

takes it to be: "Hadès est riche et bienveillant aux yeux, d'abord, des habitants de l'au-delà. Il s'agit d'un simple datif de point de vue").

Bearing in mind that lacunae are the most common source of corruptions in Plutarch (and not only in Plutarch), I should suggest the following reading: *Καὶ γὰρ Πλάτων τὸν Ἄϊδην ὡς αἰδοῦς <μεσ>τὸν τοῖς παρ' αὐτῷ γενομένοις καὶ προσηνῇ θεὸν <οὕτως> ὠνομάσθαι φησί* ("In fact, Plato too says that Hades has been so named for being full of regard for those who have come to abide with him and for being a friendly god"). I adduce four arguments in favor of this reading.

(1) Plutarch is building upon Plato *Cratylus* 403E4: Hades is μέγας εὐεργέτης τῶν παρ' αὐτῷ . . . , "a great benefactor of those in his realm . . ."

(2) From the closely related passage, Plutarch *De superstitione* 171D–E (. . . τῷ

Ἄϊδι, ὃν ὁ Πλάτων φησὶ φιλόφρων ὄντα καὶ σοφὸν καὶ πλούσιον, πειθοῖ καὶ λόγῳ κατέχοντα τὰς ψυχάς, Ἄϊδην ὠνομάσθαι), we may deduce that ὄντα corresponds to ὡς in our passage, and that τῷ Ἄϊδι, ὃν . . . Ἄϊδην ὠνομάσθαι suggests τὸν Ἄϊδην . . . <οὕτως> ὠνομάσθαι in our text.

(3) Paleographically, the uncial abbreviation *Ō* for *οὕτως* was mistakenly dropped before *ω*-; and once *MEC* was dropped, the rest, *TON*, was misread as *YON*, as is the case in Hesychius *ΥΠΕΙ· φοβεῖται*, instead of *TPEÎ* (Ruhnken): cf. Hes. *τρεσάντων· φοβηθέντων*.

(4) Finally, as for the phrase *αἰδοῦς μεστός*, "full of regard for," cf. LSJ, *s.v.* *μεστός*; Plato *Plt.* 310D10, ἡ δὲ αἰδοῦς γε αὖ λίαν πλήρης ψυχῇ; Xen. *Cyr.* 1. 4. 4, αἰδοῦς δ' ἐνεπίπλατο [*sc.* Cyrus].

MIROSLAV MARCOVICH

UNIVERSITY OF ILLINOIS AT URBANA

A LAW OF JULIAN

Roman legislation is notoriously difficult to evaluate or even sometimes to comprehend precisely, not least in the Late Empire, when rhetoric and grandiloquence too often displace simplicity, exactness, and clarity.¹ It becomes all the more important, therefore, to avoid interpreting laws on the basis of a priori views either about the policy of the emperor who uttered them or of the historical development which they attest. And further dangers confront the exegete. It may even be hazardous to expound a law in the light of the reports or comments of fallible or biased contemporaries. Sometimes too (as in larger matters)² the whole interpretation depends on the understanding or correct translation of a single word or phrase. A law of Julian, preserved in the Theodosian

Code under the rubric "Si certum petatur de suffragiis," will exemplify:

Imp. Iulianus A. ad populum. Foedis commentis quae bonorum merito deferuntur quidam occupare meruerunt et, cum meruissent in re publica quolibet pacto versari, repetendam sibi pecuniam, quam inhoneste solverant, impudentius atque inhonestius arbitrantur: alii etiam, quae tunc donaverant vel potius proiecerant ob immeritas causas, invadenda denuo crediderunt. Sed quia leges Romanae huiusmodi contractus penitus ignorant, omnem repetendi eorum, quae prodige nefarieque proiecerunt, copiam prohibemus. Qui itaque repetere nititur vel repetisse convincitur, et quod dedit apud suffragatorem eius manebit vel extortum restituet et alterum tantum fisci viribus inferre cogetur. Dat. Kal. Febr. Constant(ino)p(oli), Mamerto et Nevitta cons. [*CTh* 2. 29. 1].

1. For some choice examples, R. MacMullen, "Roman Bureaucrats," *Traditio*, XVIII (1962), 364–78. I am grateful to Professor E. Weinrib for discussion of the argument presented here.

2. Note Zosimus' statement of his subject: ὅπως ἐν οὐ πολλῷ χρόνῳ σφῆσιν ἀποσθαλίῃσιν αὐτὴν διέφθειραν ἐρχομαι λέξων (1. 57. 1). This must mean, "I am going to tell how they (the Romans) ruined it (i.e., the Empire) in a short period by their own reckless folly." For Zosimus employs a different

word when he remarks that after ceding territory to the Persians in 363 the Romans "gradually also lost the majority of the provinces" (3. 32. 6: *προσπολέσαι*). The crucial word has, however, recently been mistranslated as "lost" by J. J. Buchanan–H. T. Davis, *Zosimus: Historia Nova* (San Antonio, 1967), p. 34, with startling consequences. This English version of the passage is quoted as the basis of a novel interpretation of Zosimus by W. Goffart, "Zosimus, The First Historian of Rome's Fall," *AHR*, LXXVI (1971), 412–41.

Traditionally, this law has been interpreted as a prohibition of the practice of *suffragium*, as part of "a programme of co-ordinated reforms" by which Julian sought to reinvigorate the Roman state.³ Thus A. H. M. Jones, though he found the ruling "rather curious," had little doubt of Julian's intentions: "the object was presumably, by making bargains legally unenforceable, to compel aspirants to pay money down before the service was rendered"—since "this they might well be reluctant to do."⁴ In a recent and detailed examination of the law and its background, W. Goffart has challenged the traditional interpretation in a fundamental way. Despite Julian's statement of disapproval (Goffart contends), "he did not outlaw purchased *suffragium* any more than his predecessors had": "Julian brings the assistance of the law to the side of the *suffragator* to insure that he will on no account be deprived of his bribe by the ungrateful aspirant"; "a buyer of favors . . . is forbidden to sue only after he got what he paid for"; "Julian did not make *suffragium* unenforceable, nor did he forbid unsuccessful aspirants to sue for recovery of their payment"; on the contrary, he threatened penalties only "against successful petitioners who sued."⁵

The different readings of the law partly reflect larger differences of historical interpretation and different estimates of the significance of other relevant evidence. Julian has traditionally been depicted in sharp contrast to his imperial predecessors and successors, such as Theodosius, who made promises to pay for *suffragium* legally binding (*CTh* 2. 29. 2).⁶ Goffart, however, stresses rather the continuity of imperial attitudes and policies throughout the fourth century.⁷ Two contemporaries offer directly relevant evidence. Claudius Mamertinus, in his panegyric delivered before Julian (1

January, 362), descants at length on the changed conditions of the new reign: no longer must the seeker for office produce money to gain support from the emperor's intimates, no longer need he visit the powerful or embrace their knees and feet, now virtue and merit suffice (*Pan. Lat.* 3[11]. 21. 1 ff.). Ammianus both reports Julian's initial pronouncement of policy and summarizes the law itself: acclaimed Augustus by the soldiers, Julian declared that no civil governor or military commander would be promoted through influence higher than his merits deserved (20. 5. 7); a year later, "as if dictated by Equity herself, a law was promulgated, which forbade a *suffragator* to be dunned for what it was agreed that he rightfully received" (22. 6. 5). The three items might seem clear enough support for the traditional interpretation.⁸ But Goffart refuses to admit the first two as evidence for Julian's actions (only for his intentions), and claims the third as Ammianus' approval of the protection of "influence-peddlers who delivered what they promised . . . from chicanery."⁹ He thus assumes that Julian, Mamertinus, and Ammianus all regarded the service of the *suffragator* as consisting in successfully obtaining a favor. A different assumption may turn out to underlie the law, against which the modern interpretations must be measured.

The law falls into four sections (numbered for convenience) which, omitting rhetoric and justification,¹⁰ may be paraphrased as follows:

- (1) some persons, who have obtained preferment, now think themselves entitled to reclaim money which they have paid;
- (2) others have decided that they should improperly recover what they had given *ob immeritis causas*;
- (3) recovery of what has been given is completely forbidden;

3. C. Collot, "La pratique et l'institution du *suffragium* au Bas-Empire," *RD*, XLIII (1965), 185–221. Similarly, W. Ensslin, *Klio*, XVIII (1923), 121 f.; G. E. M. de Ste Croix, *British Journal of Sociology*, V (1954), 39.

4. A. H. M. Jones, *The Later Roman Empire*, I (Oxford, 1964), 393.

5. W. Goffart, "Did Julian Combat Venal *Suffragium*? A Note on *CTh* 2. 29. 1," *CP*, LXV (1970), 145–51.

6. E.g., Jones, *op. cit.*, pp. 136 f., 393.

7. Goffart, *op. cit.*, pp. 145, 151.

8. Ensslin, *op. cit.*, pp. 121 f.

9. Goffart, *op. cit.*, pp. 145, 147 f.

10. For discussion of *foedis commentis* and "the contract unknown to Roman law," see Collot, *op. cit.*, pp. 195 f.; Goffart, *op. cit.*, p. 148.

- (4) if recovery is sought, not only shall the *suffragator* keep what he has received but the client shall pay an equal amount to the Fiscus.

Clause (2) is perhaps ambiguous, and the paraphrase offered here entails an interpretation of the whole law somewhat different from either of those already outlined. C. Pharr translates: "and others even suppose that the property which they then gave, or rather threw away, for unworthy causes should be recovered by forcible entry and seizure."¹¹ That is, clauses (1) and (2) contrast those who sue for recovery and those who repossess forcibly. But such a translation has surreptitiously embroidered a contrast which the original Latin seems entirely to lack. The difference between *repetendam* and *invadenda denuo* is rendered "sue to recover" and "recover by forcible entry and seizure." Now, though *invadere* does often describe forcible seizure, it equally often denotes taking or attempting to take possession illegally or improperly without violence, and sometimes simply taking possession.¹² Therefore, *invadenda denuo crediderunt* may mean approximately the same as "repetendam . . . impudentius atque inhonestius arbitrantur." That it does in fact mean approximately the same is strongly suggested by the last clause: here the two offenses are not to attempt to recover by law and to attempt to recover by force, but to be endeavoring to recover and actually to have recovered already. Moreover, that it must mean the same is implied by external considerations: the disappointed aspirant was surely incapable of seizing money or goods by force from the far more powerful *suffragator*. Julian thus seems to mark a clear contrast between those who "quae bonorum merito deferuntur occupare meruerunt" and those who "donaverant vel potius proiecerant ob immeritas causas." Why have these men wasted or thrown away their property? Surely because their un-

deserving causes have been rejected despite the good offices of a *suffragator*. Hence the point of Julian's prohibition of *omnis repetendi . . . copia*. He denies all rights of recovering what has been squandered prodigally and wickedly: the man who gives money or property to a *suffragator* cannot reclaim it whether his request is successful or not, so that the *suffragator* will retain the payment in all circumstances.

If this interpretation of the law can be sustained (and Ammianus' report does not necessarily contradict),¹³ it has important corollaries. Julian did not "compel aspirants to pay money down" beforehand: on the contrary, by decreeing that money paid could not be recovered in any circumstances, he discouraged advance payment. As a result, he inevitably encouraged credit transactions where the aspirant paid only after the favor sought was obtained. Hence the later legislation of Theodosius on the subject, prescribing that "si qui . . . se sponsione constrinxerint, promissa restituant, cum ea quae optaverint consequantur" (*CTh* 2. 29. 2). *Suffragium* was too deeply rooted a feature of Roman life to be prohibited or abolished. But Julian did not disguise his disapproval and proceeded to put a successful and an unsuccessful request made through a *suffragator* on the same level: "omnem repetendi eorum, quae prodige nefarieque proiecerunt, copiam prohibemus." What then were the motives behind the law? Julian's phrase, *ob immeritas causas*, and Mamertinus' stress on how Julian rewarded merit suggest an answer. The service performed by the *suffragator* (so Julian surely reasoned) was simply to bring the aspirant's case or cause to the emperor's attention: when he was apprised of the facts, the emperor decided whether the aspirant deserved his request or not. In other words, venal *suffragium* and promotion by merit were not regarded as mutually exclusive.¹⁴

11. C. Pharr, *The Theodosian Code* (Princeton, 1952), p. 59.

12. For the former, note *CJ* 4. 49. 2. 2(259); *CTh* 12. 9. 1(325); 2. 26. 1(330); 6. 27. 14(404); for the latter, the phrase *fiscus invadat* (*CTh* 4. 6. 3[336]; 10. 10. 15[380]).

13. *Recte* (22. 6. 5) should be compared with *praeter merita* (20. 5. 7).

14. As Goffart clearly sees (*op. cit.*, pp. 150 f.).

The law thus illustrates an important and far from novel aspect of imperial ideology. Although a petitioner may have paid in order to be heard by the emperor,

he did not (in theory) gain his request except on its merits.

T. D. BARNES

UNIVERSITY COLLEGE TORONTO

VALERIUS FLACCUS 2. 428–50

The significance of the insertion of the brief narrative of the initiation of the Argonauts into the mysteries of the Cabeiri on Samothrace seems never to have been explained adequately by commentators. What is proposed here is an interpretation which seeks to explain the thematic significance of this brief episode in the total structure of the poem. The passage in question is based on Apollonius Rhodius 1. 910–21. The Greek version of the episode is much briefer. Apollonius simply says that the Argonauts stop at Electra's island and are initiated into the mysteries so that they may sail over the seas with greater safety. The poet declines to comment further, observing that it is forbidden for mortals to discuss or inquire into these holy rites.

Valerius Flaccus has, first of all, expanded the episode to twice the length of the Greek version, allowing himself enough lines to develop it more adequately and to make its significance more clear. In both Apollonius and Valerius the stop at Samothrace follows immediately after the Lemnian episode. It is suggested here that the introduction of the Samothrace episode at this point is not a bit of pedantry or antiquarian lore added as mere filler, as so many of the digressions in the Greek *Argonautica* seem to be; rather, it is closely related thematically to the rest of the poem, and to the preceding Lemnian episode in particular.

A major theme running throughout the Latin *Argonautica* is the notion that this voyage of the Argo is a divinely sanctioned endeavor in which these proto-navigators, with the help of the gods, travel over the sea, a medium previously forbidden to men. Their task is a difficult, and at times discouraging, one. On some occasions they

doubt the lawfulness of what they are doing, and at other times they do not remain faithful to their mission. Soon after the start of the voyage they are caught in a violent storm and are almost killed. The Lemnian episode is their second major hurdle. Here they are threatened not by physical danger, as they were in the storm, but rather by the distraction of sensual allurements. The life of ease and domestic luxury offered by the Lemnian women seems all too attractive in contrast to the difficulties involved in pushing on to Colchis. Hercules rebukes them and calls them back to their appointed task. It is at this point, after the Argonauts have passed through two major trials, that the stop at Samothrace occurs. In the interpretation suggested here, this visit involves not only initiation, but also purification, forgiveness, and encouragement for the future.

Valerius, like Apollonius, stresses the air of mystery surrounding the island and the arcane nature of the rites which are celebrated there: "hic numinis ingens / horror et incautis decreta piacula linguis" (432–33).¹ The lines which follow, however, are original with Valerius:

hanc demissa Iovi non umquam laedere fluctu
audet hiems; sponte ipse deus tunc asperat undas
cum vetat infidos sua litora tangere nautas
[434–36].

Samothrace, because it is the site of the mysteries of the Cabeiri, is exempt from the ordinary vicissitudes of the weather. *Demissa Iovi* . . . *hiems* in this context may be taken to mean a storm which occurs in the regular course of weather. The resident deity has the power to stir up his own storm when he wants to forbid *infidos* . . . *nautas* from

1. The Latin text of the *Argonautica* used here is that of E. Courtney (Leipzig, 1970).