TRANSALPINAE GENTES: CICERO, DE RE PUBLICA 3.16*

In the third book of Cicero's De re publica¹ L. Furius Philus, one of the protagonists, is assigned the task of putting the case against justice. Among his arguments he makes the familiar claim that justice is a product of society, not of nature (3.13: 'ius. . . civile est aliquod, naturale nullum'). If, he explains, justice and injustice were natural phenomena, they would be the same for all men, but in fact people hold very diverse views on what is just. This argument is supported by a motley collection of exempla: the Egyptians worship Apis, a bull; while the Greeks and the Romans fill their temples with statues in human form, the Persians consider such practices to be sacrilege; various nations indulge in human sacrifice; the Cretans and Aetolians hold the view that brigandage is perfectly respectable; the Spartans used to claim as their own all the territory which their spears might touch; the Athenians used to take public oaths that all land which produced olives and grain belonged to them; the Gauls despised corn-growing and raided the fields of others instead. All these instances would be familiar to Cicero's audience. But Philus adds another illustration (3.16): 'nos vero iustissimi homines, qui Transalpinas gentis oleam et vitem serere non sinimus, quo pluris sint nostra oliveta nostraeque vineae; quod cum faciamus, prudenter facere dicimur, iuste non dicimur, ut intellegatis discrepare ab aequitate sapientiam.' Presumably this would have been as well known as the earlier examples but, as chance has it, there is no other clear reference to this occasion in surviving literature. The matter is of some importance because the passage, invariably considered out of context, has become one of the slender reeds used to prop up the argument that there is an economic motive for Roman imperialism. It is worth pointing out at the start that there is no reason to take this passage any more seriously than the other examples, many of which are little more than anecdotes; no-one, I suppose, would attempt to reconstruct Spartan or Athenian foreign policy on the basis of a remark ascribed to Antalcidas or the Athenian Ephebic oath.

I

The explanation which currently finds most favour was first suggested by Mommsen.³ Cicero set the scene of dialogue at the Latin Festival of 129 B.C. Therefore, unless the reference is an anachronism, the only suitable contact

- * My thanks to Dr. A. J. Woodman for reading and commenting on a version of this paper.
- Begun in 54 B.C. (Cic. ad QF 2.12.1, 3.5.1, ad Att. 4.16.2) and published in 51 B.C. (ad Fam. 8.1.5, ad Att. 5.12.2)
- ² The principal passages are: Apis, Hdt. 3.27, Diodorus 1.21.10; Persian attitude to statues of gods, Hdt. 1.131; human sacrifice, Hdt. 4.103 (Tauri), Plut. Mor.315B, Apollod. Bibliotheca 2.5.11 (Busiris, though the story is rejected by others cf. Hdt. 2.45, Diod. 1.67), Caesar, BG 6.16 (Gauls), Diodorus
- 20.14, Justin 18.6 (Carthaginians); Cretan and Aetolian brigandage, Thuc. 1.5, Polyb. 4.16.4, Athenaeus 6.253f (cf. H. A. Ormerod, Piracy in the Ancient World (London, 1924), passim); the Spartan claim (ascribed variously to Agesilaus, Antalcidas, or Archidamus III), Plut. Mor. 210 E, 217 E, 218 F; The Athenian claim (part of the Ephebic oath), Plut. Alcibiades 15; the Gauls, Polyb. 2.19.4, Diodorus 5.32.
- ³ Mommsen, Römische Geschichte iv, ch.5.

between Rome and Transalpine peoples before that date occurred in 154 B.C. In that year the people of Massilia sent word to Rome that they were having trouble with the Ligurian tribes, the Oxybii and the Deciatae, who inhabited the area between Massilia and Nicaea. ⁴ The senate dispatched a commission of three, Flaminius, Popillius Laenas, L. Pupius, to investigate. On attempting a landing in the territory of the Oxybii the envoys got a hostile reception and Flaminius was wounded in a fracas. In reply the consul, Q. Opimius, on orders from the senate marched against the tribes, defeated them, and on their surrender imposed a settlement strongly in favour of Massilia. He handed over Ligurian territory to the Massiliots and forced the tribes to send hostages to Massilia at regular intervals. Mommsen suggested that it was as part of this settlement that the ban on planting olives and vines was imposed (indeed he considered this was 'perhaps the only possible explanation'). The ban, in his opinion, was imposed in the interests of Italian landholders and merchants. But, as Tenney Frank⁶ saw, the rest of the settlement was in favour of Massilia, so any ban would most likely be in the interests of Massiliot agriculture. Badian, who describes Frank's conclusion as 'inevitable', claims that the motive 'quo pluris sint nostra oliveta nostraeque vineae' was attached to the incident by Cicero when the actual circumstances of the measure had been long forgotten.

Any such explanation of the passage becomes unlikely when the context of Cicero's remark is considered. The case of the *Transalpinae gentes* was meant to be an example of an act of self-interest (*prudenter*) which conflicted with the principle of justice which usually governed the actions of the Romans. But in the case of the Ligurians the Romans intervened at the request of their long-standing friend Massilia; they sent in troops only after a Roman commissioner had been attacked; the settlement imposed was far from harsh and entirely in the interests of Massilia. Where was Rome's act of injustice, where her blatant self-interest in all this? As for the attempt to dismiss Cicero's motive, the settlement and its occasion are set out adequately by Polybius whose work was certainly available to Cicero. Further, if ban and motive are separated, it becomes very unclear why Cicero should pick on this example to illustrate his theme. The earlier history of the Roman Republic was hardly so devoid of acts of self-interest that even a patriotic writer could not find a well-known case to serve his purpose.

The alternative seems to be to suppose that Cicero has made a mistake and that the ban belongs to some time after 129 B.C. One possibility would be to connect it with the founding of Narbo in 118 B.C. In this case the prohibition would have been imposed in the interests of the Italian settlers. Another suggestion puts it much later, between 70 and 51 B.C., as an attempt to protect a supposedly ailing Italian agriculture and the trade in wine for which Cicero's

- ⁴ Polyb. 33.10 f., Livy, Per. 47. On their location, Pliny, NH 3.47.
- ⁵ The identification of all three is uncertain (MRR i. 451)
- ⁶ Tenney Frank, Roman Imperialism (New York, 1921), pp. 280, 294, cf. ESAR i. 172 f.
- ⁷ E. Badian, Roman Imperialism in the late Republic (Oxford, 1968), p.20.
- ⁸ M. Rostovtzeff SEHRE² pp. 22, 548 n.17 (but he goes far beyond the evidence in talking of 'a prohibition on vine and olive

culture in the Western provinces'), A. J. N. Wilson, Emigration from Italy in the Republican Age of Rome (Manchester, 1966), pp. 67 ff., A. Aymard, 'L'interdiction des plantations de vignes en Gaule Transalpine', Mélanges Faucher, pp. 27 ff. (reprinted in Aymard, Études d'histoire ancienne, pp.585 ff.), L. Bellini, 'La viticoltura nella politica economica di Roma reppublicana', Memorie dell' Accademia dei Lincei Ser. 8, 1 (1948) 387 ff.

speech *Pro Fonteio* provides excellent evidence. In this latter case Cicero would be guilty of wilful distortion. But there are general objections. The senate would be very unlikely to take action against a purely theoretical future threat to trade; at the very least there had to be a real problem to be dealt with. But there is no evidence, as we shall see, that Gallic agriculture at any time provided such a threat. Competition in wine and oil came primarily from the Greek East. Secondly it is a serious matter to ascribe a chronological error to Cicero since the care and research with which he composed the settings for his dialogues are amply illustrated in his correspondence. It

Some such explanation might have to be accepted if the effects of a ban on the planting of olives and vines can be discerned in the development of Gallic agriculture. Despite the Gauls' voracious appetite for wine, there is no doubt that the cultivation of vines in Gaul made only slow progress. Massilia had introduced the vine and the olive into their territory and the local tribes probably learned the techniques. The only other area for which we have evidence is Gallia Narbonensis where the agricultural scene was strikingly similar to Italy's; doubtless the colonists at Narbo were the main inspiration for this. Leven so the local production of wine does not seem to have affected the large-scale importation of Italian wine in the first century B.C. But we know from the reports of eyewitnesses that Mediterranean agriculture had not penetrated beyond the Cevennes and to the north by the end of the Republic. New types of vine were developed in this area in the first century A.D. and there may have been some extension into new regions; but many areas remained without vines for centuries. But we do not need to suppose that this retarded development was the result of

- ⁹ M. Clavel, Béziers et son territoire dans l'antiquité (Paris, 1970), pp. 311 ff.
 - ¹⁰ As Wilson, op. cit., sensibly realizes.
- ¹¹ Cf. E. Badian, 'Cicero and the commission of 146 B.C.', *Hommages* à M. Renard (Collection Latomus Vol. 101, 1969), i. 54 ff.
- 12 For the Gauls' proverbial love of wine: Livy 5.33.2, Polyb. 2.19.4, Diodorus 5.26.4, Ammianus 15.12.4, Cic. Pro Fonteio 8. For the late development of Gallic viticulture and oleiculture, which M. Reinach (Revue archéologique 1901, 350 ff.) claims was the result of a Roman ban: Macrobius Comm. in Somnium Scipionis 2.10.8.
- 13 Justin 43.4.1, Strabo 4.1.5, Plut. Marius 21.3. These stray references are reinforced by the distribution of amphorae of a probable Massiliot origin, cf. F. Benoit (Rivista di studi liguri 21 (1955), 32 ff.) and F. Benoit, Recherches sur l'hellénisation du midi de la Gaule (Aix en Provence, 1965), pp. 182 ff.
- ¹⁴ Strabo 4.1.2, Pomp. Mela 2.5, cf. Pliny, *NH* 14.14, 68, Columella 3.2.25.
- cic. Pro Fonteio 19. One of the charges emphasized by the prosecution ('invidiosissimum et maximum') against Fonteius was that he had imposed portoria on Italian wine transported through Gaul. As Cicero is forced to admit that these levies

- would have raised a large sum, the volume of trade is likely to have been considerable.
- ¹⁶ Strabo 4.1.2 (if this is based on Poseidonius then the passage may be evidence against a ban on viticulture in the area in the second century; see P. Brunt, 'The Equites in the Late Republic', in R. Seager (ed.), *The Crisis of the Roman Republic* (Cambridge, 1969), p.127 n.4); Varro RR 1.7.8.
- 17 Pliny provides good evidence for the developments in his own day: NH 14.18: 'Iam inventa vitis per se in vino picem resipiens. . . non pridem haec inlustrata atque Vergilii vatis aetate incognita', cf. NH 14.26, 57; 23.47 (for correct reading 'Ellinco' see J. André and L. Levadoux, Journal des savants 1964, 169 ff.); Celsus 4.12; Columella 3.2.16. Pliny, NH 14.43: 'septem his annis in Narbonensis provinciae Alba Helvia inventa est vitis uno die deflorescens, ob id tutissimum.' For beyond the Cevennes: the Biturigiaca (Pliny, NH 14.27 - whether of the Bituriges Cubi or Bituriges Vivisci - cf. Columella 3.2.19, 3.9.3). Pliny, NH 17.47 is a general reference to the usefulness of chalk and cannot be used as evidence of viticulture among the Aedui and Pictones (see J. André (ed.), Pliny NH 14 (Paris, 1958), 84). The earliest reference to the vine in Bourgogne

any ban imposed by Roman authority. There are adequate botanical and social explanations. There is an absolute limit to the northward extension of the olive. With vines it took a long time to produce types which could survive the frosts which contemporaries recognized as one of the main hazards. Indeed the great achievement of the Gallic vignerons of late antiquity and the early Middle Ages was the conquest of the hostile conditions. Also many Gallic tribes saw wine as corrupting their civilization and took severe action against traders who tried to create a market for their goods.

The need for a satisfactory explanation of Cicero's reference remains.²²

H

The Transalpinae gentes have to be sought elsewhere. Surprisingly the most likely candidates are to be found within the confines of Italy. In 186 B.C. a group of Gauls from the lands beyond the Alps (Galli Transalpini) crossed the Julian Alps by a hitherto unknown route into north-east Italy. ²³ They were not a raiding party, but a migratory group seeking a new home. ²⁴ Causing no damage to the territory through which they passed, they eventually settled in an unpopulated area near what was later to be the site of the colony of Aquileia and began to build an oppidum. The only Roman reaction was to send envoys across the Alps to protest, but the tribes there disclaimed any responsibility for the group in Italy. The failure to identify where these Gauls came from is the explanation for Livy's vague description 'Galli Transalpini' and, to anticipate the argument to come, for Cicero's 'Transalpinae gentes': no more precise designation was ever known. ²⁵

belongs to the fourth century A.D. (although it implies the existence of vineyards at an earlier date), Pan. Lat. 5.6.4. In general see: J. André, 'La vigne et le vin en Provence dans l'antiquité', Melanges Benevent (Aix en Provence, 1954), R. Billiard, La Vigne dans l'antiquité (Lyons, 1913), pp. 77 ff., R. Dion, Histoire de la vigne et du vin en France (Paris, 1959), pp. 117 ff., R. Lantier, 'Le vin et l'huile en Bourgogne aux temps Galloromaine', Rev Arch 1952, 103 ff., E. Thevenot, 'Les origines du vignoble bourguinon d'après les documents archéologiques', Annales de Bourgogne 1951, 253 ff.

18 Theophrast. HP 6.2.4 claims that the olive will not grow more than three hundred stades from the sea. On the limit of the olive representing the northern limit of the Mediterranean world see F. Braudel, The Mediterranean and the Mediterranean world in the age of Philip II (London, 1972), pp. 232 f.

19 Strabo 4.1.2, Diodor. 5.26.2 (based on Poseidonius – Ath. *Deipn.* 4.15 C probably gives a fragment). The Sasernas (Comumella 1.1.5) suggested that milder winters allowed the vine to grow further north.

e.g. Isid. Et. 17.5.22, 'Biturica (uva) a regione nomen sortita est, turbines et pluvias

et calores fortissime sustinens, nec in macra terra deficiens', cf. I. Imberciadori, 'Vite e vigna nell' alto Medioevo', Agricoltura e mondo rurale in occidente nell' alto medioevo (Settimane di Spoleto 13 (1966)), 310 ff.

²¹ Caesar, BG 2.15.3, 4.2.6, cf. 6.24.

22 Badian (Roman Imperialism in the Late Republic, pp. 16 ff.) has demonstrated that the senate in the Republic had no general desire to influence or regulate economic activity in the Roman world. There is no point in trying to link this passage with Domitian's ill-fated attempt to limit viticulture. In any case Domitian was not attempting to protect the price of Italian wine, but was trying to divert investment from viticulture into the production of corn, the ever-present concern of all emperors.

²³ Livy 39.22.6, 45.6.

²⁴ Livy 39.54.5. Later in the Roman senate they protested 'se superante in Gallia multitudine inopia coactos agri et egestate ad quaerendam sedem Alpes transgressos.'

²⁵ On all matters concerning these Gauls see F. Sartori, 'Galli Transalpini transgressi in Venetiam', *Aquileia Nostra* 1960, 1 ff. The question of the identity of these people is dealt with by G. Marchetti, 'Le origine di Aquileia nella narrazione di Tito Livio',

No further action was taken by the Roman authorities until 183 B.C. In that year the consuls, M. Claudius Marcellus and Q. Fabius Labeo, were directed to continue the struggle against Ligurian tribes in the north-west of Italy. At the same time L. Julius Caesar, a praetor, was given the task of dealing with the Gallic settlers and was told to hurry. His brief was to put an end to the settlement by diplomatic means ('sine bello'); only if that failed, was he to call in the consuls with their legions. Significantly we hear no more of this mission. The next move was made by the consul, Claudius Marcellus, who sent word to the legions whose command he was taking over to march against the Gauls. Caesar's mission may have failed; but there is the possibility that Marcellus had taken matters impatiently into his own hands.

After more than two years of uninterrupted occupation of the land, the Gallic settlers must have been surprised at the sudden renewed protests of Rome, and even more at the approach of the legions. If Livy is to be believed, they could have put a considerable force into the field. 28 But faced with the legions they gave up without a fight in the belief that they could still get a reasonable agreement with Marcellus ('certam, etsi non speciosam, pacem quam incerta belli praeoptantes'). They could hardly have expected the consul's harsh and uncompromising response. Not only were they disarmed and ordered to leave the country, they were also deprived of their property, crops, and animals. Their oppidum was destroyed.²⁹ At this the Gauls sent envoys to protest to the senate. Introduced into the senate by the praetor peregrinus, C. Valerius Flaccus, they stressed that they had entered Italy peacefully, had settled in an uncultivated area, and had harmed no one. They also protested that when they had surrendered to the consul they had not expected to be deprived of all they had. The senate's reply was that their settlement would not be allowed but that, since the Gauls had surrendered, there was no justification for seizing their property. A commission was appointed, consisting of L. Furius Purpurio, Q. Minucius Rufus, and L. Manlius Acidinus, all men with an interest in the problems of north Italy. 30 They supervised the return of property to the Gauls as they left Italy. After this the envoys crossed the Alps to warn the tribes against any further incursions.

Memorie storiche Foroguiliesi 43 (1958-9), 1 ff. The territory round Aquileia was first known as the land of the Veneti (Livy 1.1.3, Strabo 5.1.4, Polyb. 2.17.5), but later as the land of the Carni (Strabo 4.6.9, 7.1.5, Pliny, NH 3.126). So RE iii col.1598 identifies Livy's 'Galli Transalpini' as Carni. But the Carni are clearly an earlier and larger-scale settlement. Sartori ingeniously identifies Livy's invaders as Taurisci. Polyb. 24.10.1 and Strabo 4.6.9 mention Norici and Taurisci near Aquileia; the Norici are definitely located later beyond the Julian Alps. Pliny, NH 3.131 records among towns in the area which had disappeared by his own day 'Tauriscis Noreia'. But it is very unlikely that the 'Galli Transalpini' in their brief stay would have had any effect on the nomenclature of the area.

²⁶ Livy 39.45.

²⁷ Livy 39.54. cf. Dio Zon. 9.21.

²⁸ 12,000 armed men (Livy 39.54).

L. Piso fr.35 (Peter).

³⁰ L. Furius Purpurio, as praetor in Cisalpine Gaul in 200 B.C., had defeated a serious rising of Gauls and Ligurians for which he may have got a triumph (Livy 31.10, 21 f.). As consul in 196 B.C. he again fought in the area (Livy 33.37). Q. Minucius Rufus, as consul in 197 B.C., fought against the same tribes (Livy 32.28 f., 33.22 ff.). L. Manlius Acidinus (Fulvianus), later to be consul 179 B.C., was one of the IIIviri in charge of the foundation of Aquileia (Livy 39.55). These men were chosen for their interest and experience in North Italy. Those who consider it useful and significant to assign senators to family groups should consult H. H. Scullard, Roman Politics, and J. Briscoe, A Commentary on Livy XXXI-XXXIII (Oxford, 1973), pp. 64 f., 158.

The whole incident hastened the discussions which led to the creation of the Latin colony at Aquileia.

Here is an intelligible context for Cicero's reference. This was a case which some Romans at the time recognized as an act of self-interest which was difficult to justify. Few perhaps would have suggested that Rome had no right to interfere at all. She had been extending her interests in Cisalpine Gaul before the Second Punic War. 31 Italy was seen already as reaching to the Alps. 32 Although the area was not vet organized on a regular basis, north-east Italy was the province of a Roman magistrate. 33 The idea of a colony at Aquileia was probably already under consideration. On the other hand there had undoubtedly been a change of policy. In 186 B.C. Rome had protested at the arrival of the Gauls but had taken no action. By 183 B.C. the Gauls could have been forgiven for supposing that their presence had been accepted. Even after more than two years the senate's first action had been to try to get a peaceful agreement through diplomacy. Marcellus' behaviour probably shocked many Roman senators as it had the Gauls. The fragment of L. Piso is clear evidence of senatorial disapproval.³⁴ It is well known that the behaviour of Roman magistrates towards subject peoples was a contentious issue in these years; throughout the second century sections of the senate sought to prevent, mitigate, or at least condemn outrages committed in the name of Rome by ambitious proconsuls. 35 Significantly L. Furius Purpurio, one of the commissioners of 183 B.C., had led the campaign in the senate to condemn the behaviour of Manlius Vulso in the East. 36

The reference in Cicero most likely derives from a speech defending the Gauls in the senate. 37 Throughout the proceedings the Gauls had stressed their peaceful intent. The defence might have emphasized that all Marcellus had achieved by his show of legionary force and his harsh suppression of the Gauls had been to prevent them settling and engaging in agriculture. This is summed up in Cicero's phrase 'oleam et vitem serere non sinimus'; for these activities epitomized peaceful and civilized Mediterranean life. 38 What possible motive, the speaker might have continued, could there be for such savage action against such inoffensive activities? Clearly, he might have suggested slyly, the Gauls, prevented from growing their own crops, would continue to be in the market for Italian wine and oil — a market which was one of the most important features of the economy

- ³¹ De Sanctis, *Storia* iii. 1.291 ff., particularly 319 f., A. Calderini, *Aquileia Romana* (Udine, 1930), pp. 4 ff.
- ³² F. Klingner, Römische Geisteswelt (Munich, 1956), pp. 13 ff.
- ³³ Livy 39.54.10, 'nullius Romani magistratus, qui ei provinciae praeesset, permissu. . .'
- ³⁴ L. Piso fr. 35 (Peter), 'et ab Aquileia ad XII lapidem deletum oppidum etiam invito senatu a M. Claudio Marcello.' De Sanctis, Storia iv.1.428 claims that 'invito senatu' is a misunderstanding. But it is clearly supported by Livy's narrative. It was Marcellus' brutality that shocked senators. The senate's opposition may have continued when Marcellus asked to march against the Istri (Livy 39.55,4, reading 'id senatui non placuit').
- 35 A. Toynbee, Hannibal's Legacy (Oxford, 1965), ii. 608 ff.
 - ³⁶ Livy 38.42 ff.
- ³⁷ I hesitate to identify the speaker as Cato, although Cic. *Brutus* 52 ff. implies that few, if any, speeches other than Cato's were published in this period. The sort of anecdote which I am suggesting would be remembered and could just as easily be transmitted by an annalist.
- Massilia had on the Gauls: 'ab his Galli et usum vitae cultioris deposita ac mansuefacta barbaria et agrorum cultus et urbes moenibus cingere didicerunt. Tunc et legibus non armis vivere, tunc et vitem putare, tunc olivam serere consuerunt.'

of the western Mediterranean in the last two centuries B.C. ³⁹ Further the Gauls' farms were being moved to make way for the vineyards and olive groves of the Italian settlers at Aquileia. In other words the motive or at least the consequence of the Roman action was 'quo pluris sint nostra oliveta nostraeque vineae'. There is no need to take this literally; it is an exaggeration which neatly illustrates both the inoffensive nature of the Gauls' activities and the selfishness of the Roman response. Many Romans felt considerable discomfort over Marcellus' behaviour. Indeed Livy's description of the reception of the commissioners in 183 B.C. by the chieftains of the tribes beyond the Alps, at which the Romans were reproved for their excessive leniency toward the migratory group, bears the hall-mark of Roman apologia. ⁴⁰

Certainty is impossible. But this context for Cicero's reference fulfils the criteria which we have established in a way that other explanations do not. It occurs before 129 B.C., the dramatic date of the *De re publica*. It concerns a people described both by Livy and Cicero as 'Transalpine' — with good reason as no more precise identification was possible. Above all it was an act which the Romans themselves recognized as self-interested rather than just; that is precisely what the argument in Cicero's passage requires.⁴¹

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³⁹ Amphorae supply the evidence, although the beginnings of the trade are as yet unclear. Pliny, *NH* 15.1.3 implies that Italy first exported oil in 52 B.C. But there is no reason to believe him. It is very difficult to know what Pliny had in mind – perhaps an official gift by the Roman senate?

- ⁴⁰ Livy 39.55.
- 41 One argument against our interpret-

ation might be the use of the present tense, 'sinimus', in 129 B.C. for an episode in 183 B.C. But that incident was not an isolated one. On at least one further occasion, in 179 B.C., Gauls tried to settle in north Italy and were thrown out (Livy 40.53). The present tense may imply that the policy was a continuing and still valid one.