consented to marry the new emperor and thus confer upon him the hereditary prestige of the Theodosian house.¹

The new emperor promptly executed the eunuch Chrysaphius and reversed the policies which he had been pursuing in foreign, domestic and ecclesiastical affairs. He refused to pay Attila his subsidy. This rash gesture of defiance, which might have involved the European provinces of the empire in yet deeper ruin, turned out luckily, for Attila was too busy with his Western schemes to retaliate at once, and died before he had time to take his revenge. Marcian took advantage of the break-up of the Hunnic empire to form alliances with many of its former subject peoples and to grant some of them homes in the desolated areas of Illyricum and Thrace. The Ostrogoths—or rather a large group of them—were planted in Pannonia under their three kings, Valamir, Videmir and Theodemir. Some Rugians were settled in Thrace round Bizye and Arcadiopolis, and some Scirae and Alans in Moesia Inferior and

Scythia. Groups of Huns were also welcomed. Some, mixed with Sarmatians, were planted round Castra Martis, other groups in Scythia and in Dacia Ripensis. It is probable that at the same time large numbers of Ostrogoths were taken into the imperial service as federates without being allotted lands. They appear early in the next reign under the command of a Gothic officer of humble origin, named Theoderic Strabo, who was allied by marriage to Aspar.²

Marcian's defiance of Attila was probably designed to win the favour of the senatorial order, which had been highly critical of Chrysaphius' policy of buying peace with subsidies to which they were forced to subscribe. The cessation of the subsidies enabled Marcian to win their lasting goodwill by abolishing the senatorial *follis*. There had also been much complaint in senatorial circles of the waste of money—their money—on shows and spectacles, and to satisfy this Marcian reduced the number of praetors to three, who were to be chosen by the senate from *illustres* resident in the capital, and were relieved from all obligatory expenditure on games: he also abolished the customary distribution of largesse to the people by the consuls, substituting for it a subscription towards the repair of the aqueducts. If there was to be any relief of taxation, the *follis* was the last tax that ought to have been abolished, but it can at least be said for Marcian that he was careful of the interests of the treasury. The remission of arrears which he made on his accession in 450, covering the years 437 to 447, erred on the generous side, it is true, but the reform of the praetorship and the consulship cost the state nothing, and the *follis* can have yielded little revenue. He is said by John Lydus to have left a reserve of over 100,000 lb. gold in the treasury when he died.³

Marcian's ecclesiastical policy was probably inspired by Pulcheria, who is likely to have had pronounced theological views. But it may also have been influenced by diplomatic considerations. Marcian was anxious to have his election ratified by his Western colleague, and Pope Leo I had great influence at the Western court. Anatolius, the new bishop of Constantinople, was also anxious for recognition by the pope. Leo had naturally been infuriated by the outcome of the second Council of Ephesus. He had given his definition of the true faith in his letter to Flavian—the famous Tome of Leo—which his legates had taken to the council, and it had been utterly ignored. His demands for another council to be held in Italy under his own presidency had been curtly refused. Marcian may therefore have had some ulterior motives in acceding to Leo's demand for a new council, insisting only on its being held in the East. The pope at first resisted the idea of an

Eastern council, and indeed argued that no council was necessary at all, if the emperor was prepared to accept his Tome. But Marcian persisted, and eventually Leo agreed to send legates, on condition that the doctrinal issue was not to be reopened.⁴

Great care was taken by the imperial government to keep the council under control. Originally summoned to Nicaea, it was moved to Chalcedon, so that the emperor might be able to attend its sessions without inconvenience. To guide the proceedings a huge commission of ten ministers and twenty-seven senators was appointed. All went according to plan. At the first session on 8 October, 451, the proceedings of the Second Council of Ephesus were condemned and Flavian was declared orthodox: only Dioscorus and his Egyptian colleagues stood to their previous decision, and Juvenal of Jerusalem hastily abandoned what was clearly a sinking ship. At the third session Dioscorus was formally cited, and, as he refused to appear, was condemned for contumacy and deposed. The other leaders of the opposition were allowed to submit; only the Egyptian bishops remained obdurate. It proved more difficult to formulate a creed acceptable to the majority. The Roman legates insisted on Leo's Tome and threatened to walk out if it was not accepted. Many Eastern bishops who were by no means in agreement with Dioscorus' views had strong objections to Leo's forthright but somewhat crude statement of the faith. But the imperial commissioners, on the instructions of the emperor, allowed no compromise. The bishops were asked to choose between Leo and Dioscorus, and having inevitably voted for the former, were asked to sign a creed which incorporated the most objectionable parts of Leo's definition.

The council went on to consider a number of individual cases and to formulate a series of canons. They ratified a compromise between Maximus of Antioch and Juvenal of Jerusalem, whereby the latter achieved the dignity of a patriarch, but with jurisdiction only over the three Palestines. In the famous twenty-eighth canon they formally bestowed on the bishops of Constantinople that authority over the dioceses of Thrace, Asiana and Pontica which they had gradually established during the past two generations.

The Roman legates vigorously resisted the twenty-eighth canon and Leo refused to accept it. Eventually however the bishops of Rome had to acquiesce in the consolidation of New Rome's ecclesiastical authority. The doctrinal decisions of the council led to more lasting troubles. It would no doubt have been difficult in any case to reconcile the two theological parties, but the Council of Chalcedon by adopting a formula which all theologians of the Alexandrian school could not but regard as Nestorian made the

task impossible. In Egypt and Palestine the reaction was immediate and violent. The installation of Proterius, who was appointed to succeed Dioscorus at Alexandria, required the assistance of a large body of imperial troops, and was only effected after bloody battles in the streets of Alexandria. In Palestine the monks, when they heard of Juvenal's defection, rose in rebellion and set up a new bishop of Jerusalem. It required a regular campaign to overcome resistance, and it was nearly two years before Juvenal was able to recover his see.

Marcian died in 457 without having designated a successor, and the senate again obediently elected a nominee of Aspar, an obscure officer named Leo, who had once been agent of his estates and was now tribune of the Mattiarii. No sooner was the death of Marcian known in Egypt than a monophysite bishop of Alexandria, Timothy, nicknamed the Cat, was elected, and when the *comes Aegypti* arrested him Proterius was lynched. Leo at first showed some hesitation. He thought of summoning another general council, but eventually contented himself with sending a circular letter to all metropolitans asking whether the decisions of Chalcedon should be maintained and whether Timothy of Alexandria should be recognised. He received unanimous replies, affirmative to the first question and negative to the second, but he still delayed taking action against Timothy. It was not until 460, after prolonged and fruitless negotiations, that force was employed. Timothy the Cat was exiled and another Timothy, called the White Hat, was established.⁵

Leo was also troubled by the barbarians whom Marcian had with doubtful wisdom established in Illyricum. The Ostrogoths, complaining that their subsidy had not been paid, and envious of their kinsmen under Theoderic Strabo, who were receiving good pay, invaded Epirus and captured Dyrrachium in 459. They were eventually persuaded in 461 to return to Pannonia on condition that their subsidy was raised to 300 lb. gold a year.⁶

Aspar's position in the first few years of the reign was extremely strong. Not only was he one of the *magistri praesentales*: he had at his disposal a powerful army of federate Goths under the command of Theoderic Strabo, and one of his sons, Ardaburius, was *magister militum per Orientem*. He evidently adopted a rather dictatorial tone towards the emperor, but Leo was not always submissive. We hear of quarrels and high words about Vibianus, who was appointed praetorian prefect in 459, and about Tatianus, who was sent as envoy to the Vandals a few years later, and when the Ostrogoths

became involved in a war with the Scirae, Leo insisted, contrary to Aspar's advice, on aiding the latter.⁷

In 466 Leo was given the opportunity of weakening Aspar's position. An Isaurian officer named Tarasicodissa arrived in Constantinople bringing documentary evidence that Ardaburius was in treasonable correspondence with Persia. Leo confronted Aspar with this information in a session of the senate, and Aspar was obliged to consent to his son's dismissal. Jordanes, *comes stabuli*, son of the Vandal John, who had been *magister* of Thrace under Theodosius II, was appointed to the Eastern command, and Tarasicodissa was rewarded with the *comitiva domesticorum* and adopted the name of Zeno, after the distinguished Isaurian general who had been *magister militum per Orientem* at the end of Theodosius' reign. With his aid Isaurians were recruited in large numbers and stationed in the capital. It was probably also at this time that a new personal bodyguard for the emperor, the Excubitors, was recruited.⁸

Zeno rose rapidly in imperial favour. The very next year, 467, Leo gave him his elder daughter, Ariadne, in marriage and appointed him to be *magister militum per Thracias*. At the same time the emperor took a more independent line in foreign policy. He acceded to Ricimer's request for aid against the Vandals, appointed Anthemius, the son-in-law of Marcian, as Augustus of the West, and prepared a powerful naval expedition which sailed for Africa in 468 under the command of Basiliscus, the brother of the empress Verina.⁹

The expedition proved a disastrous failure, and Zeno, having nearly lost his life in a mutiny, had to abandon the Thracian command. Both events were later attributed to the machinations of Aspar, but the former was probably due to the incompetence of Basiliscus, and the latter to the unpopularity of Zeno with the European troops. But meanwhile, during Zeno's absence in Thrace, Ariadne had given birth to a son, who was named Leo after his grandfather, and Zeno was nominated consul for the next year (469) and appointed *magister militum per Orientem*, a post in which his Isaurian connections would be useful to him. Aspar seems to have been alarmed at the possibility of Leo's being succeeded by his grandson with Zeno as regent, and to have determined to forestall this danger while he was strong enough to do so. He demanded that Leo should give his other daughter in marriage to Patricius, his second son, and should create him Caesar. Leo could not refuse, and after long delays actually proclaimed Patricius Caesar, despite his barbarian birth and Arian faith.¹⁰

In 470 Leo received further information which alarmed him.

Anagast, son of Arnegisclus, who had been appointed to succeed Zeno in Thrace, had in 469 achieved a notable victory over an invading horde of Huns, led by Dengizich, one of Attila's sons. He had been offered the consulship as a reward, and had refused it because he suffered from epilepsy, but he now threatened to revolt, ostensibly on the ground that his enemy, Jordanes, had been given the consulship which he had refused. He was mollified by gifts, and excused himself by declaring that he had been suborned by Aspar's son, Ardaburius. Zeno at the same time reported that Ardaburius had been trying to tamper with the Isaurians, presumably the troops in the capital.¹¹

Leo still did not feel strong enough to challenge Aspar overtly. He ostensibly maintained friendly relations, and invited him with his sons to the palace, where they were attacked by the eunuch bodyguard. Aspar and Ardaburius were killed, the Caesar Patricius was wounded, but allowed to survive, stripped of his honours. A third son, Ermanerich, who was not in the capital, also managed to escape. The danger was by no means over. Ostrys, Aspar's domestic, rallied the Gothic federates in the capital and attacked the palace. He was beaten off, however, by the Excubitors and withdrew to Thrace, where he joined forces with the main body of the Gothic federates under Theoderic Strabo. Theoderic seized his opportunity. The Goths elected him their king, and he demanded on their behalf lands in Thrace and for himself Aspar's estate and the post of *magister militum praesentalis*. Leo refused the first two demands and Theoderic retorted by ravaging Thrace and besieging Arcadiopolis, which he eventually starved out. He failed, however, to take Philippi and his men in their turn were soon starving. Eventually in 473 a compromise was reached. Theoderic was appointed *magister praesentalis* and recognised as king of his Goths. They did not get their lands, but an annual payment of 2,000 lb. gold.¹²

Meanwhile the Ostrogoths, who had been settled in Pannonia, had again been causing trouble. In 471 they decided to abandon that poverty-stricken province. One group, led by Videmir, moved westwards and ultimately joined the Visigoths in Gaul. The other two groups, which were now united under the rule of Theodemir (the third brother, Valamir, having perished in battle), moved eastwards, and, after ravaging Dacia and Macedonia and attacking Thessalonica, were settled by the imperial government in seven Macedonian cities. Here Theodemir died and was succeeded by his son Theoderic, who had already been associated with him in the kingship since 471.¹³

A constitution of Leo reveals that by his reign a number of new

military commands had been created in Asia Minor and Syria. Three of these, the *comitivae* of Pamphylia, Pisidia and Lycaonia, were evidently intended to control Isaurian raids to the north and west. The *comitiva* of the Pontic diocese had by now been abolished, but the frontier ducate of Armenia had been divided into two. The two new *duces* were styled *utriusque Ponti* and *utriusque Armeniae*, and their authority thus extended well into the centre of Asia Minor. Farther south the united command of Syria and Euphratensis had been divided, and the title *dux novi limitis Phoeniciae* implies that this command had been reorganised.¹⁴

It is often stated that Leo freed the Eastern empire from the menace of German domination. This would seem to be an overstatement of his achievement. He finally succeeded after fourteen years in ridding himself of his patron, Aspar, and ensuring that the throne should pass to his favourite, Zeno, and his grandson, Leo. But he left to his successors the problem of dealing with the Gothic federates in Thrace and Macedonia.

Financially his reign was ruinous. On the great Vandal expedition of 468, which proved such a disastrous failure, he spent all the accumulated reserves in the treasuries of the praetorian prefects, the *largitiones*, and the *res privata*, amounting to 65,000 lb. gold and 700,000 lb. silver. It is not surprising that after this he was driven to the ruthless confiscations of which Malchus accuses him.¹⁵

Leo died on 18 January 474 and was duly succeeded by his seven-years-old grandson, who three weeks later by the advice of the senate created his father Augustus. Before the year was out the little Leo died and Zeno was left to rule alone. His position was extremely precarious. Save as son-in-law of the late emperor he enjoyed no dynastic prestige, and even here he had rivals. His mother-in-law, Verina, detested him, and was only too happy to lend the support of her name to pretenders, and Marcian, the son of the late emperor of the West, Anthemius, had married Leontia, Leo's second daughter. By the senatorial aristocracy Zeno was hated and despised as an upstart, and as an Isaurian he was unpopular with the mass of the people and of the army. Nor was he the man to win the respect of the army by his personal qualities; he was not physically an impressive figure, and he was no hero. His only asset was the loyalty of his Isaurian countrymen, which he endeavoured to ensure by giving their leaders posts in the imperial service. But even here his position was far from secure; there were other Isaurian leaders whose more martial qualities made them

dangerous rivals in the affection of the fickle mountaineers. To make things worse there were the two Theoderics with their Gothic armies, ready to exploit the emperor's difficulties in order to extort blackmail. Finally the treasury was extremely low.¹⁶

Zeno's reign was as a result punctuated by a series of revolts, and it was only by adroit and unscrupulous diplomacy that he managed to survive for seventeen years. He had not reigned a year before he had to flee from Constantinople to Isauria, in face of a formidable conspiracy in which Verina, her brother Basiliscus, an Isaurian general named Illus, and Theoderic Strabo combined forces. The conspirators soon fell out. Verina had intended that her favourite, Patricius, a former master of the offices, should become emperor, and that she should return to power as his wife. But her brother double-crossed her and had himself elected as emperor. Basiliscus quickly estranged his supporters. The reign began with a great massacre of the Isaurians in the capital, which cannot have pleased Illus. The new emperor offended Theoderic by appointing his nephew Armatus, a young man of no experience or ability, as *magister militum*. Being extremely short of ready money—Zeno had managed to carry with him whatever reserves there were—he was obliged to resort to ruthless taxation, and even to extort money from the church. Finally he raised a riot in the capital by issuing an Encyclical condemning the Council of Chalcedon. Illus, who had been sent to Isauria to reduce Zeno, now changed sides, and the two marched on Constantinople. Basiliscus sent Armatus against them, but Zeno, by promising to make him *magister militum* for life and to proclaim his son Caesar, induced him to march by a different route to Isauria. Zeno was thus able to enter Constantinople unopposed less than two years after he had left it (476). Basiliscus and his son Marcus, whom he had proclaimed as his colleague, were executed. Armatus' son was duly proclaimed Caesar, but Armatus was shortly afterwards assassinated and his son compelled to take holy orders.¹⁷

Zeno had still to deal with Theoderic Strabo. He dismissed him and promoted the other Theoderic to be *magister militum praesentalis* in his place, created him a patrician, and adopted him as his son. Strabo retorted by ravaging Thrace, but his federates, deprived of their pay, became discontented and sent envoys to Constantinople asking that their leader might be received back into favour. Zeno put the issue to the senate, which declared that funds were inadequate to pay both groups of Goths, and left Zeno the choice of which he should employ. Zeno summoned a great parade of the Roman troops in the capital and denounced Strabo's treachery; they responded by proclaiming him a public enemy. Troops were

concentrated from Pontica and Asiana and even from Oriens, and wagons, cattle and wheat were collected. Illus was to take the command, but was superseded by another general, Martinianus. Theoderic, son of Theodemir, was informed that he also must play his part as *magister*, and having secured from the emperor and the senate an oath that they would never be reconciled to Strabo, agreed to obey.¹⁸

A great joint operation was now planned. Theoderic with his tribesmen was to march south from Scythia, whither the Ostrogoths had now migrated from Macedonia; on crossing the Haemus he would be joined by 12,000 Roman troops under the *magister militum per Thracias*, and at Adrianople there would be another Roman army of 26,000 men. For reasons unknown neither Roman army appeared, and Theoderic was left to face his namesake unaided. Strabo reproached him with being a traitor in fighting his brother Goths for the benefit of the Romans, and the son of Theodemir, seeing that his followers were becoming dissatisfied, agreed to join forces with him. A joint embassy was sent to Constantinople conveying their demands, for Theoderic Strabo his reappointment as *magister praesentalis*, and the arrears of pay for his men; for the other Theoderic his emoluments as *magister*, and land for his tribe and corn until the next harvest. Zeno tried to lure back Theoderic, son of Theodemir, by a promise of 1,000 lb. gold and 10,000 lb. silver and an annual subsidy of 10,000 solidi, but in vain. He then announced that he would himself lead the Roman armies against the Goths, but postponed action, until at length Martinianus had to send the troops back to their winter stations.¹⁹

Zeno now decided that he must at all costs placate Strabo. He agreed to reappoint him *magister praesentalis* and also to give him the command of two of the *scholae* and to supply him with pay and rations for 13,000 men. The other Theoderic was dismissed and led his people into Macedonia, sacking Stobi and threatening Thessalonica. He found it difficult, however, to feed his men, and eventually agreed to enter into negotiations. Zeno offered him lands in the territory of Pautalia, and, as no crop had been sown there, authorised the praetorian prefect of Illyricum to spend 200 lb. gold on buying provisions for the Goths during the winter.²⁰

Theoderic, while professing to accept these terms, got into touch with Sidimund, an Ostrogoth in Roman service, who had a large estate at Dyrrachium. Sidimund, by declaring that Zeno had granted Dyrrachium to Theoderic, bluffed the citizens and the garrison of 2,000 men into evacuating the city, and Theoderic marched in. Adamantius, the Roman plenipotentiary, protested at this treacherous act and insisted that Theoderic must take his men

as arranged to Pautalia, where there were waste lands available, instead of turning the people of Dyrrachium out of their city. Theoderic professed to agree, only asking that his weary men be allowed to stay where they were for the winter. He would, if so, put 6,000 men at the emperor's disposal either to fight the Goths in Thrace in conjunction with the imperial troops or to support Julius Nepos in Dalmatia. At this point Sabinianus, the newly appointed *magister militum per Illyricum*, having collected a number of regiments at Lychnidus, intercepted Theoderic's baggage train and rearguard, which was still defiling down to Dyrrachium, and captured 5,000 prisoners and 2,000 wagons. Encouraged by this news, Zeno ordered Sabinianus to carry on the war.²¹

In 479 Marcian, as champion of his mother-in-law, Verina, raised a revolt against Zeno. Verina had tried to procure the assassination of the Isaurian Illus, who was at this time Zeno's chief supporter, and Illus, having established Verina's complicity, had demanded that she be surrendered to his keeping, and had imprisoned her at Dalisandus in Isauria. Marcian, having collected a band of barbarians and secured the support of one of the regiments of the garrison, on the first day almost succeeded in obtaining control of the capital; but during the night Illus was able to ferry over Isaurians from Chalcedon, and next day Marcian was defeated. He was ordained and exiled to Cappadocia. Theoderic Strabo, who was in the plot, arrived too late. He was again deprived of his post and again joined hands with the other Theoderic. The two proceeded to ravage Thrace, and in 481 almost succeeded in surprising Constantinople. Foiled in this attempt by Illus, Strabo marched off to Greece, where he was accidentally killed. His son Recitach succeeded to the command of his horde, which is said to have numbered 30,000.²²

In 482 Zeno made an attempt to heal the doctrinal discord which had rent the church since the Council of Chalcedon. He himself probably had monophysite sympathies: before he became emperor he had, as *magister militum per Orientem*, assisted the monophysite Peter the Fuller at Antioch. The response to the Encyclical of Basiliscus in Egypt, Palestine and Syria, and even in Asiana, had shown how widespread was the opposition to Chalcedon. Even the patriarch of Constantinople, Acacius, who had led the resistance to the Encyclical in the capital, was not enthusiastic for Chalcedon, and he suggested to Zeno that unity might be achieved if it could be buried. An imperial constitution, the Henotikon or decree of union, was accordingly issued in this sense. The emperor, having asserted his adherence to the creeds of Nicaea and Constantinople, his acceptance of the Twelve Anathemas of Cyril, and his con-

demnation of the heresies of Nestorius and Eutyches, set forth a brief statement of the faith, which mentioned neither the one nor the two natures of Christ, and anathematised all who believed or had believed otherwise now or ever, at Chalcedon or any other council.²³

The Henotikon failed to satisfy the extreme monophysites, especially the monks of Egypt, Palestine and Syria, who clamoured for a more explicit condemnation of Chalcedon. It was equally unacceptable to such fanatical Chalcedonians as the Sleepless Monks of Constantinople. But the leaders of both parties subscribed to it, and it was probably welcomed by most moderate theologians, who could interpret its deliberately vague formulary in whatever sense they preferred. The government appears to have maintained a genuine neutrality. Egypt remained solidly monophysite, and in Syria and Palestine monophysitism gained ground. At Antioch Peter the Fuller, who succeeded Calandion in 484, and his successor Palladius, were strong adherents of the cause; so was Sallustius, who became patriarch of Jerusalem in 486. On the other hand, after Acacius' death in 489 the Chalcedonians gained the upper hand in Constantinople, and Euphemius, a strong adherent of the council, was elected.

Pope Felix III naturally refused to assent to a document which ignored the Tome of Leo, and excommunicated Acacius. But Zeno, unlike his predecessors, was not interested in the affairs of the West and ignored the pope's opposition.

Zeno's relations with Illus deteriorated during this period. The empress Ariadne pressed him to release her mother from confinement, but Illus refused. She then tried to procure his assassination, and Illus, finding the atmosphere of Constantinople unhealthy, requested the emperor to make him *magister militum per Orientem*. Zeno could not afford an open breach with Illus at this juncture and granted his request, but hastened to make his peace with Theoderic, who was ravaging Macedonia and Greece again. In 483 Theoderic was reappointed *magister militum praesentalis*, granted lands for his men in Dacia Ripensis and Moesia Inferior, and nominated consul for the ensuing year. Encouraged by Zeno he killed Recitach, with whom he had a blood feud, and took over the leadership of his Goths also. Meanwhile Illus had been consolidating his position in the Eastern provinces, and entered into negotiations with the satraps of Roman Armenia, with the Persian king, and even with Odoacer in Italy. The last rejected his advances, the others promised their aid when called upon, but only the Armenian satraps kept their word when the time came.²⁴

Zeno made the first move by sending one of his Isaurian

generals, the patrician Leontius, to demand the release of Verina. Leontius, however, seems to have been persuaded that he would do better for himself by winning Verina's favour and effecting a reconciliation between her and Illus. Zeno next demanded the release of his brother, Longinus, whom Illus also held as a hostage, and on Illus' refusal dismissed him from his post. Illus retorted by producing Verina in her imperial robes at Tarsus. She proclaimed the patrician Leontius as emperor and sent out to all the provinces letters in which she claimed that the empire was hers, and announced that, as her nominee Tarasicodissa had disappointed her hopes by his insatiate avarice, she had appointed a new emperor in the pious Leontius.²⁵

To crush the rebellion Zeno had to risk using his German federates in Asia Minor, but he prudently kept Theoderic at Constantinople, and entrusted to a more reliable barbarian general, John the Scythian, a mixed force of Roman troops, Ostrogoths and Rugians. Illus was defeated; the Isaurians deserted him and he shut himself up in the fortress of Cherris. The war was now over and Zeno hastily withdrew the Ostrogoths, leaving the Rugians to continue the siege, which dragged on for four years. Four of the hereditary Armenian satraps who had supported Illus were deposed and replaced by ordinary civil governors. It was probably now that the post of *comes Armeniae* was created to take over the command of the local levies which protected the area.²⁶

Theoderic was perhaps offended with Zeno for not having allowed him to lead his own men against Illus. He may also have been jealous of the favours which Zeno granted to the Isaurians when they abandoned Illus' cause: for to ensure their continued loyalty he paid them a subsidy of 1,400 lb. gold a year, and appointed an Isaurian, Cottomenes, as Theoderic's colleague. At any rate, in 486 Theoderic was again ravaging Thrace, and in 487 he attacked Constantinople itself. But next year he marched off with his people to the West with Zeno's authority to expel Odoacer from Italy and reoccupy it in the emperor's name. In 488 Zeno was thus freed from his last two enemies, Illus and Theoderic. But he enjoyed only three years of untroubled peace, dying in 491.²⁷

Zeno was throughout his reign short of money. He was by all accounts lavish and unbusinesslike by temperament, and apart from this he was obliged to be munificent to his supporters if he was to retain their loyalty. He was also compelled to spend large sums to keep the two Theoderics quiet, and in the last years of his reign to win and hold the support of the Isaurians. He must have gained considerable wealth from the confiscation of the property of un-

successful rebels, but he was, we are told, unlike his predecessor, a merciful man by nature, and did not fill the treasury by encouraging informers to promote capital charges against the rich. It would have been unpopular, and therefore for an emperor in Zeno's position highly impolitic, to increase taxation: his first praetorian prefect, Erythrius, handed in his resignation rather than do so. Sebastianus, who succeeded to the prefecture in 476, found a less painful remedy for his master's financial embarrassment in the systematic sale of offices. Offices had, of course, often before been obtained by bribery, but by bribery of the great men by whose interest they were obtained. Sebastianus, it would seem, demanded an official *suffragium*, payable to the treasury, for every appointment, and sometimes sold the right to appoint to a given office for a lump sum.²⁸

Zeno appointed no successor during his lifetime, and on his death the ministers and the senate duly met to elect a new emperor. On the proposal of Urbicius, the *praepositus sacri cubiculi*, the choice was referred to the empress Ariadne, who nominated an elderly silentary named Anastasius, and four months later married him. The choice must have caused some surprise, for Anastasius had played no part in politics hitherto, but it was accepted by the senate and the troops without question. It naturally did not please the Isaurians who occupied many of the high military and administrative posts, and was a great disappointment for Longinus, Zeno's brother, who had hoped for the throne.²⁹

Anastasius acted promptly against them. Using as his excuse a riot which broke out in the capital, he arrested Longinus and exiled him to the Thebaid, and expelled the other Isaurians from the city. A revolt had already broken out in Isauria, and the rebels marched on Constantinople. Anastasius concentrated against them the army of the East under John the Scythian, the conqueror of Illus, and the praesental armies, which he placed under the command of a Roman general of Thracian origin, John the Hunchback: Gothic and Hunnic federates were also put into the field. A great battle was fought at Cotiaem in Phrygia, in which the Isaurians were completely defeated. This battle broke the back of the rebellion, but the reduction of the various Isaurian strongholds took another seven years, and it was not until 498 that Longinus of Selinus, the last of the rebel leaders, was captured. But this time the pacification of the country was thorough. The mountain strongholds were demolished and thousands of Isaurian prisoners

were transported and settled on waste lands in Thrace. Henceforth the Isaurians played no part in politics, though they continued to serve in large numbers in the Roman armies.³⁰

On the Danube front the Roman armies were less successful. Their principal enemies by this time were the Bulgars, a Mongolian tribe which, it would seem, had absorbed what remained of the Huns. Julian, the *magister militum* of Thrace, was killed in battle in 493, and in 499 Aristus, the *magister militum* of Illyricum, suffered a severe defeat in Thrace, losing 4,000 men out of an army of 15,000. In 502 the Bulgars again ravaged Thrace, and this time the Roman armies did not venture to oppose them. To protect the immediate neighbourhood of the capital from such ravaging hordes Anastasius greatly strengthened the Long Wall, a line of fortifications running from the Black Sea to the Propontis about 40 miles west of Constantinople. The military defence of the line was entrusted to a *vicarius* of the *magistri praesentales*, and the supply of the troops and the civil administration of the area enclosed by it to a *vicarius* of the praetorian prefect of the East.³¹

In 502 hostilities broke out on the Eastern front. Under the treaty of 442 the Roman government had agreed to pay an annual subvention to the Persian king for the defence of the passes of the Caucasus, as being of common interest to both empires. Zeno had discontinued this payment on the ground that in 483 the Persian king had failed to retrocede Nisibis, which had been surrendered by Jovian in 363 for a period of 120 years. Anastasius had refused renewed Persian demands for the subvention, and Cavades, the Persian king, whose hands were tied by civil wars, had been obliged to acquiesce. But in 499 he had re-established his authority at home, and in 502 he made a sudden attack upon the empire, capturing Theodosiopolis of Armenia, Martyropolis, and, after a long siege, Amida.³²

Next year Anastasius mustered a large army against him under Areobindus, the *magister militum per Orientem*, and the two *magistri praesentales*, Patricius and Hypatius, the emperor's nephew. According to Procopius no larger force was ever mustered on the Eastern frontier, before or since, and Joshua Stylites, a local and contemporary witness, declares that Areobindus' corps mustered 12,000 men and those of the other two generals 40,000. These figures receive some support from the circumstantial details which Joshua gives of the means taken to feed the army. In 503 Apion, who had been appointed quartermaster-general with the rank of *praefectus praetorio vacans*, compelled the people of Edessa to bake 630,000 *modii* of wheat into biscuit; in 504 his successor Calliopius raised the figure to 850,000 *modii*; and in 505 the Edessenes again

baked 630,000 *modii*, but other cities were ordered to do their share also. These quantities of wheat would provide active service rations adequate to feed from 32,500 to 40,000 men for six months. The army included a considerable number of Gothic and other barbarian federates and a contingent from the client kingdom of Lazica, but a very large proportion of the two praesental armies must have been put into the field.³³

The results of the campaign of 503 were disappointing, largely, it would seem, from lack of co-operation between the three commanders. Next year Anastasius sent Celer, the master of the offices, to take the supreme command. Amida was recaptured, and Persian territory was invaded and ravaged. In the following year negotiations were begun, and in 506 a truce of seven years was arranged. The Persians were evidently tired of the war, for Cavades raised only a formal protest when Anastasius, in defiance of the treaty of 442, built a great fortress at Dara within a few miles of Nisibis. The truce does not appear to have been formally renewed, but peace reigned on the Eastern frontier for the rest of Anastasius' reign.³⁴

Anastasius was a man of somewhat puritanical piety: in 499 he abolished wild beast fights throughout the empire, and in 502 prohibited the mime. He also had pronounced theological views, being a convinced monophysite. The patriarch Euphemius strongly objected to his election, and only consented to play his part in the coronation if the emperor gave him a signed statement that he would respect the decrees of Chalcedon. Anastasius had to yield, but he naturally resented Euphemius' dictation, and Euphemius continued to pursue an aggressive policy. In 492 he held a council which reaffirmed the decisions of Chalcedon, and he wrote to Pope Felix III asking to be received into communion with him, and suggesting joint action against Athanasius, the patriarch of Alexandria. After five years the emperor lost patience. A council was held at Constantinople in which Euphemius was condemned as a Nestorian and deposed: Anastasius promptly exiled him to Euchaita in Pontus.³⁵

Apart from this intervention, which seems to have been inspired as much by personal antipathy as by *odium theologicum*, Anastasius maintained a neutral attitude in ecclesiastical affairs during the first twenty years of his reign. When Sallustius of Jerusalem died in 494, Elias, who had made no secret of his Chalcedonian leanings, was, on subscription to the Henotikon, consecrated as his successor, and in 498 the monophysite Palladius was succeeded by the Chalcedonian Flavian at Antioch. Even at Constantinople no attempt was made to replace Euphemius by a monophysite. His

successor, Macedonius, seems at first to have taken a rather equivocal line, but he soon revealed his true Chalcedonian sentiments.

Anastasius must have been distressed by the reaction towards Chalcedon, which was gaining strength in Syria and Palestine, and he fell much under the influence of two able theologians, Philoxenus, a Syrian from Hierapolis, and Severus, from the Pisidian city of Sozopolis, who were the leading spirits of the monophysite resistance in these areas. Eventually he decided that he must intervene in support of what he believed to be orthodoxy.

The expulsion of Macedonius was the most difficult task, for he was highly revered by the people of Constantinople, and had the monks of the capital behind him. Anastasius waited until his *vicennalia* in 511. On 27 July he summoned a consistory and denounced Macedonius as a perjurer, who despite his signature of the Henotikon had been propagating Nestorian doctrines. The patrician Clementinus responded on behalf of the council: 'God himself will reject from the priesthood him who has lied to God.' On the 29th the emperor summoned the officers of the guard and of the army, and after administering an oath of allegiance gave them the customary donative; next day the donative was paid out to all the troops.³⁶

Meanwhile information had been lodged that Macedonius had called the emperor a Manichee and an Eutychian. On the 31st Anastasius summoned another consistory, and in an impassioned address proclaimed his faith, and offered to resign the throne if the council doubted his orthodoxy. The council protested with tears, and Patricius, the *magister praesentalis*, declared: 'Whoever has done this, God will not forgive him, nor the imperial majesty pardon him, nor the canons of the church.' One of Macedonius' deacons was now arrested, and confessed that the patriarch was plotting rebellion. Finally on 6 August a full meeting of the senate was held, and Macedonius was formally tried and condemned. Next day he was arrested and exiled to Euchaita. His expulsion was subsequently regularised canonically by an episcopal council held at Claudiopolis in Honorias.

Next year Flavian of Antioch was deposed and replaced by Severus. At Jerusalem Elias was allowed to keep his seat until 516, when he too was deposed and exiled. But in Palestine the zeal of the monks, who were by this time unanimous in support of Chalcedon, proved too much for the government. John, one of Elias' deacons, who was selected by the authorities to take his place, professed his willingness to anathematise the council, but when the day of his consecration came, fortified by the presence of ten

thousand monks, he defiantly declared his adhesion to Chalcedon, and the *dux* of Palestine thought it prudent not to intervene.³⁷

Meanwhile the expulsion of Macedonius had led to more serious troubles. When his successor, Timothy, introduced the monophysite version of the Trisagion into the liturgy at Santa Sophia, violent riots broke out, and the crowd proclaimed as emperor Areobindus, formerly *magister militum per Orientem*, who, as the husband of Juliana Anicia, the last survivor of the Theodosian house, had some claims to the throne. Luckily he was not willing to play the part demanded of him, but even so the disturbances were only quelled by the personal courage of the aged emperor, who appeared before the crowd without his diadem and offered to resign his office. This gesture caused a revulsion of feeling in his favour, and the mob dispersed.³⁸

Macedonius' cause was now taken up by a more dangerous champion, Vitalian, the *comes foederatorum* in Thrace. By exploiting their financial grievances and the unpopularity of Hypatius, the *magister militum per Thraciam*, he rallied to his cause not only his own barbarian troops but the regular regiments of the Thracian army. His forces were swelled by the local peasantry, and he marched on the capital with a huge host, said to have numbered 50,000 men. Anastasius opened negotiations, and by promising to remedy the grievances of the troops, and to submit the ecclesiastical issues to the judgment of the pope, induced him to withdraw. But Vitalian assassinated Cyril, the new *magister militum* of Thrace, whom Anastasius appointed to succeed Hypatius, and the emperor, having got the senate to proclaim him a public enemy, marshalled a large army, said to have numbered 80,000, under the command of his nephew, Hypatius, who had been one of the commanders in the Persian war. In 513 the army moved into Thrace, but it was almost annihilated in a disastrous battle near Odessus, and Hypatius was captured. Next year Vitalian again marched on Constantinople, and Anastasius yielded to his demands that he should be appointed *magister militum* of Thrace, and that a general council should be held at Heraclea in the following year, at which the pope should preside: the emperor had to pay 9,000 lb. gold for Hypatius' ransom.³⁹

Anastasius went so far as to write to Pope Hormisdas, and the latter sent representatives to Constantinople. As, however, they were instructed to insist that the emperor and all the Eastern bishops must give their unqualified assent to the Council of Chalcedon and the Tome of Leo, and to condemn the memory of Acacius, negotiations broke down. Vitalian then marched for the third time on Constantinople, but this time, under the able leadership of a

civilian, the former praetorian prefect Marinus, the imperial forces won a decisive victory (515). Vitalian went into hiding and the rebellion collapsed, but the Roman forces had been seriously weakened by the civil war. In 517 the Bulgars were able to penetrate into Macedonia and Greece and carry off thousands of prisoners.⁴⁰

Anastasius' great title to fame is his financial rehabilitation of the empire. His most celebrated adviser in this field was Marinus the Syrian, a clerk on the financial side of the praetorian prefecture of the East, who was ultimately towards the end of the reign promoted to be prefect himself (512-13). But it is likely that two other financial clerks of the prefecture, Polycarp and John the Paphlagonian, who were respectively praetorian prefect of the East and *comes sacrarum largitionum* in 498, played an important part in the reforms of the early part of the reign.⁴¹

Anastasius seems to have achieved his results mainly by careful measures to prevent speculation and cut out waste. He probably regulated and reduced the *sportulae* or fees, which added to the burden of taxation. He made sure that the soldiers were not cheated of their pay by their quartermasters, and carefully regulated the fees payable by the *limitanei* to the officials of the *duces*. He insisted on regular and accurate returns of ration strength from the military authorities.⁴²

One of his major reforms was to calculate accurately how much of the taxes should be levied in kind, and how much payable in gold. Some of the land tax had, as we have seen, already been commuted into gold, but in an unsystematic fashion by concessions to individual landowners. In some areas it is probable that too much was collected in kind and went to waste, in others not enough was collected to supply the army, and the government had to make compulsory purchases to make up the deficiency. Anastasius converted the bulk of the land tax into gold, levying in kind only so much as was needed in each area to supply the troops, and forbade compulsory purchase (*coemptio*, *συναγωγή*) except in emergencies, and then only on his personal authorisation: an exception to these orders was the diocese of Thrace, where the yield in tax was too low to feed the armies, and *coemptio* was permitted as a standard measure. The Code contains a number of laws which illustrate the care with which these rules were applied in detail. Military commanders were ordered to keep troop movements, which demanded a revision of the tax schedules, to the absolute minimum, and to give ample warning of them to the praetorian prefecture. Elaborate rules were made for the supply of soldiers detached from their regular units for special duties.⁴³

A major change was also made in the collection of the land tax. Officials known as *vindices* were appointed by the praetorian prefecture for each city. The *vindices* do not seem to have replaced the officials of the provincial governor and the *curiales* of the cities, who continued to perform the actual task of collection, but they supervised their activities and no doubt saw to it that wealthy taxpayers were not treated with undue leniency, and that the officials and *curiales* did not pocket more than their legal perquisites. The *vindices* also controlled municipal finance, which was closely interlocked with the imperial fiscal system: we possess the detailed scheme drawn up by Potamo, the *vindex* of Alexandria, for the apportionment of the civic revenues. The *vindices* were not unnaturally unpopular with the city councils, whose members were deprived by their watchful care of many sources of illicit profit, but John the Lydian, who bitterly disapproved of the system, was obliged to admit that it enriched not only its author, Marinus, and his friends, but also the imperial treasury.⁴⁴

Another reform brought Anastasius great popularity as well as profit. Seeing that the imperial mints since the accession of Arcadius had issued very little except gold and tiny copper *nummi*, the growing shortage of coins of medium value must have caused grave inconvenience to the public. In 498 the *comes sacrarum largitionum*, John the Paphlagonian, profiting by and improving upon the example set by Odoacer (or the senate) in Italy and by the Vandal kings in Africa, initiated the issue of large copper coins in four denominations, clearly marked with their face value in *nummi*. The new currency was welcomed by the provincials as a great boon, and, since it could be sold to them for solidi at a rate which left an ample margin over the cost of minting, it must have enriched the treasury.⁴⁵

The emperor Justin I later alluded somewhat contemptuously to his predecessor's 'economical ingenuity' ('parca subtilitas'); but Anastasius' careful attention to detail enabled him to spend freely on objects of public importance and to be generous in cases of real hardship. He did not spare expenditure on the army; the statement of his panegyrist, Priscian, that 'recruits now fill the regiments with sturdy soldiery' is borne out by the large forces that Anastasius was able to put into the field in the Persian war and against Vitalian. He also spent liberally on public works, and especially on the fortification of the frontiers. In 505 to remedy the damage caused by the Persian war he made a grant of 2,000 lb. gold to the province of Mesopotamia, enabling its governor to rebuild the walls of Batnae and Edessa, and at the latter city to repair the *praetorium*, the baths and two aqueducts. The measures which he

took to build Dara are a good example of his judicious liberality. By offering high rates of pay he rapidly collected a large and willing labour force, and was thus able to complete the fortress before the Persian king had time to object to the breach of the treaty.⁴⁶

Chary as he was of granting unconsidered remissions of taxation, Anastasius could be generous where a good case was made out. Joshua the Stylite records a series of measures taken to relieve distress in Mesopotamia at the beginning of the sixth century. In 499-500, when the harvest was ruined by an invasion of locusts, the emperor not only reduced the taxes but provided money for distribution to the destitute. In 503-4, 504-5 and 505-6, he reduced the taxes of the province, which was heavily burdened by the presence of a large army. After the war Celer, the commander-in-chief, and Calliopius, his quartermaster-general, were authorised to make what further concessions they thought necessary. At Amida, which had suffered severely in the war, they remitted the entire tax for seven years, and at Edessa they reduced it by half. Again after the Bulgarian raid on Macedonia and Greece, Anastasius authorised the praetorian prefect of Illyricum to spend 1,000 lb. gold on ransoming captives, a task usually left to private charity or to the church.⁴⁷

Anastasius' greatest benefaction to his subjects was the total abolition in 498 of the *collatio lustralis*, which caused much suffering to humble craftsmen and merchants. This may be regarded as his personal gift to the empire, for he made up the loss of revenue from the *res privata*, the treasury which was by constitutional convention at the emperor's personal disposal. Lands whose rent was equivalent to the yield of the *collatio lustralis* were detached from the *res privata* and placed under the management of a new ministry, the *patrimonium*. In the latter part of his reign Anastasius went on to reduce the most oppressive schedule of the land tax, the 'levy on souls' or *capitatio humana et animalium*, which unduly increased the burden of the poor peasant with a large family and a small holding. In 513 he reduced the *capitatio* by one-quarter in the dioceses of Asiana and Pontica, and according to John the Lydian he would have abolished the tax completely but that death prevented him.⁴⁸

It is a measure of Anastasius' financial achievement that, despite these substantial fiscal concessions, and despite three major wars, he left after a reign of twenty-seven years a reserve in the treasury of 320,000 lb. gold.⁴⁹

CHAPTER VIII

THE FALL OF THE WESTERN EMPIRE
AND THE BARBARIAN KINGDOMS

FOR events in the West in the two generations which followed the death of Valentinian III we have in the main to rely on the same meagre chronicles and fragmentary and unreliable historians that recount the story of the Eastern empire. From the legislation of the last emperors of the West we have only nine novels of Majorian, two of Severus, three of Anthemius and one of Glycerius. The verse panegyrics of Sidonius Apollinaris on Avitus, Majorian and Anthemius contain some historical information, and his letters, written between 452 and 479, give vivid sidelights on the last twenty-five years of Roman rule in southern Gaul. Eugippius' life of Severinus, who died in 482, affords an interesting picture of the condition of Noricum in the same period. Another biography, Ennodius' life of Epiphanius, bishop of Ticinum from 467 to 497, tells us something of Italian affairs from the reign of Anthemius to the Ostrogothic conquest.

We have rather summary accounts of the reign of Odoacer in Procopius' introduction to his history of Justinian's Gothic wars, and in an anonymous Latin chronicle. We have also from this period one contemporary document, preserved in a papyrus, a grant of lands by Odoacer to a Roman senator named Pierius. In Theoderic's reign our information about Italy becomes abundant. We have not only Procopius and the anonymous chronicle, but the letters of Ennodius, written in the first two decades of the sixth century, and his panegyric on Theoderic, the Edict of Theoderic, and above all the *Variae* of Cassiodorus, the official letters he wrote as quaestor (506-11), master of the offices (523-7), and praetorian prefect (533-8). These letters throw a flood of light not only on the foreign and domestic policy of Theoderic and his successors, but on the condition of Italy under Ostrogothic rule, and on the detailed working of the administration. For the history of the papacy under Odoacer and the Ostrogothic kings we have abun-

dant materials in the letters of the popes and in the acts of Roman councils held in 483 and in 499-501.

The story of the outlying parts of the empire under the rule of the barbarian dynasties is much less well documented. Procopius in his introduction to his *Vandalic War* gives a brief and not very reliable summary of the history of the Vandal kingdom, and Victor Vitensis, an African bishop, wrote in about 486 a history of the persecution of the Catholics in Africa by the Vandal kings. The work, though strongly biased, is valuable as a contemporary record, as is the life of Fulgentius, bishop of Ruspae, who lived from 468 to 533. A group of documents, mostly conveyances of land, found in southern Byzacena, throws welcome light on the economic history of Africa in this period.

For the Burgundian kingdom in south-eastern Gaul and the Visigothic kingdom in south-western Gaul and Spain the narrative sources are extremely thin, and there is very little in the way of letters or contemporary biographies. Some information on Burgundian affairs can be gleaned from the letters of Avitus, bishop of Vienne from 490 to 523, and the life of Caesarius, bishop of Arles from 502 to 542, tells us something of the vicissitudes of that city under its various barbarian rulers. The records of the ecclesiastical councils held in the Burgundian and Visigothic kingdoms often contain revealing information, but our most useful sources are the codes of law issued by the German kings. For Burgundy we have the *Lex Romana Burgundionum*, a brief synopsis of Roman law as it was administered to the provincials, and the *Lex Gundobada*, a collection of royal ordinances, both published in the early sixth century. For the Visigothic kingdom we have the *Breviarium Alarici* and the *Leges Visigothorum*. The former is a selection of the writings of the Roman jurists and of imperial constitutions drawn from the Gregorian, Hermogenian and Theodosian codes and the post-Theodosian novels: it was issued in 506 by King Alaric II on the advice of a council of bishops and provincial notables. The choice of laws to be preserved in itself provides valuable clues to the administrative structure of the Visigothic kingdom at this date, and the interpretations appended to the constitutions, which give their gist in contemporary language, are often very revealing. The *Leges Visigothorum*, as we possess them, are the result of a codification carried out by King Reccesvind in 654, but this collection distinguished as *antiquae* the laws of an earlier code, compiled by King Leovigild (568-86), and a number of laws can be identified as belonging to the earliest collection of royal ordinances issued by King Euric (466-85).

For the earlier history of the Frankish kingdom there are virtually

no contemporary sources except the acts of a few episcopal councils. In the last six books of the *Historia Francorum*, which cover the years 547 to 591, Gregory of Tours (540-94) gives a vivid picture of contemporary conditions in Gaul, but in books II and III he is dependent upon chronicles and traditional tales.

On 16 March 455, barely six months after he had killed Aetius, Valentinian III was assassinated by two of his late patrician's retainers. Both crimes, it is said, were instigated by Petronius Maximus, the great senator who had been twice prefect of the city, twice praetorian prefect of Italy, and twice consul. There were rival candidates for the throne, but Maximus with his immense wealth was able to outbid them all with his bounties to the troops, and was proclaimed the following day. He reigned for less than eleven weeks. Gaiseric promptly occupied the African provinces still under Roman rule, and Sardinia and Corsica, and launched an expedition against Rome itself. Maximus fled in panic, and was killed by the Roman crowd as he tried to escape on 31 May. The Vandals entered Rome unopposed three days later and systematically sacked the city for a fortnight.¹

One of the few recorded actions of Petronius Maximus had been to appoint a distinguished Gallic senator, Eparchius Avitus, *magister militum per Gallias*. In the anarchy which prevailed in Italy he saw his opportunity, and with the support of Theoderic II, king of the Visigoths, he was proclaimed emperor, and subsequently duly elected by a congress of Gallic senators. In the autumn of 455, leading his Gallic troops and a contingent of Visigoths, he marched to Rome. He did not remain there for long. There was famine in the capital, deprived by the Vandals of its usual sources of supply, and the presence of his troops accentuated the shortage. There was no money in the treasury, and Avitus was forced to melt down the bronze statues of Rome and sell the metal in order to obtain solidi to pay his men. He returned to Gaul, leaving as patrician one Remistus, who was probably a Visigoth. In the autumn of 456 a Suevian officer, named Ricimer, whom he had appointed to resist a Vandal attack on Sicily, and who had successfully beaten them off, took advantage of his absence to rebel and defeated Remistus at Ravenna. Avitus again marched on Italy to assert his authority, but on 17 October he was defeated and captured by Ricimer at Placentia, and forcibly consecrated bishop of that city.²

Ricimer as a barbarian and an Arian would have been unacceptable as emperor, and apparently had no ambition to assume the diadem himself. He wished to rule the empire as the patrician of a faint emperor, as Aetius had done with such success. He did in

effect rule what remained of the empire for the remaining sixteen years of his life, but he never found an emperor who would satisfactorily play the role of Valentinian III. After Avitus' deposition no successor was elected for over eighteen months. It is probable that the delay was due to negotiations with the Eastern emperor. Marcian had not recognised Petronius Maximus or Avitus, and may have made difficulties about regularising Ricimer's position and confirming his choice of a Western emperor. It is at any rate suggestive that three weeks after Leo succeeded on 7 February 457, Ricimer was officially appointed patrician, and Majorian, the *comes domesticorum*, promoted to be the second *magister utriusque militiae*. A month later (1 April) Majorian was saluted as emperor by the troops, but appears to have refused office, preferring no doubt to await official nomination by Leo. The latter, however, made no move and after waiting nearly nine months Majorian on 28 December allowed himself to be proclaimed by the troops and elected by the senate without his colleague's consent.³

Majorian proved a vigorous emperor. He made serious efforts, as his surviving novels show, to combat the administrative abuses whereby the taxpayers' burden was increased. He induced Marcellinus, the *comes rei militaris* of Dalmatia, who had been in rebellion since Aetius' death, not only to return to his allegiance, but to bring an army of Huns to Sicily to combat another Vandal attack on the island. In Gaul he forced the Visigoths and Burgundians to withdraw from the cities which they had occupied in the period of anarchy which followed Avitus' deposition. From Gaul he moved on into Spain, where the Visigothic king Theoderic II had recently, on the orders of Avitus, crushed the Sueves and was occupied in sacking cities and reducing not only Gallaecia but Lusitania and Baetica. Here too he reasserted Roman authority and prepared to attack the Vandals in Africa. But the fleet which he collected was destroyed, and he returned to Gaul and thence proceeded without his army to Italy. When he arrived at Dertona he was arrested and executed by his old friend Ricimer (2 August 461).⁴

Majorian had evidently been too active an emperor for Ricimer's taste, and as his successor he chose a very undistinguished senator, Libius Severus. Severus was not recognised by Leo, nor by Aegidius, whom Majorian had appointed *magister militum per Gallias*, nor apparently by Nepotianus, Majorian's *magister militum* in Spain, nor by Marcellinus in Sicily. Aegidius threatened to march on Italy, and Ricimer only prevented him from doing so by using the Visigoths and Burgundians against him. They naturally had to be rewarded. Gundiuc, the Burgundian king, was appointed *magister militum* in Aegidius' place, and was probably allowed to

occupy Lugdunum. Narbo was collusively betrayed by its Roman commander, the *comes* Agrippinus, to Theoderic II. Theoderic also dealt with Nepotianus, deposing him and appointing a nominee of his own, Arborius. Ricimer by offering higher pay induced Marcellinus' Huns to desert him, but Marcellinus himself managed to get back to Dalmatia, whence he threatened to invade Italy. Meanwhile Gaiseric was regularly harrying the coasts of Sicily and Italy. Ricimer, beset on all sides, asked Leo to use his good offices on his behalf. Leo persuaded Marcellinus to hold his hand, but his embassy to Gaiseric was rebuffed.⁵

Severus died on 15 August 465. It was alleged that he had been poisoned by Ricimer, but it is difficult to see why Ricimer should have wanted to get rid of so harmless a figurehead. Again, as after the deposition of Avitus, there was an interval of over eighteen months before a successor was appointed, and on this occasion the delay was certainly due to negotiations with Leo. Ricimer wanted naval support from the East against the Vandals; Leo as his price insisted that he should choose his own Western colleague and not merely ratify Ricimer's nominee. He chose Anthemius, son of Procopius, a former *magister militum per Orientem* descended from Julian's relative of that name, a grandson through his mother of Anthemius, the great praetorian prefect of the East, who had ruled the empire in the name of Theodosius II, and husband of the emperor Marcian's daughter Euphemia: he had himself served with distinction as *magister militum* of Illyricum and had held the consulship in 435. Ricimer can hardly have welcomed the selection of so eminent a person to be his emperor, but was placated by the promise of the hand of Anthemius' daughter.⁶

Anthemius at the head of a large army marched to Italy and was proclaimed Augustus on 12 April 467; he was accompanied by Marcellinus, whom he had appointed as his second patrician. Leo spared no expense, as we have seen, to make the attack on the Vandals a success, but it miscarried. Basiliscus, the commander of the Eastern naval expedition, had to withdraw with the remnants of his great fleet to Constantinople, and Marcellinus, who had been placed in command of the Western fleet, was killed, according to popular report on Ricimer's orders. The only result of the great campaign was that Sicily fell to the Vandals.⁷

Anthemius' attempts to restore the position in Gaul were equally unsuccessful. Here the principal enemy was king Euric, who had in 466 murdered his brother Theoderic and made himself king of the Visigoths. He was a fanatical Arian and he made no pretence of owing any allegiance to the empire. Against him Anthemius tried to form a coalition of his potential enemies. In the south-east

there were the Burgundians, still nominally Roman federates. In the north-west there were the Armoricans, now reinforced by immigrants from Britain, and henceforth known as Bretons (Britanni), under their king, Riothamus. In the extreme north there were the Franks, who were generally loyal to their treaty obligations. Between these three there was an area still under Roman administration, defended by the Roman troops whom Aegidius had commanded: he had died a rebel, and had been succeeded by a *comes* Paulus.

The coalition was not very effective. Riothamus occupied Bourges, which was threatened by a Visigothic attack, but he was defeated and had to flee with his Bretons into Burgundian territory. The Burgundians gave no other assistance to the common cause, and the *comes* Paulus, leading the Roman troops and the federate Franks, only succeeded in preventing Euric from crossing the Loire. The total result of the campaign was the loss of Bourges and the neighbouring cities to the empire.⁸

In the south Anthemius sent his own troops under his son's command against Euric, who was besieging Arles. The Roman army was defeated, and Euric ravaged the Rhone valley and tried by repeated invasions to wear down the Arverni, who, inspired by their bishop, Sidonius Apollinaris, put up a stubborn resistance.

Relations between Anthemius and Ricimer had never been cordial. Anthemius took up his residence at Rome and Ricimer at Milan, and their discord became a public scandal. The notables of Liguria begged Ricimer to make his peace with the emperor and suggested that he should send Epiphanius, the bishop of Ticinum, as mediator. Ennodius gives a vivid account of this episode. Ricimer openly spoke of the emperor as a 'little Greek' or an 'excitable Galatian', and the emperor expatiated on his condescension in giving his daughter's hand to a barbarian clad in skins. In such an atmosphere Epiphanius found it difficult to effect a reconciliation, and open war broke out. Ricimer moved on Rome; Anthemius summoned to his aid Videmir, the Ostrogothic king, who had recently marched with his people to seek his fortune in the West. But Videmir was defeated and Anthemius was killed (11 July 472).⁹

In his place Ricimer proclaimed as emperor Olybrius, a Roman noble who was the husband of Placidia, daughter of Valentinian III. Ricimer died six weeks later and Olybrius did not long survive him, dying of dropsy on 2 November. The army of Italy was now commanded by Gundobad, a Burgundian prince who was a nephew of Ricimer: he had presumably been appointed patrician by Olybrius in place of his uncle. On 5 March 473 Gundobad had Glycerius, the *comes domesticorum*, proclaimed as emperor, but Leo

had other ideas and with his approval Julius Nepos, the nephew of the *comes* Marcellinus, who had succeeded him in Dalmatia with the rank of *magister militum*, marched on Rome. Gundobad withdrew to Burgundy, Glycerius was deposed, and Nepos was elected emperor on 24 June: he appointed as his patrician a Roman, Orestes, who in his younger days had been secretary to Attila.¹⁰

During the confusion which followed Anthemius' death Euric had seized his opportunity and had occupied not only Arles but also Marseilles. Nepos must have achieved some military success in Gaul, for in 475 Euric agreed to retrocede these two important cities in return for the *Civitas Arvernorum* (Clermont-Ferrand), whose resistance could not in any case have been long maintained. This was Nepos' last achievement. In the same year Orestes rebelled against him and he had to withdraw to Dalmatia. In his place Orestes proclaimed as Augustus his own son, Romulus.¹¹

In the twenty years that had elapsed since the death of Valentinian III the Roman army proper seems to have dwindled to nothing. As the government lost control of Africa, Spain, Dalmatia and all but the south-western corner of Gaul, its recruiting grounds shrank to Italy itself, and there is no record of the conscription being applied here after the death of Aetius. The senatorial aristocracy continued to dominate the civil administration under Ricimer's rule: Flavius Caecina Decius Maximus Basilius, who was praetorian prefect in the first year of Majorian's reign, held the office again under Severus in 465. Such a great landed magnate was unlikely to impose the conscription which was so strongly disliked by the landlords. In 465 at the instance of one of them, the *vir illustris* Ausonius, he even enacted in the name of Severus that when *laeti* had intermarried with *coloni* or slaves their offspring should go to the landowner and not to the army.¹²

The regular regiments must have come to exist on paper only, if they were not officially disbanded, and the government came to rely exclusively on bands of barbarian federates, who were by 475 mainly drawn from the Heruli, Scirae, Turcilingi, Rugi and other German tribes. They were probably irregularly paid, for the financial resources of the government were limited, and in 476 they demanded that like the federate tribes in Gaul they should be given a third of the land. When Orestes refused their demand, they mutinied and elected as their king a Scirian officer named Odoacer. Orestes was captured and killed. Romulus was deposed, but in consideration of his youth his life was spared, and he was given a pension of 6,000 solidi a year.¹³

Odoacer's situation was much the same as Ricimer's after the deposition of Avitus. Like Ricimer he wanted his own position to be regularised by being officially appointed patrician, but unlike Ricimer he decided that it would be more comfortable not to have an emperor on the spot, but to owe allegiance to the Eastern emperor. The senate was accordingly persuaded to send an embassy to Zeno, who had just recovered his throne after the revolt of Basiliscus. The senatorial envoys carried with them the imperial regalia, and stated that they had no need of an emperor in the West, since Zeno's rule was sufficient for both parts of the empire, and requested that Zeno should confer the rank of patrician upon Odoacer, who they affirmed was well fitted by his political and military abilities for the office, and entrust to him the administration of Italy.¹⁴

Unfortunately there simultaneously arrived at Constantinople envoys from Julius Nepos, congratulating Zeno on having recovered the throne, and asking for money and troops to enable Nepos to recover his. Zeno, unlike Leo, took no interest in the West, and certainly had no intention of sparing money and men which he could ill afford upon Nepos' behalf; but having himself crowned Nepos he could not overtly disavow him, especially as he was a relative of the empress mother, Verina. He accordingly hedged. He lectured the senators for having killed one emperor whom the Eastern government had sent them and expelled another, and he told them that their only course was to take Nepos back. To Odoacer's personal representatives he answered that he ought to seek his appointment as patrician from Nepos. Nevertheless he praised him for the good beginning he had made in preserving the authority of Rome, and in his written reply addressed him as patrician. Odoacer had to satisfy himself with this rather qualified confirmation of his *de facto* position. Nepos was killed four years later, but Zeno, so far as we know, never appointed Odoacer patrician. For his part Odoacer used the title of *rex* like the other barbarian kings of the West.¹⁵

Almost the whole of the Western empire was thus by 476 ruled by German kings. Gaiseric, king of the Vandals, had occupied all the African provinces and Sardinia and Corsica with the Balearic Isles soon after the death of Valentinian III, and had after many attacks finally conquered Sicily in 468. The Burgundians had by now extended their rule to the upper Rhine on the north, the Saône and the Rhone on the west, and the Durance on the south. The Visigothic kingdom embraced most of Spain and south-

western Gaul. In Spain it seems unlikely that there had been any organised resistance since Theoderic II in 462 had deposed Majorian's *magister militum* and appointed a successor of his own choice. Some cities held out for another ten or twelve years, but in 473 Euric's generals crushed the local nobility who had led the resistance in Tarraconensis and captured Pampelo, Caesaraugusta and Tarraco itself. The only parts of Spain not subject to Visigothic rule were Gallaecia, where the Sueves still held out despite their crushing defeat by Theoderic II in 455-6, and the mountainous country to the east of Gallaecia, where the native Vascones maintained their independence. In Gaul Euric, as we have seen, had by the capture of Bourges in 469 and the surrender of the Arverni in 475 rounded off his kingdom up to the Loire, the Saône and the Rhone. On Nepos' fall he promptly reoccupied Arles and Marseilles, and pushed on to the Italian frontier. To the north of the Visigothic and Burgundian kingdoms there still survived between the Bretons and the Franks an enclave of Roman territory ruled by Syagrius, son of Aegidius: he figures in Frankish tradition as 'rex Romanorum'.¹⁶

The dominions of Odoacer were at first limited to Italy itself, and what remained of Raetia and Noricum, but he forthwith entered into negotiations with Gaiseric and secured possession of Sicily in return for an annual payment, and five years later, when Nepos was dead, he occupied Dalmatia. The other provinces of the Pannonian diocese had long been occupied by barbarian tribes: the Ostrogoths had been settled there by Marcian, and on their departure in 472 the Gepids replaced them. The greater part of Raetia had also been overrun in the 460s by the Alamans, Heruls and Thuringians. Noricum, though perpetually harried by barbarian raids, was still a Roman province. In Severinus' day there were in many towns regular Roman regiments, presumably *limitanei*, who were drawing their pay from Italy. But, as Eugippius explains, with the cessation of their wages these units melted away, until at length only one was left at Batavi; and finally this regiment too drew its last year's pay and melted away Felitheus, the king of the Rugians, who lived across the Danube, assumed authority over the Roman towns and eventually, instigated by Zeno, made war on Odoacer. In a two years' campaign (487-8) Odoacer utterly crushed the Rugians, the remnants of whom took refuge in the Eastern empire, but he decided that it was beyond his powers to hold Noricum. On his orders the whole Roman population was evacuated and settled in south Italy.¹⁷

Odoacer did not long survive this event. In 489 king Theoderic, commissioned by Zeno to recover Italy in the emperor's name,

marched with his Ostrogoths into Venetia. After two fiercely contested battles Odoacer was forced to retire to Ravenna. Next year he marched out again, but was decisively defeated in a third battle. He still held out in Ravenna for another two and a half years, but in the spring of 493 Theoderic lured him into surrendering the city by promising to share the government with him, and having got him into his power promptly killed him. Those of Odoacer's barbarians who survived the war were systematically massacred, and the Ostrogoths succeeded to the lands which they had occupied.¹⁸

Theoderic was not content to be merely *magister utriusque militiae et patricius*. In 490 he sent Festus, a leading senator, to ask Zeno for leave to wear the purple, but Zeno died while Festus was at Constantinople, and Anastasius would not consent. In 493, when he had killed Odoacer and taken Ravenna, he had himself proclaimed king by the Goths, 'without waiting', as the chronicler says, 'for the command of the new emperor'. Since Theoderic had been for many years king of the Ostrogoths, and his position as such required no confirmation from the emperor, it would seem that what he desired from Anastasius and now assumed for himself was kingship over Italy. Anastasius acquiesced in the usurpation: in 497, when Festus was again sent to Constantinople, he handed over to him the imperial regalia which Odoacer had delivered to Zeno. Theoderic did not, however, claim to be emperor. He was, it is true, often addressed as *princeps*—as were the other German kings—and he even issued a few gold coins on which he placed his portrait with that title. In one inscription he is designated by one of his subjects 'gloriosissimus atque inclytus rex Theodericus, victor ac triumphator semper Augustus'. But officially he used only the title of *rex*, and was so addressed by the emperors.¹⁹

Theoderic reigned for thirty-three years (493-526). Having once become king of Italy he became a very different man from the Theoderic who had brutally ravaged the Illyrian and Thracian provinces. Not only did he do his utmost to conciliate his Italian subjects, but he strove to maintain peace with all his neighbours. There was one clash with the empire in 505, when in the course of a war against the Gepids he occupied Sirmium and lent his support to a barbarian chief named Mundus, who was ravaging Moesia Prima, against Sabinianus, the *magister militum per Illyricum*. But though Sabinianus was routed, Theoderic did not pursue his advantage beyond permanently annexing Sirmium to his dominions.²⁰

Meanwhile in northern Gaul Clovis, king of the Salian Franks (481-511), had in 486 defeated Syagrius and incorporated in his kingdom the last remnant of the Roman empire in the West. In

507, in alliance with the Burgundians, he launched an attack on the Visigothic kingdom, now ruled by Euric's son, Alaric II (485-507). Near Poitiers the Visigoths were utterly defeated and their king killed, and the allies proceeded to occupy their Gallic dominions. Theoderic now intervened and his general Ibbas succeeded in reconquering the coastal strip as far as Arles, which was annexed to the Italian kingdom. As Alaric's only legitimate son, Amalaric, was a child, the Visigoths elected as their king a bastard son, named Gesalic, but he was not a success, being driven out of Narbo by the Burgundians. Theoderic decided to assert the claims of Amalaric, who was through his mother his own grandson. Ibbas recovered Septimania, the coastal strip west of the Rhone, and, marching into Spain, ejected Gesalic. Henceforth Theoderic ruled Spain and Septimania in his grandson's name. The Visigothic kingdom was not united to the Ostrogothic, but was administered by two nominees of Theoderic, one Goth and one Roman, and the military command was entrusted to an Ostrogoth named Theudis. The surplus revenues of Spain were paid into Theoderic's treasury, and he in return gave the Visigoths their annual donatives.²¹

The German kings not unnaturally maintained more or less unchanged the civil administration of the provinces which they ruled. Some, like Theoderic the Ostrogoth, had a genuine respect and admiration for the Roman way of life, and sedulously preserved ancient institutions. Most probably maintained the existing system merely through inertia. They had to preserve law and order in their dominions and to collect the revenues, and they knew of no other way of doing so than to apply the ancient law and make use of the administrative machinery which they found in being. Naturally also they employed Romans to fill the civil offices, for they alone knew the law and could operate the complicated fiscal system. In most things the provincials must have felt little change when for the imperial government there was substituted the rule of a barbarian king. They took their mutual disputes to the same courts, were judged by the same law, and paid the same fees that they had always done. They paid the same taxes to the same collectors, and suffered the traditional exactions—the use of false weights and measures, the arbitrary fixing of prices in compulsory purchase, the extraction of perquisites by the officials.²²

(In one respect, however, they suffered a drastic change for the worse, in the settlement of the barbarians on their lands.) This was effected in different ways in the several kingdoms. In the Frankish

kingdom we hear nothing of it, and it is possible that no systematic settlement was made. The Franks when Clovis came to the throne had been settled for many generations on lands along the right bank of the middle Rhine and between the lower Rhine and the Meuse, and it is probable that there was no large-scale emigration from these areas into the provinces which he conquered. The Frankish kings rewarded their ministers and favourites with estates, but for this purpose they probably used the lands of the *res privata*, of which they, like the other German kings, assumed possession, and properties which were confiscated by judicial process. They also, as we know from the canons of contemporary ecclesiastical councils, filched much land from the church to give to their followers.²³

In Africa Gaiseric, when he occupied Proconsularis and Byzacena in 442, made ruthless use of the rights of conquest to satisfy his tribesmen. He exiled or enslaved the senators and other great landowners and confiscated their estates. Much land in Africa of course remained in the hands of its Roman owners, especially in the less fertile districts, and in the provinces which Gaiseric occupied later; some great landlords preserved their fortunes, like Victorianus of Hadrumetum, who is said by Victor Vitensis to have been the richest man in Africa. Nevertheless Gaiseric's confiscations were massive. Some idea of their scale is given by a novel of Valentinian III which allocated to the dispossessed landlords of Proconsularis and Byzacena all the deserted lands of Numidia, amounting to 13,000 *centuriae*, together with the *praedia pistoria*—the lands owned by the bakers' guild of Rome—and all the imperial lands in Mauretania Caesariensis and Sitifensis.²⁴

The confiscated lands in Proconsularis were distributed in hereditary tax-free allotments—the *sortes Vandalorum*—to the Vandal warriors. Those in Byzacena and the outlying provinces were retained by the crown or given to members of the royal family. Some of this land was later returned to its former owners. The senator Gordianus, Fulgentius' grandfather, lost all his lands in 442 and fled abroad, but two of his sons later returned and by royal grant received back some of their father's estates in Byzacena, which had presumably remained in the hands of the crown, though not his property at Carthage, which had been given to Vandal priests.²⁵

In Italy and in the Visigothic and Burgundian kingdoms the land settlement was achieved by rather less arbitrary methods. The Roman government had, it would seem, allocated land to the Visigoths in Aquitania and to the Burgundians in Sapaudia on a system which was based on the rules of billeting (*hospitalitas*). A soldier was entitled to occupy a third of the house in which he was billeted, and when the Visigothic and Burgundian federates were settled

permanently they were apparently granted one-third of the estates on which they were planted. This at least can be inferred from the terminology of the later German laws, which show that estates were divided between their Roman owners and barbarians and apply the technical term *hospes* to the two parties.²⁶

In Italy, as we have seen, the federates demanded from Orestes and received from Odoacer a similar grant, and Theoderic settled the Ostrogoths on the same system. Under Theoderic the settlement was made by the praetorian prefect of Italy, Liberius, and the land was allocated by officers known as *delegatores*, who issued certificates of title (*pittacia*) to the grantees. By no means all the land was divided: no Goths were settled in Apulia and Calabria, for instance. But it would seem that throughout Italy a third of all the land was regarded as available for distribution, and that the owners of undivided estates remained liable to lose one-third to a grantee, and in the meantime paid rent (*tertiae*) for this third. This at any rate is the natural inference from two letters of Theoderic. In one of them he tells the people of Tridentum that, inasmuch as he had given an allotment (*sors*) to the priest Butila, a corresponding reduction will be made in their *tertiae*. In the other he assents to the petition of the Catalienses that their *tertiae* be amalgamated with their ordinary land tax, and comments that he will thereby be freed from petitions for grants of land; it was evidently with the object of securing their estates from division that the Catalienses asked for the *tertiae* to be made a regular part of their tax. It was obviously a matter of concern to purchasers of land to know whether it was still liable to *hospitalitas* or not, and in a conveyance of 541 we find a vendor guaranteeing that the land he is selling is free 'from barbarian allotment' (*a sorte barbari*).²⁷

What is surprising is that such sweeping measures of confiscation were carried out with so little apparent outcry. When the system was first introduced there was at least one case of resistance. A Gallic chronicler tells us that in 442 'the Alans, to whom lands in farther Gaul had been assigned by the patrician Aetius to be divided with the inhabitants, subdued those who resisted by force of arms, and ejecting the owners, took possession of the land by force'. It required a revolution for the Italian federates to get their share of the land, but once the distribution was effected Odoacer apparently lived on cordial terms with the senatorial aristocracy. By Theoderic's time the landowners were no doubt more or less resigned to their loss, but he must have had to confiscate yet more land to accommodate his tribesmen, who were almost certainly much more numerous than the federates.²⁸

Nevertheless no protest has come down to us: on the contrary

the land settlement was warmly praised by contemporaries. Ennodius, it is true, was flattering Liberius when he assured him that 'you have enriched the countless hordes of Goths with a generous grant of lands, and yet the Romans have hardly felt it. The victors desire no more, and the conquered have felt no loss': but he would hardly have introduced the topic at all if it had been a painful one. Cassiodorus also enlarged on Liberius' able handling of the land settlement in an address to the senate which he composed for Theoderic. 'It gives us pleasure to refer to the way in which in the assignment of the thirds he united both the possessions and the hearts of Goths and Romans. For though men usually quarrel when they are neighbours, the sharing of estates seems in this case to have produced harmony. For the result has been that both peoples, by living together, have achieved concord, an unprecedented and altogether praiseworthy accomplishment. By the division of the soil the hearts of the owners have been united, the friendship of the people has grown by their losses, and at the cost of a part of the land a defender has been acquired, so that the security of the estate is wholly preserved.' It would hardly have been tactful to use such language to an assembly of landowners, if they had felt bitterly resentful at their losses.²⁹

The Goths, it would appear, paid the regular land tax on their *tertiae*, and the revenue was thus not diminished by the division of the land, while the *tertiae* tax on undivided estates was a clear gain to the government. It was thus possible to meet increases in expenditure without increasing the land tax, and this was no doubt some consolation to landowners for their losses.

In the Visigothic and Burgundian kingdoms the confiscation of land was more drastic. If the original distribution was based on the rule of *hospitalitas*, it was a third which the barbarians at first received, and this conjecture is borne out by the demand of the Italian federates for a third in 476; for they presumably claimed what was at the time the standard rate. There is also a Burgundian law which implies that when it was issued the allotment was a third: it enacts that a Burgundian freedman, if he cannot buy liberty to depart by the customary payment of 12 solidi, must remain in his former master's household, unless he has received a third from the Romans.³¹

In the law of Euric, however, the *sors* of the Gothic *hospes* is two-thirds, and the Roman owner retains only one-third, and in one of his enactments the Burgundian king Gundobad speaks of 'the time when our people received a third of the slaves and two-thirds of the land', and recalls that 'whoever had received land with slaves by our bounty or that of our parents should not demand a third of

the slaves and two-thirds of the land in the place where *hospitalitas* has been assigned to him'.³²

More details of the settlement emerge from the Visigothic and Burgundian laws. Under the latter, at any rate, a father was not allowed to alienate his *sors*, but must leave it to his sons and daughters. Sales of *sortes* were nevertheless common, and it was found necessary to issue a law which forbade a Burgundian to sell his *sors* unless he possessed another *sors* or other lands elsewhere; it was enacted that the Roman *hospes* to whom it had originally belonged should in such cases have the right of pre-emption. From a Visigothic law ordering the local authorities to take away the thirds of the Romans from Goths who had usurped them and restore them without delay to the Romans, 'so that there should be no loss to the treasury', it may be inferred that the *sortes* of the Visigoths paid no tax.³³

Both codes deal with various contingencies which led to disputes between barbarian and Roman *hospites*. The boundaries of the whole estate might be contested. A law of Euric ruled that alienations of land from one estate to another prior to the coming of the Goths should stand, that is that the division should be made on the basis of the extent of the estate at the Gothic conquest: subsequent changes in the boundaries could only be made with the knowledge and consent of the other *hospes*. A Burgundian law enacts that boundary disputes must be settled between the original Roman owners according to Roman law, and that the barbarian *hospes* of the victor could then claim consequential adjustment of his *sors*.³⁴

It also appears that only the arable was divided one-third and two-thirds and the woodland and waste was either held in common or divided half and half: under the Burgundian law the latter rate applied also to the homestead and orchards. If either party cleared a part of the waste, it was ruled that the other might enclose an equal area; the other laws deal with cases when one party had cleared land, and in particular planted a vineyard, on the other's half of the waste when it had been divided, either in error, or with his partner's consent, or in defiance of his protests. It appears from a Burgundian law that when the barbarians' shares were increased to two-thirds, many of them claimed that proportion of the clearings hitherto or subsequently made; but this claim was not allowed.³⁵

The *hospitalitas* system must have been highly inequitable for both sides. The division was apparently made on the basis of the individual farm (*fundus*) and not of the entire complex of estates owned by each landowner. This gave a certain rough justice to the

recipients, for though *fundi* were by no means of equal size, there were not such vast discrepancies as there were between the total properties of different landlords. The barbarian nobles and other royal favourites were also given special grants from the *res privata*.³⁶

From the point of view of the Romans the Italian system was the most equitable, for all landowners either surrendered a third of their land or paid rent for a third. In the other kingdoms the confiscation must have been most arbitrary, for it is unlikely that all estates were divided. The surviving peasant holdings were probably spared, since they would not have been worth dividing. The man who suffered most must have been the small landowner who was unlucky enough to lose two-thirds of a single *fundus*: larger landowners might by the luck of the draw keep some of their estates intact. The division of the land was apparently applied not only in the original area in which the Visigoths were settled, but in regions which they subsequently annexed. Otherwise Euric's laws on the subject would not have been retained in the revisions of the Visigothic code which took place when Aquitania had been lost. In Burgundy too the process was a continuing one, and later Burgundian immigrants into the kingdom received allotments: such new allotments were, however, limited to half the estate by Gundobad.³⁷

The extent to which the Roman administrative machine survived in the several kingdoms differed considerably. In Italy Odoacer and Theoderic inherited and preserved with little change the whole complicated structure which had been built up to govern the entire Western empire. Like the emperor they had their quaestors, masters of the offices and *comites rei privatae* and *sacrarum largitionum* with their respective staffs, and their notaries and their referendaries. There was still a praetorian prefect of Italy and a *vicarius urbis Romae*; Theoderic even created a vicar and later a praetorian prefect of Gaul, to govern the few cities of that diocese which he acquired in 512. The provinces were still administered by consulars and other governors of lower degree.³⁸

Rome still had its prefect and the lesser functionaries who managed the subordinate departments of the city's administration. The praetors continued to give their games, and the senate to hold its sessions. The senate indeed gained enhanced prestige and influence, for both Odoacer and Theoderic were anxious to conciliate the senatorial aristocracy in order to gain their support in negotiations with the emperor and to counter any hankerings they

might have for the restoration of Roman rule. Under Odoacer, for the first time since the mid-third century, copper coins were issued with the legend S(enatus) C(onsulto), and Theoderic addressed the senate in most deferential terms and deferred to its wishes in ecclesiastical affairs. Both employed members of the aristocracy in the high administrative posts, honoured them with the illustre, the patriciate and the consulate, and bestowed upon them grants of imperial land.³⁹

The coins marked SC were a new departure, fine big copper pieces clearly marked XL (*nummi*), with smaller denominations of XX, X and V. They were a great improvement on the miserable little *nummi* hitherto current, and were copied in Africa, where the mint of Carthage under the Vandals issued similar pieces marked N XLII and XXI. These coins formed the model for Anastasius' currency reform in the East.⁴⁰

The same taxes were levied as in the last days of the empire. There was the land tax with its consolidated supplementary fees, the so-called *bina et terna* or $2\frac{1}{2}$ *solidi per millena*—Majorian had added an extra half solidus to the two hitherto levied. There were the *pensio auraria* (or *collatio lustralis*) and the *siliquaticum*, instituted by Valentinian III, with which was amalgamated the *monopolium*. The taxes were, as they had been under the last emperors, paid wholly in gold, and supplies required for the troops were obtained by compulsory purchase (*coemptio*).⁴¹

Justice was administered to Romans by the old courts of the provincial governors, vicars and praetorian prefects. The law was that of the old jurists and the Codes and Novels. Theoderic himself issued an Edict, or rather a group of 154 edicts, in which, 'considering the peace of the commonwealth and having before my eyes contingencies which may frequently arise', he summarised the law to be followed by both Romans and barbarians on a number of points which affected the public order and gave rise to disputes between members of the two peoples. But he expressly by a saving clause maintained the existing laws, and, though he did make one or two changes, most of his edicts are in fact simply restatements of the Roman law in simple language.⁴²

Like a Roman emperor Theoderic had a *praepositus cubiculi* and eunuch *cubicularii*; those of whom we hear were Goths. He also had a royal household in the Germanic style, whose members were styled *maiores domus regiae*. They probably took over the duties of the silentiaries, who were disbanded and pensioned off. As royal messengers and agents he made use of Roman officials styled *comitiaci* and a corps of Goths known as *saiones*. The former were apparently members of the *officium* of the *comes et magister militum*

praesentalis, whose functions had been absorbed by the crown: at its head was a *princeps cardinalis* at court, who had a *vicarius* at Rome, and among them there were *scriniarii* for the financial work. The latter were the retainers (the word apparently means 'followers') of Theoderic as a German king. Both were used much as the *agentes in rebus* had been by the emperors, to convey royal commands, execute royal judgments, carry out special commissions and support the civil administration against unruly subjects: one was, for instance, detailed to press sailors, and another to commandeer timber for a newly established fleet, others were used to control the public post and check postal passes, others to enforce revenue collection or claim treasure trove. They called up the Goths for military service, and saw to their transport and supply. They might also be detailed for the protection (*tuitio*) of petitioners who claimed that they were in danger from powerful enemies.⁴³

Odoacer and Theoderic created for themselves a personal treasury which was, under the latter at any rate, called the *patrimonium*, and was managed by a *comes patrimonii*, who was normally but not always a Goth. The *comes rei privatae* continued to manage all the old imperial lands which were let on perpetual leases, and to claim *bona caduca* and *vacantia* for the crown. The *patrimonium* corresponded rather to the imperial *domus divina* whose lands it doubtless took over, but its revenues were much more considerable and its expenditure was not confined to the maintenance of the royal household. Its lands were no doubt swelled by gifts, inheritances and confiscations, but it appears also to have received the ordinary tax revenue of Sicily and of Dalmatia (including probably the newly conquered areas of Savia and Pannonia), and, when Theoderic took over the Visigothic kingdom, of Spain. We have a specific statement in an official letter of Theoderic's successor, Athalaric, that the *comes patrimonii* had recently levied a superindiction from the province of Dalmatia. Theoderic himself states that the Spanish revenues went to his *cubiculum*, and after the reconquest Justinian ordered that 'according to ancient custom' the *comes patrimonii per Italiam* should collect the taxes of Sicily. On the other hand Theoderic appears to have paid the expenses of these outlying areas out of his *patrimonium*. In one of his letters the *comes patrimonii* is directed to supply provisions for the army of the *comes* Colosseus who is proceeding to Pannonia, and in another to compensate the shippers who had been conveying Sicilian corn to the army in Gaul for losses due to shipwreck.⁴⁴

In Spain the explanation of the apparent anomaly is clear enough. Theoderic ruled Spain in a personal capacity as guardian of his grandson, and therefore naturally collected the revenues and paid

out the donative through his personal account. It may be inferred that when Odoacer leased Sicily from Gaiseric and conquered Dalmatia from the assassins of Julius Nepos he similarly regarded these areas as his personal acquisitions, and Theoderic treated his further conquests in Illyricum, Savia and Pannonia in the same way.

The Roman army had, as we have seen, virtually disappeared under the last emperors. Theoderic pensioned off the *scholares* and the *protectores domestici* and the post of *comes domesticorum* was retained only as a titular office. Under Odoacer the barbarian federates who had elected him king constituted the army, and under Theoderic the Ostrogothic people, occasionally supplemented by contingents from other barbarian peoples, such as the Gepids, who were subject to his suzerainty. Standing armies were maintained in the frontier provinces, and garrisons in some of the principal cities, such as Syracuse and Naples; the Goths serving in these received rations (*annonae*). For a major war all able-bodied Goths of military age were mustered: they too received rations when on active service. They were expected to present themselves with their horses and arms, but the latter were apparently, as in Roman days, issued to them from the state factories. We know very little of the internal organisation of the Ostrogothic army, but the mention of *millenarii* suggests that it followed the same lines as that of the Visigothic army. In peace time the mass of the Ostrogothic people lived on their lands. They received an annual donative from the king, and periodically groups of them were summoned to court to parade before the king and receive their donative personally from his hands: we possess a summons issued to the Goths settled in Picenum and Samnium, and the instructions given to the *sato* who mustered them through their *millenarii*.⁴⁵

The system of command was complicated by the fact that military officers were required not only to command the frontier armies and the garrisons of the cities, but also to maintain order in Italy, and to administer justice to the Goths, who lived under their own laws, and to regulate their disputes with their Roman neighbours. Odoacer gave the title of *magister militum* to the generals who commanded his main armies, but Theoderic suppressed the title: it was not until after his death that his successor, the child Athalaric, appointed a *patricius praesentalis* to command the Gothic army. The generals of such expeditionary forces as operated in Gaul and Spain were styled *comites* and *duces*. In the frontier provinces also there were *comites* and *duces*, such as the *dux Raetiarum*, and the *comites Pannoniae Sirmiensis, Dalmatiarum* and *Saviae*, whose functions were primarily military. But there were also in some Italian provinces *comites provinciarum*, charged with suppressing

brigandage and violent crime. At a lower level there were *comites civitatum*, usually *secundi ordinis*, who commanded the garrisons of such cities as possessed them. These *comites civitatum* were sometimes given administrative functions: the *comites* of Naples and Syracuse, for instance, controlled the trade of these ports. They also had jurisdiction in cases where Goths were concerned. Finally there were *comites Gothorum per singulas civitates*, whose functions were primarily judicial, to decide disputes between Goths, and with the assistance of a Roman assessor, between Goths and Romans: they were presumably appointed only in cities in whose territory Goths were settled.⁴⁶

Though the Visigothic kingdom was before 511 considerably larger than the Ostrogothic, and about as extensive after the loss of Gaul, its administrative structure was simpler, since it inherited neither the offices of the *comitatus* nor the praetorian prefecture. We know nothing of its central administration in early times, but later evidence suggests that it was a rather primitive affair based on the royal household. The provinces continued to exist with their governors, usually called *rectores* or *iudices*. They had their official residences (*praetoria*), which they had to maintain at their own expense, and were paid *annonae* and *cellaria*. They also retained their *officia*, and their assessors (*consilarii*), *domestici* and *cancellarii*, who were chosen with the assent of the citizens—presumably of the metropolis: so also were their *tabularii*, who handled the financial records.⁴⁷

The old taxes survived, including the *solutio auraria* (that is the *collatio lustralis*) and the *vectigalia* or customs, divided into the *canon transmarinorum*, levied on seaborne trade, and the *canon telonei*, levied on internal trade: the *vectigalia* were still farmed for periods of three years according to Constantine's regulations. The land tax was assessed according to the fiscal registers (*polyptychi*), which were maintained by *tabularii*, elected by the citizens of each city, and collected by curial *exactores* or *susceptores* or *allecti*: part was payable in corn, and was according to Valentinian I's rule brought to the state granaries (*horrea*) in three instalments.⁴⁸

The estates of the crown (*domus fiscales* or *dominicae*) were evidently an important source of revenue. The local managers were known as *ordinatores* or *actores fiscales* or *dominici*, and under them were *conductores* who paid over the fixed customary rent and, by a regulation made by king Theoderic as regent, received salaries proportionate to their responsibilities. The minister in charge of the

domus dominicae bore the title of *comes patrimonii*, as appears from a curious document dated 592, the *consensus de fisco Barcinonensi*. In this the bishops of the cities in the financial district of Barcino according to custom agree with the *numerarii* annually appointed by the *comes patrimonii* the rates at which the payments due in wheat and barley are to be commuted for gold, and the charges which may be levied to cover the cost of collection and possible deterioration or price changes.⁴⁹

Each city had its *defensor*, who was chosen by the citizens and possessed his own *officium*. He was according to the Breviarium the normal judge of first instance for Romans, but as a judge he seems to have been later superseded by the officer called in the Visigothic laws the *iudex territorii*. In judicial affairs the Visigothic code regularly couples with him the *comes civitatis*; the office certainly dates back to the reign of Euric, and seems to have been standard for every city. Like his Ostrogothic counterpart the *comes civitatis* was presumably a Goth with authority over the Goths settled in the territory, and like him he had a general responsibility for enforcing law and order. In one law he is directed to lend assistance to the *iudex* if Goths defy the latter's summons. In another the *comes civitatis* and the *iudex* are ordered to sit together to hear all criminal cases. The supreme judicial authority was the king, to whom *comites civitatis* and *iudices* alike were ordered to send all cases not covered by the laws, and before whom important personages were judged.⁵⁰

The Visigothic laws give interesting details on the mustering of the army (*hostis*). When the mobilisation was decreed royal slaves (*servi dominici*) conveyed the king's orders to the *thinfadi*, who apparently corresponded to the *millenarii* of the Ostrogothic army, and they passed them on to their subalterns, the *quingentenarii*, *centenarii* and *decani*, who were respectively responsible for groups of 500, 100 and 10 men. If any of these officers, by favour or for a bribe, let off one of his men, or worse still failed to present himself, he had to pay a fine, graded according to his rank, to the *comes civitatis* in whose territory he lived, and the latter, having extracted the money, notified the king, and with his authorisation paid it to the company of a hundred (*centena*) which had been cheated of one of its men.⁵¹

Apart from this we know little of military organisation of the kingdom. In peace time the majority of the Visigothic people lived on their lands, receiving, like the Ostrogoths, an annual donative in gold. Some served in standing garrisons which were maintained in some cities and fortresses. The Goths who served in the garrisons received rations (*annonae*) supplied by the *comites civitatum*, or

special officers entitled *annonarii* or *erogatores* or *dispensatores annonarum*. If these failed to produce the rations the troops could complain to their army commander (*comes exercitus* or *praepositus hostis*), who reported to the king, and he, having verified the period during which the rations had remained unpaid, compelled the guilty *comes civitatis* or *annonarius* to make restitution fourfold.⁵²

The German kings of Italy, under whose dominion fell the senate of Rome, paid great attention to senatorial rank; they punctiliously maintained its privileges and protocol and themselves granted codicils of the patriciate and of the *illustratus*, *spectabilis* and *clarissimatus*. In the Breviarium of Alaric, on the other hand, only four laws referring to senators were retained, a novel of Marcian which allowed senators to marry women of low degree, two laws of the Theodosian Code which forbade them to charge more than 6 per cent. interest on loans, and another which reserved to the emperor jurisdiction over the crimes of senators. In the second law the term senator is glossed as meaning those of senatorial birth, and in the last it is altered to *maiores personae aut alicuius dignitatis viri*. It would thus appear that the Visigothic kings did not recognise senatorial rank. Families of senatorial origin no doubt enjoyed considerable social prestige, as they continued to do in Merovingian Gaul down to the end of the sixth century, but they had no legal privileges, save in so far as their members were deemed to be 'greater persons or men of some dignity'. Members of the curial order as a result enjoyed a somewhat enhanced status. They were still rigorously tied to their condition: the Breviarium reproduces in full all the latest imperial legislation restraining *curiales* from abandoning the service of their cities. But on the other hand the term *honorati* is interpreted as meaning *curiales*, and they thus gained such privileges as sitting on the bench at the provincial governor's side.⁵³

The Vandal kingdom, which took over the diocese of Africa and a few detached provinces, seems from the meagre information available to have had a relatively simple administrative structure. Under the king the principal minister was a *praepositus regni*: the two of whom we know, Heldica and Obadus, were both Vandals. He was assisted by Roman civil servants, possibly the former *officium* of the *vicarius Africae*: Victor Vitensis records that Huneric ordered that Catholics who held positions in his court should be deprived of their customary rations and pay, and later that none but Arians might serve in his palace or conduct public business.

The provincial governors (*iudices provinciarum*) continued to exercise their functions, and there was still a proconsul at Carthage: the only proconsul of whom we know was a Roman, Victorianus of Adrumetum. The estates of the king and the royal family were managed by procurators, who in all cases of which we have knowledge were Romans. Fulgentius served in this capacity until, ordered to use brutal methods to extract the rents and arrears, he resigned his post; we also hear of Felix and Saturus, who were procurators of the estates of Gaiseric's two sons, Huneric and Theoderic.⁵⁴

Of the organisation of the Vandal army we know nothing save that there were, as in the Ostrogothic army, officers called *millenarii*. It was scarcely ever called up under the later kings, and no standing garrison appears to have been maintained to police the desert frontiers. As a result under the later kings the Moors got out of control and encroached on the settled areas, while the army lost its martial spirit. Belisarius found no difficulty in defeating the Vandal levy, but it proved an arduous task to re-establish Roman authority over the Moors.⁵⁵

The Burgundian kingdom was a much more modest affair than any of those hitherto described. It had grown from very humble beginnings by the piecemeal absorption of small districts and individual cities, and at its greatest extent it comprised only parts of several provinces. The Roman provincial administration did not survive, and the king and his court dealt directly with the cities. The members of his court are described by King Gundobad as *optimates*, *consilarii*, *domestici* and *maiores domus*. The *optimates*, also styled *proceres* or *comites*, formed the royal council. The first constitution of the Lex Gundobada was issued 'consilio comitum procerumque', and was signed by thirty-one *comites* (of whom only one had a Roman name), while the other laws are stated to have been discussed with the 'optimates nostri populi'. The other three titles seem to have been borne by humbler persons who dealt with mere routine matters: applications for royal grants were dealt with by the king's 'consilarii et maiores domus'. The king also had his *cancellarii*, the officers of the royal court of justice, and his *pueri* or *wittiscalci*, who executed judgments and collected fines.⁵⁶

In each city, and in some of the *pagi* of the more extensive territories, there were two *comites*, one Roman and one Burgundian. They are principally mentioned in their judicial capacity, but they had general administrative duties as well; they gave letters of recommendation to persons in their cities who wished to apply to the crown for grants of land, and on instructions from the crown assigned lands to successful applicants from elsewhere. Judges had

their *notarii*, whose fees were regulated by law, and other civil servants (*militantes*) are mentioned.⁵⁷

Of the early Frankish kingdom we know very little, but its structure was probably somewhat rudimentary. The central administration was the king's court, which in Gregory's time was, as it no doubt always had been, a typical Germanic royal household. We hear casually of *comites* of the palace, *domestici* and *maiores domus*. An important minister was the referendary, whose Roman title suggests that he was in origin the judicial adviser of the king: but he had by Gregory's time become a kind of royal chancellor, who held the king's seal and concerned himself with any business which might come up, including finance.⁵⁸

Clovis may have preserved the provincial administration of the areas which he conquered: this is suggested by a letter in which Remigius, bishop of Rheims, congratulates him on taking over 'the administration of Belgica Secunda' after the defeat of Syagrius. But in the intricate partitions of Gaul between the four sons of Clovis the provinces were broken up, and ceased to exist as administrative units, except in the area in the south-eastern corner of Gaul which had belonged to the Ostrogothic kingdom. Here in Gregory's day there was still a *rector provinciae* or *praefectus*: the latter title is perhaps a reminiscence of Theoderic's praetorian prefect of Gaul who had governed this district. The highest administrative unit of the Merovingian kingdom was thus the city, each of which had a *comes civitatis*, appointed by and directly responsible to the king. By Gregory's time the *comes civitatis* combined all functions, administering justice, collecting the taxes, calling out the levy and even commanding it in war.⁵⁹

The Roman fiscal machinery was still working at the end of the sixth century, though by this time it was somewhat out of gear owing to prolonged neglect. In 589 on the request of the local bishop King Chilbert sent two members of his court, a *comes* and a *maior domus*, as *discriptores* to revise the registers of Poitiers, which had become very out of date. Many of the persons named in them were dead, and the weight of the tribute as a result fell upon widows and orphans and the poor. Having satisfactorily accomplished this task the two commissioners moved on to Tours, but there the bishop, who was Gregory himself, stoutly resisted them. He admitted that a tax register had existed in the days of Lothar, but declared that out of respect for St Martin that king had remitted the city's taxes. Under his son Charibert, Gaiso, the *comes civitatis*, had once levied taxes on the basis of the old register ('capitularium in quo tributa continebantur'), but the king had refunded the money, and the city had since been immune. Gregory won the

day, for he appealed to the king, who confirmed the fiscal privileges of Tours.⁶⁰

Not all the Frankish kings were as accommodating as Childebert. Chilperic and his queen, Fredegund, in 578 imposed severe new levies (*discriptiones*) in all the cities of their kingdom. At Limoges there was a riot and the people burned the new registers (*libri discriptionum*) and almost lynched Marcus, the referendary, who had drawn them up. The king suppressed the disorders severely and persisted in exacting the taxes, until a year later he and his two sons fell ill and Fredegund, overcome with superstitious fears, persuaded him to burn the records and restore the old rate of taxation. Franks were immune from taxation in the early years of the kingdom, and attempts by later kings to impose taxes on them were fiercely resented. When King Theudebert died in 548 the Franks of his kingdom (N.E. Gaul) lynched his minister, Parthenius, who had inflicted tribute upon them, and a generation later, in 584, Audo, a minister of Childebert who had done the like in his kingdom (N.W. Gaul), only escaped a similar fate by taking sanctuary.⁶¹

The Frankish army, like those of the other Germanic kingdoms, was a levy called up as occasion demanded. The *comes civitatis* was responsible for calling up the men from his territory, and exacted the fines from those who neglected the summons. The commander of the army was sometimes styled the patrician; Agricola and his successors, Celsus, Amatus and Mummulus, who led king Guntram's forces in the 560s, all bore this title. More usually the commander-in-chief was styled *dux*, a title which was also borne by the military governors of groups of cities.⁶²

The Ostrogoths, Visigoths and Burgundians were all Arians, but they were on the whole tolerant of the religious beliefs of their Roman subjects. The Visigothic king Euric was, according to Sidonius Apollinaris, a fanatical Arian; but the worst that Sidonius can say against him is that he forbade the consecration of bishops to fill sees which fell vacant in his kingdom, in the hope that, deprived of their pastors, the Romans would be converted. Later Visigothic kings maintained the privileges of the catholic church, and showed due deference to its bishops; the bishops as well as the lay notables were convoked by Alaric II to approve his Breviarium. Eventually in 589 King Reccared and all his people accepted the catholic faith.⁶³

The Burgundian king Gundobad maintained cordial relations with the catholic clergy, and Avitus, bishop of Vienne, exercised considerable influence over him. His son, Sigismund, was converted to catholicism during his father's reign, and on his accession

to the throne in 516 most of the Burgundian people seem to have followed his lead.⁶⁴

Odoacer only once intervened in ecclesiastical affairs, and then on the express desire of Pope Simplicius, who had requested him to prevent bribery in the election of his successor. On the pope's death in 483 Odoacer, through the praetorian prefect Basilius, summoned an episcopal council at Rome and caused it to pass a canon forbidding the alienation of church property—which candidates were in the habit of promising to their backers—and to elect a new pope forthwith. Theoderic was as correct in his attitude. Not only did he tolerate catholicism, but he discouraged interested conversions of Romans to Arianism. He only intervened in the affairs of the papacy at the request of the senate and the Roman clergy to settle the disputed election of 499, when Symmachus and Laurentius were both elected on the same day by rival parties, and to restore peace and order in the capital when the two parties continued, despite his decision in Symmachus' favour, to carry on the feud.⁶⁵

In Africa, on the other hand, the catholics suffered under the Vandal kings a series of persecutions, which, however much one may discount the rhetorical exaggerations of Victor Vitensis and the later chroniclers who carry on the story, were evidently of a sustained savagery such as the imperial government had rarely attained. Gaiseric adopted an aggressive attitude as soon as he occupied Africa in 445, seizing churches, confiscating ecclesiastical property, exiling numerous bishops and forbidding the catholic cult to be celebrated on the lands assigned to the Vandals.⁶⁶

His son Huneric (477-84) was not content with such half measures. He began by confiscating the property of all bishops on their decease, and by demanding a fee of 500 solidi for the consecration of a new bishop. He ordered all Roman civil servants to accept the Arian faith on pain of dismissal, and later of exile and deportation to Sicily or Sardinia. He rounded up 4,966 bishops and clergy and relegated them to the far south, entrusting them to the tender mercies of the Moors. Finally on 1 February 484 he held a great council of the Arian and catholic bishops, and, having secured the condemnation of the latter as heretics, re-enacted against the catholics the most drastic laws which the imperial government had issued against the Donatists. The laws, moreover, were ruthlessly enforced. The bulk of the bishops were deported to Corsica and put to forced labour, felling timber for the fleet, and soon afterwards all the clergy of Carthage, numbering over 500, were sent into exile.⁶⁷

Fortunately for the catholics Huneric died on 22 December 484,

and his successor, Gunthamund, allowed the persecution to lapse and later recalled the exiles. Thrasamund, who succeeded him in 496, renewed the attack, though not in so brutal a fashion as Huneric. He closed all the catholic churches, forbade the consecration of any new bishops, and when his orders were disobeyed, exiled the bishops *en masse* to Sardinia. For over twenty years, until his death in 523, the catholics of Africa remained deprived of their churches and their bishops.⁶⁸

The Franks, having been converted from paganism to the catholic faith under Clovis, had no doctrinal quarrel with their Roman subjects, but relations between the Frankish kings and the bishops were not always happy. Though some of them made lavish grants of land, and even more lavish grants of immunity, to particular churches which they favoured, in general they milked the churches unmercifully, bestowing ecclesiastical properties freely upon their followers, and rewarding their ministers and favourites with bishoprics.⁶⁹

The German kings seem on the whole to have wished to give their Roman subjects a fair deal. Where the interests of their own countrymen and those of the Romans clashed, as in the matter of the land distribution, they naturally gave the preference to the former, but they preserved the Roman law and the Roman courts, and did their best to preserve the provincials from the violence of their German subjects: they strove moreover to prevent judicial corruption and fiscal extortion.

We gain the most favourable impression of Theoderic. Not only is he well spoken of by contemporary historians, but in the letters and edicts which Cassiodorus wrote for him he shows a constant solicitude for the welfare of his Roman subjects. Theoderic was clearly a conscientious sovereign, who did his best to check abuses of all kinds, but in particular he never tires of preaching *civilitas*, the observance of law and order, to his Gothic countrymen. Theoderic was no doubt exceptional, but his successors maintained the same tradition, and the same spirit inspired other barbarian kings. The Visigothic and Burgundian laws protect the Roman landowners against the encroachments of their barbarian *hospites*, and both King Gundobad of Burgundy and the Visigothic king Theudis issued severe laws against corruption amongst judges, barbarian as well as Roman. The attitude of the Vandal kings was warped by their religious fanaticism, but we might form a less unfavourable view of them if we possessed their edicts on secular matters, and were not entirely dependent on the historians of their persecutions.⁷⁰

The condition of the provincials under their new masters nevertheless does not seem to have been very happy. The German kings were as impotent as had been the imperial government to eradicate the old established abuses of the administration, and to these were added the violence and indiscipline of their tribesmen, who had long been used to plundering the provinces and did not easily settle down to an orderly and law-abiding life. It is revealing of the state of affairs which prevailed even in the Ostrogothic kingdom that Theoderic had solemnly to warn the parties of Goths who came up to Ravenna to receive their donative not to plunder the Italian countryside on their journey. It was a confession of defeat that he had to give royal protection (*tuitio*) to individuals as a regular routine, and to require a bond from those who received the protection of his *saiones* that they would not use them for violent attacks on their enemies. If this was the state of affairs in Italy under the firm and vigilant rule of Theoderic, the disorder which reigned in the other kingdoms must have been far worse, and it got no better with the passage of time: in the Frankish kingdom of the late sixth century Gregory of Tours records the most appalling acts of lawless violence as a matter of course.⁷¹

CHAPTER IX

JUSTIN I AND JUSTINIAN

FOR the brief reign of Justin (518-27) we are not much better informed than for those of his predecessors. We possess the official record of his election and coronation, and about twenty-five of his laws are included in the Codex Justinianus. There survive also his correspondence with Pope Hormisdas on the reunion of the churches and the acts or synodical letters of several councils which dealt with the same topic.

With the reign of Justinian we enter upon one of the best documented periods in the history of the later empire. The military and diplomatic history of the reign up to 552 is told in great detail by Procopius of Caesarea, who as assessor to Belisarius from 527 to 539, first in the East, then in Africa and finally in Italy, was an eye-witness of many of the events which he records. Though childishly credulous about distant lands which he had never seen, and careless and uncritical about events before his time, he gives a very accurate and well-informed account of contemporary history. His narrative was continued by Agathias, who after the death of Justinian wrote a history of the years 552-8, and under Maurice Menander the *protector* carried on the story to 582: the former work survives in full, and of the latter substantial fragments, mainly concerned with diplomatic history, are preserved. A gap in Procopius' history of the wars is filled by the Johannid of Corippus, a portentous Latin epic which describes in great detail the exploits of John, the *magister militum* in Africa from 546 to 548.

For internal affairs the historians are less useful. Procopius recounts some of the more striking events in the Wars, and in a separate monograph gives a very full account of Justinian's buildings. He also wrote for private circulation a Secret History of the reign down to 550, but this venomous pamphlet does not deserve the respect which is often accorded to it. Much of it is scandalous gossip, and the account of Justinian's public measures is so distorted that every statement must be regarded with suspicion. The chief value of the work to the historian lies in the side-

lights which it throws on the administrative and fiscal system, whose abuses Procopius attributes to the malignancy of the emperor. The only other secular historian of the reign is John Malalas, whose narrative, though childish, has at least the merit of being a contemporary record.

The lack of good historians is, however, amply compensated by the legal sources. The second edition of the Code was published in 534, and the compilers naturally included in it most of the laws of the reigning emperor in a fairly complete form. For Justinian's legislation from 534 onwards we are dependent on private collections, which preserve about 180 novels, the great majority issued in the first ten years after the publication of the Code. The record is certainly not complete, especially for the last ten years of the reign, from which only about twenty-five laws are extant, but the laws which do survive have been preserved in full, and their preambles throw valuable light on Justinian's character and policy.

There is no continuous ecclesiastical history save that of Evagrius. The personal reminiscences of John, the monophysite bishop of Ephesus, and his lives of the monophysite saints, are valuable as giving the point of view of the opposition, and incidentally present very vivid pictures of contemporary conditions. The documentary sources for church history are voluminous, including the acts of the second oecumenical Council of Constantinople.

Justin was an Illyrian peasant who had risen from the ranks, and was now, at the age of about 65, *comes excubitorum*: his military career had been respectable but not distinguished, and he possessed neither culture nor administrative experience—his enemies alleged that he was illiterate, and had to use a stencil to sign his name. The story of his elevation to the throne is obscure. According to the official record the ministers and the senate met in the palace the morning after Anastasius' death, while the people and the *scholares* and the Excubitors assembled in the Hippodrome. The people called upon the senate to choose an emperor, but despite the insistence of Celer, the master of the offices, that they should make their choice quickly, the senators were unable to agree. Meanwhile the Excubitors proclaimed John the tribune, the *scholares* one of the *magistri militum*, and the Excubitors Justinian, a nephew of their commander, Justin, who was one of the *candidati*. But the two bodies of guards could not agree on a name, and the chamberlains refused to hand over the imperial robes. At length the senate elected Justin, and despite some murmuring amongst the *scholares* he was forthwith crowned.¹

According to Malalas and another contemporary chronicler,

Marcellinus, Amantius, the *praepositus sacri cubiculi*, had planned to put on the throne his domestic, Theocritus, and had entrusted Justin with money to bribe the troops in his interest, but by the will of God the troops chose Justin. The story is confirmed by the fact that Justin's first act as emperor was to execute Theocritus and Amantius, but even if, as appears probable, he used Amantius' money to bribe the troops in his own interest, the course of events which preceded his election is difficult to explain. It is evident that he had failed to win the *scholares*, who were an aristocratic corps, and could rely only on his Excubitors, and it is likely that he could rally only a minority in the senate. It may be that he calculated that the opposition of the *scholares* could only be overcome if his nomination came from the senate, and that the senate could only be stampeded into electing him by fear of a military *coup d'état*. On this theory the Excubitors did not propose his own name lest the *scholares* should reject it, but kept on proclaiming unlikely candidates for the throne in order to frighten waverers in the senate into agreeing to Justin's nomination as a lesser evil: for he was at least old and respectable, and he could control the troops.

Coming as he did from the Latin-speaking diocese of Dacia, Justin was a convinced Chalcedonian, and he immediately reversed his predecessor's ecclesiastical policy. A council of about forty bishops who were on the spot was hastily convened at Constantinople, and they promptly affirmed their acceptance of Chalcedon and called upon the patriarch John to open negotiations with Pope Hormisdas. Councils were likewise held at Jerusalem and Tyre and Apamea, and Severus of Antioch and his monophysite supporters were condemned and expelled. The emperor himself sent his *magister memoriae*, Gratus, to Rome, and communion was soon restored between the Holy See and all the Eastern churches except that of Egypt, where, despite Pope Hormisdas' representations, Justin did not venture to disturb the patriarch Timothy IV².

Justin had no sons but several nephews, whom he had given a good education and launched on military careers. One of them, Germanus, he appointed *magister militum* of Thrace, in which capacity he won so resounding a victory over an invading horde of Antae that his name was held in terror by that people for many years after. Germanus had thereafter a distinguished career as a general, but he never aspired to political power. Justin's favourite nephew was Petrus Sabbatius, whom he had adopted, and who is better known by his adoptive name, Justinianus. Justinian was promoted to the rank of *comes* immediately after Justin's accession, and from the first exercised great influence with his uncle, taking an active part in the negotiations with the pope. Two years later he received

yet higher promotion. As part of his reaction against Anastasius' monophysite policy Justin on his accession had nominated that champion of Chalcedonian orthodoxy, Vitalian, one of the *magistri militum praesentales*, and had awarded him the consulate in 520. But Vitalian was not a trustworthy person to place in a position of power, and during his consulship he was assassinated, and Justinian succeeded to his position as *magister praesentalis* and consul.³

In the last years of Justin's reign war broke out with Persia. One cause of quarrel was the little Christian kingdom of Iberia, which was under Persian suzerainty. The Persian king Cavades tried to impose Zoroastrianism on it, and the Iberian king revolted and appealed to the Roman government. The other cause was more serious. Cavades wished his third son, Chosroes, to succeed him, and knowing that there would be opposition at home was desirous of securing the support, or at least the neutrality, of the Roman emperor. He therefore made the rather curious proposal that Justin should adopt Chosroes as his son. Justin was delighted, but unfortunately his quaestor, Proculus, a very conservative and formalist lawyer, objected that if Chosroes were adopted under Roman law he would be able to claim the empire as his inheritance, and persuaded Justin to reply that, as Chosroes was a barbarian, he could only adopt him in the same fashion that he adopted German chieftains. Cavades was deeply incensed, and even more was Chosroes, and war broke out, the Persians attacking Lazica and the Romans making counter-attacks into Armenia. In the spring of 527 Justin became dangerously ill and the senate requested him to crown Justinian as his colleague. The ceremony was performed on 4 April, and on 1 August Justin died, leaving Justinian as sole Augustus.⁴

Whatever may be the verdict on his policy and achievements, there can be no doubt that Justinian was a commanding personality and a most conscientious emperor. He was lucky in being served by a number of able generals and ministers, but he had at least the merit of having picked them out and promoted them, often from very humble posts, and he directed their policy and commanded their unswerving loyalty. His own abilities were not perhaps of the first order, but he used them to the full in the service of the empire. He was immensely industrious, regularly working far into the night, and his legislation shows that he took an active interest in all departments of government and had a remarkably detailed knowledge of their complexities. His laws also show that he was deeply concerned for the welfare of his subjects, and strove to give them

honest governors, protect them from fiscal extortion and assure them uncorrupt justice.⁵

Justinian had two major passions which overrode all other considerations. He was in the first place a Roman to the core. It was his boast that Latin was his native tongue. He was, by the standards of the time, well versed in Roman history and antiquities, and took pleasure in reviving such antique titles as praetor and quaestor in their primitive significance. His respect for Roman law was profound and inspired the great work of codification which he undertook. But above all he felt it to be his mission to restore the ancient glories of the empire by recovering the provinces of the West which the barbarians had usurped, and to rescue Rome itself from shameful servitude. His second passion was religion. He was an earnest Christian, and as such felt it to be his duty to crush heresy and paganism and to impose the orthodox faith on all his subjects. His secular and religious objectives were to his mind complementary. For by securing the orthodoxy of his subjects he would gain God's favour in his wars, and by his reconquest of the West he would free the church from the rule of heretics.⁶

Before he came to the throne Justinian had fallen deeply in love with an actress, Theodora, and in defiance of convention had made her his lawful wife, having in 522 induced his uncle to abrogate the law which forbade marriages between senators and actresses. Theodora was bitterly hated by the aristocracy, and is depicted by Procopius in his Secret History as a sinister figure who completely dominated her weak-minded husband. Justinian was certainly devoted to her, and in one of his novels he publicly acknowledged the advice given to him by 'the most pious consort whom God has given to us'. But it may be doubted whether Theodora had as much influence upon public policy as Procopius alleges. She was naturally often able to advance the interests of her favourites, and to secure the disgrace of her enemies, but even in personal questions her power over her husband was limited. Though she detested John the Cappadocian, he held the praetorian prefecture of the East for ten years, and she ultimately succeeded in securing his fall only by an elaborate plot whereby Justinian was convinced that he was guilty of treason. On the one major issue where Theodora's views clashed with her husband's she was unable to influence his policy. She was a strong monophysite, but Justinian, though he sought to find some means of reconciling the moderates of the party, never weakened in his support of the doctrine of Chalcedon and his repression of its opponents. The most that Theodora could do was to give her protection to persecuted monophysite confessors, and to encourage their resistance by her moral support.⁷

Though he was never willing to surrender the lawful claims of the Roman empire, Justinian had no ambitions for conquest in the East. His objective seems to have been to exercise sufficient military pressure on the Persians to make them keep the peace, and thus set him free to reconquer the lost provinces of the West. On his accession he acted according to these principles, actively carrying on the war, but at the same time keeping negotiations going for a settlement. In 528 he made a major change in the Eastern command, creating a new *magister militum per Armeniam*, who took over the whole northern sector of the front from the Black Sea to Martyropolis. The post of *comes Armeniae* was simultaneously abolished, and now or soon afterwards the whole line of defence was moved forwards. In the north two *duces* were established in the territory of the Tzani, a tribe living to the east of Pontus Polemoniacus which had been recently reduced to obedience, and in the south two more in the Armenian satrapies, hitherto protected by local levies under the direction of the *comes Armeniae*. In the centre a fifth *dux* guarded the approaches to Armenia Magna. The old ducates of Pontus and Armenia west of the river Euphrates thus became superfluous and were abolished. The number of ducates was also increased in the northern part of the front which was left to the *magister militum per Orientem*. In Mesopotamia an additional *dux* was established at Circesium, and in Phoenice at Palmyra.⁸

The first holder of the post of *magister militum per Armeniam* was Sittas, a young Armenian officer who had served in Justinian's bodyguard when the latter was *magister militum praesentalis*. Next the emperor, having reinforced the army of Oriens, bringing it up to about 25,000, appointed as *magister militum per Orientem* another young officer who had served in his bodyguard, Belisarius, a Roman from Germana in Dacia. Under the two new generals the war, which had hitherto gone badly for the Romans, took a more favourable turn. In 530 Sittas defeated a Persian army at Theodosiopolis and at Satala, and Belisarius won a great victory at Dara. In the following year, however, Belisarius was severely defeated at Callinicum and was recalled to the capital.⁹

At Constantinople Belisarius was able to retrieve his reputation. In January 532 there was an uprising which assumed serious proportions. It began as an ordinary riot of the circus factions, which was repressed with impartial severity by Eudaemon, the prefect of the city. The two factions then united, and on 14 January, shouting 'Nica', stormed the prefect's office, rescued their condemned partisans, and set fire to several public buildings. Next day they assembled in the Hippodrome and demanded the dismissal not only of Eudaemon but of two other ministers, John, who had been

appointed praetorian prefect of the East in the previous year, and Tribonian, who had been quaestor since 529. John, a Cappadocian of humble origins who had never received a liberal education, had started his career as a *scriniarius* in the *officium* of one of the *magistri militum*; he had probably come to Justinian's notice when the latter was *magister militum praesentalis*. Tribonian was a barrister who had won the emperor's favour by his work on the commission which prepared the first edition of the Code. Both were strongly disliked by the aristocracy, but there is no reason to think that they were particularly unpopular with the ordinary citizens of the capital, and it may be that the agitation against them was promoted by the aristocrats.¹⁰

Justinian weakly consented to dismiss all three ministers, but the crowd was not appeased, and went to the house of Probus, a nephew of Anastasius, wishing to proclaim him emperor; but he had fled, and they had to content themselves with burning his house and setting light to yet more public buildings. On 18 January the emperor again tried to appease the crowd by promising a general amnesty, but they greeted him with hostile demonstrations, and learning that two other nephews of Anastasius, Hypatius and Pompeius, who had hitherto been in the palace with Justinian, had returned to their homes, they marched off and proclaimed Hypatius emperor. Hypatius, after holding a council of a number of senators who supported him, marched with the crowd to the Hippodrome.

The situation seemed desperate, for there were very few troops in the capital, and they were doubtful which emperor to support. Justinian had almost decided on flight when Theodora galvanised him into taking the offensive. There happened to be in the palace two generals, Belisarius, the *magister militum per Orientem*, recently recalled from the East, and Mundus, the *magister militum per Illyricum*. The former had with him his *bucellarii* and the latter a company of Heruls. The generals personally led their men into the Hippodrome and by a sudden and resolute attack retrieved the situation. The battle soon became a massacre in which 30,000 citizens are said to have perished. Hypatius with his brother was arrested and both were executed next day. The senators who had supported him were exiled and their property confiscated: later, however, they were pardoned and recovered their estates, as did the sons of Hypatius and Pompeius.

In the autumn of 531 king Cavades had died and Chosroes, who wished to have his hands free for possible troubles at home, agreed in the spring of 532 to sign a treaty of Eternal Peace. Territorially the *status quo ante bellum* was restored. On the other hand Justinian

agreed to pay Chosroes 11,000 lb. gold in consideration for the latter's abandoning all claims to the old subsidy towards the defence of the Caucasus.¹¹

Justinian was willing to pay so very high a price for peace because he too wished to have his hands free for his designs in the West. In 530 the aged Vandal king Hilderic, who had proved quite incapable of checking the encroachments of the Moors, had been deposed and replaced by the next eldest descendant of Gaiseric, Gelimer. Justinian had promptly protested at the deposition of a king who was in treaty relations with himself and who moreover had abandoned the persecution of the African Catholics, and he was eager to use this pretext for attacking the Vandal kingdom. The project was greatly disliked by his generals, who recalled the disastrous issue of all previous attacks on Africa, and it was openly opposed on financial grounds by John the Cappadocian, who had been reappointed praetorian prefect of the East. Justinian overbore all opposition, and in 533 the expedition sailed. It was commanded by Belisarius, who was still rather inappropriately styled *magister militum per Orientem*: as his quartermaster-general was appointed Archelaus, a former praetorian prefect of Illyricum and of the East, with the rank of *praefectus praetorio vacans*. The army was not large, comprising 15,000 regular troops and 1,000 barbarian allies to whom must be added Belisarius' *bucellarii*, who may have numbered some thousands already. They were carried by a fleet of 500 transports, manned by 30,000 sailors and escorted by 92 small warships, whose complement totalled 2,000.¹²

Gelimer was distracted by revolts of the Romans in Tripolitania and of his own governor in Sardinia, and, neglecting the threat from Constantinople, sent 5,000 Vandals and, what was more important, 120 warships to subdue the latter. Belisarius was thus able, after buying provisions and horses in Sicily, where the Ostrogothic government gave him all facilities, to effect an unopposed landing in Africa. Two battles sufficed to crush the Vandal power, and Belisarius proceeded to occupy their outlying dominions, while the Moorish chieftains, who had awaited the outcome of the struggle, gave their allegiance to the empire.

In 534 Justinian issued instructions for the civil and military organisation of the reconquered provinces. Archelaus was appointed praetorian prefect of Africa, and under him were placed seven provincial governors, the consulars of Proconsularis, Byzacena and Tripolitania, and the *praesides* of Numidia, Mauretania Sitifensis and Caesariensis and Sardinia. On the military side there was a *magister militum per Africam* and under him five *duces*, of Tripolitania, Byzacena, Numidia, Mauretania Caesariensis and

Sardinia. As much of the frontier territory including all the country west of Caesarea had been lost to the Moors by the Vandals, the four African *duces* were instructed to make their headquarters for the time being at Lepcis Magna, Capsa or Thelepte, Cirta and Caesarea: the *dux* of Mauretania maintained a regiment at Septem (Ceuta), the last surviving outpost of Tingitania. They were urged, however, to recover the lost territory and to re-establish the old *limes*, and to build up regiments of *limitanei* to patrol it as soon as possible in order to relieve the strain on the field army. These instructions well illustrate Justinian's meticulous attention to detail, for they include exact schedules of the *officia* to be assigned to the praetorian prefect, civil governors and *duces*, with their salary scales. The lands occupied by the Vandals were resumed by the crown (we are not told that they were restored to the descendants of their original owners) and the Africans were given five years to enter claims for any land of which they or their ancestors had been unjustly deprived by their fellow provincials under the Vandal régime. The property of the Catholic church was restored, and paganism and all heretical cults (in particular Donatism and Arianism) were banned: even the Jews were deprived of their synagogues, which were converted into churches.¹³

In the same year Belisarius, having completed his task, was recalled to Constantinople. He took with him Gelimer and several thousand Vandal prisoners, who were enrolled in five regiments for use on the Eastern frontier. He also brought with him the immense treasure which the Vandals had accumulated from the sack of Rome and their constant freebooting expeditions. He was granted the first triumph which had been celebrated by a subject since the reign of Augustus.¹⁴

Belisarius' services were required for the next stage of the reconquest of the West, for the time seemed to be ripe for the recovery of Italy. Theoderic had died in 526, leaving the throne to his ten-year-old grandson, Athalaric, in whose name his mother, Amalasantha, governed the kingdom. Amalasantha's position was precarious, for not only did the Goths chafe at the rule of a woman, but many of them objected to the pro-Roman attitude which she maintained in conformity with her late father's policy. They insisted that Athalaric should not be given a Roman education, but be brought up in proper German fashion under the charge of some young Gothic nobles. Amalasantha thus had to watch her son being alienated from her, but worse was to come, for under the tuition of his new masters Athalaric took to drink, and it became obvious that he would not long survive. To reinsure herself Amalasantha entered into secret negotiations with Justinian,

offering to resign the kingdom to him in return for asylum; but, having managed to assassinate three of her chief opponents, she took courage, and on Athalaric's death on 2 October 534 she assumed the title of queen, taking as her consort her cousin Theodahad, whom she proclaimed king. Theodahad was a highly Romanised Goth, a great student of Plato, who had hitherto shown no signs of political ambition, contenting himself with increasing his already vast estates. Amalasantha had reckoned on his leaving the government to her, but she was soon undeceived. Theodahad put himself at the head of the Gothic opposition, deposed her and imprisoned her on an island on the lake of Bolsena, where she was shortly afterwards secretly put to death (April 535).

This was Justinian's opportunity. He delivered a vigorous protest against the murder of a friendly queen and at the same time, hoping thereby to intimidate the weak-minded Theodahad into surrender, launched two expeditions against the outlying portions of the Ostrogothic kingdom. Mundus, the *magister militum per Illyricum*, occupied Dalmatia without difficulty. Belisarius, with a very small force—7,000 regulars, 500 barbarians and his *bucellarii*—sailed for Sicily with instructions to seize it if he could do so without a struggle, but, if he anticipated resistance, to sail for Africa. He met with no opposition except from the Gothic garrison of Panormus, and this was quickly overcome.¹⁵

Theodahad promptly entered into secret negotiations with Peter, the imperial ambassador, and the latter agreed to submit to Justinian a draft agreement whereby Theodahad was to rule Italy as a vassal of the empire. He was to send each year to the emperor a crown of 300 lb. gold, supply 3,000 troops on demand, to refrain from executing or confiscating the property of any senator or cleric and from granting the patriciate or senatorial rank save with the emperor's permission: the emperor's name was to come before his in all acclamations and his statue to stand on the right of every royal statue. In his panic Theodahad not only made these humiliating concessions, but confidentially informed Peter that in the last resort he would be prepared to surrender Italy in return for estates in the East to the annual value of 1,200 lb. gold.¹⁶

Peter naturally betrayed Theodahad's confidences to Justinian, and the latter naturally rejected the draft agreement and accepted the second offer. But Theodahad, encouraged by a temporary Gothic success in Dalmatia, changed his mind, and Justinian ordered Belisarius to take the offensive. He advanced up the west coast of Italy, meeting with no opposition save at Naples, where the Gothic garrison, backed by a party amongst the citizens, resisted for three weeks. On the fall of Naples the Goths deposed

Theodahad, whose inaction they suspected was due to treachery, and elected as their king a competent but somewhat cautious general named Vitigis. He decided to withdraw to the north to consolidate his forces, and Belisarius pushed on to Rome and occupied it, the Gothic garrison of 4,000 men whom Vitigis had left marching out as he marched in. All southern Italy now submitted, but with his exiguous forces Belisarius could venture no farther, and, after seizing some cities in the Apennines to delay the counter-attack which he anticipated, he prepared Rome for a siege.

Vitigis in the meanwhile recovered Dalmatia except for Salona, and arranged a treaty with the Franks, who, having conquered the Burgundian kingdom in 534, were now the immediate neighbours of the Ostrogothic kingdom. Justinian had already secured their alliance by a gift of money, but Theodahad had tried to lure them to his side by the offer of the Ostrogothic province in Gaul. Vitigis now fulfilled this agreement and withdrew the Gothic troops from Gaul to reinforce his main army; he gained little else, for the Franks, having accepted the offers of both sides, waited for a favourable opportunity to intervene in their own interests.

In February 537 Vitigis moved with all his forces on Rome and settled down to besiege it. Belisarius had at his disposal only 5,000 men, to whom in April were added 1,600 Huns, Antae and Sclavenes sent by the emperor, and food inevitably soon ran short. But he resolutely held out and so harried the besiegers that he reduced them to starvation also, and when in the winter of 537-8 a relieving force of 4,800 men under John, the son of Vitalian, and a large convoy of provisions collected by Procopius arrived, they abandoned the siege, which had lasted just over a year.¹⁷

In the spring Belisarius resumed the offensive. A force of 1,000 men was sent by sea to Genoa, and occupied most of Liguria, including Milan, while John with another corps of 2,000 men crossed the Apennines and pushing north seized Rimini. Shortly afterwards another Roman army of 7,000 men landed on the east coast of Italy. It was commanded by Narses, Justinian's eunuch *sacellarius*, who had given evidence of his military talents in the Nica riots. Even after these reinforcements the Roman armies were still inferior in numbers to the Goths, and the Frankish king Theudebert now decided to intervene on the Gothic side without breaking his treaty with Justinian by sending 10,000 Burgundian 'volunteers' to Liguria. With their aid the Goths besieged Milan and another Gothic army invested Rimini. Disagreements now broke out between the Roman generals, for although Justinian had vested the supreme command with Belisarius, some of the generals of the newly arrived armies were insubordinate: and in particular

Narses, relying on his intimate relations with Justinian, took a very independent line. As a result of divided counsels relief came too late to Milan and this great city was captured and destroyed: its male inhabitants were massacred (to the number, it is said, of 300,000) and the women were enslaved and given to the Burgundians.¹⁸

On receiving Belisarius' report on this disaster Justinian confirmed him in the supreme command and recalled Narses. In 539 Belisarius reduced the two principal strongholds still held by the Goths south of the Po valley, Faesulae and Auximum, and closed on Ravenna.

Negotiations were already in train for a settlement. The Goths were ready to make substantial concessions, and Justinian was by now willing to make a compromise. His Western wars had been making heavy demands upon his manpower. Not only was he maintaining large armies in Italy, but he had been obliged to send reinforcements to Africa. No sooner had Belisarius left the country in 534 than the Moors began to ravage Roman territory. Solomon, Belisarius' *domesticus*, who on his departure had been appointed both *magister militum* and *praefectus praetorio*, succeeded in quelling them in a series of campaigns, but in 536 a serious mutiny broke out in the Roman army. Many of the men had married Vandal women and were aggrieved when the government confiscated the Vandal allotments, which their wives considered their own. There were also a large number of Arian barbarians in the army, who were infuriated by Justinian's suppression of their church. The mutineers elected as their leader a soldier named Stotzas, and soon two-thirds of the army had joined him.¹⁹

To deal with this grave situation Justinian sent his cousin Germanus as *magister militum* to Africa. Germanus succeeded by conciliatory measures in winning back a sufficient number of the mutineers to make him a match for Stotzas, and in 537 inflicted a decisive defeat upon him. He was recalled in 539 and Solomon was sent out again with reinforcements. He had again to chastise the Moors, who had once more broken loose during the period of confusion which followed the mutiny.²⁰

In addition to the wars in Italy and Africa there had been continued troubles in Illyricum and Thrace. Almost every year from 528 to 535 the Bulgars and Sclavenes had raided these countries in force, and in 536 the Gepids in defiance of their treaty of alliance seized Sirmium, which Justinian's forces had just recovered from the Ostrogoths. In 540 a great Bulgar horde penetrated to the walls of Constantinople, and stormed the city of Cassandreia in Macedonia, after which they returned in safety with all their booty.²¹

Hitherto Justinian had enjoyed peace on the Eastern frontier, but Chosroes was becoming increasingly impatient of the Eternal Peace which bound him to stand by and watch Justinian conquering the West, and in 539, spurred by an embassy which managed to reach him from Ravenna, he began to pick a quarrel with Justinian over a trivial boundary dispute between the federate Saracens of the two powers.

Justinian therefore offered the Ostrogoths more favourable terms than they might have expected in their present plight: Vitigis was to hand over half the royal treasure, and his people were to retain the territory north of the Po. The Goths accepted these conditions, but Belisarius, who thought that complete victory was now in sight, refused to endorse the agreement, and the Goths, suspecting treachery, refused to surrender unless it received his signature. They were desperate, and, with the consent of Vitigis himself, made to Belisarius secretly the surprising proposal that he should declare himself emperor, in which case they would become his loyal subjects—it is not clear whether they actually offered to elect him their king.

Belisarius saw in this offer an opportunity of finishing the war without bloodshed. He gave his oath, as required, that he would do no harm to the Goths, but refused to swear that he would assume the throne, declaring that he would do so when the surrender of Ravenna was completed. The Roman army marched into the town and took possession of the royal treasure. Vitigis was put under guard but treated with respect; the Goths who lived south of the Po were ordered to go to their homes, and the remaining garrisons evacuated the cities which they held. All this while the Goths never doubted that Belisarius would proclaim himself emperor. But presently the news got around that he had been summoned by Justinian to take over the Eastern command, and to their amazement he sailed, taking with him the royal treasure, King Vitigis and some of the Gothic nobles. The conquest of Italy seemed to be complete.²²

During the thirteen years that his armies were fighting successive wars against the Persians, the Vandals and Moors, and the Ostrogoths, Justinian was busily occupied in great legal and administrative reforms at home. On 13 February 528 he appointed a commission to produce a new code of imperial constitutions to supersede the Gregorian, Hermogenian and Theodosian Codes and all subsequent novels. In the new work all obsolete laws were

eliminated, and the laws which remained in force drastically abbreviated and where necessary emended. The new Code was published on 7 April 529, and on 15 December in the following year a second commission was appointed to codify the works of the old jurists: once again only extracts which were still valid were preserved, and these were where necessary emended and arranged in titles according to subject. This work took three years, the resultant volume, the Digest, being published on 16 December 533. A textbook of law for use in the universities, the Institutes, was also produced in the same period and published on 21 November 533.²³

During the years which followed the publication of the Code Justinian had issued much legislation, simplifying and bringing up to date the old law, and on 16 November 534 a second edition of the Codex Justinianus, that which we possess, was promulgated. Justinian's legislative activity did not stop here. Not only did he continue to make alterations in the law and to clarify doubtful points as they came up; he issued a series of novels consolidating the law on various points, probably with a view to producing a complete codification of the law which should supersede the Code and the Digest. The minister who was mainly responsible for these vast legal reforms was Tribonian, who served on the commission which published the first Code and was president of that which produced the Digest. He was quaestor from 529 to 532, and having been dismissed during the Nica revolt, was appointed master of the offices in 533 and again became quaestor in 535, which office he continued to hold until his death in the early 540s.²⁴

Justinian's administrative reforms were probably mainly inspired by John the Cappadocian, who held the praetorian prefecture of the East continuously, except for a brief period after the Nica revolt, from 531 to 541, when he fell a victim to an ingenious plot of the empress Theodora. The first important move was a law of 535 prohibiting the sale of provincial governorships. This meant some loss of revenue, since Justinian not only forfeited the imperial *suffragia*, but compensated those who since Zeno's time had acquired the right of appointing to certain posts and enjoyed the *suffragia* paid for them. But the emperor was rightly convinced that the system lay at the root of the corruption and extortion from which the provinces suffered, and made the necessary sacrifice to ensure pure justice for his subjects, and in the hope that they would pay their taxes more regularly if freed from illegal extortion. At the same time a standard set of instructions (*mandata*) was drafted to guide provincial governors in the execution of their duties, and the office of *defensor civitatis* was reformed and strengthened with the object that its holders might be more effective champions of the

provincials against governors' malpractices. The *defensores* were also entrusted with increased jurisdiction, being empowered to give final judgment in all cases involving less than 300 solidi, and the provincials were thus spared the expense of going on minor issues to the provincial governor's court.²⁵

In 535 the military and civil vicariates of the Long Wall were amalgamated into the praetorship of Thrace: 'the one continual and unending business' of the two vicars had, according to Justinian, been 'to quarrel with each other eternally', and he hoped that one praetor would see to the defence and administration of the Long Wall more effectively. In 536 a new office, the *quaestura exercitus*, was created, with the object, it would seem, of providing more efficiently for the supply of the troops on the Thracian frontier. The *quaestor exercitus* was in effect a junior praetorian prefect with authority over five provinces detached from the praetorian prefecture of the East, Moesia II and Scythia, where the troops were stationed, and the Islands, Caria and Cyprus, whence the supplies needed could be transported by sea. Justinian also made improvements in the administration of Constantinople. In 535 he replaced the *praefectus vigilum* by a higher ranking and better paid chief of police, who was styled the praetor of the demes. Four years later he instituted a new office, that of the *quaesitor*, whose business it was to control temporary visitors to Constantinople and to ensure that when they had concluded their business they returned to their homes; he also had to deal with the unemployed, deporting those who had drifted into the capital from elsewhere, and putting residents to work.²⁶

In 535-6 a complicated series of changes were made in the provincial organisation of the dioceses of Asiana, Pontica and Oriens. They may be summarised as follows. The vicariates of Asiana and Pontica were abolished and the salaries of the former vicars added to those of the provincial governors of Phrygia Pacatiana and Galatia Prima, who were given the title of *comites* and were assigned military as well as civil authority. Two pairs of provinces, Honorias and Paphlagonia, and Helenopontus and Pontus Polemoniacus, were amalgamated, the governors of the resultant provinces being styled praetor and moderator respectively, and receiving military authority, and the combined salaries of the former governors. In Pisidia and Lycaonia the posts of military *comes* and civil governor were combined in the office of praetor: these praetors also received higher salaries. In Cappadocia I the offices of governor and *comes domorum* were amalgamated in a proconsul, who enjoyed an exceptionally high salary, and possessed military authority. In Armenia there was a complete reorganisation.

Great Armenia was enlarged by the addition of three cities from Armenia I and two from Pontus Polemoniacus, and placed under a proconsul; Armenia I was compensated by a city from Pontus Polemoniacus and another from Helenopontus and was renumbered II; Armenia II was renumbered III and placed under a *comes* with military authority, and finally a province of Armenia IV was formed from the satrapies.²⁷

In the diocese of Oriens the changes were fewer. The functions of the *comes Orientis* were abolished and his title and salary assigned to the consular of Syria I. In Isauria the offices of military *comes* and civil governor, which had been separated, were again amalgamated. In Arabia and Phoenice Libanensis the civil governors received increases of salary and the title of moderator, and the governor of Palestina I was raised to the rank of proconsul with a yet higher salary.²⁸

The reorganisation of Egypt came later, possibly in 539. Here too the authority of the *praefectus Augustalis* over the whole diocese was abolished. His office was combined with that of the *dux Aegypti* and he exercised civil and military authority over the two provinces of Aegyptus, with a civil governor subordinate to him to administer Aegyptus II. A similar arrangement was made in the Thebaid, where the *dux Thebaidis* was given the title of *Augustalis*, except that here the *dux et Augustalis* had two subordinate civil governors, one for the upper province and one for the lower. In Libya there was a *dux* with a subordinate civil governor. The chapters of the law which deal with the two provinces of Augustamnica I and II, Arcadia and Pentapolis (if it was included in the reorganisation), are lost, but it seems likely from other evidence that Augustamnica was treated on the same lines as the Thebaid, and Arcadia and the Pentapolis like Libya.²⁹

Certain general principles can be detected in these complex changes. The abolition of the surviving vicariates (that of Thrace had already gone) and the corresponding offices in the dioceses of Oriens and Egypt was probably dictated by a desire for simplification and economy. The vicars had by now ceased to have any useful financial function, since the praetorian prefect directly supervised the provincial governors through his *tractatores*. Their courts of appeal were probably of low repute and little used; for they were badly paid and correspondingly corrupt, and a further appeal lay from them to the emperor. Most litigants probably therefore preferred to appeal from the court of the provincial governor direct to the praetorian prefect.

In the second place many of the changes were designed to make the provincial government stronger by abolishing conflicts of

jurisdiction, and in particular by combining civil and military authority in one hand. This was clearly a dominant consideration in Asia Minor, where brigandage was rife, and in Egypt, where civil commotions were frequent. But it may be noted that Justinian upheld the old principle of the division of the civil and military power in the frontier areas, where the *duces* had a real strategic task: in Armenia I and IV and in Phoenice Libanensis, Arabia and Palestine the *duces* and the civil governors remained separate and co-ordinate, and in the last three provinces the status of the latter was enhanced expressly in order to prevent their falling under the power of the *duces* as had hitherto been the case.

A third dominating motive was to improve the status and increase the emoluments of the provincial governors in order to secure better men to fill these posts and to give them less temptation to corruption and extortion. All the new proconsuls, praetors, moderators and *comites* were given the rank of *spectabilis* and all were well paid. Where possible Justinian tried to economise by combining the emoluments of two pre-existing offices, but where necessary, as in Palestina I, Arabia and Phoenice Libanensis, he did not shrink from incurring additional expenditure, and in some cases, as with the Augustal prefect, he augmented the combined salary of the two posts.

The new *indices spectabiles* played an important part in Justinian's judicial reforms. Owing to the corruption of the provincial governors, and, it would seem, of the vicars, an immense flood of appeals came to the praetorian prefect and the emperor at Constantinople, and this involved litigants in heavy expenses and long delays. To check this abuse the *spectabiles indices* were given the right of final judgment in all cases involving less than 500 solidi, a limit shortly raised to 750. This jurisdiction they mostly exercised only in cases arising in their own provinces, but some were given an appellate jurisdiction over a neighbouring province; the proconsuls of Cappadocia I, Palestina I and Armenia I heard appeals from Cappadocia II, Palestina II and Armenia II, and the *comes* of Armenia III from Armenia IV, and probably the *praefectus Augustalis* of Egypt and the *dux Augustalis* of the Thebaïd from their pairs of provinces.³⁰

This provincial reorganisation was no doubt intended to fit a variety of local conditions and its lack of uniformity may be partly due to this fact. But when all allowance is made for this, it remains a somewhat makeshift scheme, and it had some serious defects. The virtual abolition of any unit of government larger than a province or a pair of provinces did not make for the efficient preservation of law and order, for brigands, by crossing over from one province to

another, were able to evade capture. While in some provinces a reputable court was established, there remained many provinces where there was no appeal from a low-grade governor except to Constantinople. It might have been wiser, instead of abolishing the vicars, to have improved their quality by giving them better salaries, and to have entrusted them with military powers to deal with internal disorders and a more effective appellate jurisdiction. It may be that John the Cappadocian was not willing to contemplate the diminution in the power of his own office which such a reform would have involved.

Despite the heavy expenditure of the Persian, Vandal and Ostrogothic wars, and the large payment made to Chosroes for the Eternal Peace, and many smaller subsidies paid to barbarian kings, Justinian was able to carry out a very extensive building programme. He rebuilt the fortifications of many cities, especially along the Eastern frontier, and in countless towns he restored the aqueducts, baths and other public edifices. In 526-9 there was a series of disastrous earthquakes which ruined a number of important cities, notably Antioch, and Justinian undertook the task of rebuilding them. After the Nica uprising he made good on a magnificent scale the damage caused by the fires; on his greatest work, the Great Church of the Holy Wisdom, no expense was spared.³¹

At the beginning of his reign Justinian was probably still able to draw on the remains of Anastasius' accumulated reserve; for though Justin had been extravagant, he can hardly, as Procopius alleges, have exhausted the whole of it in nine years. But John Lydus, a more reliable witness, states that it was quickly spent on the Persian wars. Thereafter expenses had to be met out of revenue, for Justinian's wars did not bring in much money apart from the treasure of the Vandal kings. Nor can the reconquered provinces have paid their way. Taxation was promptly levied in Africa, where it was necessary to make extensive new assessments, as much of the best lands had been tax-free Vandal allotments and the old records had been destroyed: but the Moorish incursions and the mutiny must have made it very difficult to collect much revenue for several years. Sicily was organised in 537, a year after its occupation, being placed under a praetor directly responsible to Constantinople, and its revenues were paid to the *comes patrimonii per Italiam*. In Italy a praetorian prefect was appointed as early as 537, but while the war went on the collection of the revenues must have been very irregular.³²

Justinian was able nevertheless to make ends meet during this period. In 536 and 538 there were, it is true, some complaints from the troops in Africa that their pay was in arrears, but such complaints were, it would appear, a very minor part of the grievances which led to the mutiny, and the trouble was probably due to administrative delays: the government may well have hoped to get more than it was able to do out of local revenues and have failed to send enough money from home.³³

That the budget was balanced was largely due to the financial ability of John the Cappadocian. Unfortunately no laws bearing on finance survive, and we have to rely on the malicious misrepresentations of Procopius in the Secret History and the rhetorical diatribes of John the Lydian, who detested the great prefect. Procopius states that John levied a supplement to the land tax, called the air tax (*ἀερινόν*), which added 3,000 lb. gold to the annual revenue. This is his only recorded addition to the tax burden, and it was not very considerable. He owed his success rather to the vigorous and no doubt often brutal efficiency with which he collected the revenues—a lurid account of his methods is given by John Lydus—and to the strict controls whereby he checked the misappropriation of public funds, and to a number of economies.³⁴

He appears to have drastically curtailed the *cursus publicus*, which was a very expensive luxury, throughout the dioceses of Asiana, Pontica, Oriens and Egypt, except on the main road from Constantinople to the Eastern front. Four additional regiments of the *scholae* which Justin had raised were disbanded: this was no loss from the military point of view, as the *scholae* had long become a purely ornamental corps, but it was somewhat inequitable, as no compensation was paid to the discharged men for the prices which they had paid for their places. The old regiments of *scholae* and the *protectores domestici* were moreover ordered to the front for the successive wars, and were graciously allowed to stay at home when they offered to forfeit their pay for a given period to avoid active service.³⁵

A military economy of more dubious wisdom was to compel the *limitanei* of the Eastern frontier to forfeit their pay for a period of years on the conclusion of the Eternal Peace in 532; for when Chosroes broke the peace in 540 the frontier garrisons were not unnaturally in a very poor state, and that of Beroea actually deserted to the enemy. According to Procopius Justinian abolished from the very beginning of his reign the customary quinquennial donative of 5 solidi given to all the troops. But it is hardly credible that the armies would have made no protest and would have fought as well as they did, if they had suffered such a cut, and it seems likely

that Procopius either exaggerated delays in the payment of the donative, or misrepresented a measure whereby the donative was consolidated with the annual *annona*. The latter is suggested by the fact that in Africa an *annona*, which was commuted for 4 solidi under Valentinian III, was reckoned at 5 solidi under Justinian.³⁶

To recover misappropriated funds and to ensure that the public moneys were not misspent John sent out *discussores* (*λογοθέται*) from among his *scriniarii* to audit accounts, mainly those of cities and of regiments. There is no doubt that these officials often misused their powers to feather their own nests by blackmail. The malpractices of one of them, a certain John, caused such a scandal that Justinian made it a standing order that none should be appointed except by his personal warrant, and that until such warrant had been verified by reference to the capital the local authorities of the cities might refuse to show their accounts. It is also no doubt true that they excited much discontent amongst the troops, by striking absentees and the aged and unfit off the rolls and abolishing many cherished abuses. But it is certain that, stimulated by a commission of one-twelfth of the money they recovered, they saved the treasury very large sums.³⁷

Justinian was also very active in the religious field during these years. Believing as he did that the success of his armies and the welfare of the empire depended on God's favour, and that God would be offended by laxity or abuses in his church, he took it upon himself to regulate its internal affairs with the minute attention to detail which was characteristic of him. Numerous laws were issued on the election of bishops and on the discipline of the clergy with a view to eliminating simony and ensuring that fit and proper persons were appointed to clerical posts and that they did their duty and led seemly lives. The election of abbots and abbesses and the discipline of monks and nuns was also regulated by imperial legislation, for their prayers were specially efficacious. Another series of laws was directed to prevent the alienation of church property and to ensure its efficient management.³⁸

As important a condition of God's favour was the elimination of paganism and heresy. In 529 all pagans were ordered to come to church with their families and receive instruction and be baptised under pain of confiscation and exile, and in the same year a purge of the Constantinopolitan aristocracy was held, and a number of eminent persons were convicted of pagan practices and executed. In 542 John of Ephesus was officially commissioned to convert the

rural pagans of western Asia Minor, and baptised 70,000 of them. Strong measures were also taken against the more extreme heretical sects: in 527 a number of persons of high station were executed as Manichees, and later the Montanists of Phrygia were driven by persecution to mass suicide.³⁹

In a series of laws of increasing severity the disabilities inflicted on pagans, Jews, Samaritans and heretics were increased. They were forbidden to hold any imperial *dignitas* or *militia* (except the lowly and burdensome *militia cohortalis*), to be *curatores* or *defensores* of cities, or to enjoy the privileges of decurions, though still saddled with the burdens of curial status, to practise at the bar or hold professorial chairs. They were also deprived of many of their civil rights, being forbidden to bequeath or give their estates to any but Catholics or to receive inheritances or donations or to give evidence in court against Catholics. In Africa in the first flush of the reconquest Justinian ordered all Jewish synagogues to be converted into churches, but this seems to have been a local and temporary measure. In general he maintained the traditional toleration accorded to the Jewish cult. Samaritans, on the other hand, were treated with the full rigour of the law. At the beginning of his reign he ordered all their synagogues to be demolished, and when as a result the Samaritans broke into revolt, the severest penal laws were directed against recusants, and many were executed.⁴⁰

Monophysites are not expressly mentioned in any of the earlier penal laws, which seem to have been directed mainly against Manichees and other small extremist sects, and in Egypt at any rate, where the monophysite patriarch, Timothy IV, was left undisturbed, no active steps were taken against them. In dealing with this problem Justinian's policy was to try to find common ground between the Chalcedonians and the moderate monophysites of the school of Severus of Antioch, so that, having reconciled the latter, he could with reasonable hopes of success crush the extremists by penal measures. With this object in view he arranged a discussion between six Chalcedonians and six Severan monophysites in 532. As a result of their deliberations he issued next year an edict in which he set forth a version of the true faith which he hoped might be acceptable to both parties. It anathematised Nestorianism and Eutychianism, but made no mention of the one or two natures of Christ, and made use instead of the formula that Christ 'who was incarnate and made man and crucified is one of the Holy and Consubstantial Trinity'. This formula he submitted to Pope John II, who gave it his approval in 534.⁴¹

In 535, when Timothy IV died at Alexandria, Theodosius, a Severan monophysite, was installed as patriarch, and when he was

ejected in favour of an extremist, Narses was sent with 6,000 men at his back to reinstate him. In the same year Epiphanius, the patriarch of Constantinople, died, and was replaced by Anthimus, bishop of Trapezus, who had been one of the six Chalcedonian representatives at the conference of 532. He invited Severus of Antioch himself to the capital to continue negotiations. But in the spring of 536 Pope Agapetus arrived in Constantinople as envoy of Theodahad. Agapetus was less accommodating than his predecessor, and he rallied the intransigent Chalcedonians and, it would seem, convinced Justinian of the error of his ways. A council was held under his presidency in which Anthimus was condemned and deposed, and an orthodox Chalcedonian, Menas, elected in his place.

The pope, having consecrated Menas, died, but the latter carried on the campaign, holding a large council which once again anathematised Severus of Antioch and his two principal supporters and condemned their doctrine. Justinian followed this up with an edict banishing the condemned bishops from the capital and ordering Severus' works to be burned. He endeavoured to persuade Theodosius, whom he was maintaining by force of arms at Alexandria, to subscribe to Chalcedon, but finding him obdurate replaced him in 538 by a Chalcedonian Egyptian monk, Paul, who was given full powers to call upon the military to aid him in his task. The persecution of the monophysites, which was already in full swing in Syria, was now extended to Egypt. Paul's method's proved too brutal even for the imperial government, and he was deposed in 542; but he was replaced by a Palestinian monk named Zoilus who, though a milder character, was as firm a Chalcedonian.⁴²

Before Belisarius left Ravenna in the spring of 540 the disillusioned Ostrogoths had elected a new king, Ildebad, under whom the struggle was resumed, and in the same spring Chosroes broke the Eternal Peace and invaded Syria. For the next twenty years the Gothic and Persian wars were to drag on. It was not until 561 that peace was finally signed with Persia, and in the same year the last Gothic strongholds fell in Italy. Meanwhile Africa was still troubled from time to time by Moorish rebellions, and Thrace and Illyricum continued to be regularly raided by the Bulgars, Slavens, Antae and other barbarian tribes. But perhaps the most serious calamity which afflicted the empire in these years was the bubonic plague. Starting from Pelusium it swept over Egypt, Palestine and Syria in 542, and in the following year reached Constantinople and

spread over the whole of Asia Minor, Thrace and Illyricum, and through Mesopotamia into the Persian empire: it was also carried westwards to Italy and Africa and penetrated to Gaul. Of its subsequent ravages little is recorded, but it recurred at intervals in various districts, though in a less virulent form; Agathias records one such recurrence at Constantinople as late as 558, and Western chroniclers tell of a severe outbreak in Italy and Gaul in 570-1, and yet another in Constantinople in 573-4.⁴³

Placing too implicit confidence in Chosroes' good faith, Justinian had neglected the army of the East, and despite recent warnings he had evidently taken no measures to strengthen it. When Chosroes, acting earlier than had been anticipated, moved with a large army into Mesopotamia in 540, he met with no opposition. His object was not conquest but money and loot, and he proceeded methodically to sack or extract blackmail from Sura, Hierapolis, Beroea, Chalcis, Edessa, Apamea and Antioch itself, after which he withdrew unscathed. Next year he invaded Lazica and captured Petra, its principal fortress, while Belisarius, who had been reappointed *magister militum per Orientem*, conducted a rather ineffective counter-attack in Mesopotamia. In 542 Chosroes again invaded Mesopotamia, but, impressed by the improved morale of the Roman army under Belisarius' command, and perhaps alarmed by the onset of the plague, rapidly withdrew: in the following winter Belisarius was recalled to resume command in Italy. In 543 Chosroes moved to the northern sector again, but owing to the plague did not launch any attack: the Roman generals counter-attacked but were beaten off with heavy loss. Next year Chosroes again turned his attention to Mesopotamia, where he besieged Edessa but failed to take it. By this time he was wearying of the war, which had ceased to bring quick profits, and in 545 he assented, in return for a payment of 5,000 lb. gold, to sign a truce for five years. He refused however to abandon his conquests in Lazica, and there the truce did not apply.⁴⁴

Meanwhile in Italy Ildebad was after a few months assassinated in a private quarrel, and the Goths accepted as his successor a Rugian named Eraric. He proved a traitor, but he was replaced in 541 by Totila, under whose able leadership the situation was transformed. Though at first he was able to muster only 5,000 Goths, and the Roman armies numbered 12,000, taking advantage of the fact that after Belisarius' recall no supreme commander had been appointed and the numerous Roman generals failed to cooperate, he boldly took the offensive in 542, and marching south occupied Apulia and Calabria, Lucania and Bruttium, and Campania, where he laid siege to Naples. In these areas he recruited

slaves, many of them no doubt of barbarian origin, and methodically collected the regular taxes and also the rents hitherto paid by the *coloni* to their absentee landlords. By this policy, which he henceforth normally pursued, he was able to build up his army and to feed it without ruining the country which he occupied by indiscriminate ravaging. Next spring Naples was starved out, and he demolished its fortifications: this also became his regular policy, for he could not afford men to garrison all the towns he captured.⁴⁵

In 544 Belisarius arrived at Ravenna with 4,000 men whom he had recruited in Thrace, but he was able to achieve little. After the fall of Ravenna in 540 Justinian had expected that Italy would pay for itself; he had accordingly sent no money to pay the troops, and dispatched a *discussor*, Alexander, to conduct a thorough audit of the accounts of the reconquered praefecture. Alexander not only created great discontent amongst the Italians by raking up old claims dating back to the period of Ostrogothic rule, but by discovering and exploiting irregularities in the regimental accounts alienated the troops. With their pay several years in arrear they were by now thoroughly demoralised, and many of them deserted. Belisarius' forces were soon reduced by the departure of the units which had been transferred from the army of Illyricum to the Italian command; complaining that they had received no pay during the years that they had been in Italy, and that their families in Illyricum were endangered by the barbarian invasions, they mutinied and marched back to their old stations.⁴⁶

Belisarius wrote a strongly worded dispatch to Justinian, demanding reinforcements and money. Now that a truce had been signed with Persia Justinian could spare troops for the West, but it was not until the end of the year that a small force arrived under John, the nephew of Vitalian, and meanwhile Totila was able to extend his conquests northwards, encircling Rome, to which he laid siege in the winter of 545-6. In 546 Belisarius, unable to force his way from Ravenna to Rome by land, sailed round to Portus, but having unwisely left the bulk of the troops with John, who wished to recover southern Italy, he was too weak to relieve the city, which was betrayed by four Isaurian soldiers of the garrison on 17 December. The garrison of 3,000 men escaped. Of the civilian population only about 500 remained, the rest having either died of starvation or been evacuated during the siege.⁴⁷

Totila according to his policy removed the gates and started to demolish the walls, but soon abandoned the Herculean task to march against John, who had gained considerable successes in the south. He left a large force near the deserted city of Rome, but

nevertheless Belisarius contrived to reoccupy it, restock it with provisions and repair the walls, and when Totila returned his attacks were successfully beaten off. Some troops now arrived from the East, first 300 Heruls, 800 Armenians, and Valerian, the *magister militum per Armeniam*, with 1,000 *bucellarii*, and later 2,000 infantry, but they were too few to enable Belisarius to take the initiative, and he sent his wife Antonina to Constantinople to use her influence with Theodora to obtain really adequate reinforcements. She arrived to find that Theodora had just died (on 28 June 548), and that Justinian was more interested in the possibility of recovering Lazica, whose king had appealed for aid against Persian oppression. Being unable to perform her mission, she asked for her husband's recall, and Belisarius left Italy early next year. He was received with honour at Constantinople and reappointed *magister militum per Orientem*, but he never took up this command.⁴⁸

Late in 548 a general named Dagisthaeus was dispatched to Lazica with 7,000 men, but he failed to recapture Petra, and in 549, despite two victories over Persian armies, he was recalled. His successor, Bessas, succeeded in taking Petra in 551, and in the same year the five years' truce, which had lapsed in 550, was renewed for a payment of 2,600 lb. gold; it still did not apply to Lazica, on which Chosroes refused to relinquish his claim.⁴⁹

Meanwhile Totila was completing the reconquest of Italy. In 550 he recaptured Rome and proceeded to invade Sicily. This news finally aroused Justinian to the seriousness of the position in the West. He immediately dispatched a small army to the defence of Sicily, and appointed his cousin Germanus to the Italian command. In view of the Lazic war no troops could be released from the East, and from the Thracian army only a few cavalry regiments could be spared, but with funds supplied by the treasury and drawn from his own ample resources Germanus quickly got together a large army. Roman volunteers, many of them *bucellarii* of other generals, flocked to the standard from Thrace and Illyricum, barbarians from the Danube eagerly enlisted under so celebrated a general, and the king of the Lombards promised a contingent of 1,000 men.⁵⁰

Germanus' preparations were interrupted by an invasion of the Sclaveni, and before he could march he died. In his place Justinian appointed Narses, who had now risen to be *praepositus sacri cubiculi*. Narses refused to accept the command unless he was provided with an even larger army and with ample funds, sufficient not only to cover the costs of the expedition but to pay the arrears due to the troops in Italy. In 552 he marched, leading a huge and rather motley host. The total is not recorded, but it included,

besides some regiments from the praesental armies, the forces which Germanus had collected and more recruits from Illyricum and Thrace, 5,500 Lombards sent by their king, Audoin, over 3,000 Heruls under Philemuth, and numerous smaller barbarian contingents—Gepids, Huns, Persian deserters, and another group of Heruls.⁵¹

The Roman and Gothic armies met at Busta Gallorum, where Narses won a complete victory in which Totila was killed. Next year he inflicted an equally decisive defeat at Mons Lactarius on Totila's successor, Teias, and the remnant of the Gothic army yielded on condition that they should be allowed to leave Italy and never bear arms against the empire. The fighting was not over, for there were still Gothic garrisons holding out in a number of towns, and in the north the Franks, who had some years past taken advantage of the struggle to occupy large parts of the Alpine provinces and Venetia, now became aggressive. In this same year (553) a vast horde of Franks and their Alaman subjects swept through Italy, but in 554 they too were decisively defeated at Capua and withdrew. The sieges of the northern towns dragged on for some years more—it was not until 561 that Verona and Brixia fell—but from 554 Italy enjoyed peace.⁵²

In this year Justinian issued a Pragmatic Sanction settling the affairs of the country. The acts of the 'tyrant' Totila were annulled, and those who claimed that they had sold property under pressure during his reign were permitted to recover it on refunding the price which they had received. Returned exiles and prisoners recovered their rights and property, slaves were restored to their former owners and *coloni* to their landlords. Various administrative abuses were corrected. The officials of the praetorian prefecture and the palatine ministries were not to intervene in the collection of taxes, which was left to the provincial governors and their *officia*. Provisions were to be purchased for the troops at market prices in the provinces where there was a surplus, and in Apulia and Calabria, where the landowners had agreed to pay a superindiction in order to be free from *coemptio*, compulsory purchases had to be made from merchants only. Cases between civilians, or when the defendant was a civilian, might not come before the military courts. At Rome the issue of free corn to the citizens and the salaries of the professors and doctors were restored, and the funds allocated for the repair of the aqueducts and public buildings re-established. One very interesting innovation was introduced. It was enacted that provincial governors were henceforth to be nominated on the recommendation of the bishops and notables of the provinces concerned.⁵³

On one important topic the Pragmatic Sanction is silent. From a contemporary papyrus we know that the lands of the Gothic church were granted by the emperor to the catholic church. It is less certain that the Roman landowners recovered the third of their farms that had been assigned to the Goths. The express recognition by the Pragmatic Sanction of donations made by Athalaric, Amalasantha and Theodahad implies rather that the *status quo* was maintained. In that case the few Goths who remained would have retained their lands—and the papyri record some landowners with Gothic names—and the bulk of the *sortes Gothorum* would as *bona vacantia* have lapsed to the crown.⁵⁴

Narses remained in Italy as commander-in-chief and virtual governor-general; he had no title as such, being still styled *praepositus sacri cubiculi et patricius* in official documents. Under him four *magistri militum* (*vacantes*) commanded the garrison troops who guarded the Alpine passes. There continued to be a praetorian prefect of Italy, whose jurisdiction was by now reduced to the peninsula itself, a prefect of the city, and a vicar of the city; the vicariate of Italy was apparently revived. The Gothic office of *comes patrimonii* (*per Italiam*) was also maintained. But with the reunion of Italy to the empire the offices of the western *comitatus*, which the Ostrogothic kings had preserved, ceased to exist. This must have been a blow to the Roman senatorial aristocracy, whose members could no longer become quaestors, masters of the offices, or *comes sacrarum largitionum* or *rei privatae* save at Constantinople. In effect the only illustrious office available to them was the prefecture of the city, for even the praetorian prefecture of Italy was frequently given to men from the Eastern parts.⁵⁵

In the same years that Narses was completing the conquest of Italy Justinian embarked on the reconquest of Spain. On the death of Theoderic the Ostrogoth Spain had become an independent kingdom once more, Amalaric having attained his majority. Five years later in 531 Amalaric, having been defeated by the Franks, was lynched by his troops, and Theudis, the Ostrogothic general who had commanded Spain under Theoderic, became king. After a reign of seventeen years he was assassinated in 548, and his successor, Theodegisel, suffered the same fate eighteen months later. His successor, Agila, by violating the shrine of the local martyr at Corduba promoted a rebellion of his Roman subjects, who soundly defeated him, and in 551 he was challenged by a pretender named Athanagild, who asked Justinian for aid. The emperor seized the opportunity and sent an army which conquered a part of southern Spain in Athanagild's interest, and the Visigoths in alarm killed Agila and accepted Athanagild as their king. Having

achieved his ambition Athanagild naturally had no further use for the Roman troops, but they held on to the area which they had occupied, which included Nova Carthago, Malaca and Corduba.⁵⁶

In Africa meanwhile the able Solomon, who had succeeded in subduing the Moors, was killed in 544 in a renewed uprising provoked by the folly of his nephew Sergius, the *dux* of Tripolitania, who treacherously massacred the chiefs of the local tribe, the Levathi, during a parley. Justinian unwisely appointed Sergius to succeed him, but when he proved utterly incompetent sent out a member of the Constantinopolitan nobility, the patrician Areobindus, as *magister militum*. The position had meanwhile deteriorated. Not only were most of the Moors in revolt, but Gontharis, the *dux* of Numidia, was in secret league with them, desiring with their aid to make himself the ruler of Africa, and the Roman troops, whose pay was in arrears, were unreliable. Areobindus proved quite incapable of dealing with this difficult situation. Gontharis occupied Carthage, and having lured Areobindus from the sanctuary to which he had fled, murdered him. But he in his turn was assassinated by Artabanes, a loyal Armenian general who had perforce accepted his rule. Artabanes succeeded in rallying the Roman troops to the lawful emperor, and his successor John in 546-7 crushed those of the Moors who remained in revolt. Thereafter Africa enjoyed peace for the rest of Justinian's reign, except for one Moorish rebellion in 563, which was quickly quelled.⁵⁷

Thrace and Illyricum continued to be harried by periodic barbarian raids. The Bulgars invaded Illyricum in 544, and the Sclaveni penetrated as far as Dyrrachium in 548, and in 550 swept over Thrace, Dacia and Dalmatia; on this occasion they passed the winter in Roman territory, and it was not until the spring of 551 that the Roman army succeeded in making them retire beyond the Danube. After this we hear of no invasions until 559, when a new enemy, the Cotrigur Huns, together with the Bulgars and the Sclaveni, crossed the Danube. One group ravaged the Macedonian diocese and was only halted by the defences of Thermopylae. Another overran Thrace and succeeded in penetrating the Long Wall. There was panic in Constantinople, where there were no troops save the *scholae* and the *protectores*. In this crisis Justinian entrusted Belisarius with the defence of the city. With a makeshift army drawn from the civilian population, stiffened by a few hundred veterans, he inflicted a defeat on the Cotrigurs sufficiently serious to make them withdraw into Thrace, and some months later they were persuaded by the promise of an annual subsidy to evacuate Roman territory. In 561 a yet more formidable tribe, the Avars, advanced to the Danube and demanded to be settled in the

province of Scythia, but were ultimately persuaded to accept a subsidy instead.⁵⁸

After the second Five Years' Truce of 551 there was a little desultory fighting in Lazica between 554 and 556, but next year, when the truce was renewed, it was extended to Lazica also. At length in 561 a peace of fifty years was agreed. Chosroes relinquished his claims to Lazica and evacuated the remaining positions which he held there. He also agreed to prevent barbarians from crossing the Caucasus. In return Justinian undertook to pay him 30,000 solidi a year; the first seven payments, which amounted to 3,000 lb. gold, were made in advance, and the next three were to be paid in the eighth year. Other clauses probably only confirmed pre-existing arrangements. The federate Saracens of both parties were included in the peace: trade was restricted to certain towns; provisions were made for the settlement of disputes between Persians and Romans; deserters were not to be received by either side; Persian objections to Dara were withdrawn, but no large force was to be stationed there and no new forts were to be built near the frontiers. Justinian obtained from Chosroes an undertaking not to persecute his Christian subjects. One point remained unsettled. Suania, a dependency of Lazica, had in the last few years revolted and come under Persian rule: Justinian claimed that it should be retroceded, but Chosroes refused to surrender it.⁵⁹

After the fall of John the Cappadocian some defects in the scheme of provincial reorganisation which he had inspired were corrected. As early as 542 the *comes Orientis* had recovered some measure of authority over at least the northern part of the diocese, where there were no other *spectabiles iudices*. In Pontica it was found that by moving from province to province brigands eluded the governors who had received military powers, and in 548 the vicariate of Pontica was revived in a new form to deal with the nuisance. The new vicar was primarily a police officer responsible for public order throughout the whole diocese, and to make sure that he should not be hampered in his activities by any conflicts of jurisdiction, was given authority over soldiers and civil servants of the palatine ministries. At about the same time a similar police officer, styled the *biocolytes* (preventer of violence), was appointed to maintain order in five provinces of the Asianic diocese, Lycaonia, Pisidia, Lydia and the two Phrygias: in 553 Pisidia and the two Phrygias were deemed sufficiently pacified to be removed from his jurisdiction. Justinian seems also to have restored the vicariate of Thrace.⁶⁰

Though there were no other major changes in the administrative system, it need not be inferred that Justinian lost interest in the welfare of the provincials. During the latter part of his reign he issued a number of comprehensive enactments dealing with the collection of the revenue and the administration of justice, in which he carefully regulated the procedure and endeavoured to stamp out current abuses. He also strove to protect the independence of the civic authorities against the encroachments of the provincial governors, forbidding the latter to appoint deputies (*loci servatores, τοποτηρηται*) in the several cities subject to them.⁶¹

Justinian's principal financial adviser in the latter part of his reign was Peter Barsymes, a *scriniarius* of the praetorian prefecture of Syrian origin, who was appointed *comes sacrarum largitionum* in about 540 and praetorian prefect of the East in 543. In this office he made himself very unpopular by attempted economies in the corn supply of the capital; for having sold off surplus stocks in 544 at good prices, he was compelled by the failure of the Egyptian harvest in 545 to make extensive compulsory purchases of corn in Thrace, Bithynia and Phrygia. He was dismissed in 546, but was soon reappointed to the *largitiones*, and in 554-5 became praetorian prefect once more: this office he continued to hold till 562 at least and probably until the end of the reign.⁶²

He is represented by Procopius as an unscrupulous rogue, but two laws addressed to, and probably therefore drafted by, him reveal him as a careful and conscientious administrator, as solicitous for the protection of the taxpayer as for the interests of the treasury. One of these laws regulates minutely the whole procedure for the collection of the regular taxes, ensuring amongst other things that the annual indiction should be given full publicity well in advance and that tax receipts should show in detail not only the amount paid and the date, but the assessment on which the tax had been calculated. Another lays down very precise and equitable rules for the compulsory purchase of supplies for troops in transit. This law, which is dated 545, throws some doubt on Procopius' allegation that in the same year Peter unscrupulously exploited the *coemptio* of grain for the capital to ruin the landowners and enrich himself and the treasury.⁶³

The financial situation must have been even more difficult when Peter was in control than it had been under John, but none the less the government was able in 551 to supply Narses with funds sufficient to pay off all the arrears which had accumulated in Italy and to raise the very considerable army with which he finally defeated the Ostrogoths, and in 545, 551 and 562 to raise the sums, totalling over 7,500 lb. gold, required to buy the two truces and the

final peace with Persia. Unfortunately we have no evidence except Procopius' malicious misrepresentations on the methods whereby Peter balanced the budget, and even Procopius' evidence only goes down to 550, when he wrote the Secret History.

Peter's main exploit was to create a state monopoly in silk fabrics. The purchase of the raw silk at the frontier had always been restricted to the governmental *commercarii* who re-sold what was not required by the state factories to private dealers. When as a result of the Persian wars the price of raw silk rose, the manufacturers naturally charged more for the finished product, until the government intervened in the interest of the public and fixed maximum prices. As the price of raw silk continued to rise private merchants and manufacturers were driven out of business, and Peter exploited the resultant shortage by selling the products of the state factories at very high prices. By this process the *largitiones* came to monopolise the manufacture and sale of silk fabrics, and to make handsome profits out of those to whom they were a necessity of life.⁶⁴

Peter Barsymes may also have been responsible for the sale of monopolies in other categories of goods to the guilds of shopkeepers. The system was apparently first applied in Constantinople and was later extended to other large cities; in Alexandria it was introduced under Hephæstus, who was Augustal prefect in 546. It naturally led to a rise in prices, though we need not accept Procopius' statement that they were trebled. There may also be some truth in Procopius' allegation that Peter systematically revived the sale of offices. The clause in the Pragmatic Sanction whereby in Italy the bishops and notables were empowered to nominate provincial governors *sine suffragio* seems to imply that by 554 *suffragia* were usually paid for governorships in other parts of the empire.⁶⁵

Justinian became increasingly religious with advancing years. He continued to issue laws regulating minutely the internal affairs of the church, and he even extended his interest to the Jewish cult, laying down rules for the synagogue services. The penal laws against pagans, Jews, Samaritans and heretics were not relaxed, and there was a renewed drive against pagan practices in 562. Justinian also continued untiringly his efforts to reconcile the monophysites to the true faith. One of the stumbling blocks which impeded their acceptance of the Council of Chalcedon was the fact that it had rehabilitated Theodoret of Cyrrhus and Ibas of Edessa, and had approved the doctrines of Theodore of Mopsuestia, all of whom

were deemed by the monophysites to be infected with Nestorianism. Justinian became convinced that their objections were in part well grounded, and in 543-4 he issued an edict in three chapters condemning certain works of Theodoret and Ibas and denouncing Theodore as a heretic.⁶⁶

The Eastern patriarchs were induced after some hesitation to sign this document, but in the West the bishops strongly resented any suggestion that the council of Chalcedon could have erred, and Pope Vigilius, though he owed his election to the imperial government, refrained from making any pronouncement. Impatient of the delay, Justinian had him brought to Constantinople, where he arrived in 547. In 548 he held a council there and issued a judgment (*Judicatum*) condemning the Three Chapters, as the works condemned in the edict of the three chapters had come to be called. The publication of this document aroused a storm of protest in the West, and there followed a long struggle between the emperor and the pope, who retracted and reaffirmed his condemnation of the Three Chapters according as his fear of Justinian or of his Western colleagues prevailed. Eventually in 553 the emperor summoned a general council at Constantinople which duly ratified his edict. Vigilius refused to attend, but under threat of deposition renewed his condemnation of the Three Chapters in the following year. He died on his way back to Italy and was replaced by one of his deacons, Pelagius, who, having been the leader of the opposition, swallowed his scruples on being offered the papal chair.

Justinian thus got his way in the end, but the results were disappointing. In the West the churches of Africa, Spain and Gaul did not accept the decisions of the Council of Constantinople, and even in Italy the metropolitans of Milan and Aquileia refused to enter into communion with Pelagius; the schism outlasted Justinian's reign. In the East the condemnation of the Three Chapters was accepted by the Chalcedonians, but failed to achieve its object of reconciling the monophysites, who during the years of persecution since 536 had rallied their forces and built up an underground organisation. The leader of the movement was James Baradaeus, a monk from Constantine in Mesopotamia, who in 542 was secretly consecrated bishop of Edessa by Theodosius, the deposed patriarch of Alexandria. He spent the rest of his life travelling in disguise through Asia Minor, Syria, Palestine and Egypt, encouraging the faithful and consecrating bishops and ordaining priests and deacons. Before he died in 578 a powerful monophysite church had been organised in Syria and Egypt.⁶⁷

Justinian nevertheless persisted in his quest for a formula which would unite Chalcedonians and monophysites. Towards the end

of his life he convinced himself that the doctrine of the extreme monophysites, who held that Christ's body was incorruptible and impassible, was compatible with the Chalcedonian dogma of the two natures, and in 564 he issued an edict declaring the apthartodocete doctrine orthodox, and required the patriarchs to sign it. They unanimously refused, but their courage was not put to the test, for next year the old emperor died.⁶⁸

It is not easy to draw up a balance sheet of Justinian's reign. Territorially he greatly increased the empire by the recovery of Dalmatia, Italy, Sicily, Sardinia, Corsica, Africa, the Balearic Isles and most of Spain south of the Baetis. But it may be questioned whether the empire was not weakened rather than strengthened by these conquests. The problem may be divided under two heads. In the first place it may be asked whether Justinian's aggressive wars in the West did not so exhaust the Eastern parts in finance and manpower as seriously to weaken the defence of the Danube and the Eastern front. And secondly it may be asked whether the recovered provinces of the West were not rather a liability than an asset, requiring Eastern troops to garrison them and yielding insufficient revenue to pay for their defence. In the absence of statistics no decisive answer can be given to either of these questions, but some rough estimate may be attempted.

The wars of reconquest were undoubtedly long and exhausting. It took twenty years of continuous fighting to reduce the Ostrogoths, and though the Vandals were quickly defeated, the pacification of Africa required another twelve years of warfare. That these wars were so prolonged was in great part due to the fact that the expeditionary forces received very meagre reinforcements and were consistently starved of money. It does not, however, follow from this that men and money were not available. It would seem rather that Justinian, encouraged by Belisarius' brilliant initial success against the Vandals and the Ostrogoths, persisted in underestimating the difficulties which faced later commanders in Africa and Italy, and that, having been informed of the reduction of the two countries, he expected them forthwith to pay for themselves. The latter mistake was particularly disastrous, since with their pay in arrear the troops already in the field became mutinous and deserted; the prolonged troubles in Africa were due as much to mutinies of the Roman troops as to the revolts of the Moors, and in Italy insubordination and desertion became so rife that a new army had eventually to be sent out.

The fact that in 551 Narses was supplied with enough money both to pay a large new army and to settle all arrears in Italy shows that by that date the financial resources of the empire were not exhausted. The composition of his army does, however, perhaps suggest that manpower was running low, for it contained a high proportion of barbarian allies, whom Justinian had hitherto used sparingly, and the bulk of the regular troops seem to have been drawn from Thrace and Illyricum, where they would ill be spared. But the shortage of men cannot have been acute, for in the same years Justinian was able to send an army to Spain strong enough to win and hold a considerable province against the Visigoths.

The diversion of the empire's resources in manpower and money to the West inevitably weakened the Danube and Eastern fronts. Against Persia Justinian managed to hold his own with remarkable success, despite the fact that he was faced by a king of exceptional ability and energy, who exploited his opportunities to the full. Apart from the disastrous year 540, when Chosroes sacked Antioch, the Eastern provinces suffered little damage, and in the end Justinian was able to make good his claim on Lazica. These results were achieved less by military operations than by diplomacy and the payment of blackmail, but this policy at least enabled the emperor to conserve his manpower on the Eastern front, and was probably not more expensive than the large-scale military effort which was the only alternative.

On the Danube Justinian was less successful. No territory, it is true, was actually lost, and from Singidunum to the river's mouth the chain of fortresses was maintained intact. The emperor moreover fortified Illyricum and Thrace in depth, improving and repairing the defences of the cities and building a vast network of small forts over the whole area. But he relied too much on purely passive defence, assisted by diplomacy and subsidies to the tribes beyond the frontier. He not infrequently withdrew troops from the Illyrian and Thracian armies for service in Italy, and exploited the area as a recruiting ground for his Italian wars. As a result the Roman armies were rarely able to meet the barbarian invaders in the field, and the whole country from the Adriatic to the Black Sea as far south as Dyrrachium and Thessalonica and Constantinople itself was subject to perennial devastation.⁶⁹

Africa was finally more or less pacified in 548, the Spanish province conquered in 552, and the reduction of Italy completed in 554: the same year saw the end of hostilities in Lazica. So far the finances of the empire had stood the strain. The manpower situation was more precarious. To supply enough troops for the Western campaigns the armies of Armenia and Oriens had been

reduced to a dangerously low level during the successive truces, and those of Illyricum and Thrace had been so freely drawn upon that they could offer no serious resistance to invaders.

For the last decade of the reign there was peace in the West, but the condition of the reconquered provinces was far from happy. When Italy was finally recovered it was exhausted by the long years of fighting. In 556 Pope Pelagius declared to the bishop of Arles that the estates of the Roman see were so desolated that no one could achieve their rehabilitation, and in a letter to the praetorian prefect of Africa he asserted that 'after the continuous devastations of war which have been inflicted on the regions of Italy for twenty-five years and more and have scarcely yet ceased, it is only from the islands and places overseas that the Roman church receives some little revenue, however insufficient, for the clergy and the poor'.⁷⁰

Africa was in rather better case, but the Roman government never succeeded in recovering from the Moors the large areas which they had occupied in the last years of the Vandal kingdom, and even within the area effectively under Roman administration the great fortifications erected by Solomon and his successors suggest that prosperity was greatly reduced and conditions highly insecure. Even in the northern parts of Numidia and Byzacena and in Proconsularis itself every town was fortified; in most the enceinte was drastically reduced, and in many the forum itself was converted into a stronghold. Only Sicily and Sardinia had peace, except for Totila's brief incursion, and enjoyed some prosperity.

Financially the Western provinces can hardly have paid their way during this period; they certainly can have contributed nothing towards the general expenses of the empire. In manpower they were undoubtedly a drain on the resources of the Eastern parts. Italy was depopulated by the war and could furnish no recruits, and very few Ostrogoths took service under the empire. Africa made some contribution: not only were a substantial number of Vandals transported to the Eastern front, but Moors were also recruited for service overseas, and some African regiments were raised—two are found in Egypt. But these cannot have compensated for the large number of Eastern troops required for the garrison of Africa.⁷¹

The wars of reconquest had lasted longer than they need have done because Justinian had refused to expend the men and money needed to achieve a quick decision, and as a result Italy, and to a lesser extent Africa, were so exhausted by the time that they were finally pacified that they could contribute little to the revenues of the empire. Though the Western wars cannot be said to have

exhausted the empire, their net result was to saddle it with heavy military commitments without any countervailing increase to its resources.

In the peaceful last decade of his reign Justinian might have done something to improve the situation, but he was growing old and losing his grip. Agathias, commenting on the great Cotrigur invasion of 559, draws a gloomy picture of the condition of the empire in the last years of the reign. In his old age, he says, the emperor relied more and more on diplomacy and subsidies to keep his enemies at bay, and increasingly neglected the army. Money was wasted on games and spectacles, the pay of the troops was allowed to fall into arrear, and what little they received was filched from them by the *discussores*. As a result many soldiers deserted or drifted into civil life, and the armies shrank to a total of barely 150,000 men. These had to cover Italy, Africa, Spain, Lazica, Egypt and the Eastern front, where very few were left, since the truce was deemed to be sufficient protection. Thrace was denuded of troops, and the Cotrigurs were thus able to penetrate to the walls of Constantinople.⁷²

Justinian's successor used even stronger language in a law which he issued in the first year of his reign. 'We found', he says, 'the treasury burdened with many debts and reduced to utter exhaustion', and 'the army already ruined by lack of supplies, so that the commonwealth was devastated by the perennial raids and incursions of the barbarians'.⁷³

Justin's strictures must be taken with a grain of salt. He was bitterly critical of his uncle's policy of placating the barbarians with subsidies, and accordingly exaggerated its evil results. The debts owed by the treasury cannot have been a very serious matter, since he promptly paid them out of his own pocket, and, if there was no reserve in the treasury after the recent heavy payment to Persia on the signature of the Fifty Years' Peace, there is no indication that Justin was embarrassed by lack of money during his reign.

Agathias evidently shared Justin's sentiments, or thought it prudent to profess them. But his more temperate criticism contains some useful facts. A field army of 150,000 men can scarcely have been sufficient to hold all the fronts which he enumerates, when at the end of the fourth century an army of 100,000 had barely proved adequate to protect the lower Danube and the Eastern fronts only, and that at a time when the Persian empire was quiescent, and there was no religious conflict to disturb the internal security of Egypt. At the same time the army was 50 per cent. larger than it had been, and the revenues of the reconquered provinces can hardly have sufficed to cover the increased expendi-

ture. It is easy to criticise Justinian for economising on the army and spending his money on subsidies, but he had not the resources both to build up an army of a sufficient size to protect the far-flung empire which he had conquered and in the meanwhile to secure peace, and it was natural that as he grew feebler he should have preferred the latter alternative.

CHAPTER X

THE SUCCESSORS OF JUSTINIAN

FOR the reigns of Justin II (565-78), Tiberius Constantine (578-82) and Maurice (582-602) the contemporary historical sources, though not so rich as for that of Justinian, are fairly adequate. We possess substantial fragments, mainly concerned with diplomacy, from the history of Menander the *protector*, who wrote under Maurice and brought his story down to his accession. His contemporary, Theophanes of Byzantium, also covered the reigns of Justin II and Tiberius, but of his work we have only a summary of the earlier books going down to 573. John of Epiphania wrote a history which ended with the restoration of Chosroes by Maurice in 591, an event of which he was an eyewitness, but of this work too only the introductory narrative up to 575 has been preserved. A full, if somewhat diffuse and rhetorical, account of the reign of Maurice survives in the History of Theophylact, a *magister scrinii*, who published his work after the death of Phocas in 610.

All these historians give scant attention to events in the Western provinces of the empire, and for the Lombard invasion of Italy we have to rely mainly on a late and untrustworthy source, Paul the deacon, who wrote at the end of the eighth century. But the Register of Pope Gregory the Great (590-604) throws a flood of light not only on the affairs of the church but on the imperial administration of Italy and the general condition of the country during the last twelve years of Maurice's reign.

Evagrius carried his Ecclesiastical History down to 593. Its last two books, which cover the period from 565 to 593, are particularly valuable as a contemporary record and contain much information on secular affairs. A different point of view is given by the Ecclesiastical History of the monophysite leader John of Ephesus. The third section of this work, which covers events from 571 down to the reign of Maurice, has survived more or less intact and is again of special value as the work of a contemporary.

The legal sources for the period are, on the other hand, very

scanty; only a few scattered novels of Justinian's successors have been preserved. Some light is thrown on the character and policy of Justin II by a Latin verse panegyric written to celebrate his accession by the same Corippus who sang the exploits of John in Africa. We also possess some useful contemporary biographies. The lives of Eutychius, patriarch of Constantinople from 552 to 565 and again from 577 to 582, and of Simeon Stylites the Younger, who died in 596 at the age of 75, tell us something of conditions in Pontus and Syria respectively. The biography of Theodore of Syceon, who died in 613, gives an interesting picture of rural life in central Asia Minor. The Spiritual Meadow of John Moschus, a Palestinian monk who died in 620, contains a mass of anecdotes which throw vivid sidelights on conditions of life in the Eastern provinces in the late sixth and early seventh centuries. The stories recounted by Gregory the Great in his Dialogues are of less interest, but do something to illuminate conditions in Italy in the sixth century.

Justinian died leaving behind him three nephews, as well as the two sons of his cousin Germanus. He had never indicated whom he wished to succeed him, and one of Germanus' sons, Justin, who had already distinguished himself as a general and was at the time *magister militum per Illyricum*, might have been held to have the strongest claim. But it was another Justin, one of the nephews, who seized the vacant throne. He had had an undistinguished career, having long occupied the modest post of *cura palatii*, but he was thus on the spot, and he was in the good graces of the *praepositus sacri cubiculi*, and had secured for one of his supporters, Tiberius, the key post of *comes excubitorum*. He was promptly elected by the senate. Soon afterwards the other Justin was removed from his command and sent to Alexandria, where he was executed.¹

Justin II had a very lofty conception of the dignity of the empire: a Roman emperor should not bribe barbarians to keep the peace, but impose his will by force of arms. He dismissed with proud scorn an Avar embassy which demanded the continuation of Justinian's subsidy, and refused to go on paying the grants which his uncle had made to the Saracen allies of Persia. When he failed to get his way about the disputed territory of Suania he treated the envoys of Chosroes with studied discourtesy. Fortunately no ill results followed: the aged Chosroes had no desire to break the peace, and the Avars were at the moment more interested in the Franks.²

In 567 Justin was even able to secure a minor success at the Avars' expense. The Gepids, who occupied Pannonia Secunda,

and the Lombards, who had on Justinian's invitation settled to the north-west of them on the borders of Noricum, had long been at odds. The Lombards at length decided to ask aid from the Avars, who lived farther east across the Danube, and the Avars agreed on condition that they should receive a tenth of the Lombards' cattle, and on the successful conclusion of the war half the booty and the whole of the territory of the Gepids. The combined forces of the Lombards and the Avars completely crushed the Gepids, but Justin was able during the war to capture Sirmium, which the Gepids had seized thirty years before, when Justinian first moved against the Ostrogoths. War with the Avars naturally followed, but the Roman forces held on to Sirmium.³

The destruction of the Gepid kingdom had more serious consequences. The Lombards, evidently feeling that the Avars were dangerous neighbours, decided to emigrate from their present poverty-stricken territory, and conquer for themselves the rich lands of Italy, which many of them had seen as allies of Narses in 552. In 568 under the leadership of their king Alboin they marched into Venetia, accompanied by many thousands of Saxons and other Germans. Justin had recently dismissed Narses from his post, and the invasion evidently took the Roman government by surprise. The Lombards were able to occupy most of Venetia in 568, and in the next year most of Liguria, including Milan. Only Ticinum offered a stubborn resistance, but it too fell in 572.⁴

Meanwhile a serious Moorish revolt had broken out in Africa, where the praetorian prefect was killed in 569, and two successive *magistri militum* perished in 570 and 571. In Spain too the Visigoths attacked the imperial possessions, capturing Asidona in 571 and Corduba itself in 572. Despite these disastrous events in the West Justin in 572 deliberately provoked war with Persia. The occasion was indeed tempting. Chosroes had been endeavouring to impose the Zoroastrian religion on his Christian Armenian subjects, and in desperation they rose in revolt and appealed for aid to Justin. When in 571-2 a Persian army arrived to claim the first annual subsidy under the Fifty Years' Peace—the amount due for the first seven years had been paid on the signature of the treaty, and Justin had evidently paid for the next three years in 568 as stipulated—Justin not only refused to pay but announced that he had taken his fellow Christians in Persian Armenia under his protection and threatened that if Chosroes laid a finger upon them he would invade his kingdom and give the Persians a new king.⁵

The Armenian rebels beat the Persians out of their country, and the Iberian kingdom, another dependency of Persia, joined the revolt. Justin resolved to strike while the iron was hot, and

appointed his cousin Marcian *magister militum per Orientem* with orders to attack. In 572 Marcian conducted a successful raid against Arzanene, a satrapy on the southern border of Persian Armenia, and in 573 he attacked Nisibis. But it soon became apparent that the Romans owed their success to the treacherous surprise which they had sprung on their adversaries. A Persian army invaded Syria, and having captured and sacked Apamea, returned with its loot and many thousands of prisoners, and Chosroes not only relieved Nisibis but laid siege to Dara, which he captured on 15 November 573.⁶

Justin's mental balance, which had never been very stable and had during the past few years been deteriorating, was finally overthrown by this disastrous news. The empress Sophia, with the assistance of the faithful *comes excubitorum*, Tiberius, took over the government and succeeded by a payment of 45,000 solidi in buying a truce of one year in Oriens, excluding Armenia. Taking advantage of a lucid interval, she induced Justin on 7 December 574 to nominate Tiberius as Caesar. Justin lived until 578, when Tiberius officially succeeded him as Augustus, but he never recovered his senses, and the effective reign of Tiberius began in 574.⁷

Justin's megalomaniac and irresponsible foreign policy had placed the empire in a very dangerous situation. His religious policy was at first reasonable. He made renewed attempts to conciliate the monophysites, releasing imprisoned and exiled bishops, clergy and monks, holding conferences with their leaders, and finally issuing an Edict of Union, in which he set forth his faith in terms which he hoped would be acceptable to them. But when these attempts at reconciliation failed he lost his temper and in 571 launched a savage persecution. His financial policy won him the reputation of being an avaricious miser. He seems in fact to have accumulated a considerable balance in the treasury, but there is no evidence that his fiscal policy was extortionate. He imposed a customs duty on wine and made holders of bread tickets at Constantinople pay 4 solidi—a single payment it would seem—for the privilege. On the other hand, in 569 he renounced the revenue derived from *suffragia*, extending to the whole empire the system initiated by Justinian in Italy, whereby provincial governors were appointed on the nomination of the local notables and bishops: this reform was, however, very transitory. He evidently achieved his balance by cutting down expenditure, and in some matters he carried economy to excess. His policy of cutting off subsidies might have been justified had he spent the money thus saved on building up the military strength of the empire, but to judge by the results he seems to have grudged the necessary expenditure.⁸

Tiberius was a man of very different character from his predecessor, and pursued in most fields an exactly opposite policy. He promptly called off the persecution of the monophysites. In finance he went to the other extreme from Justin's parsimony. Not only did he spend money freely both on subsidies and on the army, but he displayed lavish generosity. He cancelled Justin's wine duty and refunded to the holders of bread tickets the 4 solidi they had paid. On his accession as Caesar in 574 he once more abolished *suffragia*, which had crept in again and by now brought in a considerable revenue, and to celebrate his formal accession in 578 remitted an entire year's taxation by reducing the annual total by a quarter for the four ensuing indictions. He thus won golden opinions from his subjects but left a difficult problem for his successor.⁹

Tiberius realised that he had not the resources to fight on all fronts, and he determined to concentrate his strength on the Persian war and meanwhile to do what he could by diplomacy and bribes to hold the position in the West. On his accession he tried to keep the Avars quiet by agreeing to pay them an annual subsidy of 80,000 solidi. This had the desired result for a few years, and in 578 Tiberius was even able to obtain the aid of the Avars against the Sclaveni, who had overrun Thrace. The chagan of the Avars had his own grievance against the Sclaveni, who had insolently refused to acknowledge his overlordship, and agreed to send an army to ravage their homelands north of the lower Danube. Under the direction of John, who combined the offices of praetorian prefect of Illyricum and *quaestor exercitus*, a force of 60,000 Avar cavalry was shipped across the upper Danube, and having passed through Roman territory to Scythia, was shipped back to the north bank again, where it created such havoc that the Sclavenian raiders hastened home.¹⁰

The Avars, however, did not long observe their treaty. In 580 they encircled Sirmium and demanded its surrender. Tiberius refused, but he could not spare sufficient troops to fight a war for the city, and eventually in 582 agreed to evacuate it on condition that the garrison and the civil population were allowed to retire to Roman territory; for this concession he paid 240,000 solidi, the arrears of the annual subsidy which he had not paid since the Avar attack. During the siege of Sirmium a vast horde of Sclavenes once again invaded Thrace, Macedonia and Greece. According to John of Ephesus many of them settled down in the country which they had depopulated, and were still in possession when he wrote four years later.¹¹

In Italy Alboin was murdered in 573 and his successor, Cleph, suffered the same fate in 574. For the next ten years the Lombards elected no king, but split up into upwards of thirty groups led by *duces*. Nevertheless their advance continued, and two bands, led by the *duces* Faroald and Zotto, penetrated south of the Apennines. Faroald established himself at Spoletium, where he threatened the communications between Ravenna and Rome, while Zotto pressed on to the south and occupied Beneventum. In 578, when the senate of Rome sent its *aurum oblativum* to celebrate Tiberius' coronation, it instructed its representative, the patrician Pamphronius, to make an urgent plea for military aid. But Tiberius turned a deaf ear to their complaints and only returned to them the 3,000 lb. gold which they had sent, advising Pamphronius to use it to bribe some of the Lombard *duces* to take service under the empire for the Persian war, or, if they all refused, to purchase the aid of the Franks. Two years later the Roman senate, supported by the pope, renewed their pleas for military assistance. This time the emperor spared some small reinforcements, but once again placed his main reliance on diplomacy backed by gifts, whereby he succeeded in temporarily winning over some of the Lombard *duces* to the imperial side.¹²

In the East Tiberius indulged in no extravagant ambitions. His aim was merely to retrieve the military position sufficiently to induce the Persians to renew the Peace on the old terms. Even to achieve this modest objective he needed time to build up the Eastern armies, and he accordingly negotiated for an extension of the one year's truce which Sophia had obtained. What he wanted was a short-term truce covering the whole Eastern frontier, but Chosroes refused to suspend hostilities in Armenia and pressed for a five years' truce in Mesopotamia. Eventually a compromise was reached, and Tiberius agreed to pay 30,000 solidi a year for a three years' truce covering Mesopotamia only. Operations continued with varying success on the Armenian front, and at the same time negotiations were pursued for a final settlement. Meanwhile Tiberius spent money lavishly on building up his forces, raising recruits in all the provinces of the empire, and purchasing the aid of barbarian allies.¹³

In 578 Tiberius appointed to the Eastern command Maurice, a Cappadocian officer whom he had nominated as *comes excubitorum* when he himself became Caesar. Maurice was a vigorous disciplinarian who prevented his troops from looting the provincials and made them fortify their camps with earthworks in the old Roman fashion. He was also an able general, and under his leadership the Roman armies scored a notable success, occupying Arzanene and capturing its key fortress, Aphumon.¹⁴

Tiberius now felt that he could negotiate from strength and he offered liberal terms. He sent back the prisoners whom Maurice had captured without ransom, and offered to retrocede Persian Armenia and Iberia, which the Romans still held, and their recent conquest of Arzanene, if the Persians on their side would restore Dara to the empire. Chosroes at first demanded the extradition of the leaders of the Armenian revolt and payment of a lump sum or an annual subsidy. But Tiberius was firm on both these points, and Chosroes was on the point of yielding when in 579 he died. His son Hormisdas did not wish to lose face at the outset of his reign by signing what might seem to be a disadvantageous peace, and broke off negotiations; and so the war dragged on, until on 14 August 582 Tiberius died, having the previous day crowned Maurice Augustus.¹⁵

Maurice, like his predecessor, gave priority to the Persian war and endeavoured to hold the position elsewhere by diplomacy and subsidies. In Italy his policy was tolerably successful. At the beginning of his reign he made a grant of 50,000 solidi to the Frankish king Childebert on condition that he made war upon the Lombards. In 584 Childebert honoured his promise by invading northern Italy, and the Lombard *duces* of the area made their submission.¹⁶

This defeat brought home to the Lombards the need for a unified command and they elected as their king Authari, the son of Cleph. Faced by the Frankish threat Authari negotiated a three years' truce with Smaragdus, the commander-in-chief or, as he is henceforth called, exarch of Italy. During three years the Roman possessions in Italy enjoyed relative tranquillity, while Authari had to face a second Frankish invasion in 585 and was busy endeavouring to assert his authority over the Lombard *duces* who had hitherto refused to acknowledge him. When the truce ran out Maurice again persuaded Childebert to attack the Lombards in 588. Authari inflicted a heavy defeat on the Frankish forces, but in 589 was driven to offer tribute to Childebert by the threat of another invasion. In 590 Childebert was again persuaded to send a large army into Italy, and though it achieved little beyond plundering the country, since the Lombards withdrew into the fortified cities, Smaragdus' successor Romanus was meanwhile enabled to recover Altinum, Mutina and Mantua and to induce the Lombard *duces* of Parma, Placentia and Regium to transfer their allegiance to the empire.¹⁷

In Illyricum and Thrace Maurice was less successful. Only two years after his accession the Avars demanded that their annual subsidy should be increased from 80,000 to 100,000 solidi, and when Maurice refused, seized Singidunum by a surprise attack and ravaged the other cities of Moesia Prima. The emperor had to agree to pay the extra 20,000 solidi a year to secure peace and recover Singidunum. But peace did not last for long, for the Avars permitted their subjects the Sclaveni to invade Thrace. They penetrated to Adrianople and the Long Wall, but were eventually defeated and driven back. Soon after this the Avars again picked a quarrel with the empire and invaded Moesia Inferior and Scythia. Commentiolus, the *magister militum per Thracias*, had only 10,000 men at his disposal and was unable to hold them, and they succeeded in crossing the Haemus and invading Thrace, where they besieged Adrianople. Here, however, they were defeated in 586 by Droctulf, a Lombard *dux* who had taken service under the empire.¹⁸

On the Eastern front meanwhile the war dragged on inconclusively. In 584 Maurice superseded John Mystacon, whose conduct of the war he found unsatisfactory, by his brother-in-law Philippicus. Philippicus was somewhat more successful, but he fell sick and was succeeded by Priscus in 588. The strain of the long war was by now proving too much for the treasury, and Maurice issued an order that military pay was to be reduced by 25 per cent. On his arrival at Edessa Priscus had given great offence to the troops by his arrogant bearing, and when the news about the pay was revealed they mutinied. Priscus fled to Constantina, whence he endeavoured to placate the army by alleging that the emperor had revoked the order about the pay. But the mutineers refused his overtures and chose as their commander Germanus, the *dux* of Phoenice Libanensis, electing new officers for themselves. Maurice on hearing of the mutiny reappointed Philippicus to the command, but the troops refused to accept him. The Persians now availed themselves of the situation to attack Constantina, but Germanus persuaded his men to carry on the war and won some successes against the enemy forces.¹⁹

The soldiers, who had at first reviled the emperor as a shop-keeper and destroyed his portraits, gradually forgot their anger and even sent him part of the booty which they captured. Maurice on his side was conciliatory and in the spring of the next year sent them their full pay. He insisted, however, on their taking back their old officers and accepting Philippicus as their commander, and this delayed a final settlement until Easter 590, when Gregory, the patriarch of Antioch, at last persuaded them to submit. Germanus and his subordinates were tried and formally condemned to death;

but were not only reprieved but rewarded. Philippicus did not long enjoy his second tenure of command. In this same year Martyropolis was betrayed to the Persians, and when Philippicus failed to recapture it he was replaced by Commentiolus.²⁰

Next year there followed a dramatic reversal of fortune. Hormisdas, who had made himself generally hated by his cruelty, was killed in a palace conspiracy, and his son Chosroes was proclaimed king. Chosroes, however, was unable to hold his own against Varanes, the rebel satrap of Media, and fleeing to Circesium he flung himself on the mercy of the Roman emperor, offering to restore Martyropolis and Dara and to abandon his claims on Armenia and Arzanene in return for aid in recovering his kingdom. Chosroes was received with the honours due to a monarch and was provided with an army, and with its aid he soon defeated Varanes and re-established his authority. He duly fulfilled his side of the bargain, and Maurice was thus enabled not only to restore but to advance the Roman frontier. After twenty years of continuous warfare there was peace at last in the East.²¹

The end of the Persian war enabled Maurice to transfer troops to other theatres, but he naturally gave a higher priority to the Danube front than to Italy. Here the position deteriorated during the latter part of his reign. Childebert was tired of his rather unprofitable invasions of Italy, and when Authari sued for peace, was not unwilling to grant it. Authari died in 590, but Agilulf, who was elected his successor in the following spring, renewed negotiations, and in return for an annual tribute secured immunity from Frankish attacks. He, like his predecessors, had some difficulty in imposing his authority on various recalcitrant or renegade Lombard *duces*, but he was able to take the offensive against the Romans in 592.²²

Arichis, whom he had appointed to succeed Zotto as *dux* of Beneventum, pressed Naples hard and threatened Rome from the south. Ariulf, *dux* of Spolegium, having severed communications between Ravenna and Rome by the capture of a number of cities on the upper Tiber, appeared before the walls of the Eternal City. The garrison had been reduced to a single regiment, the Theodosiaci, and Pope Gregory took it upon himself to enter into negotiations with Ariulf. The exarch Romanus, however, refused to ratify the agreement and the war went on. The next year Agilulf himself marched on Rome and Gregory again negotiated an armistice, but once again Romanus refused to honour it. In 596, however, Romanus died, and his successor Callinicus proved less intransigent. In the autumn of 598 a truce for a year was signed at a cost of 500 lb. gold, and in the spring of 600 it was renewed for another year.²³

It is very difficult to draw from the scattered allusions in Pope Gregory's letters any coherent picture of the state of Italy during these years of war. In general it is clear that the Lombards greatly extended their conquests in central and southern Italy. Venafrum in Campania was still under Roman rule in 591, but in 595 the pope licensed one of its deacons to be enrolled amongst the clergy of Naples, 'because he had no bishop to serve or church of his own, where he should perform his functions, owing to the enemy's prohibition'. The Crotoniates duly elected a new bishop in 591, but in 597 Gregory was hoping to ransom captives 'from the city of Croton on the Adriatic coast of Italy which was taken by the Lombards last year'. Not all these losses were permanent: in 599 Gregory was able to get a bishop elected at Auximum, since it had been 'recovered by God's help and restored to the jurisdiction of the commonwealth'. But the losses undoubtedly greatly outnumbered the gains.²⁴

The devastations of the Lombards extended farther afield, and many cities became so depopulated that their bishoprics were suppressed. In 590 the pope licensed the bishop of Formiae to take over the see of Minturnae, and in 592 united Cumae to Misenum. In the same year the bishop of Velitrae was authorised to move to a fortress, where he 'might be more secure from hostile incursions', and the see of Tres Tabernae, which 'the impiety of the enemy had rendered desolate', was united to his. Next year the see of Cures in the Sabine country was for the same reason merged in that of Nomentum, and in 598 the bishop of Narnia was instructed to take under his charge the derelict city of Interamnia.²⁵

Italy was now under the supreme command of a governor-general, styled the exarch; this title is first recorded in 584 and may have been instituted by Maurice. He was the *magister militum* under a new name, and remained primarily a military commander-in-chief, but his powers were wide. He appointed tribunes and *duces*, and conducted negotiations with the enemy and signed truces. He seems also to have exercised *de facto* an overriding authority over the civil administration.²⁶

To meet the changing military situation the system of command was gradually modified. The *ducatu*s which Narses had created to guard the Alpine frontier had ceased to exist when the Lombards occupied northern Italy. Instead we find *duces*, who often have the rank of *magistri militum vacantes*, operating in various theatres according to the exigencies of the moment. Gradually new permanent regional commands were established. There was apparently already a *dux* normally stationed at Ariminum in 591, and by 599 a *magister militum* responsible for Istria. Pope Pelagius

II begged Maurice in 584 to assign a *dux* or *magister militum* to the defence of Rome, and in 592 Gregory the Great urged that a *dux* be sent to Naples. The first request was not granted, but by 598 we find a *magister militum* stationed at Naples, and the post became permanent; in 600 Gregory wrote to Gudeliscus, *dux Campaniae*, and in 603 to Guduin, *dux* of Naples.²⁷

To meet the continuous threat of the Lombards many cities had to be permanently garrisoned, and the tribunes or *comites* of the regiments assigned to this duty gradually came to be virtually military governors of the cities concerned. Gregory alludes to the tribunes of Centumcellae and Naples and Sipontum, and to two successive tribunes of Hydruntum and *comites* of Misenum.²⁸

These military commanders naturally tended to overshadow the civil authorities, and when he wanted anything done Gregory usually wrote to the local *magister militum*, *dux*, *comes*, or tribune. But the civil administration continued to function. The praetorian prefect of Italy was still an important person, and he still had his *vicarii* at Rome and in the north at Genoa. Provincial governors continued to administer what remained of their provinces: we hear of Scholasticus, *iudex Campaniae*, and of Sisinnius, *iudex Samnii*; he was in 592 living in retirement in Sicily, and not much of his province can by then have been still under Roman rule. *Palatini* of the *largitiones* and the *res privata* and the *numerarii* of the praetorian prefecture continued to collect the revenues of their several departments. There was still a prefect of the city, and apparently a *comes formarum*.²⁹

We hear little of Africa in the reign of Maurice, and apart from two Moorish insurrections which were quickly quelled, conditions do not seem to have been disturbed. Nevertheless an exarchate was established here also. The exarch of Africa was like his Italian counterpart primarily a military commander. A praetorian prefect of Africa continued to be responsible for the civil administration under his supreme control.³⁰

During the second half of his reign Maurice was fully occupied with the defence of Illyricum and Thrace against the Avars and the Sclaveni. In 592 the chagan of the Avars demanded an increase in his annual subsidy, and Maurice, having transferred troops from the Eastern front, took up the challenge. He at first wished to take the field himself, but yielded to the protests of the senate and appointed Priscus to the command. Priscus relieved Singidunum, to which the Avars had laid siege, but was unable to prevent the Avars from marching into Thrace, where they besieged him in Tsurullum. The chagan was, however, deluded into believing that a large Roman army had been sent by sea to attack his home coun-

try, which had been left defenceless, and hastily renewed his treaty and withdrew.³¹

Next year Priscus led his army across the Danube and successfully ravaged the lands of the Sclaveni. Maurice gave orders that the army should winter north of the river, where they could live off the country and thus relieve the treasury of the cost of their upkeep, but when the troops threatened to mutiny, Priscus, warned by his previous experience at Edessa, ignored the emperor's command. Next year he was relieved by Peter, the emperor's brother. He was the bearer of another imperial order which was designed to increase the efficiency of the troops and at the same time to save money. Hitherto the soldiers had received cash allowances for their arms and uniforms, and had no doubt not always spent them for these purposes. The emperor now announced that arms and uniforms would henceforth be issued in kind. The news caused great discontent, but Peter was able to mollify the troops by publishing other imperial orders which provided pensions for veterans and maintenance for the sons of soldiers who were killed on active service. We are told little of Peter's operations during the next few years, but he does not seem to have been a very effective commander, and in 597 he was deposed and Priscus reappointed.³²

Priscus had to fight the Avars, who were besieging Singidunum and ravaging Dalmatia. He succeeded in relieving Singidunum and so severely defeated the raiders in Dalmatia that the chagan made no move next year. In 599 the Avars attacked Tomi at the mouth of the Danube, but Priscus defended the city with success, and in the spring of the next year the siege was raised. Owing, however, to the incompetence of Commentiolus, whom Maurice had appointed to command the field army during the siege, the Avars were able to break through to Constantinople. Fortunately for the Romans the plague broke out in the Avar camp, and the chagan, having lost seven of his sons, consented to sign a new treaty whereby the Danube was acknowledged to be the frontier, but the Romans were allowed to cross it to chastise the Sclaveni; the subsidy was increased by 20,000 solidi.³³

Maurice had no intention of keeping this treaty, and ordered Priscus and Commentiolus to march against the Avars. Near Viminacium Priscus inflicted a series of severe defeats upon them, and they remained quiescent in 601. Next year Peter, who had been appointed *magister militum per Thracias*, conducted successful operations against the Sclaveni north of the Danube, and Maurice once again sent orders that the army should winter in enemy territory. This time there was an open mutiny. Peter fled, and the troops chose a non-commissioned officer named Phocas as their leader

and marched on Constantinople. The emperor had no troops in the capital and ordered the citizens to man the walls.³⁴

Maurice had by now made himself thoroughly unpopular by his economies, and the troops were determined to depose him. They offered the crown to his son Theodosius, or, if he should refuse it, to Theodosius' father-in-law, Germanus. Theodosius refused and Germanus, whose loyalty the emperor suspected, took refuge in a church. Maurice sent his Excubitors to drag him out of sanctuary, but at this sacrilege the citizens rose in riot and burned the house of Constantine, the praetorian prefect of the East. The emperor now despaired of controlling the situation and fled with his family to the Asiatic coast, where he took sanctuary in the church of Autonomus the Martyr.³⁵

Germanus now made a bid for the crown. He was himself a strong supporter of the Blues, and he made an overture to the Greens for their support also; but they would have none of him and offered the crown to Phocas. The patriarch and the senate were summoned to the Hebdomon, where the army was encamped, and on 23 November 602 Phocas was acclaimed and crowned Augustus. A few days later Maurice and his five sons were executed.³⁶

Hitherto the empire had withstood the increasing strain of war with fair success. Much of Italy, it is true, had been lost, and what remained of the country was greatly impoverished by the unending ravages of the Lombards. But Africa seems at length to have been pacified and to have recovered something of its old prosperity, and the islands of the western Mediterranean and the far-distant Spanish province were secure. Though Illyricum and Thrace were desolated by the perennial devastation to which they had been subject for generations, Maurice by vigorous military action had made some progress in the last ten years of his reign towards securing the Danube frontier and curbing the power of the Avars. Above all, the Eastern front had been held against the resurgent power of Persia, and the rich provinces of Asia Minor, Syria and Egypt on which the strength of the empire depended were still unscathed.

With the fall of Maurice came the deluge. The empire up to now had at least been spared the evils of civil war, and the authority of the successive emperors had been unchallenged. Phocas, raised to the throne by a mutinous army, commanded no such unquestioning obedience. His short reign (602-10) was punctuated by a series of conspiracies, which he crushed with savage brutality, and no sooner had he gained the throne than Narses, who had been

magister militum per Orientem in the latter part of Maurice's reign, raised a military rebellion. Chosroes was quick to profit by the situation, and on the pretence of avenging his benefactor Maurice invaded Armenia and Mesopotamia. Phocas hastily bought peace from the Avars in order to concentrate his forces on the Eastern front, but disaster followed disaster, and the Persians occupied not only Syria but Cappadocia, and even penetrated to Chalcedon.

To contemporaries the disastrous reign of Phocas seemed like the end of the world. 'After the death of the emperor Maurice,' said the Jew Justus, 'we were standing below the house of the lord Marianus at Sycaminum, and the first of us Jews spoke, saying: "Why do the Jews rejoice that the emperor Maurice is dead and Phocas has seized the throne through bloodshed? Truly we are to see a diminution of the Roman empire. And if the fourth kingdom, that is, Romania, be diminished and divided up and broken in pieces, as Daniel said, verily nothing remains save the ten toes, the ten horns, and the fourth beast, and at last the little horn which changes all the worship of God, and straightway the end of the world and the resurrection of the dead. If this be so, we erred in not receiving the Christ that came."'³⁷

Phocas was overthrown in 610 by Heraclius, son of the exarch of Africa. The first ten years of Heraclius' reign were more disastrous than that of Phocas. The Avars broke their treaty and sacked the suburbs of Constantinople. The Persians captured Jerusalem and carried off the Holy Cross. Asia Minor was overrun and Egypt fell to the invaders. The empire was bankrupt, and Heraclius had to borrow the treasures of the church and mint from them a silver currency to pay his troops. In a series of brilliant campaigns from 622 to 629 Heraclius succeeded at length in driving the Persians out of the empire, but a feeling of impending doom persisted.

We possess a curious contemporary document. Jacob, a Palestinian Jew who arrived at Carthage in 634, was seized and forcibly baptised under a recent law of Heraclius. Pondering the Scriptures in prison he came to the same conclusion as the elder of the Jews at Sycaminon, and by his arguments persuaded the other Jews of Carthage that Jesus must have been the Messiah. Justus, another Palestinian Jew who arrived at Carthage at this juncture, upbraided him as a renegade, but Jacob asked him: 'What do you think of the state of Romania? Does it stand as from the beginning, or has it been diminished?' Justus replied dubiously: 'Even if it has been somewhat diminished, we hope that it will rise again, because the Christ must come first, while the fourth beast, that is Romania, stands.' But Jacob convinced him: 'We see the nations

believing in Christ and the fourth beast fallen and being torn in pieces by the nations, that the ten horns may prevail, and Hermolaus Satan, the Little Horn, may come.'³⁸

Justus added the convincing proof: the Little Horn had come. 'My brother Abraham has written to me from Caesarea that a false prophet has appeared among the Saracens. "For when the *candidatus* Sergius was killed by the Saracens," says Abraham, "I was at Caesarea, and I went by boat to Sycaminum; and they said, 'the *candidatus* has been killed', and we Jews had great joy. And they say that a prophet has appeared coming up with the Saracens and proclaims the coming of the anointed, the Christ who cometh. And when I Abraham came to Sycaminum, I went to the elder, a very learned man, and said to him: 'What do you say, Rabbi, about the prophet who has appeared with the Saracens?' And he groaned loudly and said: 'He is false, for surely the prophets do not come with sword and chariot. Verily the troubles of today are works of confusion, and I fear lest the Christ who came first, whom the Christians worship, was himself he that was sent by God, and we shall receive Hermolaus instead of him. For Isaiah said that we Jews have hearts that have gone astray and been hardened, until all the earth be desolate. But go, Abraham, and enquire about the prophet that has appeared.' And I Abraham made enquiry and learned from those that had met him, that you find nothing true in the so-called prophet, save shedding the blood of men; for he says that he holds the keys of paradise, which is untrue."³⁹

The Saracen followers of the Little Horn swiftly bore down the resistance of the imperial forces, exhausted by the long war with Persia. Before Heraclius died in 641 Syria and Egypt had been lost to the invader, this time for ever. Worse was to come. Under Constans II (642-68) the Arabs penetrated deep into Asia Minor, and under his successor, Constantine IV (668-85), they for five years (673-7) besieged Constantinople itself. Arab armies from Egypt established themselves in Africa in 670, and in 689 Carthage fell. Meanwhile in the Illyrian and Thracian provinces the last traces of Roman civilisation had been obliterated by the Slavs.

Our knowledge of these calamitous years is very dim. For the reigns of Phocas and Heraclius we have only the meagre notices of the Paschal Chronicle and the poems of George the Pisidian, and from 629 onwards we have no contemporary sources and have to rely on the ninth-century chroniclers Theophanes and Nicephorus and even less reliable Arab historians. The Roman empire ultimately weathered the storm, but when it re-emerges into the light of history it is a very different empire from that which vanished from our view in the early seventh century.

PART II

DESCRIPTIVE

CHAPTER XI

THE GOVERNMENT

BOTH in the theory and in the practice of the constitution the emperor's powers were absolute. He controlled foreign policy, making peace and war at will: he could raise what taxes he willed and spend the money at his pleasure: he personally appointed to all offices, civil and military: he had the power of life and death over all his subjects. He was moreover the sole fount of law and could make new rules or abrogate old at pleasure: 'quod principi placuit legis habet vigorem', as Justinian quotes from Ulpian. These constitutional powers were reinforced by a religious sanction. From the conversion of Constantine the emperor was, it is true, no longer worshipped as a god, but he hardly lost by the change. He became instead the divinely appointed vicegerent of the one God. Constantine himself had no doubts on this point; Eusebius of Caesarea, in the panegyric which he delivered for his *tricennalia*, elaborated the doctrine; and it was never questioned by the church thereafter, so far as secular affairs were concerned. In official and popular phraseology the emperor and everything connected with him continued to be sacred or divine, and emperors did not hesitate to qualify disobedience to their will as sacrilege.¹

There were still, it is true, some faint survivals from the days when the emperor had been a republican magistrate. Though an absolute he was not an arbitrary monarch. As Valentinian III stated in 429: 'It is a pronouncement worthy of the majesty of the ruler that the emperor should declare himself bound by the laws, so much does our authority depend upon the authority of law. To submit our imperial office to the laws is in truth a greater thing than our imperial sovereignty.' There was no sanction for this principle, but it was in general respected by the emperors and regarded by public opinion as binding upon them. It was in virtue of this doctrine that Gregory the Great declared: 'This is the difference between barbarian kings and Roman emperors, that barbarian kings are lords of slaves, but the Roman emperor lord of free men.'²

In the second place it was still remembered that the emperor derived his sovereignty from the people: to continue Justinian's citation of Ulpian: 'quod principi placuit legis habet vigorem, utpote cum lege regia quae de imperio eius lata est populus ei et in eum omne suum imperium et potestatem conferat'. Since the people, in the act of investing an emperor, was deemed to have surrendered the whole of its sovereign power to him, this doctrine had little practical importance save in the matter of the succession. The imperial office never became legally hereditary, and its divine right did not depend on birth: in theory always, and on occasion in practice, the empire was elective.

Since the beginning of the principate the people had played only a very nominal role in the election of the emperor, and it was the senate which by its decree formally conferred the imperial powers. From a very early date the acceptance of a new emperor by the armies had also been essential, and acclamation by the troops had acquired a quasi-constitutional significance. These two acts always remained formally necessary for the lawful coronation of an emperor. Majorian in his first communication to the senate wrote: 'You must know, conscript fathers, that I have been made emperor by the choice of your election and by the decision of the most valiant army.' In the East similarly the senate and the army play their part in the officially recorded ceremonies of the election of Leo, Anastasius and Justin. But the vote of the senate and the acclamation of the army were on most occasions merely formal acts. The succession had normally been prearranged by the previous emperor, or was dictated by some all-powerful emperor maker, like Ricimer and his successors in the last days of the empire in the West, or Aspar in the same period in the East.³

An emperor always had the right to nominate—subject to formal election by the senate and acclamation by the army—a colleague to share his responsibilities and powers. Such a colleague might be like himself an Augustus, constitutionally his equal though junior in precedence, or a Caesar, who was a subordinate with limited powers. Diocletian used this right both for distributing the administrative task of governing the empire and for fixing the succession. He first appointed Maximian his full colleague as Augustus and assigned him the government of the Western parts, and later he nominated two Caesars to assist himself and his major colleague, and ultimately to succeed them. Diocletian's attempt to defy the hereditary tendency broke down, but the same machinery was used by Constantine to secure the succession for his family. He nominated his sons and a nephew as Caesars, and assigned to them parts of the empire to rule. His three surviving sons were

duly proclaimed Augusti on his death, and the last survivor of the three, Constantius II, similarly appointed two of his nephews successively as Caesars with charge of parts of the empire.⁴

Thereafter the practice of appointing Caesars fell out of favour. Occasionally an emperor declared a youthful son or grandson Caesar for a brief probationary period before making him Augustus, as did Leo and the usurpers Constantine and Basiliscus. Similarly Theodosius II made the infant Valentinian III Caesar before attacking John, and Augustus when John had been conquered, and Leo proclaimed Anthemius Caesar in Constantinople and Augustus when he occupied Rome. Apart from these cases the title Caesar was only bestowed by Leo on Aspar's son Patricius, and by Zeno on Basiliscus, son of Armatus. On both occasions the emperor was playing for time and had no intention of letting his Caesar succeed him. Finally there is the peculiar case when Justin II went mad and was in a lucid interval persuaded to nominate Tiberius as Caesar. As such Tiberius ruled the empire for the rest of Justin's lifetime, being crowned Augustus a week before the latter's death.⁵

In the meantime it had become the custom for an emperor to nominate his heir as Augustus during his own lifetime. This was a safer procedure, since the new emperor was already vested with full powers on his predecessor's death and did not require, as did a Caesar, a formal proclamation as Augustus, which, however formal, might give an opportunity to rival claimants. Valentinian I started the new custom, not only creating his brother Valens Augustus to share the actual government of the empire, but shortly afterwards making his son Gratian, then only eight years old, a third member of the imperial college. Valentinian II was proclaimed Augustus while still an infant during his brother Gratian's lifetime, and Theodosius I, who had been created Augustus by Gratian, made his two sons Augusti from a very early age; in this case both Arcadius and Honorius were created Augusti because it was anticipated that two emperors would be required, on their father's death, to rule East and West respectively. Arcadius made his son Theodosius II Augustus from his birth: Honorius failed to make any provision for the succession, and his Eastern colleague had to intervene to secure the succession for Valentinian III.⁶

During this period, it may be noted, no constitutional distinction was drawn between the reigning emperors and their heirs apparent. Technically Valentinian I, Valens and Gratian were from 24 August 367 to 17 November 375 equal colleagues in the imperial office, but Gratian was in fact a sleeping partner in the firm. No difficulty actually arose because it so happened that the sleeping partners were always too young to assert their latent powers; the

trouble was rather that through their colleagues' premature death they succeeded to real power at too youthful an age.

During all the period from Constantine to the death of Theodosius II and Valentinian III the hereditary principle was *de facto* dominant. There was a break when the Constantinian dynasty died out in the person of Julian, but a fresh start was made with Valentinian I, and when his dynasty became extinct Theodosius' descendants ruled the empire for fifty years. The hereditary principle did not on the whole produce good emperors. Valentinian I's two sons were both of very mediocre quality, and Theodosius' descendants were all incapable nonentities. Most of them moreover succeeded to power at an immature age and there were several long minorities. Nevertheless the system worked tolerably well. It responded, it would seem, to popular sentiment, in particular to the sentiment of the armies, and the successive families which occupied the throne built up a fund of dynastic loyalty which ensured the stability of the empire. In the Eastern parts rebellions were almost unknown, and in the West, though a number of usurpers won temporary success, they all failed in the end.

There were only two occasions during this period when the empire was left without an emperor and a genuine election had to be held, on the death of Julian, and shortly afterwards when his successor Jovian died. In both cases the choice was made by a somewhat informal conference of the high officers of state, civil and military, and the chosen candidate was then presented to the troops and acclaimed. No election by the senate is recorded, but no doubt it duly confirmed the choice. These two elections seem to have established a precedent, for on later occasions, in addition to the senate and the army, a third electoral element is officially recorded, the officers of state or the 'palace'.⁷

In the West the extinction of the Theodosian house was followed by anarchy. Of the nine emperors who reigned in the next twenty years the majority were puppets nominated by Ricimer and his successors as master of the soldiers, Gundobad and Orestes. Two, Anthemius and Julius Nepos, were appointed by the Eastern emperor Leo. One, Petronius Maximus, secured the throne by bribing the troops to acclaim him. Only one may be deemed to have been elected and that in an irregular fashion. On Petronius' death an assembly of Gallic notables met at Ugernum and elected Avitus, the *magister militum per Gallias*, who had the support of Theoderic, king of the Visigoths. This gathering is dubbed 'senatus' by Sidonius Apollinaris in the verse panegyric which he composed to honour the newly elected emperor, and may have deemed itself to be an emergency meeting of the senate.⁸

In the East the succession was arranged in a more orderly fashion after the death of Theodosius II. We have no detailed account of the election of Marcian, but it is fairly certain that he was the nominee of Aspar, the master of the soldiers, whose domestic he had been. The succession was eased by the fact that Pulcheria Augusta, the granddaughter of Theodosius the Great, consented to marry him, and he thus inherited the dynastic loyalty attaching to the Theodosian house. Marcian's successor Leo was also Aspar's nominee: in his case we possess the record of his official election at 'the wish of the palace, the army and the senate'. Leo crowned his infant grandson Leo as Augustus, and Leo II, at the request of the senate, duly crowned his father Zeno before he died. On Zeno's death, his widow Ariadne summoned the ministers of state and the senate to elect a new emperor, but they referred the choice to her, and ratified her nominee, Anastasius. Once again the succession was confirmed by the marriage of Anastasius to Ariadne, who as daughter of Leo and widow of Zeno had acquired a certain dynastic prestige. We possess the official records of this election and of that of Anastasius' successor Justin. In the latter case we know from other sources something of the backstairs manoeuvring which determined the unexpected result. Justin was the founder of a dynasty, crowning his nephew Justinian before his death. Justinian named no successor, but the election of his nephew Justin II passed off smoothly.⁹

During the two centuries which followed the accession of Diocletian there were very few periods in which there was only one Augustus; from the death of Constantine there were normally two or three. In theory the Augusti, together with the Caesars, if any, formed a college which jointly ruled the whole empire. All constitutions were issued under the joint names of the emperors. All official communications were made to the college as a whole. Even the praetorian prefects were in constitutional theory a college which jointly served all the emperors, and the edicts and official orders of one praetorian prefect were headed by the names of all three or four. In this matter practice did not coincide with theory. One or more of the Augusti were often, as explained above, sleeping partners, who took no active part in the government. The active Augusti were *de facto* independent rulers of different parts of the empire. Hostilities between them were, it is true, rare, and not only were the constitutional conventions normally observed, but relations were generally friendly, and on a number of occasions there was active co-operation in war against an external enemy. But the relations of the Augusti who ruled East and West were emphatically not those of two partners ruling an undivided empire,

but of two sovereigns in traditional alliance. Each Augustus had unfettered control not only of the administration but of the policy, internal and external, of his part of the empire. In many ways the empire was a unity. There was a common citizenship, and there were, except for brief periods of active hostilities, no barriers to trade or to migration. The coins issued by any emperor were legal tender throughout the empire. There was the same basic code of law, though minor variations grew up, since the several emperors legislated independently and their laws were *de facto* promulgated and accepted only in their own dominions. Above all there was a strong sentiment of unity, which only began to weaken in the sixth century. But in the actual government each Augustus was an independent sovereign.¹⁰

The Roman empire has been described by its greatest constitutional historian as 'an autocracy tempered by the legal right of revolution'. Whether or not this is a correct definition of the Principate, it is not true of the later empire. A usurper usually based his claim on acclamation by the army—in fact the portion of the army which he had won to his side. He might even be in a position to secure election by the senate. He naturally claimed to be legitimate emperor, and where his writ ran this claim was perforce recognised. But even if he had no rival in his own part of the empire, either because, like Magnentius or Magnus Maximus, he had killed his predecessor, or like John he had taken advantage of his natural death, his recognition as legal emperor was still incomplete, since normally there was at least one other member of the college ruling undisturbed elsewhere, and so long as one lawful emperor survived no other could be created save with his consent. The first step of a usurper, when he had established his local supremacy, was to announce the fact to his colleague or colleagues and request recognition. If he were recognised he became *ex post facto* legitimate. If he were not recognised he remained in the eyes of the rest of the Roman world a 'tyrant', and if, as usually happened, he was subsequently crushed, a 'tyrant' he remained and his memory and acts were abolished. The number of usurpers who won through to legitimacy is very few: Constantine is the leading case.¹¹

The type of men who were selected for the imperial throne, or who themselves aspired to it, is at first sight curious. It was only very rarely that a man of proved ability as an administrator or general, who had held the highest offices of praetorian prefect or of *magister militum*, rose to be emperor, or apparently came into consideration. After the death of Julian, a senior civilian officer, Salustius Secundus, praetorian prefect of the East, was offered the throne.

Petronius Maximus also was a former praetorian prefect, but his claim was based on his noble birth rather than on his administrative experience. Constantius, Honorius' *magister militum praesentalis*, was promoted to be his colleague; Avitus was *magister militum per Gallias* when he was elected; and Maurice had won distinction as *magister militum per Orientem* when Tiberius Constantine selected him as his successor.¹²

Many of the great generals who from the latter years of the fourth century virtually controlled the empire in the West, and occasionally in the East also, were barbarians, and, what was worse, Arians, and would no doubt have been unacceptable as emperors on these grounds. Some may themselves have felt that their elevation would be unseemly: Aspar, we are told by King Theoderic, was offered the purple by the senate, but refused it with the cryptic remark: 'I am afraid lest a precedent may be created for the empire through me.' It is, however, curious that powerful generals of Roman birth and orthodox faith were as backward in claiming the throne for themselves. On the death of Honorius Castinus did not put himself forward, but supported the claims of John, and in the last days in the West Orestes secured the election of his adolescent son Romulus instead of seizing the throne himself. On the other hand barbarian generals sometimes pressed the claims of their sons, although the same objections of birth and faith applied to them: thus Aspar forced Leo to nominate his son Patricius as Caesar and the latter did not even renounce his Arian faith despite popular clamour. It would seem that the great generals preferred to be the power behind the throne rather than occupy the throne themselves, perhaps because they feared to lose contact with the troops if they were compelled to perform the heavy ceremonial routine incumbent on an emperor.¹³

If the great generals did not wish to hold the imperial throne themselves, it is understandable that they should have promoted the election of nonentities on whose submissive obedience they thought that they could rely. It was no doubt for these reasons that Arbogast selected Eugenius, a mere *magister scrinii*, and that Castinus supported John, *primicerius* of the notaries. Alaric's choice, Attalus, was a man of rather greater distinction, but he had only recently risen to be *comes sacrarum largitionum* and then prefect of the city, neither of them offices of major importance. In the last days of the empire in the West some of Ricimer's puppets were, like Olybrius, men of good family, but the majority seem to have been obscure; Majorian was only promoted *magister militum* shortly before his accession, and evidently to prepare the way for it, and of Livius Severus nothing is known. Gundobad's candidate Glycerius

was only *comes domesticorum*. In the East Aspar's candidates were even humbler; Marcian and Leo were merely tribunes, whose sole recommendation was that they had been in Aspar's service.¹⁴

On the few occasions where an emperor chose a colleague or successor for himself outside his own family he rarely chose a man of established reputation, and perhaps for similar reasons: he preferred a man who, owing everything to himself, might be expected to be duly loyal. The Caesars created during the tetrarchy, Constantius and Galerius, and then Severus and Maximin, seem to have been somewhat obscure and relatively junior men. Gratian, to fill the gap caused by Valens' death, selected Theodosius, who was son of a distinguished *magister militum*, but had himself risen no higher than *dux* when his father's disgrace and death had led to his retirement. Sophia selected as Justin II's successor Tiberius, his *comes excubitorum*, whose military career had not been distinguished. Leo's two nominees for the throne of the West, Anthemius and Julius Nepos, were exceptional in being men of noble birth and of some military experience.¹⁵

It is more surprising that when things came to an election men of relatively obscure position were chosen. On Julian's death the first choice was, it is true, Salutius, but on his refusal the council elected Jovian, a young man who was no more than *primicerius* of the *domestici*. On his death the council was divided between Januarius, a kinsman of Jovian, whom he had made *comes rei militaris* in Illyricum, and Equitius and Valentinian, both junior officers, tribunes of the *scholae*. On Zeno's death the electoral college were content to refer the choice of a new emperor to Ariadne, and acquiesced in her selection of an elderly palace official, the silentiary Anastasius. On his death, after much debate, they elected the boorish old *comes excubitorum*, Justin. The explanation in these cases may be that the rivalry between the great men, who might have been expected to be the obvious candidates, was too intense to allow of a generally agreed choice, and that all parties preferred to compromise on an obscure outsider.¹⁶

Usurpers, and suspected usurpers, are almost as obscure a group. Occasionally a *magister militum*, like Silvanus or Vetricianus, induced his army to proclaim him emperor. But most of the military usurpers were of humbler rank. Magnentius was commander of the two crack regiments of the Jovians and Herculians with the title of *comes*. Maximus was an officer in Britain; his precise rank and command are unknown. Constantine III is said to have been a common soldier, and Phocas was only a non-commissioned officer. The candidates around whom palace intrigues centred were as humble. Theodore, who was, rightly or wrongly, accused of

aspiring to the throne under Valens, was *secundicerius* of the notaries.¹⁷

The relative obscurity of candidates for the imperial throne is all the more remarkable in that an emperor, when once elected, wielded powers which in the hands of a resolute man gave him supreme authority. This is not true of the last days of the empire in the West, when a ruthless *magister militum* like Ricimer could unmake an emperor whom he had made if he showed signs of independence. But in the fourth century it was true: if the electors hoped to find in Valentinian I a pliant tool they must have been disappointed. And in the East the authority of the imperial office remained unimpaired. Aspar found his creature Leo less tractable than he had hoped, and it was Leo who ultimately prevailed in the struggle for power.

The emperor had two official bodies of advisers, the senate and the consistory. The senate had long ceased to be an effective council of state. In the West it could hardly be so, since it sat at Rome and the emperor normally resided elsewhere. In the East, since the emperor usually lived at Constantinople, where the senate held its sessions, more business seems to have come before it. An early fifth century author states that 'the wearer of the diadem himself in most important matters does not try to take any action or make any order by himself without consulting the senate'. Procopius also implies that the senate was regularly consulted but, gives a truer picture, when he complains that in Justinian's reign 'the sessions of the senate were a mere form . . . it was convened only for the sake of appearances and old custom'.

It was very rarely, however, that either the Roman or the Constantinopolitan senate was called upon to debate an important issue of policy, and on the rare occasions when such issues were brought before it, it was not the senate's advice but its moral support that was sought. Thus Arcadius, or rather Eutropius, got the senate of Constantinople to declare Stilicho a public enemy, and Stilicho, or more correctly speaking Honorius, elicited from the Roman senate a similar declaration about the rebellious Gildo. Anastasius likewise had Vitalian declared a public enemy by the Constantinopolitan senate. Stilicho again put to the Roman senate the issue of peace (at a price) or war with Alaric in 408. On this occasion some dissentient views were at first expressed, and Stilicho had to set forth the arguments for paying Alaric the blackmail he demanded. After this the senate obediently voted for the govern-

ment, and only one senator ventured to oppose, indignantly declaring 'non est ista pax sed pactio servitutis'. Stilicho's object on this occasion was clearly to make the senate share the odium of an unpalatable decision.¹⁸

Leo, on receiving information that Ardaburius, master of the soldiers in the East, was in treasonable correspondence with Persia, confronted his father Aspar, the powerful *magister militum in praesenti*, with the evidence in a full session of the senate, and thus forced him publicly to disown his son and colleague: he thereby secured public backing in the first round of his struggle with the man who had made him emperor. Zeno put to the senate of Constantinople the dilemma of the two Theoderics, who were both demanding enormous subsidies. The senate on this occasion refused to decide the issue, but firmly pronounced that the treasury could not afford to satisfy both, and Zeno thus could disclaim responsibility for the unpleasant results of defying one or other of them.¹⁹

On rare occasions the senate was forced to take responsibility. Shortly after the battle of Adrianople, when Valens was dead and there was no emperor nearer than Gratian, Julius, the *magister militum per Orientem*, asked for and received the approval of the Constantinopolitan senate for his urgent and highly secret plan to massacre the Gothic recruits recently drafted into the army of the East. When Alaric advanced on Rome after Stilicho's death the senate, left to its own devices by Honorius, had to negotiate with the invader, and, when Honorius refused to ratify the terms agreed, elected another emperor, Attalus, who would work with Alaric.²⁰

The Severan jurists had ruled that a decree of the senate (*senatus consultum*) had the force of law, and Theodosius I, and indeed Justinian, still paid lip service to this doctrine. In practice the senate had long lost the power of independent legislation. Even under the Principate its function had been reduced to hearing a speech from the emperor, more often read by his quaestor than delivered in person, and formally registering a *senatus consultum* in the sense, and indeed the very words, of the imperial *oratio*: so formal was the procedure that it was usually the *oratio principis* and not the *senatus consultum* that was cited as authoritative in the courts. Some legislation was still enacted in this form under the later empire. It seems to have been thought appropriate for the clarification and enactment of private law: thus in 426 the law of citations, which established a rule for determining conflicts between the ancient jurists, together with a number of rulings on individual topics, were promulgated by an address to the Roman senate, and twelve years later the Theodosian Code was similarly promulgated.²¹

We possess in this case the verbatim record of the proceedings in the senate. Anicius Acilius Glabrio Faustus, ordinary consul of the year and praetorian prefect of Italy, first made a short speech informing the House that when he had accompanied the young Valentinian III to Constantinople to assist at his marriage with Eudoxia, Theodosius II had handed him over the Code, which had received Valentinian's approval. He then asked leave of the House to read the imperial constitution of 429 whereby Theodosius II had ordered the compilation of the Code. The house responded by acclamations of loyalty and gratitude. Sixteen are in praise of the emperors, ranging from 'Augusti of the Augusti, greatest of the Augusti!', repeated only eight times, to 'Destroyers of informers, destroyers of false charges!' and 'Through you we hold our honours, through you our property, through you everything!', both recited twenty-eight times. Altogether the emperors were acclaimed 352 times. Faustus also received his share (five slogans repeated in all ninety-four times). The great patrician Aetius was acclaimed fifty-five times, and Paulus, prefect of the city, twenty-three times.

With these complimentary acclamations are intermingled fourteen which convey practical requests, such as 'To prevent the constitutions being interpolated let all the codes be written in long-hand!' (twenty-five times) or 'Let the Codes to be kept in the public offices be made at public expense, we beg!' (fifteen times). The senate showed particular anxiety that copies of the Code should be widely distributed (e.g. 'Let copies of the Code be sent to the provinces!') and that precautions should be taken to prevent corruption of the text (e.g. 'Let the several prefects affix their seals!'). They also threw in a request against *ad hoc* legislation: 'Let no laws be promulgated, we beg, in response to petitions!' They finally asked the praetorian prefect to bring their requests to the emperor's notice.

After this Faustus, occasionally interrupted by further acclamations in his honour, announced the procedure which would be adopted for making further copies of the Code for the use of the urban prefect and for general publication.²²

These minutes do not reveal a high level of debate in the senate, but they show how, even by the procedure of acclamation, the wishes of the senate could be brought to the notice of the imperial government. Eight years later, in 446, Theodosius II established a regular procedure whereby the senate (of Constantinople) might express its views on legislation—in the field of private law, it would seem. When any alteration of the law was proposed, it was to be debated both by the *proceres palatii*, that is the ministers of

state, and by the senate. A law was then to be drafted and reviewed by both bodies. As finally approved it was to be solemnly promulgated in the consistory. It is to be hoped the standard of debate was higher under this new procedure.²³

The senate could also convey its wishes to the emperor through a despatch sent by its president, the prefect of the city, or through special envoys, who would present a resolution of the House and speak to it. A famous instance of these procedures is afforded by the successive petitions concerning the altar of Victory and the emoluments of the Vestals and Roman priests. The content of the constitutions promulgated to the senate suggests that they often were in response to such petitions. The majority are concerned either with the privileges of the senatorial order, or with the election of the praetors and their obligations, financial or by way of games. Both these topics were of primary interest to the House, and the initiative doubtless often came from it. Other constitutions concern the interests of the city of Rome, its corn supply and its public works, matters which again were of deeper concern to the senate than to the emperors. A constitution of Valentinian I confirming that *haruspices* were tolerated is again, in view of the known religious sentiments of the Roman senate, certainly a response to a petition from that body.²⁴

In most cases we can only read between the lines of imperial constitutions. In one instance we can trace both sides of the proceedings. Symmachus in one of his dispatches as prefect of the city thanks Theodosius for a constitution, or *oratio*, directed to the senate, which both curbed excessive expenditure on games and regulated the procedure of the house, and furthermore requested the senate to frame precise rules for the giving of games: the decree incorporating these rules was to be submitted to the emperor, who would confirm it by a further constitution, enacting sanctions. In the Codes are preserved two excerpts from the *oratio*, one forbidding certain forms of extravagant expenditure, the other admitting in theory the legal force of a *senatus consultum*, but expressing the emperor's intention to follow it up by a law. It is not clear from these documents whether the original initiative came from the emperor or the senate, but it is plain that the detailed drafting was left to the senate, subject to imperial confirmation. Even on a matter of such purely domestic interest the senate could not legislate independently, it could only on imperial instructions prepare a decree which the emperor would validate.²⁵

The senate also sometimes sat as a court of law. This practice seems to have been confined to the Eastern empire and is first recorded under Marcian, who states in one of his novels that he

had discussed in the presence of the senate a testamentary case of some legal interest. Under Justinian it was apparently quite common for the senate to hear appeals, either under the emperor's presidency or even in his absence, and in 537 Justinian ruled that whenever a *silentium*, or session of the consistory, was called to hear a case it should be deemed to be a *conventus* or session of the senate, so that all senators might attend.²⁶

The consistory was a much younger body than the senate, but it too had a long history. It was descended from the *consilium*, the informal body of friends (*amici*) or companions (*comites*) whom the emperor had always consulted from the beginning of the Principate, and although it had, with the passage of time, acquired a more formal structure, its membership in theory and to some extent in practice was always dependent on the personal choice of the emperor. It functioned both as a council of state and as a high court of justice, and though it was technically the same body which performed both functions, its actual membership as a council and as a court probably differed somewhat. When it sat as a court the lower ranking legal officers of the *comitatus* and the lawyers enrolled as *comites consistoriani* no doubt attended the session: this side of its work will be treated in a later chapter. Its membership as a council of state is not altogether certain. The chief civilian ministers of the *comitatus*, the *comes et quaestor*, *comes et magister officiorum*, *comes sacrarum largitionum* and *comes rei privatae*, who are often alluded to as the *comites consistoriani*, were certainly *ex officio* members. The praetorian prefect who was *in comitatu* must also have had a seat. On the military side the palatine officers, the *comes* or *comites domesticorum*, and later the *comes excubitorum*, were *ex officio* members, and so also were the two *comites et magistri militum praesentales*.²⁷

In addition to this *ex officio* nucleus there was a large number of non-official members. Former and titular holders of *ex officio* seats seem normally to have been members of the consistory. It would also appear that in the fourth century others who had not held the qualifying offices were enrolled. A number of Western inscriptions, mainly of the time of Constantine and his sons, record persons who at various stages of their career were appointed *comes ordinis primi intra consistorium* or *intra palatium* or *domesticus*, terms which appear to be synonymous. Most are men who followed an active official career, and of these the majority were appointed to the consistory after holding vicariates or proconsulates or the *comitiva Orientis*; some obtained the honour earlier when they had been only con-

sulars of provinces, a few later, when they had already held the *praefectura urbis*. Such men usually went on to be praetorian prefects. A law of 396 shows that military men of a similar grade, former *duces*, were also sometimes enrolled in the consistory. It would also appear that in the fourth century favoured palatine officials might become members of the consistory before achieving one of the great offices which gave an *ex officio* seat. An inscription records that Flavius Eugenius fulfilled all the palatine dignities and became *comes domesticus ordinis primi* before he rose to be master of the offices and received the titular rank of praetorian prefect. Among the great *comites* of Constantius II who wrote to Athanasius in 346, Taurus, who started his career as a notary, did not become quaestor until some years later.²⁸

There were also at this period members of the consistory who never held any official post, either great nobles like Nummius Albinus, who was *comes domesticus ordinis primi* though he confined himself to the ancient republican magistracies of quaestor, praetor and ordinary consul (345), or personal favourites of the emperor like Datianus, who, though according to Libanius of the humblest origins, became patrician and ordinary consul (in 358); he was prominent as one of the great *comites* of Constantius II, but never held imperial office.²⁹

In the fourth century the consistory was an active and effective council of state, which debated matters of moment and advised the emperor upon them. When information was laid before Constantius II at Milan, purporting to prove that Silvanus, the *magister peditum*, then in Gaul, was planning rebellion, the consistory was summoned. The evidence was read to it, and it was decided to arrest the persons implicated in the alleged conspiracy. When this decision became known a protest was raised by Malarich, a tribune of the *scholae*, who was a friend of Silvanus, and his colleagues. They claimed that the alleged plot was a 'frame up', and asked that Malarich or another friend of Silvanus should be sent to summon him to court, as, if a stranger took the message, Silvanus' fears might be raised and he might be provoked into precipitate action. This protest was ignored and it was resolved, evidently at a second meeting of the consistory, on the motion of Arbetio, the *magister equitum in praesenti*, to entrust Silvanus' arrest to the notorious *agens in rebus* Apodemius. The result feared by Malarich followed and Silvanus had himself proclaimed Augustus.³⁰

When this alarming news arrived, an emergency meeting of the consistory was called. The members were at a loss, until someone suggested that Ursicinus, the *magister equitum Orientis*, recently recalled under a cloud, if not in disgrace, might be summoned. This

idea met with approval. Ursicinus was ceremoniously introduced by the *magister admissionum* himself—a high compliment—and having 'adored the sacred purple' was informed that he was to be entrusted with the delicate task of luring Silvanus to his doom. A debate ensued on how best to lull Silvanus' suspicions, and it was resolved that Ursicinus should go accompanied only by a small staff of tribunes and *protectores*, carrying a letter in which the emperor, pretending ignorance of the revolt, should summon Silvanus, still retaining his rank, to court and inform him that Ursicinus was meanwhile taking over his command. Ammianus gives a vivid picture of these proceedings and he is here drawing on first-hand information, for he was on the spot at the time, and was in fact chosen as one of the *protectores* to accompany Ursicinus.³¹

Later, when the petition of the Goths to cross the Danube was presented to Valens, an 'imperial council', we are told by Eunapius, was held. It was doubtless at this consistory that the bad advice recorded by Ammianus was offered to the emperor—that reinforced by the Goths his army would be invincible and that at the same time by commuting the levy of recruits for a gold tax he would fill his treasury. The consistory also handled affairs of religion. When the senate petitioned Valentinian II for the restoration of the altar of Victory and of the endowments of the Roman priesthoods, the official dispatch of Symmachus, prefect of the City, and the two counter-petitions of Ambrose were read before the consistory, and, after a debate in which Bauto and Rumorides, the two *magistri militum praesentales*, took part, the senate's request was rejected. Again, when Ambrose was ordered to surrender a church to the Arians he successfully pleaded his cause in consistory. When next year a second attempt was made to secure a church for the Arians, Ambrose was again summoned to the consistory. This time he refused to attend, on the ground that theological issues were now at stake and that in these the consistory had no jurisdiction.³²

Envoys were regularly received in consistory. It was in consistory, when he was receiving an embassy from the Quadi to apologise for recent breaches of the peace, that Valentinian I, infuriated by the self-justification of the envoys, burst a blood vessel and died. Ambrose tells in detail the story of his abortive mission on behalf of Valentinian II to the usurper Maximus. He first approached Maximus' *praepositus sacri cubiculi* with a request for a private audience, which was refused. Ambrose took umbrage at this, ostensibly because it was a slight upon his dignity as a bishop, in reality, one may suspect, because he thought it would

be easier to do business in a personal interview. He ultimately, however, agreed to be presented in consistory, where he behaved with ostentatious rudeness, refusing, when the emperor rose to greet him, to come forward and receive the imperial kiss. In these circumstances the exchange of views not unnaturally degenerated into acrimonious recriminations, and the mission ended in failure.³³

The consistory dealt with routine matters of administration as well as of high policy. It must have been in a debate on provincial government that Gratian gave the ruling, minuted in the *acta consistorii*, 'the governor must see to it that he maintains his own official residence. Nothing more will be provided for a *comes* or provincial governor than what we have granted in rations and stores.' Petitions from subjects might be referred to the consistory if they raised questions of public interest. Thus in 384 a complaint from certain bishops in Egypt that they had been dragged before the secular courts by their colleagues was read in consistory, and as a result a constitution was despatched to the prefect of Egypt reminding him that the courts had no jurisdiction in ecclesiastical disputes. The consistory also regularly received delegations from the senate, from provincial or diocesan assemblies or from individual cities, asking for favours or claiming redress for grievances, and its members were able to influence the emperor's decision. Thus when a delegation from the Roman senate came to protest to Valentinian I on the excessive penalties inflicted on its members and the use of torture in their trials, Eupraxius the quaestor was able to bring the irascible emperor to reason in consistory. On the other hand, when the provincial council of Tripolitania complained of the conduct of Romanus, *comes Africae*, Remigius the master of the offices was able so to confuse the issue by the production of a contrary report that no action was taken; an investigation of the facts was ordered, and, by the methods usual in bureaucratic governments, deferred.³⁴

The reception of these delegations, whose requests were often trivial or frivolous, was a very time-consuming business, and in the latter part of the fourth century efforts were made to shorten the proceedings. In 364 the praetorian prefects were instructed to give the envoys a preliminary hearing and settle minor points on their own authority, sending on to the emperor only important issues. In 385 the procedure was changed. The prefects were to investigate all petitions, but not to make any final decisions. They were, however, to prepare draft replies for the emperor to make 'when according to custom the petitions of the delegates arising from the resolutions (of the provincial council) are read in our clemency's consistory by our secretariat'. The new procedure no

doubt saved time, but must have tended to reduce the hearing in the consistory to a mere formality.³⁵

The time of the consistory was also consumed by even more formal business. Many delegations were sent merely to deliver loyal addresses, and the consistory had to listen to these. The irrepressible Valentinian I on one occasion made a reality even of a ceremonial session of this character. He asked one of the delegates sent by the province of Epirus to express their satisfaction with the rule of the praetorian prefect Probus whether the official resolution corresponded with the true sentiments of the provincial council. The delegate in question, who was a philosopher, boldly answered no, and Valentinian proceeded to cross-question him, and elicited a number of facts highly damaging to Probus.³⁶

Other sessions were occupied with the ceremonial distribution of largesses. Ammianus records a sarcastic remark made by Julian when, at a festal session of the consistory, he was presenting gold to the *agentes in rebus*. Appointments to dignities, actual or titular, were also officially made in consistory: it was the *primicerius* of the notaries, the chief secretary of the consistory, who recorded them in the *laterculum maius*. Not all dignities were actually so conferred—titular appointments in particular were often made in absence by letter—but it was a greater honour to receive a grant in consistory, and the recipient in that case stood higher in the order of precedence. As even *protectores* 'adored the sacred purple' on receiving their commissions, ceremonial sessions for the conferment of dignities must have been frequent and long drawn out.³⁷

The consistory continued to meet and to transact business in the fifth and sixth centuries. In 443, when an attempt was made by the government of Theodosius II to reform the administration of the *limitanei*, it was enacted that the master of the offices should annually in the month of January present a report in the consistory on their strength and on the condition of the forts and river flotillas, so that active commanders could be rewarded and negligent punished. But it would appear that its sessions tended to become more and more formal. In 446, as has been stated above, a new procedure for legislation was laid down by Theodosius II whereby amendments to the law were to be thoroughly discussed by the ministers of state and by the senate. In this procedure the role of the consistory was merely to hear the final version recited. Most of the time of the consistory was probably occupied in such ceremonial business, and real decisions were made elsewhere.³⁸

By the sixth century the consistory would seem to have become as ceremonial a body as the senate. Laws were still formally promulgated in it; a batch of Justinian's enactments are stated in

the subscript to have been 'recited in the New Consistory'. Peter the Patrician, Justinian's master of the offices, gives an elaborate account of the ceremonial reception in consistory of envoys from the Persian king, and of the appointments of officers, from the Augustal Prefect down to *protectores*, made at its sessions. Justinian reduced the length of these ceremonial sessions by making the lesser appointments privately and informally.³⁹

But the consistory seems no longer in this period to have handled serious business, except as a high court of justice. Foreign envoys were merely ceremonially received in it; the real negotiations were carried on elsewhere. The annual report on the state of the *limitanei*, though still produced by the master of the offices, was no longer read in consistory: it was presumably discussed informally by the emperor with the ministers concerned. Anastasius made use of the consistory in his final struggle with the patriarch Macedonius, but merely to strengthen his hand. His first step on receiving information incriminating Macedonius was to call a *silentium* and to announce to them that the patriarch had broken his solemn oath. The patrician Clementinus responded on behalf of the council: 'God himself will reject from the priesthood him who has lied to God.' Three days later another *silentium* was held and the emperor, after protesting his orthodoxy, offered to abdicate. The council responded with tears and supplications. Finally six days later a *silentium et conventus* was called, that is a joint meeting of the consistory and senate, and Anastasius formally denounced the patriarch. In these proceedings the consistory appears no longer as an active council of state which advised the emperor. It has become, like the senate, an assembly of notables, summoned to hear and approve important imperial decisions.⁴⁰

Where decisions were actually made in the fifth and sixth centuries it is more difficult to say. There are some signs of the growth of an inner cabinet consisting of the principal ministers of the *comitatus*, with sometimes two or three additional members. Some such body must be meant by the *proceres palatii* who by the law of 446 were to take the first step in the discussion and formulation of new legislation. In the elections of Leo, Anastasius and Justin 'the ministers' or 'the palace' are mentioned as one of the bodies participating in the proceedings, and in the second case they play a decisive part: it was the ministers who in separate session, on the motion of Urbicius, the *praepositus sacri cubiculi*, decided to refer the choice to Ariadne, and it was only when this decision had been made that a meeting of the consistory and senate (*silentium et conventus*) was called for Anastasius' formal proclamation.⁴¹

A clue to the composition of this inner cabinet is perhaps given by the acts of Chalcedon. The imperial commission which presided over the council is recorded under two headings; first 'the most glorious ministers' and second 'the glorious senate'. At the sixth session, when the attendance was highest, the ministers included one of the *magistri militum praesentales*, the praetorian prefect of the East, the prefect of the city, the master of the offices, two ex-masters, the two *comites domesticorum*, the *comes rei privatae* and the *primicerius* of the notaries. There were twenty-seven senators present, nearly all former holders of high offices—ex-praetorian prefects of the East or of Illyricum, ex-urban prefects, ex-*praepositi sacri cubiculi*, ex-quaestors or *comites sacrarum largitionum* or *rei privatae*. The distinction is not simply between present and past ministers, since two former masters of the offices appear among the 'most glorious ministers'. It may be then that this term denotes some inner cabinet. If so it would seem that the urban prefect belonged to it, as was only natural seeing that he was an important minister resident in Constantinople. From the proceedings at the election of Anastasius it would seem that the *praepositus sacri cubiculi* was a member: this again was only natural since he had in 422 acquired equal official precedence with prefects and *magistri militum*.⁴²

It is more than doubtful, however, whether either the consistory or the council of ministers functioned regularly in the fifth and sixth centuries as a cabinet in which governmental policy was co-ordinated. Normally it would seem that the emperor dealt directly with the individual ministers on the questions which affected their departments. This is the impression which emerges from a study of the novels of the fifth-century emperors. In the preamble the emperor usually states that the constitution is in response to, and in fact reproduces, a suggestion made by the departmental minister concerned, but he never alludes to its having been discussed in any council or passed in the consistory. This in itself raises the suspicion that there was no longer any effective council of state, and this suspicion is confirmed by what happened when the interests of different ministers conflicted.

On 21 September 440 Theodosius II, on the suggestion of Cyrus, the praetorian prefect of the East, issued a law abolishing in respect of many questions the *praescriptio fori* hitherto enjoyed by soldiers and officials and making them subject in these matters to the provincial governors. Two months later, on 29 December 440, the emperor, in a law addressed to Cyrus but not said to have been suggested by him, declared that the earlier law had been misinterpreted, and that he had never intended to touch the *praescriptio*

fori enjoyed by soldiers. Finally on 6 March following, in a law addressed to one of the two *magistri militum in praesenti*, Areobindus, he refers to the second law with approval, and, on his suggestion, makes a limited concession of *praescriptio fori* to the officials of the *magistri militum*.⁴³

Reading between the lines one can see the course of events. The praetorian prefect, finding the collection of the revenue and other business for which he was responsible obstructed by the privilege of soldiers and officials, suggested its abolition to the emperor, and a law was drafted and promulgated to this effect. This law cannot have been discussed in any kind of cabinet, where the *magistri militum* would certainly have objected. When it was already promulgated, they evidently did object and the law was drastically amended in favour of soldiers. On the privileges of military officials there seems to have been stiff bargaining between the *magistri militum* and the praetorian prefect, for the last law is a carefully balanced compromise.

In the Code it is less easy to trace such stories, since the revealing preambles to the laws have not been preserved. Some similar incidents are, however, observable. On 7 December 408 a law was issued to Anthemius, praetorian prefect of the East, forbidding *palatini* of the *sacrae largitiones* or *res privata* to take part in the collection of taxes in the provinces. On 27 September in the following year a second law, also addressed to Anthemius, restored the old order of things, expressly abrogating the previous law, which had, the emperor states, been a concession to an inopportune request of a delegation from the province of Achaëa. The petition of the Achaëan delegation must have been supported by the praetorian prefect to have received the emperor's approval, and the first law was probably suggested by him. The second was clearly suggested by the *comites sacrarum largitionum* and *rei privatae*, defending the interests of their *palatini*. Once again the first law cannot have received any serious discussion in any council of state, or the *comites* would have lodged their objection there, and not waited till the opening of the next fiscal year.⁴⁴

Even when it was most active and influential the consistory never governed the empire. (The emperor remained absolute and he not only could, but often did, act on his own initiative without consulting his council.) The consistory never acquired sufficient *esprit de corps* to pursue a consistent and independent policy. Its *ex officio* membership changed rapidly, for it was rare for any man to hold any of the qualifying offices for longer than two or three years; and all the members were keenly aware that their prospects depended on retaining the emperor's favour. The consistory thus

tended to be a subservient body, whose members, instead of presenting a common front, vied with one another to win the emperor's approval, and intrigued to discredit their rivals. The real power was exercised by the emperor himself or by the individuals who from time to time enjoyed his confidence.

The weakness of the consistory is most clearly demonstrated by the situation which arose when the emperor was a child, or too young or too weak to assert himself. (In these circumstances it was never the consistory which took over the government, but individuals or small cliques who secured an ascendancy over the nominal ruler of the state.) The ladies of the imperial family often in such situations became *de facto* regents. Thus Justina virtually governed the West in the name of her son Valentinian II from 383 till her death in 388, and Galla Placidia ruled the Western empire during the early years of the nominal reign of her son Valentinian III. Theodosius II's elder sister, Pulcheria, though only two years older than he, established an ascendancy over him which gave her a dominating position in the government of the Eastern empire from 414, when she came of age and was proclaimed Augusta, till she was ousted from favour by the intrigues of Chrysaphius nearly thirty years later. The eunuchs of the sacred bedchamber also often exploited their daily and intimate contact with the emperor to make themselves virtual regents. Eutropius, *praepositus sacri cubiculi* to Arcadius, was openly acknowledged as the most important man in the state from 396 to 399, and during the last seven or eight years of the reign of Theodosius II the eunuch Chrysaphius controlled the government.⁴⁵

Women and eunuchs had no official part in the government and owed their power solely to their personal ascendancy over an immature or weak-minded emperor. More often the power was exercised by a great general or minister who by imposing his will on the emperor was able to dominate his colleagues. (In the West it was nearly always a general who secured such a dominant position.) When in 388 Valentinian II, then aged seventeen, was restored after the defeat of Maximus, his *magister militum* Arbogast ruled in his name. On the death of Theodosius the Great in 395, Stilicho was left in supreme military control of the West, recently reconquered from the usurper Eugenius, and his authority was enhanced by the fact that he was married to Theodosius' niece and had, he alleged, been solemnly charged by the dying emperor to protect his sons. He made use of his position to concentrate the control of the army permanently in his own hands, and thus created

in the *magisterium utriusque militiae in praesenti* an office of overwhelming power. Thereafter in the West it was the holder of this office who almost always controlled affairs. After Stilicho's fall there was a brief interlude during which civilian ministers intrigued for power, but Constantius soon became supreme as *magister utriusque militiae*, and died as colleague of Honorius. After a brief interval Aetius established himself in the same office and ruled the empire in the name of Valentinian III for the last twenty years of his reign. He was soon succeeded by Ricimer, who made and unmade a succession of ephemeral emperors.⁴⁶

(The power of the great generals of the West steadily increased. It was largely based on the fact that they personally commanded the loyalty of the troops, but it also depended to some extent on their maintaining their influence with the emperor.) When Valentinian II rebelled against Arbogast's domineering ways and handed him his dismissal, Arbogast contemptuously tore the letter up; but he evidently realised that his position was insecure, for he promptly had Valentinian assassinated and a more obedient emperor, Eugenius, proclaimed. When Stilicho fell from Honorius' favour he submitted quietly to his deposition and arrest. He might no doubt have attempted resistance with the aid of the federates, who were still loyal to him, but his authority with the Roman troops had been undermined and they obeyed the emperor's orders. Aetius' position was much more secure, and Valentinian III could only rid himself of him by assassination. Ricimer was even more powerful, but he had to assassinate or provoke mutinies against emperors who became too independent. Ultimately Odoacer found it more convenient not to have an emperor on the spot who might prove recalcitrant or fall under the influence of a rival.⁴⁷

In the East generals rarely if ever wielded such power. This was partly no doubt due to the fact that military affairs had less importance in the East. The Western empire was continually exposed to barbarian invasion, and from the beginning of the fifth century was struggling for existence against the barbarian tribes established within its borders. It was therefore natural that the military commanders should acquire a dominant position. The Eastern empire was relatively immune from invasion, and relied largely on subsidies to control or appease its barbarian neighbours. Finance and diplomacy were therefore at least as important as military defence, and the praetorian prefects and masters of the offices tended to count for more than the generals.

The contrast between the East and West is also due in large measure to an historical accident. When Theodosius I marched to

the West in 394 to deal with Eugenius, taking the bulk of the field army with him, he naturally left the East, under the nominal rule of his son Arcadius, in charge of a tried civilian administrator as praetorian prefect. Rufinus thus became the virtual ruler of the Eastern empire on Theodosius' death, and, when he fell, his supplanter Eutropius, the *praepositus sacri cubiculi*, who naturally feared the possible rivalry of the generals, divided the field army which had returned from the West into five equal groups, two praesental and one each for Illyricum, Thrace and the East, under five *magistri* of equal rank. The abortive attempt of Gainas to seize power strengthened the civilians' distrust of generals, and during the rest of Arcadius' reign and that of Theodosius II they were kept in their place. The power was held by Anthemius, praetorian prefect of the East from 405 to 414, and then it would seem by Helion, master of the offices, with the support of Pulcheria, until 427, and towards the end of the reign by the eunuch Chrysaphius and Nomus, master of the offices.⁴⁸

After the death of Theodosius II it looked for a while as if a leading general was going to dominate the East in the same way that Ricimer dominated the West. Aspar, who had for many years been one of the *magistri praesentales*, secured the election of one of his former domestics, Marcian, and on his death that of another of his junior officers, Leo. Having tasted power, his ambitions grew, and he bullied Leo into nominating one of his sons as Caesar. But Aspar's power was not firmly based. In the election of Marcian his success was partly due to the support of Pulcheria and the strong group of senators who hated Chrysaphius and Nomus and disapproved of their foreign, domestic and ecclesiastical policy. Leo no doubt had the support of this group in resisting Aspar's ambitions, and owing to the structure of the high command Aspar could never achieve complete control of the armed forces, even though he got one of his sons appointed *magister militum per Orientem* and formed an alliance with Theoderic Strabo and his Gothic federates. Thus eventually Leo was able, having got the Eastern command into the hands of a loyal general, to rid himself of Aspar and his family, if only by treachery and assassination. Zeno was also plagued by over-powerful generals, the two Theoderics and the Isaurian Illus, but he managed to play them off against one another and ultimately gained the mastery.⁴⁹

The great generals who controlled the West in the fifth century were publicly recognised as being, subject only to the emperor, supreme heads of the government by the addition to their official title, *magister utriusque militiae*, of the honorific address, 'our

patrician' (*patricius noster*). Though their primary functions were military they intervened overtly and directly in other departments of state. Constantius wrote to the prefect of the city in 419 about the disputed papal election, and received despatches from him in reply. Valentinian III instructed his patrician Aetius to enforce the constitution of 445 which gave the support of the secular arm to the supremacy of the Roman see. Aetius even gave orders to the praetorian prefect of Italy about the supply of pork to the city of Rome, and the latter submissively produced a scheme on the lines laid down.⁵⁰

The men who *de facto* ruled the East received no official recognition, nor yet did the early generals in the West, Arbogast and Stilicho. They sometimes increased the powers of the offices which they held. Thus Stilicho not only had all *duces* and *comites rei militaris* placed under his disposition, but arranged that their principal officials should be drawn from the offices of the *magistri praesentales*. Nomus added to the multifarious duties of the master of the offices an inspectorate general over the *limitanei* of all the frontiers. But in the main they derived their power from their ability to persuade the emperor to sign the papers they submitted. They naturally also used the imperial patronage which they thus controlled to reward their adherents and to fill all key posts with men on whom they could rely. The first move against Stilicho was the massacre of the praetorian prefects of Italy and of Gaul, the master of the offices, the quaestor, the *comites sacrarum largitionum* and *rei privatae*, the *magister equitum per Gallias* and the two *comites domesticorum*. It is evident that all these major ministers and officers were, or were regarded as, his creatures.⁵¹

The ascendancy of one man sometimes gave stability to the government over long periods. Stilicho ruled the West for over thirteen years, Constantius for ten and Aetius for twenty. In the East Anthemius was supreme for close on ten years, and Helion, it would seem, for over twelve. But the position of unofficial regents was often insecure. Depending as they did on their personal ascendancy over a theoretically absolute emperor, they were liable to be suddenly ousted from power by a new favourite. In these circumstances intrigues and cabals flourished. The men in power tried to strike down potential rivals before they became too powerful, and aspirants to power endeavoured to poison the emperor's mind against his adviser for the time being.

We have in the contemporary life of Porphyry, bishop of Gaza, a vivid picture of how things were done in the reign of Arcadius. Porphyry's ambition was to close the temples of Gaza, in which the pagan cult was still being celebrated in open defiance of the law.

He first in 398 sent his deacon Mark (the author of his biography) with a letter to John, the bishop of Constantinople. John went straight to 'Eutropius, the *cubicularius*, who at that time had great power with the emperor Arcadius', and within a week an imperial constitution was issued closing the temples of Gaza. Unfortunately the official appointed to execute it was not impervious to bribery, and the wealthy pagans of Gaza persuaded him to spare the principal temple, the Marneum.⁵²

Two years later, in 400, Porphyry went himself to Constantinople with his metropolitan, John of Caesarea, and a group of clergy, including Mark. The two bishops went first to John Chrysostom, as had Mark on his earlier mission. John was sympathetic, but said that it was useless for him to approach the emperor, as the empress had provoked a quarrel between them. He promised, however, to put them in touch with the eunuch Amantius, the *castrensis* of the empress, who had great influence with her. The bishops were introduced next day to Amantius, and he arranged an interview with the empress on the day following. Eudoxia was most gracious and promised to speak to Arcadius, but Arcadius proved unexpectedly obstinate. Gaza had a very good record for paying its taxes promptly and he refused to create a commotion there; gentle pressure might be brought on the pagan aristocracy, but nothing more.⁵³

Eudoxia, however, was determined to have her way, especially after Porphyry had declared that God would reward her perseverance by making the child which she was carrying a boy, who would reign many years. When the little Theodosius was in due course born and forthwith proclaimed Augustus, Eudoxia by an ingenious trick won her point. She told the bishops to draft a petition containing all that they wanted, and, having secured a front place in the crowd outside the church door, to present it to the man who would carry the baby out of the church after his baptism: he would be in the plot and would put the petition in the child's hand and declare that he had given it his approval. All went according to plan, and although Arcadius was not unnaturally annoyed when the text of the petition was read, he was not strong-minded enough to refuse his assent. Next day the empress jubilantly summoned the bishops and calling the quaestor told him to draft a constitution on the spot in the name of the two Augusti in exact accord with the petition.⁵⁴

In this story the business is conducted entirely by backstairs influence. It never seems to have occurred to Porphyry, or to John Chrysostom, to send in a petition through the official channels, to be received by the *sacra scrinia* and passed up by their

magistri or the quaestor to the emperor, or perhaps read in consistory. Instead they went to the emperor's chief eunuch, or via her favourite eunuch to the empress, and the quaestor, the minister who ought to have dealt with the matter, ~~was called in only when everything was settled, to draft the formal decree, while other ministers who might have been interested were not consulted at all.~~

A generation later, Cyril, the patriarch of Alexandria, did not rely so exclusively on backstairs influence, but still gave it a high place. This appears from a list of the persons whom he thought it politic to bribe in one of the years which immediately followed the council of Ephesus in 431. The master of the offices and the quaestor got 100 lb. gold each, and their domestics smaller sums. The praetorian prefect does not figure on the list, but apparently because he was incorruptible and not because he was unimportant; for his wife is down for 100 lb. and his assessor for 50 lb. The other recipients are all on the staffs of the sacred bedchambers, either of Theodosius or of Pulcheria. One *praepositus*, Chryseros, receives the highest sum of all, 200 lb. gold, and even his domestic gets 50. The other *praepositus*, Paul, is thought to be worth only 50 and his domestic a mere 100 solidi. Two of Pulcheria's ladies of the bedchamber (*cubiculariae*), Marcella and Droseria, receive 50 lb. each, and three eunuchs of the bedchamber (*cubicularii*), Scholasticus, Dominus and Romanus, receive 100, 50 and 30 lb. respectively, while Scholasticus' domestic gets 50. "The magnificent Artabas", perhaps a retired eunuch, is allotted 100 lb. If Cyril distributed the gold of the church of Alexandria to the best advantage—and he was a shrewd politician as well as an acute theologian—it would seem that at this date backstairs influence counted for twice as much as official opinion in determining the policy of the empire.⁵⁵

Such was the state of affairs under weak emperors, but it must not be assumed to have been the invariable rule. There was, it is true, at all times much intrigue and wire-pulling to gain the ear of the emperor or of those who were known to have his confidence. It is clear, however, from our sources, that most of the emperors were possessed of sufficient ability, character and industry to govern the empire themselves. They naturally relied to some extent on chosen advisers. Even when the consistory was still a council of state, the emperor usually tended to rely on the advice of a smaller group of more intimate counsellors, and when the consistory's proceedings became formal, this became the regular practice. Such counsellors might be men holding high administrative posts. Thus Maximinus, whom Ammianus regarded as Valentinian I's evil genius, was praetorian prefect of the Gauls,

and Rufinus, whom Theodosius I greatly trusted, was first master of the offices and then praetorian prefect, while Stilicho, Theodosius' other chief adviser, was successively *comes domesticorum*, *magister equitum* and *magister utriusque militiae praesentalis*. Under Justinian Tribonian, Peter the patrician and John the Cappadocian, his principal advisers, were respectively quaestor, master of the offices and praetorian prefect of the East for long periods. But some emperors preferred non-official advisers. Ammianus speaks bitterly of the eunuch Eusebius, 'with whom—if the truth must be told—Constantius had considerable influence'. Anastasius' right-hand man and chief financial adviser, Marinus the Syrian, was praetorian prefect for a brief term only (512-15). The major reform which he initiated, the institution of *vindices*, was carried out some time before he held the prefecture, and he already appears as the emperor's financial monitor in 511. In that year the Palestinian holy man Saba took advantage of a private audience with Anastasius to ask for the remission to the city of Jerusalem of a surtax which the *tractatores* and *vindices* had imposed to cover a deficit arising from abandoned lands. Anastasius was sympathetic, and calling for the praetorian prefect Zoticus instructed him to cancel the surtax; but Marinus, being informed, came in and checked the emperor's generosity.⁵⁶

In the Codes we possess what is, despite many gaps, a remarkably full and continuous record, from the reign of Constantine to that of Justinian, of the enactments of the imperial government in the fields both of private law and of public administration. But shorn as they are of their preambles the constitutions preserved in the Codes throw very little direct light on the circumstances in which they were enacted. The novels of the mid-fifth century emperors and of Justinian, whose text has been preserved in full, are rather more informative. The preambles are too often devoted to pious generalities in which the quaestor displayed his rhetorical virtuosity, but they often indicate on whose initiative a law was promulgated and sometimes the occasion which prompted its enactment, or the reasons for which it was issued. The novels thus provide clues whereby it is sometimes possible to read between the lines of the constitutions preserved only in the Codes.

On the basis of this evidence, together with a few scraps of information from outside sources, it is possible to form a rough idea of the process whereby imperial policy was formed and the stimuli to which the imperial government reacted. On a superficial reading the Codes give the impression that the emperors always took

the initiative. On occasion they—or their principal advisers—certainly did spontaneously initiate a policy. But like most governments they usually did not plan their course of action in advance, but dealt with problems as they arose, or rather as they were brought to their notice. In general the government's policy was thus to a large extent determined by its sources of information. Those who had access to the government could give voice to their complaints and desires, and their point of view naturally tended to receive more attention than that of others who had no means of presenting their case. A careful study of the Codes will often reveal what groups were thus able to influence imperial policy in their own interests.

No formal distinction was drawn between administrative enactments and constitutions modifying private law, but in practice rather different procedures were followed in drafting and promulgating the two types of legislation. It is clear that Valentinian III, in an oration made to the senate in 426, was thinking primarily of the private law. In this oration he speaks of laws as either arising from his own (that is his government's) spontaneous initiative, or as being occasioned by a petition from a subject (*precatio*) or by a reference from a judge (*relatio*) or by a lawsuit (*lis mota*). This seems from what evidence we have to be a fair description of the various ways in which such legislation originated.⁵⁷

Major reforms of the law were usually made by the initiative of the government, or, to be more precise, of a high legal officer. The compilation of the two successive Codes of Justinian and of the Digest was fairly certainly due to Tribonian. He was, it is true, a relatively junior member of the commission which was established in 528 to prepare the first Code, but Justinian later attributed its rapid production to his energy; and he presided over the commissions, appointed in 530 and 534, which produced the Digest and the second edition of the Code. The work of compiling the Digest revealed many obscurities and contradictions in the old law, and brought to notice many points on which it was obsolete or archaic. The researches of the Digest commission thus gave rise to a large number of new laws clarifying or emending the old law, and led to the issue of a series of codifying statutes consolidating the law on various topics such as marriage and inheritance. All this legislation, which continued for many years, arose from governmental initiative. The same is almost certainly true of the compilation of the Theodosian Code. The author of this reform may be conjectured to have been the Antiochus, ex-quaestor and praetorian prefect, who was president both of the abortive commission of 429 and of the second commission which produced the Code. An attempt to

create some kind of order in the law, made a few years earlier in the West, resulted in a long constitution addressed to the senate, of which many excerpts are preserved in the Codes: these comprise the law of citations, a definition of what constitutes a general law, two rulings on the validity of rescripts, and a number of rulings on particular points of private law, mainly on inheritance. This comprehensive measure also looks like a reform initiated from above.⁵⁸

On the other hand most legislation on specific topics of private law seems, to judge by the novels of the fifth and sixth centuries, to have been provoked by individual hard cases, which brought home to the government anomalies in the existing law, or revealed points on which it no longer conformed to the current ideas of what was right and proper, or again from disputed cases, which brought to light obscurities in the law as it then stood. These cases might, as Valentinian III stated, have been brought to the notice of the central government in a variety of ways. A case might come, usually on appeal, to the emperor's high court. Thus it was an actual testamentary case, which he personally tried before the senate, which moved Marcian to repeal the law of Valentinian I forbidding women to institute members of the clergy as their heirs. If the preamble to Valentinian's law survived, we should probably find that some particular testamentary dispute had provoked his law. Justinian evidently took his judicial functions seriously, and several times cites actual cases tried before him which led him to issue constitutions on the points arising from them.⁵⁹

In the second place a judge in a lower court might, by a *relatio* or *consultatio*, ask for a ruling on a difficult case, and this might suggest to the emperor that the law required clarification or emendation. It was in response to a *relatio* from his praetorian prefect Palladius that Marcian reinterpreted Constantine's law prohibiting marriages between men of high station and women of low degree, ruling that such marriages were valid if the woman was of respectable character. Again it was a *relatio* from the consular of Tuscia, asking for the emperor's guidance in a case where one Ambrosius, convicted of adultery and sentenced to temporary relegation, had broken his bonds, that led Majorian to lay down, or rather reaffirm, the much severer penalty of deportation for adultery.⁶⁰

Knotty legal points were also sometimes referred to the emperor, through their judge, by the bar. Thus the praetorian prefect of Illyricum forwarded to Justinian three problems, one on donations and two on mixed marriages between *coloni* and free persons, which his barristers had raised, and the bar of the provincial court of Caesarea posed to Justinian a question on the validity of agreements made between presumptive heirs before the

testator's decease: all these enquiries led to the formulation of general rules of law.⁶¹

Very commonly it was petitions from interested parties, asking for an interpretation or modification of the law in their individual case, which raised questions of principle and produced legislation. Thus it was the petitions of the *vir spectabilis* Leonius and of the *illustris femina* Pelagia that made Valentinian III issue two constitutions emending testamentary law, and many of Justinian's novels cite in great detail petitions of individuals, including three ladies, Gregoria, Martha and Thecla, which led to legislation on such matters as the law of succession and of guardianship. It was a petition from Aristocrates, the *pater* (or *curator*) of the city of Aphrodisias, which led to the exemption of civic endowment funds from the law whereby a debt was extinguished when the interest payments totalled double the original loan. A complaint from Andrew, the representative at Constantinople of the bishop of Thessalonica, that persons who had abandoned infants in churches subsequently, when the infants had been brought up at the expense of the church, claimed them as slaves, led Justinian to formulate the general rule that all foundlings were free persons.⁶²

Another interesting case is the petition of two Constantinopolitan financiers, Peter and Eulogius, for a clarification of the law on bottomry loans. A conference of interested parties was held under the presidency of the praetorian prefect, and the rules which they agreed were current were given legal sanction: unfortunately Justinian does not tell us who persuaded him to rescind this constitution almost immediately. Not only individuals but corporations or other groups of persons presented petitions, but these normally concerned the legal privileges or disabilities of the group. Thus the moneylenders of Constantinople (*argentarii*) conducted prolonged negotiations with Justinian on the special rules of law, mainly relating to bankruptcy, which applied to their guild, and it was on the basis of a petition from certain *curiales* that the same emperor simplified the laws governing the succession to curial property. The emperors also often allude, naming no names, to the complaints of litigants as moving them to legislation.⁶³

Administrative enactments were similarly sometimes due to the spontaneous initiative of the government. As in the realm of private law it was normally large and sweeping reforms which were so initiated. We know on the excellent evidence of John Lydus, who was a clerk in the praetorian prefecture of the East at the time, that the institution of *vindices* was due to the initiative of Marinus, Anastasius' chief financial adviser, and Malalas tells that

it was another of Anastasius' financial experts, John the Paphlagonian, who as *comes sacrarum largitionum* reformed the copper coinage. It is rarely, however, that such explicit evidence is available, and we can only infer that an earlier radical reform of the system of tax collection, whereby officials were substituted for decurions, was planned and imposed from above by Valentinian I and Valens or one of their ministers. The creation of new taxes was naturally always due to central initiative, and Valentinian III sets forth in the novel establishing the *siliquaticum* the considerations which governed his ministers in choosing this particular form of impost. The abolition of an established tax also required imperial initiative, though popular complaint might prepare the way: in all our sources Anastasius is personally given the sole credit for abolishing the *collatio lustralis* and making the consequent financial adjustments. The great reorganisation of diocesan and provincial government throughout the prefecture of the East which took place while John the Cappadocian was prefect may plausibly be conjectured to have been planned by him.⁶⁴

Minor reforms might also be initiated by the spontaneous activity of a member of the government, but such cases are very hard to trace. We happen to know, owing to the preservation of its informative preamble, who promoted a law of Theodosius II prohibiting prostitution in Constantinople—a law which might otherwise have been attributed to the well-known piety of the emperor himself. We are told that it was Florentius, praetorian prefect of the East in 428-9 and 438-9, who had this reform so much at heart that, to overcome the financial objection to it, he presented to the government an estate whose rent would compensate for the loss of the *collatio lustralis* hitherto paid by the proprietors of brothels in the capital. The law was not issued until a few weeks after Florentius had resigned his second prefecture, and was addressed to his successor Cyrus, so that, but for the preservation of its preamble, no clue to its true authorship would have survived; but knowing Florentius' interest in the problem of prostitution, we can confidently give him the credit for another law on the same topic addressed to him when he was praetorian prefect of the East ten years before. A similar story may lie behind many a constitution in the Codes.⁶⁵

In ordinary routine matters the emperor naturally relied on his departmental ministers. Not only did he leave the day-to-day administration of their departments to them: he also normally relied on their initiative in the formation of policy. When Ambrose offered unsolicited advice to Theodosius, he justified his presumption by comparing himself to a minister. 'Even emperors', he

wrote, 'are not displeased when each fulfils his function, and you listen patiently to each one when he makes suggestions about his department; you even reprimand those who do not thus take advantage of their official position.'⁶⁶

The process whereby imperial administrative enactments came to be issued is clearly revealed in the fifth-century novels. In almost all cases the initiative comes from the departmental minister in whose sphere the matter at issue lay. He makes, as Ambrose says, a *suggestio*, and this is embodied by the emperor in a constitution, which is usually addressed to him. The master of the offices suggests measures dealing with the arms factories, with the billeting of officials in Constantinople, with the privileges of the *scholae*, the *agentes in rebus* and the *lampadarii*. The *comes sacrarum largitionum* makes suggestions about the discipline of his *palatini* and about the *collatio lustralis*, and also, when acting temporarily as *comes rei privatae*, about petitions for grants of confiscated land. It is normally the *comes rei privatae* who advises legislation on this topic and on the sale of state lands. The *magistri militum praesentales* propose a law on the privileges of their officials. The great majority of the suggestions are, as might be expected, from the praetorian prefect, whose range of responsibility was the widest. He proposes laws on judicial questions, such as *praescriptio fori*, and appeals from his own court to the emperor; on fiscal questions, such as the remission of arrears, the obligations of *fundi limitotrophi*, and the ownership of alluvial land; he also drafts legislation on decurions, advocates, civic lands, and the requisition of ships to carry the *annona*.⁶⁷

This procedure is directly attested only for Theodosius II and Marcian, and Valentinian III and Majorian, the full text of whose laws has come down to us in the novels. Justinian in his novels is much less generous in assigning credit to his ministers and usually devotes his preambles to moral reflections, displays of antiquarian learning, or glorification of himself. Where we have to rely on the Codes, in which the preambles have been omitted and only the operative part of the law is reproduced, little direct evidence is available, but there is no reason to doubt that in the fourth century also much legislation was suggested by ministers.

It was normally the ministers of the *comitatus* whose suggestions were embodied in legislation, but the government also received and acted upon advice received from its representatives in the provinces. Thus in 424 it was as a result of a dispatch from Isidore, praetorian prefect of Illyricum, in which he stressed the desperate plight of the city council of Delphi, that a constitution was issued relieving all the cities of Illyricum from contributions to the games

of Constantinople. Again in 438 Anatolius, *magister militum per Orientem*, complained that the *limitanei* in his zone were being constantly cited to distant courts, especially to Constantinople, and that their discipline and efficiency were suffering thereby: this led to a constitution enacting that *limitanei* were to be sued only in the competent military courts.⁶⁸

Lesser persons than praetorian prefects and *magistri militum* sometimes secured the issue of legislation. Rufinus, *comes Orientis*, pointed out in 342 that many persons evaded nomination to their city council by pleading that they were tenants of the *res privata*: one may suspect that the elaborate regulations which were enacted to deal with this problem were suggested by Rufinus himself in his report. Again it was on the suggestion of a vicar that in 349 Antonius, *dux* of Mesopotamia (and doubtless other *duces* also), was instructed to comb out provincial officials who had enlisted in the troops under his command. A law issued in 350 prohibiting the discharge of soldiers before they had completed their proper term of service was, we are told, due to the verbal representations of the *comes* Cretio, to whom it was addressed: Cretio is known from other sources to have been *comes Africae*, and doubtless took advantage of a visit to the *comitatus* to press his case.⁶⁹

The government also accepted suggestions from *officia*: a number of laws bear witness to this rather curious practice. We know from its preamble that a law issued by Valentinian III in 446 making various concessions to the officials of the praetorian prefecture was promoted by the office itself. It is probable that the great majority of the many laws confirming or enlarging the privileges of palatine officials, regulating their promotion, or settling interdepartmental disputes over fees, were ultimately initiated by the *officia* concerned, whether they approached the emperor directly or forwarded their claims and grievances through their departmental minister, to whom the constitutions were generally addressed. Justinian in his twentieth novel relates how, as a result of changes recently made in the status of certain provincial governors and the trial of appeals arising from their courts, a dispute had arisen between the officials of the praetorian prefecture and those serving the quaestor on the distribution of work—and the consequent fees. A conference of the officials concerned was held under the joint presidency of the praetorian prefect and the quaestor, and a compromise arrived at which was embodied in the novel. A similar story probably lies behind a series of constitutions in the Theodosian Code, which deal with the issue of commissions to officers in the frontier army: it is not the rights of the quaestor and the *magister militum* that are the real issue, but

the fees collected by the *memoriales* who served the former and the officials of the latter.⁷⁰

The *officia* sometimes raised questions of more public interest; even quite humble offices made their voices heard. The *officium* of the consular of Hellespont by its representations to Theodosius I secured the transfer of the province from the jurisdiction of the vicar of Asiana to that of the proconsul of Asia, and a report from another provincial *officium*, that of Euphratensis, elicited a ruling that convoys of wild beasts being taken from the frontiers to Constantinople should not stop more than a week in any one town.⁷¹

The government was thus regularly briefed by its own servants from the highest to the lowest. It also received petitions, remonstrances and advice from its subjects. It was open to any citizen to write to the emperor on any topic, and many did so about their individual grievances. But sometimes an individual was emboldened to offer unsolicited advice on broader issues. There chances to have survived a lengthy document addressed to a pair of emperors who are probably Valentinian and Valens by an anonymous author who appears by internal evidence to have been a military officer of humble status. He is mainly concerned to bring to the emperor's notice a number of mechanical inventions which would, he believes, increase the efficiency of the army, but he also analyses the major weaknesses of the empire and recommends a number of sweeping reforms. From the fact that this document is preserved in the same manuscript as the *Notitia Dignitatum* it may perhaps be inferred that it reached the consistory, and was duly filed by the *primicerius* of the notaries: none of its suggestions were, so far as we know, adopted.⁷²

Few ordinary citizens can have been as self-confident as this anonymous author, and they were doubtless as unsuccessful. [But there were classes of persons who had better opportunities of making their voices heard.] Professional rhetoricians were held in great respect, and were not infrequently called upon to address the emperor. What was normally expected of them was a panegyric or a loyal address, but some contrived even through this medium to offer advice on public affairs: Synesius' loyal address to Arcadius on behalf of his province contains a powerful warning against the use of barbarian federates and a stirring call to create a national army. Prominent rhetors seem also to have endeavoured to influence the government by open letters to the emperor. There are among the orations of Libanius a number which bring administrative abuses to the emperor's attention and urge him to remedy them. These orations were certainly not delivered to the emperor, as they purport to have been, for Libanius never went up to Con-

stantinople during the latter part of his life, when they were written. But they may have been sent to the emperor in written form, and they were certainly widely circulated among Libanius' friends in high places. Libanius was probably exceptional in his deep concern about injustice and oppression and the wide range of his sympathies: he was probably also exceptionally outspoken. But these orations demonstrate that it was possible for a rhetor of established reputation to act as the mouthpiece of public opinion.⁷³

Bishops also, in virtue of the respect in which their sacred office was held, could make their voices heard. Apart from their professional interest in the religious policy of the government and the privileges of the clergy, of which more will be said later, they not infrequently intervened in the secular interests of their flocks. Basil of Caesarea wrote to Modestus, Valens' praetorian prefect, urging him to reduce the levy of iron on the miners of the Taurus. Theodoret protested against the excessive assessment of his city, Cyrrhus, not only to the minister concerned, Constantius the praetorian prefect of the East, but also to Pulcheria Augusta, Anatolius, former master of the soldiers in the East, Senator the patrician, and Proclus the archbishop of Constantinople. In 551 Sergius, bishop of Caesarea, spoke up for the Samaritans and asked that they be relieved of the disabilities imposed upon them. The government came to rely on the bishops as watchdogs against the abuses of the administration, and in some sixth-century laws charged them to denounce to the emperor infractions of the rules laid down therein. It does not appear, however, that bishops conceived it to be their business to suggest general reforms of the administrative system: their function was rather to protect their flocks.⁷⁴

Of more positive effect on governmental policy were petitions and delegations from officially recognised corporations. The senate of Rome or of Constantinople, as we have seen, could present its views either through a despatch of its president, the prefect of the city, or by a special delegation to the emperor, and could thus elicit legislation on topics which interested it, such as the privileges of the senatorial order, the election of the praetors and the regulation of the games, or the corn supply of the city. The councils of lesser cities also not infrequently sent delegations to the court to plead for favours or to complain of grievances. Their representations sometimes gave rise to general legislation. Thus it was as a result of a petition from the council of Epiphaneia that Arcadius in 398 issued a general ruling on the issue of old and new wine to the troops, and when in 443 the citizens of Heraclea took advantage of a visit by Theodosius II to petition him for

aid in repairing their aqueducts and public buildings, the response was a constitution ordering the restitution to all cities of civic lands which had been usurped by private persons.⁷⁵

Even more influential were the delegations sent by the assemblies of provinces and dioceses. These too were generally concerned with local grievances, but their complaints often resulted in the issue of general legislation. The emperors sometimes explicitly refer to such delegations in the laws. It was, we are told, on the advice of the delegates of the province of Achaëa that in 409 *palatini* of the *largitiones* and *res privata* were forbidden to collect the arrears due to their departments in the provinces, and in 424 the taxes of all the provinces in the Illyrican diocese were drastically reduced as a result of representations made by their assemblies through the praetorian prefect of Illyricum. In the West, Valentinian III gives the credit for several constitutions reforming the procedure of tax collection to the *comes* Bubulcus, delegate of the province of Africa in 429, and in the preamble to his comprehensive law regulating the affairs of Numidia and Mauretania Sitifensis and remitting the bulk of their taxation on their return to imperial rule in 443, the same emperor acknowledges that these measures were inspired by a delegation of the two provinces.⁷⁶

Apart from such specific references it is often possible to infer the activity of delegations. There are a fair number of constitutions in the Codes addressed to individual cities or to provincial assemblies, or more generally to the people of a certain province. The imperial government might occasionally have cause to issue such a letter or edict on its own initiative: thus in 413 Honorius announced the execution of the traitor Heraclian to the *honorati* and provincials of Africa, and urged them to denounce his adherents. But as a rule it is clear from the content of the constitutions that they were answers to petitions. It is unlikely that Valentinian would have addressed to the provincial assembly of Byzacena a constitution dealing with such disparate topics as the security of emphyteutic lessees of state lands, claims for escheated lands, the status of decurions, the privileges of former provincial high priests and the liability of clergy to curial duties, unless delegates of the province had petitioned him on these various points.⁷⁷

Barristers did not only interrogate the emperor on knotty points of law; they were not backward in making suggestions about the organisation and privileges of the bar. Leo reproduced in a constitution to the Augustal prefect of Egypt a petition from the advocates of Alexandria, which regulated in detail the numbers, promotion and privileges of the provincial bar. Anastasius similarly gave a statute to the provincial bar of Syria Secunda in

accordance with a petition from the local advocates. It is clear from such casual surviving references that the long series of constitutions which regulated the organisation and privileges of the legal profession were mainly dictated by the profession itself.⁷⁸

The guilds of *navicularii* also seem to have sent petitions and delegations to the emperors. This is fairly evident from the content of the constitutions addressed to them. When the emperor confirms their privileges it can be reasonably inferred that they had asked for such confirmation. In 380 and again in 412 constitutions addressed to the *navicularii* of Africa and confirming their privileges also contain detailed rules for determining responsibility for shipwrecks. It seems likely that on both occasions the same delegation which had petitioned for the maintenance of the guild's rights had also asked for a clarification of the rules about shipwrecks, and perhaps submitted draft regulations.⁷⁹

The guilds of the capital cities likewise made representations, either directly or indirectly, to the imperial government. As noted above, the important guild of bankers at Constantinople held prolonged negotiations with Justinian on the special rules of bankruptcy to which they were subject. The humbler guilds who were responsible for the provision of free funerals also petitioned Justinian directly. At Rome, since the imperial government was not normally on the spot, the guilds generally voiced their complaints through the prefect of the city. It is to the prefect that the emperor addresses both confirmations of the privileges of the guilds and detailed constitutions regulating their membership and functions. The despatches of Symmachus as prefect of the city throw some light on the way in which such laws came to be framed. In one letter he supports a request by the *collectarii* for a revision of the exchange rate between the solidus and the denarius, and forwards their petition. In another he reports complicated negotiations between the *manipes salinarum* and the *navicularii amnici*, and asks for imperial confirmation for the amicable agreement which has been reached on the transfer of members from the latter to the former. One may suspect that most of the elaborate regulations of the Roman guilds were thus worked out by the guilds themselves, formulated in a *suggestio* of the prefect and finally enacted by the emperor in a constitution.⁸⁰

Certain categories of its subjects thus had regular channels of access to the imperial government and could at any rate make their grievances known to it and suggest to it reforms which they advo-

cated. This of course did not guarantee that they got what they wanted. That would depend partly on the justice of their case and the way in which it was presented, but still more on the strength of opposing interests and the necessities of the imperial government itself. It also in practice depended in large measure on the influence which the petitioners could command in government circles, and with this end in view they sought if they were wise to secure the favour of prominent members of the *comitatus* by means of personal introductions.

A letter of Symmachus to Ausonius, then high in Gratian's favour and probably either quaestor or praetorian prefect, illustrates the process. 'Ambrosius,' he writes, 'a leading member of the provincial bar, has been sent to our lords the emperors by the assembly of Sicily, charged with various causes which seem to affect the public interest. If you will lend him your support I am sure that his efforts will be crowned with success. So I beg you, whether on the merits of the mission or for my sake, to be kind to an excellent man, who is sure that your interest will facilitate the promotion of his petitions.' Since the success or failure of a delegation might depend on such personal introductions the ability of any group to protect its interests would vary with the social status of its members. This helps to explain why some groups seem to have been much more effective than others.⁸¹

It is possible from an analysis of the legislation of the later empire to deduce what groups and classes were able to exercise an effective pressure on the government. Certain classes are conspicuous by their absence. The peasantry, whether freeholders or tenants, had very little opportunity of making their grievances known to the government. We know of a few successful petitions by villages. Tymandus and Orcistus in the late third and early fourth centuries obtained the rank of cities, and Aphrodito secured from Leo the privilege of *autopragia*. But these are exceptional cases of large and prosperous villages which could afford the expense of sending missions to the capital.⁸²

In the laws in general peasant proprietors receive very little notice at all, and tenants are almost always considered from the landlord's point of view. The government sometimes protected them from extortion for humanitarian reasons or for fiscal motives, but such measures are rare. One law, which appears to favour *coloni*, by allowing them to be freed from their landlord's claims by thirty years' prescription, was in fact promoted, as we happen to know from the preamble, by palatine officials who were being blackmailed on the ground that they were descended from *coloni*. Justinian's ruling that the children of a *colonus* and a free peasant woman were

free seems to have been due to that emperor's obstinate legal purism. Both laws were almost immediately so emended that they ceased to allow peasants any increased freedom of movement.⁸³

[There is also very little evidence in the Codes that the craftsmen, shopkeepers and merchants of the towns were able to make their grievances known to the government.] The only exceptions are the guilds of Rome and Constantinople, who had access to the emperor himself or to a highly placed magistrate, the prefect of the city, and whose grievances the government was bound to consider, since public order in the two capitals was largely dependent on their efficient performance of their functions. But even in Rome and Constantinople the interests of the consumer were generally paramount. The indigenous shopkeepers of Rome did indeed extort from Valentinian III the expulsion of their Greek rivals, but the emperor soon rescinded this law in deference to public outcry. Zeno's drastic laws against combinations to raise prices and enforce restrictive practices were clearly dictated by the consumers' interest, and Justinian's severe law against the malpractices of the gardeners' guild in Constantinople was the fruit of complaints from the landlords who employed them.⁸⁴

[The army, somewhat surprisingly, seems very rarely to have made its influence felt.] A constitution of the Theodosian Code records what seems to have been a rather stormy meeting of veterans due to be discharged after Constantine's final victory over Licinius. After the conventional acclamations—'the gods preserve you for us, Constantine Augustus, your safety is our safety: we speak the truth, we speak under oath'—the assembled veterans shouted: 'Constantine Augustus, what is the point of our becoming veterans if we have no privileges?' The emperor replied: 'It is my duty to increase the happiness of my fellow veterans more and more rather than to diminish it.' A veteran named Victorinus rejoined: 'We should not be allowed to be sued anywhere for public services and burdens.' Constantine replied: 'Speak more plainly: what are the principal services that are causing you trouble and annoyance?' The assembled veterans replied: 'You surely know yourself.' The emperor then delivered a speech—which had presumably been prepared beforehand—enumerating the various privileges to which veterans were entitled, and the minutes of the meeting were circulated and posted throughout the empire: our copy was that published in the Civitas Velovacorum in Belgica.⁸⁵

This document is unique. There were of course cases where grievances led to mutiny. Constantius II's order to Julian to despatch certain regiments to the Eastern front led to the proclamation of Julian as Augustus by the Gallic army. The mutiny at

Ticinum which led to Stilicho's fall, though instigated by his enemies at court, was clearly due to the jealousy of the Roman regular troops at the favour shown by Stilicho to barbarian federates. The fall of Orestes, the *magister militum*, and his son the emperor Romulus, was due to the discontent among the federates, no doubt stimulated by Odoacer, at being refused grants of land such as the federate tribes in Gaul had received. The mutiny which overthrew Maurice and raised Phocas to the throne was provoked by Maurice's disciplinary measures, and in particular his substitution of allowances in kind for money pay. (But such incidents are relatively rare in the history of the later empire, and the great bulk of the legislation on military matters was clearly not inspired by complaints from the troops.) Most of it, on the contrary, is directed to checking various forms of extortion by the troops, and was in many cases demonstrably inspired by petitions from the provincials. It is eloquent of the submissive temper of the Roman army that from 360 to 578—and for all we know throughout the fourth, fifth and sixth centuries—the accession donative remained stabilised at a fixed sum, five *solidi* and a pound of silver. The troops were prone to bully the provincials on whom they were billeted and from whom they drew their rations and other supplies, but they do not seem to have blackmailed the government.⁸⁶

In view of the piety of the age it is somewhat surprising that the church did not exercise more effective pressure on the government than it did, either in doctrinal questions or in securing fiscal and jurisdictional privileges for the clergy. This was due in part to the inchoate organisation of the church and its frequent internal dissensions. Regular meetings of bishops were held only at provincial, or in some cases diocesan, level, and a general council could only be summoned by the emperor. It was only gradually that any regular hierarchy was built up above the level of the metropolitans of the provinces and the authority of the patriarchs was not unchallenged. In the absence of official spokesmen for the church, the position of ecclesiastical adviser to the government was often usurped by any ambitious prelate who could reach the emperor's ear. The bishop of the imperial residence was clearly strongly placed, and thus we find Eusebius, bishop of Nicomedia and then of Constantinople, exercising a strong influence on Constantine and Constantius II, and later Ambrose was able to exploit his tenure of the see of Milan to establish his ascendancy over the successive emperors who resided there. But other bishops not so favourably placed hastened to the court to press their views, and some established themselves there on a more or less permanent footing, to the neglect of their sees. This practice was reprobated by the

council of Sardica; the proposer of the canon was Hosius, who seems to have forgotten how long he had left his own see of Corduba to act as ecclesiastical adviser to Constantine.⁸⁷

In major controversies, where opinion was divided within the church, decisions tended to be made by the intrigues of the rival parties at court, unless the emperor happened to have strong convictions or prejudices of his own. In either case church councils were normally summoned with the object of registering decisions already made either by the emperor or by the party dominant at court.

Some of the penal legislation against heretics, pagans and Jews was no doubt stimulated by the ecclesiastical authorities. The series of severe penal laws issued by Honorius against the Donatists from 405 onwards were, as we know from the writings of Augustine and from the acts of the African church councils, promoted by the catholic bishops of Africa. A law of 407 ordering the destruction of the still surviving altars and temples and the confiscation of their endowments was also the fruit of a petition from the African bishops. Ambrose secured the rejection of the senate's petition for the restoration of the altar of Victory, and Porphyry, as we have seen, obtained an imperial constitution for the destruction of the temples of Gaza. A drastic law against Manichees issued by Valentinian III in 445 was, according to its preamble, the result of a campaign of Pope Leo I, who exposed their crimes before the senate. But it did not always require ecclesiastical pressure to elicit such legislation. Pious emperors considered it their duty to stamp out heresy and paganism, and sometimes acted on their own initiative. Justinian certainly took his religious responsibilities very seriously, and there is no suggestion in our sources that his savage penal laws were not the fruit of his own convictions.⁸⁸

Nor were the ecclesiastical authorities outstandingly successful in obtaining privileges for their order. The fiscal immunities of the church and the clergy were by no means exorbitant. Most of them were the fruit of Constantine's initial enthusiasm, and they were carefully pruned by later emperors: the one general demand for additional exemptions of which we know, that voiced by the council of Ariminum, was categorically refused, and special exemptions were sparsely given; the church of Thessalonica was unique, so far as we know, in enjoying immunity from land tax. In the long battle over the admissibility of decurions to holy orders which resulted from Constantine's rash grant to the clergy of immunity from curial duties, the church on the whole had the worst of it, or would have done if the law had been effectively enforced. Ambrose strongly resented both the recall of clergy of curial status to the city councils and the rule which required curial ordinands to sur-

render their property, but despite his influence over Theodosius the government's policy remained unchanged. Constantine's grant of jurisdiction to bishops was cancelled by later emperors, who left to them only authority to arbitrate when both parties agreed to accept their decision. The privilege of the clergy to be tried in ecclesiastical tribunals was carefully limited, and no general immunity from the jurisdiction of the secular courts was ever allowed to establish itself.⁸⁹

[A much more effective pressure group were the landowners, not only the great territorial magnates, who were members of the senatorial aristocracy and had a direct part in forming government policy, but proprietors of medium and even modest degree who resided in the provinces.] [Landowners, some considerable, others more modest, filled the city councils, and the provincial and diocesan assemblies were composed of decurions, and of the larger landowners, the *honorati* and *sacerdotales*, who had secured immunity, temporary or permanent, from the *curia*.] Both the city councils and the provincial and diocesan assemblies, as we have seen, had the right of sending delegations and presenting petitions to the government and exercised it freely, and their efforts were often crowned with success.⁹⁰

They are on several occasions recorded to have obtained substantial reductions in the land tax, and often secured from the government the prohibition of vexatious or extortionate practices in its collection. They also elicited legislation confirming the security of lessees of crown lands and restraining the activity of informers who claimed land for the crown. They furthermore stood up for the rights of the subject, or at any rate the wealthier class of subject, demanding, for instance, that provincial governors should be compelled to allow appeals to the higher courts. In general they seem to have maintained with some success the interests of the provincial landowners against the claims of the treasury and the extortion of the imperial army and bureaucracy, and it is probable that a good deal of legislation against the malpractices of soldiers and officials was inspired by them.⁹¹

Both cities and provinces, moreover, interested themselves in the measures taken for the maintenance of the curial class. The decurions of Colonia Agrippinensis asked Constantine if they might enrol Jews. The *ordo* of Constantina Circa asked his son that legal expenses incurred in reclaiming aberrant decurions should be refunded by the culprits. The councils of Carthage and Caesena evidently complained that many of their numbers were evading their duties by obtaining honorary codicils. Provincial assemblies, where *honorati* were probably the dominating element,

are not recorded to have complained about this last abuse, but the province of Byzacena obtained from Valentinian I a strict law about decurions of a humbler sort who took holy orders, and Mauretania Sitifensis evidently raised the question of persons of curial descent who joined the army or entered the civil service. Much of the legislation on the *curiales* may in fact have been initiated by the cities, though they were less enthusiastic when it came to the invidious task of enforcing it.⁹²

Though the provincial landowning class was able to exercise a considerable influence on the central government, a far more powerful pressure group was formed by its own higher officials. The lower grades of the bureaucracy, the *cobortales* who staffed the provincial offices, and the *Caesariani* who served the *rationales*, had evidently no influence. The laws deal very severely with them, and their meagre privileges do not seem to have been increased: the *cobortales* of Syria had apparently still to be content in the reign of Valens with the privileges which Diocletian had given to them, and asked no more than that they should be confirmed. *Vicariani* and other officials of like status seem also to have had little influence: the one recorded attempt of a vicar's *officium* to enlarge its privileges—the request by the *officium* of Pontica for a place in the *agentes in rebus* for its *cornicularius* on completing his service—was rejected by the government. The officials of the *comitatus* on the other hand, the notaries, the silentiaries, the clerks of the *sacra scrinia*, the *agentes in rebus*, the *protectores domestici*, and the *palatini* of the two finance departments, not to speak of the eunuchs of the sacred bedchamber, received lavish and ever-increasing grants of fiscal immunities and jurisdictional privileges, and were progressively promoted to higher ranks in the senatorial order on their retirement and even when still serving.⁹³

Attempts were made from time to time to limit the perquisites of such officials and to curb their powers of extortion, but such measures were generally shortlived. In 425 Theodosius II enacted that informants who established the claim of the crown to any property should not, as had hitherto been usual, receive the whole property concerned as their reward, but surrender half of it to the treasury. Five years later he ruled that his *cubicularii*, instead of being put to the trouble of making two claims, first for the half to which they were entitled by the law, and then for the treasury's half, might, despite the new law, receive the whole property at once. Again, in 440, in order to check the extortion of the *palatini* sent into the provinces to collect the taxes due to the *largitiones* and the *res privata*, Valentinian III, on the suggestion of his praetorian prefect, enacted that provincial governors should be authorised to

report cases of extortion to the prefect. Two years later this law was rescinded, and the *palatini* were restored to the jurisdiction of their own departmental ministers.⁹⁴

The officials of the great ministries which were not part of the *comitatus*, those of the urban and praetorian prefects and of the *magistri militum*, though they too achieved a highly favourable position for themselves, did not obtain such high privileges and honours as those of the palatine ministries. The privileges of officials vary exactly according to their proximity to the emperor and not according to the importance of their work. *Cubicularii*, notaries and silentiaries, who were in personal attendance on the emperors, head the list; they are followed by the other palatine ministries, and these by the great ministries outside the palace.

[Another powerful pressure group were the lawyers, who achieved for themselves a highly privileged status.] Here again the degree of privilege varied according to proximity to the emperor. The bar of the praetorian prefecture of the East was the most highly honoured, and those of the urban prefecture and the praetorian prefecture of Illyricum usually lagged a step or two behind. Lesser privileges were enjoyed by the barristers who practised in the courts of the vicars and other judges of *spectabilis* grade, and those of the *ordinarii iudices*, the provincial governors. Privilege was, however, much less steeply graded than among officials, and even the provincial bars successfully petitioned the government for recognition of their rights. Lawyers evidently in the later Roman empire, as in most ages, had a strong *esprit de corps*.⁹⁵

The last and most powerful influence on the government was that of the senatorial aristocracy. [Since the great ministers who drafted the laws and framed imperial policy were often drawn from this class, and even if they had risen from humbler ranks of society generally tended to become assimilated to it, it is not easy to distinguish the governmental from the senatorial point of view.] There was often a conflict between the interests of the state and those of the senatorial class, and ministers must have been divided in their allegiance. Such internal conflicts within the minds of members of the government have naturally left no mark on our record, and even dissensions between different members of the government are very difficult to trace. The conflict comes into the open only when the senate, which on the whole represented the class interests of the order, resisted measures taken by the emperor or his ministers or petitioned the emperor for legislation.

A clear instance is to be found in a series of constitutions issued by Honorius (or rather Stilicho) in 397, the year of Gildo's revolt. The first orders a levy of recruits, in which not even the lands of

the *res privata* are to be excused. The second, three months later, concedes to the petition of the senate that senators may have the option of paying gold, at the rate of 25 solidi per man, in place of the recruits due from their estates, and the third extends this privilege to lands of the *res privata* held on perpetual leases by senators. Symmachus' letters reveal another conflict which broke out shortly afterwards on a closely allied issue. The government had, it appears, ordered a levy of slaves for the army—a sure sign that the position was very critical. Once again the senate sent a delegation to Milan to protest, and once again they were successful, being permitted to commute at the rate of 5 lb. silver per man. On this question the needs of the state, which urgently required reinforcements for the army, had to yield to the interests of the senatorial order, whose members were reluctant to part with the tenants who cultivated their vast estates or with the slaves who served their town houses.⁹⁶

One may suspect that another conflict, this time on the question of land tax, lies behind a novel of Valentinian III, dated 5 March 450, and addressed to the consuls, praetors, tribunes of the plebs and senate. In it the emperor, with a wealth of circumstantial detail, denounces the evil practices of financial officials and enlarges feelingly on the woes of landowners. He promises that in future no special commissioners shall be sent to investigate and exact arrears of land tax except on the personal mandate of the praetorian prefect and the great patrician Aetius. Finally he remits all arrears up to 1 September 447 with two minor exceptions.

It is more than probable that this constitution is a reply to a petition from the senate, from which the lurid description of the wickedness of officials and the sorrows of landlords has been lifted bodily. These allegations may have had much truth in them, but they hardly justified the sweeping financial concession which was granted, particularly as the government had only five years before publicly lamented that it was quite unable to make ends meet on the existing scale of taxation. Here again the interests of the senatorial landowners seem to have prevailed against the state's urgent financial needs.⁹⁷

CHAPTER XII

THE ADMINISTRATION

ROME, and later Constantinople, were the titular capitals of the empire, but since the emperor was an absolute monarch, on whose will—or at any rate on whose signature—every act of government depended, the actual administrative capital was wherever the emperor happened at the time to be, and his ministries with their staffs had to follow him on his journeys. Down to the death of Theodosius the Great, while the emperor still normally took the field in major wars, and sometimes made tours of inspection in the frontier areas, the *comitatus*, the group of ministries which were attached to the emperor's person and formed the central government, was in fact a migratory body. Its movements can be traced by the subscriptions of the imperial constitutions preserved in the Codes, which record both the date and place of issue. In the West the emperor generally at this period resided at such towns as Trier in Gaul or Sirmium in Pannonia, if in Italy at Milan, rarely visiting Rome. In the East, Constantinople became from its foundation the normal residence of the emperors, but Constantius II spent most of the first twelve years of his reign on the Eastern front; chiefly at Antioch, only occasionally visiting the capital, and Valens resided for three years at the beginning of his reign in Moesia, at Marcianopolis or Durostorum, and during his last eight years was mostly at Antioch.

Even while the *comitatus* was in transit the work of the government could not stop, and many constitutions are dated from minor towns and even posting stations on the major roads. After 395 the Eastern emperors settled permanently at Constantinople, only going for an occasional holiday to towns in the immediate neighbourhood like Eudoxiopolis in Thrace, or Nicaea or Nicomedia in Bithynia; Arcadius fairly regularly passed the summer months further afield at Ancyra. In the West, Milan remained the normal capital until Honorius moved for safety to Ravenna, and Ravenna became thereafter the regular seat of government for the last emperors, and for Odoacer and Theoderic, and Justinian's

governors general of Italy. The fifth-century emperors, however, spent considerable periods at Rome, and some, like Majorian, travelled widely over what remained of the empire.

The *comitatus* comprised, besides the household establishment (*sacrum cubiculum*) with its staff of eunuch chamberlains (*cubicularii*), domestic personnel (*castrensiani*) and ushers (*silentiarii*), the guards (*scholae*), the consistory with its secretariat (*notarii*) and a group of civilian and military ministers, with their respective offices, the quaestor, the *magister officiorum*, the *comites sacrarum largitionum* and *rei privatae*, and the *comes* (or later *comites*) of the *domestici*. One of the praetorian prefects was also always attached to the emperor with his *officium*, and from the time of Constantine two *magistri*, *peditem* and *equitem*, with their staffs, were likewise standing members of the *comitatus*. The guards numbered about 3000, and the civil servants of the various ministries and the military staff must have run to an even larger figure.¹

When in transit the *comitatus* must have presented a formidable spectacle. The roads must have been packed for miles with thousands of troopers of the guard and clerks of the ministries (who were appropriately rated as troopers and drew fodder allowances), and choked with trains of wagons piled with boxes of files (*scrinia*) and sacks of coins and bars of gold and silver; for the emperors carried round their treasuries with them, and even, from Valentinian I's time, their principal mint. The task of billeting the *comitatus* on its journeys must have taxed the energies of the imperial *mensores*, who went ahead to requisition lodgings; and even in the larger towns, where the emperor made longer stops, the problem of accommodation must have been difficult. In the fourth century the life of a palatine civil servant must have been strenuous and uncomfortable, and Constantine was not exaggerating when he declared that his *palatini*, 'who follow our standards, who always assist our actions, who, bent on their clerical duties, are exposed to lengthy journeys and difficult marches, are no strangers to the dust and toil of the camp'. The central civil servants of the emperor had occasion to be grateful when the emperors by abandoning their role as commanders in chief allowed them to live a more settled life.²

The organisation of the *comitatus* naturally went through many changes between Diocletian and Justinian, but its essential structure remained the same with one important exception, the creation by Constantine of separate military departments. On the legal and secretarial sides Constantine also made some changes. Hitherto the *magistri* of the three departments of *memoria*, *epistulae* and *libelli* had been the emperor's principal secretaries of state and the *magister*

memoriae seems to have been his chief legal adviser, and, in so far as such an office existed, foreign minister. Constantine created the office of quaestor of the sacred palace, who became the chief legal adviser, and in particular had the duty of drafting imperial constitutions, and the *magistri* of the *scrinia* sank to a secondary position.³

The *scrinia* had many administrative tasks in addition to their legal duties. They handled miscellaneous petitions of all kinds and drafted the emperor's replies to them. They received and filed and distributed sundry returns and reports made regularly to the central government—returns of army strength, reports on students at Rome, the minutes of the Roman senate and what not. They also acted as the establishments department of the civil service and the army, issuing the enrolment papers (*probatoriae*) of officials and soldiers throughout the empire. No clear distinction can be drawn between the functions of the three *scrinia*, and some at any rate of these miscellaneous duties were distributed in a quite arbitrary fashion between them.⁴

Rather similar functions were performed by the *primicerius* of the notaries, who was responsible for issuing their codicils of office to all persons appointed to administrative posts (*dignitates, honores* or *administrationes*) from provincial governor upward. In the Eastern parts he also issued their commissions to most army officers; some received theirs from the quaestor. In the West it was, from Stilicho's time at any rate, the masters of the soldiers who issued commissions. The *tertiocerus* of the notaries also had duties similar to those of the *sacra scrinia*, dealing with petitions and drafting special ordinances in response to them, presumably when the matter was handled by the consistory.⁵

Another innovation of Constantine's time was the *magister officiorum*, a minister whose original functions are obscure and who in the course of time acquired a curiously miscellaneous group of duties. In the *Notitia Dignitatum* he has 'under his disposition' the *scholae*, the *agentes in rebus*, the *sacra scrinia* and the *scrinium dispositionum*, sundry minor palatine *officia* such as the *admissionales, decani, cancellarii, lampadarii* and *mensores*, and the corps of interpreters of all nations. He also controls the armament factories (the *fabricae*) throughout the empire.⁶

His title implies that he was originally in some sense the controller of the three chief *officia*, that is the *sacra scrinia*, and no doubt of the other minor palatine *officia* which were later under his disposition. His control of the *agentes in rebus* seems also to be primitive. They were his own corps, as their Greek title of *μαγιστραβολ* shows, and he drew from their ranks his own *officium*,

his assistant (*adiutor*) and deputy assistants (*subadiuvae*). On the other hand, he was not concerned with the work done by the clerks of the *sacra scrinia*, who assisted the quaestor and their own *magistri*. The master of the offices is perhaps to be conceived as being in administrative and disciplinary control of the palatine *officia* (apart from the financial offices) and their general co-ordinator. His control over the *scholae* was probably also administrative and disciplinary: he is never recorded to have commanded them in action. It is not known when he acquired this function, but it was probably not originally part of his office, for in Constantine's day he ranked as a tribune himself and therefore can hardly have had authority superior to that of the tribunes of the several *scholae*.⁷

As head of the *agentes in rebus*, the corps of imperial couriers, the master of the offices acquired considerable powers over the public post. The *cursus publicus* continued to be administered and supplied by the praetorian prefects, who also retained the right of issuing postal warrants (*evectiones*) in their own name for their own use. But from Julian's time the *magister* signed (in the emperor's name) all other warrants, supplying them to other officers of state who required them. The *curiosi* or inspectors of the post in the provinces were drawn from the *agentes in rebus* and responsible to him. As chief of the *mensores* he regulated billeting throughout the empire. Through the *officium admissionum* he controlled audiences with the emperor, both by individuals and by official delegations from cities and provinces and by envoys of foreign states: in the last case he supplied the necessary interpreters. He thus became a sort of minister for foreign affairs; later *magistri* are much concerned in negotiations and treaties. The master's control of the arms factories, originally the department of the praetorian prefects, appears to be a purely arbitrary extension of his functions; it is first recorded in 390 and was probably due to the ambition of Rufinus, then master of the offices. In the East the *barbaricarii* were also transferred to the *magister's* care from that of the *comes sacrarum largitionum* at about the same time. In 443 the *magister* acquitted (in the Eastern parts) another equally anomalous function, that of annually inspecting and reporting upon the *limitanei*. Here too it may be suspected that the change was due to the personal initiative of Nomus, the *magister officiorum* at the time, who was a very influential minister.⁸

The *comes sacrarum largitionum* was responsible for the gold (and probably silver) mines and the mints throughout the empire, for a number of taxes levied in the precious metals, and for the payment of their cash *stipendia* and their donatives to the army and civil

service. In the West, and in the East down to the reign of Theodosius, he managed the factories of *barbaricarii*, who adorned the armour of officers with gold and silver. He also issued clothing to soldiers and officials, and controlled the state weaving and dyeing factories. The *comes rei privatae* managed the imperial estates throughout the empire and collected their rents, and claimed for the crown properties which accrued to it by forfeiture or escheat or otherwise.⁹

These offices were attached to the emperor's person, and when the empire was divided between two or more Augusti each had his own staff of ministers, whose responsibilities extended to that part of the empire which their master ruled. The same was broadly true of Caesars, but in some cases a Caesar did not exercise control over all departments of administration within his zone: thus Julian in Gaul had no *comes sacrarum largitionum* and was dependent for his supplies of cash on Ursulus, who as *comes* of Constantius controlled the *largitiones* throughout the whole empire.¹⁰

The praetorian prefects were originally attached personally to the emperor in the same way, and each Augustus and Caesar who ruled a portion of the empire had his prefect. Constantine appears to have made an innovation here, adding to those who were attached to himself and his Caesars one or two other prefects who were responsible for a diocese or group of dioceses within one of the imperial zones. On Constantine's death his three sons reverted to the old system, each having his own prefect, responsible for all his dominions. When, however, Constantine added his brother Constantine's zone to his own, he still maintained a separate praetorian prefect of the Gauls, and Constantius II, when he reunited the empire under his rule, continued to appoint three prefects. Thereafter it became customary to have three prefects, who ruled the Gauls (Britain and Spain besides the two Gallic dioceses), Italy (with Africa and Pannonia, Dacia and Macedonia) and the East (Thrace, Asiana, Pontica and Oriens): sometimes the large central prefecture was split into two—the Illyrican dioceses and Italy with Africa. Thus when the empire was under a single emperor there were two or three prefects detached from his person, and when it was divided between two there was still at least one prefect with his separate territorial zone.¹¹

After the final division of the empire in 395 the system of prefects was stabilised in the form shown in the Notitia Dignitatum, in the West a prefecture of Italy (including Pannonia) and one of the Gauls, and in the East a prefecture of the East and another of Illyricum (Dacia and Macedonia). Hereafter the praetorian prefect of Italy was, since the Western emperor always lived in Italy,

permanently *in praesenti* and in practice a leading minister of the *comitatus*, whether he was technically a member of it or not, while his Gallic colleague was permanently detached from the central government. In the East similarly the praetorian prefect of the East, residing at Constantinople, was the emperor's chief civilian minister, while his colleague in Illyricum played a very minor role. With the collapse of the empire in the West Odoacer and Theoderic maintained the praetorian prefecture of Italy, now reduced to the two Italian dioceses and what was left of Pannonia, and the latter also had a prefect for the fragment of the Gauls which he still ruled. Justinian on the reconquest of Africa made it a separate prefecture (including Sardinia and Corsica which had belonged to Italy, and Tingitania which had been attached to the Gauls), and continued the prefecture of Italy when it too was recovered. He also created what was virtually a new praetorian prefecture under the title of the *quaestura exercitus*, comprising the provinces of Moesia and Scythia, and Caria, the Islands and Cyprus, which were withdrawn from the East.¹²

By Diocletian's time the praetorian prefect had become a kind of grand vizier, the emperor's second in command, wielding a wide authority in almost every sphere of government, military and judicial, financial and general administration. He was the emperor's chief of staff, adjutant-general and quartermaster-general rolled into one, being responsible for the recruitment, discipline and supply of the army and, on occasion, taking command in the emperor's place. As the emperor's delegate he exercised an appellate jurisdiction which covered the whole empire, and from which there was no further appeal, except perhaps to the emperor himself. He exercised a general administrative authority over all provincial governors and through them controlled such services as the post and public works. And finally, since owing to the depreciation of the currency the major needs of the empire were supplied by requisitions in kind, operated through the provincial governors, he had become *de facto* the principal finance minister of the empire.¹³

(This extraordinary concentration of functions was drastically reduced by Constantine when he created the *magistri militum* to take over the command of the army.) Henceforth the prefects were purely civilian ministers, but they still retained very wide and multifarious functions. They remained, side by side with the emperor, the supreme judges of appeal, and their financial functions became increasingly important. They continued to be responsible for the recruitment and supply of the army, for the post and for public works. And they retained a general control over provincial

governors, by virtue of which they were responsible for what can only be called the general administration of the empire: in the *Notitia Dignitatum* the dioceses and the provinces are stated to be under the disposition of the praetorian prefects.¹⁴

The prefect had *de facto* a considerable voice in appointing provincial governors; he had exclusive jurisdiction over them; and he was in 389 empowered to dismiss a governor of his own motion, if guilty of neglect or misconduct, and to nominate an acting governor to replace him until the emperor should make a regular appointment. The praetorian prefect was the normal channel through which instructions were circulated to provincial governors. A very high proportion of the laws in the Codes, laws which deal with a wide variety of topics, are addressed to a praetorian prefect, and the reason for this appears from the novels, which preserve a final clause instructing the prefect to circularise all provincial governors. The prefects no doubt often acted merely as postboxes, but they were responsible for the enforcement of the laws in the provinces and they were therefore of necessity concerned with the general efficiency of the administrative machine, and in particular of the city governments, on whom in the last resort most administrative action rested. The praetorian prefects thus inevitably assumed responsibility for many general administrative questions which did not belong to any other department, such as the maintenance of the curial order.¹⁵

Of the military members of the *comitatus* little need be said. The *magistri militum* were originally the commanders of the field army, the *comitatenses* which Constantine put upon a regular footing. Under his sons a large proportion of the field army was drafted into regional groups, under separate *magistri equitum* or *comites rei militaris*, but there remained a palatine army or armies at the emperor's immediate disposal, and the commanders of these forces, the two *magistri militum in praesenti*, continued to be members of the *comitatus*. Of the functions of the *comes domesticorum* nothing is known save that he commanded the corps of officer cadets, the *domestici et protectores*. From the early fifth century there were two *comites domesticorum equitum* and *peditum*. The office ranked high in the military hierarchy, and was often a stepping-stone to that of *magister militum*. The tribunes of the *scholae* were naturally members of the *comitatus*, and as such ranked higher than the tribunes of ordinary regiments. They were frequently promoted to the higher military commands, and from the early fifth century were generally accorded the title of *comites primi ordinis*. With them ranked two tribunes with special administrative duties, the *cura palatii* and the *tribunus* (later *comes*) *stabuli*, who commanded a corps of grooms

and equeries (*stratores*) and was responsible for the levy of horses not only for the court but for the cavalry as a whole.¹⁶

Such was the structure of the central administrative machine. The provinces were ruled by governors of various ranks and titles, proconsuls, consulars (a grade created or revived by Constantine), *correctores* and *praesides*; Justinian resurrected the ancient style of praetor and invented moderator; some governors also were styled *comites* and Egypt always had a prefect. Up to Diocletian's day provincial governors had varied considerably in importance. Some provinces were small, others were very large: some were ungarisoned, in others the governor was army commander as well as civil administrator. By breaking up the larger provinces, and by creating separate military commanders, *duces*, in many frontier areas, Diocletian levelled down the status of provincial governors. Constantine completed the separation of military command from civil government, and henceforth it was only in a very few cases that they were reunited, and then as a rule temporarily only, until the reign of Justinian, who vested the governors of some unruly provinces, notably in Egypt and Asia Minor, with military powers.¹⁷

Diocletian grouped the provinces into larger circumscriptions, called dioceses, under *vicarii* or deputies of the praetorian prefects. The dioceses officially numbered twelve, Britain, Gaul, Viennensis, Spain, Italy, Africa, Pannonia, Moesia, Thrace, Asiana, Pontica and Oriens, but Italy was in practice divided between two vicars, those of Italy (the north) and the city (the south with the islands). This organisation underwent very little change in the following two centuries. Moesia was divided into the two dioceses of Dacia and Macedonia by Constantine, and Egypt was detached from that of Oriens by Valens; the governors of the last two dioceses bore the exceptional titles of *praefectus Augustalis* and *comes Orientis* respectively. It was apparently usual (except in the prefecture of the East) for the praetorian prefect to administer directly the diocese in which he resided. Thus the *Notitia* shows no vicar of Dacia, where the prefect of Illyricum then had his seat. There is no vicar of the diocese of Pannonia in the index, and in the text no chapter for the vicars of either Pannonia or Italy; this must be because when the praetorian prefect of Italy normally resided at Sirmium the vicariate of Pannonia lapsed, and when he moved into northern Italy he took over the vicariate of Italy also. In Gaul the development was rather different. The index shows

vicars of Britain, Spain and the Seven Provinces; the prefect himself administered the diocese of Gaul from Trier. But the text shows that the vicar of the Seven Provinces actually was in charge of both Gallic dioceses; when the prefect moved down to Arles he placed the northern diocese which he had governed directly under the vicar of the southern diocese.¹⁸

In the prefecture of the East the diocesan system seems in the course of the fifth century to have ceased to function effectively. Anastasius appears to have abolished the vicariate of Thrace, and by Justinian's time the vicariates of Asiana and Pontica were doubled with the governorships of Phrygia Pacatiana and Galatia Salutaris, and the *comitiva Orientis* with that of Syria Prima: the Augustal prefect had always been concurrently governor of the province of Aegyptus. Justinian probably made little effective change when he formally suppressed the vicariates of Asiana and Pontica, made the *comes Orientis* merely governor of Syria I, and confined the authority of the Augustal prefect to Aegyptus only. Later in his reign, however, Justinian restored the vicariates of Thrace and Pontica and gave back his old powers to the *comes Orientis*.¹⁹

Except for defence the provincial governor was responsible for all departments of administration within his province. He was the judge of first instance (*iudex ordinarius*) in all matters except those falling under special military or fiscal jurisdictions. He collected the revenue not only for the praetorian prefect's department, but for the *largitiones* and usually for the *res privata* as well. He maintained the post and public works, supervised the city governments, and was in general responsible for maintaining law and order and executing the commands of the central government.²⁰

The duties of the vicars are less easy to define. They acted as judges of appeal for the courts of their provincial governors, and exercised a general supervision over their administration. They seem to have been a rather unnecessary wheel in the administrative machine, especially after the growth of regional praetorian prefectures. Appeals might go to them, but they might also go to the prefects direct, and most litigants preferred to go to the latter, whose judgment was final, whereas from the vicar's court a further appeal lay to the emperor. In fiscal matters the prefects tended more and more to by-pass the vicars and deal with the provincial governors direct.²¹

It is in fact somewhat misleading to speak of an administrative hierarchy. The pyramid of emperor, praetorian prefects, vicars and provincial governors looks very neat as set out in the *Notitia Dignitatum*, but there was in reality no rigid chain of command.

Not only might a prefect by-pass his vicars. A mere provincial governor might refer a question direct to the emperor, and the emperor might write to him direct. This was a constitutional prerogative of the proconsuls of Africa and Asia, who stood outside the official hierarchy, not being under the disposition of the vicars of Africa and Asiana, nor even of the praetorian prefects. But apart from these special cases the Theodosian Code contains a considerable number of constitutions addressed to ordinary governors. It is usually impossible to determine the circumstances. The emperors on occasion circularised all provincial governors (some laws are addressed 'omnibus rectoribus provinciarum'), and some of the surviving laws addressed to individual governors are no doubt copies of such circulars. But a number contain local references which show that the law in question was issued specially either in response to a letter from the governor addressed, or as a result of information received from or petitions forwarded by persons in the province. Many read like replies to specific queries: it seems for instance unlikely that Julian would have given a ruling on the curial obligations of a father of thirteen children to the consular of Palestine unless the latter had reported this remarkable case.²²

Rome and after 359 Constantinople stood outside the provincial scheme, being governed by prefects of the city, who were co-ordinate in rank with the praetorian prefects, and had under their disposition a number of minor officers responsible for the corn supply, the aqueducts, the police and other branches of the urban administration. Here again there was no clear chain of responsibility. The emperors not infrequently issued instructions direct to these minor officers, and the authority of the urban prefect over them was ill defined. 'While the whole of the civil administration belongs to the urban prefecture,' Symmachus complained, 'certain branches are entrusted to minor offices', but owing to the poor quality of the men whom the emperor appointed to these offices 'the weight of the entire administration falls on my shoulders'. Gratian was evidently asked to lay down the relative roles of the *praefectus urbi* and the *praefectus annonae* in the matter of the corn supply, but his ruling on the question is a model of tactful equivocation.²³

The military hierarchy was simpler than the civil. The office of *magister militum* underwent a similar evolution to that of praetorian prefect. Originally under Constantine there were two *magistri* only, for the foot and the horse, attached to the emperor's person. Already under Constantine's sons it was found necessary to split the field army into palatine and regional groups, and to appoint

additional *magistri* to command the latter. In the Eastern parts these regional *magistri*, responsible for the Eastern, Thracian and Illyrian fronts, remained co-ordinate with the two *magistri praesentales*, and they not only commanded the field armies but controlled the *duces* within their zones. Justinian modified and expanded the system, splitting the long Eastern front between two masters of the soldiers, of the East and of Armenia, and creating new commands for the Western areas which he reconquered, Africa, Italy and Spain. In the Western parts the system was from Stilicho's time much more centralised. The *magister peditum praesentalis* had 'under his disposition' all the *comites rei militaris* who commanded regional groups of the field army, and all the *duces* with their *limitanei*: even when there was a *magister equitum per Gallias* he was *de facto*, if not in strict protocol, subordinate to the *magister praesentalis*.²⁴

The two financial offices of the *largitiones* and the *res privata* had their hierarchies of officers under their disposition in the dioceses and provinces. The *rationales rei summae* and *magistri rei privatae* who represented the two departments at diocesan level seem in Diocletian's day to have been important officers, comparable with the *vicarii* of the praetorian prefects, but by the end of the fourth century the *rationales summarum*, or *comites largitionum* as they were called in the East, and the *rationales rei privatae*, as they were now styled, had ceased to be of any account.²⁵

In the military and financial spheres as in that of the civil administration it is somewhat misleading to speak of a hierarchy. A *comes rei militaris* and even a *dux*, though subordinate to his *magister militum*, was responsible to the emperor. He could report to him direct, and the emperor could issue him instructions. We similarly find the emperor corresponding directly with *rationales* during the fourth century.²⁶

There was also considerable overlapping and friction between military and civil hierarchies. There were constant conflicts of jurisdiction between *duces* and provincial governors, in which the former seem generally to have won the day. The higher military commanders also often exercised unwarrantable authority over civilian officers. Theodosius I had to reprove Addaeus, master of the soldiers in the East, for chastising the *corrector* of Augustamnica; even though the *corrector* had insulted a *dux*, it was for the praetorian prefect to deal with the case. In 431 Dionysius, another master of the soldiers in the East, instructed the governor of Cyprus to prevent the bishops of that island from consecrating a metropolitan, and threatened him with a fine of 5 lb. gold if he disobeyed. The story which lies behind this incident is instructive. It was

the patriarch of Antioch, who was anxious to assert his authority over Cyprus, who persuaded Dionysius to take this action. If he was entitled to call in the secular arm at all, he should presumably have appealed to the praetorian prefect of the East, or the *comes Orientis*. But the former was at Constantinople and not subject to his personal influence, and the latter, who was at Antioch, would not have acted without consulting his chief—or was perhaps not a friend of the patriarch. The *magister militum* was on the spot, and as an illustrious officer was responsible to the emperor alone. That the governor of Cyprus was not officially subject to his authority does not seem to have mattered; a mere *clarissimus* would never dare to resist the will of an *illustris*.²⁷

The whole administrative system was something of a patchwork. It was not rationally planned, but the product of gradual piecemeal development, punctuated by periodic reorganisations. The division of finance between the three departments of the *largitiones*, the *res privata* and the praetorian prefecture was the product of historical causes. So too was the combination of finance and justice in the hands of the praetorian prefects. Constantine did something to rationalise the system by separating the military command from the civil administration, but apart from this there was no major reorganisation. (The lack of any clearly defined hierarchy of offices was also the result of historical causes.) Under the Principate provincial governors had been directly responsible to the emperor, and despite the growth of the praetorian prefecture and the creation of the vicariates the old direct link of the emperor and his governors was never absolutely broken. The *duces* similarly were originally directly responsible to the emperor, and though with the growth of the masterships of the soldiers they tended to fall under their authority the emperor did not abandon his direct control over them. The confusion was increased by the autocratic character of the empire. The emperor would tolerate no restrictive rules, and insisted on his power to intervene at any level if he so pleased. This attitude was copied by his principal ministers and commanders, who arrogated to themselves powers to which they had no legal claim.

Though the service of the emperor in all its forms was often loosely styled *militia*, there was a clear distinction, both in form and substance, between *militia* in the narrower and technical sense of service as a common soldier or non-commissioned officer in the army or as an official in the civil service, and the higher military

and administrative posts, the *dignitates*, *honores* or *administrationes*. There was a formal difference in the method of appointment. A *militia* was granted by a document known as a *probatoria*, a certificate of enlistment, issued by the *sacra scrinia* or by some inferior authority. A *dignitas* was conferred by a letter or codicil signed by the emperor, and in most cases issued through the *primicerius* of the notaries. The most important difference of substance was that a *militia* was a permanent appointment: its holder was, unless cashiered for misconduct or discharged for ill health or old age, entitled—and usually obliged—to serve either for a long term of years or until he had by regular promotion reached the top of his unit or office. In effect a *militia* was normally a life's career. *Dignitates* were, on the other hand, held during the emperor's pleasure, and in fact usually for quite short periods, and not necessarily, or indeed normally, in continuous sequence.²⁸

There were some anomalous posts which, while graded as *dignitates*, were permanent. The post of *protector* or *domesticus* had this ambiguous character. It is called a *dignitas*, and was conferred personally by the emperor, though usually not by letter or codicil, but by a verbal command: but *protectores* and *domestici* served continuously in their corps until they were promoted to a higher *dignitas* or reached the top of the list. The notaries similarly served continuously in their corps, although they ranked as *domestici* or tribunes; here the anomaly was due to the upgrading of what had originally been an ordinary *militia*, the holders of which were later accorded officer rank. But these are exceptional cases. Normally *dignitates* did not offer a continuous life's career, but were held intermittently and for short spells.²⁹

The range of offices which ranked as *dignitates* was very wide and their number very large. From the time of Constantine they were sharply divided into military and civil; very few posts combined both functions, and with rare exceptions the same man did not hold military and civilian appointments. Offices were carefully graded in order of precedence: the laws on the subject begin with Valentinian I, who seems to have made a systematic attempt to co-ordinate military with civilian grades and the imperial, once equestrian, appointments with the surviving senatorial magistracies, so as to produce one uniform order of precedence. Henceforth all *dignitates* fell into a number of grades, which soon came to carry titles of honour. First came the praetorian and urban prefects and the masters of the soldiers; next the major palatine offices. Both these came to be called *illustres*. Next came two grades who bore the title of *spectabiles*, consisting of proconsuls and of vicars, to whom were assimilated *comites rei militaris* and *duces* and some

minor palatine offices. Below these were provincial governors, again in two grades, *consulares* and *praesides*, the former ranking as *clarissimi*, the latter as *perfectissimi* until the end of the fourth century, when they too were promoted to the clarissimate. For the precedence of the other lower *dignitates* our information is inadequate, but with or below provincial governors ranked the minor officers under the disposition of the urban prefects at Rome and Constantinople, the *comites*, *rationales*, *procuratores* and *praepositi* under the disposition of the *comites sacrarum largitionum* and *rei privatae*, and the regimental commanders, tribunes, prefects and *praepositi*, of the army.³⁰

The number of appointments in these lower grades was very large. There were already by the end of Diocletian's reign about a hundred provinces for which governors had to be supplied, and their number tended to increase slightly: there were 114 by the time of the Notitia, 57 in the West and 57 in the East, and by the early years of Justinian's reign the latter number had risen to 62. The Notitia records 69 posts in the department of the *largitiones* and 24 in that of the *res privata* in the West and there were presumably similar numbers in the East, where the full list does not survive. Under the prefect of Rome there were 15 minor offices; the establishment of Constantinople has been lost. Finally there were nearly 400 units in the Western army and some 500 in the Eastern, to which tribunes or prefects had to be appointed.³¹

The emperors, even if the empire was, as normally, divided, thus had a very large number of posts to fill. The number of appointments to be made would of course be affected by the length of time for which they were held. This was very variable, depending on the arbitrary will of the emperor—subject naturally to the advice or pressure of his entourage—and no rule or custom seems to have been established. Our evidence for the lower offices is very inadequate, and even for the highest is far from complete. For the sequence of the higher officers of state we are in the main dependent on the Codes and Novels, which record the laws addressed to them. It is therefore only possible to establish an even approximately full list of the holders of an office if there is a frequent and continuous series of laws addressed to that office, and there are in fact always gaps in any series. The Codes can give only a minimum number of holders, even in the most favourable circumstances. For a few limited periods historians give us fuller information, but their evidence is also generally unsystematic and fragmentary. Inscriptions also in some areas and periods help to fill the gaps, but they are rarely sufficiently numerous to provide anything like a complete record. For two offices only are we for-

tunate enough to possess full lists of their holders over any considerable period.

One of these is the urban prefecture of Rome, where a chronicler has provided us with a list, with exact dates, running down to 354. With the aid of Ammianus Marcellinus and the Codes and the inscriptions this list can be continued with certainty down to 374. In the ninety years between 284 and 374 seventy-eight appointments were made, and seventy-one men held the office (six serving for two terms and one for three). After 374 the list, being dependent on the Codes and Novels, inscriptions and scattered literary references, cannot be regarded as absolutely complete, but over forty persons are known to have held the office between 375 and 425, a few of them twice or three times. The average term of office thus works out at little over one year.³²

The urban prefecture of Rome was perhaps a rather abnormal case among the offices of the highest rank. In the fourth century the praetorian prefecture was normally held for rather longer terms, three or four years or occasionally more, though brief tenures of a year or less are not unknown. The clearest case is the prefecture of the East, where eleven men occupied the post between the accession of Constantius II in 337 down to 369, an average of three years; then followed Modestus with the exceptional term of eight years. In the fifth century the turnover became more rapid. After Anthemius, who again enjoyed an abnormally long term, nine or ten years, the Codes and the Novels record twenty men (four of whom served twice) between 414 and 455, and this list is not complete, for among the senators who attended the council of Chalcedon in 451 were three ex-praetorian prefects of the East who are not known to the Code and Novels. The average tenure of the prefecture was thus in this period about eighteen months, and this appears, so far as we can judge from our imperfect records, to have remained normal, with some notable exceptions, such as John the Cappadocian, who held the office for ten years. The prefecture of Italy follows the same general pattern, with rather longer tenures in the fourth century and a more rapid succession in the fifth, and though our lists for Gaul and Illyricum are too incomplete to warrant any very firm conclusions, there is no reason to think that they did not follow the same line.³³

The evidence for the *magistri militum* suggests that in the fourth century they were kept longer in their posts than the praetorian prefects. In the West the *magister praesentalis* became from 395 virtually the ruler of the empire, and as a consequence there is a series of long reigns. In the East the evidence for the fifth century is slight, but the *magistri* do not seem to have changed so frequently

as the praetorian prefects, and some, like Areobindus and Aspar, had very long tenures. For the higher palatine ministers the data are also inadequate, but it seems to have been uncommon to hold these offices for more than two or three years, and there are occasional sequences showing a more rapid turnover. In these offices too there are occasional long tenures; Helion for instance was master of the offices for at least thirteen years (414-27).³⁴

Among the offices of *spectabilis* rank there is one, the proconsulship of Africa, for which the record, though not complete, is sufficiently full to be of some statistical value. It so happens that the compilers of the Theodosian Code drew extensively on the archives of the proconsulate, so that we have a quite unusual number of laws preserved. Africa is exceptionally rich in inscriptions, and the proconsuls normally came from the great Roman families, whose members have left epigraphic records of their careers at Rome and are known from literary sources. In the sixty years between 357 and 417, during which the list is most complete, over fifty proconsuls of Africa are known. The average tenure was thus little more than a year. The proconsulate of Africa was perhaps like the urban prefecture of Rome, and for the same reasons, a rather abnormal case, but there is no evidence that other proconsuls and vicars enjoyed substantially longer terms of office. The military officers of the same grades, the *comites rei militaris* and *duces*, seem to have been kept longer in their posts. We know of eight *duces* of Egypt between 339 and 368, and though we have no proof that the list is complete, it may well be so, for the first two are known to have held the office for at least five years each; the remaining six would then have averaged three years.³⁵

For ordinary provincial governors we possess one complete list: the index to the festal letters of Athanasius records all the prefects of Egypt (at that time mere provincial governors) between 328 and 373. There were twenty-five of them, and one held the office twice, so that the average tenure was well under two years. If one eliminates the exceptional case of Nestorius, who lasted for seven years, the average is reduced to eighteen months. There is no comparable record for other provinces, but such incomplete data as exist suggest that a year or two was the normal term. For the lowest grade of offices statistical evidence is altogether lacking, but what little evidence there is suggests that the turnover was equally rapid, though tribunates in the army may have been held for longer periods.³⁶

The general practice would then seem to have been to keep men in any given office for a brief spell only. This tendency was more marked in the civilian than in the military offices, and in the lower

than the higher.⁷ It increased as time went on; the praetorian prefecture, held for longer periods in the fourth century, was assimilated in the fifth to the other high offices. Long tenures of office are always exceptional, and mostly occur in the highest offices. Nor does it seem to have been usual for one man to hold a long series of offices. Here again our evidence is lamentably incomplete. Inscriptions provide us with the complete careers of a fair number of Roman senators. From these it appears that in the fourth century a senator who aspired to an illustrious office was normally expected to hold at least one post of *clarissimus* grade and one of *spectabilis*: a common minimum was consular, proconsul, prefect of the city. Great nobles might jump straight to a proconsulate and thus to a prefecture. The more active and ambitious might govern two provinces, serve as vicar as well as proconsul, and add the praetorian to the urban prefecture. Commoners who rose to the top of the tree, to judge by the few careers of which we have a complete record, had to go through a rather longer series of offices. Maximinus governed three provinces and was prefect of the corn supply at Rome before he rose to the rank of *spectabilis* as vicar of the city, and then to the praetorian prefecture of Gaul. Tatian was *praeses* of the Thebaid, prefect of Egypt, consular of Syria and concurrently *comes Orientis*, and then *comes sacrarum largitionum* and finally praetorian prefect. Such men, since they started relatively late in life, after making their name at the bar, and often having served for fairly long terms in some of their offices, might almost make a career of their successive posts: but Tatian was in fact unemployed for ten years between his two illustrious offices.³⁷

In the West in the fifth century the nobly born tended to omit the lowest rungs of the ladder, leaping straight to the urban and praetorian prefectures (which they often held several times) without holding any lower office, or at most one proconsulate or vicariate, or a lesser illustrious office, and this often in extreme youth. In the East there was less promotion of young aristocrats: Anastasius, we are told, was pressed by Ariadne to appoint Anthemius, son of the late emperor of the West, to the praetorian prefecture of the East, though he was a mere boy, but he firmly refused. On the other hand new men like Marinus and John of Cappadocia were sometimes promoted from the civil service direct to the praetorian prefecture. The same change is noticeable in the military appointments. Ammianus was shocked by the abrupt promotion of Agilo from a tribune of the *scholae* to *magister peditum*: usually in his day a regimental officer had to serve as *comes rei militaris* or *comes domesticorum* before qualifying to be *magister*. In the East in

the fifth and sixth centuries men of high birth were sometimes appointed *magistri* with little or no previous military experience.³⁸

We naturally hear mostly of men who held the highest offices of state. But these were relatively few in number, and the great majority of office holders in the lower ranks of the hierarchy can never have risen into the higher grades. Only a very small proportion of tribunes became *comites* or *magistri*, and the majority cannot have risen even to the rank of *dux*—which seems generally to have been a dead end. Similarly the number of provincial governors who reached the vicariate must have been small, and an even smaller number can have attained the prefecture. Of the crowd of humble office holders who remained in the lowest grades or at best achieved the *spectabilitas* we know little. Some are known to have held several posts in succession; these were no doubt ambitious men who failed to make the grade. But there is reason to believe that many were content with a single post.³⁹

Such a system, whereby offices were normally held for brief and irregular terms, and most officers held few posts in the course of their career, cannot have been efficient. The basic reason for its prevalence is probably to be found in the light in which government posts were viewed. It is not without significance that a post is normally called a *dignitas* or *honor*, and very rarely *administratio*. To those who applied for them they were primarily distinctions to be won, not posts carrying duties, and the emperors who made the appointments regarded themselves as distributing prizes as much as choosing suitable persons to carry out administrative tasks.

Symmachus, in a tactful letter of reproof which he wrote to the young Valentinian II, expressed an unusually enlightened view: 'My loyalty to you and my care for the common weal compel me, your majesty, not to conceal what requires reform. While the supreme charge of the affairs of the city belongs to the urban prefecture, certain parts of it are entrusted to minor offices, to govern which hardworking men of tried character ought to be appointed, that each may conduct his department smoothly and faultlessly. The public weal demands such men now from your majesty's judgment. But I do not wish to criticise the present holders, since it will satisfy my anxiety if you entrust the offices of the city to better men. As it is the whole weight of affairs falls on my shoulders, since the others, whom your clemency amidst your multifarious occupations cannot have tested, shirk their duties. In this happy age there are worthier men, the vein of good men is prolific. You

will in future do better for your city if you choose those who do not wish to hold office.' But Symmachus when he wrote this letter had special reasons for his novel attitude: the idleness and venality of the subordinate officers whom the court sent to him gave him extra work and worry as prefect of the city. Even in these circumstances he requires neither ability nor experience but merely industry and honesty. His curious recipe for insuring this end was traditional. Two generations later the emperor Marcian announced to his subjects that he 'had dragged men of reputation and experience against their will into the administration, . . . knowing that happy would be the commonwealth if it were governed by men who did not wish to do so but regarded business of state with aversion'.⁴⁰

The prevailing attitude was to some extent a carry-over from the traditions of the Principate, traditions derived in their turn from the days of the Republic, when the magistracies were honours keenly contested between rival aspirants for fame. There were practical grounds also for regarding offices in this way in the later empire. Posts were—or could be made to be—lucrative, and the quickest way of making a fortune was the government service. But, more important than this, posts carried rank in the official hierarchy of the aristocracy, and rank was an asset of immeasurable importance, not only conveying legal privileges but giving many imponderable but nevertheless valuable advantages to its holder. For a man of humble origins it was a natural ambition to rise in the social scale. For a senator by birth—except for the select few who could hope to be awarded the ordinary consulship in virtue of birth alone—it was desirable to keep up his precedence within the hierarchy by holding an office of illustrious rank. And for purposes of rank and precedence one office in any grade was sufficient, and length of tenure was immaterial. Libanius, pleading to Tatian on behalf of his natural son Cimon—who was threatened with enrolment on the city council of Antioch—makes this point very frankly: 'He will be content with anything that is offered—for anything will afford the same security—and any period, even if it be a month.'⁴¹

In these circumstances there was naturally intense competition for office. Men of established position expected offices as their due, in order to maintain their status in society, and crowds of humbler persons pressed to achieve office in order to raise their status. The competition was to some extent eased by the grant of titular or honorary offices, or of rank without office. But actual tenure of an office always gave higher precedence, and titular office or rank was progressively shorn of many of its privileges. Moreover only an actual office brought any financial gain, or even

the means of covering the expenses, usually considerable, of achieving it. Competition for offices thus remained keen, and emperors, if they wished to make themselves popular, had to distribute them as widely as possible; and in order to do so they had to avoid blocking promotion by keeping any one man too long in a post or giving him too many.

Tacitus found it difficult to account for Tiberius' practice of keeping satisfactory governors for many years in the same post. It did not occur to him apparently that the emperor took administrative efficiency into account at all. Tiberius' conduct was, he conjectured, due either to mere inertia or distrust, or to malevolence, 'to prevent a larger number enjoying' the offices. Libanius in the same spirit praises Constantius II and Constans for changing their prefects frequently, because 'if the business of office is laborious they do not demand that the same persons should be oppressed by a continual load, or if it involves some happiness they invite many to share that happiness.' Men who obtained too many posts or hung on to them too long tended to be disliked; such excessive ambition, which blocked promotion for others, was attributed to greed for the financial profit. Such a feeling lies behind Ammianus' criticism of Petronius Probus' long series of praetorian prefectures; Probus, he suggests, clung to office to protect and promote his own interests. It also accounts for the violent reaction of Valentinian I, when a Roman barrister who had already governed one province petitioned for another. Ammianus not unnaturally regarded as outrageous the death sentence which Valentinian imposed on the unfortunate applicant, who was merely 'hurrying to advance himself as many do', but that iteration of office was regarded with disapproval is shown by a law of Honorius which forbids, under penalty of confiscation of all the offender's property, any attempt to hold the proconsulship or vicariate or the office of consular or *praeses* twice. Promotion from one to another of these four grades was legitimate, duplication of any one stage an offence. This is not to say that good conduct in an office was never regarded as a recommendation for a second appointment in the same grade. Libanius urged that Acacius be given a third post, because a man who had proved himself so good a governor ought not to be left idle, and Theodoret, in a testimonial to Neon, the governor of Euphratensis, suggests that he be reappointed.⁴²

The pressure of applicants for some offices was particularly keen. As has been noted above, the turnover of proconsuls of Africa and of prefects of Rome was exceptionally rapid. The reason was that these were ancient offices, of high prestige and carrying an official precedence out of proportion to their responsibilities and duties,

which were not exacting. A proconsul had little more work to do than any other provincial governor, but ranked highest among the *spectabiles*, above a vicar. The prefect of the city, who was concerned only with the municipal administration of the capital, was of the same dignity as a praetorian prefect. These offices were therefore in especial demand, particularly by members of the senatorial aristocracy who wished to maintain their prestige and precedence without an undue expenditure of effort.

The conception of offices as prizes or rewards also influenced the principles on which their holders were selected. Less attention was paid to the special qualifications of applicants for the posts which they were to fill than to their general claims to promotion. Military posts were an exception: the emperors normally chose their commanders for their military ability and experience, and naturally for their political reliability. It was clearly felt that military command was a specialised art which could not be acquired by amateurs. Normally therefore the holders of the high commands, the *magistri militum*, *comites rei militaris* and *duces* were selected from officers of experience who had proved their ability in lower posts. There were exceptions even in the fourth century. Maximinus, praetorian prefect to Valentinian I, was able to persuade his master to make his young son, Marcellianus, who apparently had no military experience, *dux* of Valeria; and Theodosius, the future emperor, seems to have become a *dux* very young, no doubt because he was the son of a *magister militum*. From the middle of the fifth century it became not uncommon in the Eastern empire to entrust high military commands to members of the imperial family and other high-born amateurs, sometimes with disastrous results. Justinian took the extraordinary step of appointing one of his eunuchs, Narses, to the supreme command in Italy, an appointment which proved a great success. But even in the sixth century it was normally professional officers who were promoted to the high commands.⁴³

For the civilian offices specialised qualifications were much less regarded. (The traditional Roman view that administration was something which any man of normal ability could undertake, whether it involved finance or jurisdiction, still prevailed.) The administrative structure of the empire was indeed so organised that very little specialisation was possible. The praetorian prefects, vicars and provincial governors were all expected to handle both finance and justice as well as a variety of miscellaneous duties. The master of the offices had a strange collection of multifarious functions, ranging from foreign affairs to the control of the arms factories. Even the palatine finance ministers and their subordinates

in the dioceses were as much concerned with jurisdiction in fiscal cases as with finance proper.

Some offices were more specialised. The quaestor and the *magistri scriniorum* were concerned exclusively with legal matters and with the imperial correspondence. Barristers or rhetoricians tended to be appointed to these posts. Barristers were also commonly, after preliminary experience as judicial assessors, awarded provincial governorships, and might thus rise to vicariates and to the praetorian prefecture. Legal training was thus recognised as a qualification for the administration of justice, which was an important element in the duties of these offices. Financial skill was less regarded. Polycarpus, Marinus and John the Cappadocian were promoted to the praetorian prefecture from financial clerkships in the civil service, but they are isolated cases.⁴⁴

Palatine civil servants were frequently promoted to *dignitates*. In the East in the fourth century many imperial notaries rose to the highest offices, and *agentes in rebus* could expect their career to be crowned by a provincial governorship. In some cases a civil servant was no doubt promoted because he had shown administrative ability, but in general it seems likely that such promotions were rather regarded as rewards for long and faithful service, and that they were relatively frequent because the civil servants concerned were in close proximity to the emperor and thus favourably placed to press their claims. It is significant that the officials of the praetorian prefecture, who did not enjoy these advantages to the same extent, but whose experience was more valuable, were rarely promoted. On the other hand palace officials like the silentiaries, whose duties brought them no administrative experience, were rewarded with *dignitates*. Two laws in the Code show that the court physicians, *archiatri sacri palatii*, might reasonably hope for an administrative office as a reward for their services. We happen to know of an actual case. Caesarius, the brother of Gregory of Nazianzus, after studying at Athens and at Alexandria, where he not only followed the normal course of rhetoric but learned mathematics, astronomy and medicine, was appointed one of the court physicians at Constantinople. Under Julian, being a zealous Christian, he resigned his post, but returning to court under Valens was promoted to be *comes thesaurorum* at Nicaea (a post for which, despite his mathematical studies, he seems hardly suited) and would, but for his premature death, have risen to the highest offices.⁴⁵

Apart from their preference for lawyers the emperors, then, paid little regard to professional qualifications in selecting their civilian administrators. A *dignitas* was primarily a recognition of the re-

ipient's deserts, as these were reckoned in the contemporary scale of values. Faithful service in a subordinate capacity was recognised as a legitimate claim. But more important was social position, as measured by birth and wealth and education. Members of old aristocratic families could hardly be refused *dignitates* if they claimed them. The sons of new men who had risen into the aristocracy were also felt to have a natural claim to office. Constantine once enacted that the sons of *comites*, *praesides*, *rationales* and *magistri rei privatae* should, if of curial status, be enrolled in their city councils. But he soon felt this to be harsh, and ruled that 'if found suitable by the judgment of our clemency to accede to honours they shall arrive at honourable promotion by our order', and only those 'whom the imperial authority does not recognise' should remain in their hereditary class. Outside the aristocracy posts seem, to judge by the Codes, to have been given mainly to men of the curial class, to those, that is, who formed the local aristocracies of the cities, and were by definition men of property, and usually of old established families, and persons of education. Literary distinction was also very highly prized and rhetoricians were considered to be suitable recipients not only of such positions as the quaestorship, where their talents might be appropriately employed in drafting laws and imperial letters, but in ordinary administrative posts. Poets, moreover, whose practical abilities might seem even more questionable, were equally favoured. Cyrus, whom John Lydus qualifies as 'an Egyptian who is still admired for his poetic talent . . . and who understood nothing except poetry', nevertheless held both the prefecture of Constantinople and the praetorian prefecture of the East.⁴⁶

The holders of *dignitates* were drawn from the most diverse geographical and social origins. Barbarians from beyond the frontiers of the empire were freely appointed to military posts from the time of Constantine, and at times predominated in the higher command. Germans were the most favoured, at first mainly Franks and Alamans, later Goths, Vandals, and Burgundians. Alans and Sarmatians also gained promotion, and moreover orientals, Iberians, Armenians and even Persians. But side by side with the barbarians there were always Roman officers, also of the most various origins, Gauls, Spaniards, Africans, men from Syria and Asia, and above all Illyrians and Thracians. Civilian appointments were confined to Romans, but their holders came from every province of the empire. Owing to the highly centralised system whereby all appointments were made by the emperor, or at any rate at the capital, men from one end of the empire might well serve at the other. This fluidity was greatest in the fourth cen-

tury, when the empire was from time to time united under a single ruler. Of the few vicars of Britain known to us two were Greek-speaking easterners, Alypius of Antioch, appointed by Constantius II, and Chrysanthus, the son of a Novatian bishop of Constantinople, who owed his post to Theodosius I. Conversely Festus of Tridentum, who knew no Greek, became consular of Syria and proconsul of Asia under Valens, and Rufinus, an Aquitanian who was also ignorant of Greek, was made praetorian prefect of the East by Theodosius I, while in the same period west Germans from the Rhine became *duces* of Arabia and Phoenicia. The index to the festal letters of Athanasius gives the origins of most of the prefects of Egypt between 328 and 373. The majority were naturally drawn from the Eastern parts of the empire, seven from various cities in the diocese of Oriens, including Tarsus, Samosata, Damascus, Byblus, Heliopolis and Gaza, and seven from Asia Minor, including two Cappadocians, three Bithynians, an Armenian and a Lycian. But there were also a Greek from Corinth, a Macedonian and a Thracian, and five, an Illyrian and four Italians, from the Latin-speaking West.⁴⁷

When the empire was permanently divided into its two halves there was naturally less interchange between East and West. In the fifth century there was some tendency to give appointments to men resident in the area concerned; most of the praetorian prefects of Gaul in this period whose origins can be traced came from senatorial families established in Gaul. There was, however, an old rule forbidding the appointment of a native of a province to be its governor. It was re-enacted by Theodosius I in 380 and again during the prefecture of Anthemius in the East; Synesius protested strongly when one Andronicus, a native of Pentapolis, was sent to govern the province. The rule was preserved in Justinian's Code, but he seems later to have abandoned it, when in Italy he allowed the bishops and notables to elect their future governors from the provinces themselves which they were to administer. Justin II, in extending this reform to the whole empire, stated that its object was to prevent strangers thrusting themselves on the provinces.⁴⁸

The social origins of the holders of *dignitates*, high and low, were as various. A man of a wealthy and noble family naturally always had a greater chance of achieving office; the sons of high officers of state could be given a flying start by their fathers, and men of good social position were more likely to command the interest of those who had the emperor's ear; money was also useful in this connection. But at all times there was a *carrière ouverte aux talents*. This was notably so in the army, where common soldiers of peasant origin could, and occasionally did, rise to the highest commands.

It was also possible, though perhaps less easy, for men of working-class origins to rise to the highest civilian posts: Libanius gives several instances of sons of working men who became praetorian prefects in the fourth century by way of service in the corps of notaries. But it was not uncommon for men of slightly higher status, the sons of provincial officials, or poor decurions, to work their way up, normally through practice at the bar, sometimes by achieving distinction as rhetoricians.

The large number of *dignitates* and the short term for which they were normally held meant that the number of appointments made in any year was very high. All were in theory made by the personal choice of the emperor, but in fact not even the most conscientious emperor could deal with them all. Naturally he (or, if he were a minor or otherwise incapable, the person or persons who controlled his signature) chose the occupants of the most important posts, the praetorian prefects, *magistri militum*, and the major palatine ministers. The choice of the emperors seems in fact to have been very free, not to say arbitrary, and often reflects their personal preferences or idiosyncrasies, though it was naturally influenced by their entourage. It is noticeable how many Pannonians rose to high office under the Pannonian brothers, Valentinian and Valens, and similarly Spaniards came to the top under the Spanish Theodosius I. Constantius II promoted the officials of his *comitatus*, especially the notaries, while his brother Constans showed a penchant for the senatorial aristocracy. Here the influence of the emperor's social milieu shows itself. At Constantinople there was as yet no powerful aristocracy to press its claims, and the officials immediately surrounding the emperor had a free field. At Rome there were the old senatorial families with their vast social prestige.⁴⁹

At all times proximity to the emperor meant much. It is noticeable in the fourth century how often the tribunes of the *scholae* rise to be *magistri militum*, whereas *duces* rarely receive promotion. At all times emperors could advance personal favourites to the highest posts. Gratian could raise his tutor Ausonius from a professorship in a provincial university to the quaestorship and the praetorian prefecture. Justinian could pick out two young officers, Sittas and Belisarius, who had served in his bodyguard when he was *magister militum*, and appoint them *magistri*, and promote to praetorian prefect of the East John, a financial clerk in the *officium* of the *magister militum* whom he probably came across when he held that office.⁵⁰

There was nothing to prevent the emperor from exercising a personal choice in appointments of lower grade. Julian, who systematically favoured literary men, appointed the historian Aurelius Victor, a man of very humble origins, to be consular of Pannonia Secunda. But for the great bulk of the minor appointments the emperor could have no personal knowledge of the candidates, and was obliged to depend upon the recommendations of his entourage. As a theological writer puts it: 'The reason why the monarch is approached through tribunes and counts is that the monarch, being a mere man, does not know to whom he ought to entrust the state: to win the favour of God, from whom nothing is hid (for he knows the merits of all men), there is no need of one to recommend you, but only of a devoted spirit.' The word used by this author for the person who recommends a candidate is technical, *suffragator*. *Suffragium*, which in its original context had meant a vote in an election and had come to be extended to the influence exercised in an election by the favour of a prominent man, under the autocracy of the empire had acquired the meaning of the recommendation, favour or interest of a great man with the emperor.⁵¹

If the system of *suffragium* had been rationally organised, so that the great officers of state regularly recommended candidates for the lower posts 'under their disposition', it might have been a reasonable method of selection. But this was the case only to a very limited extent. Praetorian prefects had a considerable say in the appointment of their provincial governors. Libanius often writes to a praetorian prefect asking for a governorship for a friend or thanking him for an appointment. More significantly he praises praetorian prefects for their general policy in selecting governors. He congratulates Salutius for appointing barristers everywhere, and thereby encouraging liberal education as against the study of shorthand. He praises Tatian for promoting the prosperity of the Eastern provinces by his choice of good governors, or rather, as he corrects himself, his recommendation of them: 'for though it is for the emperor to bestow the codicils, you advise him who deserve to receive them'. A law of 439 similarly speaks of provincial governors being appointed on the recommendation of the praetorian prefect of the East. But this principle was by no means universally applied. Symmachus as prefect of the city evidently had no voice whatsoever in the appointment of the minor offices 'under his disposition'. When he ventured to protest against the poor quality of the men sent to him, and to ask Valentinian II to exercise more care for the future, he received a rude rebuff. 'There must be no questioning of the imperial judgment: it is

close to sacrilege to doubt whether he whom the emperor has chosen is worthy.⁵²

Here again it was proximity to the emperor which probably counted most. Symmachus at Rome could not control what was done at the court at Milan. The praetorian prefect of the East, who resided at Constantinople, could get the emperor to appoint the men that he wanted. It is less certain that other praetorian prefects exercised the same influence, and they certainly had no monopoly in provincial governorships. The *suffragator* of the unfortunate Africanus, who was beheaded for asking for a second province, was Theodosius the *magister militum*. And conversely the *magistri militum* had no monopoly over military posts; Maximinus, praetorian prefect of Gaul, was able to secure his son's appointment as *dux* of Valeria from Valentinian I, who was at that time resident in Gaul. In general *suffragium* was a very haphazard business. What a candidate for office required was the voice of someone in the inner circle of the court who could press his claims, and it did not matter much what office the *suffragator* held, or indeed if he had any office at all, so long as he had access to the emperor. If the candidate knew such a great man, his path was easy. This explains the emergence of Pannonians under Valentinian and Valens not only in the great offices where the emperors themselves made the choice, but at lower levels: men like Maximinus and Festus, humble provincial barristers, must have got their provincial governorships through the *suffragium* of more prominent Pannonians. It also explains the rapid promotion under Gratian not only of Ausonius' relatives but of a whole group of Aquitanians.⁵³

If an aspirant for office did not personally know a great man who would press his claims, he tried to get an introduction to one. Libanius' correspondence illustrates the process. On the one hand, Libanius had in his former pupils, and in their families and friends, a large circle of acquaintances. On the other, through his literary eminence and the years he had spent at Constantinople, he had a considerable number of friends at court, not only praetorian prefects and other ministers, but men like Themistius and Datianus whose power depended on their personal contacts with the emperor. Very many of his letters are testimonials or introductions, in which he recommends one of his protégés to one or more of his great friends, sometimes explicitly asking for a post, more often requesting their kind offices for the bearer—who would broach the matter himself.⁵⁴

This system of *suffragium* obviously put a premium on influential connections and operated to the disadvantage of deserving candidates of humble status. The imperial government recognised that

it was unfair to soldiers, whose chances of promotion to commissioned rank were blocked by the competition of civilian applicants who had influence in high quarters. A law of Constantine ordered that civilians and decurions who obtained commissions as *protector* or *praepositus* by influence should be cashiered. Under Constantius II Flavius Abinnaeus after long service in the ranks and as a *protector* obtained from the emperor a commission as tribune, but was told by the *officium* of the *dux Aegypti* that the post had already been granted to others: his protest at being ousted by those who had been promoted through *suffragium* apparently met with success. But in the end the emperors had to capitulate to the system, merely reducing or abolishing the fees paid for commissions in case of men promoted after long service in the ranks. Valentinian I ruled that men who achieved the rank of *protector* by the *suffragium* or influence of powerful persons should pay 50 solidi, and those who rose by long service only 5 to 10. Stilicho drew a similar distinction between those who reached the rank of tribune or *praepositus* by the claims of service and those who did so by *suffragium*.⁵⁵

The system of *suffragium* readily lent itself to corruption. Constantine in one of his laws speaks of offices being bought and, by contrast, of those who were honoured by the *suffragium* of honest men 'no money being paid'. Julian severely reprobated the practice, and gave the rather curious ruling that, as such contracts were unknown to Roman law, those who gave anyone lands or money for his *suffragium* should be debarred from recovering them. The object was presumably, by making bargains legally unenforceable, to compel aspirants to pay money down before the service was rendered. This they might well be reluctant to do, since great men were in the habit of 'selling smoke' (*fumum vendere*), as the contemporary phrase went. Theodosius I took a more indulgent view, enacting that a formal compact (*sponsio*) whereby money or land was promised in return for *suffragium* was legally enforceable.⁵⁶

Corrupt *suffragium* developed into what was virtually the sale of offices. The extent of the abuse is difficult to gauge, and no doubt varied from time to time according to the standard set by the emperors and their principal ministers. Unpopular ministers like Rufinus and Eutropius are accused of having accumulated vast fortunes by unblushing venality. According to Zosimus the sale of offices was rampant under Theodosius I, the palace eunuchs being the principal agents, and according to Eunapius provincial governorships were openly auctioned to the highest bidder in the days of Pulcheria Augusta: we may suspect that the strong pagan sentiments of these authors led them to single out the reigns of

pious Christian monarchs. It is evident that the abuse became more common with the progress of time. It must have become a fairly regular practice by 439, when an oath was imposed on all persons appointed to provincial governorships, that they neither had given nor would give anything for their appointment, directly or through a third party or under cover of a sale, donation or other transaction.⁵⁷

It is not known whether this law produced any lasting improvement. The abuse next comes into prominence under Zeno, whose great minister Sebastianus, praetorian prefect from 476 to 480 and again from 481 to 484, is said by Malchus to have sold offices systematically. Malchus records what seems to be a new development, when he states that Sebastianus shared the purchase price of offices with the emperor himself. Zosimus, it is true, accuses Theodosius I of himself selling offices, but not much confidence can be placed in this rhetorical denunciation. Hitherto, the other evidence suggests, the emperors had merely tolerated an abuse which enabled their principal ministers and favourites to enrich themselves. Malchus further states that Zeno sold offices at a moderate price to members of his entourage and that they resold them at a profit.⁵⁸

We reach firmer ground with Justinian's legislation on the topic. Justinian, like Theodosius II, imposed an oath on provincial governors, and also on vicars and other officers of equivalent grade. The terms of this oath, and incidental remarks which Justinian makes in the preamble of the law which enforced it, and in other laws dealing with particular posts, confirm Malchus' account and illumine some obscure points in it. The oath ran: 'that I neither have given nor will give anything to anyone for the office that has been given to me either on account of patronage . . . or on account of the imperial *suffragium* or to the glorious prefects or to the other distinguished holders of offices or to those about them'. Justinian moreover takes credit to himself for sacrificing revenue in the interests of pure administration. It is plain that by this time the purchase price of an office (which is what *suffragium* has come to mean) in most cases went to the imperial treasury. There might be supplementary payments to the praetorian prefects or other high officers of state, in order to obtain their interest, but these Justinian regards as a subordinate matter.⁵⁹

In some cases, it appears, the *suffragium* proper did not go to the treasury, and in such cases Justinian takes even more credit to himself for compensating those who had received a grant from his predecessors for the loss of their normal profits. Such compensation was made, he claims, 'from his own pocket' (*οἰνόθεν*); actually,

it appears from other passages, it was drawn from the revenues of the province concerned. In one case, the governorship of Phoenice Libanensis, specific details are given. 'The *tractator* of the *scrinium* of Phoenice shall assign 10 lb. gold per annum from the revenues of the same province to his excellency the *primicerius* of the tribunes and notaries for the time being in the respect of the grant or so-called *beneficium* previously given to him; and he must be content with this sum only.' It would appear from this evidence that earlier emperors had alienated the right of appointing to certain posts to the holders of high offices of the court, who henceforth sold the post for what it would fetch; for Justinian clearly implies that such grantees received a variable income, for the loss of which he gave a roughly equivalent annual sum in compensation. This is evidently the meaning of Malchus' words about Zeno's selling offices for a modest sum to grantees who resold them at a higher price: the *beneficium* was itself, it would appear from this, not a free grant, but purchased.⁶⁰

Justinian seems, to judge by his laws, to have made a serious attempt to stamp out the sale of offices, making considerable sacrifices of revenue to achieve his object. The reform was nevertheless not lasting. One need not credit Procopius' allegation that within a year of the law imposing the new oath the emperor was selling offices in the open market, but it is likely that unofficial *suffragia* continued to be paid to those who controlled the making of appointments, and it may be that in the financial stringency of the latter part of his reign Justinian allowed the imperial *suffragium* to be revived. In the Pragmatic Sanction, whereby he settled the affairs of Italy after the reconquest in 554, he not only reaffirmed that provincial governors would be appointed without payment, but cut at the root of the evil by authorising the provincials themselves to nominate their governors. Justin II in 569 extended this startling reform to the whole empire, but it proved ineffective. In 574 Tiberius Constantine again renounced the substantial profits accruing to the imperial exchequer from *suffragia*; he makes no mention of any election by the provincials. In the reign of Maurice a governor of Sardinia refused to remit the customary *douceur* paid by the pagan inhabitants of the island for his connivance, and the excuse he gave was that he had paid so large a *suffragium* for his office that he could not afford it.⁶¹

The purchase of office seems, as a regular institution at any rate, to have been confined to provincial governorships and vicariates and equivalent offices. It is never alleged that the great offices, to which the emperor himself effectively made the appointments, could be bought. There is evidence of corruption and interest in

the selection of tribunes and other junior military officers, but it does not seem to have been systematic here, and nothing is heard of it in the military appointments of higher rank. But both the laws and the historians—and other incidental evidence—concur in depicting purchase of provincial governorships as being prevalent from the end of the fourth century, and in the fifth and sixth centuries a rooted abuse which it proved impossible to eradicate, despite the manifest evils which flowed from it. For the imperial government fully recognised that it was one of the main causes of the spoliation of the provincials by governors. Justinian is never tired of enlarging on this point. It was because they had to recoup themselves for the huge sums that they had paid for their posts that governors were so scandalously venal and extortionate, and their exactions so impoverished the provinces that it was impossible to collect the imperial revenue. If only he could stamp out the evil, he had high hopes that not only would his subjects enjoy justice once more, but they would be prosperous enough to pay their taxes regularly.⁶²

The motives which induced flocks of candidates to bid against one another for office were mixed and various. Some were mainly moved by the hopes of financial gain, some were ambitious for political power, others wished to raise their status in society or to free themselves from some inferior status with its restrictions and burdens. Those in the first category naturally exploited their opportunities for gain to the utmost, but the others too naturally wished to recover their costs. The legitimate rewards of office were by no means ample, and as competition forced the price of office up even relatively honest men were tempted to make a little on the side. So a vicious circle was set up. As various forms of illicit gain became more customary, the price which candidates were prepared to pay went up, and further extortion was needed to cover expenses or make a profit.

Salaries were in the fourth century paid wholly or mainly in kind. They consisted of so many standard rations (*annonae*) and so many units of fodder (*capitus*), intended no doubt to feed the officer's household, and what were called *cellaria*, which were probably food of a superior sort for his own table. Ammianus tells us that when Julian was appointed Caesar, Constantius wrote out with his own hand an elaborate schedule of the delicacies, including pheasants and sows' udders, which were to be served to him; Julian typically ordered that they should not be levied and contented him-

self with a common soldier's fare. The *Historia Augusta* contains several very detailed lists of this kind, allegedly drawn up by third-century emperors for high ranking officers. They are of course fictitious, and somewhat fanciful, but give some idea what was meant by *cellaria*. As well as a great variety of foodstuffs they include clothes, riding and baggage animals and miscellaneous items and a little cash.⁶³

Salaries were still at the end of the fourth century paid or at any rate calculated in kind. This appears from the complaints of Symmachus that, when young Flavianus was compelled by Theodosius I to refund the valuation of the salary which his father had received as praetorian prefect under the usurper Eugenius, his liability was aggravated by the high prices on which the valuation was based. Unofficial commutation no doubt began early. A law of 412 endeavours to regulate its abuses. Provincial governors and *comites* had apparently been in the habit of collecting through the civic tax collectors a levy in gold in lieu of their *annonae* and *cellaria*, and the rate of the levy had been progressively stepped up from one solidus to every 120 taxpayers to one solidus to every 60 and even to every 13. The law orders that the city councils shall not be troubled, but that the *cornicularius* of the *officium* shall collect the foodstuffs (representing the *annonae*) from the public granaries, and gold in lieu of the *cellaria* from a designated tax: any commutation (presumably of *annonae*) was to be according to the market rate or that fixed for the praetorian prefects. It was not until 439 that the *annonae* and *capitus* of all officers, military and civil, of the grade of *spectabilis* and *clarissimus* were compulsorily commuted to gold, at rates fixed by the praetorian prefecture for each province. Old salaries were still computed in *annonae* and *capitus* in Justinian's day (*cellaria* are no longer recorded but are perhaps included in 'other emoluments'), but he reckoned the new salaries which he fixed in solidi or pounds of gold.⁶⁴

We have unfortunately no figures until Justinian's time. He records that the old salary of the Augustal prefect of Egypt, before he reorganised the diocese, had been 50 *annonae* and 50 *capitus*, commuted for 400 solidi. The *dux* of Libya apparently received the same as his basic salary. The governors of the two provinces of Paphlagonia and Honorias had received 725 solidi between them before Justinian united the two provinces and allotted the whole sum to the new praetor. In Pisidia and in Lycaonia the *dux* and the *praeses* had received 800 solidi between them before their offices were amalgamated. As part of his campaign against extortion, Justinian raised the scale of salaries substantially. To consulars of the African provinces he gave 448 solidi.

He normally allotted about 10 lb. gold (from 700 to 800 solidi) to officers of *spectabilis* grade, thus approximately doubling their emoluments. Some received yet higher sums, 15 or 20 lb., and the Augustal prefect, when his office was combined with that of *dux* of Egypt, was allotted 40 lb. The new praetorian prefect of Africa received 100 lb. gold. But even Justinian's figures are far below those of the principate, when the proconsul of Africa, whose responsibilities were much lighter than those of the praetorian prefect, received a salary of 1,000,000 sesterces, equivalent to about 220 lb. gold, and procurators were paid at the rate of 60,000, 100,000, 200,000 and 300,000 sesterces a year, that is approximately 13, 22, 44 and 66 lb. gold.⁶⁵

It is unlikely that the meagre salaries which the imperial government paid were a major attraction to the kind of men who could aspire to office. They were certainly not worth the sums which these men paid for their offices. Here again figures are lacking for the earlier centuries, but what information there is suggests that *suffragia* were substantial. A law of Theodosius I shows that payment might be in money or in land, in which latter case the correct procedure of conveyance had to be completed. Libanius tells of a leading decurion of Antioch who sold his ancestral estates to buy an office. Frequently the sum was too large for the aspirant to raise from his own resources, and he borrowed money for the purpose. Justinian alludes to this as a common, even normal, practice, and more than a century earlier Synesius protests against 'borrowing on the security of an office' and in a more jocular vein tells a correspondent at Constantinople that he has no excuse for writing so seldom, since he can entrust his letters to the governors who are constantly sent out to Libya and Egypt, whom he may readily identify by the swarm of creditors who dog them.⁶⁶

An obscurely worded fragment of Malchus seems to mean that the Augustal prefecture had normally been sold for 50 lb. gold, but that Zeno, on the pretext that Egypt had become richer, stepped up the price to 500 lb. The former figure is just credible, the latter seems to be mere scandal, or perhaps a malicious distortion of Zeno's having sold the *beneficium* of appointing the prefect for 500 lb. Under Justinian we are on firmer ground. It will be remembered that he compensated the *primicerius* of the notaries for the *beneficium* of Phoenice Libanensis by an annual payment of 10 lb. gold, and by enjoining him to be content with this sum implied that the actual income which he derived from selling the office might be larger. The salary of the governor of Phoenice Libanensis was raised by Justinian to 10 lb. gold when he upgraded the office to the rank of *spectabilis*, and had hitherto probably been about half

this sum. On an annual average the *suffragium* paid for a provincial governorship was thus approximately double the salary which a governor received.⁶⁷

Even to recoup himself for his expenditure in gaining his office a governor had therefore to supplement his salary on a very large scale, and he would normally also have to cover heavy interest on the loans which he had raised. If he was to make a profit on the transaction—and many governors did lay down office richer than they entered upon it—no source of gain could be neglected. The ways in which governors made money out of their office were many and various. Embezzlement of the revenue was probably a dangerous game, since the central government kept very elaborate checks on the figures of income and expenditure: Theodosius I, however, found it necessary to increase the penalty for peculation from a fine to death. It was safer to extort more than the tax properly due from the provincials, and for this there were a number of time-worn devices—the use of false weights and measures, manipulation of prices in commuting levies in kind or in making compulsory purchases, the addition of extra charges for alleged local needs. But in this sphere it was apparently the curial or official collectors of the taxes, and the *canonicarii* and *palatini* sent down from headquarters to supervise the collection, who absorbed most of the profits.⁶⁸

It was as a judge that the provincial governor amassed most of his income. It is clear both from the complaints of subjects and the denunciations of the imperial government that judicial corruption was normal and systematic in the provincial courts. Governors had moreover many opportunities of exploiting their general administrative powers to their financial profit. They could assign onerous and unpopular tasks to those who paid them least, and profitable jobs to those that paid them most. They could enforce penal laws or connive at their breach according as it was made most profitable to them; the governor of Sardinia made a regular income in the sixth century out of the pagan provincials, who paid for the illicit toleration of their cult, and it was no doubt often for this reason that governors were so lax in enforcing the penal laws against heretics.⁶⁹

A governor could moreover exploit his official authority to intimidate his subjects into private transactions profitable to himself. It was an old-established rule that the holder of an official position, and his family and staff, might neither receive donations nor make purchases (save for normal everyday use). These rules were re-enacted by Valentinian I, Theodosius I and Arcadius. Honorius revoked the prohibition of purchases, and Valentinian III in 451

confirmed this concession in the Western parts and extended it to donations. The safeguards against its abuse in Valentinian III's law are illuminating: if the vendor could prove that the sale had been extorted by violence, or by the threat of imprisonment, or that the purchaser had not paid the price, he could recover the property and the price as well. Justinian thought it safer to prohibit all sales and donations once again. A law of Theodosius I shows that governors also by intimidation of parents or guardians or of the ladies themselves secured matches—presumably with wealthy heiresses—for themselves or their relations or dependants.⁷⁰

Not all governors were corrupt and extortionate. Theodoret wrote several letters to highly placed persons, including Domitian, the quaestor, and Antiochus, former praetorian prefect, in high praise of Neon, who had recently been governor of Euphratensis. He enlarges upon his forbearance in collecting the taxes at a time when the prices for agricultural produce were low, praises him for discouraging informers, and declares that he did not suffer from the characteristic vice of his people (he was an Isaurian), avarice, but retired a poor man.⁷¹

This last remark is a commonplace in praising a good governor, and that it was so is significant. More than the highly coloured denunciations of the rapacity of bad governors it reveals the low standard of public morality. The ordinary run of governor was evidently expected to make a profit out of his post, and it showed exceptional merit merely to be honest. With the development of *suffragium* into a regular system, and the rise of the price paid for office, it became scarcely possible even for relatively honest men to refrain from illicit profits, and the attempts to suppress bribery and extortion by legislation were futile. These culminated in a law of Zeno ordering that all provincial governors and vicars must remain in their provinces for fifty days after the arrival of their successors, and make themselves accessible in the public places of the principal towns, not lurking in sanctuary or in the house of a powerful protector, in order that their subjects might have the opportunity of charging them with acts of oppression, bribery or extortion. It is ironical that this law is addressed to the same praetorian prefect, Sebastianus, who according to Malchus made the sale of offices a regular system.⁷²

It was among civilian officers of the lowest and middle grades, governors and vicars, that corruption and extortion seem to have been most normal. The corresponding military grades, tribunes and *duces*, had other means of supplementing their meagre salaries at the expense of the troops under their command. Individual high

officers of state are frequently accused of rapacity and corruption, and some of them undoubtedly made vast fortunes. But they were less dependent on judicial bribery and blackmail and fiscal extortion. They derived their illicit profits rather from their patronage—they were the normal recipients of *suffragia*—and from gifts from the crown, on which they could readily press their claims.⁷³

It cannot be said that the officers who administered the empire and commanded its armies were wisely chosen. In selecting men to fill the highest posts the emperors normally exercised some care, though even here they were too liable to prefer the claims of noble birth to ability and experience. In the lower grade appointments no system of selection was ever worked out and as a result interest or bribery became the normal means of gaining a post. In the army the initial grant of commissions seems to have been almost as haphazard, though never as systematically corrupt, as that of the minor civilian posts, but since promotion as a rule went by merit, some encouragement was given to efficient junior officers, who could hope to rise in the service. On the civilian side the empire never developed an administrative service which would have provided a life career and regular promotion for its members. Since their prospects of promotion, if they were ambitious, depended less on their administrative record than on the favour of great men, they naturally avoided making powerful enemies by a too rigid enforcement of the law, and strove to win patrons by compliance with their requests. If they merely hoped to retire with a higher rank in the official hierarchy and a larger fortune, they had equal reason to placate the great men whose interests were for the time being dependent on their authority. It followed that the imperial government found them very unreliable instruments for enforcing its commands, when these conflicted with the interests of those who possessed influence or money.

To carry his instructions to the provincial and diocesan authorities, and to praetorian prefects and *magistri militum* who were at a distance, the emperor had his corps of couriers, the *agentes in rebus*. For more delicate missions, which required an agent of greater authority, he made use of the tribunes and notaries or the *domestici et protectores* (or later the *scribones*), or of his domestic staff, the silentaries or the *cubicularii*. The principal administrative officers, the praetorian prefects, for instance, and the *comites sacrarum largitionum*, had their own regular couriers (*mittendarii*), who formed a department of their *officia*. Minor officers used their ordinary

officials for sending dispatches. All could in varying degrees make use of the public post for their messengers. The emperor naturally had unlimited rights over the post, and so had the praetorian prefects, issuing warrants on their own authority. The *comites sacrarum largitionum* and *rei privatae* could also obtain warrants whenever they required them. Other officers were, by a system initiated by Julian, rationed, being issued each year a limited number of annual warrants. From the *Notitia Dignitatum* we know that in the East *magistri militum* had fifteen (with a special allowance of twenty-five to the master of the soldiers of the East), *duces* normally five (with a special allowance for more important commands like Egypt, or special danger points like Mesopotamia). On the civilian side vicars apparently had twelve and proconsuls four. Ordinary governors according to Julian's rules were to have two, one for internal use in their province only, and one for communications with the emperor.⁷⁴

Despite the very heavy outlay on the *cursus velox* communication between the *comitatus* and the outlying authorities was not strikingly rapid, to judge by the rather meagre data provided by the Theodosian Code. There are about fifty constitutions which record both the place and date at which they were 'given' (*data*), that is signed by the emperor, and at which they were 'received' (*accepta*) or 'posted' (*proposita*) for the public to read, or 'read' (*lecta*) to the senate. The interval between these dates was consumed not only by the courtiers' travelling time, but by bureaucratic delays, which might be considerable. The machine sometimes worked swiftly: thus a law given by Valentinian III at Rome on 26 December 446 was received by the praetorian prefect of Italy, who was also at Rome, on the 27th and posted in Trajan's Forum on the 28th. But another law of Valentinian III given at Ravenna on 20 February 441 was not officially received by the praetorian prefect in the same town until 14 March, and there are other instances of delays of a fortnight or three weeks when the document had merely to go from one office to another in the same town. Such dilatoriness no doubt accounts for the long time apparently taken by very short journeys; it could not have taken over a month for an *agens in rebus* to travel from Nicomedia to Constantinople, but a law issued in the former city on 26 June was not received at the latter until 31 July.⁷⁵

On occasion communication could be quick. When on the death of Pope Zosimus at the end of 418 a dispute arose over the election of his successor, Symmachus, the prefect of the city, wrote to the emperor on 29 December. Honorius replied from Ravenna five days later on 3 January, and Symmachus, having acted on his

instructions, wrote again only five days later on 8 January. At a later stage in the dispute an imperial letter was dated at Ravenna on 3 April and received at Rome on 8 April. Such despatch was very unusual. One constitution got from Milan to Rome in twelve days, but three weeks or a month or six weeks are also recorded for this journey. A remarkable performance is four weeks between the signing of a law in Milan (11 April) and its being read to the senate of Constantinople (9 May). On the other hand, a law signed by Constantine at Constantinople on 25 July did not reach Hispalis in Spain until 18 April the following year; something must have gone seriously wrong here, for another law signed by Constantine at Sardica on 4 December took only three months to arrive at Corduba. Very serious delays might be imposed by a sea passage, particularly in winter, when navigation was normally suspended. Owing to the methodical habits of the proconsular *officium* of Africa we have relatively abundant data on this question. On one occasion a constitution signed at Sirmium on the Danube on 17 April was received at Carthage on 18 May, which shows what could be done in favourable weather conditions. But constitutions given in the autumn, whether at Milan, Paris, Trier or Constantinople, practically never reached Africa till the following spring or early summer.⁷⁶

In view of the slowness of communications the administration of the empire was centralised to a fantastic degree. It is understandable that all high-grade appointments down to provincial governor, and all officers' commissions down to tribunes of units, should have to be signed by the emperor personally. But it would hardly seem necessary that the *curator*, *defensor* and other principal magistrates of every city should receive their letters of appointment from the central government and have their appointment confirmed by it. In the civil service also the control of appointments was highly centralised. It was the rule that all officials of the upper and middle grade magistrates, down to *vicariani*, *duciani* and *thesaurenses*, must receive their *probatoriae* from the *sacra scrinia*, and one law even enacts that not only initial appointments but promotions must all be subject to the control of the central government. The recruitment of the army was apparently not so rigorously centralised, until Zeno insisted that the *probatoriae* of soldiers should no longer, as had hitherto been customary, be issued by the *magistri militum* and *duces*, but only 'by our divinity'.⁷⁷

The administration of justice was also excessively centralised. Constantine went so far as to order all provincial governors to forward the records of their courts every six months to the praetorian prefects for scrutiny. But apart from this probably tem-

porary aberration the judges of first instance, that is the provincial governors, might always, and too often did, refer cases on which they had doubt direct to the emperor. Appeals on quite trivial issues were regularly allowed to run right up to the praetorian prefects or the emperor himself; it was only Justinian who fixed a monetary limit below which the judgment of the intermediate courts of appeal (the *spectabiles iudices*) should be final.⁷⁸

The same excessive centralisation prevailed in finance. The praetorian prefects prepared the annual indictions, fixing the rates of taxation in the dioceses subject to them, but the indiction had to be signed by the emperor (who might be a journey of a month or more away). In emergencies the prefects were sometimes authorised to allow vicars or governors to raise local superindictions without previous consent from the emperor, but they were usually denied even that degree of discretion. Rebates and remissions of tax could be granted by the emperor only: Joshua Stylites tells how, when there was a serious famine, the governor of Osrhoene felt it necessary to go up from Edessa to Constantinople personally to secure a remission for his province. Arrears similarly could be written off only by imperial constitution: in 401 Honorius ordered all provincial governors to send in full returns showing the arrears standing in the name of every taxpayer for the eight years 387-95 in order that the government might decide which to remit.⁷⁹

Another law, issued by Valentinian I, illustrates the extremes to which centralisation could go in finance. Landlords of African estates resident in Italy had been delaying the transmission of the corn supply to Rome by their dilatoriness in paying their tax. The difficulty had to be referred to Valentinian, who was at Paris, and his instructions, issued on 18 October, did not reach Africa until the 17 January following. He ordered that the office of the vicar of Africa should prepare annual returns of defaulters, collate these with the records of the *praefecti annonae* of Africa and of Rome (which meant at least two sea voyages), and having reached agreed figures forward them to the praetorian prefect of Italy (who was likely at this period to be at Sirmium or somewhere on the Danube) and to the emperor himself (who might be at Paris or Trier). How such returns, which would take months to prepare and months to reach the praetorian prefect and the emperor, after which yet more months would elapse before their instructions could reach Africa, would assist in filling the granaries of Rome meantime, it is hard to see.⁸⁰

These are special cases, but they are typical of the routine of the financial administration. It was part of the normal procedure that

the *officia* of provincial governors sent in to the praetorian prefecture and the *comitatus* detailed financial returns every four months (*quadrimestra brevia*), showing how much tax had been collected and how much remained outstanding and how much had been paid out locally; these returns had, according to a law of 410, to contain details of any levy (*discriptio*) for local purposes. *Duces* had also to send in four-monthly returns of rations issued to the troops under their command to the praetorian prefecture, who collated the civil and military reports: in 393, in order to avoid the excessive delays involved, the ducal *officia* were ordered to collate their returns with those of the provincial *officia* before transmission to the prefecture. This rigid check three times a year was only practicable for *limitanei*, who occupied fixed stations. For *comitatenses* there was an annual check. The *magistri militum*, by a law of 398, had to send in to the *sacra scrinia* before the beginning of the indiction returns of ration strengths, and the praetorian prefects had to check issues against these.⁸¹

Centralisation increased with the course of time. There was a growing tendency for the higher authorities to interfere directly in the spheres of their subordinates. The provincial governor, instead of leaving the curial officers of each city to collect its taxes, used his officials to deal with recalcitrant taxpayers. *Vicariani* interfered in the work of the provincial office, and above all the officials of the central financial ministries, the praetorian prefectures, the *largitiones* and the *res privata*, intervened in the provinces. This abuse had already begun when Julian became Caesar. He endeavoured to show that such interference was not only unnecessary but harmful by allowing the *curiales* of one province, Belgica Secunda, to collect their tax without interference from provincial officials or *praefectiani* (there was no vicar of the Gauls, as the prefect was on the spot): and he proved his point by getting in the full sum due.

Despite this the practice continued and became regular. Every year *palatini* were sent out to each province from the *largitiones* and *res privata*, and *canonicarii* from the prefectures, to supervise the collection of the revenues belonging to their respective departments, and despite frequent prohibitions these *palatini* and *canonicarii* as regularly intervened—to their great personal profit—in the actual work of collection. The auditing of local accounts—especially civic and regimental accounts—by *discussores* (*λογοθέται*) sent out from the praetorian prefecture also grew commoner in the fifth and sixth centuries. When these officials, like the *palatini* and *canonicarii*, abused their powers for their private profit, the only remedy which Justinian could devise was to order that they should be dis-

patched only by his personal warrant. And when he found that such warrants were none the less issued without his knowledge, he authorised the civic authorities to send to Constantinople and verify the credentials of an auditor.⁸²

Another instance of centralised control was the practice whereby central officials were sent out to be the heads of diocesan and other outlying offices. Throughout the empire the senior members of the corps of the *agentes in rebus* served as *principes* in the offices of the praetorian and urban prefects and of vicars and other officers of equivalent rank. In the East the same system was applied to *comites rei militaris* and *duces*. In the West, from Stilicho's time at any rate, officials of the *magistri militum praesentales* were annually sent out to serve not only as *principes* but as *commentarienses* and *numerarii* in the provincial military *officia*. Other departments followed the same practice. In the East an official of the *res privata* served as *princeps* to the *comes domorum* in Cappadocia, in the West officials of the urban and praetorian prefectures became *principes* in the provincial offices.⁸³

It may be asked how far this elaborate centralised machine was successful in enabling the emperor to control the empire and to enforce his commands throughout his dominions. In some aspects it was, by and large, remarkably successful. Though the collection was often slow and incomplete, and arrears had periodically to be written off, the bulk of the revenue came in. Recruits were levied, and the armies were fed and clothed and armed and paid. Order was on the whole maintained, and the judgments of the courts were executed. Overt defiance of the government was rare, and was usually repressed without difficulty, if the government acted firmly. Military commanders very rarely rebelled, and were even more rarely successful in the end. There were periodical riots in Rome and Constantinople and in Alexandria, Antioch, Thessalonica and the other great cities of the empire, but a resolute display of force soon quelled them. Rural rebellions were rarer but more difficult to repress. The Bacaudae did for brief periods expel the agents of the government from parts of Gaul and make themselves independent, but this is unique. The Donatists carried on a guerrilla warfare for centuries against the government-supported catholic clergy, and at times against catholic landowners. The Monophysite population of Egypt and Syria also resisted the efforts of the government to impose a catholic clergy on them, often to the point of civil disorders. But both continued to pay their taxes and obey the government in all other respects.

It is none the less clear that on some issues the government was unable to enforce its will effectively. Its religious persecutions were very inefficient. Despite severe penal laws paganism survived, and was in some areas overtly practised for two centuries and more after it had been officially banned. Not only did Donatism survive three centuries of persecution, but many minor sects as stubbornly resisted the extinction decreed by the imperial government. One reason for this failure was probably that the provincial governors, on whom the execution of the laws depended, had not their heart in the task, and offered passive resistance. Gratian in an angry letter to Aquilinus, the vicar of the city, makes this point explicit. Despite instructions given to Aquilinus' predecessor Simplicius, a turbulent prelate named Florentius, expelled from Puteoli fifteen years ago, had again been causing trouble, 'relying of course on the inactivity of our governors, who pay more attention to private influence than to imperial commands, and because perhaps they themselves neglect it, patiently allow the religion which we rightly venerate to suffer disturbance. . . . The passive connivance of governors must stop, the supine inertia of the officials must, I repeat, be brought to an end.'⁸⁴

Emperors are not usually so frank in revealing their impotence, but the fantastic penalties with which they often threaten governors and their *officia* who may connive at breaches of their commands are almost as revealing of their helplessness in face of the interested inertia of their agents, whether such inertia was due to their personal sympathies, to their desire to conciliate local opinion and in particular to win the favour of local magnates, or to bribery.

The story of the Egyptian village Aphrodito may serve to illustrate the impotence of the central government. Aphrodito had obtained from the emperor Leo the privilege of *autopraxia*, the right, that is, to collect its own taxes and pay them direct to the provincial governor. Despite this the pagarch of Antaeopolis, the city within whose territory the village lay, continued to extort taxes from its inhabitants. Eventually they gave their village to the *divina domus* of the empress Theodora, who they evidently hoped would protect her own tenants. In 547 came a crisis: a certain 'most magnificent Theodosius' collected the taxes of the village but failed to pay them into the provincial treasury, and the pagarch of Antaeopolis threatened to make Aphrodito pay a second time. The inhabitants sent a delegation to Constantinople, led by the local notary, Dioscorus. Dioscorus seems to have left no stone unturned. Unfortunately Theodora had recently died, but he went to the *curator divinae domus*, who wrote for him a polite but firm semi-official letter (the original is preserved) to the *dux* of the

Thebaid, telling him that 'the most magnificent Theodosius' must either take responsibility for the villagers and warn off the pagarch or pay them back the money he had collected; otherwise the matter might be reported to the emperor. Despite this implicit promise Dioscorus went on to obtain an imperial order, and to lend this greater weight, secured from a high officer of state another semi-official letter to the *dux* advising him to give the matter his attention (the original is again preserved, but the signature has perished). After all these efforts Dioscorus might have hoped for success. But three years later he had to go to Constantinople a second time and secure a second imperial order. We do not know if 'the most magnificent Theodosius' and his friend the *dux* eventually obeyed the emperor's commands.⁸⁵

It was not only vicars and governors who, relying on their distance from the central government, quietly ignored its orders. Even central officials might be as unreliable if sent on distant missions. When Porphyry first received an imperial order to close the pagan temples of Gaza (which should have been closed years ago), Hilarius, a *subadiuva* of the master of the offices, was appointed to execute the decree. He at first made a great show of energy, but was soon, according to Porphyry's deacon, Mark, got at by the wealthy pagans of Gaza: at any rate the principal temple, that of Marnas, continued to function. When the second imperial order was secured, Amantius the *castrensis* was careful to see that a zealous Christian, Cynegius, a member of the consistory, was appointed executor.⁸⁶

The same basic causes, the natural reluctance of the executive officers to enforce measures which they disliked and which would involve them in unpleasantness, their subservience to the influence of powerful persons adversely affected by the laws, and finally their infinite susceptibility to bribery, militated against the efficient enforcement of many other types of legislation. When the government insisted firmly on obedience and was in a position to check results, it could enforce its will, provided that its policy did not affect the interests of too many persons of influence and wealth. A typical and important case is the revenue. It was easy to check whether the correct sums came in, and relatively easy to discover who was responsible if they did not. Every member of the administrative machine from the praetorian prefects down to the provincial *officia* knew that any default would be visited upon them. It was much less easy to check extortion in collection, and the government, though it deplored extortion both on moral grounds and because, by squeezing taxpayers to excess, it endangered the revenue, had not the same urgent necessity to repress it. Extortion, therefore,

was never eradicated despite much legislation. Nor were grants of immunity or rebates to influential persons, though these were patently deleterious to the interests of the empire. Here the chief culprits were the emperors themselves, who despite good intentions were incapable of resisting the constant barrage of petitions, but the venality of the clerks in the central offices, who, despite instructions to the contrary drafted such petitions and presented them for signature, also contributed to the abuse. The reckless grants of imperial lands and of lands which should have accrued to the crown were for the same reasons almost impossible to control.

The government was equally incapable of enforcing the legislation designed to maintain the city councils. It was regarded as vital to the interest of the empire that decurions should be prevented from abandoning their hereditary duties, but it was no one's interest to enforce the law. Individual decurions wished to escape, and their surviving colleagues on the council, nursing the same hope for themselves, had no particular wish to stop them. Provincial governors did not like to offend influential decurions or their still more influential patrons, and could profit financially by turning a blind eye. The clerks of the central ministries were always ready, for a consideration, to draft *probatoriae* or codicils whereby decurions could enter the civil service or achieve equestrian or senatorial rank. It was extremely difficult, in the absence of information, even to keep track of the leakage of decurions from the councils into these and other immune classes, and the government was usually reduced to making periodical purges and round-ups, and had frequently to condone past evasions of the law wholesale, particularly when the guilty parties were now persons of rank and influence.

The growth of centralisation was mainly due to a well-justified distrust of the diocesan and provincial authorities: provincial governors in particular were often incompetent, generally too compliant to the influence of local magnates, and almost invariably venal. It was because they were ignorant of the law, favoured important litigants and accepted bribes, that the emperors, despite all the practical difficulties involved, insisted on the free right of appeal to themselves or their praetorian prefects. The elaborate financial checks described above were designed to prevent speculation, dilatory collection and the grant of illicit rebates and remissions in the provinces. But the policy of centralisation was also promoted and maintained in their own interests by the palatine ministries. *Agentes in rebus* were no doubt originally sent out as *principes* in order to keep watch over the magistrates to whom they were attached: but they thereby acquired very profitable jobs

which became a vested interest jealously guarded by the corps. The practice of sending out *palatini* and *canonicarii* to the provinces no doubt also began as an attempt to speed up revenue collection, but became a great source of profit to the clerks of the central ministries, who tenaciously resisted efforts to abolish and curtail it. The insistence of the central government on keeping in its own hands the issue of *probatoriae* was partly dictated by its desire to check the growth of the civil service, but was also stimulated by the interest of the *sacra scrinia* in maintaining and increasing their fees.

The excessive centralisation which developed from these causes defeated its own object. In the judicial sphere the central courts of appeal were congested with business, and the long delays and heavy expenses imposed on the appellants proved a virtual denial of justice to any but the wealthy. In finance and general administration centralised control imposed serious delays and demanded an ever-increasing bulk of paper work and a corresponding increase in the number of clerks to deal with it. The machine tended always to work more slowly and to become more expensive to run. Moreover more and more routine work was piled on the central ministers and above all on the emperor himself. It would have been impossible for the most conscientious emperor to read all the papers that he was expected to sign, and he was thus placed at the mercy of his ministers and clerks, who, as many imperial constitutions testify, unscrupulously exploited their opportunities to obtain his signature for documents contravening the regulations which he had himself enacted.

Theodosius II, when he endeavoured to suppress petitions for grants of land, threatened the *comes rei privatae* and the quaestor with his direst displeasure if, despite the new law, the one allowed petitions to be drawn up or admitted them if lodged, and the other endorsed them or answered them. Not content with this he menaced the *palatini* of the *res privata* and the *memoriales* of the quaestor with confiscation of their property if they drew up or issued the documents or took action upon them. Valentinian III found that he had been granting pardons to murderers without his own knowledge or even that of his quaestor, and threatened the *magistri scriniorum* and *memoriales* concerned with dire penalties. Such threats were unavailing, and emperors were not infrequently obliged to announce in their laws that rescripts contrary to their provisions, even if they bore their own signature, were invalid.⁸⁷

CHAPTER XIII

FINANCE

THE financial structure of the later empire seems gratuitously complicated. There were three independent departments, that of the praetorian prefects, the *sacrae largitiones* and the *res privata*, each responsible directly to the emperor and each with its own revenues, treasury and administrative staff. The reasons for this state of affairs were largely historical. From the beginning of the Principate a distinction had been drawn in accounting, if not in administration, between the public revenues which the emperor controlled and his private income, arising from his personal property, his *patrimonium*. The *patrimonium* had grown in bulk and had come to be regarded as crown property, and Septimius Severus organised it as a separate department, with its own administrative staff in the provinces. At the same time he founded a new department, the *res privata*, likewise with its own provincial staff, to manage his own personal property and the numerous estates confiscated from his opponents which he added to it. Later the *res privata* absorbed the *patrimonium*, and the *magister rei privatae* thus came to control all imperial property, with which was classed, it would seem, whatever was left of the old public lands of the Roman people. He was an important minister, but ranked lower than, and was perhaps subordinate to, the *rationalis rei summae*, who administered the public revenues, that is the taxes, and was responsible for the mints and the mines.

In the great inflation of the third century the real value of the tax revenue dwindled and the government was forced to rely more and more on requisitions in kind to feed and clothe the troops and the civil service, and to maintain public works and other necessary services, such as the post. These requisitions were made by the provincial governors on the instructions of the praetorian prefect, as quartermaster general of the army. The result was that the office of *rationalis rei summae* sank in importance. He still controlled the mints and the mines, and collected what remained of the old money taxes, together with new levies of bullion. But these did

not go far to meet the expenses of the empire. The praetorian prefect became *de facto* the chief minister of finance now that the revenue was largely collected in kind. This position was regularised by Diocletian when he converted the hitherto spasmodic requisitions into an annually assessed levy, the indiction, for which the praetorian prefects were responsible. With the re-establishment of a sound gold currency, taxation in kind was gradually commuted for gold; but the financial structure of the empire had now hardened, and the distinction between the *res summa*, or as it was now called, the *sacrae largitiones*, and the financial department of the praetorian prefects was perpetuated, though its *raison d'être* had vanished.

The main functions of the *res privata* were to administer and collect the rents of all land and house property which belonged to the state, and to claim for the state and incorporate all property which lapsed to it. It also handled sales and grants of crown property to individuals, and payments from its treasury in cash. The head of the department, the *magister* or *rationalis*, or, as he was from the reign of Constantine or shortly afterwards regularly called, *comes rei privatae*, was a member of the emperor's *comitatus*, who followed him on all his journeys. He was served by an *officium* of clerks, known as *privatiani*, or more usually by the vague style of *palatini*. The organisation of the *officium*, which was identical in the Eastern and Western parts, is set out in the Notitia Dignitatum. It was divided into five bureaux or *scrinia*. The first *scrinium*, that of the *exceptores*, had general clerical duties. The functions of the others are described as *beneficia*, *canones*, *securitates* and *privatae largitiones*. These titles are not very illuminating. *Canones* should mean rents and *securitates* receipts, and it is difficult to see how the functions of these two *scrinia* were differentiated. Perhaps one was responsible for letting properties and setting their rents, and the other for issuing receipts for rents and thus checking that they were regularly collected. The *scrinium* of *privatae largitiones* presumably dealt with issues of money from the treasury, and that of *beneficia* with grants of land. In the West there was a *comes privatarum largitionum*, not a member of the *officium*, but at the disposition of the *comes rei privatae*: how he fitted into the organisation is not clear.¹

Besides its central staff the department had its representatives in the dioceses and provinces of the empire. Those of the highest grade were originally styled *magistri*, but from the time of Constantine came to be called *rationales rei privatae*. They possessed judicial powers and had their own staffs of *Caesariani*. The Notitia

Dignitatum gives a full list of them for the Western parts, and from the list it appears that there was one for each diocese. Two additional *rationales* who break the symmetry of the scheme appear to be later innovations. In Africa there is a *rationalis rei privatae fundorum domus divinae*, whose function will be discussed later. Sicily also has its own *rationalis*; he appears to be the upgraded procurator of the province, who also figures lower in the list. In the East the Notitia gives no details, but it may be presumed that the *rationales rei privatae* were each responsible for a diocese. From other sources we know that Egypt had its own *magister privatae* while it was still part of the diocese of Oriens; he still bore this title when all his colleagues had become *rationales* in the middle of the fourth century.²

Below the *magistri* or *rationales* came the *procuratores*, an obscure class. In the Eastern parts the Notitia mentions only *procuratores saltuum*, responsible for the large estates, or rather conglomerations of estates, known as *saltus*. There certainly were others: in Egypt the papyri show that there was a procurator of imperial lands for each city. In the West the Notitia gives a short list which has several puzzling features. One procurator is responsible, if the text is correct, for Italy, which already has its diocesan *rationalis*; another for Sicily, which also has a *rationalis*. It has already been suggested that in the second case the procurator may have been upgraded to *rationalis*, and the old entry not deleted. The same may apply to Italy, which did not originally rank as a separate diocese, and may therefore not have had a *rationalis* but a procurator. There is also a procurator for the city of Rome, and another for the suburbicarian regions, but with the additional title 'of the estates of Julianus'. He presumably managed not all the lands in the suburbicarian diocese but the estates within the area which had belonged either to Julian the Apostate or to Didius Julianus, the wealthy senator who bought the throne after the death of Pertinax. The *rationalis* of the Suburbicarian diocese had a similar responsibility for the *pars Faustinae*, the estates either of Constantine's or Marcus Aurelius' wife.³

The other procurators in the list are named after provinces, Dalmatia, Savia, Sequanica with Germania Prima, Mauretania Sitifensis, and Apulia and Calabria: in the last case with the additional title 'of the saltus Carminianensis'. The list can hardly be exhaustive, for in the Codes the procurator is not infrequently mentioned as the normal local representative of the *res privata*, and the department must have owned property in every province. The Notitia probably only lists those of superior rank, *perfectissimi* perhaps. The system was evidently based on a mixture of two

principles, the regional grouping of estates by provinces, and the maintenance as administrative units of large conglomerations of estates, often scattered over a wide area, which had belonged to one owner. One such conglomeration, the confiscated lands of Gildo in the African diocese, was so important that its superintendent held the title of *comes* and ranked above the *rationales* of the dioceses.⁴

Below the procurators were the *actores rei privatae*. They are frequently mentioned in the Codes as the officials on the spot, who are held responsible for the enforcement of the law on the imperial lands. They must have been numerous—a constitution of Valens shows that in the single province of Asia there were many—and presumably each was responsible for a small group of estates.⁵

In both halves of the empire the *res privata* possessed a transport service of its own, the *bastaga privata*, directed by *praepositi*. In the West, by an anomaly of unknown origin, it controlled two weaving mills, at Treveri and Vivarium in Gaul; all other state textile factories were under the *sacrae largitiones*. In the East the Notitia records *praepositi* of herds and stables. These were presumably the managers of the imperial stud farms, where famous breeds of racehorses, such as the *equi Palmati* and *Hermogeniani*, were raised: the former came from a farm in Cappadocia.⁶

It might have been expected that this great hierarchy of officials could have coped unaided with the administration of the *res privata*. Down to the reigns of Valentinian and Valens it did so, but thereafter provincial governors were often expected to collect the rents, not always with satisfactory results. In 382 arrears had reached such staggering proportions in the regions of the East that Theodosius I ordered the collection of imperial rents to be transferred from the provincial governors to the *rationales*: the same change was ordered in the West by Valentinian II and again by Honorius in 397. None the less in 394 the *officium* of the *comes Orientis* was collecting rents in that diocese, and in 395 and 399 in the West and in 408 in the East we find provincial governors collecting the rents under the supervision of *palatini* sent down from the central office. This remained the rule in the West. In the East the later practice is uncertain, for the Code of Justinian reproduces both laws which lay the duty of collecting the rents on the *rationalis* and laws which make the provincial governor responsible.⁷

The *res privata* had grown by the gradual accumulation of property from a variety of sources. Its nucleus was formed by the estates of the successive families, many of them extremely rich, who occupied the imperial throne. To this nucleus were added the properties bequeathed to successive emperors by their relatives, friends and freedmen, and by outsiders. It was common form for

all persons of consequence, and many more who wished to be thought such, to remember the emperor in their wills, and the flow of legacies and bequests was under the Principate constant and considerable. In addition to these private sources the emperors also began from an early date to claim for their patrimony lands which by law should have gone to the Roman state. Estates of condemned felons (*bona damnatorum*), especially of traitors, were at first in individual cases, and later as a general rule, assigned to the emperor: when, as often, the traitors were wealthy senators, the areas added to the imperial domains were vast. The estates of persons dying intestate without heirs (*bona vacantia*) also came to be generally claimed by the emperor; Diocletian finally abolished the right which certain cities claimed to the *bona vacantia* of their citizens. Finally the *res privata* received *bona caduca*, estates which had, in contravention of Augustus' legislation, been left to unmarried or childless persons: owing to the prevalence of childless marriages among the aristocracy this also proved a profitable source.

The imperial patrimony had also, it would seem, some time in the course of the Principate absorbed what remained of the public lands of the Roman people, the areas confiscated when rebellious communities had been destroyed or mulcted of a part of their territory, and the former royal lands of annexed kingdoms. Constantine incorporated in the *res privata* the lands of the pagan gods throughout the empire and Constantius II confiscated the estates owned by the cities. Julian restored their property to the gods and to the cities, but Valentinian and Valens confiscated them anew; a third of the civic lands was subsequently retroceded to the cities.⁸

As a result of more than three centuries of accumulation the properties of the *res privata* must by the end of the third century have been very extensive and very widely scattered. Countless small bequests, escheats and forfeitures had brought in to the crown a farm here and a house there, and the larger properties which accrued to the *res privata* normally consisted of groups of estates, often dispersed over several provinces. After the confiscation of the temple and civic estates there can hardly have been a city in the empire within whose territory the *res privata* had not some property. The density of crown property was however uneven, and in some provinces there were large concentrations of imperial land. The senatorial aristocracy had from an early date begun to consolidate great estates in Italy and the home provinces, notably Sicily and Africa, and by inheritance, escheat or confiscation many of these had accrued to the crown. In the province of Africa in particular the emperors had early acquired a vast domain. According to a return made in 422 the imperial lands in Africa Proconsularis com-

prised 14,702 *centuriae* and those in Byzacena 15,075. The gross areas of the two provinces, as nearly as they can be calculated, were 80,000 and 100,000 *centuriae* respectively. The imperial lands therefore comprised about 18.5 per cent of the area of Proconsularis and 15 per cent of that of Byzacena; and, seeing that both provinces, especially the latter, included large areas of mountain and desert, must have represented a much higher proportion of the cultivable area. In the East there were also a number of large blocks of imperial land, *regiones*, *tractus* and *saltus*, which were not in the territory of any city. Many of them are recorded in Bithynia, Cappadocia and Palestine, and they were probably in the main the old royal lands of these and other minor kingdoms. In the sixth century the greater part of the province of Cappadocia Prima belonged to the crown.⁹

It is impossible to gauge the total area of the *res privata*, or the proportion of the land of the empire owned by the crown, taking into account both the large blocks of imperial property and the multitude of small scattered holdings. For the latter we have only one piece of evidence. In the Syrian city of Cyrrhus out of 62,000 *iuga* 10,000 (16 per cent) were imperial in the middle of the fifth century. If this were a typical case, the proportion of crown land to private land throughout the empire would have been as high as in Africa. But Cyrrhus may well have been exceptional: it was the home town of Avidius Cassius, a wealthy senator who rebelled against Marcus Aurelius, and whose estates were confiscated.¹⁰

The lands confiscated from the temples (*fundi iuris templorum*) and from the cities (*fundi iuris reipublicae*) are often alluded to in the Codes as separate categories within the *res privata*. Special rules were from time to time applied to the management of these two categories, and to the disposal of their revenues, and it would seem that they must have been listed in separate schedules. The Codes also appear sometimes to distinguish the estates of the patrimony (*fundi patrimoniales*), the old crown property organised as a separate department by Septimius Severus, from those of the *res privata*, the new department which he created and into which subsequent acquisitions flowed. On this point, however, the language of the laws is normally very vague and ambiguous, and no practical distinction can be discerned between *patrimonium* and *res privata* in the narrower sense. It seems likely that the distinction, if it was preserved at all, had become of historical interest only, and that the imperial draftsmen continued to use the two terms—and many others, such as *domus nostra*—merely to enrich the store of synonyms which rhetorical elegance demanded.¹¹

The administration of the vast and scattered estates of the crown

was a complicated and exacting task. The *res privata* seems very rarely to have attempted to manage its lands directly. In the *domus divina* of Cappadocia Justinian in the thirteenth Novel depicts an elaborate hierarchy of officials, thirteen *magistri*, each responsible for one 'house', and under them *procuratores*, *tractatores* and *exactores*, the last of whom collected their rents from the cultivators. Such an organisation was evidently, however, exceptional. In one other law only, issued by Valens in 367, do we hear of officials (*arcarii*) collecting rents from the actual working tenants who cultivated the soil, the *coloni*, and this law may also refer to the Cappadocian estates. As a general rule the *res privata*, like large landlords of private station, leased an estate (*fundus*) or block of estates (*massa*) as a whole to a contractor or head tenant (*conductor*).¹²

Some estates were leased on short term, probably for the five-year period (*lustrum*) normal in all such contracts. In such a case the *conductor* was liable to be ejected in favour of a rival bidder who offered a higher rent, unless he were prepared to pay as much, in which case the sitting tenant had the preference. This system of rackrenting would seem to be most profitable to the crown, but it had its disadvantages. It involved a great deal of administrative work. It was not always easy to find reliable tenants who would accept leases on such precarious terms, and tenants were tempted to exhaust their estates and leave them in a derelict condition. The government found it politic therefore to grant perpetual or emphyteutic leases.¹³

The two terms, *ius perpetuum* and *ius emphyteuticum*, originally, it would seem, had different meanings. The latter was strictly a lease of derelict land which the lessee undertook to put back into good order: he usually received remission or reduction of rent for the first few years, after which he paid a fixed sum; in private leases of this type the tenure was not always perpetual, but might be for a term of lives. A perpetual lease, on the other hand, did not involve any improvement of the land, and was, as its name implies, for all time, passing by inheritance or by will and being alienable by sale or gift. The two terms, however, had become interchangeable by the end of the fourth century at latest in the administrative practice and terminology of the *res privata*. Crown emphyteutic leases were always granted in perpetuity, with full powers of alienation, and were not restricted to derelict land. Eventually, in the sixth century, emphyteutic came to be the term for any perpetual lease of crown land and the term *ius perpetuum* became obsolete in the East.¹⁴

Emphyteutic or perpetual leases were already common in Con-

stantine's reign, and became progressively more widespread. Not only was land which had been neglected and gone out of cultivation under short-term tenancies let to emphyteutic lessees, but as a general policy perpetual leases were favoured. Thus Honorius enacted that all the former civic lands (*fundi iuris reipublicae*) should be auctioned and let on perpetual leases to those who offered the highest rents. The result was that the greater part of the lands of the *res privata* came to be held on perpetual tenures. In Ostrogothic Italy the only revenue which the *comes rei privatae* controlled was, according to Cassiodorus, that arising *de perpetuario iure*.¹⁵

This state of affairs caused some embarrassment to the emperors, as it restricted their power of making grants of imperial land. It was also inhibiting to those who desired to acquire leases of imperial land, and were prepared to pay higher rents for them than their perpetual tenants. Under these two pressures the sanctity of perpetual leases was often infringed. The emperors had frequently to issue stringent orders that so long as perpetual leaseholders paid the rent which had been originally fixed, they were not to be ejected, even in favour of those who had obtained grants from the crown, and that their rents were not to be increased, even if rival applicants offered higher sums.¹⁶

The situation is well summed up by Valentinian III. 'The estates of our patrimony, if they shall once be, or have already been, allocated on a perpetual lease to anyone, either by our command or by the authority of the illustrious count of the private treasury, ought not to be transferred to another perpetual tenant. We clearly declare by this edict that an estate is never to be transferred from a perpetual tenant, even if the emperor has in response to a petition or of his own motion granted it to another.' There follow penalties for the *comes rei privatae* if he passed such grants. 'The estate will not be leased to another, even if he outbid the tenant by a huge increase of rent. The perpetual tenant is to be secure under his perpetual lease by the strength of the public contract, and to understand that it cannot be taken from him or from his descendants, or from those to whom it has passed or may pass by hereditary succession or by gift or by sale or by any other title.'¹⁷

The emperor then reveals the difficulty of his situation. 'Since imperial munificence must not be altogether excluded, the emperor will, if he wish, give an estate of his patrimony to the tenant who holds it on a perpetual lease, whether he obtained it himself or succeeded to it by any title whatsoever. For he thereby concedes his own rent, and his liberality, which desires that a perpetual tenant be called a freeholder, does no harm to another. Furthermore if anyone has obtained an estate not on a perpetual lease but

for a limited tenure from the illustrious count of the private estates, there will be no obstacle to the imperial munificence if he should wish to transfer by gift to another what the one has leased for a limited time.'¹⁸

Despite such good resolutions by successive emperors the position of an emphyteutic or perpetual lessee remained in practice somewhat precarious. He was still in law a *conductor* and as such liable to summary ejection if he failed to pay his rent punctually, and the land which he leased was still entered on the books of the *res privata* as imperial property, and therefore might by the inadvertence of the office (usually no doubt induced by influence or bribery) be granted to another. It was no doubt to remove the qualms of prospective lessees that the imperial government invented a new form of tenure, *ius privatum salvo canone*. Under this the land became the private property of the grantee, subject to a perpetual rent charge. The practical difference does not seem to have been great. The *conductor* on becoming *dominus* of the land gained unrestricted control of it; he could, for instance, manumit slaves attached to it, which he had hitherto been forbidden to do, such slaves having been imperial property. But his principal gain was security of tenure. As Valentinian I proclaimed in 368, the grantees under the new scheme could not fear summary ejection for non-payment of rent, since they were the owners of their land: if they fell into arrears on their rent charge, distraint would be made on their other property, and only if they went bankrupt would the land be resumed by the crown.¹⁹

Valentinian I perhaps invented this form of tenure. He certainly launched it on a large scale, explaining its advantages in detail and issuing a general invitation to all his subjects to apply for imperial land under the new scheme. It evidently proved popular, for later emperors were able to sell lands subject to rent charge, thereby making a capital gain as well as maintaining their income. Theodosius II in an endeavour to raise funds tried to compel all emphyteutic patrimonial lessees to purchase their freeholds. The campaign was perhaps not a great success, for in 434 he abandoned it, and made a free grant of the freehold to all tenants who had not yet purchased it, remitting all instalments hitherto unpaid.²⁰

In the time of Constantine the rents of imperial lands were paid either in corn or in gold and silver; later payment in gold, or occasionally silver, became universal. The rent was annual, and might be paid either in one sum or in not more than three instalments at the lessee's option at any time within the fiscal year, which for this purpose ended on the ides of January. The lessees were also liable to the regular land tax, except, it would seem, for a brief

period at the end of the reign of Constantius II. They were, however, as compensation for their rent, excused superindictions and extraordinary levies and *sordida munera*: they were like private landowners liable to contribute to the repair of roads and bridges. They were often excused from producing recruits, and though they paid *aurum tironicum*, when this tax was levied in lieu of recruits, their payments under this head were set off against their rent.²¹

These were valuable privileges which might well be a very adequate compensation for the rent. If the land were of good quality, a lease might be a profitable investment, and there often seems to have been some competition to obtain them. They were not disdained by wealthy men. Valentinian I legislated to protect the rights of 'men of senatorial fortune, amongst others', who had been granted emphyteutic leases by his predecessors, and also enacted that *comites* of the consistory should not be required to furnish sureties on taking up leases of imperial lands. Not all imperial lands had tenants of such high station. The temple and civic lands had before their confiscation normally been leased by decurions; Valentinian I excluded them in 372 from the former civic lands, Theodosius I in 383 ordered that if willing tenants could not be found for temple and civic lands, they should be compulsorily allocated to 'their old occupiers, the decurions or whoever else they might be'.²²

The *res privata* continued to receive accessions, and it was part of the duties of the department to see that these were duly claimed and incorporated. The emperors still received gifts and bequests: several of the estates given by Constantine to the Roman church had been donated to him by his subjects. This source may well have dwindled in the later empire, as the church became an increasingly important rival of the emperor as a legatee. But the Byzantine historian Zonaras states that in his day—the twelfth century—it was still common form (amongst the aristocracy, it may be presumed) to include in every will a bequest to the treasury, and it may be the tradition was continuous.²³

The imperial government renounced its claim to certain categories of *bona vacantia*. Constantine ruled that the estate of a *navicularius* who died intestate without heirs should pass not to the imperial treasury but to his guild, and those of a decurion to his *curia*. Constantius II enacted that in similar circumstances the estates of soldiers should go to their regiment and those of *cobortales* to the provincial *officium*. Theodosius II allowed the guilds of *fabricenses* to claim the *bona vacantia* of deceased members, and granted to the churches those of their clergy. These concessions must have reduced the flow of *bona vacantia*, but they left the

government's claim to the largest estates, those of senators and higher officials, unimpaired.²⁴

Cases of escheat seem, to judge from the many references in the laws, to have been rather frequent under the later empire. This was partly because testamentary rules were complicated and rigid, and wills could be quashed on technical grounds; Symmachus as prefect of the city had to deal with a case of this sort. The increasingly disturbed condition of the empire must also have brought in its crop of escheats. Many owners must have disappeared without trace in the barbarian raids and invasions, whether killed or captured and sold as slaves far from their homes.²⁵

Constantine, in deference to Christian sentiment, which applauded celibacy and continence, rescinded the clauses of the Lex Papia Poppea which penalised the unmarried and childless. The government's claim to *bona caduca* in the old sense thus lapsed, but later emperors, from Theodosius I onwards, penalised Manichees and other heretical sects by forbidding them to make wills or take inheritances or legacies, and thus created a new, and no doubt profitable, source of *caduca*.²⁶

The most important class of acquisitions in the later, as in the earlier, empire was the property of condemned felons. The government did not always exact its legal claims. It might, and apparently fairly frequently did, restore confiscated property to a condemned man or to his heirs as an act of grace. But apart from such individual favours the later emperors also abated their regular claims somewhat. In 356 Constantius allowed the heirs of felons up to the third degree, except in cases of treason and magic, to inherit. This concession was, however, shortlived, being revoked in 358. In 364 Valentinian permitted the children of felons to claim their fathers' property, except in cases of treason. In 380 Theodosius enacted complicated rules whereby if a felon were deported he himself could retain a sixth, and near relatives a sixth or a third of the property, the treasury taking a half or two-thirds, while if he were executed his sons and grandsons could claim the whole, and his parents or more distant relations smaller portions up to a half: treason was again excepted from the law. Later, in 426, the law was simplified; henceforth the crown ceded half the property to surviving children or grandchildren, except in treason cases.²⁷

This exception, which was steadily maintained, was important. For it was under this head that the treasury made its greatest hauls, the huge properties of great generals or ministers, who like Gildo or Heraclian were really guilty of rebellion, or like Tatian, Rufinus or Stilicho were branded as traitors when they fell from power. Furthermore the number of offences for which death or deporta-

tion was the penalty grew steadily, and total or partial confiscation of property was frequently imposed as a sanction: thus it was frequently enacted that the estate on which some offence was committed—a pagan sacrifice celebrated, a heretical service held, a deserter harboured—should be forfeited, if the owner had connived at the breach of the law.²⁸

By the various concessions mentioned above the government somewhat abated the scope of its legal claims; whether the number and bulk of claims was greatly reduced is more doubtful. But what is abundantly clear is that in practice many potential accessions were not incorporated in the *res privata*, but were snapped up by importunate petitioners. The government had no machinery for detecting cases of *bona caduca* and *vacantia*, and it was left to private informers (*delatores*) to bring them to light. It was also left to informers to ferret out cases where crown lands had been usurped or improperly retained by private persons. Informers were unpopular, and the government, in deference to public protest, frequently denounced their activities. They were liable to severe penalties if they failed to substantiate their allegations, and also if they made a regular business of informing: by a curious rule, laid down in 380, they were liable to the death penalty if they lodged more than two valid informations.²⁹

Despite these dangers it is clear that informers were very active. Their proper course was, according to a law of Constantine, preserved by Justinian, to bring their information to the *advocatus fisci* of the province, who would then investigate the case and bring the crown's claim before the courts. It is evident, however, that most informers preferred to sell their information to private persons of influence, who thereupon simultaneously reported to the *res privata* that the crown had a claim, and petitioned that the estate in question be granted to them. Such petitions seem regularly to have been granted, subject to the condition that the petitioner must produce the informer in court, and that the alleged claim of the crown must be judicially investigated and proved. From the frequency with which the emperors had to re-enact these rules it would seem that petitioners often occupied the estate forthwith without bothering to prove the crown's claim. Petitions were also frequently made for *bona damnatorum*, and frequently granted. This was obviously a practice which lent itself to grave abuse: Ammianus declares that Constantius II's nervous fear of conspiracies was deliberately played upon by the great men of the court, who then petitioned for the estates of the alleged traitors. Theodosius I placed an absolute ban on petitions for *bona damnatorum* in 380, but the government had not the strength of mind to resist the impor-

tunity of suitors. In 401 it was enacted no petition should be admissible until two years after the condemnation, and this rule was re-enacted in 421.³⁰

The large volume of legislation on the subject suggests that the bulk of potential accessions to the *res privata* thus passed directly into the hands of private suitors. We know of certain prominent exceptions. The vast estates of Gildo and Stilicho were certainly incorporated in the *res privata*, and no doubt the crown tended to retain such very large estates which no subject would dare to ask for: the *magister militum* Constantius did, however, by a single petition secure the entire estate of Heraclian, which amounted to 2000 lb. gold in cash and lands of equal value. It seems strange that the emperors should have acquiesced in this system, which diverted into private hands property which legally should have increased the resources of the government. But it is clear that they were subject to immense pressure from importunate suitors. And this being so it no doubt seemed more economical, and was less of a wrench, to part with property which the crown did not yet own, than to grant land which was actually bringing in rent.³¹

The government recouped some of its loss by special taxes. Constantius II imposed on grantees of imperial lands a special levy in gold and silver (*collatio donatarum possessionum*): this was remitted by Jovian and Valentinian I when confiscated property was returned to the owner or his heirs. Honorius and Theodosius II also from time to time imposed special levies on grantees. These consisted of payments based on the rental value on a sliding scale according to the length of time for which the estate had been held. Thus under Honorius' rules a grantee was exempt for the first five years, during the next five years was liable to a year's rent, and if he had held the land over ten years to two years' rent. Under Theodosius II's scheme he was immune during his first year of occupancy only, and thereafter paid six months' or one, two or three years' rent according as he had held the land for up to three, three to five, five to ten, or over ten years.³²

Eventually the government rebelled against the custom of giving away all potential accessions to crown property. In 425 Theodosius II enacted that petitioners must share their gains with the treasury; after deducting the expenses of proving a claim, half the remainder went to the suitor and half to the crown. Finally in 444 he altogether prohibited petitions for *bona caduca* and *vacantia* (and also former civic estates), and enacted that henceforth claims by the crown should be adjudicated by the praetorian prefects, and that estates successfully claimed should be divided equally between the three treasuries, the *arca* of the praetorian prefect, the *largitiones* and the

res privata. The prohibition of petitions was thereafter maintained—it is reproduced in Justinian's Code—but one may legitimately wonder whether the law was observed. If it was one may suspect that the flow of informations on crown claims, no longer stimulated by private greed, tended to dry up.³³

The liberality of the emperors was not confined to grants of claims. There are frequent allusions to petitions for and gifts of patrimonial, civic and temple lands. The *res privata* also from time to time sold property outright. In 378 Valens ordered all imperial house property which, owing to the negligence of *rationales* and *procuratores*, was in a ruinous condition, to be sold by auction, and in 398 Honorius did the same in the West. In the early fifth century the *res privata* was selling land at such a rate that the emperor had to call a halt 'to prevent our eternal house being stripped of all its patrimony by sales'. These fears were exaggerated. What with grants and sales on the one hand, and new accessions on the other, it is impossible to say whether the *res privata* grew or shrank; it no doubt had its ups and downs, according as emperors were parsimonious or lavish in their grants, and ruthless or clement in their condemnations and confiscations. But it is clear that the *res privata* remained a substantial department down to the sixth century.³⁴

It is nowhere stated to what objects the revenue of the *res privata* was devoted. Apart from the maintenance of the personal household of the emperor, the *sacrum cubiculum*, there were no regular administrative expenses for which the department was responsible, as were the *largitiones* and the praetorian prefecture. The *res privata* seems to have been regarded as a peculiarly personal fund which was at the free disposal of the emperor. Being an autocrat the emperor could, if he so wished, allocate money for private gifts from the *largitiones* or the treasury of the praetorian prefects: we find Constantine giving largess to the clergy of Africa from the former, and Arcadius charging a gift to the church of Gaza on the latter. Conversely he could and did use the revenues of the *res privata* for purposes of state: Valentinian III boasts that he very frequently deputed the rents of his patrimony to public necessities. But normal state expenditure was covered by the other treasuries, and as a rule emperors drew on the *res privata* for personal benefactions.³⁵

Leo and Zeno emphasised the personal character of the *res privata* by dividing it into two sub-departments, one at the disposal of the emperor and the other at that of the empress. Anastasius, though he abolished this distinction, seems still to have regarded the *res privata* as a personal fund. This probably is the

explanation of his establishing a new department, the *patrimonium*. The question is highly obscure, but we know on the one hand that when Anastasius abolished the *collatio lustralis* he made up the loss to the *sacrae largitiones* from the *res privata*, and, on the other hand, that the function of the newly created *comes patrimonii* was to administer 'the private property allocated or to be allocated to the public treasury'. It would seem then that when Anastasius permanently earmarked a part of the revenues of the *res privata* for public expenditure, he formally marked the change by the creation of a new department to administer the estates transferred, and thus implicitly claimed that the rest of the *res privata* remained at the free disposal of the emperor.³⁶

The allocation of a major source of revenue to casual private benefactions may seem extravagant, but it must be remembered that open-handed generosity to his subjects was one of the cardinal virtues of the good king as envisaged by the panegyrists, and that public opinion strongly resented meanness in an emperor. Themistius in his panegyric on Valens has some difficulty in explaining away his prudent parsimony, making at great length the obvious point that lavish benefactions necessitate higher taxation. Popular opinion is reflected in the stories told by Gregory of Tours about Justin II, who for his avarice was afflicted with madness, and his successor Tiberius Constantine, whose reckless generosity was rewarded by the discovery of vast hidden treasures. Regular grants in cash or kind were among the normal perquisites of the members of the *comitatus* and of the palatine officials. It was routine that no suitor left the imperial presence without a gift of gold, and such gifts were on a truly imperial scale. A monophysite monk named Mare, admitted to an audience with Justinian and Theodora, was grossly offensive to them. Theodora nevertheless ordered her *sacellarius* to hand him a gift, but Mare hurled it back in her face. Those present were no less amazed at the bodily strength of the athlete of God than at his strength of mind; the gift was a hundred pound sack of gold.³⁷

The *res privata* existed primarily to supply the land and the gold for the munificence traditionally demanded of the crown. For the maintenance of the 'sacred bedchamber' special groups of estates were earmarked, known as the *domus divina*. In the West these estates lay in Africa, and always remained a sub-department of the *res privata*; in the Notitia Dignitatum the *rationalis rei privatae fundorum domus divinae per Africam* is still listed among the officials at the disposition of the *comes rei privatae*. In the East the *domus divina* was situated in Cappadocia, and passed between 390 and 414 from the control of the *comes rei privatae* to that of the *praepositus*

sacri cubiculi. In 379 Theodosius I ordered that the ancient custom should be revived whereby an official of the *comes rei privatae* was annually sent to serve as *princeps* in the *officium* of the *comes domorum per Cappadociam*. In 390 he addressed to the *comes rei privatae* a law dealing with extortion by the *comes domorum*. In the Notitia Dignitatum the *domus divinae* still appear under the *comes rei privatae*, but the *domus divina per Cappadociam* under the *praepositus sacri cubiculi*. One may suspect that the department had been recently transferred, and that when the new entry was inserted the old was not deleted. By 414 the change had certainly been made, for a constitution granting remission of arrears was circulated to Musellius, the *praepositus sacri cubiculi*, 'with respect to revenues belonging to the sacred house'. This arrangement remained unchanged until Justinian merged the office of *comes domorum* with that of governor of Cappadocia Prima: the new proconsul remained responsible to the *praepositus* for the *domus divina*.³⁸

Under Justinian the administration of the imperial lands was yet further complicated by the creation of a number of *curatores dominicae domus*, who, being of illustrious rank, must have been directly responsible to the emperor. These officers first appear in a constitution of 531, which is addressed to Florus, *comes rei privatae* and *curator dominicae domus*, Peter, *curator dominicae domus* of the empress, and Anatolius, also *curator dominicae domus*. Other documents record *curatores* of particular estates or groups of estates, 'of the property of Placidia', 'of the property of Hormisdas', and so forth. The 'divine house' or 'houses' are regularly coupled with the *res privata* and the *patrimonium* in Justinian's Novels, and evidently were to be found in all parts of the empire. Under Justin II their administration seems to have been concentrated under a single *curator*, but under Tiberius Constantine there is again a plurality of *curatores*. The object and significance of this innovation are obscure. It may be that the *res privata* had come to be absorbed by routine expenses, and that the emperor therefore allocated to himself—and to the empress—a yet more personal source of income. Some at any rate of the 'divine houses' were apparently large groups of estates which had belonged to a single owner and, when they came into imperial hands, by bequest or confiscation, were kept together as administrative units.³⁹

In the latter part of the reign of Justinian there were thus six or more independent and co-ordinate departments administering various parts of the imperial lands. There was the old *res privata* under its *comes*, the *patrimonium* under another *comes*, the *domus divina per Cappadociam* under the *praepositus sacri cubiculi*, the *domus dominicae* of the emperor and of the empress under their several

curatores, and finally, after the conquest of Italy, the *patrimonium Italiae*, with its own *comes*. The revenues of one of these departments, the *patrimonium*, were allocated to public expenditure, those of another, the *domus divina per Cappadociam*, maintained the imperial household. The rest so far as we know provided funds for imperial munificence.⁴⁰

The *comes sacrarum largitionum* was the *rationalis rei summae* with a more sonorous title, and carried on the latter's functions. He controlled the mints, the gold (and probably silver) mines and the state factories in which arms and armour were decorated with the precious metals. He collected such old money taxes as survived the inflationary period, and other levies in gold and silver which were devised subsequently. He was responsible for paying the periodical donatives in gold and silver which the troops received, and probably also the cash *stipendia*, so long as they survived, of soldiers and officials. He also handled the collection or production of clothing, and its distribution to the court, the army and the civil service. This last function seems somewhat incongruous for a department which otherwise was concerned only with revenue and expenditure in coin and with the precious metals, and the reasons for which it was assigned to the *largitiones*, and not, like the other levies and issues in kind, to the praetorian prefecture, are unknown. One reason may be that the state factories which produced a part of the clothing had originated at a period when the *res summa* was the main financial department. Another reason may be that the levies of clothing were still under Diocletian paid for in cash and not, like the *annona*, simple requisitions.⁴¹

The structure of the *officium* of the *comes sacrarum largitionum* is known to us not only from the summary notices in the Notitia Dignitatum, with which we usually have to be content, but also from a detailed schedule attached to a constitution of 384, which is preserved in the Code of Justinian. In the former, ten principal departments are named. The senior was the general clerical branch, the *scrinium exceptorum*. There follow the revenue department, the *scrinium canonum*, and the accountancy department, the *scrinium tabulariorum*: these three between them, amongst their other duties, controlled the state clothing mills and dyeworks, for which no separate *scrinium* existed. Another general purposes department, not mentioned in the Notitia and presumably therefore of a subordinate character, was the *scrinium mittendariorum*, from which were drawn the messengers sent out to the provinces. Next comes the

scrinium numerorum, whose functions are uncertain; it perhaps maintained a record of the strength of the regiments (*numeri*) of the army with a view to calculating the sums required for donatives.

There follow two departments concerned with gold, the *scrinium aureae massae* or bullion department, and the *scrinium auri ad responsum*; it perhaps dealt with returns of gold stocks in the diocesan depots. Between these the law of 384 lists groups of technical staff, the *aurifices specierum* or goldsmiths, the *aurifices solidorum* who minted the gold coins, and the engravers and other craftsmen (*sculptores et ceteri artifices*). Next comes the *scrinium vestiarii sacri*, the department of the imperial wardrobe, which is followed in the schedule to the law by the *officiales* and the *deputati* of the wardrobe. The *scrinia argenti* and *a miliarensibus* presumably handled silver bullion and silver coin respectively, and the *scrinium a pecuniis* the copper currency. The schedule adds the silversmiths of the court (*argentarii comitatenses*) and the *barbaricarii* who ornamented arms and armour.⁴²

In addition to this central office the *comes sacrarum largitionum* had a large staff in the dioceses and provinces. Under Diocletian there had been a *rationalis vicarius* in each diocese, and in some dioceses two; Egypt for instance, though part of Oriens, had its own *rationalis*. In the East these diocesan *rationales* had by the time of the Notitia Dignitatum all been raised to the dignity of *comites largitionum*, except in Egypt, where the title was *comes et rationalis summarum*. In the West the development was different. *Rationales summarum* survived unpromoted in the dioceses of Britain, Spain, Gaul, and Five Provinces and Italy, and in the half dioceses of Africa and Numidia, urbs Roma and the Three Provinces (Sicily, Sardinia and Corsica), and Pannonia Prima with Valeria and Noricum, and Pannonia Secunda with Dalmatia and Savia. But in certain areas at any rate there had been erected over the heads of the *rationales* superior officers with wider circumscriptio bearing the title of *comites largitionum* or *largitionalium titularum*. The Notitia records one for Illyricum, one for Africa and one for Italy, and we know of another for Gaul. These officials, in addition to their administrative functions, all had judicial powers in fiscal cases, and possessed their *officia* and judicial assessors and bars of advocates.⁴³

The *sacrae largitiones* had a number of depots (*thesauri*) in the provinces, in which gold, silver and other goods (presumably clothing) were collected and stored and from which they were either issued locally or transmitted to the *comitatus*. These *thesauri* were also local audit chambers, where retiring directors of mints, managers of state factories and collectors of revenues had to submit their accounts. Their heads were styled *praepositi* (later *comites*)

thesaurorum, and they were staffed by officials known as *thesaurense*. In the West the Notitia records three *thesauri* in Illyricum at Salona, Siscia and Savaria, four in Italy at Rome, Aquileia, Milan and Augusta Vindelicorum, four in Gaul at Treveri, Remi, Lugdunum and Arelate, and one in Britain at Augusta (London); none are mentioned in Spain or Africa, but the omission is presumably accidental. No details are recorded in the East: we happen to know that Caesarius, the brother of Gregory Nazianzen, was *praepositus thesaurorum* at Nicaea, and that there was a *thesaurus* at Philippopolis in Thrace.⁴⁴

We hear in the fourth century of *largitionales civitatum* or *urbium singularum*, who were technically members of the palatine *officium*. It is hard to believe, as this would seem to imply, that in every city of the empire there was an official of the *largitiones*, and they were no doubt posted only to important towns. Their functions are not known, but it may be conjectured that they were concerned with the civic revenues which were taken over by the *largitiones* in the first half of the fourth century.⁴⁵

Under the disposition of the *comes sacrarum largitionum* were also the *praepositi bastagarum*, who directed its transport service, the *comites commerciorum* or controllers of foreign trade, the *procuratores* of the state linen and woollen mills and dyeworks, and the *praepositi* of the factories of *barbaricarii*: these last were in the East transferred to the master of the offices in the last quarter of the fourth century. In the East there was also the director of mines in Illyricum (*comes metallorum per Illyricum*); in the West the corresponding official was perhaps the *comes auri*. The Notitia also records a *comes vestiarii* in the West, and *magistri lineae vestis* and *magistri privatae* in the East; nothing is known of their functions.⁴⁶

The *largitiones* received, as we have seen, a number of taxes, some old, some instituted by Constantine, whose common characteristic was that they were levied in gold and silver. Among the old taxes were the custom duties, which, being *ad valorem*, had survived the inflation unscathed. On the frontiers of the empire duty was charged on imports and exports at 12½ per cent (*octavae*); this is half the 25 per cent which was levied under the Principate. There had also existed under the Principate internal transit dues at the frontiers of provinces or of groups of provinces, such as the *quadragesima Galliarum* (2½ per cent). These probably survived: Symmachus in two letters protests against the exaction of a *quadragesima* or *quingagesima* on wild beasts imported from frontier provinces to Rome by senators for their games—the tax should, he asserts, be charged only on commercial dealers in wild beasts. In addition to these there were the tolls levied by cities which

Constantine appropriated for the state: some of these were harbour dues, others seem to have been octroi duties levied at the city gates, since peasants bringing in produce to pay their taxes, or taking out goods for their own use or for agricultural needs, were exempted.⁴⁷

According to a law of Constantine reproduced by Justinian the customs were to be farmed, being allocated by auction to the highest bidder for terms of not less than three years. Decurions were by a law of Diocletian, also reproduced by Justinian, allowed to farm the customs, acquiring temporary immunity from curial charges: they were excluded by Theodosius I in 383, except in the diocese of Egypt, but this must have been a temporary ban. The collectors were sometimes known as *conductores* but more often as *praepositi vectigalium*; it is probable that, as under the Principate, when voluntary bids did not come up to the figure expected by the government, the collection was assigned compulsorily.⁴⁸

Another old tax was the *aurum coronarium*. This was an offering of gold crowns, in theory voluntary, but long customary, made by the cities of the empire to the emperor on his accession and on the quinquennial celebrations of that event, and also on such festal occasions as triumphs. Being in gold and arbitrary in amount it too survived the inflation of the denarius and was indeed in the third century almost the sole source from which the government obtained gold. It retained under the latter empire some traces of its voluntary origin. The collectors were forbidden to 'look a gift horse in the mouth' by weighing and testing the purity of the gold and exacting the deficit if the coins were not up to specification. The amount was furthermore not fixed but depended on the discretion of the cities, no doubt stimulated by official hints. On Julian's accession, Libanius tells us, some cities offered as much as 1000 or 2000 solidi or even larger sums, but Julian refunded the money and fixed a maximum of 70 solidi. Those liable to contribute were normally the members of the city councils; one law enacts that the landowners who were not senators were to pay.⁴⁹

Closely allied to the *aurum coronarium* offered by the cities was the *aurum oblativum* contributed on the same occasions by the senate. The amount again was left to the discretion of the senate, but we learn from a letter of Symmachus that the senate received an unofficial intimation of what was expected: on this occasion the amount was such that the house was struck dumb and promptly moved on to other business. As prefect of the city Symmachus announced to Valentinian II the amount voted on his tenth anniversary, which was 1600 lb. gold. This was, as Symmachus carefully explained, rather more than the senate had voted to Valentinian I and to Valens on their *decennalia*, or to Gratian on his

fifteenth anniversary. All senators, whether resident in Rome or not, had to subscribe; those in Rome paid at Rome, those in the provinces locally through the *censuales*, who were after 397 assisted by the provincial governors. The Constantinopolitan senate also offered crown gold, but no figures or details are known.⁵⁰

Of the new taxes the *collatio glebalis* or *folles*, instituted by Constantine, was levied annually on all senators. Immunity was very sparingly given: in 428 the exempt list comprised only barristers of the high courts of the praetorian and urban prefectures, the court physicians (*archiatri sacri palatii*) and some higher palatine officials, who enjoyed senatorial rank during their service or on retirement, the notaries, the decurions of the silentiaries, the *principes* of the *agentes in rebus* and the *proximi* of the *sacra scrinia*. The tax was originally levied at three rates, 8, 4 and 2 *folles*, according to the amount of landed property which a senator held. The value of the *folles* was probably for the purposes of this tax equated to 125 *milliarenenses*, worth about 5 solidi. Even those who had no land were liable to 2 *folles*, until Theodosius I in 393, in response to complaints from poorer senators, created a fourth class, which paid 7 solidi only. Despite this the government in 398 ruled that the *gleba* was a tax not on persons but on property, and deduced from this principle that land once burdened with it must continue to pay it even if it passed to a non-senator; this principle was maintained even when such land passed to the *res privata*. The tax was assessed by the *censuales*, to whom all persons entering the senate had to make a full declaration of their property. It was also down to 397 collected by them, after this date probably by the provincial governors. The tax, though a negligible burden to such wealthy persons as senators usually were, caused a good deal of complaint, and was abolished, with all arrears, by Marcian in the Eastern empire.⁵¹

Another new tax instituted by Constantine was the *collatio lustralis* (*χρυσόλοτρονον*). It was, as its Latin name suggests, levied every five years, on the accession and subsequent quinquennial celebrations of each emperor; by the fifth century it was apparently demanded every four years. As its Greek name shows, it was originally paid in gold and silver, but from the reign of Valentinian and Valens it was normally collected in gold only. It fell upon *negotiatores*, by which was apparently meant anyone who made his living by buying and selling or by charging fees. We know that moneylenders and prostitutes came under the definition; doctors and teachers were, on the other hand, expressly exempt. Landowners and peasants selling their own produce were declared immune from the tax, and by a law of 374 rural craftsmen were

exempted. Rural merchants however paid, and so did urban craftsmen who sold their own products. A specific exemption was given in 374 to painters, and veterans and the clergy enjoyed a limited immunity. Veterans were by a law of Constantine excused tax on the first 100 *folles* of their assessment; the limit was in 385 defined as 15 *solidi*. The clergy seem at first to have been wholly immune, but the privilege was limited by Constantius II in 356 to the poorest class of clerics, the *copiatae* or gravediggers: in 379 Gratian fixed an upper limit of 15 *solidi* in Gaul and 10 in Italy and Illyricum.⁵²

The tax was assessed on the capital assets of *negotiatores*, including not only their tools and animals and slaves, but themselves and their families: according to the late Byzantine chronicler Zonaras a flat rate of 1 silver *nummus* was charged on horses, mules, oxen and men. Those liable were entered on a list (*matricula*) in each city and elected from among themselves the *manipes* who collected the tax; this procedure is confirmed by a law of 399, which states that it was the general practice in almost all cities. The only clue that we have to the yield of the tax is that Edessa was paying 140 lb. gold every four years when Anastasius finally abolished the tax.⁵³

The *aurum tironicum*, or gold levy in commutation for recruits, was paid to the *sacrae largitiones*: it was normally at the rate of 25 or 30 *solidi* per man. So too was the commutation for military remounts. In 429 Theodosius II ordained that the Jews should henceforth pay to the *largitiones* the contribution which all synagogues had in times past made to the patriarch at Tiberias, and that payments already made since the lapse of the patriarchate should be surrendered to the treasury: he also claimed contributions which came in from synagogues in the West. It is uncertain whether the *siliquaticum*, the tax of 1 *siliqua* per *solidus* on all sales, instituted in the West by Valentinian III, went to the *largitiones* or the *arca* of the prefects. Fines generally flowed to the *largitiones* until the reign of Justinian, who assigned them to the *res privata*.⁵⁴

It seems likely that the *largitiones* also received a money tax on land assessed on the same basis as the *annona*. In Egypt Maximin is known from the papyri to have levied a tax in silver (payable also in gold) on land, assessed on the same basis as the tax on wheat. A law of 337 mentions gold and silver in addition to the regular tribute and garments as normal forms of land tax. A law of Julian declared that immunity from *capitatio* included not only the levies of foodstuffs (*annona*) and other dues in kind (*species*), but also *largitiones*. A papyrus of the year 384-5 records the receipt by the 'provincial gold buyer', the local representative of the *largitiones*, of gold assessed on acreage (*χρυσὸς ἀρουραίωνος*). In 423 Honorius

informed Rufinus, his *comes sacrarum largitionum*, that the abatements previously granted to the suburbicarian provinces in levies in kind (*annonariae functiones*) were to be extended to *largitionales tituli* also. In sixth-century Egypt land certainly paid not only wheat and gold to the praetorian prefect's account, but also gold as *canonica* to the *largitiones*. In Italy too after the reconquest land was taxed both 'in canone praefectorum' and 'in largitionalibus titulis'; both payments were here made in gold.

The amount received by the *largitiones* was inconsiderable as compared with that which went to the prefects. In an Egyptian document the former receives 22 carats, the latter 22½ carats and 63 *artabae* of wheat: reckoning the wheat at its official commutation rate of 10 *artabae* to the *solidus*, this makes the prefect's share about eight times that of the *largitiones*. In a sixth-century Italian document the prefect's canon is 1153½ *solidi*, the *tituli largitionales* 85½, an even greater disproportion. The fifth- and sixth-century figures may include in the share of the *largitiones* commutation for garments, for this was a tax levied on land and by this period was paid in gold.⁵⁵

The *comes sacrarum largitionum* was responsible for clothing the court, the army and the civil service. Part of the clothing required was supplied by the state factories under his control, whose organisation and finance will be described later, but a proportion, and probably a large proportion, was provided by compulsory purchase or levies, assessed on the same basis as the *annona*; that is on land and the agricultural population. In Diocletian's time garments were purchased in Egypt, compulsorily but at the prices (in *denarii*) laid down in the *Edictum de Pretiis*, that is theoretically at their market value. From a law of 377 it appears that in the diocese of Oriens, except for the provinces of Isauria and Osrhoene, garments were paid for in gold; as, however, a special tax in gold (*titulus auri comparaticii*) was levied on land in the same area to supply the price paid, the provinces concerned did not gain. Elsewhere the levy seems to have been a simple requisition without payment. The same law of 377 gives a full assessment schedule for the Eastern dioceses. In Thrace one garment was payable for every 20 *inga* or *capita*, except in the frontier provinces of Moesia and Scythia, where the rate was lower—one on 30 units. In Asiana and Pontica the levy was likewise one garment for 30 units, in Egypt and Oriens one for 30 *inga* only, *capita* not being taken into account. For Egypt a papyrus preserves a more detailed schedule: one *chlamys* on every 234 *arurae*, 1 *sticharium* on 175, and 1 *pallium* on 1925. These assessments worked out at very inconvenient fractions for individual taxpayers, such as the 21½ *sticharia* mentioned

in a papyrus, and the fractional garments at any rate were no doubt commuted by the collector for cash, with which he bought the garments which he delivered to the government. The collection was organised on the same lines as that of the *annona*, that is normally through the city councils, who elected *susceptores vestium* from their own number.⁵⁶

By the end of the fourth century the issue of uniforms to the army was already in part commuted for gold: in 396 the allowance for a *chlamys* was raised in Illyricum from 2 *tremisses* to 1 solidus. Simultaneously the levy of garments was likewise commuted and by 423 was apparently all collected in gold. By a constitution of that year five-sixths of the tax was paid through the *largitiones* in clothing allowances to the troops, and the remaining sixth to the state factories, which produced uniforms for recruits and private soldiers. This law suggests that the state factories produced only about one-sixth of the total requirements of the state.⁵⁷

With its large diocesan staff it might have been expected that the *sacrae largitiones* would have been able to administer the taxes which it received. This was not the case, however. With one exception the constitutions relating to the *collatio lustralis* are addressed to the praetorian prefects, their vicars or provincial governors, and according to Evagrius the assessment registers were maintained by the *scrinia* of the praetorian prefecture. The *follis* and the *aurum oblativum* were, as we have seen, assessed and collected by the *censuales* of the senate, assisted where necessary by the provincial governors. The laws regulating the farming of the customs are addressed to provincial governors: in Africa the *vectigalia* of Carthage were supervised by the officials of the vicar. The levies of clothing, *aurum tironicum* and other *tituli largitionales* assessed on land were made through the same machinery as the levies of *annona*.⁵⁸

The provincial governors were in general responsible for all *largitionales tituli*. They were in 382 ordered to appoint two chief accountants (*tabularii* or *numerarii*) in their offices, one for the prefect's finance and the other for the *largitiones*, and in 408 separate collectors general (*susceptores*) were also established for the two departments in each province. The *comes sacrarum largitionum* guarded his interests in the provinces not through the diocesan *rationales*, but by sending out palatine officials annually to each province. These officials were regularly told not to take any part in the collection—and as regularly, it would seem, did so, to their great private profit—but only to supervise and stimulate the activity of the governor and his *officium*. By a law of Leo they had a voice in the selection of the provincial *susceptores titulorum largitionalium*.⁵⁹

For the collection of the *siliquaticum* special arrangements were made. It was enacted that no sale, whether of real property or chattels, should be legally valid, unless the receipt for the tax could be shown. Special *praepositi* were appointed by the central government, in each province, it would appear, for the several classes of merchandise, and the provincial *concilia* and city councils were ordered to appoint market days in various places for different classes of goods. No sales were permitted save at these markets, and the *praepositi* were thus enabled to attend personally at every transaction, collect the tax and issue the receipt.⁶⁰

Apart from the distribution of uniform or uniform allowances the only regular outgoings of the *largitiones* were the military *stipendium*, the donative of 5 solidi and a pound of silver per head made to the troops at the accession of an emperor, and the subsequent quinquennial donatives of 5 solidi per head. The department had also to provide precious metals needed for any public purposes. Symmachus complained in one of his despatches that a state carriage decorated with silver had been ordered at Rome, and, as the *largitiones* had no silver available at the time, it was provided from two Roman treasuries, the *arca quaestoria* and the aqueduct fund, and from the stocks of private silversmiths. He asked that the *comes sacrarum largitionum* should at long last refund the bullion.⁶¹

The imperial mints were managed by *procuratores*, who had to produce guarantors on entering office, and present accounts on leaving it. The *monetarii* who staffed the mints were, as under the Principate, imperial slaves; the *senatus consultum Claudianum* was still invoked in 380 against women who married them. They were by the fourth century a hereditary class, and some were evidently quite prosperous. Licinius had to enact that they must remain in their condition and to forbid the grant to them of equestrian rank, from the egregiate up to the perfectissime. Julian considered that he had done the council of Antioch a favour by enrolling in it the richest of the local *monetarii*. The mints were provided with their fuel by levies in kind: the burning of charcoal for their use was one of the *sordida munera* imposed on landowners.⁶²

The metal was provided by the government from various sources. The copper must all have come from the tax in copper (*aeraria praestatio*) which was levied from the owners of metalliferous lands. Some of the gold also came from mining and washing, either by the gold levy (*auraria praestatio*) paid by owners of auriferous land, or by the fixed annual tax (*metallicus canon*) paid by gold washers and miners in the state-owned goldfields, or by compulsory purchase from miners and washers, who were obliged to sell

all their product, over and above the tax, to the *largitiones*. Gold and silver also came in from confiscated or escheated estates either in the form of plate or of coin.⁶³

The great bulk of the precious metals used by the mints was undoubtedly provided by the levies and taxes in bullion or gold and silver coin described above. It had probably always been the practice of the imperial government to melt down and remint coins received in tax: it would hardly have been possible otherwise to maintain the constant stream of new issues. From the time of Valentinian and Valens this became an absolute rule for gold. A constitution of 366-7 enacts that all solidi received in tax were to be melted down in the provinces, and the gold sent up to the *comitatus* in bar. This was a precaution against clipped or forged solidi being passed by the collectors, but the frequent reminting which the rule necessitated must have been an important factor in maintaining the purity and weight of the solidus.⁶⁴

Coins are generally stated to have been a certain fraction of a pound. Some of Diocletian's gold pieces are marked E or O , to indicate that they were 60 or 70 to the pound, and his silver is similarly marked XCVI . The solidus was struck at 72 to the pound, and one fourth-century silver issue is stated in a law to have been struck at 60. This suggests that the *monetarii* were issued with pound bars and had to produce so many coins per bar. The rate of production was probably, as in the state arms factories, regulated by ordinance: Sozomen speaks of the *monetarii* of Cyzicus as being bound to produce a stated annual stint of newly minted coins.⁶⁵

Coins were marked not only with the name of the mint of issue, but with the number of the workshop (*officina*) within the mint, evidently with a view to checking malpractices. An author of the reign of Valentinian complains bitterly of the dishonesty of the *monetarii*, which resulted, he alleges, in large numbers of light-weight solidi being in circulation. He implies that they sold such coins on the side; the trick would presumably be to make more than 72 from the pound bar and sell the surplus. His proposed remedy was to concentrate all *monetarii* on a desert island where they could have no contact with the public. So drastic a measure was not adopted by the imperial government, but the concentration of the minting of gold at the *comitatus*, which was carried out by Valentinian I, may have been designed to check such leakages. Coining was, of course, an imperial monopoly and forgery was severely punished; particularly heavy penalties were imposed on those who harboured runaway *monetarii* and employed them for this purpose. These rules applied primarily to gold and silver, but the copper was officially a monopoly also; a law of 393 prohibits

the grant of licences to private individuals to mint copper. To judge by the large number of amateurish imitations of imperial copper coins which have survived, the law was not strictly enforced.⁶⁶

The mints were distributed over the length and breadth of the empire. Under Diocletian nearly every diocese had a mint, and some had two. In the West there were London (Britain), Trier and Lyons (both in Gaul, with no mint for Viennensis), Carthage (Africa), Rome (the suburbicarian diocese), Aquileia and Ticinum (both in Italy), and Siscia (Pannonia); Spain had no mint. In the East there were Sardica and Thessalonica (both in Dacia), Heraclea (Thrace), Cyzicus (Asiana), Nicomedia (Pontica), Antioch and Alexandria (both in Oriens). Some of these mints were soon closed down: by the end of Constantine's reign London, Carthage, Ticinum and Sardica had ceased to operate. A few others were opened in the same period—Arelate in Viennensis, Sirmium in Pannonia, and Constantinople. Not all these mints were in continuous operation, and not all produced coinage in all three metals, but all produced copper, and most silver and gold from time to time.⁶⁷

This state of affairs lasted down to the reign of Valentinian and Valens, who concentrated the minting of gold at the *comitatus*. Henceforth, it would seem, the regular imperial mints (*monetae publicae*) did not handle gold at all, and solidi were produced only by the palatine *officium* of the *sacrae largitiones*, which, as we have seen, included the technical staff required. Gold coins were thus issued henceforth from the imperial residences, that is, Constantinople in the East, and normally Milan and later Ravenna in the West, though neither of these two cities appears to have possessed *monetae publicae*; both are omitted in the list of *procuratores monetarum* in the Notitia. The only exception to this rule is that solidi were produced at Thessalonica during most of the first three-quarters of the fifth century. With gold thus concentrated at the capitals, when the issues of silver petered out in the fifth century, most of the mints issued copper only. From the reign of Anastasius the Eastern provincial mints successively issued the new copper coinage, and by Justinian's reign Thessalonica, Nicomedia, Cyzicus, Antioch and Alexandria were all in operation in addition to Constantinople. In the West the Ostrogothic kings continued to coin at Ravenna and Rome, and the Vandals instituted a mint at Carthage. These mints were taken over by Justinian on the reconquest. Solidi were issued from Ravenna, where a branch office of the *sacrae largitiones* was established.⁶⁸

The production and control of the currency was one of the major functions of the *comes sacrarum largitionum*. Unfortunately we are ill informed on the currency policy of the imperial government. There are very few laws on the subject and the historians have little to say. In the main we have to divine policy from the coins themselves.

On the evidence of his coins Diocletian planned a thorough reform of the currency. From the beginning of his reign he resumed, after a gap of many years, the regular issue of gold coins; they were marked with their weight, which was at first 70 to the pound, later (from 290) 60. In 295 he resumed minting silver on the same standard as the old pre-inflation denarius; here again the weight, 96 to the pound, was marked on the coins. While he continued to strike copper on the same standard as the Aurelian *nummi*, from 295 he issued a new silver-washed copper coin of much larger size, marked XX.I like the old *nummi*. It may reasonably be presumed that Diocletian intended these coins to form a coherent currency like the *aurei*, *denarii* and *sesterces* of the Principate. The official relation of the two precious metals was fixed at 4 *aurei* to 1 lb. silver, and 24 silver coins must therefore have gone to 1 gold. The larger and smaller copper coins were probably tarified at 5 and 2 *denarii* respectively, and perhaps 5 of the larger copper coins went to 1 *argenteus*. The *aureus* would have been worth 600 *denarii* and the *argenteus* 25.⁶⁹

If this reconstruction is correct, Diocletian drastically devalued the pre-existing currency, reducing the Aurelian *nummi* from 5 to 2 *denarii*: he presumably hoped thereby to reduce prices. He certainly hoped with his new currency to stabilise prices. From his edict of 301 we know that he failed to achieve the latter aim. The reason for his failure probably was that he continued to issue vast quantities of copper coins, particularly of the smaller denomination, which were not even plated with silver. The result was that not only did prices in general continue to rise, but that the gold and silver coins rose above their nominal value. Even when he issued the Edict on Prices Diocletian had to recognise the latter fact. He fixed the price of gold, in bar or in coin, at 50,000 *denarii* to the pound, a figure which yields no rational value for the *aureus* in *denarii* (50,000 divided by 60 is 833 $\frac{1}{3}$). It is evident that the gold coins were already treated as bullion, and the same must have applied to silver.⁷⁰

There followed a period of confusion. The Aurelian *nummus*, which had been reduced to 2 *denarii*, was retarified at higher figures,

reaching 25, and then again reduced by half; Licinius' *nummi* are marked 12 $\frac{1}{2}$. Thereafter for a century and a half it is impossible to trace the history of the copper coinage in any detail. In general the coins deteriorate in size and quality, though there are occasional reforms: there was, for instance, one such in 348 when a better series of issues was initiated. A law of 356 reveals a state of wild confusion which may have resulted from this attempted reform. The government had, it appears, demonetised all earlier coins, ordering their confiscation. Coins were being melted down and there was widespread speculation; merchants were transporting large quantities of coins by pack animal or ship and selling it like merchandise. In 395 the government again attempted to demonetise a larger denomination called the *decargyrus* and declared only *centenionales nummi* to be legal tender. These *centenionales* were presumably the tiny pieces, weighing about 1 scruple (288 to the pound), which were the only copper coins issued by the imperial mints in the fifth century until Anastasius' reform.⁷¹

The gold and silver issues assumed a new importance from the last years of Constantine; the reason was without doubt the confiscation of the temple treasures which placed at the disposal of the mints vast quantities of the precious metals. Constantine initiated a new gold coin, the *solidus*, struck at 72 to the pound and thus weighing 4 scruples or 24 *siliquae*. A half *solidus* (*semmissis*) and a coin called a *tremissis* were also issued; the latter was at first struck at 1 $\frac{1}{2}$ scruples, but from Theodosius I's reign at 1 $\frac{1}{3}$. The standard silver coin (*milliarensis*) continued to be struck at 96 to the pound until 348, when it was reduced to 144 to the pound. In 396 there was a further reduction to 240 to the pound, and shortly after the regular issue of silver was abandoned.⁷²

It seems probable that the government was trying to run a bimetallic currency and that the changes in the weight of the silver coins were made in response to alteration in the relative value of gold and silver. The official price of silver in Constantine's reign appears to have been 4 *solidi* to the pound, and the contemporary *milliarenses* would therefore have been tarified at $\frac{1}{4}$ *solidus* or 1 *siliqua*. In 397 the official rate for silver was adjusted to 5 *solidi* to the pound, and the new silver pieces just issued must therefore have been tarified at half a *siliqua*. The *milliarenses* issued from 348 to 396, if they were intended to be equivalent to *siliquae* or half *siliquae*, imply that silver was priced at 6 or 3 *solidi* to the pound at this period. It would seem that the gold and silver ratio fluctuated severely during the fourth century, and the government found some difficulty in adjusting the coinage to the changes. There is indeed some doubt whether the gold and silver coins

maintained any stable relationship. Levies and payments are generally stated in the form of either so many pounds of silver or so many solidi (or pounds of gold), occasionally as so many pounds of silver plus so many solidi (or pounds of gold): they are never expressed in silver coins. The treasury would accept solidi in lieu of silver (by weight) at the official rate prevailing, but not vice versa. Eventually the government abandoned the silver currency altogether, save for certain traditional payments on festival occasions, and concentrated on gold.⁷³

The relation of the copper to the gold coinage was even more unstable. The facts are most clearly revealed by the papyri. Egyptians normally during the fourth and fifth centuries reckoned and kept their accounts either in denarii or in Alexandrian drachmae (which were no longer minted after 297 but survived as a monetary term, being equivalent to a quarter of a denarius); for larger sums they sometimes used solidi or carats (that is *siliquae*). The papyri show that there was a fantastic inflation of the denarius during the fourth century. Prices rose to such a degree that in the most trivial transactions they were reckoned by the talent (6000 drachmae or 1500 denarii) or more commonly by the myriad of denarii. A certain number of documents reveal the exchange rate between the denarius and the solidus. In 324 about 4350 denarii went to the solidus. By the end of Constantine's reign the price of a solidus was about 275,000 denarii. In the latter part of Constantius II's reign it had reached about 4,600,000. In a later document it is stated: 'The solidus now stands at 2020 myriads: it has gone down.' A yet later document yields a rate of 45,000,000.⁷⁴

The denarii mentioned in the papyri were not of course coins, but notional units of account. Even before Constantine's time the smallest copper piece was tariffed at 12½ denarii, and the coins must have been frequently retariffed at ever-increasing nominal values. It is true that the size of the coins was progressively reduced and that the number in circulation must have increased enormously, but these factors alone would not account for so phenomenal a rise in prices.⁷⁵

In other parts of the empire people ceased to keep their accounts in notional denarii, but instead reckoned in the actual copper *nummi*, which they sometimes called denarii. We have very little evidence on prices or exchange rates, but we know that in 445 Valentinian III decreed that solidi were to be sold for 7200 *nummi*. Another monetary unit fairly commonly used, especially in Africa, was the *follis*, which had probably originally been a purse of 1000 Aurelian *nummi* and was accordingly valued in the early fourth century at 12,500 denarii. It is known to have depreciated very

greatly in the course of the century, perhaps concurrently with the denarius.⁷⁶

It is difficult to make sense of these extraordinary facts, and any explanation must, in the absence of written documents, be conjectural. The Roman government, like most ancient governments, was less interested in the currency as a medium of exchange between its subjects than as a medium whereby it collected its revenues and paid its expenses and stored up reserves. It is significant that when Valens learned that private persons were getting their own gold minted, he indignantly ordered it to be confiscated: the imperial mints existed to supply government needs, not for the convenience of the public. Diocletian's organisation of the indiction meant that henceforth the state covered its essential needs by levies and payments in kind. Constantine's creation of an ample gold and silver currency enabled the government to collect certain taxes and make a few payments in the precious metals, and to build up reserves in them. The old debased denarius currency thus became superfluous for government needs. So far as we know no regular taxes were collected in copper from Constantine's time; in Diocletian's day the *capitatio* was still apparently a money tax payable in denarii, but after his time it was amalgamated with the *iugatio* and paid in kind. Soldiers (including officers) still received their annual *stipendium et donativum* in denarii in Constantine's reign and probably later; but this payment was by now pocket money only, and the soldier's main emoluments consisted of rations and uniform in kind, and occasional donatives in gold and silver.⁷⁷

The copper currency thus ceased to matter essentially for public finance: it became merely a medium of exchange between subjects of the empire—'pecunia in usu publico constituta' as it is called in one law. Its depreciation, since it did not affect public finance, was no longer after Diocletian's time a matter of urgent concern, but there are indications that the government regarded the rise in prices as undesirable, and made spasmodic and ineffective efforts to check it. The reform of the copper currency in 348 is probably one such effort. A cryptic law of Valentinian I, 'in view of the diminution which is being effected in the valuation of the solidus the prices of all goods ought also to decrease', probably records another attempt: the emperor had no doubt by decree enacted that the exchange rate for solidi, that is the number of denarii payable for a solidus, was to be reduced and had done so with the object of reducing prices generally. The government does not, in fact, seem to have inflated the denarius currency deliberately: the inflation was something which occurred contrary to its wishes and was beyond its control.⁷⁸

One basic cause of the inflation must have been that the government annually minted and distributed large quantities of copper coins, and withdrew none from circulation by taxation. The volume of the copper money thus constantly increased, and the purchasing power of each coin correspondingly sank. This would have been a result entirely unforeseen by the government, for it was thought in antiquity that the value of a coin depended entirely on its metallic content and sank only if it was debased or reduced in weight. The government would therefore have gone on issuing copper coins because it was customary and because it needed considerable sums to pay their *stipendium* to the troops, and when prices rose attributed the rise, as Diocletian does in the preamble of his edict, to the avarice of vendors.

This must have been the original cause which initiated the inflationary spiral. The resulting rise in prices accelerated the movement. The government put money into circulation mainly by spending it, in wages and salaries to its employees and in payments for goods received or services rendered. But it probably also put the copper currency into circulation by selling it for gold to money-changers. This transaction was useful to both the government and the public: it supplied the latter's need for small change and enabled the former to collect gold coins. We unfortunately know very little of the mechanism of the operation. One of the official despatches of Symmachus alludes to a rather special case at Rome. From this document it appears that the guild of Roman money-changers (*collectarii*) were under an obligation to sell solidi to the government in return for copper issued to them from the *arca vinaria*. The rate of exchange between the treasury and the money-changers was fixed by governmental decree. That between money-changers and public was regulated by market conditions. The moneychangers naturally expected to make some profit on the transaction, that is to buy solidi from the public for a smaller number of denarii than that fixed by the treasury.⁷⁹

The rise in prices disturbed both these processes of issue. The troops complained, as Diocletian's edict reveals, that a single purchase exhausted the whole of their annual pay. The moneychangers represented to Symmachus that owing to the gradual rise in the price of gold they were operating at a loss and could not carry on. The only remedy was either to fix prices by decree, which naturally proved ineffective, or to increase the military *stipendium* and raise the exchange rate for the solidus. This would involve substantially increasing the issue of copper, unless the weight of the coins were reduced or they were retariffed at a higher number of denarii. It would be not unnatural that the government should succumb to

these temptations and the inflationary process would thereby be progressively accelerated.

By the fifth century the inflationary movement seems to have spent its force, probably because the mints reduced their output of copper. The military *stipendium* seems by this period to have been abandoned and the government was perhaps less anxious to buy solidi through the moneychangers now that through commutation of levies in kind it received much more gold in taxation. Nevertheless the inflation had resulted in gross inconvenience to the public. There were, it is true, gold coins of stable value for larger transactions and for putting by as savings. But now that silver coins had ceased to be minted, there was nothing between the gold and tiny copper bits, of which several thousands went to 1 *tremissis*; and their relation to the gold coins remained fluctuating.

Curiously enough it was in the barbarian kingdoms of the West that the first steps were taken to remedy this lamentable state of affairs. From the beginning of the reign of Odoacer the mint of Rome, apparently by authority of the senate, began to issue large copper coins marked XL. About the same time the Vandal mint of Carthage issued similar coins marked N XLII. These coins were apparently known as *folles* and were clearly multiple *nummi*. Smaller denominations, marked XX, X and V, were also issued in Italy, and in Africa half pieces and a few double pieces, marked N XXI and N LXXXIII respectively. The relation of the new *lesfol* to the solidus is not known, but in Italy, if Valentinian III's rate of 7200 *nummi* to the solidus still prevailed, the *follis* would have been exchanged at convenient rates for the solidus (180), *semissis* (90), *tremissis* (60) and even the *siliqua* (7½). The curious figures on the African coins are approximations to two-thirds, one-third and one-sixth of 125 and would at a valuation of the solidus at 7500 yield the same exchange rate of the *follis* to the solidus as in Italy. If this was the original rate the *follis* subsequently depreciated; documentary evidence shows that it stood at about 350 to the solidus at the end of the reign of king Gunthamund (484-96). This implies a rate of about 14,400 *nummi*.⁸⁰

In 498 John, Anastasius' *comes sacrarum largitionum*, copied the Italian system, issuing copper coins marked 40, 20, 10 and 5 (M, K, I, E). The first series issued was considerably lighter than the Italian, the *follis* being struck at thirty-six to the pound: it was hence known as a *teruncianus* or third of an ounce piece. This series was shortly followed by another of exactly double its weight, and these coins were later slightly reduced (from eighteen to twenty to the pound). Anastasius' successors continued to strike at this standard until in 539 Justinian temporarily revived the heavy

standard of eighteen to the pound. We know from Procopius that Justinian about this time altered the exchange rate of the follis to the solidus from 210 to 180. This suggests that Anastasius' heavy series had been rated at 180 (that is 7200 *nummi* to the solidus). His first light series may have been based on a prevailing exchange rate of 14,400 (such as is attested in contemporary Africa), which he subsequently halved as an attempt to reduce prices.⁸¹

The barbarian kings of Italy and Africa also revived the issue of silver coins. The Vandal coins were struck at $\frac{1}{2}$, 1 and 2 scruples (576, 288 and 144 to the pound) and were marked DN XXV, DN L and DN C. If, as is probable, the pound of silver was priced at this time at 5 solidi, the unit DN (denarius ?) must have stood at 2880 to the solidus, and, since the contemporary rate for *nummi* was 14,400, have been equivalent to 5 *nummi*. Justinian continued the issue of silver coins in Italy after the reconquest. His coins were struck at 240 and 480 to the pound and marked CN (250) and PKE (125). This implies a rate of 12,000 *nummi* to the solidus in Italy, as against 7200 in the East. These silver coins were for local circulation only, and no attempt was made to resume the minting of silver in the East until the reign of Heraclius.⁸²

It would thus appear that Anastasius and his successors managed to establish and maintain a copper coinage whose relation to the solidus, though not absolutely fixed, varied only within reasonable limits and could be controlled. This they presumably achieved by not only maintaining the weight of their copper coins but limiting their issue to what the market could absorb. The new copper coinage was a great boon to the public and was warmly acclaimed by them. It must also have been a source of moderate gain to the government, for it was a token coinage, tarified at well above the mint cost of the coins, and their sale to the public for solidi must thus have yielded a profit.⁸³

The great achievement of the imperial government was to maintain a stable gold coinage. The solidus was never adulterated or reduced in weight from Constantine's time until the middle ages. It was indeed in some ways regarded as a piece of pure gold weighing 4 scruples rather than as a coin. People spoke of the copper coins as money (*pecunia*) and when they exchanged copper for gold or vice versa said that they were buying or selling solidi. The public apparently disliked solidi of a small module and rated them at a lower value than large thin specimens: they were from time to time ordered to accept all full weight solidi as of equal value whatever their apparent size. In all transactions solidi were normally weighed and, if clipped or worn, rated at minus so many carats:

Julian ordered that there should be an official controller (*zygostates*) in each city to weigh solidi.⁸⁴

The gold currency increased in volume from Constantine's time onward; the various gold taxes (which might be paid in bullion) no doubt extracted hoards and brought them into circulation. By the fifth century there was apparently an ample stock of solidi current. The government was able to commute levies and payments in kind into gold, and gold was used for all major private transactions: even *coloni* paid their rent in solidi. Prices in gold seem, so far as we can judge, to have remained stable. No significant change can be detected from the fourth to the sixth century. We possess a sufficient number of figures for prices of staple commodities and for wages to estimate the purchasing power of the solidus.

It is difficult to state a normal price for wheat, for wheat prices were liable to violent fluctuations, according to whether the local harvest was good or bad. The empire lived very much from hand to mouth, and carried no substantial reserves from year to year, so that a bad harvest immediately sent prices rocketing upwards, to descend to normal equally suddenly if the next year produced an average crop. Land transport was moreover so inadequate, and where it was available so expensive, that a local surplus in one area could not be used to supply a local deficit in another, unless both were accessible by sea or inland waterway: and even in this case the perils of winter navigation often held up supplies. Prices might thus be at famine level in one area and normal or cheap in another at the same time. Two anecdotes may illustrate these facts. In the second quarter of the fourth century there was one year a shortage in Egypt, and wheat stood at 5 *artabae* (about 16 *modii*) to the solidus. Pachomius sent out a monk to buy for his monastery, and he eventually found an obliging tax collector, who sold him corn from public stocks at 13 *artabae* (about 43 *modii*) to the solidus, in the expectation of postponing delivery of the tax to the government till after the harvest, when he hoped to replace what he had illicitly sold at the cheap rate which would then prevail. Pachomius repudiated this risky transaction, and had to buy at 5½ *artabae* (about 18 *modii*) to the solidus. In the reign of Valentinian I there was a famine at Carthage, and the proconsul, Hymetius, sold wheat from the public stocks at 10 *modii* to the solidus—a very high price, but evidently below the famine market rate; he was able to replace what he had sold next year, buying in the open market at 30 *modii* to the solidus.⁸⁵

Owing to the high cost of transport there was a considerable standing difference in the price of wheat in a large town, where

much of the supply had to come from a distance, and in the country districts, particularly in great corn-growing areas like Egypt or Africa. To alleviate the famine in Antioch in 362-3 the emperor Julian imported corn from neighbouring cities and sold it at 10 *modii* to the solidus, the same price that Hymetius charged at Carthage a few years later. Later he had wheat shipped from Egypt and sold it at 15 *modii* to the solidus. This price, he claimed, might be regarded as normal at Antioch; he was no doubt exaggerating to glorify his own achievement, but evidently wheat was normally much more expensive in this great city than in the Egyptian countryside, where 15 *modii* was a famine price.⁸⁶

In 445 Valentinian III fixed 40 *modii* to the solidus as the official rate for military supplies in Numidia and Mauretania. The same figure is given in a sixth-century document from Egypt, but 10 *artabae* per solidus is the more usual rate in that province. In Egypt market prices conform on the whole to the lower rate of commutation—twenty prices in the papyri from the fifth and sixth centuries average 12 *artabae* to the solidus—and in rural Africa the price may well have been as low. In Mesopotamia, Joshua Stylites quotes 30 *modii* as the rate prevailing in 495, before locusts and war produced a famine. The lowest price quoted is 60 *modii* to the solidus in Italy under Theoderic, but this occurs in a panegyric passage; wheat may perhaps have reached this figure in an exceptional glut.⁸⁷

The price of meat varied somewhat regionally. The rate fixed by Valentinian III for Numidia and Mauretania was 270 lb. to the solidus; this is the cheapest rate known, but may well have been fair enough in this area. In Italy in 452 the butchers' guild of Rome undertook to supply pork (on the hoof) at 240 lb. to the solidus: they could apparently buy it cheaper, as they agreed to allow the government a bonus of 100,000 lb. on a total purchase of 3,528,000 lb. The butchers were, on the other hand, allowed to deduct 20 per cent of the meat to make up for loss of weight during transit to Rome, so that at Rome the cost of pork would come to about 200 lb. to the solidus. This was the official rate of commutation in the sixth century in Egypt, where little stock was raised owing to lack of pasture, and meat prices were therefore abnormally high: a price of 120 lb. to the solidus is quoted in one sixth-century papyrus.⁸⁸

For olive oil there are only Egyptian figures. These normally range from 40 to 48 *sextarii* (pints) to the solidus; these prices are probably higher than in most provinces, for olives did not flourish in Egypt. For ordinary wine the official rate for Numidia and Mauretania fixed by Valentinian III was 200 *sextarii* to the solidus,

and the same official rate is found in the sixth century in Egypt: these are both probably rather high prices as neither country produced much wine.⁸⁹

From the prices of these basic foods it is possible to compute the cost of feeding a man for a year. A soldier's rations (*annonae*) were commuted in 445 for 4 solidi a year in Numidia and Mauretania. In the sixth century Justinian allowed 5 solidi in Africa, but the rate in Egypt seems to have been 4. A number of ration scales are set out in sixth-century papyri. Even the more modest of these are quite substantial—3 lb. bread, 1 lb. meat, 1 pint of wine, one tenth of a pint of oil per day. As 1 *artaba* of wheat produced 80 lb. of bread, 1½ *artabae* of wheat per month would be required, or 13½ *artabae* a year, which would cost at the standard Egyptian price 1½ solidi. The meat and wine at the standard Egyptian price would come to 1½ solidi each, and the oil to about ¾ solidus. The actual cost of the rations thus works out at about 5½ solidi in Egypt, and the official commutation was not quite enough to cover it. The same scale according to the African prices fixed by Valentinian III works out at about 4¼ solidi without oil, for which no price is given. It was certainly cheap in Africa, and could be safely reckoned at ½ solidus. Once again the official commutation is inadequate for the full ration scale.⁹⁰

The ordinary working man did not of course enjoy so ample or varied a diet as this. A man who in 569 indentured himself for four years to be the personal servant of a barrister at Antinoopolis stipulated for an annual allowance of 10 *artabae* of wheat and 4 of barley, 12 *sextarii* of oil, and 24 *cnidia* (probably of 8 *sextarii* each) of wine. This would cost a solidus for bread (about 3 lb. a day, but partly barley), ¼ solidus, or a little more, for oil (⅓ of a pint a day), and under a solidus for wine (rather over ½ pint a day); total about 2¼ solidi. The very poor no doubt lived, as today in the Levant, on little save bread, helped out with oil and fresh vegetables, which were very cheap, and could make do on say a solidus and a third per annum, except in great cities, where wheat was substantially dearer. Gregory the Great set aside 80 lb. of gold a year to feed 3000 refugee nuns in Rome, which works out at slightly under 2 *solidi* each, but he complains of the high cost of living in the virtually beleaguered city.⁹¹

Clothes were comparatively expensive, like all manufactured articles. The official commutation for a military *chlamys* was raised in 396 from 2 *tremisses* to 1 solidus, and the latter figure is supported by a papyrus account which prices 15 military *chlamydes* at 17 solidi. Civilian clothes were dearer. We hear of a monk buying a cloak for three solidi, and of another monk selling his second-

hand for one, and when Pinianus, the husband of Melania the younger, wishing to mortify the flesh, bought a cheap suit of 'unbleached Antiochenes' at Rome, he had to pay a solidus or 2 *tremisses* for this humble attire. The man who indentured himself at Antinoopolis stipulated for 19 carats a year as his clothing allowance. Cheap blankets could be bought at Alexandria early in the seventh century at four to the solidus; in Rome at about the same time Gregory spent a donation of 15 lb. of gold in buying blankets for the 3000 nuns; this works out at rather over a *tremissis* each.⁹²

Anastasius made an allocation from the treasury of 6 solidi a year each to the monks of a monastery which he founded in the Jordan valley. This was liberal, seeing that his indentured servant cost the lawyer of Antinoopolis about 3 solidi all found. An Alexandrian bath attendant in the early seventh century is alleged to have kept himself, his wife and two children on a salary of 3 solidi, and moreover to have given freely to beggars. This seems impossible; he no doubt made something in tips, but according to the story he was frequently in difficulties, and had to take odd jobs in his spare time. Women and children were in antiquity supposed to eat less than men. A Visigothic law assumes a child to cost 1 solidus a year, ruling that parents are entitled to redeem children whom they have exposed by a payment of 1 solidus for each year of the child's age up to ten; 10 solidi is the maximum, as after that age the children are deemed to have earned their keep by service to their masters. Justinian fixed the price of a slave up to ten years of age at 10 *solidi*, no doubt on the same calculation.⁹³

By far the most important of the financial departments was that of the praetorian prefects. They were responsible for the rations, or later ration allowances (*annonae*), which formed the bulk of the emoluments of the army and the civil service, including the palatine ministries, from the highest ranking officers, the *magistri militum* and the prefects themselves, down to private soldiers and the humblest clerks and attendants. They were responsible likewise for the fodder, or fodder allowances (*capitus*), of officers and troopers, and of civil servants who held equivalent grades. They had to supply the corn to feed the two capitals and some other leading cities of the empire, and paid the *navicularii* the freight charges for sea transport. They had to maintain the public post, furnishing the beasts of burden and their fodder, and the rations of the staff. Down to the end of the fourth century they managed the arms factories, and they continued thereafter to supply their raw

materials and rations for the workers. They were responsible for public works, in so far as these did not come under the care of the urban prefects in Rome and Constantinople or the city authorities in the provinces, or the army on the frontiers: roads, bridges, post houses and granaries were their particular care, and for them they levied the stone, timber and labour required.⁹⁴

These, the major and essential needs of the state, had all come during the third century to be met by levies in kind (*indictiones*) and forced labour (*operae*). It was Diocletian's great achievement to systematise and regularise these arbitrary levies (*indictiones extraordinariae*) into one general levy, the indiction, equitably assessed on the land and the rural population. But though the indiction thus became a regular annual charge, evenly distributed over the empire, it did not become fixed. Unlike the *res privata* and the *largitiones*, which received rents and taxes at more or less fixed rates, and could do little to vary their income, the praetorian prefecture was expected to estimate the annual needs of the state, and to calculate the rates of levy required to meet these needs. In the indiction it prepared in fact for the first time in history an annual budget for the state. This arose historically from the fact that the indiction was derived from *indictiones* made to meet needs as they arose. It remained necessary so long as taxation was levied in kind, for some of the goods levied, such as meat, were perishable, and even for corn, wine and oil, limitations in the supply available and in storage capacity made it impossible to carry any large surpluses over from year to year. Commutation to gold made it possible to build up reserves, but the principle of a variable budget was now established.⁹⁵

The task of the praetorian prefects was thus not only more onerous than that of the other financial officers, but more complicated, in that they had annually to compute the needs of the state in detail and calculate the rate of indiction required. In the fourth century the task was further complicated by the fact that state requirements had to be calculated not in money, but in the various goods actually required, and separate estimates worked out for wheat, barley, wine, oil and meat, to name only the constituents of the *annona* and *capitus*. For this purpose the prefects naturally required large staffs of accountants, or *scriuarii*.

Little is known of the organisation of the financial side of the prefect's *officium* save for the Oriental prefecture in the fifth and sixth centuries. Here there was a department (*scrinium*) for each diocese—Thrace, Asia, Pontica, and Oriens (Egypt was still apparently included in Oriens)—and also one for the city, one for public works throughout the prefecture, and one for arms, which

dealt with levies of raw materials for the *fabricae*. Under the curious system of duplication of offices which prevailed throughout the Oriental prefecture, each *scrinium* was headed by two *numerarii*, each of whom had an assistant (*adiutor*) and an accountant (*chartularius*). Under these in the diocesan *scrinia* were *tractatores* (*τρακτεῖνται*), who each handled the accounts of one province. For each diocese there were also two officials on the clerical side of the *officium*, known as *cura epistolarum*, who handled financial correspondence with its vicar. In addition to the *scrinia* strictly so called there were the departments of the corn purchase fund, which bought additional corn for the needs of the capital, and of military affairs, which calculated the *annonae* of the troops. The prefect also had his treasury, known as the 'chest' (*arca*), which was apparently divided into two departments, 'the general bank' (*ἡ γενική τράπεζα*) and 'the special bank' (*ἡ ἰδιωτή τράπεζα*). The significance of the division is obscure: we only know that the department of the special bank handled the assessment of the *collatio lustralis*.⁹⁶

The organisation of the Illyrian prefecture seems to have been similar; we know that it had four *scrinia*, headed by *numerarii*, one for each of its two dioceses, Macedonia and Dacia, one for public works (*opera*) and the fourth for gold: this presumably handled the gold reserve in the chest. Of the Italian and Gallic prefectures we know nothing save that they had their *numerarii* and *curae epistolarum*. Justinian's new African prefecture had four financial *scrinia* under *numerarii*, numbered one to four, as well as a *scrinium arcae* and a *scrinium operum*.⁹⁷

The prefects obtained their financial information and collected their taxes through their vicars and the provincial governors. Each vicar had a *cura epistolarum* and *numerarii*, and each provincial governor two *numerarii*, one of whom managed the prefect's side of the accounts, while the other, as we have seen, handled the affairs of the *largitiones*. To handle the corn supply of Rome and Constantinople there were, under the disposition of the praetorian prefect of Italy, a *praefectus annonae* in Africa, and under the praetorian prefect of the East a *praefectus annonae* at Alexandria. From an early date the prefects made a practice of sending out annually members of their own staff to each province to supervise and stimulate the governor's financial activity, and in particular to speed up the collection of arrears. Like their colleagues from the *sacrae largitiones* they were frequently forbidden to take any part in the lucrative business of collection. They were known by a variety of titles. *Canonicarii* was a common term, especially in the West. In the East they were, it would seem, often known as *tractatores* or deputy *tractatores*, being regarded as local representatives of the

tractator of the province at the head office. Those sent to collect arrears were called *compulsores* (*ἐξπυλλεῖνται*).⁹⁸

We have little information on how the prefects made up their annual estimates. The *magistri militum* and *duces* sent in returns (*breves*), the former annually, the latter every four months, of the strengths of the units under their command; on these the calculation of military *annonae* and *capitus* were based. Similar returns were presumably made for the *officia*: as these were progressively given fixed establishments, the figures became stereotyped—the customary allocation seems often by the sixth century to have borne little relation to the actual numbers of an *officium*. The allowances of officers and the higher civilian officials were fixed. The requirement of the *cursus publicus* must have been fairly stable, as each *mansio* and *mutatio* apparently had its establishment of beasts and of staff. The needs of the capitals would also have been predictable on the basis of past years. On the collection side an uncertain but fairly considerable allowance had to be made for arrears, which were periodically written off by general indulgences. On this basis the prefects were expected to make an accurate estimate to cover the year's requirements for their prefectures, and to levy an indiction accordingly.

They often seem to have miscalculated, with the result that supplementary estimates and a superindiction were required. The superindiction might be imposed by the prefect himself on the whole prefecture: it will be remembered how Julian, as Caesar of the Gauls, refused to sign a superindiction presented for his signature by Florentius, his praetorian prefect. On the other hand a local emergency might require a superindiction for one diocese or province. Constantius II forbade vicars or governors to act on their own authority. Normally no tax was to be levied except that authorised by the annual indiction which the emperor signed. In emergencies the provincial or diocesan administrators must refer to the praetorian prefect, who might in urgent cases authorise an extra levy, and obtain the emperor's confirmation of his action later. Julian tightened up this rule, allowing no indiction to be made without his own knowledge, and insisting that all expenses, including the *cursus publicus*, other transport charges and the repair of the roads, must be included in the estimates. Valens again enacted that no extraordinary levies were to be made, and Gratian again withdrew all discretionary power from his prefects, and insisted that every superindiction must obtain the imperial signature.⁹⁹

The praetorian prefects naturally could not make provision for every contingency and every local need, and despite all these rules additional payments over and above the indiction persisted. It was

always a valuable privilege, accorded to tenants of imperial lands, senators or *illustres*, palatine civil servants, the church and other favoured categories, to be exempted from *superindicta*, *extraordinaria* or *sordida munera*. The first two terms, which are synonymous, were in the fourth century used to denote all payments or services over and above the *canon* annually fixed by the indiction and therefore included *munera sordida*. In two laws of identical tenor, issued by Gratian in 382 and by Theodosius in 390, a distinction was drawn; no immunity from *superindicta* was henceforth to be permitted (this virtuous resolution was soon broken), while exemption from *munera sordida* was still allowed to privileged classes. By the former were meant general supplementary levies authorised by the prefects, and local levies ordered by vicars, provincial governors and city councils for special purposes. *Munera sordida* were carefully defined; they comprised grinding corn and baking bread for the troops, furnishing extra animals for the post and hospitality for travelling officials and soldiers, burning lime and providing timber for public works and producing craftsmen and labourers for the same purpose, burning charcoal (except for the mints and the arms factories), contributing to the expenses of delegations to the emperor, the *temonaria functio*, and the maintenance of roads and bridges. This last item was, however, often excluded from the list, and was finally in 423 declared not to be a *sordidum munus* but to be obligatory on all.¹⁰⁰

There is evidence that the indiction did actually vary from year to year. Julian during his five years as Caesar of the Gauls managed by careful accounting and efficient collection to bring down the tax on each *caput* from 25 to 7 solidi. Themistius declares that in the East in the forty years from 324 to 364 the rate of the indiction had gradually crept up to double its original figure, and that Valens then stabilised and reduced it. A law of Honorius, dated 416, suggests that by this date the basic rate of the indiction had been stabilised at a customary figure, and that increases on this figure, though included in the indiction, were classed as super-indictions. This was an abuse, in that it meant that privileged categories of persons, who were immune from extraordinary payments, paid a lower rate of tax, and it was accordingly forbidden.¹⁰¹

It would seem, however, that in the early fifth century the rate of tax, and therefore the amount due from each province, had been more or less stabilised. During this period emperors not infrequently reduced the taxation of a hard-pressed province to some fraction of its present or normal total. Thus in 413 Honorius allowed the suburbicarian provinces to pay one-fifth of their old tax and later, in 418, reduced the burden on Picenum and Tuscia

to a seventh and on Campania to a ninth. In 424 Theodosius II, in response to the complaints of their delegations, scaled down the tax of Achaëa to a third and that of the other provinces of the Macedonian diocese to a half: this reduction was permanent, being still recorded in Justinian's code. Valentinian III reduced the tax of Sicily to a seventh of the current rate, and of Numidia and Mauretania Sitifensis on their recovery from the Vandals to one-eighth. In the last case the actual figures are specified in the law.¹⁰²

To work out the rate of tax for the year the prefect had to divide the total amounts of the various goods required by the total number of fiscal units from which they had to be levied. The notion of this uniform fiscal unit of assessment was Diocletian's great contribution to the financial organisation of the empire, and his system, which has been described in the earlier part of this book, remained in principle unchanged down to the seventh century. The ideal at which Diocletian appears to have aimed was to assess all agricultural land, whatever its use, as olive yard, vineyard, arable, or pasture, and whatever its quality, in uniform units of value, called *ingua*. Owing no doubt to the fact that the basic census was carried out piecemeal at different dates and by different members of the imperial college, and that it had to be based on existing surveys, which varied regionally in their classification of land and in their units of measurement, this ideal was not achieved. The *ingum* of Syria was, it would appear, of a different value from the *ingum* of Asiana, and the latter took no account of variations in the quality of the land, which was classified only by its use. In other parts of the empire the fiscal unit was, like the *centuria* of Africa or the *millena* of Italy, merely an area of land and took no account of either its use or its quality.¹⁰³

The agricultural population was reckoned in *capita*, and here too there were regional variations. In Egypt males only counted, in Syria males and females were reckoned of equal value, in Pontica one man equalled two women. The *caput* was thus, like the *ingum*, a unit of assessment, whose value varied regionally and might be changed: in 386 the rate of assessment in certain cities of Pontica was reduced to four women or two and a half men per *caput*. Valentinian I abolished the *capitatio* altogether in Illyricum, and Theodosius I in Thrace. Animals were also reckoned in *capita*; the rates are unknown.¹⁰⁴

It is not certain whether Diocletian took the final step of equating the *ingum* with the *caput* for fiscal purposes, but this was certainly the practice in most parts of the empire from the early fourth century onwards. Here again there were regional variations. In Egypt the papyri show that tax was assessed on land separately,

and if there was any form of poll tax it was not amalgamated with the land tax, and it is likely that in Africa and Gaul the land tax and poll tax were distinct.¹⁰⁵

Every farm, from the smallest peasant holding to the great estates of the nobility, was thus assessed at some fraction or multiple of a *ingum*, *centuria*, *millena*, *iulia* or *caput*, whatever was the fiscal unit of land in the region: the accuracy of the valuation varied greatly from region to region. In most areas each farm was also assessed at so many *capita*, according to the number of persons, whether the owner himself, the adult members of his family, his slaves or his free resident tenants, who cultivated the land: here again there were regional variations in the assessment of men and women. The animal stock of the farm was likewise valued in *capita*. These figures were then added together and formed the total assessment of the farm.

The data were combined in various registers. Peasant holdings were grouped by villages, and their total formed the assessment of the village; we possess half the register of Theadelphia, a village of the city of Arsinoe in Egypt, comprising a dozen owners and some 270 *arurae* of land, and from another document we know that Theadelphia was assessed at 500 *arurae* and 25 men. The land owned by urban residents was registered under their names city by city: we possess about a quarter of the urban register of Hermopolis, comprising about 240 names holding something over 60,000 *arurae*. By combining the village and urban lists, together with civic and imperial lands within the territory, the grand total of the city would be reached. We happen to know that the Syrian city of Cyrrhus was assessed at 62,000 *inga*, of which 10,000 were imperial property. From the totals of its constituent cities that of the province would be obtained, and from those of the provinces that of the diocese.¹⁰⁶

To provide an equitable basis for taxation the census should have been regularly revised. Whatever may have been Diocletian's original intention, it is clear that this was not done. Transfers of property were, it is true, recorded by the city councils and the corresponding changes made in the polyptychs: the imperial government had to legislate against conveyances being made without transfer of tax liability, and ruled agreements to that effect invalid. No systematic and regular revision of land values or population figures was, however, made; we have evidence from the papyri that the assessment of Sabinus the *censitor*, made in 298-302, was still valid in 348, and that of John, made before 524, as late as 565. Instead piecemeal reassessments were made from time to time on demand. A revision might be demanded by a diocese or a

province through its assembly, or by a city, and even by an individual taxpayer, if influential enough: this last practice was forbidden by Theodosius II and Anastasius. The government's response was to appoint a *censitor*, *inspector* (ἐπιτοκτής), or *peraequator* (ἐξισωτής); as the last title implies, governmental policy was if possible not to lower the total assessment, but to redistribute it. Thus when it was claimed that lands had gone out of cultivation, they were not normally written off but allocated to owners of good land who were made responsible for their taxes.¹⁰⁷

The population figures on which the *capitatio* was based were also usually maintained at their original level, irrespective of whether the numbers in a given estate or village had risen or sunk. This appears most clearly from laws dealing with conscription. A conscripted *colonus* ceased to pay *capitatio* and after five years' service gained immunity for his father, mother and wife. The landlord, however, was not allowed to claim reduction of tax (which he paid on their behalf), if he could make up the number of his registered tenants (*censiti*) from the 'younger generation' (*adulescentes*) on the estate. The implication of the law is that the landlord might well have more persons of taxable age on his estate than the number registered in the books (indeed he might furnish a recruit, who had to be 18 years of age, not from his registered tenants but from the 'younger generation'), but paid tax on the registered number only. If by the operation of the conscription law his real total fell below that registered, he could claim rebate. Claims for rebate on the score that *coloni* had absconded were not, however, admitted: it was the landlord's business to recover them, and he paid tax meanwhile, though he could recover it from the landlord who had harboured his *coloni* if he could trace them. Villages of peasant proprietors were similarly corporately liable for their registered population; one law allows for transfers of liability from one village to another, where one had grown and the other shrunk.¹⁰⁸

The assessment figures were available in the office of the praetorian prefecture and would enable his staff to calculate, for instance, that if A *modii* of wheat, B *modii* of barley, C *sextarii* of wine, D pounds of meat were required in Pontica, and the total *inga* + *capita* of the diocese numbered M, each *ingum* or *caput* must be charged with $\frac{A}{M}$ *modii* of wheat, $\frac{B}{M}$ *modii* of barley, and so forth. If the tax were to be equitably apportioned throughout the prefecture, separate calculations might be needed for the several dioceses, whose assessment might be based on different units. There is no evidence that any very systematic attempt was made to equalise taxation exactly, but the schedule of rates of levy for *vestis* cited above, which gives different rates for the various dioceses of

the Eastern prefecture, suggests that some effort was made to preserve an approximate balance. In some cases the basis of assessment or the rate of levy was deliberately varied to give relief to distressed areas. Valentinian I and Theodosius I probably abolished the *capitatio* in Illyricum and Thrace with the object of reducing the tax burden of these much ravaged lands, and in the schedule of *vestis* the frontier provinces of Scythia and Moesia are charged at two-thirds the rate applied to the rest of the Thracian diocese. Account had also to be taken of the major crops produced by the different provinces. Egypt was a great producer of wheat, and supplied the corn for Constantinople. A higher proportion of its tax was therefore charged in wheat and less in wine and oil, of which it produced less than, say, Asiana, which specialised in olives and vines.¹⁰⁹

Having worked out the rates of levy on each fiscal unit in the various products required, rates which varied from diocese to diocese and from province to province and even from city to city, the prefect, having obtained the emperor's signature, circularised the figures to the vicars and provincial governors. This had to be done well in advance, so that taxpayers should have ample time to learn what they would have to pay. In Egypt, where the indiction, in the sense of the financial year, began on 1 July, the *praedelegatio*, as it was called, had to be, according to a law of 436, posted in the principal towns before 1 May. In other provinces, where the indiction was from 1 September, the date was presumably 1 July. By Justinian's day the time schedule had lagged and the praetorian prefecture had to publish the indiction in July or August, and governors to post it in the cities of their provinces during September or October. The *delegationes particulares* specified the rates in detail for each city, and naturally the totals also. It was now the task of the *tabularius civitatis* to make out demand notes for the individual taxpayers on the basis of the local registers or polyptychs.¹¹⁰

The collection was as a rule carried out by curial officers, called *procuratores* (ἐπιμεληταί) or *susceptores* (ἀποδεκταί, ἐποδεκταί), elected by the city councils: they usually worked in groups, each group being responsible for a separate item, meat, wine, barley and so forth. These officers did not collect directly from the peasant proprietors, but from the villages, which appointed their own internal collectors under the supervision of the *praepositi pagorum*. During the first half of the fourth century the collection of each city was, at any rate in Egypt, directed by an *exactor civitatis*, who was nominated by the imperial government: but this officer later became curial also and was elected by the council. Valentinian and Valens

made a determined but fruitless attempt to transfer tax collection from the *curiales* to *bonorati* and ex-officials. In 383 the experiment was tried in Pontica of dividing the collection, assigning the tax of the great landlords to the provincial *officium*, that of the humble to the *defensor civitatis*, and leaving the decurions only their own tax: no more is heard of this arrangement. In 396 it was enacted in the East that the taxes on the estates of senators should be collected by the provincial *officium*, but this experiment also proved a failure; in 397 it was reported that half the tax on senatorial estates was unpaid, and the *curiales* were again called upon to collect. Anastasius, on the advice of his financial expert, Marinus, introduced the system of *vindices*. We are ill informed about the nature of the reform, but it appears that a *vindex* was appointed for each city, and that the men who offered to produce the highest payment got the appointment. The *vindex* evidently used curial collectors and acted as general manager himself. The experiment was successful from the point of view of the treasury, and though the *vindices* were most unpopular, the system was apparently maintained by Justinian.¹¹¹

From the point of view of the imperial government the advantage of curial collectors was that not only were the individual collectors liable for the full amount of the tax, but that the council which elected them underwrote their liability: a curial collector was of necessity a man of some substance upon whose property distraint could be made, and if it should prove insufficient, the council had to make up the difference. This is clearly stated in a papyrus document, recording a dispute as to whether one Taurinus had been nominated *exactor civitatis* by the council: if he had, it was admitted that the deficit must be apportioned according to the property of each of the decurions.¹¹²

In view of this liability it might have been expected that the task of tax collection would have been unpopular. Curiously enough, however, there was a constant pressure from the officials of the provincial *officium* and from *vicariani* and *praefectiani* to take part in the collection. The former were supposed to act as collectors of arrears (*compulsores*, ἀπαιτητα) only, and the latter were sent down to the provinces to keep the provincial governors and their *officia* up to the mark; but it was frequently necessary to prohibit their intervening in the process of tax collection. The technique of the *canonicarii* of the praetorian prefecture is vividly described by Valentinian III. They produced 'alarming demands for numerous different taxes': they put out 'a smoke screen of minute calculations involved in impenetrable obscurity'; they demanded 'receipts for a long series of past years, receipts which the plain

man, confident that he owes nothing, does not think to preserve'. But the basic reason why they could make a profit out of tax collecting was, as Majorian explains, that they terrorised both the taxpayers and the curial and provincial officials, and that it was impossible to obtain redress against their extortions save from their departmental chief, the praetorian prefect, at the expense of a journey to the *comitatus* and heavy judicial fees. Another habitual method of making a profit out of tax collecting was to combine the functions of collector with that of money lender, and convert arrears of tax into private debts, on which high interest was charged—with the further hope that the arrears for which the collector had taken responsibility might ultimately be written off by the government.¹¹³

The collection was from the reign of Valentinian I made in three instalments at intervals of four months. The object of this procedure was probably to avoid overloading the transport system and the storage capacity of the state granaries. When taxes in kind were commuted for gold it was advantageous for the taxpayer, who was not obliged to sell the greater part of his crops at one time, when everyone else was doing the same, thus obtaining poor prices, but could space out his sales over the year.¹¹⁴

The collection did not end the task of the administration. The goods collected had to be apportioned and delivered to their recipients. This was a highly complicated task as the troops who consumed most of the *annona* and *capitus* were not distributed evenly over the empire, but were either concentrated in the frontier provinces, or were mobile forces which did not remain in one place. It seems likely that every province was first charged with the maintenance of its own governor and his *officium*, and of the local stations of the *cursus publicus*. The latter needed some regulation: in 365 the consular Anatolius reported that in the Suburbicarian provinces fodder for the several post stations was arbitrarily demanded, and laid down a scheme whereby each city should provide fixed quantities at predetermined dates, proper regard being had to the length and difficulty of the journey. Frontier provinces also supplied their resident garrisons of *limitanei* as far as they were able. Here again efforts were made to reduce transport to a minimum: forts were to be as far as possible supplied from neighbouring estates. It was, however, inevitable that the ungarrisoned provinces in the interior of the empire should contribute something to feeding the frontier armies.¹¹⁵

The machinery whereby the distribution of the *annona* was carried out was complicated and its detailed working is obscure. Curial officers might, apparently, be called upon to deliver any-

where within their province. In the papyri we find decurions of Hermopolis at the extreme north of the Thebaid making delivery at Syene at the extreme south, some 370 miles away. The deacon Cyrus wrote to one Hermaion: 'I have heard that you have been nominated by the president elect as distributor at Syene. If you have heard that your nomination has been confirmed, come here quickly to catch the boats of the new indiction. Many have been charged with wheat and barley to those parts from Antinoopolis as far as Diocletianopolis and many loaded boats have passed.' In the circumstances one can understand the alarm of another decurion of Hermopolis, Achilleus. He writes to his friend Pimution: 'You wrote to me about the schedule sent by the *rationalis* about goods for the *annona*. Try to get us nominated local distributors of wine or meat (or only at Antinoopolis), so that we can stay at home and not go abroad. We don't want chaff, in case it is not accepted and we are forced to pay its price. We want wine or meat at Hermopolis or Antinoopolis, only those two. Don't touch barley.' Arrived at their destination the goods were consigned to a public granary, under the charge of a *praepositus horrei*, likewise a decurion, who doled them out to the quartermaster (*actuarius* or *optio*) of the unit for which they were destined.¹¹⁶

Transport from one province to another was apparently carried out by the somewhat mysterious process known as *pastus primipili*. The retiring *princeps* of each provincial *officium*, on promotion to the rank of *primipilus*, was charged with the burdensome task of conveying the goods from his own province to the recipient army. These officers were in addition expected to tip the *dux* of the recipient area: Julian limited this perquisite to 50 lb. silver from all the *primipilares* who delivered to one *dux*. From a letter of Libanius it is known that the consular of Syria at Antioch was responsible for delivery of *annona* at Callinicum on the Euphrates. From a law of Theodosius I it appears that *primipili* from provinces in the Eastern prefecture delivered *annona* to the Illyrian prefecture, and from another of Arcadius that *primipilares* of the diocese of Asiana were liable to the *pastus*: they had a long journey to the nearest frontier.¹¹⁷

There remained the regiments of the field army and the imperial *comitatus* itself, which in the fourth century was often on the move. The technique was to issue to these mobile bodies warrants (*epistulae delegatoriae*) entitling them to draw upon the revenues of a given province which had a surplus. Units of the *comitatenses* and *palatini* collected their *annona* through officers known as *opinatores*. They were supposed to present their warrants to the provincial governor concerned, who had to deliver within the year. He was

often tempted to send the *opinator* direct to the taxpayers and let him collect his own goods for himself, a practice prohibited by the imperial government.¹¹⁸

From the latter part of the fourth century both collection and delivery in kind began to be commuted for gold. The process began in a modest way in the West with a law of Valentinian I, enacting that *limitanei* should receive rations in kind for nine months of the year and 'prices' for the remaining three. It seems to have been complete in the West by the second quarter of the fifth century. In 429 we find *opinatores* collecting gold and not foodstuffs in Africa, and from a novel of Valentinian III it appears that before the Vandal invasion Numidia and Mauritania Sitifensis paid all their taxes in gold. The same novel shows that *annonae* and *capitus*, both of the troops and of the *dux*, were commuted for a fixed payment of 4 solidi. A novel of Majorian proves that in his reign the land tax of Italy was paid entirely in gold. This remained the rule under the Ostrogothic kingdom; when the government required supplies in kind it obtained them by compulsory purchase, setting off the price against the land tax due from the vendor.¹¹⁹

In the East the process was more gradual and less complete. The *annonae* of palatine officials were commuted to gold in 423, and those of officers of the grades of *spectabilis* and *clarissimus* in 439, but the rank and file of the *comitatenses* continued to draw their rations in kind. Commutation of the land tax to gold was still in 436 a special privilege, sparingly accorded. Anastasius converted the bulk of the land tax to gold, but still apparently collected in kind what was needed for feeding the field army. For he permitted compulsory purchase of foodstuffs only in emergencies and then by his personal authorisation, except in the special case of Thrace, when the taxes in kind did not suffice for the maintenance of the troops. Payment for these requisitions was made either, as in Italy, by setting off the price against the gold tax, or, if the price exceeded the tax, in gold coin.¹²⁰

In Justinian's reign a theoretical distinction was still observed between *annonae* in money and *annonae* in kind, but both were alike paid (at different rates) in gold. The indiction likewise prescribed taxes in gold and in kind, but levies in kind might be commuted on a price schedule laid down in the *particularis delegatio* of the province. A series of warrants issued by the governor of the Thebaid, entitling the quartermasters of military units to draw rations from the village of Aphrodito, illustrate the artificiality of the system. Some warrants are made out for so many *artabae* of wheat and so many units (pounds or pints) of wine or meat; these may have been paid in kind. But others are made out for so many *artabae* of

'wheat in gold' and so many units of 'wine or meat in gold', and the rates of commutation are specified. The corn required to feed Constantinople (and Alexandria) continued to be actually collected in kind.¹²¹

In the East the commutation of levies and issues in kind into gold did not at first simplify the accounting of the prefecture. *Annonae* (and *capitus*) were commuted at a great variety of rates. There were 'money rations' (*aerariae annonae*), which had a fixed value of 4 solidi. Other *annonae* were commuted at the market prices prevailing locally, others at special prices fixed for particular areas, others at prices published annually by the prefecture for each province in its *particularis delegatio*; there was also a special rate for calculating the emoluments of the praetorian prefects, which was applied to the salaries of some other officers. As the pay of all soldiers and civil servants was computed in *annonae* and *capitus*, and these units varied in value according to the recipient's regiment or *officium*, the making up of the payrolls was complicated. The salaries of the higher officers of state, both military and civil, were likewise computed in *annonae* and *capitus*, and an individual officer sometimes drew some of his *annonae* and *capitus* at one rate and some at another. Justinian assigned salaries in solidi or pounds of gold to the new posts which he created, but other salaries were still in his reign calculated according to the old rules.¹²²

The conversion of the land tax was also at first a complicated process. The tax was in the fifth century, probably until Anastasius' reign, assessed in kind and then commuted into gold on a five years' average of prices. Anastasius probably introduced the simple system whereby part of the tax was assessed in gold and part in kind, with rates of commutation for the latter fixed annually for each province by the prefecture.¹²³

The Western government seems to have avoided these complications, assessing the land tax in solidi or in *annonae* and *capitus* at the fixed rate of 4 solidi each, and calculating wages and salaries in *annonae* and *capitus* of fixed value. In both halves of the empire commutation to gold greatly simplified the collection and distribution of the revenue, and must have reduced the wastage of perishable goods collected in excess of needs, and the unnecessary transport of heavy goods. But most important of all it enabled the prefecture to build up a reserve in gold, the *arca praefectoria*. The *arca* is first mentioned in 382, and became progressively more important, until it became the principal treasury of the state. In Leo's reign its contribution to the expedition against the Vandals was 47,000 lb. gold, as against 17,000 lb. from the *largitiones*.¹²⁴

The financing of public works is an obscure topic. The frontier

forts, still the responsibility of the praetorian prefects under Diocletian, had passed by the reign of Valentinian I to the care of the *duces* of the frontier provinces. The cities were always responsible for their own public buildings, including their walls. The prefects, through the vicars and provincial governors, had to maintain roads and bridges, the public granaries and post stations. The repair of the roads and bridges was charged to all landowners, according to their *ingatio* and *capitatio*, and exemptions were rarely granted. The same rule applied to other public works, but here immunities were more freely granted. The actual work was apparently in the fourth century performed by forced labour: the supply of workmen and craftsmen was a *sordidum munus* to which landowners and villages were liable. The supply of materials, such as beams and planks, was also a *sordidum munus*, and so was the burning of lime. By the end of the fifth century methods had changed. Public works were financed from the money revenues, and *corv'es* were replaced by hired labour. The auditing of the accounts of public works remained a very lucrative function of the *scrinium operum* of the prefecture.¹²⁵

Much as we know of the details of the fiscal organisation, our information on broader aspects of imperial finance is disappointingly meagre. It is impossible to estimate either the expenditure or the revenue of the empire at any date. On the expenditure side we have for the sixth century various detailed figures. We know the salaries of sundry high officers of state from the praetorian prefect of Africa (at 100 lb. gold) to consulars of provinces (at 448 solidi). We also know the ration allowance of a private soldier (4 solidi) and the fodder allowance of a trooper (4 solidi), and the donative of a private soldier (5 solidi every five years); his clothing allowance was probably 1 solidus per garment, but we do not know to how many garments he was entitled per annum. We also know the global salary bills of various *officia*, from the praetorian prefecture of Africa (4149 solidi) to provincial offices at such modest sums as 144 solidi. But the data are insufficient to compile a comprehensive wages and salary bill, much less a total of all expenditure.

On the revenue side we know the yield of two Western provinces. Numidia in 445, after having its taxes reduced to one-eighth of their previous total, paid (in direct taxation) 4200 solidi and 1200 *annonae* and 200 *capitus*, commuted for 4 solidi each, that is 9800 solidi in all. It must then before the Vandal invasion have

paid 78,200 solidi or rather over 10 *centenaria* of gold. Mauretania Sitifensis from 445 paid 5000 solidi and 50 *capitus*, and its normal revenue must therefore have been 41,600 solidi or about 6 *centenaria*. These were relatively poor provinces, but the figures seem strikingly small when compared with the 15 *centenaria* which Roman senators of medium wealth received as their annual income in gold. In the East we have some figures for Egypt under Justinian. In his thirteenth edict he states that it contributed 8,000,000 of wheat to Constantinople. He does not specify the unit, which might be either the *modius*, the normal imperial measure for wheat, or the *artaba* ($3\frac{1}{2}$ *modii*), the measure used in Egypt. It must be the latter, for from contemporary papyri we know that four cities, two large (Oxyrhynchus and Heracleopolis) and two small (Cynopolis and Antaeopolis), between them paid 760,000 *artabae*, and there were about seventy cities in the Nile valley and Delta. At the official rate of commutation (10 *artabae* to the solidus) the value of these 8,000,000 *artabae* of wheat was over 110 *centenaria*. Egypt also yielded a considerable revenue in gold. No global figures are available, but Oxyrhynchus (with Cynopolis) and Heracleopolis, which each paid 350,000 *artabae* (value 35,000 solidi), paid 24,000 and 22,500 solidi in gold as well. At another Egyptian city the figures were 25,372 $\frac{1}{2}$ *artabae* (value 2537 $\frac{1}{4}$ solidi) and 2297 solidi 10 $\frac{1}{2}$ carats in gold, while at Antaeopolis the proportion of gold tax to wheat was substantially higher, 10,300 solidi to 61,670 *artabae* (value 6167 solidi). Egypt may then have paid nearly as much again in gold as in wheat, perhaps a total of 200 *centenaria*, reckoning the whole tax in gold. The contrast with the African provinces is striking.¹²⁶

We have one figure only for the global revenue of the Eastern empire, and it is somewhat suspect and difficult to interpret. Procopius in the Secret History alleges that in the nine years of Justin's reign 4000 *centenaria* of gold came into the treasury, thus implying that the annual revenue was about 400 *centenaria*. It was to Procopius' interest to put the figure as high as possible, but in relation to the Egyptian figures it seems at first sight rather low. It may, however, be assumed that Procopius did not include the value of the corn levied to feed Constantinople, nor probably other taxation in kind. In Thrace it would seem that the bulk of the taxes was levied in kind to feed the Danube armies and the same no doubt applied to Dacia and to a lesser degree to Pontica and Oriens, which fed the Eastern armies. As an estimate of the gold revenue 400 *centenaria* is perhaps not unreasonable. If the figure is correct Egypt, which was certainly far the richest of the seven dioceses, would have contributed about a fifth, and more than as much

again in corn. Of the other dioceses Thrace and Dacia would have paid very little in gold, and the remaining four, Macedonia, Asiana, Pontica and Oriens, would have paid four-fifths of the gold revenue between them, while the two last would have made a substantial contribution in kind as well.¹²⁷

It so happens that the only two rates of land tax which we know come from the same provinces. Valentinian III in 451 speaks of 'the tax of 20 siliquae which are levied for each *centuria*' in Numidia. Before the Vandal invasion the normal rate must then have been $6\frac{2}{3}$ solidi per *centuria*. From Egypt we have the full assessment of Antaeopolis in the sixth century. The whole tax in corn and gold, including all supplementary payments and fees, amounts to 61,674 *artabae* of wheat and 10,322 solidi on 51,655 *arurae*, nearly all arable: vineyards come to 2578½ and gardens to 1600. This works out at about $1\frac{1}{2}$ *artabae* and $4\frac{2}{3}$ *siliquae* per *arura*, or if the wheat be translated into gold $7\frac{2}{3}$ *siliquae*. About 183 *arurae* were equal to 1 *centuria*, and the Egyptian rate of taxation was thus equivalent to $58\frac{1}{2}$ solidi per *centuria*, or between eight and nine times the Numidian rate. It must be remembered that the Numidian figure does not include fees, which would have increased it substantially, perhaps by 2 solidi, and that the Egyptian figure is about a century later than the Numidian and rates of taxation may well have increased in the interval, especially under Justinian. But the contrast is in the main a measure of the greater productivity of the soil of Egypt, which yielded a good crop every year instead of an indifferent one every other year, if that. It helps to explain the contrast between the global revenues of Egypt and of the western African provinces.¹²⁸

It is noticeable how large a proportion of the burden of taxation fell upon agriculture. The taxes levied by the praetorian prefects fell entirely on land, stock and the rural population. The urban population, living within the walls of cities, was in almost all provinces immune from the *capitatio*. In an edict of the praetorian prefect Zoticus (511-12) it is expressly stated that land only, and not houses, gardens, or other goods, is entered in the census, and so far as we know tax was never levied on house property save once: in 405 Honorius ordered an emergency levy of one year's rent on all granaries, baths, workshops, shops, houses and rooms, and also salt pans. The *res privata* was fed by the rents of imperial lands. Of the revenues which went into the *largitiones* the gold land tax and the levy of garments were assessed on the same basis as the prefect's taxes, the *gleba* was a surtax on senatorial estates, and *aurum oblativum* and *coronarium* were levied from two categories of landowners, senators and decurions. Apart from the customs, which

fell on all alike, there was only one tax which was not paid, directly or indirectly, by the peasants, the *collatio lustralis*. In other words, the entire expenditure of the empire, the cost of feeding and clothing the army and civil service, the maintenance of the public transport system, the upkeep of the court and the food supply of the two capitals, with the single exception of the donative to the troops, was entirely borne by agriculture, and even the donative was partly covered by indirect taxes and by levies on landowners, and only in part by a direct tax on trade and industry.¹²⁹

Some idea of the disproportion in the incidence of taxation may be gained from the very few actual figures available. At the end of the fifth century, Edessa, capital of the province of Osroene and presumably, since it lay on the trade route from Persia via Nisibis, a town of some commercial importance, paid 140 lb. gold every four years in *collatio lustralis*: this works out at 2520 solidi a year. In the sixth century Heracleopolis, an Egyptian city with a large territory, paid in land tax (including commuted wheat) 57,500 solidi, and Oxyrhynchus, capital of the province of Arcadia, together with its very small neighbour, Cynopolis, 59,500 solidi. The figures are not exactly comparable, but they suggest that the revenue derived from agriculture was something like twenty times that derived from trade and industry.¹³⁰

As will be argued in later chapters, this apportionment of the burden of taxation probably corresponded roughly to the economic structure of the empire. All the evidence goes to show that its wealth was derived almost entirely from agriculture, and to a very small extent from industry and trade. The *collatio lustralis* was an insignificant contribution to the revenue, but none the less a grievous burden to the merchants and craftsmen who paid it.

Taxation was, with a few minor exceptions, not progressive. The peasant proprietor paid at the same rate for his little holding as did the senator for his vast estates. Senators, it is true, were burdened with the praetorship, which, if not a tax, was an expenditure enforced by the state, but this came only once in a lifetime, and the obligatory expenditure was not very heavy in relation to the wealth of senatorial families. Senators also were liable to the *gleba*, which was a graded surtax, but of negligible weight. They also had to contribute at irregular intervals to the *aurum oblativum*. In the East, Marcian made the praetorship voluntary and abolished the *gleba*, nor is anything said in Justinian's Code of the *aurum oblativum*. Thus after 450 senators in the Eastern parts probably paid no special taxes and were subject to no special burdens.¹³¹

Another tax which fell on members of the upper classes was the levy of horses and recruits on *honorati*, the recipients of codicils of rank. This was made, according to a law of 379, on the grant of the codicils and thereafter every five years; the rate for those who received the honorary rank of *comes* and *praeses* was two and three horses respectively. This regular tax does not seem to have been maintained, but during the first half of the fifth century there were sporadic levies. The last of which we hear was made by Valentinian III in 444. It was nominally of recruits, but payable in gold at 30 solidi per man and was graded: *illustres* had to pay 90 solidi, *comites primi ordinis*, ex-governors of provinces and the like 30 solidi, and *comites* of the second and third grade and *clarissimi* 10 solidi. The tax was aimed primarily at holders of honorary rank, and actual or past holders of offices, and palatine civil servants who had earned their rank by service, were usually excused.¹³²

While there were thus some additional levies, none it would seem of a very onerous character, on senators and others who held codicils of rank, the upper classes enjoyed certain fiscal privileges. All alike were liable to the regular indiction, apart from special personal grants of immunity which were, it would seem, exceptional. Under Constantius II Datianus, a highly influential courtier who was consul in 358, Eusebius, the emperor's father-in-law, consul in 359, and Arsaces, king of Armenia, received this privilege; but Datianus voluntarily renounced it, and the emperor, while confirming it to the heirs of Eusebius and to Arsaces, enacted that no such grants should in future be given. Relief from the indiction might also be gained by securing low assessment or a favourable rate of commutation. This was, it would seem, a more common abuse and caused appreciable loss of revenue. A law of Theodosius II, issued in 430, drastically reduced all such concessions made since the accession of Theodosius I in 379. By this law when the reduction of assessment did not exceed 400 *inga* or *capita*, half was allowed to stand, and when it was greater than 400, the first 200 *inga* or *capita* remained immune. These figures show clearly that those who had obtained light assessments were great landlords. The wealthiest landowners also enjoyed immunity from superindictions or *extraordinarias* and *sordida munera*, which formed an appreciable addition to the regular *canon*.¹³³

The imperial financial machine was not by modern standards highly efficient. Arrears were constantly allowed to accumulate, and were at intervals written off by general indulgences. Julian, it will be remembered, condemned this practice on the ground that it favoured the rich who had sufficient influence to postpone pay-

ment, and penalised the poor who had to pay on the nail. This criticism implies that under Constantius II indulgences were frequently granted and covered recent arrears. If so the policy of the imperial government later became stricter, for the Codes and Novels show that general indulgences were given at very long intervals, and usually excluded several years immediately preceding the grant.¹³⁴

In 401 Honorius' government was exceptionally careful. Only arrears up to 386 were remitted, those between 387 and 394 were reviewed, and those from 395 onwards were to be collected. In the East the administration was a little more indulgent under Theodosius II. In 414 all arrears from 368 to 407 were written off; this incidentally proves that there had been no general indulgence in the East since the latter part of Valens' reign. In 433 the arrears of 408 to 427 were remitted, and there must have been another indulgence (not recorded in the Novels) early in the 440s covering the years 428-37. Marcian on his accession (450) remitted the arrears of 438 to 447, which was over-indulgent. In the West, Valentinian III was lax also, cancelling arrears up to 436 in 438, and up to 447 in 450; many powerful taxpayers who had held up payment for two or three years must have profited. Majorian went even further, remitting on his accession all fiscal debts up to the previous financial year. In the East the government had by Justinian's reign tightened up its policy again. Justinian, probably on his accession (527), remitted arrears up to 522. His next indulgence, which covered the years 523 to 544, did not come until 533. Justin II soon after his accession (November 565) remitted arrears up to 560.¹³⁵

It would seem from this evidence that general remissions were intended not so much to relieve the taxpayers as to clear up the public accounts by writing off bad debts. They chiefly benefited the public by preventing ingenious officials from raking up ancient claims against taxpayers who had failed to keep all their receipts. To guard against this form of extortion Marcian ruled that if a taxpayer could produce receipts for three continuous years no earlier claim was admissible.¹³⁶

The expense of collection was undoubtedly high, in the sense that the taxpayers paid very much more than the actual amount of the tax which went to the treasury. Apart from outright cheating and extortion by officials, who juggled with weights and measures and the currency or took advantage of the simplicity and carelessness of the ordinary citizen to charge more than was due or exact a second time tax already paid, there were a multiplicity of fees (*sportulae*) payable to all the multifarious officials involved in the

collection. Majorian was no doubt indulging in rhetorical exaggeration when he stated that 'whereas some fraction is paid into the public account, the rapacious and all-powerful collector receives double or more in fees'. But in another passage he reveals that the authorised fees (*remunerations*) had been before his day consolidated at 2 solidi per *ingum* or *millena*, and he himself, to compensate the officials for the loss of various illicit fees which they had since invented, added another $\frac{1}{2}$ solidus. These additional 12 siliquae were distributed (apparently in the same proportion as the 2 solidi) 4 to the curial and cohortal collectors, 1 to the *executor*, $\frac{1}{2}$ to the *palatini* of the *largitiones* and $6\frac{1}{2}$ to the *praefectiani*. As the contemporary rate of tax was, it would seem, 7 solidi per *millena*, the cost of collection came to nearly a third as much again. These $2\frac{1}{2}$ solidi (*bina et terna*) were still levied under the Ostrogothic kingdom.¹³⁷

The record of the Eastern government is far better in this respect. Great efforts were made to keep fees down. Anastasius, for instance, ruled that if a *compulsor* were sent to a province because its revenue did not come in by the proper date, the fees and expenses of the *compulsor* should be charged not to the taxpayers but to the delinquent *canonicarius* and the provincial *officium*, and if owing to yet further delay it should be necessary to send a second *compulsor*, his fees and expenses should be exacted from the first *compulsor*, the *canonicarius* and the *officium*. The official scale of fees laid down by an edict of the praetorian prefects in the late fifth century was 1 *siliqua* per *ingum* (as against 60 *siliquae* in the West), which had to satisfy the curial and cohortal collectors and the officials of the *largitiones* and the praetorian prefecture.¹³⁸

By and large the system worked only too efficiently, squeezing from the taxpayers despite their constant complaints an ever-growing revenue, adequate not only to cover the mounting current expenses, but even under prudent management to build up reserves. Only when the barbarian invaders had occupied much of Gaul, Spain and Africa did the government of Valentinian III fall into financial difficulties. In 444 he declared that 'from the revenue which is with difficulty collected from the exhausted taxpayer provision cannot be made for feeding and clothing even the old army, not to speak of newly levied troops'. In the East, Theodosius II managed to pay heavy blackmail to Attila, and by Marcian's death a reserve of over 100,000 lb. gold had been built up, nearly all to be spent in the Vandal expedition of 468. Anastasius during a reign of twenty-seven years, despite the Isaurian war, the Persian war, and the rebellion of Vitalian, was able to accumulate 320,000 lb. gold, although he abolished the *collatio lustralis* and carried out an

important programme of public works. The machine was perhaps too efficient. It raised a steadily mounting revenue which by the reign of Justinian amounted to nearly a third of the gross yield of the land. The depressing effects of this tremendous tax on the empire's main source of wealth, agriculture, will be discussed in a later chapter.¹³⁹

CHAPTER XIV

JUSTICE

THE excellence of the Roman law is justly extolled: but it may be doubted whether under the later Roman empire its virtues were obvious to the majority of the population. For this there were many reasons. In the first place the law itself was, down to Justinian's great reforms, obscure and uncertain, and riddled with archaic technicalities. Secondly, the administration of justice was excessively slow, largely owing to the wide latitude given to appeal. Thirdly, it was expensive, because of the heavy court fees charged, especially in the higher courts, not to speak of barristers' fees and of the long journeys and delays often imposed on parties and their witnesses. Furthermore, conflicts of jurisdiction were frequent, owing to the prevalence of special administrative courts and of the widespread right of *praescriptio fori*, which enabled various categories of persons to claim the jurisdiction of special courts. Lastly, the judges who administered the laws were not chosen for their legal learning, had a very brief tenure of office, and were as a rule venal and subject to social pressure or intimidation.

It is unnecessary for the purposes of this book to discuss the ultimate sources of the law. It will suffice to say that, as cited in the courts and accepted by judges as authoritative, it consisted of two parts, the writings of the classical jurists and imperial constitutions. The works of the jurists were formidable in their mere bulk. When Justinian's commissioners were preparing the Digest, they read close on 2,000 separate works, written by about forty authors and ranging from short treatises on special topics to great commentaries covering the whole field of law: the whole material totalled 3,000,000 lines, or over twenty times the length of the Digest. The average barrister, of course, did not use a tithe of this vast literature, and many of the books were exceedingly rare, and probably only accessible in the libraries of professors and law schools. They were, however, authoritative, and learned counsel could dig up opinions from obscure works unknown and virtually unknowable to the court.¹

Most lawyers depended on a limited number of standard texts, such as the *Responsa* of Papinian or Ulpian's *ad Sabinum*, or on handbooks of extracts from the leading authors. But, even if the court confined its attention to these, the judge's difficulties in deciding a point of law were not over, for the great jurists did not always agree, and amateur judges could hardly decide between them. Annoyed by the perpetual wrangles of learned counsel, Constantine deprived of their authoritative status Paulus' and Ulpian's Notes on Papinian, which he said distorted rather than corrected the great jurist. He also gave special authority to the *Sententiae* of Paulus. In 426 Valentinian III enacted the famous law of citations. He reaffirmed the primary authority of four great jurists, Papinian, Paulus, Ulpian and Modestinus, and raised Gaius, the author of a hitherto not much regarded text-book, to parity with them. He also allowed authority to the earlier jurists whom the five great men quoted, such as Julian, Scaevola, Sabinus and Marcellus, provided that their texts, which often depended on very old books, were verified by the collation of different copies. Where there was a conflict of authority, the majority of authors was to carry the day, and if they were equally divided, Papinian was to have a casting vote. Only if he had made no pronouncement on the issue, and the others were equally divided, did the judge have to use his discretion. This rule has justly been regarded as the low-water mark of Roman jurisprudence, but it did at least allow a diligent barrister to tell his client what the law was—unless a more ingenious opponent could produce an imperial constitution which affected the issue.²

Imperial constitutions might take a variety of forms. *Decreta* were judgments or rulings made verbally by the emperor when trying a case in the high court. A few such decisions, excerpted from the minutes of the consistory, are preserved in the Codes, but *decreta* seem to have been rarely cited in the courts. *Rescripta* were answers either to the questions (*relationes* or *consultationes*) of judges, who asked for clarification of a legal issue arising in a case before them, or to the petitions (*libelli* or *preces*) of private citizens, asking for a ruling on some legal question which affected them: it seems to have been quite a common practice to obtain a rescript before instituting proceedings. Rescripts were publicly posted, as well as being delivered to the petitioners, and were therefore available to lawyers even if, being unfavourable to the petitioner, they were never produced in court. Down to the early years of the fourth century at any rate, rescripts were an important source of law; a very large number from the reign of Diocletian and his colleagues survive in the Code of Justinian, and they must have

formed the bulk of the material collected in the Gregorian and Hermogenian Codes. A few of Constantine and Licinius and of Valentinian and Valens are cited in legal works of the fifth century, but they seem to have waned in popularity in the fourth century.³

The reason why rescripts ceased to be regarded as authoritative is plain from a number of constitutions which declare them invalid if surreptitiously elicited contrary to the general rules of law. The imperial chancery was too prone to yield to pressure from influential suitors who wanted the law to be altered to suit their special case. This was no doubt why Arcadius in 398 declared that even rescripts in response to *consultationes* should not be used as precedents, and why the Roman senate in 438 shouted (twenty-one times): 'We beg that no laws be issued in response to petitions.' It may have been for similar reasons that in 426 the ministers of Valentinian III denied the authority of precedents to judgments made by the emperor in consistory. Justinian, however, indignantly declaring that it was absurd to question the power of the emperor, the sole fount of law, to interpret its rules, restored the authority of both *decreta* and *rescripta* as sources of law.⁴

There remained edicts (that is, public notices directly addressed to the people at large), orations to the senate, and other *leges generales*. These are somewhat difficult to define, and Valentinian III's attempt in 426 to draw a distinction between general and special laws is not very illuminating. Most laws were addressed to the praetorian prefects, who were instructed to circulate them to the provincial governors, who in turn published them in the cities. About these there was no doubt, but many laws were issued to other ministers, because they primarily concerned their departments, and had no doubt been suggested by them, and others were directed to vicars of dioceses, *rationales*, proconsuls and even ordinary governors of provinces, usually, it would seem in response to their questions on local problems. Other laws again were addressed to provincial assemblies, cities and corporations, in answer to their petitions. To these last Valentinian III denied the status of general laws, but many are incorporated in the Theodosian Code, and had presumably therefore been accepted by the courts as of general application. It was therefore far from certain whether any given law was applicable to all cases, or had local validity only.⁵

Further confusion was caused by the divisions of the empire. Theoretically all laws were issued by the college of emperors, and were, if *leges generales*, valid throughout the empire. Actually the laws of each emperor were promulgated only in the part of the empire which he ruled. Libanius makes this very plain. He was

personally greatly interested in the law regulating the succession of bastards to their father's estate, as his only son was the fruit of a union with a concubine. He was pleased when Valentinian changed the law in favour of bastards, though it did not help him personally, as he lived at Antioch, but was overjoyed when Valens issued similar legislation. Though, however, in the ordinary way the courts of one emperor ignored the legislation of his colleague or colleagues, it was always open to an enterprising barrister to produce a law issued in the other half of the empire, and the courts could not refuse to admit its validity. Early in Honorius' reign Jews in the province of Apulia and Calabria claimed exemption from the *curia* in virtue of 'some law which has been issued in the Eastern parts'. The Western government was much annoyed by what is evidently regarded as sharp practice, and Honorius abrogated 'the same law—if there be such—which is manifestly harmful to my parts' of the empire.⁶

To imperial constitutions proper must be added edicts of the praetorian prefects. The prefects had no legislative power, but they could issue authoritative interpretations of the law. Their edicts were commonly cited in the courts, and several collections of them, made in the sixth century in the Eastern parts, are extant, while some have been preserved amongst Justinian's Novels.⁷

Confusion was increased by the very inadequate method of publishing imperial constitutions. *Decreta* were, so far as we know, not published at all. They normally became known to the legal world through the certified copy of the *acta consistorii* which was issued to successful litigants; lawyers could no doubt also obtain copies of the *acta* on application. *Rescripta* were, as mentioned above, posted at the place where they were issued—that is where the emperor happened to be at the time—but they were issued in such large numbers that they can have hung only for a matter of days, or weeks at most. Diligent lawyers apparently employed clerks to copy those of interest. Otherwise they became known to the profession only by being cited by those who had obtained them in subsequent legal proceedings, and thus appearing on the record issued to the successful party; once again lawyers could presumably get copies of the record for their own use on application. Edicts and general laws were posted in all the cities of the empire, and those of local application in the provinces or cities concerned, but they cannot have hung for more than a few months.⁸

So much for initial publication. No attempt was made by the imperial government to publish a consolidated collection of imperial constitutions until the issue of the Theodosian Code in 438.

Private enterprise had come to the rescue a century and a half earlier. In the reign of Diocletian two lawyers, Gregorius and Hermogenian, published collections of imperial constitutions. The former issued his work in the *Codex Gregorianus*, in 291; it apparently included all constitutions still current up to the date of publication—some went back to Hadrian. The *Codex Hermogenianus* was, it seems, a supplement published in 295, containing the legislation of the intervening years. Both these were, it should be stressed, private collections with no official authority, and they seem to have been later supplemented, equally unofficially and in a rather unmethodical way, with some more recent enactments; seven laws of 364-5 are quoted from the *Hermogenianus*.⁹

Owing to their great convenience, however, they were, in spite of their unofficial character, accepted as authoritative by the courts. The constitutions were arranged in them under titles by subject matter, according to the traditional order of the legal commentaries of the classical juriconsults, and in each title the laws were placed in chronological order. They seem to have been bulky works. The *Gregorianus* was actually the larger, and in it the titles were grouped in books. The *Hermogenianus* was arranged by title only, but though smaller must have been a considerable work—we possess a law cited as the 120th of the 69th title. The two codices were probably for all practical purposes an exhaustive record of all imperial legislation up to 295, and certainly came to be treated as such in the courts.¹⁰

After 295 imperial constitutions went on being issued thick and fast, but for a century and a half no attempt was made either by public authority or by private enterprise to codify them. The result was that not only was there no collection available to the general public, the legal profession, or the courts themselves, but no authoritative record existed at all of what laws had been promulgated. Amazing though it may seem, it has been abundantly demonstrated from an analysis of the *Theodosian Code* that the imperial *scrinia* did not possess in their files copies of the laws that they issued. It is clear that the commission which compiled the *Code* found no material save of very recent date in the central imperial archives, and had to draw on very miscellaneous sources to find copies of the laws which it had been instructed to collect. The offices of provincial governors and vicars, or those at any rate which were more methodical and conscientious, copied constitutions received and published into their files. It is evident that the commission drew largely on the archives of the best conducted provincial and diocesan *officia*; hence the surprisingly large proportion of laws preserved in the *Code* which are addressed

to the proconsul or the vicar of Africa, or posted at Carthage. Departmental ministers of the *comitatus* also kept files of laws which affected their departments. The praetorian prefectures would also seem, to judge by the large number of laws in the code which are addressed to the prefects, to have kept tolerably good records, but it may be that many of these laws were actually preserved in the archives of provincial *officia* to which they were circulated. The codifying commission had even to resort to private collections made by professors of law, juriconsults and practising barristers.¹¹

The confusion which must have reigned in the courts in the fourth century and the early decades of the fifth may well be imagined. Judges and barristers had no certain means of discovering what imperial legislation had been issued on any topic, and ingenious and learned counsel could surprise their opponents—and the court—by suddenly producing an obscure constitution, which they had perhaps come across in the record of some old case where it had been cited, or had obtained from a colleague in a distant province, who had found it in the archives of the local *officium*. In 429 the government of Theodosius II decided that something must be done about 'the mass of imperial constitutions, which, sunk in a thick fog, has by a bank of obscurity cut off knowledge of itself from human minds'. A commission of legal officers, under the presidency of the praetorian prefect and former quaestor, Antiochus, was instructed to collect all extant edicts and general laws issued since A.D. 312. The codifiers were authorised to cut out the preambles and epilogues and other superfluous verbiage, and clarify the language and remove inconsistencies where necessary, but were specifically ordered to publish all laws which they could find, whether obsolete or not. The laws were to be arranged in books and titles, according to the traditional scheme, and in chronological order in each title. Where one constitution dealt with topics coming under several titles, it was to be cut up, and the relevant sentences inserted under each title.¹²

It was intended that the commissioners, having completed this task, should go on to compile from the three collections of imperial constitutions and the relevant juristic literature a single comprehensive code of law. They apparently failed to complete even their first task, for in 435 a new and larger commission, headed by the same Antiochus, who was probably the moving spirit behind the reform, was appointed with the task of compiling the new *Codex* only; its terms of reference were slightly enlarged to include laws published 'in certain provinces and places' as well as general laws.¹³

The commissioners were not very successful in recovering the legislation of the first half-century of the period, and found great difficulty in assigning dates to the early laws, but after two years of work they produced the Codex Theodosianus, which was in 438 declared in both halves of the empire to constitute an authoritative and exhaustive collection of all imperial legislation since 312. No law issued since that date which was not included in the Code might be cited; for earlier periods the authority of the Gregorian and Hermogenian Codes was still recognised. This must have immensely simplified the lawyer's task. One ambiguity was also cleared up for the future. Henceforth laws issued by the emperor of one half of the empire were not to apply to the other half, unless officially communicated to the other emperor and promulgated by him. Nearly ten years later, in 447, Theodosius II sent a batch of thirty-five new laws, or Novels, to Valentinian III, who promulgated them in the West. Five of Marcian's Novels were also received in the West, and Anthemius published in his dominions a law which Leo issued on his request. Some Eastern laws thus became valid in the West. There was no reciprocity, however, none of the Novels of Valentinian III or his successors being received in the East.¹⁴

The Western Roman government in the thirty-odd years which it survived after the issue of the Theodosian Code had little leisure for legal reform, and in the West it was left to barbarian kings to prune the still cumbrous bulk of Roman law. The most ambitious measure of simplification was undertaken at the instance of Alaric II, king of the Visigoths, in 506. A shortened Code of Law, known as the Breviarium, was then prepared by a commission of lawyers and approved by a council of bishops and provincial notables. It comprised a few laws from the Gregorian and Hermogenian Codes; a large selection from the Theodosian, omitting obsolete laws and those concerned with the ministries of the central government, which did not exist in Alaric's kingdom; and many of the post-Theodosian Novels, both those issued by Western emperors and those received from the East. The texts of the laws were copied in full, but a brief interpretation was added, explaining the gist of the law in simple language. The works of the classical jurists were much more drastically purged, only simplified and modernised versions of Paulus' *Sententiae* and Gaius' *Institutes* with one chapter from Papinian's *Responsa* being included. The Breviarium became the sole authoritative code of Roman law in the dominions of the Visigothic kings. It governed only Roman citizens and was supplemented by laws issued by the kings, which applied both to their Gothic and to their Roman subjects. King

Gundobad of the Burgundians also produced a Code of Roman Law for his Roman subjects, but this was a very modest production, consisting of forty-seven titles only, culled from the same sources as the Breviarium. King Theoderic of the Ostrogoths issued an Edict laying down 154 rules of law, but this was not intended to supersede the existing Roman law, but merely to provide a simple set of rules which could be enforced on Romans and barbarians alike.¹⁵

In the East the task of reducing the law to a coherent system of manageable bulk was left to a later date, but the task was carried out in an infinitely more scientific and thorough way. As soon as he came to the throne Justinian initiated the first step, the reduction to one Code of the three existing Codes of imperial constitutions and of the now large body of Novels which had accumulated since 438. The commission appointed to perform this task was instructed to eliminate all obsolete laws, and was given wide discretion to alter the wording of the laws which they did preserve in order to bring them up to date. The work was completed in a little over a year, and the first Codex Justinianus was issued on 7 April 529. The emperor next pressed on with the much more formidable enterprise, which had been projected by the government of Theodosius II but abandoned, of codifying the works of the classical jurists. A second commission was established on 15 December 530, but already before this date much preparatory work had been done by settling the major outstanding controversies and by abolishing a number of obsolete institutions. The commission worked with amazing speed, reading the vast bulk of the classical literature, excerpting from it and fitting the excerpts together to form a more or less coherent whole, all in three years. The resulting work, the Digest, was issued on 16 December 533. The great legal changes which had been suggested by the preparation of the Digest had by this date already made the Code out of date, and a third commission was appointed forthwith to revise it. This commission produced the second edition of the Codex Justinianus, which we possess, on 16 November 534.¹⁶

Justinian—or perhaps rather Tribonian—had thus succeeded in under six years in compressing the unwieldy mass of Roman law, both juristic and statutory, into two volumes of reasonable size. The work was not perfectly done, and a number of contradictions and a good deal of redundancy still survived. But it must have been an immense boon to the legal profession and to the public. In the mere bulk of literature which had to be consulted, the reduction was enormous. As we do not possess the Gregorian and Hermogenian Codes, and have only a selection of the Novels issued

after the Theodosianus, we cannot estimate what saving the Codex Justinianus brought: but it certainly must have reduced the imperial constitutions to a quarter or less of their previous volume. The Digest, Justinian tells us, was rather less than a twentieth of the previously surviving juristic literature. In the second place the selected constitutions had all been arranged in one volume under their appropriate titles, and the extracts from the jurisconsults had similarly been grouped in titles. Thirdly, most obsolete matter had been eliminated. Fourthly, controversial points had been clarified and contradictions removed.

Nor was this all. The Roman legal system had grown gradually by the accumulation of new rules, and the reinterpretation of the old laws, and it had the defects as well as the merits of such a system. It maintained a number of archaic distinctions which had long ceased to have a real meaning, and it abounded in formal technicalities. Justinian's lawyers took the opportunity to sweep away this accumulation of legal lumber. It would be tedious to enumerate the many changes made by Justinian, but two may be mentioned as examples. In the classical law a sharp distinction was drawn between the land of Italy and that of the provinces, and different procedures of conveyancing and different rules of prescription applied in Italy (and in cities which possessed the *ius Italicum*) and in the rest of the empire. Since Diocletian's day Italy had been assimilated in all other ways to the provinces, but these archaic distinctions of land law survived till Justinian abolished them. Under Augustus' laws on manumission slaves only became Roman citizens if freed by will or by the process of *vindicta* (which could only be carried out before a Roman magistrate), and then only if various conditions were fulfilled; otherwise the slave became a Junian Latin. This was a reasonable distinction when Roman citizenship was a privileged status, but there was little justification for its retention after all free inhabitants of the empire had been made citizens. Nevertheless the old rules were followed and many freedmen were denied citizenship on a mere technicality, until Justinian abolished *Latinitas*.¹⁷

The Code and the Digest were promulgated not only in the Eastern empire but in Africa, Italy and the other Western provinces which Justinian reconquered. A considerable proportion of the citizens of the empire thus enjoyed for a while the benefits of a body of law which was free from major ambiguities, up to date, rationally arranged, and what was perhaps most important of all for contemporaries, published in a form accessible to all. The law of course did not cease to grow, and Justinian was particularly active as a legislator, issuing upwards of 150 Novels after the

publication of the second edition of the Code. Many of these were administrative enactments, but a considerable number made further modifications in the private law, and several were elaborate codifying statutes, consolidating the law on various topics. It was perhaps Justinian's intention to crown his legislative work by a third edition of the Code, in which these codifying statutes would have replaced the existing series of constitutions on these topics, and perhaps to strike out of the Digest the matter which was rendered superfluous by them. If so, he abandoned the project. His novels were never even collected in an official corpus, but survive in various private collections compiled by lawyers.¹⁸

At the time of Diocletian's accession the empire was badly provided with courts of justice. The jurisdiction of the municipal magistrates, always very limited, had withered away, and even for the pettiest cases the court of first instance was that of the provincial governor. A few governors had judicial assistants—the prefect of Egypt the *iuridicus* of Alexandria, the proconsuls of Asia and Africa three and two legates respectively, and other proconsuls one legate each—but in the larger provinces particularly the pressure on the governor's court was heavy, and litigants had to undertake long journeys and suffer much delay. The governor naturally could undertake the actual trial of the more important cases only, and delegated the rest to *iudices pedanei*. From the governor appeals went up direct to the emperor. This again meant very long journeys for litigants, and, owing to the congestion of the imperial court, much delay. The emperor in his turn could try personally only the most important cases, and for the rest made use of delegated judges: in particular he made a standing delegation of his appellate jurisdiction to his praetorian prefect. Diocletian somewhat improved the situation by increasing the number of provinces: he thus both diminished the load on each governor and provided the provincials with more accessible courts. As a corollary to this he discouraged the use of *iudices pedanei* by governors. He also decentralised the imperial appellate jurisdiction, both by dividing the empire between two Augusti and two Caesars, and also by delegating this jurisdiction over certain areas to provincial governors: a governor of Syria is recorded to have received appeals from the diocese of Oriens as the emperor's representative (*iudex sacrarum cognitionum*).¹⁹

At the bottom end of the scale the first radical improvement was the institution of the *defensor civitatis*. In the diocese of Oriens

this office seems to have been already in existence before Constantine conquered the East, and was certainly functioning under Constantius II. It was extended to the whole empire by Valentinian and Valens. The *defensor* had jurisdiction in minor civil cases; the limit, undefined in the Theodosian Code, was fixed at 50 solidi by Justinian in his Code. In 535 Justinian raised it to 300 solidi and forbade litigants to initiate suits of that value or less in any higher court. The *defensor* also acquired a petty criminal jurisdiction and could arrest those accused of major crimes and remit them to the governor. An appeal ran to the governor in all cases. The *defensor's* court must have been immensely useful in relieving the provincial governor of a great mass of petty cases and have been a boon to the humbler classes who could now obtain justice cheaply and promptly in their own cities.²⁰

Constantine created another local court by bestowing jurisdiction on bishops. In 318 he enacted that even if a case had already begun before an ordinary court it could at any moment up to the pronouncement of the verdict be transferred to a bishop, whose decision should be final and be executed by the civil authority. He laid down in this law that the bishop must hear both sides, but he did not state that both parties must agree to the transfer of the case. In 333 his praetorian prefect Ablabius raised this point and received the surprising reply that even if one party claimed the bishop's jurisdiction against the will of the other, the bishop should judge without appeal. How long this state of affairs lasted is not known—it can hardly have survived Julian. Episcopal courts are not heard of again until in 398 Arcadius and in 408 Honorius allowed bishops to try civil cases by the agreement of both parties; their decision in such cases was final, like that of all arbitrators chosen by the consent of the parties, and was executed by the civil authority. The episcopal court was thus in its new form no great concession to the church; Jews in fact were normally allowed to settle their disputes in a similar way before their clergy.²¹

The bishops' courts were not always above suspicion. Silvanus, when appointed bishop of Alexandria Troas in the early fifth century, found that the clergy to whom cases were delegated were making a corrupt profit out of them: he employed baptised laymen of high probity instead. The bishops must also have been generally ignorant of the law; some appear to have remedied this defect in the sixth century by using professional barristers as assessors. Nevertheless the episcopal court proved to be a very useful and popular institution, as is shown by the complaints of Augustine and others that they had to spend an inordinate amount of their time on judicial business. Its procedure was informal and ex-

peditious, and justice could be obtained in it on the spot without charge.²²

The imperial appellate jurisdiction was radically reorganised by Constantine, who regularly delegated it not only to the praetorian prefects, but to the urban prefect, proconsuls, vicars and the *comites provinciarum* whom he from time to time substituted for vicars. He received no appeals from the praetorian prefects, who were thus supreme judges equal in this respect to the emperor himself: they, as Constantine puts it, 'may alone truly be said to judge in the emperor's place (*vice sacra*)'. This technically remained the rule in Justinian's day, but as early as 365 parties who considered that they had been wronged by the prefect's decision could make a *supplicatio* to the emperor. From the other judges of appeal (*vice sacra indicantes*) Constantine allowed a second appeal to himself. The system created by Constantine was not seriously modified until Justinian's day. The prefect of the city of Constantinople was added to the list soon after that office was created, and the Augustal prefect of Egypt when Egypt became a separate diocese. Thus besides the praetorian prefects there were the two prefects of Rome and Constantinople, the proconsuls, the vicars, the Augustal prefect and the only survivor of Constantine's *comites provinciarum*, the *comes Orientis*.²³

It is not clear to which appellate judges, and at whose option, appeal ran from the provincial governors, the *ordinarii iudices*. In most dioceses the vicar (in Oriens the *comes*, in Egypt the prefect) probably received the majority of the appeals from the provinces subject to him. In those dioceses which had no vicar but were directly administered by a praetorian prefect, appeals must have gone to the prefect; but in other dioceses also the praetorian prefects apparently had an appellate jurisdiction concurrent with that of the vicar; otherwise the praetorian prefect of the East, whose dioceses all had vicars or corresponding officers, would have received no appeals. The position of proconsuls was peculiar in that they were at the same time judges of first instance (*iudices ordinarii*) and judges of appeal (*vice sacra indicantes*) in their own provinces. The proconsul of Africa received appeals from the other provinces of the African diocese, thus having in them a jurisdiction concurrent with that of the vicar. No other proconsul is known to have received appeals from outside his own province.²⁴

The jurisdiction of the urban prefects was also rather anomalous. The prefect of Rome was judge of first instance in the city and for a radius of 100 miles around it. Down to 357 he apparently received appeals from the whole of Italy, as well as from Sicily and Sardinia, concurrently, it must be presumed, with the vicars of Italy and of

the city. In that year Constantius withdrew a large number of provinces from his authority, leaving him, it would appear, only Tuscia et Umbria and Valeria, but in 364 the prefect was authorised to receive appeals from the vicar of the city. The prefect of Constantinople from 361 received appeals from a large group of provinces, Europe, Rhodope and Haemimontus in Thrace, Lydia, Hellespont, Phrygia Salutaris and the Islands in Asiana, and Bithynia and Paphlagonia in Pontica. The authority of the prefect must have been later reduced, for in 380 three of these provinces, Bithynia, Paphlagonia and Phrygia Salutaris, were again put under him. It is not known if the vicars of the three dioceses concerned exercised a concurrent jurisdiction in these provinces.²⁵

A very wide latitude was given to appeals. The emperors were most insistent that provincial governors must allow appeals against their judgments, and threatened them with the direst penalties if they intimidated defeated parties or overrode their protests. Only in three instances could governors or other judges refuse an appeal. Criminals convicted on confession or by manifest proofs were not allowed to prolong their lives by appealing. Debtors to the state could not thereby postpone payment. And appeals might not be made on a preliminary issue, but only when the whole case had been heard and judgment given. Since the lower courts were, on the whole, for reasons which will be explained later, very unreliable, the imperial government was obliged in the interest of abstract justice to insist on the right of appeal, checked only by fines on frivolous appellants. But the practical result, since the distances to be covered were so large, the delays in the higher courts so interminable, and their fees so heavy, was to weight the scales of justice in favour of the rich.²⁶

Justinian made considerable changes in the system of appeals. When he reconquered Africa he did not re-establish the vicar or the proconsul, but created a separate praetorian prefecture for the old diocese together with Sardinia and Corsica. Henceforth the appeals from this area all went to the praetorian prefect of Africa, and thence (by *supplicatio*) to the emperor. Sicily was after its recovery placed under a praetor, from whom appeals lay direct to the quaestor of the sacred palace. In Italy the old arrangements seem to have been preserved after the reconquest. In the Eastern part of the empire Justinian carved out of the old praetorian prefecture of the East what was virtually a new praetorian prefecture, under the quaestor of the army. He had under his authority the provinces of Scythia and Moesia Inferior, and of the Islands, Caria and Cyprus. This curious group of provinces was chosen for reasons of logistics, and it soon proved highly unsuitable for judicial purposes.

Moved by petitions from inhabitants of Caria, Rhodes and Cyprus, who found it very inconvenient to carry their appeals to the Danube, where the quaestor of the armies normally resided, Justinian enacted that he should hear appeals only from Scythia and Moesia, and that appeals from the other three provinces should, unless he happened to be at the capital himself at the time, go to his representative at Constantinople, sitting with the quaestor of the sacred palace.²⁷

Justinian also carried out important reforms within the praetorian prefecture of the East. It appears that by his day the appellate jurisdiction of the vicars, the *comes Orientis* and the Augustal prefect had fallen into decay and that appeals from the provincial governors, even in minor cases, went always to the praetorian prefect of the East, doubtless because his judgment was, except for *supplicatio*, final, whereas from the appellate jurisdiction of the vicars and other *iudices spectabiles* yet another appeal lay to the emperor. To prevent all cases coming to Constantinople, Justinian laid down that in suits not exceeding the value of 500 solidi (later raised to 10 lb. of gold or 720 solidi) the appeal must go to the *spectabiles iudices*, who would give final judgment without further appeal. Thus only the more important cases would come up to Constantinople, either direct from the provincial governors to the praetorian prefect, or from the *spectabiles iudices* to the imperial high court. This reform apparently did not apply to the Thracian diocese, where the vicar no longer existed. It was perhaps less necessary in that diocese, as in its two northern provinces appeals ran to the quaestor of the army and in the three south-eastern provinces to the prefect of the city of Constantinople.²⁸

Justinian also in the course of his reform of provincial government greatly increased the number of governors of *spectabilis* grade in Asiana, Pontica and Oriens. In all, eleven governors of *spectabilis* rank were created in addition to the proconsul of Asia, the *comites* of Phrygia Pacatiana and Galatia I (who replaced the vicars of Asiana and Pontica) and the *comes Orientis*. Most of these took appeals only from their own province (which was sometimes two old provinces combined), but four, the proconsuls of Armenia I, Cappadocia and Palestine, and the *comes* of Armenia III, from two provinces, their own and another adjacent to it. The object was no doubt to popularise the intermediate courts of appeal by making them more readily accessible to litigants.²⁹

Justinian's reforms resulted in a rather complicated scheme of appeal courts, but they had the great merit of clearing up the chaos of concurrent and often conflicting appellate jurisdictions and of defining clearly the competence of the intermediate and of

the supreme courts of appeal, and thus preventing the latter from swallowing up all the business of the former. Henceforth minor cases had to go to the intermediate appeal courts, and could go no further. Thus the supreme courts at Constantinople were relieved of the vast mass of petty litigation which had hitherto congested them, and poor litigants no longer had to suffer the long delays and the heavy expenses—often, as Justinian says, exceeding the sum at issue—of appeals to Constantinople, but could have their cases finally settled in an appeal court in the neighbourhood.³⁰

The somewhat complex system of courts hitherto described administered justice in the ordinary run of cases, both civil and criminal. In addition to them there was a luxuriant growth of special courts, which handled particular categories of cases, usually of an administrative character, or cases in which the parties, or one of them, usually the defendant, belonged to a privileged group. Some of the regular courts also possessed special jurisdictions outside their normal competence.

It was an old principle of Roman government that all magistrates possessed jurisdiction in disputes arising out of their sphere of administration. Thus the *curatores aquarum* had from their institution been given judicial authority to settle disputes, whether between citizens or between citizens and the state, concerning water rights or the infraction of rules protecting the aqueducts, and Claudius had given his procurators jurisdiction in cases involving the *fiscus*. It was also an old principle that a magistrate had a disciplinary jurisdiction over his staff, and a general over his troops. These two types of special jurisdiction might well conflict with that of the ordinary courts, and they tended to grow at its expense.³¹

The resulting conflicts of jurisdiction led to the growth of a complicated series of rules on the proper venue of special categories of administrative cases and of cases involving special classes of persons. The general principle of venue in the Roman law was 'actor sequatur forum rei', that is that the prosecutor or plaintiff, in criminal and in civil actions, had to proceed in the court which had jurisdiction over the accused or defendant. In ordinary cases this meant the court within whose area the defendant was domiciled, that is—leaving aside the court of the *defensor civitatis*, the use of which was down to Justinian's reign optional—that of the governor of the province in which the defendant lived. There were some exceptions to this rule, the most important of which was that in a criminal case the prosecutor had the option of accusing in the court

within whose jurisdiction the alleged crime was committed. In derogation to these general rules were rules of *praescriptio fori*, whereby certain categories of administrative cases were reserved for special courts and various categories of persons could claim, as defendants and sometimes also as plaintiffs in civil cases, and if accused in criminal cases, the jurisdiction of a court other than that of their domicile or that of the crime.³²

The most important class of special administrative courts were those of the two treasury departments, the *largitiones* and the *res privata*. The *rationales summarum* and *rei privatae* in the dioceses all had their own courts; above these were the courts of the *comites*, such as the *comes largitionum Italicianarum*, to whom Augustine's friend Alypius was assessor; and at the top were the supreme financial courts of the *comites sacrarum largitionum* and *rei privatae* themselves. The rules governing what cases came under these courts, and what under the ordinary courts, and whether appeals ran from a fiscal court to the ordinary appellate courts or to a higher fiscal court, are most complicated and were frequently changed according as the government was swayed by its financial needs or by the claim of its subjects for impartial justice—or by departmental rivalry between its officials.³³

Constantine enacted and Justinian confirmed that the *rationalis* should decide in cases belonging to the *fiscus*, but to this general ruling there were many exceptions, and it requires interpretation. Fiscal cases in this context means not any cases connected with the revenue, but only those concerned with the departments of the *largitiones* and *res privata*; the ordinary courts dealt with cases arising out of the taxes and levies raised by the praetorian prefect through the provincial governors. In the department of the *largitiones* we hear only of prosecutions of fiscal debtors; such cases might of course involve disputes as to liability or as to the amount which was owing. In the department of the *res privata* there were in addition cases in which property was claimed by the crown as *vacantia* or *caduca*, and disputes often arose on alleged usurpation of crown property by private persons. Such cases were normally promoted by private persons who had successfully petitioned the crown for the grant of the disputed property if the *fiscus* won its case, and furnished the information on which the claim of the *fiscus* was based.³⁴

Proceedings against fiscal debtors seem always to have begun before a *rationalis* or *comes*, but during most of the fourth century appeals from his sentence ran to the ordinary judges of appeal (*vice sacra iudicantes*). In the last quarter of the fourth century appeals began to go to *comites sacrarum largitionum* or *rei privatae*,

and this was the rule which ultimately prevailed. Claims for property, on the other hand, seem normally to have come before the provincial governor, unless, as often happened, the promoter of the claim had initially petitioned the *comes rei privatae*. In such cases the *comes* might, if the petitioner were important enough, try the issue himself, summoning the defendant to the *comitatus*, or might delegate it to a judge on the spot, normally the *rationalis*. In such a case the appeal lay not to the ordinary appellate court, but back to the *comes rei privatae*.³⁵

The *res privata* also exercised some jurisdiction over its tenants, the *conductores* and *coloni* of the imperial lands. The *rationalis* was their judge in civil cases where they were the defendants, and if they were criminally accused, the provincial governor had to apply to the *rationalis* to bring them before his court, and they were tried in the presence of the *rationalis*. Tenants of the *domus divina* in Cappadocia were in 442 given the quite extraordinary privilege of being under the exclusive jurisdiction of the *comes domorum*, whether they were plaintiffs or defendants, accusers or accused, in civil or criminal cases alike, with appeal to the *praepositus sacri cubiculi*. The *res privata* seems also to have tried to claim jurisdiction over its lower administrative officials, the *procuratores* and *actores rei privatae*, but in this claim it was unsuccessful. Several laws assert the right of private citizens to prosecute them before the provincial governor and authorise the governor to arrest them without the permission of the *rationalis*.³⁶

Apart from the fiscal courts, the other administrative courts were of minor importance. The *praefecti annonae* of Rome, Constantinople and Africa had their courts. The first investigated claims to participate in the free distribution of bread and decided disputes on membership of the bakers' guild. The second adjudicated claims to *civicae annonae*. The last was concerned with the *navicularii* of Africa. He investigated claims for losses by shipwreck, and decided about membership of the guild and the obligations of those who acquired property subject to the *navicularia functio*. In both the capitals the *praefectus vigilum* possessed a court which dealt with minor breaches of the peace. Both the prefects of the city also possessed certain special jurisdictions. The guilds were under their supreme administrative jurisdiction and members of the guilds could be sued only in their courts even in fiscal cases: the *suarii* of Rome were in 397 given the extraordinary privilege of both suing and being sued before the prefect of the city. The prefect of Constantinople also had an exclusive jurisdiction, which overrode all conflicting privileges, in disputes about the building regulations.³⁷

Various classes of persons could also, as explained above, claim *praescriptio fori*. Two of these, the tenants of imperial lands and the members of the city guilds of Rome and Constantinople, have already been mentioned. Much more important were soldiers and officials. In all these cases the privilege seems to have been an extension of the administrative or disciplinary jurisdiction to which they were subject. *Rationales* decided questions affecting the tenure or rent of crown tenants, the urban prefects adjudicated disputes about the services due from and remuneration owed to the members of the city guilds; military commanders and civil administrators judged disciplinary offences of their soldiers and officials. These various authorities tended to extend their jurisdiction to private disputes in which the persons subject to their administrative or disciplinary control were involved, and to ordinary crimes of which they were accused.

The growth of these special jurisdictions was justified by the argument that the services of the classes concerned were of such importance to the state that they ought not to be called away from their duties to attend other courts than that of their chief. On the other hand it was often recognised by the government that such privileged jurisdictions were subject to abuse, and restrictions were frequently put upon them. In general they tended to grow, since they were valuable both to the courts that exercised them and to the classes that came under them. The latter found it convenient to have claims and charges against themselves heard in a court which was naturally sympathetic to their side and tended to uphold their interests. The presidents of the courts concerned, and the officials who served them, welcomed the increase in bribes and fees which an extension of their jurisdiction brought in. In these circumstances it was difficult for the government with the best will in the world to enforce the jurisdiction of the ordinary courts. As Theodosius II rather sourly admitted when he confirmed the civil jurisdiction of military commanders over soldiers, it was anyhow almost impossible for a civilian plaintiff to secure the appearance of a soldier before an ordinary court without his commander's assistance, and even if he did secure judgment he could not without the commander's concurrence obtain execution.³⁸

Since the privileged jurisdictions were in general the result of gradual usurpation, confirmed or restricted by imperial constitutions from time to time, it is rather difficult to trace their growth from the Codes. When in 355 Constantius, while allowing military commanders to judge soldiers accused of crimes, enacted that all civil cases, whether a soldier were plaintiff or defendant, should be decided by the provincial governor, it may be inferred that in fact

the military courts had been claiming jurisdiction over civil cases where a soldier was involved. This claim, so far as our records go, was not officially confirmed until 413, but in practice no doubt the rule had long prevailed that soldiers could claim the jurisdiction of a military court when accused of crimes or as defendants in civil actions. In 438 this privilege was, at the request of the *magister militum per Orientem*, reaffirmed with respect to *limitanei*, who he complained were being constantly summoned to distant courts with results detrimental to military efficiency. In the next two years the praetorian prefect of the East tried to limit the misuse of *praescriptio fori* by both soldiers and officials, but he was foiled by the *magistri militum* so far as soldiers were concerned, only succeeding in making them subject to the courts of the provincial governors when prosecuted for non-payment of taxes.³⁹

The structure of the military courts was not so complicated as that of the civil. *Limitanei* were subject to the court of their *dux* or *comes*, *comitatenses* and *palatini* to that of their *magister militum*. This arrangement worked satisfactorily so long as the *comitatenses* and *palatini* were grouped in more or less compact field armies. As however in the course of the fifth century units of the field armies came to be stationed permanently in the frontier provinces, difficulties arose. By the reign of Anastasius regiments even of the two praesental armies were stationed on the Eastern frontier, and as it was inconvenient to send their members up to Constantinople for trial, the *magistri praesentales* placed them under the jurisdiction of the *magister per Orientem*, each attaching to his court a liaison officer (*ad responsum*) who saw to the execution of writs and judgments. Anastasius introduced a further measure of devolution, whereby the *duces* were given jurisdiction over the praesental units stationed in their areas.⁴⁰

Appeals from the court of the *dux* probably originally ran to the *magister militum* of the area. After the *magister officiorum* became inspector general of the *limitanei* in the Eastern empire, his authority grew at the expense of the *magistri militum*, and Leo made him supreme judge over all the *limitanei*, saving the ancient rights of the *magistri militum* in Illyricum, Thrace and Oriens. Justinian finally abolished their ancient rights, ruling that appeals from the *duces* should run to the *magister officiorum*, sitting with the quaestor.⁴¹

The growth of the jurisdictional privileges enjoyed by officials is even more difficult to trace. The lowest class of officials, the *cobortales*, naturally had no privilege, since their administrative chiefs, the provincial governors, were also the ordinary judges of the provinces. It is likely that *vicariani* and the like claimed the jurisdiction of their chiefs, but this is nowhere stated. On *prae-*

fectiani the earliest surviving law was issued by Theodosius II late in his reign. It enacts that they may be accused or sued only before the praetorian prefects, unless they are in the provinces not on official business; this saving clause alludes to officials who were theoretically enjoying prolonged leave of absence and were in effect sinecurists. Among military officials *duciani* by the fifth century at any rate enjoyed the same privileges as *limitanei*. On the officials of the *magistri militum* we are better informed. A law of 414 granted—actually no doubt confirmed—their right to claim the jurisdiction of the *magistri* as defendants or accused in civil or criminal actions. In 441, as a result of the efforts of the praetorian prefect of the East, the privilege was confirmed to a limited number (300 for each *magister*) to whom their *magistri* issued special certificates; the remainder, who were no doubt sinecurists, became subject in all matters to the normal jurisdiction of the provincial governors. This rule was in effect confirmed by Anastasius, who limited the *privilegium fori* of the officials of the *magistri militum* to the established staff, the *statuti*.⁴²

On the members of the palatine ministries the evidence is particularly unsatisfactory, consisting in the main of a series of late fifth and sixth century constitutions, which are clearly consolidating statutes defining in detail rights which had long existed. In so far as palatine officials lived and worked at the *comitatus* any jurisdictional privileges which they claimed were unlikely to cause much friction, and did not therefore give rise to legislation. Difficulties arose when they were sent out on official business to the provinces, and it is in such circumstances that we first hear of their privileges. Thus in 359 Constantius II warned the *agentes in rebus* that when they were serving as inspectors of the post in the provinces they would be subject to the disciplinary jurisdiction of the praetorian prefects: this implies that they were exempt from the jurisdiction of the provincial governors and vicars, and had been hitherto exempt even from that of the praetorian prefect himself.⁴³

In 440 Valentinian III, on the suggestion of the praetorian prefect Maximus, enacted that *palatini* of the two financial ministries sent out to the provinces might be reported for misconduct by the provincial governors to the praetorian prefect, who if the *comites sacrarum largitionum* and *rei privatae* failed to take action might refer the complaints direct to the emperor. Even this mild infraction of the privileges of the *palatini* was countermanded two years later, and they were again placed under the exclusive jurisdiction of their *comites*. It is clear that departmental jealousies ran high, and that any attempt to interfere with the exclusive disciplinary jurisdiction

of each minister over his officials was stubbornly resisted. The result was that provincials had no remedy against the extortion of palatine officials in the provinces save by bringing an action before their ministerial chief at the capital.⁴⁴

More difficulties arose with the growth of sinecure posts in the palatine ministries, whose holders lived in the provinces. A vigorous and to some extent successful attack on the jurisdictional abuses which followed from this practice was made by Florentius and Cyrus, praetorian prefects of the East, in 439-40. Finding that large numbers of nominal soldiers and officials (*domestici* and *agentes in rebus* are specially mentioned) were using their *praescriptio fori* to deny the jurisdiction of provincial governors in ordinary civil, criminal or administrative actions, they suggested and obtained the issue of constitutions drastically curtailing their rights. So far as soldiers were concerned these constitutions were, as mentioned above, almost entirely repealed within a year or two, but with regard to officials the praetorian prefects achieved some success. Henceforth nominal officials who lived as gentlemen of leisure in the provinces, and more particularly those who engaged in trade or acted as estate agents, had to submit in civil actions to the jurisdiction of the ordinary provincial courts. They could no longer claim *fori praescriptio* when prosecuted for non-payment of taxes (this rule applied even to soldiers), or if accused of extortion, or (with some exceptions) when claimed for service on the *curia* or in a provincial *officium*.⁴⁵

Most palatine officials came naturally under the jurisdiction of the master of the offices, under whose disposition they stood. This applies to the *agentes in rebus*, the *sacra scrinia*, and various minor corps, such as the *decani*, and also to the imperial guard, the *scholares*. Leo and Zeno also placed under his jurisdiction the *cubicularii* who were under the disposition of the *praepositus sacri cubiculi*, the silentiaries, who were probably also subject to him, and the *castrensiarii*, who came under the *castrensis*. The *palatini* of the *largitiones* and the *res privata* were under the jurisdiction of their respective *comites*. The *domestici* also came under their *comites*, but no law about their jurisdictional privileges has survived. The privileges of the various corps, which are set out in some detail in the laws, varied considerably in detail: some favoured corps could claim *praescriptio fori* even in the provinces, others only at Constantinople, some possessed it only for themselves, others for their wives, children, slaves and tenants as well.⁴⁶

Another important class which enjoyed jurisdictional privileges was senators. Their privilege was based on the legal fiction that, wherever they might really live, their domicile was at Rome (or

later Constantinople). In Constantine's reign senators were accordingly entitled to claim trial before the prefect of the city at Rome, whether accused of crimes or sued in civil actions, even though they lived in Britain or Syria. Constantine enacted that if charged with crimes they must submit to the jurisdiction of the provincial governor. Gratian modified this rule, ordering provincial governors after passing sentence to refer the penalty to himself or to the urban prefect (from the Suburbicarian provinces) or to the praetorian prefect (from other provinces). In judging such cases the urban prefect was assisted by five senators chosen by lot. With the growth of grades within the senatorial order, distinctions were made between them: Theodosius II enacted that reference should be to himself on the penalties to be inflicted on *illustres*, but to the praetorian prefect in the case of lesser senators. Zeno increased the privileges of the highest grade of *illustres*, making them, if charged with crimes, subject only to his personal jurisdiction (or to that of a specially appointed delegate if they resided in the provinces). The right of senators to claim the jurisdiction of the urban prefect when sued in civil actions was confirmed by Valentinian I in 364, but Gratian made those domiciled in the provinces subject to the provincial governor's court.⁴⁷

The Christian clergy also enjoyed during certain periods the privilege of being tried before ecclesiastical courts. In 355 the pious Constantius II ordained that bishops accused of crimes might not be brought before the secular courts but should be tried before a council of bishops. An appeal, however, lay to the imperial appellate courts, it would seem. In 411 this privilege was extended by Honorius to all grades of the clergy, and in 425, after having been revoked by the usurper John, it was restored by the ministers of the little Valentinian III in such sweeping terms that the privilege was apparently extended from criminal to civil actions also. At the end of his reign, however, Valentinian III changed his mind, and in 452 he ruled that the clergy enjoyed no legal *praescriptio fori*. If accused of crimes even bishops were subject to the ordinary courts. Civil actions between clergy or between a layman and a cleric might, if both parties agreed, be settled by the bishop, but, failing this, came before the secular courts.⁴⁸

Some later emperor must have restored the privileges of the clergy, for the Arian kings of the Ostrogoths and Visigoths allowed them to the Catholic church. The Visigothic Breviarium retains Constantius II's law ordering that criminous bishops should be tried by a council of bishops. Pope Gelasius was indignant with the archdeacon of Grumentum for allowing two of his clergy, freedmen reclaimed as slaves by their former owner's heir, to be

sued 'contrary to the public laws' before the provincial governor, 'whereas it is established that whoever sues a heavenly soldier must follow his court and no other'.⁴⁹

In the Eastern parts it would seem that the clergy enjoyed no *praescriptio fori*, except that bishops could not be brought before a secular court on a criminal charge, a privilege confirmed by Theodosius II and extended to civil actions by Justinian. By a law of Marcian clerics in Constantinople came under the jurisdiction of the praetorian prefect in civil actions, unless the plaintiff agreed to accept the patriarch's decision. Leo ruled that in the provinces the clergy (including bishops) should be subject to the provincial governor's court; the only privilege which they enjoyed was that they might not be summoned to any other court. Justinian made an important innovation by placing monks and nuns under the exclusive jurisdiction of the bishops. For the clergy he maintained the existing rules except that, in response to a plea from the patriarch Menas, he ruled that plaintiffs must first put their claims against the clergy before their bishop: if however they were dissatisfied with his judgment they still could sue in the ordinary courts.⁵⁰

The complicated network of special courts and privileged jurisdictions, the main outlines of which have been sketched above, must have made it very difficult for any plaintiff to discover in what court he should sue his adversary, if he belonged or claimed to belong to one of the privileged classes; and judges were often equally puzzled to know whether they had jurisdiction or not. A relatively simple case which defeated Symmachus when he was prefect of the city may serve to illustrate this point. Marcianus, a *protector*, had obtained from the crown the conditional grant (as *bona vacantia*) of the estate of a lady named Aggarea, if it should appear that she had died without natural heirs and without making a will. An action was brought before Bassianus, the *rationalis urbis Romae*, against the heirs named in Aggarea's will, and eventually (six years after it was proved) the will was declared invalid on what Symmachus considered to be a technicality. The heirs appealed to Symmachus as prefect of the city. He, relying on a recent constitution which confirmed the normal rule that appeals in fiscal cases from the *rationalis* went to the regular appellate courts, was about to take the case, when it was objected that the *rationalis* had not been acting in virtue of the jurisdiction inherent in his office, but by delegation from the *comes rei privatae*, and that an appeal ought therefore to go back to him. Symmachus, though he clearly indicated in his report that he thought the whole case was a frame-up, felt incapable of deciding whether it came within his competence and referred it to the emperor.⁵¹

The intricate web of jurisdictions would have been tangled enough if litigants, the courts and the government itself had kept to the already complicated rules. But confusion was worse confounded by the inveterate propensity of all parties to by-pass the rules. Litigants who were wealthy or influential enough to pay the necessary gratuities or pull the right strings secured rescripts from the imperial chancery or orders from the higher courts, summoning their adversaries to appear before some tribunal other than their own. In this way civilians haled other civilians before the military courts, which were more effective in enforcing the presence of defendants and executing judgments. On the other hand, civilian plaintiffs of high degree summoned soldiers from the frontier to civilian courts at the capital. Humble litigants were entitled to claim the jurisdiction of a higher court if they protested that a highly placed adversary would intimidate the provincial governor. But more often an influential party would summon a humble adversary before a distant and expensive tribunal. These practices were naturally encouraged by the judges and officials of the courts to which application was made, since more business meant more bribes and fees. And the government, despite frequent good resolutions, could never resist the importunity of petitioners, even if it could have controlled the venality of its clerks.⁵²

Justinian made some rather half-hearted attempts to clear up the mess. In Egypt and in many provinces of Asia Minor he united the military and civil command, so that the governors of higher grade (the *spectabiles iudices*) exercised jurisdiction over both civilians and soldiers. One magistrate, the vicar of Pontica instituted in 548, was made the deputy not only of the praetorian prefect but of the masters of the soldiers, the master of the offices, the *comites domesticorum*, and the *comites* of the financial departments, so that he could exercise jurisdiction over *scholares*, *domestici* and palatine officials as well as soldiers and civilians. Justinian also forbade the issue and use of special rescripts and orders (except 'our own sacred pragmatic decrees') to alter the regular venue of an action.⁵³

Justinian remedied one defect of the normal rule of *forum rei*. According to that rule a small man injured by the agent of a non-resident landlord had to sue the last in the court of his domicile, which might be at the other end of the empire. Justinian enacted that in such a case the plaintiff might summon the agent, and, if after a due interval the landlord did not appoint an attorney to represent him in the local court, might recover damages from the agent, and, if the agent's means did not suffice, from the landlord's property.⁵⁴

The wide extension of *praescriptio fori* and the indiscriminate grant of special rescripts and orders had little to commend them; and certainly impeded the administration of justice in many cases. Sometimes even the interests of the government were adversely affected, as when members of the privileged classes evaded payment of their taxes or enrolment on the city councils by claiming the jurisdiction of a distant court which was likely to favour their interests against the demands of the local administration. But those who suffered most were small men injured by privileged persons.

The delays of justice were a constant source of complaint. An anecdote told of the good king Theoderic, if apocryphal, is revealing of popular sentiment. A widow of senatorial rank, named Juvenalia, who had been involved for thirty years in a lawsuit with the patrician Firmus, petitioned the king for a speedy settlement. The king summoned the lawyers on both sides and gave them two days to finish the case, on pain of death. Thus stimulated the lawyers got together and judgment was given within the time limit. When Juvenalia came to thank the king, he summoned the lawyers. 'Why', he asked them, 'did you not do in thirty years what you have done in two days?' and he ordered them to be executed.⁵⁵

Thirty years may be an exaggeration, but the more sober evidence of the laws proves that an ordinary suit might take several years. Justinian, 'to prevent lawsuits being almost immortal and exceeding the term of human life', enacted that in civil actions judgment must be given within three years, and in criminal trials, within two. These rules applied to the initial hearing before the court of first instance. If an appeal was made, it was supposed to be heard after an interval of six months, but if the case did not come up on the appointed day the appellant could within three months apply for it to be reinstated, and if on the second appointed day the judge were ill or one of the parties prevented for some reasonable cause, he could again apply for a second reinstatement within another three months. Theodosius II somewhat improved the chance of appeals being heard more expeditiously by appointing days for hearing one, two and three months after the first appointed day; only if all four opportunities were missed was the case postponed for a final three months. Justinian in 529 reduced the initial interval from six to three months when the appeal came from the dioceses of Thrace, Asiana or Pontica to Constantinople and made things easier by converting each appointed day into a period of ten days, on any of which the case could be introduced.⁵⁶

When an appellant had at length introduced his case, it might be long before the hearing was concluded, particularly if his object was to wear out his opponent, and he refused, having once entered his appeal, to pursue the case. To prevent such dilatory tactics, Justinian ruled that if after a year the case was not concluded, the appeal should lapse and the original judgment stand, unless the appellant could prove that the delay was due to the judge or to some unavoidable cause, in which case he was allowed another year.⁵⁷

These rules applied to appeals from the *ordinarii iudices* to the *sacra vice indicantes*, including the praetorian prefects. For appeals to the *ordinarii iudices* from lower courts or to the *sacra vice indicantes* from special delegate judges there were shorter time limits. Yet more rigorous rules were applied to fiscal appeals. In appeals to the emperor the procedure was different. These were not handled *more appellationum*, according to the regular appeal procedure, but *more consultationum*; that is to say, the judge against whom the appeal was made did not make a formal judgment, but sent a copy of his opinion, which he had to show to the litigants together with any counter plea which the defeated party wished to make, and the full record of the case. Originally the emperor decided the case on the documents only and the parties were not allowed to go to the *comitatus*: Valentinian in 364 threatened any litigant who did so with a fine of half the amount at issue. This rule had to be relaxed, however, owing to the interminable delays which resulted, and in 386 Theodosius I conceded that if after a year no response to the *consultatio* had been made, the interested parties might come to the *comitatus* bringing with them a fresh copy of the documents of the case. This rule was re-enacted in 395 by Honorius, and in 419 by Theodosius II, but later the initial year's ban on appearance seems to have dropped. In the sixth century appellants were allowed two years' grace in which to introduce *consultationes* in the consistory: Justinian reduced this period to one year. There was no time limit for concluding a case started in the consistory.⁵⁸

Some of the delays were inevitable owing to the slowness and uncertainty of communications. When Justinian ordered that appeals must be brought into court within two years at most, appellants complained 'that they had not been able to sail from the provinces because the winds had been contrary, and could not come by land because they were too poor, or, living on islands, had to come by sea'. Another reason for delay was the congestion of the courts. The provincial governors, who were judges in the ordinary courts of first instance, were preoccupied with their general administrative duties and in particular with raising the revenue,

and Libanius complains that they scamped their judicial duties. Cases thus accumulated at this level. Vicars and proconsuls and the urban prefects also had many administrative duties, and the two last had a primary as well as an appellate jurisdiction; so that appeals were liable to delay in their courts. The praetorian prefects again were much occupied with administrative and financial work, and the consistory had little time for judicial business.⁵⁹

The main cause of delay was, however, in contemporary opinion, the ingenuity of advocates, who exploited to the full the complication and uncertainty of the law and the conflicting jurisdictions of the courts, to spin out proceedings, whether to increase their own fees or in the interest of clients who had bad cases but long purses. In this they were greatly assisted by the general incompetence of the lower judges, who, when presented with some intricate legal argument, were too prone to refer it to higher authority. The imperial government constantly admonished the ordinary judges to make up their own minds and pass a judgment, against which an appeal could, if necessary, be made, but not to adjourn proceedings while they made a *relatio* to the emperor. Nevertheless the judges persisted in this practice, which might cause infinite delay; for *relationes* all went to the *comitatus*.⁶⁰

Naturally such delays greatly increased the expenses of litigants, particularly when the case was heard far from their homes, and after a costly journey they had to hang about for many months in a distant town where the price of lodging was high, as it naturally was in such places as Constantinople. But apart from such incidental expenses, and advocate's fees and bribes to judges, the official charges for justice were heavy. At all stages of legal proceedings fees were payable to the officials of the court. The fees, as their name (*sportulae*) indicates, were in origin unofficial and illicit tips. Constantine still regarded them as such, and attempted in a drastic law to suppress them root and branch. 'Let the rapacious hands of officials forthwith refrain', he wrote in 331; 'let them refrain, I repeat; for if after this warning they do not, they will be cut off by the sword.' He goes on to enumerate in high-flown rhetorical language the various fees demanded. A litigant could not, it appears, enter the court without paying. Then for the introduction of his case he had to pay the *princeps* of the *officium* and his *adiutores*, and for a copy of the record he had to pay other officials.⁶¹

A generation later the imperial government had acquiesced in *sportulae*, though it still regarded them as an abuse. One of the arguments urged by Valens for the institution of *defensores civitatum* was that the humble rustic would no longer be subject to the

exactions of the *princeps* who controlled access to the court and the *exceptores* who copied the record. But by this time *sportulae* had become a sufficiently established institution to be officially regulated.⁶²

We possess a schedule of fees laid down by the consular of Numidia for his officials in the reign of Julian. The amounts are stated in *modii* of wheat, as they were too small to be reckoned in gold, and the copper currency was being debased so rapidly that it was useless as a permanent standard of values. The *princeps* of the *officium* received five *modii* for 'granting an official' within the town, two more within a radius of a mile and two more for every further ten miles: if the official had to go overseas the charge was not to exceed 100 *modii*. The *cornicularius* and *commentariensis* of the *officium* received half these sums. These payments were presumably made by the plaintiff; the function of the official, who is usually styled the *executor*, was to carry out the orders of the court from summoning the defendant to executing the judgment. The *executor* also himself received two *modii* within the town (and presumably more according to distance if he had to go outside it); this was perhaps from the defendant, who, as we know from other sources, had to pay for being summoned. The court stenographers (*exceptores*) were entitled to five *modii* for a *postulatio simplex*, or statement of claim, and twelve for a *contradictio*, presumably the rebuttal of the claim, and twenty for the *definita causa*, which must have included the argument as well as the actual judgment. Litigants had also to pay for the papyrus used in making these records, which was not to exceed one large roll for a *postulatio simplex*, four for a *contradictio* and six for a *causa definitiva*. The amounts do not seem very exorbitant, but if it be remembered that forty *modii* represented a man's ration for a year, and that thirty *modii* cost one solidus, it can be seen that even these fees must have been a serious matter for a poor man. And this was in a court of first instance: the fees in the higher courts, if it came to an appeal, were undoubtedly much higher.⁶³

Despite attempts at regulation *sportulae* inevitably crept up with the course of time. Justinian, amongst his many other reforms of judicial procedure, promulgated a comprehensive schedule of court fees, and probably reduced them all round: he certainly made very substantial reductions in those charged in the high court of the praetorian prefecture. Unfortunately this schedule has not been preserved, and we have in the Code only a few special lists of reduced fees payable by privileged categories, the *agentes in rebus*, the *castrensiani*, the *scholares* and the clerks of the *sacra scrinia*, in the court of the master of the offices, together with some individual

fees (again on a special reduced scale) payable by the clergy and by soldiers. These schedules are contained in laws ranging from the middle of the fifth century to Justinian's reign, but the figures may well have been revised according to Justinian's scale. They are not very satisfactory evidence for the normal scale of fees payable by the unprivileged litigant either before Justinian's reform or after, as we have no means of telling how great were the reductions made for the privileged classes, but some conclusions can be drawn from them.⁶⁴

The fees recorded are mainly those payable by defendants. They are divided into three groups: those paid to the *executor* on receiving the summons (*conventio*), those paid for the introduction and trial of the case (*pro ingressu, pro introducenda et cognoscenda causa*), and those paid for issue of the record (*editio gestorum*). The *executor's* fee for privileged persons in the court of the *magister officiorum* is uniformly 1 solidus. In a provincial court they paid a half or a third of that amount, and clergy in the provinces were likewise privileged to pay only half a solidus. This implies that the *executor's* fee normally exceeded half a solidus even in provincial courts. The fees for the hearing of the case and the issue of the record were not uniform even for the privileged categories in the court of the master of the offices, the clerks of the *sacra scrinia* paying less and the *agentes in rebus* more than the other two classes. The medium payments were 3 solidi for the hearing and 2 for the record, and here again half rates were payable in a provincial court. It thus appears that even a privileged person had altogether to pay 2½ solidi for defending an action in a court of first instance. Plaintiffs had to pay on a similar scale. Only one actual figure is preserved; a statement of claim (*postulatio simplex*) cost 2 solidi to an *agens in rebus* before the *magister officiorum*.⁶⁵

In the high court of the praetorian prefect fees were evidently much higher than in the court of the master of the offices. Even the special rate for the *executor's* fee conceded to the clergy of Constantinople, who enjoyed the privilege of being sued before the prefect, was 2 solidi, twice the amount payable by privileged litigants in the master's court and four times that payable by them and by the clergy in the provinces. This concessionary rate, however, gives no idea of the cost of litigation to ordinary persons in the high court. John Lydus, who, having served all his life on the judicial staff of the praetorian prefect of the East, certainly knew the facts, states that in the good old days when he was young—before Justinian scaled down the fees—a *postulatio simplex* in the prefect's court cost 37 solidi. This is a plain statement of fact which there is no reason to question. John's lament that when

he wrote the fee had been reduced to a few coppers is less credible, seeing that even an *agens in rebus* in the master's court had to pay 2 solidi.⁶⁶

John's figure suggests that the cost of litigation in the praetorian prefect's court must have been quite prohibitive for the humble classes before Justinian's reform. A poor man could not exercise his right of appeal from the provincial court, if the appeal lay, as it normally did before Justinian's time, to the prefect's court. On the other hand, if an opponent rich enough to pay the fees made an appeal, he had to allow the case to go against him by default. Justinian by scaling down fees all round and by reviving the intermediate appeal courts must have greatly improved the situation, but justice still remained expensive. As we have seen, even at preferential rates an action in a provincial court cost in all 3 solidi, which might represent a whole year's income for a working man, and all the evidence suggests that the normal fees were substantially higher.

Proceedings before the *defensor's* court were no doubt substantially cheaper, and if both parties were poor and eschewed appeals they could settle their disputes at a modest cost. But there was until Justinian's time no bar against starting even petty actions in the provincial court, and there was always an appeal to the provincial governor; a richer litigant could thus always involve a poorer opponent in fees which were beyond his means. Governors were, it is true, directed to hear petty cases informally (*sine scriptis*, without the written record which formed a large part of the cost) and even to give free justice to the poor. It may be doubted however whether these directions were often obeyed. Joshua the Stylite tells of one Alexander, governor of Osrhoene in 496, who put up a box outside his official residence in which complainants could drop their petitions, and sat every Friday in a church administering justice free to all comers. But this was a very exceptional case, worthy of record in a chronicle, and the result was that Alexander was besieged by suitors seeking redress for old wrongs, some dating back forty years, which they had never been able to bring into court hitherto.⁶⁷

A professional judiciary had always been alien to Roman tradition. The administration of justice was one of the functions of a magistrate, whose principal duties might be administrative, financial or military. This tradition was maintained in the later empire, and it meant that the majority of judges were not chosen

for their knowledge of the law, and that many of them knew no law. This was particularly true of the military, financial and other administrative courts. The *duces* and *magistri militum*, before whom plaintiffs had to plead against soldiers, even if they were not illiterate Germans, were normally men who had spent all their lives in the army and were quite ignorant of the law. In the regular courts the situation was rather better. Since the administration of justice was a substantial part of their duties, provincial governors were often selected from the bar, and such men might be promoted to be vicars and ultimately praetorian prefects. There must therefore have been a leavening of ex-barristers in the judiciary at all grades. But many, probably most, provincial governors owed their places to their wealth and rank and the same applied to vicars, and even more to the proconsuls and the prefects of the city, who were generally selected for their noble birth.⁶⁸

Even the praetorian prefects, who presided over one of the high courts of appeal, were by no means always learned in the law. In the West the praetorian prefecture tended to be monopolised by the nobility, in the East birth and rank counted for less, and legal learning was given more weight: Anastasius indeed made a practice of appointing barristers from the high court to the prefecture. But the prefect was not only a judge but the chief financial minister of the empire, and several famous prefects, including John the Cappadocian, were primarily financial experts. The professional element seems, curiously enough, to have been strongest in the lowest courts. Valentinian and Valens enacted that the *defensores* should be selected from former provincial governors, retired palatine officials and barristers. It would seem that the majority actually came from the last class; in Egypt at any rate, where alone we have any information, many of the recorded *defensores* were barristers.⁶⁹

The inadequacy of the judges was to some extent remedied by the institution of assessors, or judicial advisors. Every magistrate with judicial duties had an assessor, and some had more. The Augustal prefect of Egypt had two under Justinian's dispensation, perhaps because his office included that of *dux* of Egypt, and the praetorian prefects had more than one. Magistrates selected their own assessors, but they were paid salaries from public funds. These naturally varied according to the rank of the judge whom they served: the only available figures all come from Justinian's reign. The assessors of the *duces* of the African provinces, who were mere *clarissimi*, received only 56 solidi. Those of the majority of the *spectabiles iudices* instituted by Justinian were allotted 1 lb. gold (72 solidi), but two, those of the moderator of Arabia and of the

proconsul of Cappadocia, got 2 lb. gold, and the two assessors of the Augustal prefect got 5 lb. between them. The assessors of the praetorian prefect of Africa, who was of illustrious rank, received 20 lb. gold between them, that is probably 10 lb. each. The salaries of the assessors of civil judges work out at approximately one-tenth of those of their chiefs. From their scale of pay it can be seen that assessors of illustrious magistrates were persons of some consequence, and this is confirmed by a constitution of 413, which indicates that they were normally granted the title of *comes primi ordinis*, and if so ranked with vicars.⁷⁰

Magistrates naturally chose their assessors from the bar, and these posts seem to have been much sought after by rising barristers with political ambitions, who could hope to bring themselves to the notice of the great and thus secure a provincial governorship. It was apparently not unusual to serve as assessor several times. Alypius had served three magistrates, and was looking round for a fourth employer, when he was converted and decided to abandon a political career. Tatian was assessor to a *praeses*, a vicar, a proconsul and two prefects before he obtained his first provincial governorship. Men like this, who had not only practised at the bar but sat on the bench for some years, must have been well qualified for judicial office, but they were relatively rare. The majority of judges knew less law than their assessors, even though these were inexperienced young barristers, and must have leaned heavily upon them.⁷¹

In the latter part of the fifth century the need for more professional judges began to be appreciated in the East. Zeno instituted a system of *pedanei iudices* at Constantinople. We know very little of it, as it fell into abeyance under Anastasius, but it would appear that a panel of judges was assigned to each court in the capital, to whom cases might be delegated; the *pedanei iudices* received regular salaries, amounting to 60 lb. gold in all. Justinian revived the scheme in a rather different form. He appointed twelve *iudices pedanei*, who were to form a pool from which the emperor himself and all illustrious judges in the capital were to select delegate judges. They were to sit continuously, and to receive an annual salary of 2 lb. gold each, as well as fees from litigants—4 solidi from either party unless the issue was worth under 100 solidi, in which case no fees were to be charged. In the preamble to the Novel in which he instituted the scheme Justinian emphasised the need for judges learned in the law; the illustrious officers of state could rely on their assessors, but the judges to whom they delegated cases too often knew no law themselves and went around collecting others' opinions. In his choice of the

first twelve he lived up to his professions. Four were *illustres*, but men of long judicial experience; the eight others were retired or practising barristers, one from the court of the *magister officiorum*, the rest from the high court of the praetorian prefecture of the East.⁷²

It is nowadays generally expected of a judge that he should not only be learned in the law but honest and independent, yielding neither to bribes nor to intimidation or social pressure. In the later Roman empire legal learning was, as we have seen, not expected of a judge. Honesty and fearless independence were highly esteemed, but they were rather ideals than normal requirements. Judicial corruption was an endemic evil which the emperors were powerless to overcome. It is attested not only by the denunciations of moralists, Christian and pagan, but by many constitutions in the codes, and even more strikingly by the praise given to honest governors. An age in which it was a high compliment to a retiring judge to say that he left office as poor as when he entered upon it must have had low standards of judicial honesty. The fault lay partly in the system of appointment. Provincial governorships were normally given to men who canvassed for them because they hoped to make a good thing out of them: Marcian proudly boasted that he 'had cut at the root of the venality of judges' by appointing honourable men who needed to be pressed to serve. Most provincial governors moreover had paid considerable sums for their appointment, and had to recoup themselves in a hurry, for their period of office was short. This abuse was regarded by Justinian as the root cause of judicial corruption, and by abolishing purchase of office he confidently hoped to ensure that his judges would keep their hands clean.⁷³

As baneful to the purity of justice as bribery was pressure and intimidation by the great. In a society where rank counted for so much, provincial governors, who were mere *perfectissimi* or at most *clarissimi*, found it difficult to stand up to litigants who were *spectabiles* or *illustres*. If they aspired to promotion, they were naturally reluctant to prejudice their prospects by offending persons of influence, and if they intended to retire into private life, they feared their vengeance. This applied as much to assessors as to the judges themselves. Augustine speaks with admiration of Alypius' outstanding firmness when he was assessor to the *comes largitionum Italianarum*. "There was at that time a very powerful senator by whose favours many were obliged and by fear of whom many were terrorised. He wanted, as such powerful men do, to be allowed to do something or other which the laws forbade. Alypius resisted him. He was offered a bribe, but he laughed it to scorn.

He was subjected to threats, but he spurned them. Everyone marvelled at the unusual spirit with which he neither desired as a friend nor feared as an enemy so great a man, who was notorious for the countless means which he possessed for conferring benefits or doing injuries. The judge himself whose adviser he was, though he himself did not wish to give way, did not openly stand up to the senator but, thrusting the onus upon Alypius, declared that he would not permit him to yield; and in fact if he had done so Alypius would have left him.⁷⁴

Persons of rank had ample means of making their influence felt. They possessed an official right of entrée to the governor's residence, and were entitled if they so wished to sit beside him on the bench in court. Libanius devoted two speeches to denouncing the perversion of justice which resulted from the abuse of these privileges, and appealed to Theodosius to re-enact legislation against it. But such legislation was difficult to frame and still more difficult to enforce. Gratian in 377 forbade any resident in the province to pay private calls on the governor in the afternoon hours, whether on the strength of personal acquaintance or in virtue of his rank. Honorius in 408 repeated this ban, and added that *honorati* might not exercise their privilege of sitting on the bench, if an action in which they were involved were pending. But unless provincial governors were to be cut off from all social intercourse with their subjects during their period of office—which was what Libanius recommended—no effective remedy for backstairs influence of this kind was practicable.⁷⁵

Great men exercised their influence not only on their own behalf, but in favour of their friends and protégés, and anyone who was prepared to pay for it. On this question the prevalent code of morals was, by modern standards, lax. Great men were expected to help their clients, and it was not considered improper to intervene on their behalf with their judges when they were involved in legal proceedings. Even men of high probity, such as Libanius and Basil, wrote letters to judges, asking them to give favourable consideration to the causes of friends which were *sub judice*: Libanius apparently felt some qualms in so doing, for he usually protested that he had no intention of deflecting the course of justice, but he wrote none the less. Less scrupulous men were more blatant in their methods: Libanius depicts them sitting next the governor on the bench, whispering in his ear and winking to litigants in court. Since the influence of rank was so potent in the courts, humble litigants naturally sought the patronage of a great man, transferring to him the nominal ownership of their property, if their title were disputed, so that the defence could be conducted

in his name. This was an abuse of long standing. Claudius Gothicus legislated against it, and Diocletian renewed and reinforced his law; a century later Honorius issued two constitutions on the same topic.⁷⁶

So long as the administration of justice was entrusted to the provincial governors, whose official rank was low, whose tenure of office was short, and whose future prospects depended on the favour of the great, it was inevitable that the lower courts should be subject to improper pressure from the higher nobility. The imperial government recognised this fact, but could think of no remedy except to insist on the right of appeal to a higher court, and to allow litigants to petition for the initial hearing of their case in a higher court, if they claimed that their opponents were so powerful as to overawe the provincial governor. Marcian indeed expressed the pious hope that the honest governors whom he had selected would not only resist bribery but stand up to influence. But though he enjoined his subjects to have recourse to the provincial courts in the confidence that justice would be done in them without fear or favour, even he was obliged to admit that in some cases he would allow a case to be transferred to the court of a judge of *spectabilis* grade, or even to that of the praetorian prefect or some other illustrious judge, if a litigant petitioned for this privilege 'on account of the influence of his adversary'. This remedy was evidently extensively used by those who could afford it, for both Marcian and Justinian complain of the floods of litigants who poured into the capital; but for the poor man, who could not meet the heavy expenses involved in an action before a higher court, it cannot have been practicable.⁷⁷

It remains to consider the imperial high court and the legal departments of the *comitatus*. Under Diocletian the emperor's principal law officers had been the *magistri* of the three *scrinia*, *memoriae*, *epistularum* and *libellorum*. Constantine superimposed upon them the quaestor of the sacred palace. All these officers had administrative as well as judicial business, serving as a general secretariat, and their precise judicial functions are not easy to define from the brief description of them given in the *Notitia Dignitatum*. All four are stated to have dealt with petitions (*preces*). In addition the quaestor was responsible for drafting imperial constitutions (*leges dictandae*). The *magister memoriae* wrote rescripts (*adnotationes*); the *magister epistularum* handled references to the emperor by judges (*consultationes*); the *magister libellorum* was responsible for preparing trials (*cognitiones*).⁷⁸

Legal business came to the *comitatus* by a variety of channels. Subjects sent petitions (*preces*) to the emperor asking for legal

advice. Most of these raised no points of principle, and the rescripts in reply to them were no doubt drafted by the *magister memoriae* or his clerks, the *memoriales*, and submitted to the emperor for signature. Occasionally, however, a petition brought to light an ambiguity or anomaly in the law, or, by revealing a hard case, suggested that a change in the law was desirable. Such petitions, which sometimes provoked legislation clarifying or amending the law, must have been fully debated, no doubt in consistory. Secondly, judges sent up to the emperor *relationes*, requests for rulings on points of law which had arisen in trials which they were conducting. Most of these too, as the emperors complain, raised no issue of importance, and letters in reply to them were doubtless drafted by the *magister epistularum*. But here again a judge occasionally raised a problem of real importance which required full discussion. Thirdly, there were appeals from the *vice sacra iudicantes*, with which may be classed *supplicationes* against the inappellable judgments of the praetorian prefects. Lastly, the emperor might, if the parties or the issue were of sufficient importance, try a case in the first instance, or delegate it to a special judge, with appeal to himself.⁷⁹

Personal jurisdiction had from the days of Augustus always been one of the traditional duties of an emperor, and this tradition was maintained in the later empire. Extracts have been preserved in the Code from the record of trials conducted by various fourth-century emperors. In one we find Constantine patiently explaining the law in Latin to a lady, whose replies, in Greek, reveal that she failed to grasp his point: the issue concerns the possible misconduct of a very minor city magistrate, a *praepositus pagi*, and the people involved are evidently relatively humble folk. In another Julian makes a typically sarcastic remark (in Greek): 'Documents carry great weight—when there is no doubt about the documents themselves which requires to be confirmed from other sources.' In a third Theodosius the Great rules that bishops cannot be compelled to give evidence.⁸⁰

However industrious he was in fulfilling his judicial duties no emperor can have found time to deal personally with all appeals which came to his court. There is however no record of how the problem was met until in 440 Theodosius II enacted that henceforth appeals from *spectabiles iudices*, that is proconsuls, vicars, the *comes Orientis* and the Augustal prefect, should no longer be heard by himself, but by the quaestor and the praetorian prefect of the East, sitting jointly. These two judges were also to take appeals from special judges delegated by the emperor, if they were below illustrious rank. They were deemed to represent the emperor

so fully that litigants and advocates appearing before them had to wear the robes and shoes worn by those admitted to the imperial presence, and they themselves spoke and delivered judgment not in their own persons but in the emperor's name. The procedure was, however, not *more consultationum*, but *more appellationum*, and the time limits laid down for the latter applied.⁸¹

This measure must have relieved the emperor of the bulk of his appellate jurisdiction, but there still remained his primary jurisdiction, *supplicationes* from the praetorian prefects, and appeals from other illustrious judges, the prefect of the city, the masters of the soldiers, the master of the offices, and the *comites sacrarum largitionum* and *rei privatae*, as well as special delegate judges of illustrious rank. The emperors thus still had ample opportunity of exercising their personal jurisdiction. Marcian in one of his Novels records that he had presided over the trial of a testamentary case and Justinian frequently alludes to cases which he had personally heard. The emperor could not, however, personally handle all the cases which still came up on appeal. Justinian laid down that appeals might be delegated to two specially chosen judges of the highest rank, patricians or ex-consuls or ex-prefects, sitting with the quaestor, and that the judgment of this court should be final. He later classified cases according to the amount at issue. Where this was under 10 lb. gold, the case could be finally decided by one delegate judge of the highest rank. When the amount was between 10 and 20 lb., two judges were appointed and if they disagreed the quaestor was called in. When the amounts at issue exceeded 20 lb. of gold, the case had to be tried before the consistory.⁸²

When the emperor exercised his personal jurisdiction he sat in consistory. There was apparently no official distinction drawn between the administrative and judicial sessions of the consistory, and high officers of state might, and did, attend trials. At the session at which Julian pronounced on the evidentiary value of documents it is recorded that not only the quaestor but the master of the offices and the *comes sacrarum largitionum* were present. It may be presumed, however, that the law officers of the crown, the quaestor and the *magistri scriniorum*, whom Theodosius II calls 'in some sense our Majesty's assessors', were more regular attendants at judicial sessions, and it must have been on these occasions that the legal *comites consistoriani*, of *spectabilis* grade like the *magistri scriniorum*, took part in the discussion.⁸³

In the fifth century it became customary at Constantinople for the emperor to summon not merely a meeting of the consistory (*silentium*) for important trials, but a full session of the senate

(*conventus*). This practice is first recorded in 455 under Marcian. It became increasingly common as time went on, and Justinian eventually ruled that every *silentium* should be deemed to include a *conventus*. It is implied by this law that by this date the emperor did not always personally attend judicial sessions of the consistory or senate, but that the result of their deliberations was reported to him for confirmation.⁸⁴

The law officers of the crown were not always chosen for their legal learning. Elegance of diction was often more highly prized than knowledge of the law, and rhetoricians therefore preferred to barristers. The *comites consistoriani*, on the other hand, were probably normally drawn from the bar; from 440 the senior members of the bar of the praetorian prefects of the East received the rank automatically on retirement. The title was freely given as an honorary distinction, but working *comites consistoriani* were relatively few in numbers: a Novel of Valentinian III implies that in the West twenty were in attendance at the *comitatus*. In the first half of the fifth century these two groups were evidently regarded as the repositories of the best legal learning of the day. The first commission appointed to draw up the Theodosian Code was almost entirely official, comprising the praetorian prefect (who was a former quaestor), the quaestor, three *magistri scriniorum* and two retired *magistri*, and in addition one former *comes consistorianus*, and one practising barrister. The second commission was larger and its balance different. There were seven *comites consistoriani* as against seven law officers, and in addition two professors of law.⁸⁵

The legal profession was regarded as in some sense a public service. It is already in the fourth century spoken of as a *militia*, and was in 469 officially recognised as such by Leo. Its organisation was strictly regulated by the government. In the time of Constantine advocates had all to be enrolled at the bar of some judge and there was a maximum number fixed for each bar. Constantine abolished the second rule, but reinforced the first, enacting that no barrister might plead in any court but that in which he was enrolled. This rule remained in force, with a few minor exceptions, throughout the period of the later empire. Thus every judge had his own bar. At Antioch, Libanius tells us, there were 'three choirs of orators, a number equal to that of the courts', those, that is, of the *magister militum per Orientem*, the *comes Orientis*, and the consular of Syria. We know, too, that the *comes rei privatae* at

Constantinople and *praefectus vigilum* at Rome had their own bars.⁸⁶

There is one strange exception to this rule. We hear of no group of advocates attached to the emperor's own court, the consistory, and the silence of the sources can hardly be accidental. For had such a group existed, it would have been the most highly privileged, whereas the most honourable bars in the empire were certainly those of the praetorian and urban prefects. The explanation may lie in the fact that originally appeals were heard in the consistory *more consultationum*, the parties being forbidden to appear or to be represented by counsel. Thus when later the parties were allowed to intervene, there was no established bar attached to the consistory, and it seems likely that at Constantinople the privilege of pleading before it was given to the senior barristers of the courts of the praetorian prefect of the East and the prefect of the city. There was in the former a select group of 64 *priores advocati*, first mentioned in 439, who were in 472 given the same privileges as the two leaders of the bar, the *patroni fisci*. Two years later the fifteen senior advocates of the court of the urban prefecture were given the same privileges: the number was later raised to thirty.⁸⁷

A young man who aspired to a legal career had under this system to make up his mind at the outset whether he would be content to remain all his life a humble provincial lawyer or whether he would take the risk of enrolling himself in a higher court. Once he had made his application to a judge and been accepted and entered on the register (*matricula*) of the court he was tied to that court for the rest of his life, unless he took up an administrative career, by accepting a post as assessor to a judge. To this rigid rule there were very few exceptions. In the West Valentinian III allowed African barristers whose career had been cut short by the Vandal occupation to plead in any court save those of the praetorian and urban prefectures (where three only were by special grace admitted). Valentinian also in 442, to encourage the profession, enacted that if the number of advocates in a provincial court exceeded fifteen, the senior might be transferred to that of the praetorian prefecture.⁸⁸

It would appear that Theodosius I towards the end of his reign introduced both in the East and in the West a rule which limited the career of an advocate to twenty years. This rule was abolished in the East in 439 by Theodosius II and never revived. In the West Theodosius II's novel was received and promulgated in 448 but it caused grave dissatisfaction among the younger members of the profession and in deference to their protests was revoked in 454. This is curious, since in the West the profession

does not seem to have been overcrowded, and by the middle of the fifth century was seriously undermanned: in 451 Valentinian III had to enact that no aspirant might enrol himself on the bars of the praetorian or urban prefectures if there were fewer than four advocates at his provincial court.⁸⁹

In the East, on the other hand, the profession was overcrowded, but the solution sought was to reintroduce the pre-Constantinian principle of the *numerus clausus*. The pressure was naturally heaviest in the high courts, which were not understaffed even in the West. Already in 439 a maximum of 150 barristers had been fixed for the praetorian prefecture of the East, and had been grossly exceeded. It was accordingly enacted that no one should be called to the bar until the number had sunk to 150; those on the waiting list were licensed to practise meanwhile in inferior courts. The law was evidently not enforced, for in 460 it was re-enacted in stricter terms. In 474 a maximum of 50 which had already been fixed for the much less important bar of the praetorian prefect of Illyricum was reaffirmed. For the urban prefecture the number, first attested in 524, was 80. Lesser courts were also in their turn limited. The bar of the Augustal prefect and *dux* of Egypt was reduced in 468 to 50, those above that number being permitted to plead in the other courts of Alexandria. In 505 a maximum of 40 was fixed for the court of the *comes Orientis*, no new members being called until the bar had been reduced to that number. Even the courts of provincial governors were limited; in 517 an establishment of 30 was fixed for that of the *praeses* of Syria Secunda. These limitations are stated in several cases to have been made on the request of the bars concerned.⁹⁰

Although there was after 439 no age limit on practice, the stream was kept moving by appointing the senior member of each bar counsel for the crown, *advocatus fisci*, and limiting his tenure of this office to a short period, after which he had to retire from practice. In the lesser courts the term of the *advocatus fisci* was two years, in that of the urban prefecture one year, in that of the praetorian prefect of Illyricum sometimes one, sometimes two. In the praetorian prefecture there were from 452 two *advocati fisci* appointed each year: in so large a bar promotion would otherwise have been choked.⁹¹

The *advocatus fisci* received a substantial salary from the state during his period of office; that of the urban prefecture earned 600 solidi, and those of the praetorian prefecture of the East were in 519 allotted, apparently as a supplementary payment, 60 lb. gold between them, or 2160 solidi each. They were moreover, in the higher courts, awarded sundry honours on retirement. Those of

the praetorian prefecture of the East were from 440 appointed *comites consistoriani* (with the rank of *spectabilis*). In 506 the pair were given the privilege of entering one of their sons among the tribunes and notaries without fee. In 519 both were granted a free place in the notaries, to which they could nominate others than their own sons; each was furthermore authorised to nominate a person of his choice to the *domestici* for the fixed fee of 2000 solidi; and one codicil of illustrious rank was issued to the pair—they had to settle between themselves which should have it. The privileges given to *advocati fisci* of the lesser courts were naturally not so lavish, but those of the Augustal prefect received the rank of ex-consular of a province from 468, and in response to a petition Anastasius allowed those of the *comes rei privatae* and of the pro-consul of Asia the *comitiva primi ordinis* with the grade of *clarissimus*.⁹²

In the East in the fifth and sixth centuries each bar thus tended to become a closed corporation. Aspirants put themselves down on a waiting list as *supernumerarii*, and at length succeeded to a vacancy in the establishment of *statuti*. When called to the bar they rose by strict seniority until eventually they achieved the office of *patronus fisci*, after which they retired full of honours and enriched by the salary and perquisites of the office. This office was, it appears, the culmination and crown of a barrister's career. If he were so unlucky as to die while holding it, his heirs could claim the whole emoluments which he would have earned by its full tenure. Attempts to achieve a short cut to it were severely repressed: no barrister might buy seniority by changing places with an older but impecunious colleague. Some barristers, having secured their places, did not bother to practise, but waited in idleness until they reached the top of the list: this was disliked by their more active colleagues, who secured from the government a ruling that barristers who absented themselves from the court for several years should be disbarred.⁹³

Advocacy was by Roman tradition an honourable career, and men of the highest rank might and did pursue it. Valentinian I authorised *honorati* to practise in the courts of the city of Rome, though he stipulated that they should do so not for vile gain but to win honour. Postumianus, one of the characters in Macrobius' Saturnalia, is represented as being so busy with his forensic practice that he was unable to accept an invitation to dinner from Agorius Praetextatus. Symmachus mentions a certain Celsus, *vir clarissimus*, among the advocates of the urban prefecture. Ambrose, son of a praetorian prefect, started his career by practice at the bar of the praetorian prefect of Italy. It may be doubted,

however, whether many senators made the law their life's profession. Ambrose's legal career was very brief. He was promptly chosen by Probus, the praetorian prefect, as assessor, and soon promoted to a provincial governorship. Postumianus, though he was so busy, was occupied only with the affairs of his friends and dependants. Most men of rank probably practised only in their youth as an introduction to a public career, or to fulfil social obligations. Real professional barristers were mainly drawn from a rather lower social stratum, to whom the career offered prospects of enrichment and advancement.⁹⁴

It is impossible to estimate from the data available the earnings of a barrister, which naturally varied greatly according to the status of the court in which he practised and his own ability and reputation. Fees were to some extent regulated. There was an old statutory maximum of 100 solidi which was still, in theory at any rate, maintained in Justinian's day. Some lawyers evaded this rule by demanding maintenance and expenses in addition, and others by making bargains with their clients to be paid in kind, in slaves, cattle and farms: both these practices were prohibited, and the latter punished by expulsion from the bar. But while popular pleaders in the high courts might exceed the legal maximum, humble provincial barristers earned far less. The consular of Numidia in Julian's reign fixed a tariff not only for his officials' fees but for those of his barristers. The figures are surprisingly low, 5 *modii* of corn for a *postulatio simplex*, and 10 for a *contradictio*, or 15 in an urgent case—that is a maximum of about half a solidus. It is nevertheless apparent that even provincial advocates were generally men of some substance. Constantius II enacted that (in Africa) the *sacerdotium provinciae* should be filled from their ranks; and this was an expensive honour, normally undertaken only by the richest decurions of the province.⁹⁵

To many aspirants to the bar the chief attraction was not money but the opportunity which it offered for rising into the official aristocracy. Those who enrolled themselves in the higher courts could in the fifth and sixth centuries count on obtaining some dignity by mere length of service, if they lived long enough. Valentinian III in 442 rewarded advocates in the court of the praetorian and urban prefectures with the rank of vicar after fifteen years' service, if they retired so soon, or after twenty years, if they served their full term. And in the East, as we have seen, barristers who rose to be *patroni fisci* not only in the highest courts, but those of intermediate grade, received appropriate official rank.⁹⁶

Such were the rewards of those who were content to make the

bar their life's career. The more ambitious could aspire to become assessors of magistrates, and thus rise to provincial governorships, and end their days as praetorian prefects. It was the superior bars which naturally offered the best prospects of advancement. Valentinian III calls that of the praetorian prefect of Italy a *seminarium dignitatum*, and Anastasius promoted lawyers from the court of the praetorian prefect of the East directly to the prefecture. But even provincial courts offered their opportunities. Aedesius, a pleader at an African court, rose to *magister memoriae* under Constans and later to vicar of Spain; Maximinus, under Valentinian I, 'after an undistinguished forensic career', probably in the court of his native province of Valeria, rose through successive provincial governorships to be vicar of the city and ultimately praetorian prefect. The bar was undoubtedly throughout the period of the later empire the principal channel whereby men of modest origins could rise to the highest positions in the state.⁹⁷

The law was not a profession accessible to the humblest ranks of society. Libanius does indeed speak of a certain Heliodorus, 'a retailer of fish sauce', who was called to the bar of the proconsul of Achaea at Corinth, and ended up a rich man with vast estates in Macedonia, Aetolia and Acarnania, a multitude of slaves and herds of horses and cattle—half the property of a wealthy lady whose claims he had successfully defended. But though Libanius declares that such cases were common, Heliodorus was an exception. For a forensic career one needed at least the standard education of a gentleman in grammar and rhetoric, if not a legal training. Down to the last decades of the fourth century, it would seem, knowledge of the law was not required of an aspirant to the bar. Both Ambrose the praetorian prefect's son and the humble Maximinus were called to the bar after pursuing the normal rhetorical course (*studia liberalia*) only. In the good old days, Libanius declares, a barrister received a liberal education; he was an orator, and if he wanted information on the technicalities of the law he called in a jurisconsult, who was a very inferior person. Now, he laments (he is writing in the 380s), things are changing. Rich parents do not give their sons the traditional rhetorical education, but send them off to Berytus or to Rome to receive a legal training.⁹⁸

The standards of the profession gradually rose. In 460 Leo enacted that aspirants to the bar of the praetorian prefecture of the East must produce testimonials of study from the professors who had taught them, and in the early sixth century a regular course of legal study was required for admission to the bar of the *comes Orientis*, and even to those of provincial governors. As

courses in law were given only at Berytus and Constantinople in the East, and as the course lasted four years, the training required for the bar must have been an expensive matter. Nor was this all, for despite Libanius' laments, rhetoric remained an indispensable part of a barrister's training. Both Severus of Antioch and his biographer, Zacharias of Mitylene, studied rhetoric at Alexandria before they went on to Berytus for their law course.⁹⁹

One would therefore expect the majority of barristers to come from the middle ranks of society, whose members could on the one hand afford the rather expensive training required, and on the other found the financial and social rewards of the career an attraction. The Codes in fact indicate that the two classes which particularly favoured the legal profession were the *curiales* and the *cobortales*. It was always theoretically illegal for the son of a *cobortalis* to leave his father's office. Nevertheless we find Maximinus, son of a *tabularius* of the provincial *officium* of Valeria, being called to the bar, and making a great career for himself, and this is only one example which shows that the law was laxly enforced. In the East *cobortales* who practised in these highest bars of praetorian and urban prefectures had apparently by 436 secured release from their previous status; for a law of that year confirms the position of those who had already been called, but forbids *cobortales* to be admitted for the future. This prohibition was re-enacted periodically during the next century, but that it was not observed is proved by other laws, which declare that advocates of the three high courts who reach the position of *patronus fisci* are released, with their sons, from the condition of a *cobortalis*. This legislation suggests that *cobortales* managed, despite prohibition, to make their way in some numbers into the bars of the highest courts. In the laws regulating the lower courts no mention is made of any ban on *cobortales*, and they were no doubt admitted freely to these.¹⁰⁰

Decurions were not forbidden to be advocates provided that they also fulfilled their curial duties. This they could do concurrently with their legal practice if they belonged to the metropolis of a province, and were content to enrol themselves on the bar of the provincial governor. Decurions of some cities, which were the seat of a vicar or other higher judge, had a wider choice; thus Antiochenes could plead at the court of the consular or of the *comes Orientis* or of the *magister militum per Orientem*. Alternatively they could perform their curial duties first, and enrol themselves only when they had fulfilled their duumvirate: this would be the only legal course open to decurions who wished to practise outside their own towns.¹⁰¹

Curiales evidently tended to claim exemption from their duties on the score of their legal practice. Constantius II firmly rebutted this pretension: 'no laws have ever granted exemption from civic charges to barristers', he wrote in 358 to the vicar of Africa. The claim was again raised in the East in 383 and 387, and again rebuffed. In 442 Valentinian reaffirmed the rule that applicants for admission to the bars of the praetorian and urban prefectures must prove that they had discharged all their curial duties, but in the same law he granted immunity from civil charges to barristers who had completed their service in these courts. The result was naturally that the first rule was evaded, and in 451 he complained that the council chambers of the cities were being emptied by the flow to the higher courts of decurions tempted by their privileges. Nevertheless he did not venture to abolish these privileges, and indeed weakened the law, allowing decurions who were unwilling to wait until they had fulfilled their duties to appoint deputies to perform them. In the East decurions who practised in the high courts had apparently, like *cobortales*, already in 436 obtained exemption from curial charges, and from this time the same regulations applied to them as to *cobortales*. They were in principle forbidden admission to the bars of the praetorian and urban prefectures, but if they succeeded in reaching the position of *patronus fisci*, they secured permanent immunity from curial status for themselves and their sons.¹⁰²

When from the middle of the fifth century a *numerus clausus* was fixed for the bars of the several courts in the Eastern empire, and entry to the legal profession became thereby more difficult, two new customs arose. Practising and retired advocates claimed priority for their sons in filling vacancies at the bar. The imperial government first sanctioned this principle for the court of the praetorian prefecture of the East in 460, and it was thereafter extended to all courts, down to those of provincial governors. In the second place outsiders had to pay a fee for admission. Such fees are first mentioned in 505 in the court of the *comes Orientis*, and in the provincial court of Syria Secunda in 517. It is probable that they were introduced earlier in the higher courts, where the pressure for admission was greater.¹⁰³

Thus from the middle of the fifth century the legal profession tended to become hereditary. It does not seem to have suffered thereby. The government, with the full support of the bar, it would seem, insisted on a proper legal training for all entrants, whether sons of advocates or outsiders, and the general level of legal learning among barristers seems to have risen steeply during the century which intervened between the production of the

Theodosian Code and the compilation of the *Corpus Iuris Civilis*. The commission which produced the Theodosian Code was, as we have seen, composed almost entirely of official lawyers, *comites consistoriani* and law officers of the crown. In compiling the Digest Tribonian was assisted by one official lawyer only, Constantine the *magister libellorum*. The other members of the commission comprised four academic lawyers, professors of Berytus and Constantinople, and eleven barristers from the court of the praetorian prefect of the East. This is a high testimony to the erudition of the bar.¹⁰⁴

Far below barristers in the social scale were the notaries (*tabelliones*), who drew up wills, conveyances, and all manner of contracts. A law of Constantine enacts that if a decurion shall practise as a notary, which for the future he forbids, he cannot claim exemption from torture, and that, while notaries are eligible for the *curia*, they will none the less if elected remain liable to torture. It is clear from this that notaries were normally commoners, and that it was anomalous that they should, in very small cities, no doubt, aspire to curial rank. They must have been a numerous class, for they are to be found even in villages: at Aphrodito the two village notaries, or as they prefer to call themselves, 'lawyers' (*vouμνοι*), figure among the local notables who sign a petition to the emperor.¹⁰⁵

The little that we know of the organisation of the profession is derived from a novel of Justinian. From this it appears that at Constantinople there were a number of offices (*stationes*), in each of which worked a notary with a number of assistants or apprentices. The notary might be himself the owner of the *statio*, or might be an employee of the owner, but he was responsible for the proper execution of the deeds, and he probably had to be licensed by the *magister census*. This is to be inferred from the provisions of the Novel. Justinian had reviewed a case in which an illiterate woman alleged that a deed executed in her name did not correspond with her instructions. The judge had summoned the notary concerned, but he had said that he had passed on the execution of the deed to an assistant, and its completion to another. The second assistant, when summoned, had disclaimed knowledge of the contents of the document, and the first could not be found. To avoid such difficulties Justinian ruled that notaries should, if possible, see personally to the execution and completion of all deeds, but might appoint among their assistants one deputy, whom they must register with the *magister census*. It is not known what regulations applied in the provinces, but it is probable that there too notaries had to be licensed. From the papyri we know many

notaries from Egypt and not a few from Italy. The deeds which they drew show that, if they were not very learned in the law, they did their best to convince their clients that they were by wrapping up the simplest transaction in vast reams of legal jargon—as they were paid by the line the length of documents naturally tended to grow.¹⁰⁶

When Priscus of Panium visited Attila's camp as ambassador in 448, he was surprised to be greeted in Greek by a man dressed as a Hun. It turned out that he was a Greek who had settled at Viminacium on the Danube and prospered as a merchant. When the city was sacked by the Huns he had been taken prisoner; his Hunnish master had later set him free, and he had decided not to return to the empire but to live among the Huns. When Priscus reproached him as a renegade, he justified his conduct on two grounds, the exorbitant taxation which Roman citizens had to pay, and the abuses of the Roman courts of justice. 'The laws are not the same for all,' he declared. 'If a rich man breaks the law he can avoid paying the penalty for his wrongdoing. But if it is a poor man, who does not know how to pull strings, he suffers the penalty of the law—unless he departs this life before the trial, while proceedings drag on interminably and vast expenses are incurred. That is the most monstrous thing of all, to have to pay for justice. An injured party cannot get a hearing unless he pays money to the judge and to his officials.'

Priscus was evidently impressed and disturbed by this arraignment of Roman justice, for he inserted in his history not only the man's complaint, but a long reply to it. His defence of the Roman legal system is not very convincing. He admits that justice is expensive, but argues that the court fees (he does not allude to the bribes to judges) are a reasonable charge for services rendered. The court executes the judgment and this saves the successful party trouble and difficulty, and incidentally protects the defeated party, who might, if the execution were left to his opponent, be made to pay more than was due. He also admits that justice is slow. Here his excuse is that hasty judgments will often be wrong, and that it is better to take a long time and eventually arrive at a just verdict than to wrong men and offend God by unjust judgments. That there was one law for the rich and another for the poor he denies. A wealthy wrongdoer may, he admits, slip through the nets of the law, but so may a poor one if evidence is lacking.¹⁰⁷

On the evidence that we possess there can be little doubt that the main complaint of the Greek merchant from Viminacium was justified. There was one law for the rich and another for the poor. If the two parties were more or less evenly matched in wealth and rank, justice might be impartially rendered. When both were rich, the process might be very long and expensive, if it were carried to the high courts of the praetorian prefect or the emperor, but the ultimate result would seem to have been generally a fair verdict. At any rate the mass of appeals which came into the capital suggests that the ordinary man had confidence in the justice of the high courts.

The intermediate courts of appeal of the *spectabiles iudices* seem by Justinian's day to have suffered from the same defects as the courts of first instance of the provincial governors, but in these too the judges, though often inexpert and corrupt, had no reason to deflect the course of justice if both parties could offer equal bribes, and neither was in a position to bring improper pressure upon them. Too much scope was given to dilatory tactics, and the fees—not to speak of bribes—were excessive, but an injured party could, if he were prepared to spend the necessary time and money, normally get his remedy.

Even the humblest citizens could in their mutual disputes obtain a rather rough-and-ready, but cheaper and speedier, justice either before the *defensor civitatis* or, if they agreed to accept his decision, before the local bishop. We possess the full records of a case tried before the *defensor* of Arsinoe (by delegation from the prefect of Egypt) in 340, and of another heard about ten years later before the *iuridicus* of Alexandria. Both these records give a favourable impression of the way in which justice was administered in these lowly courts. The procedure is informal. The advocates of both parties—all employ counsel—are allowed to have their say; the judge, prompted from time to time by the advocates, endeavours to elicit the facts by questioning the parties or their witnesses. At Arsinoe there is an interpreter to translate for peasant witnesses who know no Greek. On the face of it there appears to be an honest attempt to elicit the truth and make a fair judgment.¹⁰⁸

In these cases the parties are all evidently of fairly modest degree. At Arsinoe the dispute is between the village community of Caranis and two women who own land in the village, and the judgment is for the villagers. At Alexandria the case concerns the division of a small inheritance between four brothers and sisters. If, however, one of the parties was a humble citizen and the other a person of wealth and rank, it is evident that the scales of justice

were very heavily weighted in favour of the latter. If he were the defendant he could often, in virtue of some titular rank, claim by *praescriptio fori* the jurisdiction of a distant or expensive court where his humble opponent could not afford to take proceedings. As plaintiff he could by special order or rescript hale his adversary to a high court, and the latter might well prefer to yield rather than face the heavy expense of defending his suit. If the issue were tried in the provincial court, the governor was more often than not, it would seem, susceptible to bribery, intimidation or social pressure from the great, and even if the governor were an honest and courageous man, a wealthy litigant could always exhaust a poor adversary by appeals to higher courts.

A case which Symmachus referred to the emperor well illustrates how a man of rank could elude his adversary however bad his case, and this though, in this particular instance, the judges in the lower courts were honest men. A certain Marcellus sued Venantius, a *strator*, for having ejected him from his estate. The case was opened before the governor of Apulia and Calabria. Venantius tried delaying tactics and appealed on a preliminary issue to the vicar of the city. He was unlucky: the vicar correctly rejected this dilatory appeal, imposed the appropriate fine, and sent the case back to the provincial governor. The governor gave judgment for Marcellus on Venantius' confession, but Venantius contrived by legal subtleties which Symmachus does not describe to stay execution. At this stage Bassus, prefect of the city, to whom appeals lay from the vicar, stepped in. Symmachus is somewhat reserved about his predecessor's conduct, but it would seem that Venantius induced him to accept an appeal though the legal time limit had expired. Once again Venantius was unlucky, for by the time the case came up for hearing Bassus had been succeeded by Symmachus, who very properly ruled that the case was closed. Venantius, however, still had another string to his bow. He appeared before Symmachus under the escort of an *agens in rebus*, and produced an order from the master of the offices summoning him before his court, whose jurisdiction he claimed as a *strator*. The unfortunate Marcellus objected that he could not legally claim to be a *strator*, since he was a decurion, and produced proof that he was enrolled on the album of a local city, but Symmachus did not venture to resist the order of the master of the offices. This is the last that we hear of the case, but we may well doubt whether Marcellus ever recovered his estate.¹⁰⁹

In civil actions there was in theory some justification for Priscus' claim that the law was the same for all. There were certain important exceptions to this principle. Freedmen could not,

except by special leave; sue their patrons or their patrons' heirs, and from the time of Arcadius *coloni adscripticii* could not bring civil actions against their landlords. But apart from these exceptions it was not so much the law that was at fault, as the courts. In criminal justice, on the other hand, there was in the law itself a distinction drawn between the upper and the lower classes, the *honestiores* and the *humiliores*. These categories are nowhere precisely defined, and much was no doubt left to the discretion of the judge. *Honestiores* included senators and *honorati*, decurions, barristers and *milites*, whether civil servants or soldiers; members of the liberal professions and the Christian clergy seem also to have ranked as such. Those who could not claim any such status were *humiliores*.¹¹⁰

There was, in the first place, a distinction drawn between the two classes in the penalties which could be inflicted for crime. In general the death penalty was rarely inflicted on *honestiores*. For them the maximum penalty was normally deportation, that is confiscation of property and forced residence in some remote city, often an island or an oasis in the desert. Lesser offences were punished by exile, that is forced residence, without loss of property, in a designated city or province, or again by fines. *Humiliores* were for the same offences liable to the death penalty, often in painful forms, such as being burned alive or thrown to the beasts in the arena, from which *honestiores* were expressly exempted. The milder penalties applicable to *humiliores* were condemnation to the mines or to hard labour of other kinds, as in the mills of the Roman bakeries.

In the second place *humiliores* were liable to torture, from which *honestiores* were, except in treason trials, exempt. This distinction was all the more vital owing to the free use of torture in the Roman courts. In civil cases it seems to have been sparingly used; in general it would seem that slaves only were examined under torture. In criminal trials it was the normal procedure to torture both the accused and the witnesses unless they were by their status immune. This was due in part to a commendable reluctance to inflict the death penalty except upon the fullest proof of guilt. Constantine ruled that death sentences should not be passed unless the prisoner were convicted either by his own confession or by the unanimous testimony of all the witnesses. Torture was generally held to elicit the truth and was therefore used when allowable. Witnesses might thereby be induced to tell a concordant story, but a confession was always considered the most satisfactory proof of guilt, and it incidentally saved trouble, as it was a bar to appeal. Judges therefore tended to torture a prisoner until he confessed.¹¹¹

The record of a trial held in 315 before Aelianus, the proconsul of Africa, shows the crude methods whereby prisoners were convicted in the Roman courts. The question at issue was whether a letter sent by Caecilianus, *duumvir* of Aptungi, to Felix, the bishop of the town, which suggested that the latter had handed over the scriptures in the Great Persecution, was genuine or had been tampered with by Ingentius, who had produced it against Felix. After hearing Caecilianus' evidence, the proconsul interrogated Ingentius. 'By whose order did you undertake to do what is charged against you?' 'When?' 'Since you pretend not to understand the meaning of my question, I will speak more openly. Who sent you to the magistrate Caecilianus?' Having got nothing out of Ingentius by such leading questions, the proconsul ordered his officials to bind him ready for torture. Having made Caecilianus repeat his evidence, he turned on Ingentius. 'You will be tortured to prevent your lying.' Ingentius promptly gave way: 'I was wrong, I made an addition to the letter because I was indignant for my friend Maurus' sake.' The proconsul now pressed his advantage. 'The emperors Constantine Maximus, for ever Augustus, and Licinius, while deigning to show favour to the Christians, do not wish public order to be corrupted, but rather desire that religion to be observed and revered. So do not flatter yourself that because you tell me you are a worshipper of God therefore you cannot be tortured. You will be tortured to prevent your telling lies, which are alien to Christianity. So speak straightforwardly, to avoid being tortured.' Ingentius objected: 'I have already confessed without torture.' But the interrogation went on, until the proconsul asked the fatal words: 'Of what condition are you?'¹¹²

The end of this interrogation was anticlimax. Ingentius replied: 'I am a decurion of Ziqua', and the proconsul ordered him to be unbound. But though the proconsul was reduced to bluffing, as he could not legally torture a decurion, the threat was enough to produce a confession. When the torture could be applied in earnest, the judge might go to extreme lengths to get a confession. Jerome recounts a horrible story of a man and woman who were accused of adultery. The man was first put to the torture, and, unable to endure, confessed. The woman was of tougher stuff, but, convinced of her guilt, the judge persisted in torturing her day after day, until at length she died. The miraculous sequel may be apocryphal, but the story of the trial is credible. From this kind of barbarity the upper classes were exempt, unless they were involved in a treason trial.¹¹³

Roman criminal justice was in general not only brutal but

inefficient. There was no adequate machinery for the detection of crime. The local authorities, the magistrates, *curatores* and councils of the cities, were expected to denounce to the provincial governor the authors of flagrant breaches of the peace. We hear also of *stationarii* in the cities, whose duty it was to report crime; these were members of the provincial *officium*, posted one in each city. They figure frequently in the records of the Great Persecution, and were evidently a general institution, though most of the evidence comes from Africa and Egypt. Generally, however, the prosecution of crime was left to private accusers. This practice, the imperial government was well aware, was liable to abuse, and to guard against the danger of malicious accusations being made in order to extort blackmail, the accuser had to make a formal charge in writing (*inscriptio*) whereby he bound himself not to abandon the prosecution, and made himself liable to severe penalties if he was unable to substantiate his charge. In a law of 390 it is implied that charges had to be made before the provincial governor, on whose warrant alone an arrest could be effected. *Stationarii* were forbidden to maintain gaols or to imprison even flagrant offenders. In the fifth and sixth centuries it was certainly possible to make a charge before the local authorities of the cities, in the sixth century before the *defensor*, who arrested the accused, and sent him under escort with his accuser up to the provincial governor.¹¹⁴

On what happened to an accused person on arrest the evidence of the laws is conflicting. According to a constitution of 380, repeated in the code of Justinian, he was entitled to claim a month's respite in which to settle his affairs and was then to be taken to the provincial capital and promptly tried. Such mild treatment was probably, however, reserved for persons of quality. Ordinary folk certainly could not count on immediate trial, and were liable to lie for months or years in gaol. This was an abuse against which the imperial government frequently legislated, but, it would seem, to little effect. Libanius paints a pitiful picture of the sufferings of prisoners awaiting trial. Humble citizens were according to him arrested on the slenderest of evidence or upon mere suspicion. The prisons were so overcrowded that the prisoners could not even lie down to sleep. (No food was provided, and unless they had friends or relatives to support them, they starved.) The gaolers extorted money from them for the privilege of seeing the light of day. But worst of all they were kept in these miserable conditions indefinitely. The governor was busy collecting the taxes, and could find time to hear petty civil cases, and to attend the games, but not to try the prisoners in his gaol. (In these conditions many prisoners died before they were even brought to trial.) Libanius substantiates these

generalisations by a concrete case. A man was murdered on his country estate; his slaves fled and his assailants made good their escape. The murdered man's heirs secured the arrest of a number of men, whom the local villagers suspected of the crime, though they admitted that they had no evidence against them. The accused men waited seven months in gaol before their case came up, and then the trial was interrupted. Since then five of the accused had died in prison and the case was still pending when Libanius wrote.¹¹⁵

This picture is confirmed by the imperial constitutions. Constantine enacted that prisoners awaiting trial should not be loaded with heavy chains, but lightly fettered. They should not be kept locked up day and night in dark cells, but brought into the fresh air every day. Honorius ordered that every Sunday the governor was to hold a parade of prisoners and receive complaints about their treatment. Those who had no means of support were to be allotted rations, and they were to be taken under escort to the baths. Attempts were also made to secure more speedy trial. By a law of 380 the *commentariensis*, the official responsible for the custody of prisoners, had to report within thirty days full details of all prisoners taken in charge. Justinian laid down a time limit within which prisoners must be brought to trial or discharged from prison: this was generally six months, but might be as much as a year, if the charge was capital and brought by a private accuser. He also made liberal provision for bail, which might be granted even on capital charges unless preferred by a public authority. He instructed the bishops to see that governors kept these rules, and ordered them to visit the prisons weekly on Wednesdays or Fridays and to question the prisoners. More effective, if indiscriminate, relief to prisoners was afforded by the general pardons of those accused of minor offences (they excluded treason, murder, adultery, incest, rape, magic, sacrilege or coining), which were issued by Christian emperors on Easter day. This is first recorded to have been done by Valentinian I in 368, and in 385 was made a standing order. The need for such an institution is a confession of the deficiencies of Roman criminal justice.