

CICERO DE *SENECTUTE* 11, AND THE DATE OF C. FLAMINIUS' TRIBUNATE

RACHEL FEIG VISHNIA

THE ANCIENT SOURCES are at variance about the date of C. Flaminius' tribunate.¹ Polybius (2.21.7–8) claims that Flaminius enacted his agrarian law during the consulship of M. Aemilius Lepidus, namely in 232. Cicero (*Sen.* 11), on the other hand, leaves no room for doubt that the event took place four years later, in 228, during the consulship of Q. Fabius Maximus and Sp. Carvilius Ruga: [*Fabius Maximus*] *qui consul iterum, Sp. Carvilio collega quiescente, C. Flaminio tribuno plebis, quoad potuit, restitit agrum Picentem et Gallicum viritim contra senatus auctoritatem dividenti.*

The manifest discrepancy between the ancient testimonies has baffled modern scholars. Lange believed that the law was indeed enacted in 232, but was not implemented immediately because Fabius Maximus, who held key positions during the years that followed, and Flaminius, as *tresvir agris dandis adsignandis*, continued to argue over the law until 228, when it finally became fully operative.² Rotondi (1912: 247–248), on the other hand, accepted Cicero's dating unequivocally. Münzer, who believed that Cicero was relying on Atticus' *liber annalis*, hesitated between the two sources, but eventually opted for Polybius.³ Mommsen, for his part, claimed that the discrepancy between the two sources cannot possibly be reconciled and concluded: "Es bleibt nichts übrig als den Widerspruch anzuerkennen und der bessern Auktorität [Polybius] zu folgen" (Mommsen 1864–79: 2.401, n. 3).

Niccolini (1934: 87–89), nevertheless, decided to tackle the problem afresh. He rejected Lange's contention, claiming that such an interpretation is implicitly based on the unsubstantiated assumption that Flaminius was tribune in both 232 and 228. He surmised, therefore, that we must concede that one of our authors has simply fallen prey to an unfortunate error. Niccolini could not explain Polybius' error (if indeed he was in the wrong),⁴ but he was able to account for what seems to have been Cicero's blunder.

Cicero, in Niccolini's view, was misled by one of his sources. The mysterious annalist knew of the collision between Fabius (as consul) and Flaminius (as

All dates are B.C. I am grateful to Z. Rubin and F. Millar for their useful comments and criticisms.

¹ For a comprehensive bibliography on C. Flaminius see now Seibert 1993: 352–353; 359.

² Lange 1879: 2.148–149 followed by Botsford 1909: 334 and Bleicken 1968: 29. Lange's conjecture that Flaminius was *tresvir dandis adsignandis* is plausible; nonetheless, there is no evidence to sustain it.

³ F. Münzer, *RE s.v.* "Flaminius" no. 2; *id.* 1905: 85–89. Cf. also de Sanctis 1968: 3.1.323, n. 181.

⁴ Polybius was undoubtedly hostile to Flaminius (2.21.7–9; 2.33.4–9; 3.80.3; 3.81.12; 3.84.1–6), but there is no good reason to believe that this animosity encouraged him to tamper with the dates.

tribune), but was ignorant of the year in which this controversy transpired. He knew, however, that Fabius was consul both in 233 and in 228 and that Flaminius was tribune of the plebs in 232. As their years of office did not coincide, the anonymous author opted for 228 simply because in that year, Fabius spent most of his magisterial year in Rome, which was not the case in 233.

After untangling the reasons that led Cicero's source astray, Niccolini offered the following solution. Fabius was consul for the first time in 233. On February 1, 232, he celebrated a triumph over the Ligurians. M. Aemilius Lepidus, *consul designatus* for 232, assumed office, as customary at that period, only in May. Flaminius, on the other hand, began his magistracy, as tribunes always did, on December 10, 233. Fabius as consul and Flaminius as tribune, it follows, had sufficient time to argue over the latter's proposed bill in 232 and, therefore, there is no need to move the whole affair to Fabius' second consulship. The mysterious annalist, concluded Niccolini "non ha veduto tale concordanza."⁵ Most modern scholars have accepted Niccolini's solution without dispute.⁶

Càssola (1962: 261), however, maintained that Niccolini's reconstruction, although clever, cannot be accepted as Cicero leaves no doubt that the confrontation between Fabius and Flaminius occurred in 228 when Fabius was *consul iterum*. Nonetheless, his conjecture that the whole story was a figment of Cicero's imagination⁷ is highly speculative. Càssola, who believes that Flaminius and Fabius were political allies, rejects any evidence that proves the contrary.⁸ Càssola does not explain why Cicero should have taken the trouble to fabricate such a tale, but, in any case, the bitter rivalry between the two personalities is too deeply entrenched in Roman tradition to be done away with so easily.⁹

⁵ Niccolini 1934: 89. The innate logic of Niccolini's argument holds even if, at that period, the consular year began on March 15. Cf. Mommsen 1887–88: 1.597–600; 604.

⁶ Jacobs 1937: 41–42; Broughton *MRR* 1.225; Walbank 1957: 1.92; Lippold 1963: 133; 231; Bleicken 1968: 28–29. Develin (1976: 639–643) agreed with Niccolini that Flaminius was tribune in 232. Yet, relying on the anecdote preserved in Roman tradition according to which Flaminius, while presenting his law, was removed from the *rostra* by his father (Val. Max. 5.4.5; Cic. *Inv. rhet.* 2.17.52), he concludes that Flaminius' law had never been enacted. In his opinion, the Senate cleverly outmanoeuvred Flaminius and established Latin colonies on the territory proposed for distribution, thereby silencing any complaints that might have been voiced by the potential settlers. As there are obvious and notable omissions in the lists of Latin colonies recorded by the ancient sources, Develin is not troubled by the fact that the names of these hypothetical colonies are not anywhere to be found. Still, Develin's laboured efforts to prove that the law was never enacted are clearly refuted by the evidence presented in our sources (cf. Broughton *MRR* 1.225; see esp. Cato in Varro, *RR* 1.2.7). Moreover, it is hardly likely that Polybius (2.21.8–9) would have attributed the outbreak of the Gallic war in 225 to the implementation of a law that had never been enacted. See, however, Develin 1985: 225, n. 19, where he concedes that he may have been wrong. Cf. also Feig Vishnia 1996: 25–34.

⁷ Càssola 1962: 261, "Comunque, da un nuovo esame del Cato Maior ... a mio parere, que il conflitto del 232 fu inventato di sana pianta da Cicerone."

⁸ Càssola 1962: 260–261; 342–344. See Develin's comments at Develin 1979: 270.

⁹ Plut. *Fab.* 2–3. Cf. Livy 22.3.7–10; 22.9.7–10; 22.12.5–7; 22.18.8–9; 22.39.6; 22.43.5–6.

Niccolini's hypothesis is indeed problematic. First, as Càssola has already pointed out, by stating that Carvilius Ruga was Fabius Maximus' colleague, Cicero left no room for doubt that he or his source believed that the clash occurred in 228 and not in 233/232. Second, it is rather improbable that the peculiarities of the Roman magisterial calendar at the end of the third century, so apparent to a twentieth-century scholar, eluded Cicero's mysterious source. Third, even if Flaminius, like other tribunes who initiated controversial legislation, had presented his bill immediately upon entering office (December 10, 233),¹⁰ he was probably unable to complete the procedure while Fabius was still consul.¹¹ And fourth, Polybius' version acquires greater credibility in view of the fact that Flaminius and the consul of 232, M. Aemilius Lepidus, had common political goals.¹² There is good reason to believe, therefore, that Cicero's evidence is erroneous, and that Flaminius, meeting with fierce opposition from Fabius Maximus and his supporters, was unable to enact his law while Fabius was consul (until March or May 232);¹³ once Aemilius Lepidus entered office, all obstacles were removed.¹⁴

Was Cicero, in fact, misled by one of his sources? Such an assumption implies that Cicero was an incompetent historian who did not take the trouble to check or criticize his sources properly. Yet Cicero seems to have been a much better historian than usually admitted.¹⁵ Brunt has claimed quite convincingly, "According to Cicero then the historian is to tell the truth and the whole truth, without rancour or fear" and, "Conflict of testimonies had to be resolved and truth disentangled from fable or fiction."¹⁶ Moreover, it is quite evident that Cicero paid special attention to problems of chronology. He was careful to avoid anachronisms in his dialogues (Jones 1939: 307), and he even scolded Curio for his feeble memory that led him to flagrant blunders (*Brut.* 218–219). Whenever

¹⁰ E.g., Rullus entered office on December 10, 64. On January 1, 63, when Cicero began his consulship, Rullus' agrarian bill had already been promulgated (*Leg. Agr.* 2.5.13) and on the very same day Cicero was able to assail the various provisions of the proposed law (*Leg. Agr.* 2.29.79). Cf. also Cic. *In Pis.* 8–9; Plutarch (*Ti. Gracch.* 8; *C. Gracch.* 4; 5) relates that both Tiberius and Gaius presented their measures immediately upon entering office. See also Dio 36.42.2 with Asconius [Stangl] 57.52.

¹¹ The fierce opposition to Flaminius' agrarian law is attested by all sources; cf. Niccolini 1934: 87–89; Broughton *MRR* 1.225.

¹² Kramer (1948: 1–26) claimed that both Flaminius and the Aemilii wished to settle Adriatic Gaul; the first in order to relieve the economic difficulties of the landless poor, the latter to consolidate the northern border in view of the nascent Gallic-Carthaginian threat. Moreover, Flaminius seems to have had special relations with the Aemilii. He was censor with Aemilius Papus in 220 (Broughton *MRR* 1.235–236) and Flaminius' son was consul with the son or the grandson of the consul of 232 (*ibid.* 1.367–368).

¹³ See above, n. 6.

¹⁴ Since Flaminius' agrarian law was eventually enacted, it is obvious that Flaminius must have enjoyed some support. For a more balanced interpretation see Develin 1979: 268–277; Hermon 1989: 2.273–284; and Feig Vishnia 1996: 32–34.

¹⁵ Jones 1939; Rambaud 1953; Rawson 1972; Brunt 1980.

¹⁶ Brunt 1980: 315 and 317.

he encountered chronological problems, he consulted the *Graecorum annales* and Polybius (Rawson 1972: 36), whose authority he regarded as superior¹⁷ and whom he considered unsurpassed for chronological accuracy.¹⁸

Bearing all this in mind, one must admit that Cicero's presumed inaccuracy seems odd. Unless we suppose that Cicero, ignoring Polybius' testimony, consulted an inferior source, or agree with Càssola that Cicero concocted the whole episode out of his fertile imagination, we must concede that Cicero might have had an "ulterior motive."

Fraccaro (1919: 76–77) believed that Cicero did not hesitate to tamper with the dates to present his readers with a dramatic confrontation between a conservative consul and a *popularis* tribune. Cicero (*Leg.* 1.2.5), who held that history was a branch of literature, might have substituted one date for another in favour of a more vivid and dramatic description. However, such an approach is at variance with Cicero's resolute conviction that the historian must not, in any case, swerve from the truth.¹⁹ Moreover, had this been his intention, he could have staged the scene during the short overlapping span of time in 232 in which both Fabius and Flaminius were in office, as suggested by Niccolini.

Was Cicero totally committed to the historian's truth or was he willing in exceptional cases to bend the strict rules he set? In a candid letter to Luceius²⁰ Cicero confesses that he is fired by the wish *nomen ut nostrum scriptis illustretur et celebretur tuis* (*Fam.* 5.12.1). Cicero (*Fam.* 5.12.3) all but begs Luceius, who was writing a history of the Italian and civil wars, to eulogize his consular year and *ut . . . in eo leges historiae neglegas gratiamque . . . si me tibi vehementius commendabit, ne aspernere amorique nostro plusculum etiam quam concedet veritas largiare*. It seems that when Cicero's own glorification was concerned, nothing was sacred. He forgets the obligatory rules by which, according to his own criteria, all historians should abide: *etenim ordo ipse annalium mediocriter nos retinet quasi enumeratione fastorum; at viri saepe excellentis ancipites varisque casus habent admirationem, expectationem, laetitiam, molestiam, spem, timorem; si vero exitu notabili concluduntur, expletur animus iucundissima lectionis voluptate* (*Fam.* 5.12.5). Chronology, it seems, is of little interest when compared with Cicero's varied, striking, and inspiring fortunes.

On the face of it, there is nothing in *De senectute* 11 that could be associated with Cicero's "megalomania," which in turn might account for his imprecision. Admittedly, *De senectute* is a problematic dialogue,²¹ and even Jones (1939:

¹⁷ *Off.* 3.113: *Polybius bonus auctor in primis.*

¹⁸ *Rep.* 2.27: *sequamur enim potissimum Polybium nostrum quo nemo fuit in equirendis temporibus diligentior.*

¹⁹ *Orat.* 2.62: *nam quis nescit primam esse historiae legem, ne quid falsi dicere audeat? deinde, ne quid veri non audeat? ne quae suspicio gratiae sit in scribendo? ne quae simultatis?*

²⁰ *Fam.* 5.12.1: *coram me tecum eadem haec agere saepe conantem deterruit pudor quidam paene subrusticus; quae nunc expromam absens audacius; epistula enim non erubescit.*

²¹ Rawson 1972: 39–40 with notes.

308–312), who applauded Cicero's accuracy in the characterization of the interlocutors in his dialogues, confessed that in *De senectute* there are some important points in which Cicero is at fault. Therefore, it would perhaps be better to relinquish any hope of solving this dilemma and to follow Mommsen's advice (1864–79: 2.401, n. 3). However, some intriguing facts, inadequately explored, may shed further light on this affair.

Cicero refers to Flaminius' agrarian bill in some detail on three occasions. In all three cases he emphasizes that the law was enacted against the expressed will of the Senate.²² Fabius' intractable resistance, on the other hand, is depicted only in *De senectute* 11, and is not, it should be stressed, corroborated by any of the other relatively extensive sources relating to this controversial law.²³ Furthermore, save for questions of chronology, most scholars have not inquired into the alleged silence of Sp. Carvilius Ruga, Fabius' colleague in 228. Lange believed that Carvilius, who had suffered a political set-back on account of his recent divorce (ca 230; Watson 1965: 38–40) had to rely on Flaminius' backing in the elections to the consulate of 228, and therefore recoiled from action (Lange 1879: 2.149–150). Broughton (*MRR* 1.225, n. 5), who embraced Niccolini's solution, surmised that Carvilius remained silent because he was not involved. Both Lange and Broughton could be right, of course; still, Cicero's explicit reference to Carvilius' quiescence should not be ignored; had chronology alone been involved, it would have sufficed to report that Fabius was *consul iterum*.

I would conjecture, therefore, that Cicero's blunder was premeditated and not totally guileless. To what purpose? Cato's eulogy of Fabius in *De senectute* undoubtedly reflects Cicero's own veneration for the Cunctator.²⁴ Fabius represented an ideal optimate of old: conservative, tough, outstanding both on the battlefield and in politics; surely there was no better way to extol Fabius' excellence than by emphasizing the fact that, as consul, he had done his utmost to defeat a tribunician *lex agraria*.²⁵ Still, the fact that Cicero did not deem it sufficient to praise Fabius' heroic although ineffectual resistance, but also insisted on stressing Carvilius' quiescence, implies that he might have had other things in mind.

During the last months of Caesar's dictatorship, when Cicero was writing *De senectute*,²⁶ he was a disillusioned retired politician²⁷ who had little prospect for the future save the burden of old age.²⁸ Conscious, perhaps, of the damage

²² *Sen.* 11: *contra senatus auctoritatem*; *Inv. rhet.* 2.52: *invito senatu et omnino contra voluntatem omnium optimatum*; *Acad.* 2.13: *invito senatu*. Cf. also *Brut.* 57; *Leg.* 3.20.

²³ Cf. Broughton *MRR* 1.225.

²⁴ Fabius does not figure extensively in Cicero's *exempla*. Nonetheless, Cicero always speaks of him with utmost respect and admiration. Cf. *Planc.* 60; *Leg. Man.* 47; *Orat.* 1.210; 2.273; 2.290. *Off.* 1.84; 1.108. *Rep.* 1.1; 5.10; *Tus.* 1.110; *Brut.* 57; 72. Cicero seems to have felt a special sympathy for Fabius, who, like himself, had lost a grown-up child during his lifetime. Cf. *Fam.* 4.6.1; *Tus.* 3.70–71.

²⁵ Cf. *Leg. Agr.* 2.14: *atque improbis tribunis plebis boni et fortes consules obstituerunt*.

²⁶ Cf. *Cic. Div.* 2.3; *Att.* 14.21. The work was not fully revised till July 44; cf. *Att.* 16.3.

²⁷ Cf. *Plut. Cic.* 40.1.

²⁸ Cf. *Cic. Sen.* 2.

caused by his blatant vanity, or hesitant to extol his own achievements under the rule of an equally vain dictator, Cicero chose to pursue a more sophisticated and subtle course. The collision between Fabius the consul and Flaminius, the tribune of the plebs, over the latter's agrarian law while Fabius' colleague, Carvilius, kept silent, was designed to remind the readers of an earlier and probably less subtle comparison with Fabius: Cicero as consul in 63²⁹ singlehandedly waged a battle against Rullus' agrarian law while his colleague, Antonius, was quiescent. Moreover, Cicero, a *novus homo* from Arpinum, managed to succeed where a celebrated scion of an ancient and noble family had failed: Flaminius' agrarian measure, in spite of Fabius' staunch opposition, was eventually enacted and implemented; Rullus' bill, on the other hand, was nipped in the bud.

Cicero (*Arch.* 28) genuinely believed that great deeds are soon forgotten, if not praised and glorified. Although he ardently encouraged his friends to write adulatory reports of his achievements,³⁰ Cicero intuitively understood that no one would carry out the task better than himself. Therefore, he sang his own praises constantly, both in his public orations and in his writings.³¹ In 60, in an attempt to re-establish his declining political standing, Cicero wrote a self-laudatory poem *De consulatu*, both in Greek and in Latin.³² Unfortunately for Cicero, his scheme backfired; the poem, which did little to promote Cicero's popularity, became a subject of reproach and endless derision. The main criticism centered on two grandiloquent verses that have survived and that reveal the panegyric and pompous nature of the poem (*O fortunatam natam me consule Romam! / Cedant arma togae, concedat laurea laudi / linguae*).³³ In the pseudo-Sallustian invective written against Cicero, the anonymous author ridicules these verses, and it may well be that he was also summarizing other lines when sarcastically addressing Cicero: *oro te, Romule Arpinas, qui egregia tua virtute omnis Paulos, Fabios, Scipiones superasti . . .* (ps.-Sallust *In M. Tullium Ciceronem Oratio* 7). We may plausibly assume, therefore, that Cicero in some way compared or even contrasted his own achievements with those of the Cunctator in his poem, and that in *De senectute* 11 he was implicitly contriving to evoke the original comparison.

²⁹ Cf. Broughton *MRR* 2.165–166.

³⁰ The poet Archias, whom Cicero defended in 62, had begun writing a poem about Cicero during the trial. Cicero was impressed and encouraged him to continue (*Arch.* 28). To Cicero's disappointment, Archias eventually deserted this plan and concentrated his efforts on writing a poem about his patrons the Luculli (*Att.* 1.16.15). Atticus was probably unable to turn down Cicero's request (*Att.* 1.15.1); the results, however, were somehow disappointing to Cicero (*Att.* 2.1.1): *tua illa (legi enim libenter) horridula mihi atque incompta visa sunt, sed tamen erant ornata hoc ipso, quod ornamenta neglexerant . . .* Posidonius, with a touch of irony that Cicero probably failed to understand, refused tactfully (*Att.* 2.1.3). Luceius probably also declined Cicero's ardent pleas using some polite excuse or another (*Fam.* 5.12).

³¹ Plut. *Cic.* 24.1–2. Cf. Sen. *Brev. vit.* 10.5.1.

³² *Att.* 1.19.10; 1.20; 2.1.1. Cf. Townend 1965: 118–120.

³³ Townend 1965: 118–119 with notes.

Cicero might have thought that he was not stretching the truth too far when staging the collision between Fabius and Flaminius in 228.³⁴ Fabius was undoubtedly a consistent opponent of the law, and it is likely that he was able to hinder Flaminius' initiative while he was consul. Moreover, it is plausible that Fabius, as consul in 228, strove to impede Flaminius, who was campaigning for the praetorship of 227,³⁵ most probably largely on the strength of the agrarian law he had sponsored a few years earlier. The fact that Fabius and Flaminius contested bitterly and loudly over strategic issues at the beginning of the Second Punic War³⁶ rendered the slight tampering with chronology easier.

What were four years of a remote past unknown to many of his readers (Rawson 1972: 35), if Cicero could use them to achieve a dramatic literary effect, glorify the name and the deeds of an ideal optimate of the distant past, and, most importantly, congratulate himself for having succeeded where a distinguished *nobilis* like Fabius, according to his presentation, had failed? Apparently, Cicero ignored Polybius' chronology when his own glorification was concerned. Modern historians, attaching too much importance to Cicero's chronological accuracy, have found themselves hopelessly embroiled.

DEPARTMENT OF HISTORY
TEL AVIV UNIVERSITY
RAMAT AVIV 69978
ISRAEL

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³⁴ It is noteworthy that in *Academica*, written a few months before *De senectute* (cf. *Att.* 12.45.1; 13.6.1; 13.12.3; 13.13.1; 13.32.2), Cicero, for the first and only time, refers to the date of Flaminius' tribunate (2.13): *C. Flaminius qui legem agrariam aliquot annis ante secundum Punicum bellum tribunis plebis tulerit* Was Cicero already contemplating his "chronological inaccuracy"?

³⁵ Cf. Broughton *MRR* 1.229.

³⁶ See above, n. 9.

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