

NOTES AND DISCUSSIONS

DE LEGE AGRARIA 2. 49

et mihi, quaeso, ignoscite, si appello talem uirum saepius. uos mihi praetori biennio ante, Quirites, hoc eodem in loco personam hanc imposuistis ut, quibuscumque rebus possem, illius absentis dignitatem uobiscum una tuerer.

Cicero addressed these words to a public meeting in Rome early in 63 B.C. The language is specific enough to suggest that Cicero was referring back to a particular occasion: it was two years ago, when he was praetor, in the very same spot, that he was obliged or urged to accept the role of protector of the interests of the absent Pompey. If Cicero had a particular occasion in mind, what was that occasion? The few commentators¹ who have taken note of this passage have usually taken the reference to be to Cicero's speech in 66 B.C. in support of the Manilian law (designed to give Pompey command of the war against Mithridates). That speech was indeed the first occasion when Cicero had publicly associated himself with Pompey's interests and a "popular" cause. But the language in the passage above is not really appropriate to such a reference. These words were spoken at the beginning of the year 63; the speech in support of the Manilian law was delivered early in 66. Can *biennio ante*, "two years ago," refer back over so long a period (almost three years)? Moreover, is the verb *imposuistis* ("you pressed on me . . .") suitable to describe Cicero's apparently voluntary (and well-considered) action in coming forward to speak for Pompey in a situation which need not have directly involved him?

One of the great tours de force of Cicero's career was his success, as consul, in arguing that the agrarian bill proposed by the tribune Rullus was against the Roman people's own best interests. The speeches in which he argued

this point (*Leg. agr.* 1–3, especially 2 and 3) were so successful that the sponsors of the bill withdrew it, although agrarian bills of this kind had a long republican history and usually had great appeal to the people.²

In his speech to the senate (*Leg. agr.* 1), Cicero had little difficulty in representing Rullus' bill as an infringement of senators' traditional privileges and therefore to be opposed. His references to Pompey were along these same lines: a tribune was interfering improperly with a Roman general and Roman revenues. It was the common (senatorial) *dignitas* that was at stake,³ and the senate must reassert its *auctoritas*. Cicero's stance before the people, however, as the true champion of their interests was not an automatically convincing one. Rullus and the other sponsors of the bill had declined to consult with Cicero on the bill, claiming that there was no likelihood of his supporting any agrarian law (*Leg. agr.* 2. 12); and Cicero opposed three other tribunician proposals of the year 63 (Dio 37. 25). In his speeches to the people on Rullus' proposal, Cicero used several methods to identify himself with the people and their interests: he dissociated himself from the *nobiles* and reminded his audience that he was a "new man," with no network of powerful relatives and friends to support him; by linguistic acrobatics he tried to show that the term *popularis* could most justly be applied to him; and he exploited popular prejudices (e.g., against the *Sullani* and against Capua). But most of all he stressed that he was the only one alert enough to perceive that the real target of Rullus' bill was Pompey. He portrayed Pompey as the champion and protector of the people (*Leg. agr.* 2. 23, 25, 62, 99) and himself as the defender of Pompey's interests; there-

1. E.g., J. H. Freese in the Loeb edition (London 1956), and E. J. Jonkers, *Social and Economic Commentary on Cicero's "De lege agraria"* (Leyden, 1963) p. 93. Jonkers recognizes that there is something odd about the language for the reference he gives it, but is satisfied to explain it away as a

"tendentious interpretation of things."

2. As Cicero himself admitted, *Leg. agr.* 2. 63: "hoc populaire legis agrariae nomen." Cf. 2. 101.

3. Whereas in his speeches to the people it was Pompey's individual *dignitas* that needed protecting.

fore Cicero must also be the defender of the people's interests.

Cicero himself recognized that most of his arguments about the anti-Pompey nature of the bill were irrelevant to the central issue of agrarian reform.⁴ About halfway through his first speech to the people, he paused to apologize for his frequent references to Pompey (*Leg. agr.* 2. 49). His justification, he said, was that the people had previously pressed on him the role of protector of the interests of the absent Pompey: "uos mihi praetori biennio ante, Quirites, hoc eodem in loco personam hanc imposuistis, ut, quibuscumque rebus possem, illius absentis dignitatem uobiscum una tuerer." Cicero must be referring back to the year 66, because he says that it was when he was praetor. Thus *biennium* must cover more than a strict two-year period: from the beginning of 63 to some time in 66. It is possible that Cicero was referring back to the whole of his praetorship rather than to one specific occasion during it. He would then have been using *biennio ante* to refer back to the year 66 over the two-year interval between praetorship and consulship. If so, that is if his language was designed to conjure up an image of the whole of his praetorship, we need to ask what occasions would support such an image. If, however, Cicero was referring back to a specific occasion, that occasion is unlikely to have been his support for the Manilian law. As already suggested, *imposuistis* makes that unlikely, and there is the further fact that no other use of *biennium* in Cicero stretches the term to cover almost three years. In most passages *biennium* is clearly approximately two years, often two administrative years.⁵ But it is seldom possible

to define the span of *biennium* more exactly, in terms of number of months. In *Cael.* 78⁶ the span is probably a little over two years, from the beginning of 58 to shortly before April 56 (although it is probably the two years 58 and 57 that Cicero had mainly in mind.) It is conceivable that at the beginning of 63 Cicero could use *biennio ante* to refer to the end of 66, but most unlikely that he could use it to refer specifically to early 66. If there was an occasion late in 66 which would satisfy the allusions of the *Leg. agr.* 2. 49 passage, it should be preferred to the occasion of the *De imperio Cn. Pompei*.

There was such an occasion: at the end of 66 a prosecution was brought against the tribune Manilius as soon as he left office, by certain leading citizens who had opposed his actions earlier in the year and had been waiting their chance for revenge (Dio 36. 44. 1). Whether or not their prosecution was actually aimed at Pompey,⁷ it must have caused Pompey some chagrin for the man to whom he owed his extraordinary command to be brought into discredit. The prosecution of Manilius could be seen as a diminution in Pompey's *dignitas*. Manilius' trial was to be held in Cicero's court, and Cicero was embarrassed at the prospect of being involved in the trial of a man whom he had publicly supported earlier in the year but for whom he had basically little regard.⁸ He was apparently even more embarrassed at the prospect of having to handle Manilius' defense than at the prospect of having to preside over his trial, and he tried to rush the trial on in his last days of office. This action provoked such a hostile demonstration against him that he was forced to justify

4. In fact, only one specific clause could be interpreted as anti-Pompey (2. 24), and many aspects of the bill could be interpreted as favorable to Pompey's interests. See G. V. Sumner, "Cicero, Pompeius, and Rullus," *TAPA*, XC VII (1966), 569–82.

5. E.g. *Verr.* 2. 3. 216, *biennium prouinciam obtinuit*, "(Sextus Peducaeus) governed his province for two years (76 and 75 B.C.)." Cf. *per triennium* in *Pls.* 86: Piso was governor from the beginning of 57 to the middle of 55. In *Lael.* 41, *biennio post* is used of the interval between the Gabinian law of 139 B.C. and the Cassian law of 137. In *Fam.* 10. 25. 2 there is a reference to the *biennium* required between the end of the aedileship and the beginning of the praetorship. It is this kind of usage that would support the view that in the passage under discussion *biennio ante* refers back, over the two-year interval between praetorship and consulship, to the praetorship as a

whole. But this example also makes it unlikely that the phrase would refer back to a specific incident *early* in the praetorship.

6. Concerning the recent acquittal of Sextus Cloelius "quem uos per biennium aut ministrum seditionis aut ducem uidistis."

7. As suggested in Plut. *Cic.* 9. 4. Val. Max. 6. 2. 4 refers to a trial of a certain Manilius, prosecuted by Gnaeus Piso, and says that the prosecution was aimed at both Manilius and Pompey. The identification with the tribune Manilius is not certain.

8. Moreover, I suspect that by the end of the year Cicero was anxious to withdraw somewhat from the radical position he had taken in supporting the Manilian law earlier in the year. Note the attacks on tribunes and *contiones* (public meetings) in the *Pro Cluentio* and the praise of the two Luculli.

his position before a public meeting and to promise some help to Manilius. He agreed to speak in Manilius' defense when the uncompleted trial came up again in 65. As events turned out, Cicero was saved from fulfilling this undertaking by disturbances which broke out in 65 and which seem to have forced the suspension of Manilius' trial for *res repetundae*. By the time Manilius came to trial in 65 on a new charge (*maiestas*) Cicero was able to resist pressure⁹ to defend him. But soon after (in 65) he took on a more rewarding "Pompeian" case, the defense of the ex-tribune Cornelius, whose connections with Pompey went back at least to the seventies, and he won an acquittal for Cornelius.

The circumstances surrounding Manilius' trial at the end of 66, therefore, are appropriate to Cicero's reference to an occasion in his praetorship, "two years ago," when a mob in the forum¹⁰ obliged him to take on the role of protecting Pompey's interests and reputation (his *dignitas*) during Pompey's absence. It was quite appropriate for Cicero to say that this

9. From the praetor Gaius Attius Celsus: Asc. 65C.

10. *Hoc eodem in loco* probably refers specifically to the *rostra*. Plutarch (*Cic.* 9. 6) reports, in his account of the Manilius case of 66, that tribunes summoned Cicero to the *rostra* (*βήμα*) to explain his actions, and the *rostra* is the natural place from which a magistrate would address the people.

11. The only Ciceronian use of *biennium* which might seem to support a reference to a three-year period is in *Sull.* 67. Cicero's opponents in the trial of Publius Sulla in 62 had quoted against Cicero a letter which he had written to Pompey saying that a madness which had been conceived two years earlier (*biennio ante*) had broken out in Cicero's consulship. The madness was the Catilinarian conspiracy of 63, and Cicero had gradually built up a picture of an earlier plot which was supposed to have preceded Catiline's main attempt at a coup. In the traditional form into which the story of a "first Catilinarian conspiracy" settled (via Cicero, Sallust, Suetonius, and Dio: see R. Seager in *Hist.*, XIII [1964], 338-47), plans were laid late in 66 for a coup early in 65. Thus it would seem that Cicero's letter to Pompey referred the conspiracy of 63 back to the end of 66. The precise length of the *biennium* would depend on when Cicero thought the conspiracy of 63 had broken out (*erupisse*): if he meant the violent behavior of Autronius and his friends and the other disturbances of the beginning of 63 (as in *Sull.* 66 and *Leg. agr.* 2. 8), the period of *biennium* would be very little more than two years exactly; if he meant the coup which he alleged was planned for the time of the consular elections in mid-63 (*Sull.* 51), the period would be a little over two and a half years; if he meant the eventual disclosures in the senate and the declaration of Catiline as a public enemy (Nov. 63), the period would be almost three years. But it is not only the later terminus of this *biennium* which is uncertain: the earlier terminus is highly debatable. Most authorities today agree that the "first Catilinarian conspiracy" was a nonevent, and that the gradual

task was to be carried out in association with the people (*uobiscum una*); for Manilius had considerable popular support at that moment and was being attacked by men of rank. But the language used in this passage is inappropriate to a specific reference back to the speech supporting the Manilian law, for two reasons: (1) As far as we know, Cicero was under no popular pressure to come forward to support the Manilian law. In fact, his previous career had given no indication that he might take this stand, and it must have occasioned some surprise. Once he had taken this stand, however, he was subject to popular pressure (especially with the consulship campaign ahead) to maintain it. (2) The speech for the Manilian law had been delivered about three years before the speeches against Rullus' law. The phrase *biennio ante* is much more appropriate to refer to events at the end of 66 rather than at the beginning of 66. I can find no other use of *biennium* in Cicero to justify a reference to the beginning of 66.¹¹

Although the events of late 66, surrounding

fabrication of its story can be detected. At Rome in the sixties the various rumors had not yet settled into a received version: almost any innuendo as to participants, date, or victims could find some credence, and there are conflicting allusions in Cicero himself. In mid-64, during his consulship campaign, he alleged (Asc. 92C) that Catiline had been involved in an earlier, abortive plot to murder leading citizens. The charge was very vaguely worded, but Asconius attributed the plot to the year 65. In *Cat.* 1. 15 (Nov. 63) Cicero named the last day of 66. In the defense of Murena in the same month, Cicero referred to a three-year period (*triennium*: *Mur.* 81) of disturbances connected with Catiline. In the defense of Sulla in mid-62, he claimed that there had been no knowledge or suspicion of a conspiracy in mid-65 (*Sull.* 81) or in 64 (*Sull.* 56). In a letter attributed to him by Suetonius (*Jul.* 9. 2), Cicero claimed that Caesar had had treasonable ambitions in the year 65. In the light of such conflicting statements, and the atmosphere of general suspicion and wild allegation, it seems impossible to be certain what period Cicero was referring to in the use of *biennium* in *Sull.* 67. One cannot even be certain that he had a precise length of time in mind. (Note that *Div.* 2. 46, taken with *Div.* 1. 21 and 2. 47, uses *biennium* of the period between 65 B.C. and the disclosure of the Catilinarian conspiracy.)

This seems to me enough to deprive the *Sull.* 67 passage of any weight as a parallel for a reference of nearly three years in *Leg. agr.* 2. 49. There is, however, a more positive argument that *biennium* in *Sull.* 67 means "two years," put forward by C. E. Stevens in *Latomus*, XXII (1963), 397-435. If Stevens is correct, there was some plotting against the consuls who were due to enter office at the beginning of 65, but this was not "Catilinarianism" but rather anti-Pompeianism. Pompey could be expected to have some suspicion of this (especially as he was probably on good terms with Catiline early in 65), and Cicero could not, in writing to Pompey, relate the begin-

the prosecution of Manilius, had embarrassed Cicero at the time, he had been able to extricate himself and had further retrieved his position in 65.¹² He would like now, at the beginning of 63, to represent his stand on the agrarian law as consistent with a line of conduct since 66. If he dates the beginning of that line of conduct from any specific point, it is from the prosecution of Manilius rather than the time of the Manilian law. But he may be trying to re-create in people's minds a picture of his whole praetorship as a popular, pro-Pompey year, and both the beginning and the end of that year would be relevant: the support for the Manilian law and the "help" offered to Manilius the defendant. The language used by Cicero is more appropriate to the end of 66 than to the beginning of 66, but with Manilius being a common element in both situations people's thoughts could be expected to embrace the whole year. To promote this view of his praetorship Cicero would wish to stress

memories of his activities in the forum (on the *rostra*) rather than of his stand elsewhere. (On his defense of Cluentius in 66, see n. 8. Consistent with Cicero's praise there of the Luculli were his efforts later in 63 which succeeded in getting Lucius Lucullus his triumph—over Mithridates and Tigranes, the very enemies for whose defeat Pompey was to claim a triumph in 61!) He would hope too that for the intervening years people's thoughts would turn not to his intense, semiprivate lobbying in all quarters but to a public stand such as the defense of Cornelius. His language is appropriate to this end of presenting an "edited" version of his praetorship and the intervening two years. It was by drawing Pompey's name into the debate on Rullus' bill in 63 that Cicero hoped to justify to the people his present stand, as part of a consistent policy of protecting Pompey's *dignitas*.

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nings of the Catilinarian conspiracy to events of early 65. He therefore dated these beginnings later than he did in some other contexts—to a time not earlier than the end of 65. On this argument, Cicero would be using *biennium* with the normal meaning of "approximately two years." (This passage is cited, without discussion, in the new *Oxford Latin Dictionary*, Fasc. I (Oxford, 1968) as an example of the normal usage of *biennium*.)

12. He had escaped the necessity to defend Manilius (*pace*

E. Gruen, *CP*, LXIV [1969], 23), who had since left Rome and presumably faded from the public conscience, but he had defended Cornelius with great success. In defending Cornelius he had undertaken a popular cause, in which there was a number of distinguished citizens (five ex-consuls) ranged against him. The *Commentariolum petitionis* (sect. 51), written from the standpoint of early 64, assumes that Cicero's agreement to help defend Manilius had contributed to his popular support.

NOTES ON THE PEACE OF CALLIAS

I

According to Demosthenes (19. 273), Diodorus (12. 4. 5), and Aristodemus (13), the Persians agreed in the Peace of Callias not to sail beyond Phaselis, the Chelidonian Islands, and the Cyanean Rocks.¹ To confirm some such limitation on Persian naval activity supporters of the authenticity of the Peace usually cite Thucydides 8. 56. 4. Here Alcibiades, acting on behalf of Tissaphernes in negotiations with the Athenians, repeatedly raises the price for Persian assistance. The Athenians each time agree to meet the price until Alcibiades at

last ναὺς ἡξίου εἶν βασιλέα ποιεῖσθαι καὶ παραπλεῖν τὴν ἑαυτοῦ γῆν ὅπῃ ἂν καὶ ὅσαις ἂν βούληται. Arguing against the genuineness of the Peace, David Stockton asks, "Are we to suppose that the Peace of Callias forbade the Great King to build ships, *tout court*?"² Perhaps what Alcibiades has in mind is an agreement by which the King was bound not to build ships *in a certain portion* of his Empire. We find in Xenophon (*Hell.* 1. 1. 25) that Pharnabazus "called together the generals and trierarchs from the cities and urged them to build at Antandrus as many ships as each had lost, offering money and telling them to get timber

1. See also Plut. *Cim.* 13. Other likely references to this clause of the Peace include Isocr. 4. 118, 7. 80, 12. 59; Lycurg. 73; and Aelius Aristides 13. 153 and 169, 14. 200; see also

section II below and H. Bengtson, *Die Staatsverträge des Altertums*, II (Munich, 1962), No. 152.

2. *Historia*, VIII (1959), 67.