

TRANSACTIONS

OF THE

AMERICAN PHILOLOGICAL ASSOCIATION

1944

I.—Cicero's House and *Libertas*

WALTER ALLEN, JR.

Libertas was a political catchword in late Republican Rome, just as it was not unusual to impute tyrannical power to opponents. Cicero in the *Verrines* was very free in this latter respect when attacking Hortensius, and later, after his consulship, heard himself called *rex*, *peregrinus rex*, and *tyrannus atque ereptor libertatis*. When Clodius drove Cicero into exile, he erected on part of the site of his house a shrine of *Libertas*, as a sign that with Cicero banished Rome could return to democratic processes. Upon his return from exile Cicero recovered his lot and rebuilt his home.

Cicero dealt with the subject of his house on the Palatine Hill in two orations and a number of letters in such a way as to make clear that it was of unusual importance to him. Previously I have expressed my opinions as to the location of this house;¹ now I wish to treat an aspect of the political significance of the house which occurred to me more recently, and which is perhaps of more general value than my former studies of its location.

First let us consider the edifice itself. Located on the side of the Palatine which faces north-northeast, it was built originally by the tribune M. Livius Drusus, who was assassinated there,² and later owned by a Crassus,³ from whom it was purchased by Cicero

¹ "The Location of Cicero's House on the Palatine Hill," *CJ* 35 (1939) 134-143; "Nisbet on the Question of the Location of Cicero's House," *CJ* 35 (1940) 291-295. Very useful is R. G. Nisbet's edition of the *De domo sua* (Oxford, 1939), which will be referred to by the author's name only. As in almost any paper on Cicero, it is possible to multiply references and citations; I have tried to limit myself to the truly pertinent ones.

² Vell. 2.14.1.

³ S. B. Platner and T. Ashby, *A Topographical Dictionary of Ancient Rome* (London, 1929) 175 believe it was Marcus Crassus, as do Tyrrell and Purser in their note on *Att.* 1.13.6. Cicero himself in *Fam.* 5.6.2 says simply *de Crasso*. P. Crassus is indicated by Ps. Cic. *In Sall.* 14 and 20, and by Ps. Sall. *In Tull.* 2f.

in the latter part of 62 B.C. for HS 3,500,000.⁴ Drusus had intended it and his conduct therein to be visible to all the city, and Velleius Paterculus⁵ has preserved for us his instructions to the architect on the subject. It was elegant enough to have marble columns,⁶ although it is unlikely that they were part of the original structure. In Cicero's day it was still well thought of,⁷ although the phrasing of the source leaves us in doubt as to the extent to which the building had remained unchanged.⁸

It is possible to visualize the situation of the house by imagining oneself to be a Roman standing in the Forum and looking above the temple of Vesta and the Atrium Vestae, where the house is in view.⁹ To the west of it is located a public building, the Porticus Catuli, and to the east are the homes of Q. Seius Postumus, Clodius, Clodia and her husband Metellus Celer, and Q. Lutatius Catulus. Thus, looking from the Forum, east of the temple of Castor, one could see the buildings of Vesta; back of them and at the foot of the hill one would know there was the Nova Via running along at the base of the steep slope of the Palatine; then, extending down toward the Nova Via, but actually facing a street on top of the hill, one could perceive this group of houses. Along the top of that side of the Palatine is the narrow street just mentioned, the Clivus Victoriae, today in perhaps much the same condition as when Cicero trod it.¹⁰

The literary evidence is adequate to tell us who Cicero's neighbors were, but we do not know positively whether this group of houses was located between the street and the brow of the hill, or

⁴ Cic. *Fam.* 5.6.2; Gell. 12.12.

⁵ 2.14.3.

⁶ Cic. *Dom.* 62. There was a house on the Palatine, certainly a different one, which belonged to L. Crassus (died 91 B.C.): Platner and Ashby, *op. cit.* (see note 3) 178. This house, because it had six (?) twelve-foot columns of Hymettian marble, gave Brutus the opportunity to call its owner the "Palatine Venus" (Plin. *Nat. Hist.* 17.5f.; 36.7; 36.114; cf. Val. Max. 9.1.4 for another version of the story), which is strikingly similar to the familiar "Palatine Medea" of Cic. *Cael.* 18.

⁷ Cicero was very proud of his purchase: *Fam.* 5.6.2. This letter shows that Sestius, in the province of Macedonia, had time to hear of Cicero's intention to buy the house and to write a congratulatory comment on the purchase which Cicero received before the deal had been completed; it was a matter of some moment.

⁸ Vell. 2.14.3.

⁹ Cic. *Dom.* 100.

¹⁰ The general proof for the statements in this paragraph is contained in the articles cited in note 1. Q. Cicero also had a house adjoining his brother's and apparently below it in level, although the arrangement is by no means clear; Cic. *Att.* 2.4.7; 4.3.2; cf. *Q. fr.* 2.4.2, 5.3.

on the south side of the street. One small bit of evidence,¹¹ of difficult interpretation, may support my contention that the former is the more likely possibility, but that is a point which only archaeological investigation and publication can settle. Readers familiar with the topography of this area will be disconcerted by the fact that the space between the Nova Via and the Clivus Victoriae does not seem to be sufficient in width for the houses I have listed, nor is it so very long; but we know so little about the architecture of Roman mansions of the Republic that anything is possible. At present, of course, much of this region is covered by the ruins of buildings of the Empire, with the remnants of the Orti Farnesiani farther up the hill, so that extensive excavation would be difficult and probably could at best give us only the foundations of Republican houses, interesting as those would be.

The house was very important to Cicero. He bought it after his consulship, he felt that it exemplified his acceptance into high Roman politics and society,¹² and he went into debt to purchase this visible symbol of success.¹³ So far as we can now ascertain, the Roman nobles, although they accepted him, thought his action somewhat presumptuous.¹⁴ But this psychological factor is noteworthy—both Cicero and the Romans attached value to Cicero's taking up residence in that fashionable quarter of the city. It is

¹¹ Cic. *Dom.* 116 seems to mention a part of the lot "down the slope" (*inferiorem aedium partem*). For *aedes* as meaning the site of a building, see Nisbet 168 on this passage, and 155, showing that *domus* can mean a site; cf. Cic. *Att.* 4.1.7, 2.5. For some idea of the appearance of these houses, see F. Noack and K. Lehmann-Hartleben, *Baugeschichtliche Untersuchungen am Stadtrand von Pompeji* (Berlin and Leipzig, 1936) 203, also plates 21–26 which illustrate the terraced effect.

¹² Cic. *Off.* 1.138f. where he speaks of the relationship between property and *dignitas*; cf. *Fam.* 5.6.2; *Att.* 1.13.6. Plutarch, in *Cicero* 8.3, says he chose this new home so that attendance at his *salutatio* would not require a long walk. (Plutarch certainly means this house, although the chronological point at which he mentions it seems in error.)

¹³ Cic. *Fam.* 5.6.2, where he jokes about joining a conspiracy to obtain *tabulae novae*; *Att.* 1.12.1f., 13.6; Gell. 12.12.

¹⁴ See T. Petersson, *Cicero A Biography* (Berkeley, 1920) 214f. Also, they were not especially generous in granting indemnification upon his return from exile: Cic. *Att.* 4.2.5 (and possibly §7). Cicero in this letter referred to the malice of the *optimates*; in others he claimed that Hortensius specifically had been guilty of perfidious conduct toward him in the distressing period before his exile: *Att.* 3.7.2, 8.4, 9.2; *Q. fr.* 1.3.8; also *Att.* 4.6.3. From *Att.* 4.3.5, as explained by Tyrrell and Purser's note, one may draw the conclusion that Pompey and Hortensius had given him bad advice, perhaps deliberately, and that others of Cicero's aristocratic friends had proved themselves feeble and weak. For Hortensius' envy of Cicero see Cic. *Brut.* 323; for the bad faith of others see D.C. 38.17.6.

necessary to recall that the great nobles of Rome were also the leaders in politics, and that it was impossible to separate high society and politics—no man could engage in one and not the other.

When Clodius drove Cicero into exile in 58 B.C., he rejoiced in the immediate¹⁵ destruction of the house, and subsequently divided the lot into three parts.¹⁶ One section, about a tenth, he joined to the Portico of Catulus on the west, thus placing Cicero in the same category with M. Fulvius Flaccus, who had lived in a house on that site and who had been executed as a traitor.¹⁷ On a large portion he intended to build an addition to his own home on the east, for he had before this acquired the intermediate house of Seius Postumus; and on a central portion he erected a shrine¹⁸ of Liberty. By rendering the ground holy, a not unusual device, he hoped to prevent Cicero from ever recovering the site.¹⁹

What concerns us now is why he chose the goddess Liberty. Clodius' arrogant cynicism has been vastly overrated. It should be remembered that he was also a competent politician, even if we have some trouble in following his political purposes. Since we are accustomed to think of Cicero as the champion of virtue and justice in the late Republic, it is natural for us to assume that Clodius was guilty of shockingly bad taste in placing a shrine to Liberty on the ruins of the home of a man who was an ardent defender of republican ideals. Cicero was not so white, and Clodius not so black, as they have been painted by Cicero; the necessity that Cicero felt for constantly defending his political creed and career is proof enough that a sizable group disapproved of his conduct. It is doubtful, however, that Clodius was in conscience opposed to Cicero's politics, because he had been of conspicuous assistance to him at the time of the Catilinarian Conspiracy.²⁰ Whether Clodius

¹⁵ Cic. *Red. in Sen.* 17; *Sest.* 54.

¹⁶ For documentation see the articles cited in note 1.

¹⁷ Cic. *Dom.* 102; cf. Val. Max. 6.3.1.

¹⁸ Nisbet 207 well remarks that Cicero does not dignify the structure by terming it *cella* or *sacellum* or *templum Libertatis* although he does call it *templum Licentiae* in *Leg.* 2.42; usually he uses the word *monumentum*.

¹⁹ Nisbet 209–212.

²⁰ Plu. *Cic.* 29.1. I see no reason why we should not believe Plutarch on this point; cf. *RE s.v.* "Clodius" col. 83. One can, however, possibly detect ill feeling between Clodius and Cicero before Cicero gave evidence against him from the fact that Clodius threw up to Cicero the word *comperisse*: Cic. *Att.* 1.14.5. In order to complete the confusion, we may recall that Clodius had charged Catiline with extortion in Africa, and that Catiline had been acquitted in such a way as to give rise to suspicion of collusion: *RE s.v.* "Clodius" col. 82.

sincerely questioned the legality of the execution of the conspirators we do not know, but it is to be suspected that his attack upon Cicero on that point was inspired by political expediency more than by deep conviction.

The word liberty was cast about in a very careless manner by the Romans, especially in the period beginning with the tyrannicides and continuing for about a century and a half, when every group used it with equally telling effect. There is even a good recent German dissertation on the subject,²¹ which does not treat this case, but which shows that the word was impartially employed by the *optimates* and by the popular leaders. In Republican Rome liberty was traditionally extolled, and tyranny and monarchy reviled.²²

If we look back a bit into Cicero's biography, we shall discern Clodius' intentions. At the time of the orations against Verres (70 B.C.) Cicero was on the side of the knights and the people, partly because the *optimates* would not have him, and he was opposed to the control the *optimates* had over Rome.²³ One of the leaders, and the spokesman, of the optimate party was Hortensius, Cicero's opponent in this case, and Cicero did not spare him. He remarked, as was true, that Hortensius' power was so great that it was incompatible with democratic principles, and he went so far as to speak of his *potentia* and his *dominatio regnumque iudiciorum* and to call him and his associates *iudiciorum dominos*.²⁴ Very strong language indeed, and not quite in the normal vein of oratorical invective! Now the success of the *Verrines* made Cicero superior in oratory to Hortensius;²⁵ and his successes in 63 gave him approximately the same position in the optimate party as

²¹ H. Kloesel, *Libertas* (Breslau, 1935). In the speech in Sall. *Catil.* 20 Catiline used the word as his rallying cry.

²² W. Kroll, *Die Kultur der ciceronischen Zeit* (Leipzig, 1933) 1.10-15, with especial regard to his Anmerkungen.

²³ Petersson, *op. cit.* (see note 14) 139f.

²⁴ Cic. *Div. in Caec.* 24 (*in iudiciis . . . dominari*); *Verr.* Act. 1.35 (*potentia*, and *dominatio regnumque iudiciorum*), 40 (*potentem*), Act. 2.1.58 (*iudiciorum . . . dominos*), 2.77 (*imperium iudiciorum*); cf. *Verr.* Act. 2.1.3, 3.7, 5.174f., 5.183. In 65 B.C. Cicero also spoke of the *regnum iudiciale* of the jurisconsult Aquilius in a good sense (*Att.* 1.1.1), as he likewise spoke of his own *amisso regno forensi* in *Fam.* 9.18.1 (46 B.C.). If any reader wishes to pursue the study of *regnum* further, he might well consider Cic. *Att.* 7.7.5 (50 B.C.), 11.1 (49 B.C.); *Fam.* 9.19.1 (46 B.C.).

²⁵ Cic. *Brut.* 319-323.

Hortensius had held;²⁶ and in 60 we find him the prime leader of the *optimates*, and not entirely to the taste of all of them.²⁷

The main difference was that Hortensius was socially acceptable,²⁸ whereas Cicero's brilliance had compelled the *optimates* to accept him. Many of them disliked him,²⁹ but the group was in need of his talents and after his consulship recognized that it was too unprofitable to have him in the opposition. He constituted himself a nuisance by always prating of political ideals in which no one else had any interest, and he had the annoying habit of judging men and affairs from the point of view of morals³⁰ rather than of manners, as the aristocrats did. It was the mark of the new man to feel himself superior in virtue to the old-line politicians. Cicero was sincerely honest,³¹ however, and for that reason the more easily hurt when his honor or intentions were questioned. But he was by 62, none the less, the spokesman and one of the leaders of the *optimates*, and consequently just as open to attack as Hortensius had been.³²

In that year (62 B.C.), when he was speaking in defense of Sulla (from whom incidentally he had quasi-illegally borrowed HS 2,000,000 to buy the house³³), Cicero had to answer at length the accusation of Torquatus that he was a *rex*, and a *peregrinus rex* at that, because he had been born outside Rome.³⁴ His power in the courts

²⁶ Petersson, *op. cit.*, (see note 14) 286-289, 301f. Cicero's status, of course, was as vaguely defined, although generally recognized, as Roman parties were amorphous.

²⁷ Cic. *Att.* 1.20.3; cf. 1.19.6.

²⁸ *RE s.v.* "Hortensius" 2471-3.

²⁹ *RE s.v.* "M. Tullius Cicero" 1088f.; Cic. *Att.* 1.18.1 (60 B.C.); 4.1.8 (57 B.C.), 2.5 (57 B.C.), 18.2 (54 B.C.); *Fam.* 1.7.7f. (56 B.C.), 9.5 (54 B.C.), 9.10, 9.14f., 9.19; Petersson, *op. cit.*, (see note 14) 276, 313f., 330; also the references in note 14.

³⁰ Cic. *Verr. Act.* 2.3.7, 4.81, 5.181; *Mur.* 17; *Sest.* 136f.; *Rep.* 1.1; Q. Cic. *Pet. Cons.* 7; cf. Sall. *Iug.* 85. This was, of course, the typical attitude of the "new man": *RE s.v.* "Novus Homo" 1226f.

³¹ T. Frank, "Cicero," *Proc. of the Br. Acad.* 18 (1932) 111-134.

³² Cicero knew quite well the interpretation which might be put upon his treatment of the Catilinarians: Cic. *Catil.* 1.30 (where he says that if he should punish Catiline, some people would say *crudeliter et regie factum esse*), 2.14 (. . . *me non diligentissimum consulem sed crudelissimum tyrannum existimari velint*). For his prominence see Petersson, *op. cit.* (see note 14) 286-289, 301f.

³³ Gell. 12.12. Is there any inner meaning to the senate's awarding him (Cic. *Att.* 4.2.5) exactly HS 2,000,000 with which to rebuild his house?

³⁴ *Sull.* 21-25, cf. 48. Cicero tells in *Att.* 1.16.10 how Clodius cast "Arpinate" at him in a slurring way; even in *Iuv.* 8.237f. Cicero is referred to as *novus Arpinas* and *municipalis eques*, although with the intent of glorifying his deeds (cf. J. E. B. Mayor's edition of Juvenal for parallel passages).

was very great,³⁵ so that there was as much truth to this charge as to his against Hortensius. The vehemence of the comments by both men was no hindrance to continued good feeling between Cicero and Torquatus,³⁶ a fact which permits us to comprehend that Torquatus was merely casting about for an argument which would strike a popular note.

We might not be inclined to take this single taunt seriously, except that the same charge recurs in 61 B.C., when Cicero had the famous *altercatio* with Clodius which he reported in *Ad Atticum* 1.16.10. Their dispute in the senate, shortly after Clodius' trial for the affair of the Bona Dea, fell to a low level of personal abuse and Clodius exclaimed:

Quousque hunc regem feremus?

(Whether there is any point to the reminiscent ring of that cry, I do not know.) Cicero, ever too facile of wit, replied:

Regem appellas cum Rex tui mentionem nullam fecerit?

(Clodius' brother-in-law, Q. Marcius Rex, had ignored him in his will.³⁷) Then Clodius continued:

Domum emisti,

and Cicero, referring to the obvious bribing of the jurors at Clodius' recent trial, retaliated with:

Putes dicere: iudices emisti.³⁸

Cicero's repartee must not be permitted to obscure for us the facts that his opponents were making excellent political capital of his house and his power, and that, as ever, someone was claiming to be the defender of freedom. Cicero, moreover, made his usual mistake of believing he had accomplished something by winning a verbal battle.³⁹

³⁵ Cic. *Fam.* 7.24.1 (45 B.C.): *olim cum regnare existimabamur* etc.; cf. *Fam.* 9.18.1 (46 B.C.).

³⁶ J. S. Reid, *Pro P. Cornelio Sulla* (Cambridge, 1882) 21.

³⁷ This coolness is hardly surprising since in 67 B.C., when he was proconsul in Cilicia, Marcius Rex had entrusted a fleet to Clodius who proceeded to fall into the hands of the pirates: D. C. 36.17; 38.30.5; App. *BC* 2.23; Str. 14.616. Another possible source of irritation was the ugly rumor that his wife had been debauched by her brother: Cic. *Fam.* 1.9.15 (54 B.C.); Plu. *Cic.* 29.4.

³⁸ There is more to this *altercatio*, but it is hardly edifying and it does not concern us here.

³⁹ Cic. *Att.* 1.16.8 shows his glee at downing Clodius.

The law which drove Cicero into exile banished from Rome everyone who had put to death a Roman citizen condemned without a hearing,⁴⁰ as Cicero had in 63. Hence Clodius' choice of *Libertas* as a catchword—he implied that he was freeing Rome from Cicero and his kind. This was not cynicism, then, but a serious imputation that Cicero was a tyrant. We are so accustomed to accepting at face value Cicero's statements about the Rome of his age that it takes a moment to realize how successfully his opponents could picture him to the people as a monster; but he himself at times after his suppression of the Catilinarian Conspiracy lamented that he was quite unpopular and occasionally even in danger from the radical elements of the popular party.⁴¹

Cicero was not the man to be outdone in a contest of phrases and symbols. He had kept and honored in his home a statuette of Minerva which, on the night he left the city, he carried to the temple of Capitoline Jupiter. There he dedicated it as *Minerva, custos urbis*.⁴² In other words, Cicero was saying, "Goddess, preserve the city!" and Clodius soon replied with a shrine of "Deliverance from Cicero." In 56 B.C. Cicero said that Clodius used to call him *tyrannum atque ereptorem libertatis*.⁴³

When Cicero returned from exile, he was exceedingly anxious to recover the site of his house and to rebuild. In the course of the oration *De domo sua*⁴⁴ he was once more compelled to reply to the charge of being a tyrant, and he did it delicately, using the word *tyrannus* gingerly. He recovered the lot and rebuilt the house at public expense,⁴⁵ for, after all, the matter was within the jurisdiction of the pontiffs and the senators, who were mostly of his party although not necessarily in sympathy with him.⁴⁶ But Cicero had to make a strong plea in the *De domo sua* in 57 B.C. before he was

⁴⁰ Vell. 2.45.1; D. C. 38.14.4; Liv. *Per.* 103.

⁴¹ Cic. *Sest.* 11 is interesting as proof that Rome in 63 did not universally applaud Cicero's course of action. For his status at this time see *RE s.v.* "M. Tullius Cicero" 891–895. His unpopularity with at least one faction in 62 is shown by Cic. *Fam.* 5.2.6–9; Plu. *Cic.* 23; cf. Cic. *Att.* 1.16.4, 16.11 (61 B.C.).

⁴² Cic. *Fam.* 12.25.1; *Leg.* 2.42; D. C. 38.17.5; Plu. *Cic.* 31.5; cf. Cic. *Dom.* 144. For the possibility of a deep regard for Minerva by Cicero see Nisbet 149f.

⁴³ Cic. *Sest.* 109; cf. *Vatin.* 23 (. . . tu, qui nos qui de communi salute consentimus tyrannos vocas, etc.); Ps. Sall. *In Tull.* 5f. (. . . erepta libertate omnium nostrum vitae necisque potestatem ad te unum revocaveras).

⁴⁴ *Dom.* 94. In *Dom.* 110 Cicero retaliated by speaking of Clodius' *dominatus*.

⁴⁵ Cic. *Att.* 4.1.7, 2.3–5; D. C. 39.11; Plu. *Cic.* 33.4.

⁴⁶ Cic. *Att.* 4.2.5; *Pis.* 52.

secure in his objective, and even then Clodius tried to use physical force to halt building operations.⁴⁷ In 56 Cicero had to reiterate his arguments in the *De haruspicum responso*, while Clodius was again inclined to try to tear down the house.⁴⁸

Both publicly and privately Cicero declared he would not feel himself completely restored until he had recovered his home.⁴⁹ This was not mere petulance. Clodius had erected, in full sight of the Forum⁵⁰ and on the location where once had stood the visible symbol of Cicero's success, a shrine which implied Cicero's public life had been treasonable, to put it mildly. Cicero could not return to political activity with confidence until that new symbol was destroyed. So, in wrecking Cicero's house and creating the shrine, Clodius had attacked not only Cicero's pride but also his political creed. Cicero therefore insisted on being reestablished in his home in a legalistic way⁵¹ in order to have both the state and the state religion emphasize the point that he had always been in the right.

⁴⁷ Cic. *Att.* 4.2.3–5, 3.2f.

⁴⁸ D. C. 39.20; Cic. *Att.* 4.7.3.

⁴⁹ Cic. *Att.* 3.20.2; *Fam.* 14.2.3; *Dom.* 100, 143, 147.

⁵⁰ Cic. *Dom.* 100 (. . . *in conspectu prope totius urbis*); cf. *Dom.* 146.

⁵¹ Cic. *Att.* 4.2.3–5.