

Separating Impression from Truth: A Prelude to the Tiberian *Maiestas* Trials in Tacitus'

*Annales* 1.72

This essay treats 1.72 of Tacitus' *Annales*, a chapter introducing the theme of *maiestas* and the *maiestas* trials that immediately follow in the narrative. I argue that prior treatments of this passage have not grasped, or adequately appreciated, Tacitus' intended message in 1.72. This failure has serious implications both for Tacitus' portrayal of *maiestas* in the *Annales* and for our understanding of the evolution of the *crimen maiestatis* more broadly.

Tacitus has often been accused of dissimulation and bias, which serve to color and influence his narrative. Scholars have been eager to point out the discrepancies within the *Annales*, specifically targeting the incongruity between generalizations and details, and using this internal inconsistency as evidence of Tacitus' untrustworthiness (e.g., Marsh (1926)). An apparent example of this comes from 1.72 where Tacitus accuses Tiberius of having revived the *lex maiestatis* (*nam legem maiestatis reduxerat*), a statement that is not consistent with his subsequent descriptions of the early treason trials of Tiberius' reign, which illustrate Tiberius' consistent rejection of frivolous charges and his attempts (albeit unsuccessful) to curb the increasingly wide interpretation of the *maiestas* law. Many scholars have interpreted *nam legem maiestatis reduxerat* to be a clear accusation by Tacitus against Tiberius for actively, and maliciously, resurrecting the *lex maiestatis* and, in so doing, bringing about the subsequent treason trials. According to this perspective, Tacitus' allegation against Tiberius in this matter is both unfair and misleading, since there is no evidence to support the formal (or informal) suspension of

the *lex maiestatis* during Augustus' reign. An examination of this statement and its relationship to the surrounding account, however, reveals that Tacitus' charge against Tiberius is not a bitter accusation nor an unfounded assertion, but rather an accurate assessment of the status of *maiestas* resulting from Tiberius' actions and his inability to successfully manage the paradoxical demands of his position.

The key to understanding *nam legem maiestatis reduxerat* is the interaction between Tiberius and the praetor Pompeius Macer, at the end of 1.72: *mox Tiberius consultante Pompeio Macro praetor an iudicia maiestatis redderentur exercendas leges esse respondit*. It is upon this exchange between *princeps* and praetor that Tacitus bases his indictment that Tiberius had brought back the *lex maiestatis*, and both the praetor's question and Tiberius' response must be scrutinized in order to discern the true nature of Tiberius' culpability. Macer's ambiguous question hinges on the treatment of defamation as *maiestas*—whether Tiberius wished to handle defamation as Augustus had, that is, under the appearance of the law (*specie legis*) and in a *cognitio* procedure, or if he wanted to treat defamation formally under the law (*lege*) and in a *iudicium* (e.g., the Senate or *quaestio de maiestate*). Tiberius' response (*exercendas leges esse*) was intended to be a straightforward statement that defamation should *not* be treated as a treasonable offense. His words, however, failed to convey his meaning due, in large part, to Tiberius' inability to manage the demands of 'ambiguous' communication (Winterling, 2011), or double-speak, which played a crucial role in the relationship between *princeps* and aristocracy. This failure resulted in the praetor's misinterpretation of his words, and essentially opened the floodgates for the *delatores* and for progressively wider interpretations of *maiestas*. Tiberius' offense was not his maliciousness, but that he

unintentionally gave this 'extralegal' category of defamation legitimacy under the strict letter of the law, by allowing the adjudication of cases of this type to be handled 'publicly' (that is, by the Senate). What Augustus had handled privately and discretely, Tiberius now made public, creating a situation that almost immediately spun out of his control. In other words, the types of charges that Augustus had dealt with *specie legis maiestatis*, Tiberius unwittingly gave full coverage of the actual *lex maiestatis*, giving *delatores* a green light (so to speak) to bring accusations of *maiestas* with a fervor and confidence that had not existed under Augustus.