

THE LEX THORIA AND CICERO, *BRUTUS* 136

Sp. Thorius satis valuit in populari genere dicendi, is qui agrum publicum vitiosa et inutili lege vectigali (*cod. det.*; vectigale *L*) levavit.

This sentence has long caused difficulties, both literary and historical. To begin with the former, Badian,¹ having canvassed three other possible translations, concludes that we should translate the Latin, as it stands, thus: 'Thorius relieved the public land of a faulty and useless law by means of a rent.' Even if we allow, however unlikely this may be, that Cicero's readers would naturally have understood the sentence thus, the mere fact that it is open to several interpretations should lead us to doubt whether Cicero could have written so ambiguously. Very much more worrying is the fact that the negative tone of the first clause, which has too often been ignored, should lead us to expect that what follows is the act of a popular tribune;² *vitiosa* and *inutili* are the sort of adjectives that one would expect Cicero to use of such an act. Finally, it is at the very least unusual to speak of relieving something by means of an imposition. Therefore it does seem that the sentence, as it stands, is best translated 'Thorius relieved the public land of a rent by means of a faulty and useless law.'

This inevitably leads us to a consideration of the historical problems. The manuscripts of Appian (*Bell. Civ.* 1. 27. 122) refer to a tribune Σπ. Βόριος (or Βούριος) passing an agrarian bill which halted the Gracchan distributions and declared that thenceforth all public land should be private in the hands of its current holders, but that as a compensation to the disappointed plebs a rent was to be charged and the revenue thus generated was to be distributed instead. Appian goes on to say that the rent clause was repealed οὐ πολὺ ὕστερον. Βόριος as a name is unattested and most scholars would emend it to Θόριος. However, this produces a discrepancy between Appian and what I take to be the best translation of this passage of Cicero, as it stands. Hence Douglas³ was led to seek an alternative emendation of Βόριος. But the chances of two tribunes sharing a rare praenomen⁴ and a very similar nomen passing conflicting agrarian bills within a short space of time must be reckoned to be slim. The emendation to Θόριος is almost inevitable and with it the discrepancy between Appian and Cicero.⁵

In the face of such difficulties what I have to propose is a relatively simple solution that is prompted by three considerations. Firstly, as has already been indicated, the second half of the sentence might be expected to express an unfavourable judgement, but *levavit* can at best be taken as neutral, at worst as approbatory. Secondly, there

¹ E. Badian, *Studies in Greek and Roman History* (Blackwell, 1964), pp. 235 ff.

² Whilst A. E. Douglas is right in his commentary (Oxford, 1966), §136. 2 n., that using 'popularis' tactics did not make a politician necessarily 'popularis' in sentiment, we should have expected the distinction to be made explicit had Cicero regarded Thorius as being of optimate sentiment.

³ A. E. Douglas, *AJP* 77 (1956), 376 ff. The more cautious dating of Thorius' tribunate to any of the years 114, 113, 112 or 111 B.C. by G. V. Sumner, *Orators in Cicero's Brutus* (Toronto, 1973), pp. 90–1, is to be preferred to Douglas' *terminus post quem* of 111 B.C.

⁴ cf. Badian, *op. cit.*, p. 240.

⁵ Douglas accepted the emendation to θόριος in his commentary (*op. cit.*, Appendix C, pp. 247 ff.) and then advocated the emendation of *vectigale* to *vectigalem*. But this has two drawbacks: firstly, as Douglas himself writes, the Latin then becomes 'hardly in Cicero's most mellifluous manner', for too much seems to depend on one adjective, and secondly one is forced to a position of pronouncing Appian guilty of error, a thing that Douglas, to his credit, is reluctant to do.

is no parallel instance in the *Thesaurus Linguae Latinae* of *ager* (or any word like it)⁶ being used as an object of *levare*; the regular construction appears to be that either the direct object is personal and the ablative some type of burden or the burden is the direct object and the ablative personal.⁷ Thirdly, there is evidence of corruption in the text immediately before *levavit*: at some stage *vectigali* became *vectigale*. It is possible that the corruption goes deeper. As it is impossible to produce sense by changing one letter, I would change two and emend *levavit* to *locavit* and thus read *Sp. Thorius, ... qui agrum publicum vitiosa et inutili lege vectigali locavit*.⁸

There is now only one possible translation: 'Thorius, ... who let out the public land for a rent by means of a faulty and useless law.' As examples of the use of an ablative of price with *locare*, compare Livy (27. 3) *locavit omnem [agrum] frumento* and Pliny (*Ep.* 9. 37. 3) *[praedia] si non nummo sed partibus locem*. Both Appian and Cicero can now be seen as referring to the same bill of the same tribune. Moreover, the implied criticism of the first half of the sentence of Cicero can have its expected conclusion. Finally, the implication is clear that this law was justly repealed *οὐ πολὺ ὕστερον*.⁹

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⁶ The nearest example I can find in Cicero of an impersonal object with an impersonal ablative is at *Flacc.* 33: *sumptus... civitates levaret*, but in this instance it is easy to see how the object could be regarded as personal since it is the people of those states who are being relieved of the expense.

⁷ This point is, unfortunately, not as strong as it might appear in view of Cicero, *ad Att.* 1. 19. 4, *liberabam agrum*. Whilst *liberare* and *levare* are not exact synonyms, nevertheless it is far from certain that Cicero could not have written *agrum publicum... vectigali levavit* had he so wished.

⁸ R. Seager has criticised conventional solutions in lines similar to those adopted here (*CR* n.s. 17 (1967), 12). But his own proposal *vexavit* produces an unhappy run of long syllables and an unsatisfactory clausula; one also feels doubts about two instrumental ablatives in the same clause. It is, none the less, comforting to find oneself in agreement with that scholar on so many points.

⁹ I am deeply indebted to Professor R. G. M. Nisbet, who has done much work on my behalf and greatly helped me with his suggestions, and to Mr P. S. Derow of Wadham College, without whose initial encouragement and subsequent guidance this note would never have been written. Neither, of course, is in any way responsible for such mistakes, whether of omission or commission, as remain.

PHILODEMUS 26. 3 G-P

ἐνθάδε τῆς τρυφερῆς μαλακὸν ῥέθος, ἐνθάδε κείται
 Τρυγόνιον σαβακῶν ἄνθεμα σαλμακίδων,
 ἥ καλύβη καὶ δοῦμος ἐνέπρεπεν, ἥ φιλοπαίγμων
 στωμυλῆ, μήτηρ ἦν ἐφίλησε θεῶν,...

Gow and Page take it, no doubt rightly, that the subject is a eunuch priest of Cybele, called Trygonion, 'little dove' (like the *palumbulae* of Apul. *Met.* 8. 26), and grammatically feminine for the same reason as Attis in Catullus 63.¹ The alternative possibility is that the subject really is a woman, whether called Trygonion or Tryphera (line 1);² in that case, since the Great Mother loved her, she might be a dancing-girl like Kallistion in the poem immediately following this one in the *Anthology* (7. 223,

¹ A. S. F. Gow and D. L. Page, *The Greek Anthology: the Garland of Philip II* (Cambridge, 1968), p. 396.

² The lemmatist glosses it εἰς Τρυγόνιον ἑταίραν τοῦ Σαβακῶν ἔθρους ὁρμωμένην.