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Deutsches Archäologisches Institut, Zentrale, Podbielskiallee 69–71, 14195 Berlin, Tel: +49 30 187711-0

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J. W. RICH

Augustus and the *spolia opima*

Spolia opima were spoils taken from the body of an enemy commander killed in battle. By ancient custom, the dead man's armour was fixed to an oak stump in the form of a trophy, carried by the man who had killed him in procession to the Capitol and there dedicated in the temple of Jupiter Feretrius. Tradition had it that only three Romans dedicated *spolia opima* – Romulus, who killed Acron, king of the Caeninenses, and founded the temple of Jupiter Feretrius to receive the spoils taken from him, A. Cornelius Cossus, who killed Lars Tolumnius, king of Veii, in a war against Veii and Fidenae, and M. Claudius Marcellus, who, as consul in 222, killed Viridomarus, the king of the Insubres.¹

In 29 B.C. M. Licinius Crassus, campaigning beyond the borders of the province of Macedonia, of which he was then the governor, himself killed Deldo, king of the Bastarnae. It might have been expected that on return to Rome he would enact the old ritual of the *spolia opima*, but he did not do so. It is generally supposed that Crassus applied to the senate for permission to dedicate *spolia opima* and that Augustus had his application rejected.² Augustus' claim, reported by Livy, to have seen an inscription which showed that Cossus was consul when he dedicated *spolia opima* is regarded as linked to the rejection of Crassus' application: the claim, it is thought, helped Augustus to justify refusing Crassus. This thesis was first propounded by DESSAU, was given wide currency above all by SYME, and is now established and unchallenged orthodoxy. Conclusions of considerable moment have been drawn from it about the political and literary history of the period. Crassus' claim and Augustus' rebuff have been regarded as political developments of great importance and as shedding light on Augustus' reasons for making the constitutional settlement of 27, and Livy's handling of Cossus' dedica-

¹ Sources mentioning all three occasions: Prop. 4, 10; Plut. Rom. 16, Marc. 8; Festus 204 L; Val. Max. 3, 2, 3–5; Ampel. 21. Other sources for Romulus: Livy 1, 10; Dion. Hal., Ant. Rom. 2, 33–4; Inscr. Ital. XIII 3, 86 (ILS 64); Serv. Aen. 6, 859; Flor. 1, 1, 11; vir. ill. 2, 3–4. Other sources for Marcellus: M. H. CRAWFORD, Roman Republican Coinage, Cambridge 1974 (henceforth RRC), 439; Inscr. Ital. XIII 1, pp. 78–9, 550; Verg. Aen. 6, 855, 859, and Serv. ad locc.; Livy, Per. 20; Manil. 1, 787–8; Sil. Ital. 1, 133, 3, 587, 12, 280; Frontin. strat. 4, 5, 4; Flor. 1, 20, 5; Eutrop. 3, 6; Oros. 4, 13, 15; vir. ill. 45, 1–2. For Cossus see below.

² Although Augustus did not acquire that name until 16 January, 27, for convenience I refer to him by it throughout, except where it seems likely to cause confusion.

tion has played a central part in the debate about his attitude to the Augustan regime.

In the present article this consensus will be questioned. I shall argue that it is unlikely that Augustus publicly impugned Crassus' right to dedicate *spolia opima*, and that Crassus himself probably chose not to apply to make the dedication, either of his own volition or in response to pressure behind the scenes. This conclusion leads on to a radical revaluation of the significance both of this episode and of Augustus' intervention in the debate about Cossus' dedication.

1. *The spolia opima in ancient and modern debate*

Of the three recorded dedications of *spolia opima*, that of Romulus is, of course, legendary, but those of Cossus and Marcellus are undoubtedly historical. However, whereas there are no serious discrepancies in the tradition about the other dedications, our sources are at odds both about the date of Cossus' exploit and about his rank.

In Livy's narrative Roman relations with Veii and Fidenae were ruptured in 438, when the Fidenates murdered Roman ambassadors, of whom statues were erected at Rome. Hostilities did not break out until 437, and it was in that year that Cossus performed his feat. He was a mere *tribunus militum* at the time, the Roman commander being the dictator Mam. Aemilius (4, 17, 1–20, 4). The war continued in 436–5, being concluded in that year with the capture of Fidenae (4, 21–22). In 434 rumours of an Etruscan war led to Mam. Aemilius being appointed as dictator for a second time, but no hostilities ensued (4, 23, 4–24, 2). In 428, when Cossus was consul, raids occurred from Veii into Roman territory, but the Romans took no action (4, 30, 4–6). The following year the Romans declared war on Veii (4, 30, 12–16), but hostilities were postponed until 426. In that year four consular tribunes were elected, of whom Cossus was one, but Mam. Aemilius was appointed dictator to conduct the war, and he named Cossus as his *magister equitum*. Fidenae was now once again on Veii's side, and this year's campaign ended with the capture of Fidenae (4, 31–34). In 425 Veii was granted a twenty-year armistice (4, 35, 2).

There is no doubt that some time around the third quarter of the fifth century the Romans fought a war with Veii in which they captured Fidenae. Two incidents in the war are certainly historical: Cossus' exploit, and the murder of the ambassadors, guaranteed by the statues, which were still to be seen on the Rostra in Cicero's youth (Phil. 9, 4–5). However, some features of Livy's account at once inspire doubt: the repeated roles of Aemilius and Cossus and the two captures of Fidenae all smack of duplication. Livy claimed that all previous writers agreed that Cossus was *tribunus militum* when he dedicated the *spolia opima* (4, 20, 5), but the remnants of the annalistic tradition show that it was by no means unanimous on the point. Some of the sources which report Cossus' exploit say that he

was *tribunus militum* at the time (Dion. Hal., Ant. Rom. 12, 5; Serv. Aen. 6, 841),³ but others describe him as *magister equitum* (Val. Max. 3, 2, 4; vir. ill. 25).⁴ Moreover, although he does not mention Cossus' feat, Diodorus (12, 80, 1. 6–8) gives an account in which the material which in Livy is spread over the years 437 and 426 appears as a single sequence of events taking place in a year which corresponds to 426 by Livy's reckoning:⁵ A. Cornelius was one of the four consular tribunes, the Fidenates killed Roman ambassadors, and the Romans made war against them under the command of the dictator Aemilius and his *magister equitum* A. Cornelius.

A third possibility is that Cossus was consul at the time of his exploit. This would be stated by Festus 204 L, if the ms. reading were correct, but probably the word *consul* should be deleted.⁶ The main source for this version is Livy himself. At the end of his narrative of the events of 437 he appends the following (4, 20, 5–7): *Omnes ante me auctores secutus, A. Cornelium Cossum tribunum militum secunda spolia opima Iovis Feretri templo intulisse exposui; ceterum, praeterquam quod ea rite opima spolia habentur, quae dux duci detraxit, nec ducem novimus nisi cuius auspicio bellum geritur, titulus ipse spoliis inscriptus illos meque arguit consullem ea Cossum cepisse. Hoc ego cum Augustum Caesarem, templorum omnium conditorem ac restitutorem, ingressum aedem Feretri Iouis quam vetustate dilapsam refecit, se ipsum in thorace linteo scriptum legisse audissem, prope sacrilegium ratus sum Cosso spoliolum suorum Caesarem, ipsius templi auctorem, subtrahere testem.* (Following all previous authorities, I have stated that A. Cornelius Cossus was a *tribunus militum* when he deposited the second *spolia opima* in the temple of Jupiter Feretrius. However, in addition to the fact that the term *spolia opima* properly applies only to that which a commander has taken from a commander and we recognize no commander other than the man under whose auspices the war is being fought, the actual inscription on the spoils proves that, contrary to what my predecessors and I have said, Cossus was consul when he took them. As I had heard that Augustus Caesar, founder and restorer of all temples, had entered the shrine of Jupiter Feretrius [which was so old that it had collapsed and was rebuilt by him] and had himself read this written on the linen corslet, I deemed it almost a sacrilege to deprive Cossus of Caesar, the new founder of the temple itself, as witness to his spoils.)

³ In Servius Auctus the words *consulari potestate* are added.

⁴ The following sources refer to Cossus' exploit without indicating his rank: Propertius, Plutarch and Ampelius, cited at n. 1; Flor. 1, 6, 9; Manil. 1, 787.

⁵ Diodorus' erratic synchronism of Greek and Roman chronology leads him to give the date as 418.

⁶ As by the Teubner editor, W. M. LINDSAY (1913). *Consul* is omitted in the editio princeps (which may here have independent authority: cf. LINDSAY's edition, p. xviii). It may have been inserted by a scribe through a confusion between *cos.* and the cognomen Cossus (cf. A. PARIENTE, *Opimus* y la llamada *lex de spoliis opimis*, Emerita 42, 1974, 246).

Several further sentences follow, whose text and interpretation are at times uncertain, in which Livy expresses his perplexity at the conflict between the historical tradition and the evidence of the corslet (4, 20, 8–11). In Livy's later narratives of Cossus' consulship and of the campaign of 426 he takes no account of what he has said in this excursus, and he represents Mam. Aemilius in 426 as alluding in a speech to Cossus' winning the spoils as *tribunus militum* in the previous war (4, 32, 4).

The principle, propounded by Livy in the passage cited above, that the winner of the *spolia opima* must not only kill the enemy supreme commander but must himself be the supreme commander of the Roman forces, is either explicitly stated or clearly implied in a number of other passages of Augustan or later date.⁷ However, one of these sources, Festus, goes on to tell us of a weighty authority who held the contrary view (204 L): *M. Varro ait opima spolia esse, etiam si manipularis miles detraxerit, dummodo duci hostium ...* (M. Varro says that *spolia opima* can be such, even if a common soldier has taken them, provided it is from an enemy commander ...)

It is not known in which of Varro's many works the topic was discussed: the most likely candidate is perhaps the *Antiquitates Rerum Humanarum et Divinarum*, published in 47 B.C.⁸ Also uncertain are the grounds on which Varro based his view. In Festus the words just quoted are followed first by a lacuna and then by a very corrupt passage citing the *libri pontificum* and a 'law of Numa'.⁹ Both these citations deal with a classification of *spolia* into 'first', 'second' and 'third', and prescribe sacrifices to be made for each; according to the 'law of Numa', sacrifice is to be made to Jupiter Feretrius for the first spoils, to Mars for the second and to Janus Quirinus for the third. The 'law of Numa' is also known from Plutarch (Marc. 8, 9) and Servius (Aen. 6, 859); these writers state explicitly that the three spoils are to be dedicated to the respective gods, and call the recipient of the 'third spoils' simply Quirinus. Plutarch contrasts the law with what he calls the generally prevailing account, according to which only spoils won by a commander from a commander were *opima*. Although Plutarch does not mention him by name, it seems evident that he had Varro's view in mind when he made

⁷ Prop. 4, 10, 46; Inscr. Ital. XIII 3, 86; Val. Max. 3, 2, 6; Festus 202 L; Plut. Rom. 16, 6, Marc. 7, 4, 8, 10; Dio 51, 24, 4; Serv. Aen. 6, 855, 10, 449. Cf. Livy 1, 10, 6–7; Pliny, paneg. 17, 3.

⁸ So S. J. HARRISON, *Augustus, the Poets and the spolia opima*, CQ² 39, 1989, 410 n. 13.

⁹ In LINDSAY'S text the passage runs as follows: *non sint ad aedem Iovis Feretri poni, testimonio esse libros pontificum; in quibus sit: Pro primis spoliis bove, pro secundis solitaurilibus, pro tertiis agno publice fieri debere; esse etiam Pompili regis legem opimorum spoliiorum talem: Cuius auspicio classe procincta opima spolia capiuntur, Iovi Feretrio darier oporteat, et bovem caedito, qui cepit aeris CC(C) ... Secunda spolia, in Martis ara in campo solitaurilia ultra voluerit caedito ... Tertia spolia, Ianui Quirino agnum marem caedito, C qui ceperit ex aere dato. Cuius auspicio capta, dis piaculum dato.*

this contrast and that Varro somehow used the ‘law of Numa’ to support his case.¹⁰ However, the textual corruption in Festus leaves us unclear how Varro’s argument ran.

No certain cases are known from the Republic of men who killed enemy commanders but did not dedicate *spolia opima*.¹¹ However, as we have seen, one such case is known from the early years of Augustus’ reign. M. Licinius Crassus, the grandson of the great dynast of the late Republic, had sided with Sextus Pompeius and later with Antony, but made his peace with Octavian in time to be appointed as his colleague in the consulship of 30 B.C. (Dio 51, 4, 3).¹² Crassus held the consulship for the first six months of the year, when he made way for a suffect (Inscr. Ital. XIII 1, 254–6). He next became governor of Macedonia, and campaigned with notable success beyond the northern borders of the province in 29 and 28. The Periochae of Books 134–5 show that Livy described Crassus’ campaigns at length, and quite a full account survives in Cassius Dio (51, 23–27). The first tribe which he defeated was the Bastarnae, and in the decisive battle Crassus slew their king Deldo. After reporting this feat (for which he is our only source) Dio adds the following (51, 24, 4): *κἄν τὰ σκῦλα αὐτοῦ τῷ Φερετριῷ Διὶ ὡς καὶ ὀπίμα ἀνέθηκεν, εἴπερ αὐτοκράτωρ στρατηγὸς ἐγεγόνει* (‘he would have dedicated [Deldo’s] armour to Jupiter Feretrius as *spolia opima*, if he had been supreme commander’). A little later Dio informs us that, after the first year’s campaign (51, 25, 2): *καὶ γὰρ καὶ θυσίαι καὶ νικητήρια οὐχ ὅτι τῷ Καίσαρι ἀλλὰ καὶ ἐκείνῳ ἐψηφίσθη· οὐ μέντοι καὶ τὸ τοῦ αὐτοκράτορος ὄνομα, ὡς γέ τινες φασιν, ἔλαβεν, ἀλλ’ ὁ Καίσαρ μόνος αὐτὸ προσέθετο* (‘*supplicationes* and a triumph were voted not only for Caesar but also for Crassus; however, he did not take the title of *imperator* as some say, but Caesar alone took it’). The *Fasti Triumphales* tell us that Crassus triumphed

¹⁰ Plutarch reports a similar conflict of authorities at Rom. 16, 6, where he cites Varro for the etymology of *opima* from *ops*, but prefers the view that it derives from *opus*, which he associates with the doctrine that the *spolia opima* were spoils won from a commander by a commander. His source in both passages may be the Augustan scholar Verrius Flaccus’ *De significatu verborum*, of which Festus’ work is an epitome.

¹¹ Suet. Tib. 3, 2 states that the first holder of the name Drusus won it *hostium duce Drauso comminus trucidato*. However, even if this explanation of the *cognomen* is correct, Suetonius may have erred in identifying the adversary as the enemy commander, as Val. Max. 3, 2, 6 does for the duels fought by Manlius Torquatus, Valerius Corvus and Scipio Aemilianus (alleging that they did not dedicate their spoils to Jupiter Feretrius because they had fought *sub alienis auspiciis*). Flor. 1, 33, 11 erroneously credits Scipio Aemilianus with winning the *spolia opima*. See further S.P. OAKLEY, *Single Combat in the Roman Republic*, CQ² 35, 1985, 392–410, especially 394–5.

¹² On Crassus see PIR² L 186; E. GROAG, RE 13, 1926, 270–85; R. SYME, *The Augustan Aristocracy*, Oxford 1986, 272–5. On his Balkan campaigns see M. REINHOLD, *From Republic to Principate: An Historical Commentary on Cassius Dio’s ‘Roman History’ Books 49–52 (36–29 B.C.)*, Atlanta 1988, 160–4, citing further bibliography.

◀from Thrace and the Getae▶ on 4 July, 27.¹³ We have no subsequent information about him.

The modern discussion of the problems relating to the *spolia opima* begins with the seventeenth century scholars RUTGERS and PERIZONIUS, who challenged the doctrine that only a commander could win *spolia opima*, basing their case on Varro's statement and on the annalistic tradition about Cossus' rank and arguing that Augustus was misled by the inscription on the corslet.¹⁴ Their view was revived by NIEBUHR,¹⁵ but later in the nineteenth century reaction set in. HERTZBERG re-interpreted Varro, and MOMMSEN and NIESE insisted that the inscription on the corslet constituted impeccable evidence that Cossus was consul when he won his *spolia opima*.¹⁶

The debate was given a decisive new turn by an article published by DESSAU in 1906, in which he maintained that Augustus derived political advantage from the evidence of Cossus' corslet, since it helped to justify his refusal to permit Crassus to dedicate *spolia opima*.¹⁷ DESSAU's argument may be summarized as follows. Crassus, it may be inferred, was acclaimed as *imperator* by his troops, and applied to the senate for confirmation of the title and for the right to dedicate *spolia opima* in the temple of Jupiter Feretrius, but the senate refused both requests at Augustus' instigation. Augustus' motive was that he feared that his own successes might be eclipsed and dangerous prestige might accrue to this distinguished noble, if he were permitted to perform the rare ceremony and so to appear as a new Romulus. The pretext that Augustus used had a serious weakness, namely that according to tradition Cossus had been a subordinate when he won the *spolia*. The inscription purporting to show that Cossus won them as consul was thus singularly convenient for him. DESSAU raised the possibility that Augustus deliberately falsified the evidence, but left the question open. However, he insisted that Augustus passed the information on to Livy not for its historical interest but to buttress his case for refusing Crassus.

Before DESSAU, the problems of the *spolia opima* seemed of only minor significance: nothing more was at stake than the details of an archaic ritual and an ob-

¹³ Inscr. Ital. XIII 1, 86–7, 344–5, 571 = V. EHRENBERG and A. H. M. JONES, Documents illustrating the Reigns of Augustus and Tiberius², Oxford, reprinted with Addenda 1976 (hereafter EJ²), p. 35.

¹⁴ J. RUTGERS, Variarum Lectionum Libri Sex, Louvain 1618, 343–6; J. PERIZONIUS, Animadversiones Historicae, Amsterdam 1685, 236–320.

¹⁵ B. G. NIEBUHR, Römische Geschichte II², Berlin 1830, 512–9. On NIEBUHR's debt to PERIZONIUS see A. MOMGLIANO, Perizonius, Niebuhr and the Character of Early Roman Tradition, JRS 47, 1957, 105–7 (= Secondo contributo alla storia degli studi classici, Rome 1960, 71–4).

¹⁶ G. A. B. HERTZBERG, De spoliis opimis quaestio, Philologus 1, 1846, 331–9 (see below n. 135); TH. MOMMSEN, Fabius und Diodor, Hermes 13, 1878, 306–10 (= Römische Forschungen II, Berlin 1879, 236–42); B. NIESE, Die Chronologie der gallischen Kriege bei Polybios, Hermes 13, 1878, 412–3.

¹⁷ H. DESSAU, Livius und Augustus, Hermes 41, 1906, 142–51 (= W. SCHMITTHENNER [ed.], Augustus, Darmstadt 1969, 1–11).

scure episode in the history of fifth-century Rome. Now it appeared that matters of much greater moment were involved. As a result, the *spolia opima* have attracted considerable attention in subsequent scholarship, and DESSAU's article has shaped the course of the discussion.

Interest has focused on a number of issues. First, there is the old problem of the inscription on the corslet. Although some writers have continued to insist that its evidence must be accepted,¹⁸ most hold that Cossus was not fighting under his own auspices when he won the *spolia opima*. Some of these suppose that, although it served his purpose, Augustus did not fabricate the evidence but was innocently misled by what he read on the corslet. Others are convinced that he was guilty of fraud.¹⁹

Secondly, DESSAU's thesis has implications both for Livy's attitude to Augustus and for the date of composition of his early books. However, the ambivalences in Livy's treatment of the Cossus episode have ensured that no firm agreement has been reached on either point. Those who see Livy as a supporter of Augustus incline to stress his acceptance of the inscription's evidence and the deferential way in which he speaks of Augustus, whereas those who hold that he kept his distance from the regime tend to emphasize instead what they take to be his equivocations about the inscription and his failure to fashion his narrative to fit its evidence.²⁰

Livy is not the only major Augustan writer to mention the *spolia opima*: they figure twice in the Aeneid (6, 855–9; 10, 449) and Propertius devoted a whole poem to the institution and the associated cult of Jupiter Feretrius (4, 10). HARRISON (op. cit. n. 8) has argued that in these passages the poets betray awareness that the matter had recently acquired political significance and take care to <confirm the Augustan view and version of the rules> (ibid. 414).

¹⁸ E.g. DE SANCTIS, *Storia dei Romani* II, Turin 1907, 136–40; J. BELOCH, *Römische Geschichte*, Berlin – Leipzig 1926, 299–300; H. M. LAST, *Cambridge Ancient History* VII, Cambridge 1928 (hereafter CAH), 507–8; H. S. VERSNEL, *Triumphus*, Leiden 1970, 307–8; F. CASSOLA, *Livio, il tempio di Giove Feretrio e la inaccessibilità dei santuari in Roma*, RSI 82, 1970, 5–31; R. E. A. PALMER, *The Archaic Community of the Romans*, Cambridge 1970, 232–5.

¹⁹ Implied by R. SYME, *Livy and Augustus*, HSCP 64, 1959, 27–87 at 43–7 (= *Roman Papers* I, Oxford 1979, 418–22); roundly asserted by L. J. DALY, *Livy's veritas and the spolia opima: Politics and the Heroics of A. Cornelius Cossus* (4, 19–20), *AncW* 4, 1981, 49–63.

²⁰ See especially J. BAYET, *Tite-Live: Histoire Romaine, Livre I*, Paris 1947, xvii–xviii; SYME, loc. cit. (n. 19); P. G. WALSH, *Livy and Augustus*, *PACA* 4, 1961, 26–37, and id., *Livy: His Historical Aims and Methods*, Oxford 1961, 14–15; R. M. OGILVIE, *A Commentary on Livy Books 1–5*, Oxford 1965, 70–73, 563–7; T. J. LUCE, *The Dating of Livy's First Decade*, *TAPA* 96, 1965, 209–40 at 211–7; E. MENSCHING, *Livius, Cossus und Augustus*, *MH* 24, 1967, 12–32; R. MARINO, *Livio storico del «dissenso»?*, in: *Miscellanea di studi classici in onore di Eugenio Manni*, Rome 1979, IV, 1403–23; HARRISON, op. cit. (n. 8) 410–1; E. BURCK, *Livius und Augustus*, *ICS* 16, 1991, 269–81; P. WHITE, *Promised Verse*, Cambridge (Mass.) 1993, 142–5; E. BADIAN, *Livy and Augustus*, in: W. SCHULLER (ed.), *Livius: Aspekte seines Werkes*, Konstanz 1993, 9–38; G. B. MILES, *Livy: Reconstructing Early Rome*, Ithaca – London, 1995, 40–7.

DESSAU's article has also prompted much discussion of the political significance of the Crassus affair and its relationship to the constitutional settlement of 27. The division of the provinces made under that settlement ensured that most armies were commanded by men who were unambiguously Augustus' subordinates, and DESSAU himself in a later work argued that the embarrassment over Crassus was one of the factors which induced Augustus to make the settlement.²¹ GROAG went on to speculate that the settlement may have been prompted by the need to forestall an armed challenge from the returning Crassus.²² Such views soon obtained wide currency, with SYME as their most notable champion.²³ Although SYME himself later retracted,²⁴ the doctrine still enjoys support and finds a place in standard textbooks.²⁵ However, BADIAN has recently maintained that there was no connection between Crassus' claim and the constitutional settlement.²⁶

Despite this extensive discussion and wide diversity of views,²⁷ the central propositions advanced by DESSAU have gone effectively unchallenged and have indeed supplied the framework within which the subsequent debate has been conducted. No one has questioned DESSAU's view that Crassus applied to dedicate *spolia opima* and that Augustus, from political motives, saw to it that he was refused. The great majority of scholars have also followed DESSAU in supposing that Augustus' interest in Cossus' rank was politically motivated. As has already been indicated, the present article aims to question this consensus.

²¹ Geschichte der römischen Kaiserzeit I, Berlin 1924, 57–9.

²² Op. cit. (n. 12) 284–5.

²³ M. P. CHARLESWORTH, CAH X, 1934, 125–6; R. SYME, The Roman Revolution, Oxford 1939, 308–9.

²⁴ HSCP 64, 1959, 46 (= Roman Papers I, 421).

²⁵ E. g. H. H. SCULLARD, From the Gracchi to Nero⁵, London 1982, 210. For a recent statement of the case see P. CARTLEDGE, The Second Thoughts of Augustus on the *res publica* in 28/7 B. C., *Hermathena* 119, 1975, 30–40.

²⁶ E. BADIAN, 'Crisis Theories' and the Beginning of the Principate, in: G. WIRTH (ed.), *Romanitas-Christianitas: Untersuchungen zur Geschichte und Literatur der römischen Kaiserzeit. Johannes Straub zum 70. Geburtstag gewidmet*, Berlin and New York 1982, 18–41 at 18–19, 24–7.

²⁷ Besides the works cited above, discussions of the *spolia opima* include: J. D. BISHOP, Augustus and A. Cornelius Cossus Cos., *Latomus* 7, 1948, 187–91; L. A. SPRINGER, The Cult and Temple of Jupiter Feretrius, *CJ* 50, 1954, 27–32; R. M. RAMPENBERG, Les dépouilles opimes à Rome, dès débuts de la République à Octave, *RHDFE* 56, 1978, 191–214; A. MÖRI, Livy on Cornelius Cossus and the *spolia opima*, *JCS* 32, 1984, 91–101 (in Japanese, with English summary at 163–3); A. MAGDELAIN, Quirinus et le droit, *MEFRA* 96, 1984, 195–237 at 202–11; J. RÜPKE, *Domi Militiae: Die religiöse Konstruktion des Krieges in Rom*, Stuttgart 1990, 217–223. In general on Roman treatment of spoils see E. RAWSON, *The Antiquarian Tradition: Spoils and Representations of Foreign Armour*, in: W. EDER (ed.), *Staat und Staatlichkeit in der frühen römischen Republik*, Stuttgart 1990, 158–73 (= *Roman Culture and Society*, Oxford 1992, 582–98).

2. *Crassus' right to dedicate spolia opima*

My starting-point is a question which is of central importance for the DESSAU thesis but which has received surprisingly little attention in the voluminous modern literature. If, as DESSAU and his followers suppose, an application from Crassus to dedicate *spolia opima* was received by the senate and rejected at Augustus' instigation, grounds must have been given for the refusal. What may those grounds have been? I hope to show that it would have been remarkably difficult to produce plausible grounds for rejecting such an application from Crassus.

DESSAU himself and many subsequent writers assume that Crassus was refused permission to dedicate *spolia opima* on the grounds that at the time of his exploit he was not supreme commander but subordinate to Octavian. For this they can claim the authority of Cassius Dio, who states that Crassus would have dedicated *spolia opima* if he had been supreme commander (51, 24, 4, cited above). Further corroboration is supplied by Dio's later statement that it was not he, but Octavian who was saluted as *imperator* (51, 25, 2, cited above) and by the inclusion of Moesia among the lands conquered by Octavian in the resignation speech which Dio composed for him (53, 7, 1). However, a difficulty is immediately apparent. If Crassus was Octavian's subordinate, one might suppose that he ranked as his *legatus*, just as after 27 the governors of Augustus' provinces ranked as his *legati*. Yet, as we have seen, Crassus was granted *supplicationes* and a triumph, rights traditionally reserved to commanders holding independent *imperium* who had been victorious in a war fought under their own auspices.²⁸ Moreover, Crassus is styled 'proconsul' both in the record of his triumph on the Capitoline Fasti (n. 13) and on an inscription from the base of a statue erected in his honour at Athens.²⁹ This evidence thus suggests that Crassus was not subordinate to Octavian, but held an independent command.

This conflict of evidence on Crassus' status must be considered in the context of the wider question of the status of provincial governors in and after the triumviral period. When the triumvirate was established, the provinces were divided among the triumvirs, and thereafter all provincial governors were selected by them. However, although some governors ranked as *legati* of the triumvirs, others are attested with the title of proconsul.³⁰ Moreover, a number of governors in the period were

²⁸ On the requirements for a triumph see TH. MOMMSEN, *Römisches Staatsrecht*³, Leipzig 1887–8 (hereafter *Staatsrecht*), I, 126–34; R. LAQUEUR, *Über das Wesen des römischen Triumphs*, *Hermes* 44, 1909, 215–36; G. BESELER, *Triumph und Votum*, *Hermes* 44, 1909, 352–61; VERSNEL, *op. cit.* (n. 18) 164–95; J. S. RICHARDSON, *The Triumph, the Praetors and the Senate in the Early Second Century B. C.*, *JRS* 65, 1975, 50–63; R. DEVELIN, *Tradition and the Development of Triumphal Regulations at Rome*, *Klio* 60, 1978, 429–38. For the importance of *imperium* and *auspicium* see especially Livy 28, 9, 10, 31, 48, 6, 34, 10, 5; Val. Max. 2, 8, 2.

²⁹ ILS 8810 (IG II/III² 4118; EJ² 190).

³⁰ ILLRP 433; CRAWFORD, *RRC*, 522, 542.

accorded salutations as *imperator*³¹ and/or celebrated triumphs, and the notices of their triumphs in the Capitoline Fasti accord them the title of proconsul.³² Thus, although in reality all governors were the triumvirs' subordinates, in form many – perhaps most – held independent *imperium* with the rank of proconsul.³³ How this status was conferred is uncertain. The triumvirs may well have had their nominees undergo a formal process of appointment by the senate, the assembly or both.³⁴ However, sometimes at least such formalities may have been dispensed with, and this may help to account for anomalies like the case of P. Ventidius Bassus, who celebrated a triumph although literary sources describe him as Antony's *legatus*.³⁵

The formal basis of Octavian's power between the expiry of the triumvirate, best dated to the end of 33, and the constitutional settlement of 27 is a notorious crux.³⁶ What is not in doubt is that he continued to enjoy the same powers in practice that he had before and that after Antony's defeat all the powers of the triumvirs were vested in him alone. Provincial governors were thus his nominees. However, it is likely that he had his choices formally appointed as proconsuls: such punctiliousness would have been in accord with his claim to be fighting against

³¹ Listed by R. COMBÈS, *Imperator*, Paris 1966, 548–60.

³² *Inscr. Ital.* XIII 1, 86–7, 342–3, 568–70 (EJ² pp. 33–4). L. Antonius and L. Marcus Censorinus are styled <consul> because they took up consulships on the day of their triumph.

³³ MOMMSEN, *Staatsrecht* I, 125, 130, held that all triumviral governors ranked as *legati*, but at the triumvirs' discretion were permitted imperial salutations and triumphs, regularized by a grant of proconsular *imperium* on the day of their triumph. However, this is refuted by the other evidence for triumviral governors ranking as proconsuls (n. 30). See further L. GANTER, *Die Provinzverwaltung der Triumvirn*, Strasburg 1892, 46–55; T. R. S. BROUGHTON, *The Magistrates of the Roman Republic*, New York 1951–1986 (hereafter MRR), II, 369–70; COMBÈS, *op. cit.* (n. 31) 83–5, 160–2; F. G. B. MILLAR, *Triumvirate and Principate*, *JRS* 63, 1973, 50–67 at 62; J. BLEICKEN, *Zwischen Triumvirat und Prinzipat*, Göttingen 1990, 32–5; K. M. GIRARDET, *Die Entmachtung des Konsulates im Übergang von der Republik zur Monarchie und die Rechtsgrundlagen des augusteischen Prinzipats*, in: W. GÖRLER – S. KOSTER (eds.), *Pratum Saraviense: Festgabe für Peter Steinmetz*, Stuttgart 1990, 89–126 at 98–104; B. E. THOMASSON, *Legatus: Beiträge zur römischen Verwaltungsgeschichte*, Stockholm 1991, 22–31.

³⁴ For the observance of constitutional forms under the triumvirs see MILLAR, *op. cit.* (n. 33); BLEICKEN, *op. cit.* (n. 33), especially 36–65; U. LAFFI, *Poteri triumvirali e organi repubblicani*, in: A. GARA – D. FORABOSCHI (eds.), *Il triumvirato costituente alla fine della repubblica romana. Scritti in onore di Mario Attilio Levi*, Como 1993, 37–65.

³⁵ Livy, *Per.* 127–8; *Flor.* 2, 19, 5; Dio 48, 41, 5, 49, 21, 2–3. An earlier comparable case is that of Q. Fabius Maximus and Q. Pedius, who had been Caesar's *legati* in Spain but triumphed on their return (*bell. hisp.* 2, 2; Dio 43, 31, 1, 42, 1; *Inscr. Ital.* XIII 1, 567).

³⁶ For recent views see BLEICKEN, *op. cit.* (n. 33) 65–82; K. M. GIRARDET, *Der Rechtsstatus Oktavians im Jahre 32 v. Chr.*, *RhM* 133, 1990, 322–50; R. G. LEWIS, *Rechtsfrage II: Octavian's Powers in 32 B. C.*, *LCM* 16, 1991, 57–62; with my comments at CR 42, 1992, 114. On the date of expiry of the triumvirate see now K. M. GIRARDET, *Per continuos annos decem (res gestae divi Augusti 7, 1)*. *Zur Frage nach dem Endtermin des Triumvirats*, *Chiron* 25, 1995, 147–61.

Antony as the champion of Roman and republican values. A strikingly high number of the governors who held office in this period achieved imperatorial salutations and triumphs. Besides Crassus himself, five others celebrated triumphs, namely C. Calvisius Sabinus (Spain), C. Carrinas (Gaul), L. Autronius Paetus (Africa), M. Valerius Messalla Corvinus (Gaul) and Sex. Appuleius (Spain). The entries in the Capitoline Fasti (extant for all except Calvisius) give each of them the title *proconsul*.³⁷ Imperatorial salutations are attested for Calvisius and Appuleius, and may be conjectured for the other three. Salutations are also attested for two Gallic governors who did not triumph, T. Statilius Taurus (who had already triumphed in 34) and M. Nonius Gallus.³⁸

Crassus is thus an isolated anomaly. He too was a *proconsul*, and, like so many of the *proconsuls* who held office in 31–28, he celebrated a triumph. Yet Dio tells us that he was not ‘supreme commander’ (*autokrator strategos*) and therefore did not dedicate *spolia opima*, and that it was not he, but Octavian, who took the title *imperator* for his victories.

Some have attempted to resolve the puzzle posed by Dio’s statements by supposing that Crassus’ triumph was granted solely for his victories in his second campaign in 28.³⁹ COMBÈS held that Octavian was given a special command over the eastern provinces for the war against Cleopatra, which lapsed with his triumph in August 29, and that as a result Crassus was subordinate to Octavian in 29, but held independent *imperium* in 28.⁴⁰ However, it is most unlikely that any distinction was drawn at this time between Octavian’s relationship to the eastern and western provinces, and in any case such theories do not even accord with Dio’s information, for Dio is explicit that Crassus was voted *supplicationes* and a triumph after his first year of campaigning.⁴¹

If it is true, as Dio states, that Octavian, not Crassus, took the title *imperator* for Crassus’ victories, Crassus was the victim of what SYME rightly called ‘an arbitrary decision’.⁴² However, Dio himself let slip that some writers asserted that Crassus did take the title *imperator*, and it is accorded to him on inscriptions in his honour from Athens (n.29) and Thespieae.⁴³ DITTENBERGER long ago argued that, despite

³⁷ Inscr. Ital. XIII 1, 86–7, 344–5, 570–1 (EJ² p.35).

³⁸ ILS 889, 893–5, COMBÈS, op. cit. (n.31) 461.

³⁹ W. SESTON, *Le clupeus virtutis d’Arles et la composition des Res Gestae Divi Augusti*, CRAI 1954, 290–1; P. GRENADE, *Essai sur les origines du Principat*, Paris 1961, 166–81.

⁴⁰ COMBÈS, op. cit. (n.31) 162–5, followed by RAMPPELBERG, op. cit. (n.27) 202–3.

⁴¹ It is not significant that the Bastarnae are not referred to by name in the notice of Crassus’ triumph in the Fasti. So rightly W. SCHMITTHENNER, *Augustus’ spanischer Feldzug und der Kampf um den Prinzipat*, *Historia* 11, 1962, 29–85 at 34 (= SCHMITTHENNER [ed.], *Augustus*, Darmstadt 1969, 412).

⁴² *Roman Revolution* (n.23) 308. Cf. *Roman Papers* (n.19) I, 192: ‘pure usurpation, not to be justified even by triumviral practices’.

⁴³ AE 1928, 44.

Dio, Crassus did assume the title *imperator* and his right to it was never challenged.⁴⁴ However, MOMMSEN pronounced for Dio,⁴⁵ and it was for long generally accepted that Dio's statement is correct and that the inscriptions were erected before, or in ignorance of, the verdict from Rome. Recently, however, a number of scholars have argued that it was Crassus, not Octavian, who took the imperatorial salutation for his victories.⁴⁶ In my view, this must be right. In the first place, as we have seen, it would have been an unjustifiable anomaly for Crassus to be denied the title *imperator* when other governors in the same period were permitted to take it and when he himself was voted *supplicationes* and a triumph. Secondly, Dio's claim that Octavian took an imperatorial salutation for Crassus' victories raises another grave difficulty. The salutation in question must be the seventh taken by Octavian/Augustus: the sixth was for Actium, and the eighth was not taken until 25.⁴⁷ It follows that, if Octavian took a salutation for Crassus' victories, he did not take one for his own conquest of Egypt. This is hard to credit, for the conquest of Egypt was distinguished from the Actium victory at his triumph in 29, Actium being commemorated on the second day and Egypt on the third,⁴⁸ and the anniversary of the capture of Alexandria on 1 August became one of the most important dates in the Augustan calendar.⁴⁹ It is true that an inscription from Rufrae in Campania in which Octavian is styled *cos. V imp.* [V]I appears to show that he had not yet taken his seventh salutation at the start of 29.⁵⁰ However, this is not a serious difficulty: the correct restoration of the fragmentary inscription may be *imp.* [VI]I, and, if [V]I is the correct reading, the drafter or the stone-cutter may have erred.⁵¹

Dio's statement about the imperatorial salutation for Crassus' victories must, therefore, be an error. In all probability, traditional practice was followed: Crassus was acclaimed *imperator* by his troops and used the title thereafter, and the senate accorded it to him when, in response to his letter announcing his victories, it voted *supplicationes*. Dio's error is, in fact, not unique. When he reports the victory of M. Vinicius over the Germans in 25, he tells us that he too won the title *imperator*

⁴⁴ W. DITTENBERGER, *Eph. Epig.* 1, 1872, 106–8; followed by G. ZIPPEL, *Die römische Herrschaft in Illyrien bis auf Augustus*, Leipzig 1877, 242.

⁴⁵ *Staatsrecht* I, 125 n. 5.

⁴⁶ BADIAN, *Crisis Theories* (n. 26) 38–41; L. SCHUMACHER, *Die imperatorischen Akklamationen der Triumvirn und die Auspicia des Augustus*, *Historia* 34, 1985, 191–222 at 209–11; REINHOLD, *op. cit.* (n. 12) 162–3; P. A. BRUNT, *Roman Imperial Themes*, Oxford 1990, 448 n. 33.

⁴⁷ TH. MOMMSEN, *Res Gestae Divi Augusti*², Berlin 1883, 12; T. D. BARNES, *The Victories of Augustus*, *JRS* 64, 1974, 21–26 at 21.

⁴⁸ *Suet. Aug.* 22; *Livy, Per.* 133; *Dio* 51, 21, 7; *Inscr. Ital.* XIII 1, 344–5, 570.

⁴⁹ *Inscr. Ital.* XIII 2, 489–90 (EJ² p. 49); *Macrob. sat.* 1, 12, 35.

⁵⁰ *CIL* X 4830 (ILS 80). On another inscription of 29 (ILS 81 [EJ² 17]) Octavian is styled *imp. VII*.

⁵¹ So SCHUMACHER and BRUNT, cited n. 46.

for Augustus' (53, 26, 4). As has recently been shown, Augustus did indeed take his eighth salutation in 25, but it must have been not for Vinicius' victory but for his own successes in Spain.⁵²

Dio's claim that *supplicationes* and a triumph were voted to Octavian as well as to Crassus is also problematic: this too posits an anomalous relationship between Octavian and Crassus, and the *Fasti Triumphales* show that in the event Crassus triumphed alone. That this statement is yet another error is suggested by the similar and surely erroneous statement which Dio makes about C. Carrinas. Dio (51, 21, 5–6) tells us that on the first day of his triple triumph (i. e. 13 August 29) Octavian celebrated not only his own victories in the Balkans but also those of C. Carrinas in Gaul and Germany, adding that Carrinas himself triumphed for these but Octavian did so as well because 'the credit for the victory belonged to his position as supreme commander' (ἡ ἀναφορὰ τῆς νίκης τῇ αὐτοκράτορι αὐτοῦ ἀρχῇ προσήκουσα ἦν). However, the *Fasti Triumphales*, Suetonius and the *Periocha* of Livy represent Octavian's first triumph as being just over the Dalmatians (n.48), and the *Fasti* show that Carrinas triumphed on his own on 6 July 28.⁵³

Dio's earlier statements about Ventidius' successes over the Parthians also provoke doubts. Dio tells us that in 39 Ventidius 'received no reward for these achievements from the senate, since he was not acting with independent authority (*autokrator*) but as subordinate to another, while Antony was honoured with eulogies and *supplicationes*' (49, 41, 5), but that in 38 *supplicationes* and a triumph were voted both to Ventidius and to Antony and in the event Ventidius triumphed alone after Antony's death (49, 21). Dio is certainly wrong about the date of Ventidius' triumph, which took place on 27 November 38.⁵⁴ It has usually been supposed, on Dio's authority, that Antony's second and third imperial salutations were for Ventidius' victories. However, SCHUMACHER has argued cogently that all four of Antony's salutations were for successes of his own.⁵⁵

These are not random errors on Dio's part, but evidently derive from his view of the relationship between provincial governors and the dynasts. Dio, it appears, supposed that in the period 43–27 all commanders ranked as the subordinates of Antony, Octavian and Lepidus, and that the recipient of the honours for these commanders' victories was determined by the dynasts' whim: sometimes a dynast

⁵² BARNES, loc. cit. (n. 47); SYME, *Some Imperial Salutations*, Phoenix 33, 1979, 308–29 at 310 (= *Roman Papers III*, Oxford 1984, 1200); SCHUMACHER, op. cit. (n. 46) 211–2. Unlike Crassus, Vinicius cannot have taken a salutation himself, since he was merely a legate of Augustus.

⁵³ *Inscr. Ital.* XIII 1, 86–7,344–5,570 (EJ² p. 35).

⁵⁴ *Inscr. Ital.* XIII 1, 86–7,342–3,569 (EJ² p. 33).

⁵⁵ Op. cit. (n. 46) 191–202. On Ventidius' status see above at n. 35. His imperial salutation, attested on CRAWFORD, RRC 531, was probably for a Parthian victory rather than for a success in Gaul in 41 (although the fact that on the obverse Antony is styled *IMP*, implying just a single salutation, is a difficulty).

arrogated the honours exclusively to himself, sometimes he shared them with his subordinate, and sometimes he permitted the subordinate to keep them for himself. Dio's view is well brought out by his comment on the triumph celebrated by Cn. Domitius Calvinus in 36: <he obtained a triumph although Spain had been assigned to Caesar, for the honours were assigned to their subordinates at the wish of those in power> (48, 42, 4).⁵⁶ Dio's judgement of the political realities is accurate, but in seeking to translate this into constitutional formalities he has gone astray. As we have seen, many of the provincial governors in this period held independent *imperium* as proconsuls. They could accept imperatorial salutations and were often granted triumphs, no doubt preceded by *supplicationes*. It is unlikely that any of the dynasts took a salutation for a success won by a subordinate,⁵⁷ or claimed a share in a subordinate's triumph.

Dio's erroneous statements probably owe something to his sources, but it is likely that they are to a considerable extent his own work. It is one of Dio's merits that he is always ready to make his own connections and suggest his own explanations. He was interested in constitutional developments and in particular in the origins of the monarchical system under which he himself lived.⁵⁸ Rightly perceiving the importance of the emperors' monopoly of the honours of victory, he attempted to trace its origins, but unfortunately he was in various respects led astray. The errors which we have noticed are related to those which he makes about Augustus' assumption of <Imperator> as a *praenomen*. Dio misdates to 29 the assumption of the *praenomen*, which in fact took place in 38, and wrongly supposes that it both betokened the emperors' monarchical power and helped to provide its constitutional basis.⁵⁹ One of the reasons for his confusions may be the resonances of the word *autokrator*, which, like other Greek writers, he uses as the equivalent for *imperator* in all its senses, but which in Greek was used of persons possessing full or absolute power.

The results of our inquiry into the question of Crassus' status can be summed up as follows. Crassus held the rank of proconsul, and his victories earned him a salutation as *imperator*, *supplicationes* and a triumph. Dio's claims that he was voted the *supplicationes* and the triumph together with Octavian, and that it was Octavian and not Crassus who received the salutation for his victories, are errors, which form part of a wider pattern of misconceptions which can be discerned in

⁵⁶ Cf. Dio 49, 42, 3: <others ... bargained to get triumphs voted in their honour, some using the influence of Antony and some that of Caesar>.

⁵⁷ SCHUMACHER, *op. cit.* (n. 46) 191–209.

⁵⁸ On Dio's constitutional interests see F. G. B. MILLAR, *A Study of Cassius Dio*, Oxford 1964, 181–2, 211–3. On his originality and his interest in the origins of the monarchical system see J. W. RICH, *Cassius Dio: The Augustan Settlement* (Roman History 53–55.9), Warminster 1990, 5 ff.

⁵⁹ 52, 41, 3–4. 53, 17, 4–5; cf. 43, 44, 2–3. Cf. REINHOLD, *op. cit.* (n. 12) 231–2; RICH, *op. cit.* (n. 58) 150.

this section of Dio's work. Like the other proconsuls of the period 31–28, Crassus, although Octavian's nominee, enjoyed a position which was, in legal form, quite independent of Octavian and exactly comparable to that of Republican proconsuls.

In the light of all this it is clear that the senate could not plausibly have rejected an application from Crassus to dedicate *spolia opima* on the grounds that he was not an independent commander but Octavian's subordinate, since to do so would have been wholly inconsistent with the way in which in every other respect it had treated him and the other proconsuls of the period.

Dio's claim at 51, 24, 4 that Crassus did not dedicate *spolia opima* because he was not supreme commander can now be seen to be yet another of his misconceptions. It may have been based on something he read in a source, perhaps misunderstood or misremembered. However, the explanation could well be Dio's own. As is implied by his allusive references in this and other passages (44, 4, 3. 54, 8, 3), he must have given a fuller account of the *spolia opima* in an earlier, lost section of his work, probably in his Romulus narrative, and the bald remark here presupposes an earlier statement of the principle that only a supreme commander could dedicate *spolia opima*. It would be very much in character if, having read in a source that Crassus had killed the king of the Bastarnae, Dio introduced his own explanation of Crassus' failure to dedicate *spolia opima*, in accordance with his conviction that Crassus and his fellow provincial governors were Octavian's subordinates and so not entitled to free enjoyment of the honours for their victories.

Was there any other argument that could have been used to deny Crassus the right to dedicate *spolia opima*? SYME suggested one: in his formulation, Augustus' objection was that only a consul could dedicate *spolia opima*; Crassus was ineligible because he was a proconsul, not a consul.⁶⁰ A few subsequent writers have taken the same view.⁶¹ However, no one has attempted a detailed defence. We must consider how good a case could be made out for this view.

⁶⁰ HSCP 64, 1959, 44 (= Roman Papers I [n. 19], 419): <According to Cassius Dio, Crassus could have dedicated *spolia opima* – if he had been the holder of full and paramount *imperium*. That is to say, consul not proconsul.> Similarly, at The Augustan Aristocracy (n. 12), 274: <Crassus, it was clear, did not qualify, since he was not a consul.> Earlier SYME had taken the more usual view, representing the argument as that Crassus <was not fighting under his own auspices> (The Roman Revolution [n. 23] 308 n. 2). SYME is wrong to take Dio's statement that Crassus was not *autokrator strategos* to mean that he was proconsul, not consul. Dio's later statement about the honours for Crassus' victories (51, 25, 2) and the other statements about the relationship between provincial governors and the dynasts considered above show that what he meant was that Crassus was Octavian's subordinate. On his use of the term *autokrator strategos* see G. VRIND, De Cassii Dionis vocabulis quae ad ius publicum pertinent, The Hague 1923, 38–41.

⁶¹ E. g. D. KIENAST, Augustus: Prinzeps und Monarch, Darmstadt 1982, 220; HARRISON, op. cit. (n. 8) 409; GRIFFIN, in: B. BRAVO – M. GRIFFIN, Un frammento del libro XI di Tito Livio?, Athenaeum 66, 1988, 520–1.

If Cossus was consul when he dedicated his *spolia opima*, as Augustus maintained, then both the dedications of *spolia opima* made under the Republic were performed by consuls. Thus it is conceivable that the argument was advanced that, since no-one who was not a king or a consul had yet dedicated *spolia opima*, no such person should dedicate them. Such a line of argument would have been analogous to that used to deny Scipio a triumph on his return from Spain in 206, when it was objected that Scipio had held his command not as a magistrate, but as a private citizen, and no-one had yet celebrated a triumph for victories won without a magistracy.⁶² However, if an argument on these lines was used against Crassus, we should expect it to be reflected in the statements of our sources about who was entitled to dedicate *spolia opima*, whereas there is in fact no trace of such an argument in the sources. Those writers, several of them Augustan in date, which do specify qualifications for dedicating *spolia opima* all maintain that the dedicator had to be a *dux*, holding supreme command, a requirement which proconsuls satisfied.⁶³

An alternative way of defending the view that Crassus was rebuffed on the grounds that he was a proconsul, not a consul, would be to identify some difference between the prerogatives of consuls and proconsuls which could have been used to justify denying proconsuls the right to dedicate *spolia opima*. Can any such difference be found?

Imperium does not supply the answer: there was no feature of the *imperium* of proconsuls which would have justified denying them the right to dedicate *spolia opima*. MOMMSEN, it is true, held that strictly speaking proconsuls could not triumph, because their *imperium* would lapse when they crossed the *pomerium*, but he conceded that this supposed principle was never enforced and that the difficulty over *imperium* was customarily resolved by passing a law granting the proconsul *imperium* for the day of his triumph.⁶⁴ Much has often been made of the supposed superiority of the *imperium* of a consul over that of a proconsul. However, the evidence suggests rather that no distinction was made between the *imperium* of consuls and proconsuls: both were attended by twelve lictors, and a proconsul's *imperium* was under the Republic spoken of as <consular>.⁶⁵ In any case, even if it were true that the *imperium* of a proconsul was inferior to that of a consul, it is hard to see why this should have affected proconsuls' right to dedicate *spolia opima*, any more than their right to triumph.

⁶² Livy 28, 38, 4: *quia neminem ad eam diem triumphasse qui sine magistratu res gessisset constabat*; Val. Max. 2, 8, 5; Dio, fr. 57, 56.

⁶³ See above, at n. 7.

⁶⁴ Staatsrecht I, 128–9.

⁶⁵ See E. S. STAVELEY, *The Fasces and Imperium Maius*, *Historia* 12, 1963, 458–84. If Augustus gave orders to proconsuls in 27–23, he probably did so by virtue of his *auctoritas* rather than his position as consul (RICH, *op. cit.* [n. 58] 170).

There remains one further possibility: that a challenge to proconsuls' right to dedicate *spolia opima* may have been founded on the question of *auspicium*. That the issue turned on *auspicium* has recently been suggested by J.S. RICHARDSON, who writes: '(Augustus) seems to have concentrated into his own hands the *auspicia militiae*. This seems the most obvious explanation for the means he used to ensure that M. Licinius Crassus was prevented from claiming the right to deposit ... the *spolia opima*.'⁶⁶ Such a concentration of the military auspices was indeed accomplished by the settlement of 27. Thereafter all wars fought in or from Augustus' provinces were deemed to be conducted under his auspices, and several texts speak of wars waged under another's command (*ductus*) but under the emperor's auspices.⁶⁷ In principle, this did not apply to the provinces of the Roman People, but the distinction gradually became blurred: no proconsuls celebrated triumphs after 19 B.C., and an inscription of A.D. 6–7 from Lepcis Magna refers to a war as being fought 'under the auspices of Imperator Caesar Augustus ... and under the command of Cossus Lentulus ... proconsul' (*auspiciis imp. Caesaris Aug. ... ductu Cossi Lentuli ... procos.*)⁶⁸ However, when Crassus performed his feat, all this lay in the future. The foregoing discussion of the position of proconsuls in the years before 27 B.C. has shown that there is no trace of any such concentration of the auspices in that period.

If an objection to Crassus' entitlement to dedicate *spolia opima* was founded on the auspices, the point at issue is likely to have been not the relationship between Octavian and the proconsuls but the claim that proconsuls lacked *auspicia* (i.e. the right to take auspices). This doctrine is propounded by Cicero in a passage in the *De divinatione* (2, 76) as evidence for his view that Roman observance of auspices was in decline: *Bellicam rem administrari maiores nostri nisi auspiciato noluerunt; quam multi anni sunt, cum bella a proconsulibus et a propraetoribus administrantur, qui auspicia non habent. ... Ubi ergo avium divinatio? quae, quoniam ab eis, qui auspicia nulla habent, bella administrantur, ad urbanas res retenta videtur, a bellicis esse sublata.* ('Our ancestors would not undertake any military enterprise without consulting the auspices; but now, for many years, our wars have been conducted by proconsuls and propraetors, who do not have the auspices. ... What, then, has become of divining from birds? Since wars are conducted by those who have no auspices, it seems to have been retained for urban business, but withdrawn from use in war.')

The same doctrine is also implied by Cicero in a closely similar passage of the *De natura deorum* (2, 9): *Maximae rei publicae partes, in his bella quibus rei pu-*

⁶⁶ *Imperium Romanum: Empire and the Language of Power*, JRS 81, 1991, 1–9 at 8.

⁶⁷ Suet. Aug. 21, 1 *partim ductu partim auspiciis suis*; Tac. ann. 2, 41, 1 *ductu Germanici, auspiciis Tiberii*. Cf. RG 4, 2. 26, 5. 30, 2; Livy 28, 12, 12; Pliny, n. h. 3, 136 (EJ² 40).

⁶⁸ IRT 301 (EJ² 43). Cf. Vell. 2, 129, 4 (the war in Africa under Tiberius being concluded *auspiciis consilisque eius*); SCHUMACHER, op. cit. (n. 46) 215–9.

blicae salus continetur, nullis auspiciis administrantur, ... ex quo in procinctu testamenta perierunt, tum enim bella gerere nostri duces incipiunt cum auspicia posuerunt. (Very important affairs of state, including wars upon which the safety of the state depends, are conducted with no auspices, ... owing to which wills made on active service have become obsolete, for our commanders only begin to wage wars when they have laid down the auspices.)

Since MOMMSEN, scholars have generally taken Cicero to mean not that all, but merely that some promagistrates lacked the auspices. On this view, consuls and praetors who left Rome for their province while still holding their magistracy and after the appropriate formalities had been carried out retained the auspices when, at the expiry of their year of office, they became promagistrates, but other categories of promagistrates did not have the auspices.⁶⁹ On this basis, most proconsuls in Crassus' day would have lacked the auspices, but it is uncertain whether this would have been true of Crassus himself, since we do not know whether he left for his province of Macedonia before or after giving up the consulship at the end of June, 30 B. C.⁷⁰

However, as GIOVANNINI has recently demonstrated, this interpretation of the Cicero passages cannot stand: they must mean that all promagistrates lacked the auspices.⁷¹ In the first place, MOMMSEN's interpretation is not the natural way to take Cicero's words, in particular the statement in the *De Divinatione* that *bella a proconsulibus et a propraetoribus administrantur, qui auspicia non habent*, which clearly implies that not some, but all proconsuls and propraetors lacked the auspices. Secondly, both passages imply that the situation which Cicero laments had been in existence for a long time, yet it was only shortly before he wrote them

⁶⁹ E.g. MOMMSEN, *Staatsrecht* I, 92, 100–1, and *Gesammelte Schriften* IV, Berlin 1906, 118; I. M. J. VALETON, *De modis auspiciandi Romanorum*, *Mnemosyne*, n.s. 18, 1890, 221–32; P. CATALANO, *Contributo allo studio del diritto augurale* I, Turin 1960, 472–5; COMBÈS, *op. cit.* (n. 31) 393 ff.; N. S. ROSENSTEIN, *Imperatores Victi*, Berkeley – Los Angeles – Oxford 1990, 205. J. BLEICKEN, *Zum Begriff der römischen Amtsgewalt: auspicium – potestas – imperium*, *Nachr. Akad. Wiss. Göttingen, phil.-hist. Kl.* 1981, no. 9, 269–71, followed by T. HANTOS, *Res Publica Constituta: Die Verfassung des Dictators Sulla*, Stuttgart 1988, 98 ff., holds that the promagistrates who lacked the auspices were those who had not obtained a *lex curiata*. A. MAGDELAIN, *Recherches sur l'Imperium*, Paris 1968, 51–7, argues that promagistrates who did not set out while still magistrates did assume the auspices, but in a manner which the purist Cicero regarded as invalid.

⁷⁰ Rightly noted by GIRARDET, *Entmachtung* (n. 33) 103.

⁷¹ A. GIOVANNINI, *Consulare imperium*, Basel 1983, 43–4, 77–9. So already, briefly, J. P. V. D. BALSDON, *Consular Provinces under the Late Republic*, *JRS* 29, 1939, 57–73 at 60. For pre-Mommsenian interpretations of the Cicero passages, which take them to mean that all promagistrates lacked the auspices, see J. RUBINO, *Untersuchungen über römische Verfassung und Geschichte*. 1. *Über den Entwicklungsgang der römischen Verfassung bis zum Höhepunkte der Republik*, Cassel 1839, 47–8; L. LANGE, *Römische Alterthümer* I, Berlin 1856, 537.

that, as a result of the Lex Pompeia of 52, magistrates ceased to leave for their provinces while still in office.⁷²

Cicero, who was himself an augur, cannot have been mistaken on such a point, and so we must accept that strictly speaking only magistrates held the auspices and promagistrates lacked them.⁷³ Nonetheless, the conclusion is a surprising one, and is fraught with considerable difficulties.⁷⁴

In the first place, there is the antiquity of the institution of promagistracy: the first promagistrate is said to have been Q. Publilius Philo, proconsul in 326, and from the third century promagistrates became commonplace.⁷⁵ It is hard to credit that from such early times the Romans could have allowed armies to go into battle whose commanders were unable to take the auspices. Yet there seems to be no alternative but to accept that this is what happened. All the attested cases of the auspices being taken by commanders in the field relate to magistrates.⁷⁶ Promagistrates could still avail themselves of the services of *haruspices*, and Cicero's statement that the Romans 'do nothing in war without examining entrails, and nothing at home without taking auspices' suggests that their art had come to take the place of the auspices as the main way of ascertaining the will of the gods on campaign.⁷⁷

Secondly, other sources sometimes speak of wars being waged under the *auspicium* of a promagistrate. Livy speaks in this way both of promagistrates whose command had been prorogued from a magistracy⁷⁸ and of Scipio when he was

⁷² BALSODN, *op. cit.* (n.71) and GIOVANNINI, *op. cit.* (n.71) 75–101, show that it was common for consuls to leave for their province before the end of their year of office in the post-Sullan period, refuting MOMMSEN's doctrine that this was prohibited by a law of Sulla.

⁷³ The auspices are also described as the exclusive prerogative of magistrates by Varro *ap. Non.* 131 L: *de caelo auspicari ius nemini est praeter magistratum* (cf. Cic. *leg.* 3, 10: *omnes magistratus auspicium ... habent*); GIOVANNINI, *op. cit.* [n.71] 33–7). However, the context suggests that Varro did not have the distinction between magistrates and promagistrates in mind.

⁷⁴ GIOVANNINI, *op. cit.* (n.71) 43 n.53, seeks to evade these difficulties by maintaining that, for a commander who as a magistrate held the *auspicia* when he left Rome, 'les *auspicia* valaient pour la totalité de l'action entreprise ... même s'il arrivait au terme de sa magistrature et donc perdait les *auspicia* en cours de campagne.' This seems impossibly contradictory. The solutions adopted by RUBINO and LANGE (cited n.71) are also untenable.

⁷⁵ See W.F. JASHEMSKI, *The Origins and History of the Proconsular and the Propraetorian imperium to 27 B. C.*, Chicago 1950; H. KLOFT, *Prorogation und außerordentliche Imperien, 326–81 v. Chr.*, Meisenheim am Glan 1977.

⁷⁶ The evidence is cited by MOMMSEN, *Staatsrecht* I, 84–5, 97; ROSENSTEIN, *op. cit.* (n.69) 60. Cato would have been a proconsul when he took the auspices before the battle of Emporiae (ORF³ fr. 36; Livy 34, 14, 1) on the chronology of J. BRISCOE, *A Commentary on Livy Books XXXIV–XXXVII*, Oxford 1981, 65–6, but against this see JRS 73, 1983, 240.

⁷⁷ Div. 1, 95: *nihil in bello sine extis agunt, nihil sine auspiciis domi* (on the textual problem see A.S. PEASE *ad loc.*). Cf. div. 1, 28: *nihil fere quondam maioris rei nisi auspicato ... gerebatur ... Nam ut nunc extis ... , sic tum avibus magnae res impetriri solebant*. I owe this point to Dr A. DRUMMOND.

⁷⁸ Livy 10, 18, 1; 29, 27, 2; 41, 17, 3; 41, 28, 1.

commanding in Spain as a *privatus cum imperio*.⁷⁹ Nor is the usage confined to Livy: a verse inscription from Corinth commemorating the achievements of C. Lucilius Hirrus as *legatus* to M. Antonius in his campaign against the pirates in 102–100 B.C. speaks of him as serving *auspicio* [*Antoni Marc*]i *pro consule* (ILLRP 342). These passages belong to the large group in which *auspicium* is used in effect to refer to an individual's power of independent command, often in combination with *ductus* and/or *imperium*, and most commonly in the ablative with a following genitive (‘under the command of’).⁸⁰ It would seem that, when *auspicium* is used in this way of promagistrates, who did not in fact have the auspices, the term is being used loosely to mean no more than ‘independent command’. Livy indeed may not have realized that promagistrates lacked the auspices.

Finally, the implications for the position of the emperor should be noted. It is possible that, when Augustus resigned the consulship in 23 B.C., the new powers granted to him included an unattested and unprecedented provision that, although no longer a magistrate, he should retain the auspices. Unless such a provision was made, we must suppose that thereafter he and his successors only held the auspices on those occasions when they held the consulship, and that those texts which speak of the emperor's auspices are using the term in the same loose sense that it had earlier been used of proconsuls.⁸¹

Grave as these difficulties are, we must accept on Cicero's authority that consuls held the *auspicia* and proconsuls did not. Thus we have at last identified a distinction between consuls and proconsuls which might have served as the ground for denying the proconsul Crassus the right to dedicate *spolia opima*. However, it does not seem very likely that this distinction constitutes the solution to our pro-

⁷⁹ Livy 26, 41, 18; 28, 16, 14; 28, 27, 4; 28, 38, 1.

⁸⁰ E.g. Plautus, *Amph.* 192, 196, 657; ILLRP 122; Livy 3, 1, 4; 3, 17, 2; 3, 42, 2; 5, 46, 6; 6, 12, 6; 22, 30, 4; 31, 4, 1; 40, 52, 5; 41, 28, 8. See further TLL II, 1547; M. A. LEVI, *Auspicio imperio ductu felicitate*, *Rend. Ist. Lomb.* 71, 1938, 101–18; COMBÈS, *op. cit.* (n. 31) 205 ff.; VERSNEL, *op. cit.* (n. 18) 176–8.

⁸¹ For such texts see above n. 67. *Addicentibus auspiciis* at Tac. *ann.* 2, 14, 1, should mean that Germanicus took the auspices before the battle of Idistaviso (cf. *augurali* at 2, 13, 1), but I doubt whether Tacitus had any authority for the claim. The whole battle account is elaborated for literary effect, and the phrase in question follows the tale of Germanicus' propitious dream about himself sacrificing. Technical language is echoed, but used imprecisely: as GOODYEAR notes, *addico* is properly used of the sacred birds. Technical terminology is again misused at *ann.* 3, 19, 3, where Drusus is said to have left Rome *repetendis auspiciis* in order to re-enter in ovation (*auspicia repetere* was properly used of a commander returning to Rome to renew auspices which had proved invalid: MOMMSEN, *Staatsrecht* I, 99–100; G. WISSOWA, *RE* 2, 2582–3, 2587). Another non-technical use of *auspicia* occurs at *ann.* 3, 59, 3, where we are told that, when Drusus accepted the *tribunicia potestas* in absence, he was criticized on the grounds that he should have returned so that *auspicia saltem gentile apud solum inciperet* (rightly dismissed as simply rhetorical by MOMMSEN, *Staatsrecht* II, 792 n. 3, pace KOESTERMANN ad loc.).

blem. Except among augurs and antiquarians there may well have been little awareness of proconsuls' lack of the auspices, and one may wonder whether it would have suited Augustus to draw it to public notice, since already in 29 B. C. he must have recognized that he could not continue to hold the consulship indefinitely. Moreover, it remains hard to see how a plausible case for denying Crassus' right to dedicate *spolia opima* could have been founded on his lack of the auspices. As far as we know, there was no requirement for auspices to be taken before *spolia opima* were dedicated. In form the ceremony comprised simply a procession into the city followed by the dedication of the *spolia* in a temple on the Capitol. It was thus closely analogous to a triumph, and promagistrates' eligibility for a triumph was unquestioned. Why should more exacting requirements be imposed for the *spolia opima* than for a triumph?

In his discussion of the Cossus problem Livy affirms the principle that only a *dux* could dedicate *spolia opima* and then, by way of clarification, adds the statement that 'we recognize no commander other than the man under whose auspices the war is being fought' (4, 20, 6: *nec ducem novimus nisi cuius auspicio bellum geritur*). It could be argued that Livy's insistence on *auspicium* here is evidence that this was the basis of the objection to Crassus.⁸² However, this would disregard the context in Livy, into which the quoted statement fits perfectly well. Livy's point is that the account of his sources, according to which Cossus won the *spolia opima* when serving as *tribunus militum* under the command of the dictator Mam. Aemilius, conflicts with the rule that only a *dux* could win the *spolia*. Now the word *dux* is in fact ambiguous: it was often used of a supreme commander, but could also be used of a subordinate officer.⁸³ Thus Livy adds the clarification: for the purposes of the rule *dux* must be understood to mean supreme commander. *Auspicium* here, then, is used in the sense discussed above, referring to an individual's power of independent command. Elsewhere, as we have seen, Livy betrays no awareness that an individual who held independent command, and so was not serving *alienis auspiciis*, might yet not hold the *auspicia*. There is no warrant for detecting a reference to that possibility here.

This lengthy discussion has shown that, if Crassus made a formal application to the senate for permission to dedicate *spolia opima*, Augustus and his associates would have found it very difficult to come up with a plausible reason for having the application rejected. It cannot, as has usually been supposed, have been argued that Crassus was ineligible because he was only a subordinate commander, since that would have been in flagrant contradiction with the way in which he and his

⁸² Cf. RICHARDSON, loc. cit. n.66; HARRISON, op. cit. (n.8) 412 (attractively explaining *omine ... certo* at Prop. 4, 10, 46 as a reference to the auspices). *Auspicium* also figures in the obscure provision of the 'law of Numa' about the *spolia opima*; see above n.9, and further below, section 7.

⁸³ See TLL V, 2320-3; Oxford Latin Dictionary, s. v. *dux* (4).

fellow proconsuls were otherwise regarded. The only possible ground for rejection that has emerged from our discussion has been that, as a proconsul, Crassus lacked the auspices, and this line of argument too would have been fraught with difficulties.

This does not entitle us to conclude that Crassus cannot have received a formal rebuff in the senate. The possibility remains open that an application from him was rejected in this way, either on the grounds that he lacked the auspices or for some other reason not considered above. Augustus' dominance of the senate was such that, however flimsy the grounds that were offered, the senate would have rejected an application from Crassus if that was what Augustus wished. However, in view of the difficulties into which this reconstruction of events has led us, we must consider whether any more likely explanation for Crassus' failure to dedicate *spolia opima* can be found.

3. Crassus' failure to dedicate *spolia opima*

DESSAU was right to surmise that Crassus' success would have been unwelcome to Augustus. His brilliant and wide-ranging campaigns in the eastern Balkans, extending as far as the Danube, may have seemed to many to eclipse the wars which Augustus had himself conducted further west, in Illyricum, in 35–34.⁸⁴ It was particularly inopportune that, by killing Deldo, Crassus had earned the right to dedicate *spolia opima*. Augustus had no objection at this period to proconsuls celebrating triumphs, but for a proconsul to perform so notable and unusual a ceremony would have been a serious distraction from the commemoration of his own victories, in which the revival of ancient rituals like the *augurium salutis* and the closing of the doors of Janus played an important part.⁸⁵ The right to dedicate *spolia opima* (as though he had killed an enemy commander with his own hand) had been among the honours voted to the dictator Caesar,⁸⁶ and the ritual of the *spolia opima* evoked Romulus, who had been the first to perform it and with whom Augustus had long sought to associate himself.⁸⁷

⁸⁴ Cf. A. MÓCSY, Der vertuschte Dakerkrieg des M. Licinius Crassus, *Historia* 15, 1966, 511–4, who argues that successes won by Crassus against the Dacians were played down at Augustus' wish.

⁸⁵ For the enactment of these rituals in 29 see Dio 51, 20, 4; RG 13, 1; EJ² p. 45; Suet. Aug. 31, 4.

⁸⁶ Dio 44, 4, 3, wrongly doubted by SYME, *Roman Papers I* (n. 19) 166, 366, 419 n. 1. See S. WEINSTOCK, *Divus Julius*, Oxford 1971, 233.

⁸⁷ The association was topical in 27, when the possibility was mooted that he should take 'Romulus' as his new name (Suet. Aug. 7, 2; Dio 53, 16, 5–7; Flor. 2, 34, 66). On Augustus and Romulus see K. SCOTT, The Identification of Augustus with Romulus-Quirinus, *TAPA* 56, 1925, 82–105; J. GAGÉ, Romulus-Augustus, *MEFRA* 47, 1930, 138–81; A. ALFÖLDI, Der Vater des Vaterlandes im römischen Denken, Darmstadt 1971, 36–9.

The reason why Crassus did not dedicate *spolia opima* must surely have been that such a dedication would have been unwelcome to Augustus. What, then, were the means by which the dedication was averted? One possibility is indeed that Crassus formally applied to the senate for permission to dedicate *spolia opima* and was refused. However, there is an alternative scenario: Crassus himself, recognizing that the dedication would displease Augustus, may have decided not to apply to make it. It is not inconceivable that Crassus reached such a decision unprompted: his appointment as Octavian's consular colleague in 30 despite his earlier associations with Sex. Pompeius and Antony suggests that he was not without political skills. Alternatively, Augustus may have brought informal, private pressure to bear on Crassus, either directly or through intermediaries, to dissuade him from seeking to dedicate the *spolia*.

Since DESSAU, modern scholars have taken it for granted that Crassus made a formal application to the senate to dedicate *spolia opima* and was refused, and no consideration has been given to other possible reconstructions of how he came not to dedicate them. It must be stressed that in opting for this version of events scholars are accepting what is no more than a modern hypothesis, resting on no ancient authority. Cassius Dio, the only ancient writer to refer to Crassus' exploit at all, merely makes the, as we have seen, erroneous comment that Crassus would have dedicated *spolia opima* if he had been supreme commander, and says nothing at all to indicate whether he unsuccessfully applied to dedicate the *spolia* or did not seek to dedicate them.

There are thus two possible scenarios, neither of which can be ruled out: Crassus may have made an application to dedicate *spolia opima* which was then rejected by the senate; alternatively, he may not have applied to make the dedication. Between these two possible reconstructions we can do no more than assess the balance of probabilities. We must therefore consider which reconstruction seems the more likely.

We may be sure that Augustus' preference would have been for settling the matter privately. Even if Crassus made no public attempt to dedicate *spolia opima*, his failure to dedicate them may have aroused comment hostile to Augustus in disaffected circles. If he had formally sought to dedicate the *spolia* and had been publicly rebuffed, the matter would have been a major scandal. To be sure, the senate, apart perhaps from a few recalcitrants, would have made no difficulties about rejecting Crassus' application. But every one would have known that in doing so they were simply complying with the ruler's wishes. So public a humiliation for a prominent noble would have been likely to arouse widespread resentment, all the more so since, as we have seen, the regime would have had considerable difficulty in finding a plausible pretext for the rejection.

Such an outcome would have been in sharp contrast with the rest of Augustus' conduct during his stay in Rome in 29–27. In this period he put through a programme of measures which he represented as restoring the state to republican

ways. As Velleius put it (2, 89, 3), 'the ancient form of the republic was restored' (*prisca illa et antiqua rei publicae forma revocata*). The regularization of his own position in 28–27 was only one aspect of this programme. Others included the revision of the senate's membership and reduction of its size, the reduction of the numbers of magistrates and ending of suffect consulships, the holding of a census, and the restoration of the city's temples. The generosity with which triumphs were accorded to returning proconsuls was in keeping with the spirit of the period, as were Augustus' attempts to persuade them to use their booty on the repair of Italian roads.⁸⁸ A public rejection of Crassus' application, on what could only appear as a thin and trumped-up pretext, would have been altogether contrary to this programme, and would have done much to detract from the favourable effect that Augustus evidently hoped that it would have on public opinion.

It therefore seems unlikely that Augustus would have waited for Crassus to make a formal application before making any move to stop him dedicating *spolia opima*. Unless Crassus himself indicated that he did not wish to dedicate the *spolia*, Augustus probably took steps privately to dissuade him from seeking to make the dedication. Crassus could have refused to yield to such pressure and insisted on making an application to the senate. But that would have been a futile gesture, since Augustus was bound to get his way there.

Another consideration which makes it unlikely that matters went as far as a public rebuff in the senate is the silence of our sources. Cassius Dio is the only source to mention Crassus' exploit at all, and he says nothing about such a rebuff. The public rejection of an application from Crassus to dedicate *spolia opima* would have been a political development of considerable moment. It seems improbable that so important an event should have left virtually no trace in the historical record. The failure of our sources to make more of the matter is much more readily comprehensible if it was settled behind closed doors.

It might be objected that traces of a public debate about Crassus' entitlement to dedicate the *spolia opima* do survive in our sources, in Dio's statement about Crassus' failure to dedicate the *spolia* and in the consensus of the Augustan writers that only a *dux*, holding independent command, could dedicate them. Such arguments have no force. Dio's remark may reflect in garbled form something he read in a source and so might derive ultimately from contemporary discussion about why Crassus had not dedicated the *spolia*. However, some discussion of the point may well have taken place at the time even if Crassus made no formal application to make the dedication. In any case, as was argued above, Dio's explanation of Crassus' failure to dedicate the *spolia* need not derive from a source, but could very well be his own contribution. As for the rule that only a supreme commander could dedicate *spolia opima*, it has been shown above that Crassus unquestionably

⁸⁸ Suet. Aug. 30, 1; Dio 53, 22, 1–2; RICH, op. cit. (n.58) 155.

satisfied that requirement and that a challenge to his right to dedicate the *spolia* cannot have been mounted on that basis.

If we had any information about Crassus' subsequent relations with Augustus, this might throw some light on how he came not to dedicate *spolia opima*. However, nothing can be established on this point. There is no reason to suppose that there was bad feeling between the two, as has sometimes been claimed. Augustus may well have left Rome for his visit to Gaul and Spain by the time of Crassus' triumph on 4 July, 27,⁸⁹ but we have no warrant for concluding, with SYME,⁹⁰ that Augustus had Crassus' triumph delayed until after his departure. The date of Crassus' return from his province is unknown. He may have triumphed soon after his return,⁹¹ and, if there was a delay, it may have had an innocent explanation. We hear nothing further about Crassus after his triumph, but no inferences can be drawn from this silence. He may have died soon afterwards, and, if he survived and received no further appointments, that need not mean that he was out of favour, for he had completed the normal senatorial career.

The foregoing discussion has shown that it cannot any longer be taken for granted that Crassus formally applied to the senate for permission to dedicate *spolia opima* and was rebuffed. That possibility remains open, but it is on balance more likely that no such application was made. Crassus may have freely chosen not to dedicate the *spolia* out of deference for Augustus. Alternatively, he may have decided not to apply to make the dedication after informal, private representations from Augustus, made either directly or through intermediaries.

The argument so far has thus led us to a radically different explanation for Crassus' failure to dedicate *spolia opima* from the one which was postulated by DESSAU and has subsequently been generally accepted. The rest of this article is devoted to exploring the implications of this conclusion.

4. *The Crassus episode and the constitutional settlement of 27 B. C.*

If Crassus formally applied to the senate for permission to dedicate *spolia opima* and was publicly rebuffed, the affair would have been a major political development and much ill-feeling would certainly have been caused. If, however, as now appears more probable, no such application was made, Crassus' failure to dedicate *spolia opima* is likely to have made much less impact. If he only gave in to behind-the-scenes pressure with reluctance, the matter may still have become widely known and have caused quite a stir. If, however, he decided to forgo his right to

⁸⁹ All that we know of Augustus' movements at this period is that he was still in Rome in early May, 27 (Inscr. Ital. XIII 1, 150–1), and had reached Tarraco by 1 January, 26 (Suet. Aug. 26, 3). See H. HALFMANN, *Itinera Principum*, Stuttgart 1986, 157.

⁹⁰ *The Roman Revolution* (n. 23) 309; *The Augustan Aristocracy* (n. 12) 274.

⁹¹ So BADIAN, *Crisis Theories* (n. 26) 26.

dedicate *spolia opima* of his own volition or gave way with a good grace, there may have been few, if any, repercussions.

Even if Crassus received a formal, public rebuff, the importance of the episode cannot have been as great as has sometimes been suggested. In the aftermath of his crushing defeat of Antony, Augustus enjoyed a massive and unshakeable dominance, both throughout the empire and within the political elite. The troops were loyal and the prospect of further civil wars had no appeal for them. Most senators were only concerned to curry favour with Augustus, as their vindictive treatment of the fallen favourite Gallus demonstrates.⁹² It is thus absurd to suppose that Crassus could have mounted a serious challenge to Augustus.

Nor is there any reason to think that the episode played any part in Augustus' decision to make the constitutional settlement of 27. It was inevitable that, after eliminating Antony, he would turn to the regularization of his own position. Augustus could hardly have avoided making a show of fulfilling the undertakings to restore power to the Senate and People which both he and Antony had given,⁹³ and, after Caesar's assassination, little perspicacity was required to recognize that the surest way of reconciling the political class to monarchy was to cast it in republican guise.

Crassus may have contributed to the shaping of one element in the constitutional settlement, namely the division of the provinces.⁹⁴ Under the settlement the provinces were returned to the Roman People, but Augustus retained a portion of them, initially for ten years, and all but five or six of the legions were stationed in his provinces. The governors of Augustus' provinces held office as his *legati*. As such, their *imperium* was not independent, but delegated from Augustus, and they were deemed to command under his auspices. Accordingly they were ineligible for imperatorial salutations and triumphs, and, if one of them succeeded in killing an enemy commander and applied to dedicate *spolia opima*, his claim could be rejected on the grounds that he was not a *dux* in independent command. Thus, by comparison with the situation which had obtained in the years before 27, as clarified above, the new arrangements constituted a drastic curtailment of senators' opportunities of winning the traditional rewards of victory. It must have seemed unlikely that Crassus' personal feat of arms would soon be repeated, but his Balkan successes were so striking that they may well have been one of the factors which impelled Augustus to impose this restriction on senators' prospects.

However, too much weight should not be accorded to this in accounting for the division of the provinces, for the curtailment of senatorial opportunities was in itself only one aspect of this subtle and complex measure. Another element was the programme of <pacification>. Augustus proclaimed that he would pacify his pro-

⁹² Suet. Aug. 66, 2; Dio 53, 23, 6–24, 3.

⁹³ Appian, BC 5, 132; Dio 49, 41, 6. 50, 7, 1.

⁹⁴ For what follows cf. my remarks at op. cit. (n. 58) 140–1.

vinces and, where necessary, their neighbours.⁹⁵ Although this constituted the formal justification for Augustus' retention of a portion of the provinces, it is not to be dismissed as a mere pretext. As I hope to show elsewhere, the carrying out of this programme of 'pacification', both by Augustus in person and by other members of his family, was the dominant theme in Augustus' frontier policy.

The provincial settlement also solved the problem of how Augustus could retain his grip on power within a republican framework. Before the settlement all provincial governors were his appointees. To keep his hold on power, he needed to retain the right to choose the commanders of the majority of the legions, but, as part of his show of restoring republican forms, he had to stop nominating proconsuls and re-introduce the republican practice of appointing them by the lot. The division of the provinces enabled him to achieve both objectives. Proconsuls were once again appointed by the lot, to provide the governors of the public provinces, but most of the legions were stationed in the provinces assigned to Augustus, whose governors he could appoint and dismiss at will, since they held office as his *legati*. Reducing the army commanders to the status of his *legati* was the only way by which Augustus could retain the right to appoint them within a republican framework.

The chief way in which Crassus' achievements influenced the form of the settlement was probably in the apportionment of the provinces between Augustus and the People. The provinces which Augustus took for his share were ones which could reasonably be claimed to need pacifying; there had been recent fighting in Gaul and Spain; Syria was bordered by Parthia; Egypt was a new acquisition. After Crassus' successes Augustus could not plausibly claim that the Balkan provinces needed pacifying, and so, although they retained several legions, Illyricum and Macedonia were made public provinces. Augustus' sensitivity on this score may have been one of the factors in the trial a few years later of a former proconsul of Macedonia, M. Primus, although his offence was not, as is often supposed, starting a war on his own initiative, but launching an unjustified attack on Rome's friends the Odrysians.⁹⁶ The anomaly was eventually removed when, as a result of the great Balkan conquests of 12–8 B.C., the legions were concentrated in Illyricum (now imperial) and the new province of Moesia, and Macedonia was demilitarized, leaving the single legion in Africa as the only one still commanded by a proconsul.⁹⁷

⁹⁵ Dio 53, 12, 2–3; 53, 13, 1.

⁹⁶ Dio 54, 3, 2–4; RICH, *op. cit.* (n. 58) 175–6. The prosecution of Primus must have been launched at, not against, Augustus' wish, contra B. M. LEVICK, *Primus, Murena and Fides: Notes on Cassius Dio LIV.3, G & R 27*, 1975, 156–63, who speculates that Crassus may have been behind it. Later proconsuls of Illyricum and Macedonia started wars without getting into trouble (Dio 54, 20, 1–3).

⁹⁷ Illyricum became imperial in 11 B.C. (Dio 54, 34, 4), and the Thracian war of L. Piso probably led to the creation of the province of Moesia (R. SYME, *Danubian Studies*, Bucha-

5. Augustus and Cossus' corslet

If an application from Crassus to dedicate *spolia opima* was formally rejected at Augustus' instigation, the tradition that Cossus was only a subordinate officer when he dedicated *spolia opima* would have been an embarrassment for Augustus, since, whatever the grounds were for deeming Crassus not to qualify, Cossus too would have failed to satisfy the requirement. Augustus' claim to have read an inscription on the corslet dedicated by Cossus showing that he was consul when he made the dedication would thus have been to his political advantage. This conclusion, first propounded by DESSAU, has formed the basis for the whole modern discussion of the Cossus episode and its significance for Augustus and Augustan writers.

It was argued above that Crassus himself probably decided not to seek to dedicate *spolia opima*, either freely or under pressure. The question of Crassus' eligibility to make the dedication may still have come under discussion: doubts about his eligibility may have been among the considerations urged on Crassus to dissuade him from seeking the dedication and may have been subsequently disseminated in the hope of dispelling adverse comment about his failure to do so. However, the issue would not have assumed the same importance as it would have done if an application from Crassus had been rejected in the senate. In any case, since, as has been shown above, it would have been far from easy to impugn Crassus' title to dedicate *spolia opima*, it seems more likely that Augustus and his supporters opted not to raise the issue at all, but instead to take the line that Crassus was entitled to dedicate *spolia opima* but had waived his right to do so.

The foundation on which modern views of the Cossus episode rest has thus been shown to be shaky: Augustus probably had little or nothing to gain politically from his discovery after all. How then can we account for Augustus' interest in the question of Cossus' rank? An answer lies ready to hand: in the antiquarian studies of Augustus and his friends.

Interest in the antiquities of Rome, fuelled for many by family pride, was a notable feature of the cultural life of the Roman elite in and after the late Republic.⁹⁸ A leading part in these studies was played by two scholars who both figure in the story of the *spolia opima* and the temple of Jupiter Feretrius, namely Varro and Atticus. Now, as WHITE has recently reminded us, Augustus shared the cultural concerns of his class and time.⁹⁹ That this extended to antiquarian topics is con-

rest 1971, 49–51; RICH, *op. cit.* [n.58] 214). The outstanding anomaly of the African army was eventually resolved when the emperor Gaius transferred command of the forces there to an imperial legate (*Tac. hist.* 4, 48; *Dio* 59, 20, 7).

⁹⁸ See above all E. RAWSON, *Intellectual Life in the Roman Republic*, London 1985, especially 102–3, 233–49.

⁹⁹ WHITE, *op. cit.* (n.20) 112–8. The principal source for Augustus' literary interests is *Suet.* *Aug.* 84–9. See also H. BARDON, *Les empereurs et les lettres latines d'Auguste à Hadrien*, Paris 1965, 5–103.

firmed by Cornelius Nepos, who tells us that in the course of their extensive correspondence Augustus used to ask Atticus questions 'about antiquity' (Att. 20, 2, cited below).¹⁰⁰ Such behaviour was not devoid of political significance. Conforming to the elite's lifestyle and values was one of the ways in which Augustus made himself acceptable to them. Moreover, Augustus' antiquarianism was integral to his stance of respect for Roman traditions and their revival. However, it would be unduly cynical to dismiss these interests as a pose. It was precisely because Augustus shared so many of the elite's values and assumptions that his touch was so sure. It is unlikely that he could have exploited the revival of ancient practices to such brilliant effect if he had not himself been genuinely interested in the antiquities of Rome.

Even if Augustus did derive political advantage from his claim about Cossus' rank, that should not be seen as the only reason for his interest in the topic. On the contrary, it was precisely because of his own genuine antiquarian interests that he was able to make so adroit a contribution. In any case, as I have argued above, it is more likely that the matter of Cossus' rank had no political dimension for Augustus. If so, his interest in the matter was exclusively antiquarian: he was simply concerned to resolve a knotty problem about an ancient ritual and an obscure episode in the remote past. If that is correct, there is no ground for questioning Augustus' good faith: if he had no ulterior motive for his claim, there would be no reason for him to fabricate or distort the evidence.

A further question remains. Although Augustus was interested in antiquarian questions, he had little leisure for such studies. How did he become aware that Cossus' rank was problematic and realize the significance of the corslet's evidence? An examination of the circumstances which led to his discovery will suggest an answer.

Augustus' restoration of the temple of Jupiter Feretrius was distinct from the refurbishment of the 82 temples of the city of Rome carried out in 28 B.C. The work done on those temples was probably only superficial, whereas the temple of Jupiter Feretrius was rebuilt and was thus listed by Augustus among his own foundations.¹⁰¹ The restoration was undertaken at the suggestion of Atticus, as the following passage from Nepos' life of Atticus (20, 2–3) shows: *Sed etiam cum esset in urbe et propter infinitas suas occupationes minus saepe quam vellet Attico frueretur, nullus dies temere intercessit quo non ad eum scriberet, cum modo aliquid de antiquitate ab eo requireret, cum modo aliquam quaestionem poeticam ei*

¹⁰⁰ On Augustus' relations with Atticus see F.G.B. MILLAR, *Cornelius Nepos, 'Atticus' and the Roman Revolution*, G & R 35, 1988, 40–55.

¹⁰¹ RG 19, 2; the rebuilding of the 82 temples is mentioned at RG 20, 4. Similarly, Livy 4, 20, 7 speaks of him as *templorum omnium conditorem ac restitutorem*, but calls him the *autor* of the temple of Jupiter Feretrius. On the temple see L. RICHARDSON jr, *A New Topographical Dictionary of Ancient Rome*, Baltimore – London, 1992, 219.

proponeret, interdum iocans eius verbosiores eliceret epistulas. Ex quo accidit, cum aedis Iovis Feretrii in Capitolio, ab Romulo constituta, vetustate atque incuria detecta prolaberetur, ut Attici admonitu Caesar eam reficiendam curaret. (‘But also when he was in Rome and enjoyed Atticus’ company less often than he might wish on account of his innumerable activities, hardly a single day passed on which he did not write to him: sometimes he asked him something about antiquity, sometimes he put him some problem in poetry, at times he jestingly coaxed longer letters from him. From which it happened that when the temple of Jupiter Feretrius on the Capitol, founded by Romulus, had lost its roof from age and neglect and was collapsing, it was at Atticus’ urging that Caesar saw to its restoration.’)¹⁰²

In all probability the restoration was begun before Atticus’ death on 31 March 32 (ib. 22, 3), or at least before Augustus’ departure for the campaign against Antony later in that year, and the work was completed well before his return from the East. The date of the visit to the temple on which Augustus saw the inscription is uncertain. It may have occurred before the restoration began or while it was in progress, and so before his departure in 32, and Atticus may even have accompanied him on the visit, as SYME suggested.¹⁰³ Alternatively, the visit may not have taken place until Augustus’ stay in Rome in 29–27, after the restoration had been completed.¹⁰⁴

When Augustus set about restoring temples, he was following an already established trend. Varro and others had taught Romans to perceive their religion as in decline, and, in response to this perception, a number of the proconsuls who celebrated triumphs in the triumviral period carried out rebuildings from their spoils rather than erecting new temples in the traditional way.¹⁰⁵ Although Augustus’ main building projects at this period were the new temples of Divus Iulius and Apollo Palatinus, dedicated in respectively 29 and 28, it is not surprising that he also took part in the wave of rebuilding. Although it was very small (less than fifteen feet long, according to Dion. Hal., Ant. Rom. 2, 34, 4), the temple of Jupiter

¹⁰² The translation is adapted from that of N. HORSFALL, *Cornelius Nepos: A Selection*, including the Lives of Cato and Atticus, Oxford 1989, 26–7.

¹⁰³ SYME, HSCP 64, 1959, 46 (= Roman Papers I [n. 19] 426).

¹⁰⁴ BADIAN, *Crisis Theories* (n. 26) 26–7, argues from Livy’s use of the perfect *refecit* rather than the pluperfect at 4, 20, 7 that the visit must have taken place before or during the repairs, not after their completion, but this presses Livy’s language too hard.

¹⁰⁵ See F. W. SHIPLEY, *Chronology of the Building Operations in Rome from the Death of Caesar to the Death of Augustus*, MAAR 9, 1931, 7–60, especially 9–32; P. GROS, *Aurea templa: recherches sur l’architecture religieuse de Rome à l’époque d’Auguste*, Rome 1976, 21 ff.; E. LA ROCCA, *L’adesione senatoriale al consensus: i modi della propaganda augustea e tiberiana nei monumenti in circo Flamini*, in: *L’Urbs: espace urbain et histoire* (I^{er} siècle av. J.-C. – III^e siècle ap. J.-C.), Rome 1987, 347–72; P. ZANKER, *The Power of Images in the Age of Augustus*, Ann Arbor 1988, 66–70, 103. On Varro and the invention of the ‘decline of Roman religion’, see J. A. NORTH, *Religion and Politics, from Republic to Principate*, JRS 76, 1986, 251–8 at 253–4.

Feretrius was an eminently appropriate choice: it was reputedly the oldest temple in Rome, and it afforded another opportunity for Augustus to associate himself with Romulus, the temple's supposed founder. As HARRISON has recently suggested, there may be a link between the restoration of the temple and Augustus' revival in 32 of the fetial ritual for declaring war, for, although the temple was not associated with that ritual, it housed the *sceptrum* and flint-stone which the *fetiales* used when concluding treaties.¹⁰⁶ When he suggested the restoration, Atticus no doubt dilated on the temple's disgraceful condition and stressed how appropriate it would be for Augustus to remedy it. He may, however, also have touched on another aspect of the temple: its role as the repository of the *spolia opima*.

The principle that *spolia opima* could only be won by a *dux* from a *dux* is first found in sources of Augustan date – Livy, Propertius, Verrius Flaccus (the source of Festus) and the *elogium* of Romulus from the Forum of Augustus, as reflected in an *elogium* surviving at Pompeii.¹⁰⁷ It has sometimes been supposed that Augustus invented the rule himself. However, DESSAU himself and most of his followers rightly refused to go so far. So flagrant an attempt on Augustus' part to re-write the record would surely have been counterproductive. According to Livy the rule, along with the inscription on the corslet, constituted proof that the annalistic version of Cossus' rank must be wrong. He could hardly have hoped to convince his readers with this argument if the rule had only just been formulated. In any case, it would have been pointless to devise a rule that only a *dux* could dedicate *spolia opima* as a weapon against Crassus, since, as we have seen, Crassus satisfied the requirement.

Thus it appears that a consensus had become established well before Augustus' day that only a commander could dedicate *spolia opima*. However, this orthodoxy did not go unchallenged: Varro maintained that even a common soldier could dedicate such *spolia*.¹⁰⁸ Now Atticus was the dedicatee of two of Varro's works, enjoyed cordial relations with him and shared his scholarly interests.¹⁰⁹ It is thus not unlikely that he was aware of Varro's views about the *spolia opima*. Unfortunately, it is unclear whether Varro concerned himself with the matter of Cossus' rank and, if so, what line he took.¹¹⁰

Varro may have overlooked the annalistic tradition about Cossus, but it is unlikely that Atticus did so. His principal scholarly interest was in Roman history and genealogy. His most important literary work was his *Liber annalis*, and in

¹⁰⁶ Op. cit. (n.8) 409. The fetial declaration of war in 32: Dio 50, 4, 5. Jupiter Feretrius housing the *sceptrum* and the flint-stone: Paul. Fest. 81 L.

¹⁰⁷ See above at n. 7.

¹⁰⁸ See above pp. 88f.

¹⁰⁹ H. DAHLMANN, RE Suppl. 6, 1177; RAWSON, op. cit. (n.98) 102; HORSFALL, op. cit. (n. 102) xv–xvi.

¹¹⁰ See below nn. 138, 140.

the part of this work dealing with the Republican period he listed for each year the chief magistrates and notable events.¹¹¹ Atticus must have mentioned Cossus' dedication of *spolia opima* in this work, and it is likely that, when composing his entry, if not before, he became aware of the problems relating to it. He may have detected, as Livy did not, that the annalistic tradition was not unanimous about the date of Cossus' feat or his rank. He probably observed the conflict between the annalistic accounts, in which Cossus was either *tribunus militum* or *magister equitum*, and the orthodox view, which his friend Varro had called into question, that only a *dux*, holding an independent command, could win *spolia opima*.

Nepos tells us that Atticus' suggestion that Augustus should restore the temple arose from their correspondence, a correspondence in which he regularly consulted Atticus on antiquarian topics. It is thus not unlikely that, when urging him to restore the temple, Atticus made some reference to the problems relating to the *spolia opima* in general and Cossus in particular, and expressed the hope that investigation of the temple's contents, which the restoration would facilitate, might throw some light on the problem. It is, indeed, possible that it was a discussion of the problems of the *spolia opima* which gave rise to Atticus' suggestion that Augustus should undertake the restoration. If this suggestion is correct, it is not surprising that Augustus was able to discern the significance of what he saw – or thought he saw – on the corslet. If Atticus had brought the Cossus problem to his attention before he went to the temple, he and those who accompanied him will have been looking out during their visit for evidence which might bear on the question.¹¹²

If, as is usually supposed, Augustus used Cossus' corslet to bolster his case against Crassus, his discovery was a remarkable coup – remarkable either for its serendipity or for its effrontery. If Augustus did indeed see a corslet with an inscription which could reasonably be construed as describing Cossus as consul, the discovery was extraordinarily opportune. If he made up the claim, it was an audacious fabrication. I hope to have shown that the discovery is best accounted for in a quite different and less dramatic fashion, as arising simply from the antiquarian interests which Augustus shared with Atticus and which perhaps helped to bring about the restoration of the temple of Jupiter Feretrius itself. Such an explanation is not to be dismissed as naïve or trivializing, for Augustus' antiquarian concerns were not marginal, but of central importance for the shaping of his regime.

¹¹¹ On this work see Cic. Brut. 13–15, orator 120; Nepos, Att. 18, 1–2; F. MÜNZER, Atticus als Geschichtsschreiber, Hermes 40, 1905, 50–100; R. FEGER, RE Suppl. 8, 520–1; HORSFALL, op. cit. (n. 102) 99–100, with further bibliography.

¹¹² I assume here that the discovery was made on Augustus' visit. However, as Dr DRUMMOND points out to me, it is possible that the corslet and its inscription were noticed and drawn to Augustus' attention by an earlier visitor, perhaps Atticus himself, and that Livy either did not know or did not think it worth recording this circumstance.

6. Livy, Cossus and Augustus

Since DESSAU, Livy's treatment of Cossus' dedication of *spolia opima* has played a central part in the discussion of Livy's attitude to Augustus and his regime. Although divergent views have been held, they have all taken as their starting-point the presumption that Augustus derived political advantage from his claim to have discovered Cossus' corslet. We must now proceed to a reconsideration of Livy's handling of the Cossus episode in the light of the different interpretation of Augustus' discovery proposed above.

As we have seen (section 1 above), Livy's narrative account of how Cossus won his *spolia opima* represents him as doing so as a *tribunus militum* in 437 (4, 19, 1–20, 4), but Livy follows this with an excursus explaining that in fact Cossus must have been consul when he accomplished the feat (4, 20, 5–11). Contrary to what has often been supposed, Livy's language in the excursus is unequivocal on this point. The inscription, he says, proves, against him and his predecessors, that Cossus won the spoils as consul (*titulus ... illos meque arguit consulem ea Cossus cepisse*).¹¹³ The traditional account is thus in error, although it is anybody's guess how the mistake arose (*quis ea in re sit error ... existimatio communis omnibus est*).¹¹⁴ This claim is reiterated in the final sentence of the excursus: *Ea libera coniectura est sed, ut ego arbitror, vana, ... cum auctor pugnae, recentibus spoliis in sacra sede positis, Iovem prope ipsum, cui vota erant, Romulumque intuens, haud spernendos falsi tituli testes, se A. Cornelium Cossus consulem scripserit*.¹¹⁵ (<Conjecture here [sc. on the origin of the mistake] is free but, in my view, futile, ... since the man who fought the battle and had placed the fresh spoils in the holy shrine, almost looking at Jupiter himself, to whom they had been vowed, and at Romulus – not to be taken lightly as witnesses to a false inscription – wrote that he was A. Cornelius Cossus, consul.>)

Thus, in spite of various difficulties of interpretation, the overall line of argument in the excursus is clear: although the origin of their mistake remains a matter for speculation, there can, Livy maintains, be no doubt that his predecessors were wrong and that Cossus was in fact consul when he dedicated his *spolia opima*. Yet Livy disregards this conclusion in his subsequent narrative, and at one point explicitly represents Cossus as having won the *spolia opima* as *tribunus militum* (4, 32, 4).

¹¹³ Livy 4, 20, 6. For this sense of *arguit* see Oxford Latin Dictionary, s.v. *arguo* (5).

¹¹⁴ Livy 4, 20, 8. GRONOVIVS' generally accepted emendation *quis* for the manuscripts' *qui si* is surely correct, despite the doubts of BADIAN, Livy and Augustus (n.20) 32 n.14.

¹¹⁵ Livy 4, 20, 11. The omitted words, *versare in omnes opiniones licet*, have defied all attempts at interpretation (e.g. OGILVIE, op. cit. [n.20] 567; HARRISON, op. cit. [n.8] 410). They should either be emended (e.g., with WAGNER and MADVIG, *aversari enim* for *versare in*) or deleted altogether as a gloss (thus BAYET, ad loc.).

Livy's difficulties with his sources often led him into confusion, but there is nothing in his work comparable to this apparent double change of mind. The most likely explanation is that the excursus of 4, 20, 5–11 was a later addition. Some time after composing his main narrative, Livy became aware of Augustus' discovery, and chose to take account of it by inserting the excursus without changing the existing narrative.¹¹⁶

The reference at 4, 20, 7 to <Augustus Caesar, founder and restorer of all temples> shows that the excursus was composed after the restoration of the temples in 28 and the conferment of the name Augustus on 16 January 27. Further chronological precision depends on what view is taken of Livy's reference to Augustus' first closure of the temple of Janus in 1, 19, 3, which must have been composed after his adoption of the name Augustus, but before his second closure of Janus in late 25. If that sentence was part of the original draft of Book 1, the excursus on Cossus' corslet can hardly have been added before the late twenties B.C.¹¹⁷ However, LUCE has argued plausibly that the sentence was another later insertion. If this is correct, Livy may have begun the composition of his history in the late thirties and added the corslet excursus in or soon after 27.¹¹⁸ If we suppose that Augustus' visit to the temple of Jupiter Feretrius took place after his return to Rome in 29 and adopt the higher chronology for Livy's time of writing, the reason why Livy failed to take account of Augustus' discovery of the corslet when composing his first version will be that it had not yet happened. If, however, Augustus' visit to the temple took place before his departure for the East in 32, we must suppose that the discovery had already been made when Livy wrote his original account, but news of it had not yet reached the historian.

Most scholars assume that Augustus communicated his discovery to Livy directly. If this is correct, Augustus must have come across Livy's original version, without the excursus, and decided to set the historian right. Augustus may have encountered it at a pre-publication reading.¹¹⁹ Alternatively, the first published edition of Book 4 may have taken this form.¹²⁰ However, an ellipse in Livy's wording (*cum Augustum Caesarem ... se ipsum ... legisse audissem*) leaves it unclear how he learnt of Augustus' discovery. A verb of saying must be supplied, dependent on *Augustum Caesarem*. MENSCHING supplies *dicentem*, which makes Livy get the information direct from Augustus (<as I had heard Augustus Caesar saying that he himself had read ...>).¹²¹ However, *dixisse* is equally possible, which would

¹¹⁶ For this view see especially LUCE, loc. cit. (n.20).

¹¹⁷ So MENSCHING, op. cit. (n.20) 22–3.

¹¹⁸ LUCE, op. cit. (n.20), especially 218, followed by A. J. WOODMAN, *Rhetoric in Classical Historiography*, London 1988, 135. This dating was first advocated by BAYET, loc. cit. (n.20).

¹¹⁹ First suggested by C. CICHORIUS, *Römische Studien*, Leipzig 1922, 263.

¹²⁰ So BAYET and LUCE, opp. cit. (n.20).

¹²¹ Op. cit. (n.20) 21.

make Livy's information secondhand (‘as I had heard that Augustus Caesar had said that he himself had read ...’). This alternative in fact seems the more likely, for, if Livy had learnt of Augustus' discovery from his own lips, it would have been natural for him to advertise his relationship with the *princeps* by stating the fact unambiguously (‘when Augustus Caesar told me ...’).¹²² By the time Livy's history reached Pompey, he had been admitted to Augustus' friendship (Tac. ann. 4, 34, 3). However, it may well be that it was the success of the earlier books of the history which led Augustus to bring Livy under his patronage, and that in the early years of composition Livy had no personal acquaintance with him. Lack of direct contact with the court would help to explain how Livy could have failed to learn about Augustus' discovery until some years after it had happened, as must be supposed if the early dating for the discovery is accepted. As for the question of publication, it seems to me impossible to determine whether Livy inserted 4, 20, 5–11 (and 1, 19, 3, if that was also a late addition) prior to publication or in a ‘second edition’.¹²³

If, as is generally supposed, Augustus used his claim about Cossus to justify refusing an application from Crassus to dedicate *spolia opima*, Livy's treatment of what in that case would be a highly sensitive topic is very remarkable. In the excursus of 4, 20, 5–11 he pays Augustus a handsome compliment and accepts the corslet as proof that Cossus was consul when he won the *spolia opima*. Yet the excursus is embedded in a narrative which represents Cossus as achieving this feat as a mere *tribunus militum*. Moreover, within the excursus itself Livy dwells at considerable length on the conflict between the evidence of the corslet and the annalistic tradition. These contradictions have often been interpreted as the equivocations of a writer caught between political pressures and his respect for tradition and the truth. Some would go further, like MILES, who has recently described Livy's treatment of the episode as ‘devastatingly subversive’.¹²⁴

If, however, as I have argued, Augustus had no axe to grind and his interest in the question of Cossus' status was antiquarian, not political, Livy's handling of the matter becomes at once less significant and more readily comprehensible. It may be that it was partly out of deference to the ruler that he changed his mind about Cossus' rank and felt that he had to modify what he had written: something of the kind is indeed implied by his remark that he ‘deemed it almost a sacrilege to deprive Cossus of Caesar, the new founder of the temple itself, as witness to his spoils’. Nonetheless, if the episode had no contemporary relevance, Livy's words

¹²² Cf. HARRISON, *op. cit.* (n.8) 411; BURCK, *op. cit.* (n.20) 270; WHITE, *op. cit.* (n.20) 144–5; BADIAN, *Livy and Augustus* (n.20) 14–16, 32.

¹²³ There is no cogency in LUCE's argument (*op. cit.* [n.20] 214) that Livy could not have failed to eliminate the contradiction at 4, 32, 3 if he had inserted 4, 20, 5–11 before publication. See also below, n.127.

¹²⁴ *Op. cit.* (n.20) 40.

can be taken at face value: he was convinced that the annalistic tradition had been proved wrong about Cossus' rank. Against the tradition there stood first the principle that only a *dux* could dedicate *spolia opima*, and secondly and decisively Cossus' inscription. However, this conclusion had puzzling and disturbing consequences for him. In the first place, it was hard to see how the annalistic tradition could have been so comprehensively mistaken. Secondly, although he now held that the tradition was wrong, he could not attempt a complete recasting of his narrative, since he did not know what to put in its place. Accordingly he contented himself with retaining the existing narrative and inserting the excursus, which both set out the evidence which he took as refuting the tradition and discussed the problems to which this gave rise.

The criticism, so often levelled, that Livy should have inspected the corslet and its inscription in person, is misplaced. Ordinary citizens like Livy may not have been permitted access to the interior of the shrine where the corslet was kept.¹²⁵ Even if Livy could have gone to look at it himself, there was no need for him to do so, any more than there is for a modern scholar to inspect an inscription in person before using it in historical discussion. For Livy to go to check Augustus' information would have been to imply that he doubted his good faith. This would have been impolitic, and, if Augustus had no ulterior motive, unjustified as well. The possibility that the inscription might not be an authentic document from the time of Cossus seems not to have occurred to either Augustus or Livy, and, if it had, a personal inspection would hardly have helped Livy to decide the question.

Livy's reference to Augustus at 4, 20, 7 is extremely respectful, as are the other two references to him in the extant books (1, 19, 3; 28, 12, 12). Fulsome tribute is paid to Augustus' work as restorer of temples and Livy contrives a further compliment with the elaborate conceit that to deprive Cossus of the temple's *auctor* as witness would be almost a sacrilege (i. e. temple-robbing).¹²⁶ However, if Augustus' views about Cossus had no political significance, Livy's treatment of the episode can tell us little about his attitude to Augustus and his regime.

The writing of his history occupied Livy for most of his adult life, and no doubt his views changed during that time. The Preface may have been composed about the time of the Actium campaign or even earlier, and so its pessimism may reflect the uncertainties of the civil war period.¹²⁷ The ideology of the Augustan regime

¹²⁵ So CASSOLA, *op. cit.* (n. 18).

¹²⁶ The remark does not carry the clear implication of superhuman status for Augustus, as claimed by G. STÜBLER, *Die Religiosität des Livius*, Stuttgart 1941, 32–3, and MENSCHING, *op. cit.* (n. 20) 14, 26–9. However, it is too readily dismissed by WALSH, *PACA* 4, 1961 (n. 20), 30, 36 n. 46.

¹²⁷ So WOODMAN, *op. cit.* (n. 118) 128–34 (I am not convinced that this hypothesis requires us to suppose that Livy made the later additions to the early books in a second edition rather than before publication, as WOODMAN argues [*op. cit.* 155 n. 90]). See now J. MOLES, *Livy's Preface*, *PCPhS* 39, 1993, 141–68, and in general on Livy's attitude to con-

had evident appeal for a man of Livy's conservative sympathies. His attitude to the new dispensation will have emerged most clearly from his account of his own times. Only scanty traces survive in the *Periochae* and elsewhere of Livy's account of Augustus' early career and rise to power, but they are nonetheless enough to show that it was strongly favourable to him.¹²⁸ We are even more poorly informed about Livy's treatment of Augustus' principate down to his stopping point in B. C. 9, but the *Periochae* suggest that it mainly consisted of a celebration of the external successes of the period, and that the last five books were designed as a unit to commemorate the victories of Tiberius and Drusus.¹²⁹

Support for the regime did not, however, oblige Livy to accept the ruler's re-writing of the past. On Cossus Livy was convinced by Augustus, but he appears to have maintained his independence on a matter which was surely much closer to Augustus' heart, namely the *Ludi Saeculares*. According to Censorinus, Livy followed earlier authorities on both the length of a *saeculum* and the dates of earlier celebrations, in direct conflict with the statements of the *commentarii* of the *XVviri s.f.* and Augustus' edicts issued at the time of the games of B. C. 17.¹³⁰ Such independence is best seen as a mark not of opposition but of Augustan writers' freedom from literary duress.¹³¹

7. *Cossus and the right to dedicate spolia opima*

One further matter requires reconsideration in the light of the interpretations propounded above of the Crassus episode and of Augustus' discovery in the temple of Jupiter Feretrius, namely the long disputed questions of the right to dedicate *spolia opima* and Cossus' rank when he made his dedication.

temporary events as reflected in the early books R. VON HAEHLING, *Zeitbezüge des T. Livius in der ersten Dekade seines Geschichtswerkes: nec vitia nostra nec remedia pati possumus*, Stuttgart 1989.

¹²⁸ E.g. in 44 Antony is wholly responsible for the quarrel between him and Octavian and Octavian raises troops *et sibi et rei p.* (per. 117); in 43 the senate is *parum gratus* to Octavian and his troops, justifying his rapprochement with Antony (per. 119); in 40 Perugia is recovered *citra ullum sanguinem* (per. 126); in 36 Lepidus makes war on Octavian, justifying his ousting from the triumvirate (per. 129).

¹²⁹ B. MANUWALD, *Cassius Dio und Augustus*, Wiesbaden 1979, 168–254, gives a valuable analysis of the Livian tradition on the triumviral period and the reign of Augustus, in comparison with Dio's account. BADIEN, *Livy and Augustus* (n.20) 22–29 holds that Livy's account may have been more critical of Augustus than appears from the *Periochae*.

¹³⁰ Censorinus, d.n. 17, 9–11 = Livy, frs. 10, 65 W-M and per. 49.

¹³¹ See now WHITE, *op. cit.* (n.20), especially chs. 5–6. Similarly, Livy's own version of events acquired no special authority for his contemporaries. The *elogia* in the Forum of Augustus evince conspicuous divergences from Livy's account, as is shown by T.J. LUCE, *Livy, Augustus and the Forum Augustum*, in: K. A. RAAFLAUB – M. TOHER (eds.), *Between Republic and Empire: Interpretations of Augustus and his Principate*, Berkeley – Los Angeles – Oxford 1990, 123–54.

If Augustus had an ulterior motive for his claim about Cossus, then his story of the inscribed corslet could be a fabrication. If, as I have argued, he did not, then we cannot doubt that he had seen such a corslet and sincerely believed that it proved that Cossus was consul when he dedicated his *spolia opima*, a belief which, as we have seen, Livy came to share. However, this belief was almost certainly mistaken. In the fifth century the consuls may have been known as *praetor*, and it is doubtful whether the term *consul* could have been used on an inscription of that period either for them or for consular tribunes. The suggestion that Augustus mistook as an abbreviation for *consul* what was in fact a form of the *cognomen* Cossus does not help, for *cognomina* are absent from early inscriptions.¹³² In any case, it may be doubted whether a linen corslet would have survived intact for four hundred years in a temple which itself became dilapidated, and, if it did, it is most unlikely that a painted inscription would have remained legible after so long a period. The corslet as Augustus saw it was probably the result of a later restoration, possibly carried out at the time of Marcellus' dedication. The inscription may have been added for the first time then; alternatively, it may have been restored with new wording. In either case the description of Cossus as consul may not have been based on reliable evidence that he dedicated the spoils as consul, and may have been intended to mean no more than that in the course of his career he held the consulship.¹³³

The evidence of the inscription is thus best discounted. In view of the duplications in Livy's account of the warfare against Veii and Fidenae, it is probable that his version, in which Cossus dedicated the spoils as *tribunus militum* in 437, is a late elaboration, and the alternative account, in which he did so as *magister equitum* in 426, represents the earlier tradition. However, the annalists may have had no firm evidence on these points. What is striking is the unanimity of the annalistic tradition that Cossus dedicated the spoils not as the supreme commander, but as a subordinate. Since this ran counter to the principle which was later generally accepted, it seems unlikely to be an invention.

Thus Cossus was probably a subordinate when he dedicated *spolia opima*. If so, it must have been at some later period that the doctrine that only a commander could win *spolia opima* was evolved and gained widespread acceptance. As we have seen, it was already established orthodoxy by the mid first century B.C., when it was challenged by Varro. A possible explanation for the development

¹³² This suggestion was first made by RUTGERS, *op. cit.* (n. 14), and revived independently by O. HIRSCHFELD, *Kleine Schriften*, Berlin 1913, 398–9.

¹³³ For solutions on these lines see PERIZONIUS, *op. cit.* (n. 14) 294–306; BISHOP, *op. cit.* (n. 27); OGLIVIE, *op. cit.* (n. 20) 563. The practice of not restoring spoils mentioned by Plut. *q. R.* 37, may not have applied to spoils kept in temples, and, if it did, need not have prevented the addition of an inscription or repair of an inscription already added.

might be that in the mid Republic the elite came to feel that nothing should detract from the glory of the triumphing commander.¹³⁴

The question of eligibility to dedicate *spolia opima* is complicated by the tripartite classification of spoils, for which rules were prescribed in the pontifical books and in a 'law of Numa', and which is known to us from references in Festus, Plutarch and Servius. As we have seen, Varro drew on this material in support of his view that an ordinary soldier could win *spolia opima*.¹³⁵ The source for the 'law of Numa' must have been the work which purported to be a collection of laws of the kings (*leges regiae*) made by a certain Papirius either under the last Tarquin or soon after his death (Dion. Hal., Ant. Rom. 3, 36, 4; Pomponius, Dig. 1, 2, 2, 2. 36). This compilation was current in the Caesarian period, when Granius Flaccus wrote a commentary on it (Paulus, Dig. 50, 16, 144). Some scholars suppose that the collection included genuinely archaic elements, whereas others hold that its oldest material was the work of fourth or third century *pontifices*.¹³⁶ The law about *spolia* quoted by Festus cannot be archaic as it stands. However, it is possible that it preserves an archaic core, with later accretions like the monetary payments and the composite deity Janus Quirinus.¹³⁷

One interpretation of the tripartite classification favoured by many scholars is that what distinguished the three categories was the rank of the Roman who won the spoils and that only supreme commanders could win the 'first spoils', which went to Jupiter Feretrius. On HERTZBERG's view, Varro himself interpreted the classification in this way.¹³⁸ If this explanation of the classification in terms of the

¹³⁴ DESSAU, Livius und Augustus (n. 17) 150 n. 3.

¹³⁵ See above pp. 88 f.

¹³⁶ For recent discussions see A. WATSON, Roman Private Law and the *leges regiae*, JRS 62, 1972, 100–5; S. TONDO, *Leges Regiae e Paricidas*, Florence 1973; F. WIEACKER, *Römische Rechtsgeschichte I*, Munich 1988, 307–9; M. H. CRAWFORD (ed.), *Roman Statutes*, London 1996, II, 561–3. J. CARCOPINO, *Les prétendues 'lois royales'*, MEFRA 54, 1937, 344–76, implausibly argued that the laws were a neo-Pythagorean forgery by Granius Flaccus.

¹³⁷ On Janus Quirinus as a relatively late collocation see OGILVIE, op. cit. (n. 20) 132; MAGDELAIN, *Quirinus* (n. 27) 203–5. G. CAPDEVILLE, *Les épithètes cultuelles de Janus*, MEFRA 85, 1973, 420–2, followed by R. TURCAN, ANRW II 17, 1, 376–80, holds that Janus Quirinus was an Augustan innovation. However, it seems unlikely that Verrius Flaccus, Festus' source, himself inserted Janus into the 'law of Numa', as CAPDEVILLE suggests.

¹³⁸ HERTZBERG, op. cit. (n. 16), arguing that Varro and his opponents were in agreement that only commanders could dedicate the 'first spoils' and that the issue between them was merely whether the term *opima* should be restricted to the 'first spoils', or, as Varro held, applied to all three classes of spoils. On this interpretation, Varro's view implied that Cossus was commander when he dedicated the *spolia opima* (unless he was prepared to doubt that Cossus' dedication was made to Jupiter Feretrius). HERTZBERG provided a conjectural supplement (misreported in LINDSAY's edition) for the lacuna in Festus as follows: *M. Varro ait opima spolia esse etiam si manipularis miles detraxerit, dummodo duci hostium. (sed prima esse utique, quae dux duci. vetari enim, quae a duce recepta) non sint ad aedem Iovis Feretri*

winner's rank is correct, it cannot have been in force when Cossus dedicated his spoils in the temple of Jupiter Feretrius, if, as we have just concluded, he was not in supreme command at the time. In that case, it is probable that at some later point the *pontifices* introduced the classification, and with it the rule that only a commander could dedicate *spolia opima* to Jupiter Feretrius.¹³⁹ However, it is very doubtful whether this is the right interpretation of the classification. One difficulty is that, although enemy commanders were probably sometimes killed by Roman soldiers, no record survives of actual dedications of 'second' or 'third spoils'. Moreover, the text of the 'law of Numa', as preserved in Festus, is extremely obscure, and, as MAZZARINO observed, it can be taken as implying a distinction between the man who won the 'first spoils' and the commander under whose auspices they were won.¹⁴⁰

An ingenious alternative explanation of the classification has been proposed by PICARD, who takes the three types of spoils to represent three stages in a pre-Etruscan form of triumphal procession, in which spoils were dedicated first to Mars in the Campus Martius, then to Janus Quirinus at the crossing of the *pomerium* and finally to Jupiter Feretrius on the Capitol.¹⁴¹ The dedication of the *spolia opima* was clearly a ritual of great antiquity, and it may well be that originally it was not restricted to cases where the enemy commander was killed and took place more often than later tradition allowed. It is possible that, as OAKLEY has recently

poni. RAMPENBERG, op. cit. (n. 27) 211, followed by MAGDELAIN, Quirinus (n. 27) 208, adopts a supplement according to which it was not Varro, but the supporters of the view that only commanders could win *spolia opima* who adduced the pontifical books and the 'law of Numa' (*alii autem ea quae dux duci, neque quae a duce capta*). This supplement was first mooted by S. MAZZARINO, *Intorno ai rapporti fra annalistica e diritto: problemi di esegesi e di critica testuale*, in: *La critica del testo, Atti del secondo congresso internazionale della società italiana di storia del diritto*, Florence 1971, I, 441–66 at 465 n. 97. However, MAZZARINO himself rightly rejected this possibility, recognizing that Plutarch's evidence shows that it was Varro who adduced the 'law of Numa' (see above at n. 10). The solution proposed by PARIENTE, op. cit. (n. 6), appears to be based on a misreading of LINDSAY's apparatus.

¹³⁹ So K. LATTE, *Römische Religionsgeschichte*, Munich 1960, 204–5; OGLIVIE, op. cit. (n. 20) 71; DALY, op. cit. (n. 19) 60–1; MAGDELAIN, Quirinus (n. 27) 208–11; RÜPKE, op. cit. (n. 27) 219–23.

¹⁴⁰ Op. cit. (n. 138) 462–5. MAZZARINO suggests that this interpretation of the provision relating to the 'first spoils' was the basis of Varro's claim that common soldiers could win *spolia opima* (he offers, *exempli gratia*, the following supplement for the lacuna in Festus: *prima autem prope Romuli spolia poni, neque enim quae prima*) *non sint ad aedem Iovis Feretri poni*). However, Festus' evidence suggests that Varro appealed to the pontifical books as well as the 'law of Numa', and this, along with the corresponding passage in Plutarch (Marc. 8, 9), perhaps indicates that he based his case on the tripartite classification itself.

¹⁴¹ G. C. PICARD, *Les trophées romains*, Paris 1957, 131–3, followed and further developed by L. B. WARREN, *Roman Triumphs and Etruscan Kings: The Changing Face of the Triumph*, JRS 60, 1970, 51–7.

suggested, the original *spolia opima* were dedicated when a war was decided by single combat between champions.¹⁴² However, it seems unlikely that the 'law of Numa' with its tripartite classification of spoils could have survived from so remote a period, if it was superseded by developments as early as the introduction of the Etruscan-style triumph under the Tarquins. Moreover, as he recognizes, PICARD's hypothesis requires us to suppose that the order of the spoils was altered in transmission, since in the preserved order Jupiter comes first, Mars second and Janus Quirinus third. The date and meaning of the 'law of Numa' and the tripartite classification of spoils remain an insoluble puzzle.¹⁴³

One other interpretation of the 'law' and the tripartite classification remains to be discussed, according to which the three spoils were those dedicated by respectively Romulus, Cossus, and Marcellus. This interpretation is certainly incorrect, but, as Servius saw, such a doctrine must be the basis for Virgil's statement (Aen. 6, 859) that Marcellus 'will hang up the third set of arms captured to father Quirinus' (*tertiaque arma patri suspendet capta Quirino*).¹⁴⁴ AUSTIN sought to save Virgil's credit by taking him to mean that Marcellus made his dedication in the temple of Jupiter Feretrius 'in Romulus' honour'.¹⁴⁵ It is true that Livy 4, 20, 11 seems to imply that there was a statue of Romulus in that temple. Nonetheless, this seems a very strained interpretation of Virgil's words, which should surely be given their natural meaning, namely that Marcellus dedicated his *spolia opima* in the temple of Quirinus.

Virgil was evidently following some antiquarian's interpretation of the 'law of Numa', which further implied that only Romulus dedicated his *spolia opima* in the temple of Jupiter Feretrius and that Cossus dedicated his at the altar of Mars in the Campus Martius.¹⁴⁶ This view contradicted not only the consensus, reflected in all our other sources, that all three dedications of *spolia opima* were made in the temple of Jupiter Feretrius, but also Augustus' claim to have discovered the corslet dedicated there by Cossus. When Virgil wrote these lines, he either

¹⁴² Op. cit. (n. 11) 398. OAKLEY regards it as 'inconceivable that the ceremony was performed only once in the period between Romulus and Marcellus'.

¹⁴³ E. NORDEN, *P. Vergilius Maro Aeneis Buch VI*³, Stuttgart 1926, 340–1, suggested another interpretation: that the 'first', 'second' and 'third spoils' were won simply by the first three soldiers to take spoils in a battle. However, it would have been difficult to determine priority under battle conditions, and, unless it became obsolete at an early date, it is hard to see why such a practice did not leave more trace in our sources or how it came to be confused with the *spolia opima*.

¹⁴⁴ The passage is helpfully discussed by H. E. BUTLER, CR 33, 1919, 61–3. For Virgil, as for Plutarch and Servius, the dedicatee of the 'third spoils' was evidently Quirinus rather than Janus Quirinus.

¹⁴⁵ R. G. AUSTIN, *P. Vergili Maronis Aeneidos Liber Sextus*, Oxford 1977, 266–7; cf. HARRISON, op. cit. (n. 8) 413.

¹⁴⁶ As specified in Festus' version of the law (above n. 9). On the altar see L. RICHARDSON, op. cit. (n. 101) 245.

did not know of Augustus' claim or disregarded it. This is all the more remarkable in the light of the ancient tradition that Book 6 was one of the three books of the Aeneid which Virgil read to Augustus and that the *princeps* and his sister were overcome with emotion at the evocation of the death of Augustus' nephew Marcellus, which immediately follows the lines in question.¹⁴⁷

Augustus' claim was noted and accepted by Livy, and, as HARRISON, *op. cit.* (n. 8), has recently argued, it may also be reflected in the unanimity of the Augustan sources on the principle that *spolia opima* could only be won by a *dux* from a *dux*. However, this passage of Virgil shows that Augustan writers were under no pressure to observe the official line on the *spolia opima*, and provides a further illustration of the rich diversity of views about the details of Rome's past which could flourish under Augustus.¹⁴⁸

8. Conclusion

The argument of this paper has been long and complex. It is time to draw the threads together.

The news that Crassus had personally killed the king of the Bastarnae and so might seek to dedicate *spolia opima* cannot have been welcome to Augustus, for the revival of this ancient rite by a Roman noble would have seriously detracted from the celebration of his own military achievements. According to the view first put forward by DESSAU and now established orthodoxy, Crassus formally applied to the senate to dedicate *spolia opima* and Augustus saw to it that he was declared ineligible to make the dedication. If this is correct, the rebuffing of Crassus will have been one of the most important political crises of the early years of Augustus' reign.

Events may have taken this course, although Augustus would have had difficulty in finding a plausible ground on which to challenge Crassus' right to dedicate *spolia opima*. However, there is an alternative possibility: the matter may have been settled behind the scenes, with Crassus either yielding to pressure or choosing of his own accord not to seek to dedicate *spolia opima* in order to avoid offending Augustus. This was surely Augustus' preferred outcome, and, as I have tried to show, it is the more likely of the two scenarios.

In either case, the episode played no part in bringing about the constitutional settlement of 27. The chief way in which Crassus influenced that settlement was

¹⁴⁷ Donatus, *vit. Verg.* 32; *Serv. Aen.* 6, 861.

¹⁴⁸ For another instance of Virgilian divergence see A. J. WOODMAN, *Virgil the Historian: Aen. VIII. 626–92* and Livy, in: J. DIGGLE – J. B. HALL – H. D. JOCELYN (eds.), *Studies in Latin Literature and its Tradition in Honour of C. O. Brink*, PCPhS Suppl. 15, Cambridge 1989, 132–45. (I cannot accept WOODMAN'S view that *Aen.* 8, 640 implies a variant account of the founding of the temple of Jupiter Feretrius, dissociating it from the first dedication of *spolia opima*).

probably that his victories prevented Augustus from including the Balkan provinces among those which he reserved for himself on the grounds that they needed pacifying.

If, as now seems likely, Crassus' right to dedicate *spolia opima* was not in dispute, Augustus cannot have had a political motivation for his claim that Cossus was consul when he dedicated his *spolia opima*. In that case, what lies behind the claim is not a political intrigue, but something no less significant: Augustus' participation in the cultural life of his class and time. Although he reached a mistaken conclusion, Augustus' involvement in the question arose, in my view, from a genuine interest in the antiquities of Rome. Nepos tells us of Augustus' scholarly friendship with Atticus, which led to the restoration of the temple of Jupiter Feretrius. It is a reasonable conjecture that it was Atticus who aroused Augustus' interest in the problem of Cossus and the *spolia opima*.

Livy's discussion of Cossus' rank at 4, 20, 5–11 is a later insertion, composed after he learnt of Augustus' discovery of the corslet. If, as I have argued, Augustus had no axe to grind, Livy's language in this excursus may be taken at face value: although puzzled by the conflict with the annalistic tradition, Livy was honestly convinced of the correctness of Augustus' view – a reasonable conclusion, although in fact mistaken.

Livy followed Augustus' line about Cossus, and the unanimity of the sources of Augustan date on the principle that only a *dux* could dedicate *spolia opima* may be a reflection of the *princeps*' view. However, Virgil either did not know of Augustus' discovery or disregarded it when he wrote Book 6 of the *Aeneid*. When they treated the *spolia opima*, as with other aspects of the Roman past, Augustan writers did so in a way which showed respect for Augustus and was in accord with the values of the regime, but they were under no compulsion to propagate an official version of the past and a diversity of views could flourish.

The traditional view of these events evokes a vivid picture of political crisis and writers under political pressure. The alternative reconstruction for which I have argued here may seem less dramatic, but it is, I would argue, closer to the realities of the political and cultural history of the age.¹⁴⁹

Department of Classics
University of Nottingham
University Park
GB – Nottingham NG7 2RD

¹⁴⁹ I am very grateful to ANDREW DRUMMOND, ALAN SOMMERSTEIN and ANDREW WALLACE-HADRILL for their comments on earlier drafts of this paper.

