

XVIII.—Cicero's Provincial Governorship in 63 B.C.

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In our school days most of us doubtless gained the impression, readily fostered by the way the matter is often put summarily, that Cicero yielded the prospective governorship of Macedonia to Antonius before January 1, 63, and that Cicero thereafter had no concern with provinces throughout that year. The present writer has only recently observed the remarkable degree to which such a view is in error — *O seri studiorum!* The query which led to this observation was a curiosity about the political relationship of Q. Caecilius Metellus Celer to Cicero in 63. The full story has some revealing implications.

One passage in Cicero's letters, which used to be considered suspect but which is now regularly accepted, can be made to supply more information about Cicero's provincial interests in 63 than has previously been derived from it. This letter, written in 60, mentions a group of orations of 63 which Cicero was sending to Atticus (*Att.* 2.1.3):

Quarum una est in senatu Kal. Ian., altera ad populum de lege agraria, tertia de Othone, quarta pro Rabirio, quinta de proscriptorum filiis, sexta, cum provinciam in contione deposui, septima, qua Catilinam emisi, octava, quam habui ad populum postridie quam Catilina profugit, nona in contione, quo die Allobroges† invocarunt, decima in senatu Non. Decembribus. Etc.

The provincial item in which we are interested in this letter is confirmed by *In Pisonem* 4 f.:

Ego Kalendis Ianuariis senatum et bonos omnis legis agrariae maximarumque largitionum metu liberavi. Ego agrum Campanum, si dividi non oportuit, conservavi, si oportuit, melioribus auctoribus reservavi. Ego in C. Rabirio perduellionis reo XL annis ante me consulem interpositam senatus auctoritatem sustinui contra invidiam atque defendi. Ego adolescentis bonos et fortis, sed usos ea condicione fortunae ut, si essent magistratus adepti, rei publicae statum convulsuri viderentur, meis inimiciis, nulla senatus mala gratia comitiorum ratione privavi. Ego Antonium conlegam cupidum provinciae, multa in re publica molientem patientia atque obsequio meo mitigavi. Ego provinciam Galliam senatus auctoritate exercitu et pecunia instructam et ornatam,

quam cum Antonio commutavi, quod ita existimabam tempora rei publicae ferre, in contione deposui reclamante populo Romano. Ego L. Catilinam caedem senatus, interitum urbis non obscure sed palam molientem egredi ex urbe iussi ut, a quo legibus non poteramus, moenibus tuti esse possemus. Etc.

This passage shows that it was the province of Cisalpine Gaul which Cicero gave up in a *contio*, not the province of Macedonia,¹ and that he did not give up Cisalpine Gaul until the year was well advanced. The passage obscures the exact time at which Cicero exchanged provinces with Antonius, but that matter is probably clarified by Cic. *Leg. agr.* 2.103, as I shall show presently. This passage from the *In Pisonem* differs from *Att.* 2.1.3 in that it is more a catalogue of accomplishments (cf. *Pis.* 7) than a simple list of orations. For that reason I have assumed that Cicero placed the mention of Antonius next to the mention of Cisalpine Gaul because of the similarity of subject, not because the two events occurred contemporaneously; at least one scholar thinks they did so occur (see my footnote 7). Cicero had no reason to be particular about the chronological position in which he mentioned his

¹ The several scholars cited below even miss the point that the combination of Cic. *Att.* 2.1.3, *Pis.* 5, and *Fam.* 5.2.3 (to be quoted later) prove that when Cicero used *provinciam deponere*, he meant something different from a *commutatio*, and must have referred to Cisalpine Gaul rather than to Macedonia. I list these works by reliable authorities only to demonstrate that there truly is a problem here in the familiar year 63 even though the solution seems obvious once the passages are juxtaposed: E. G. Sihler, *Cicero of Arpinum*² (New York 1933) 136, 144; T. Petersson, *Cicero, a Biography* (Berkeley 1920) 245; T. Rice Holmes, *The Roman Republic* (Oxford 1923) 1.244, 457 f.; J. Carcopino, *Histoire Romaine* II, 2^e section: *César*³ (Paris 1943) 674, n. 184.

The following works deal with the passages rather briefly, and they do not arrive at identical conclusions. Drumann-Groebe, *Geschichte Roms* 5.462 f., referred to the pertinent passages, but the discussion in the text draws essentially only the one conclusion that Cicero did not retain his province because he felt he would be needed in Rome in 62, a conclusion which none of the passages seems to warrant. M. Gelzer, "M. Tullius Cicero (als Politiker)," *RE* 7A (1939) 865, 875 f., dated the allotment of Cisalpine Gaul to Metellus Celer after the consular elections, and believed that Metellus Celer became actually proconsul of Cisalpine Gaul around the end of October. There is a straightforward account, which does not touch upon our problems, in E. Ciaceri, *Cicerone e i suoi tempi*² (Milan-Genoa-Rome-Naples 1939) 1.190–192, 239 f. Considerable constructive imagination has been shown by L.-A. Constans who, in 1.106 f. (with footnote) of his fourth edition of the correspondence (Paris 1950), gives some discussion of the *sortitio*, and observes on 107 in reference to Cic. *Fam.* 5.2.4 that Metellus Celer had been in Rome in December, 63, and had only subsequently become proconsul. In regard to the interpretation of *Fam.* 5.2.4, the commentary of Tyrrell and Purser is quite in error if I am correct in understanding that their note suggests that Metellus Celer could have drawn near to Rome as proconsul in the winter of 63–62: see my footnote 21.

compromise with Antonius for, after all, it had not been the subject of a published oration. It should be observed that the present location of the mention of the exchange of provinces with Antonius is not in the sentence in which Cicero states he won over Antonius to his side; it is left to the reader or the auditor to gather the impression that it took a profitable province to win Antonius over, rather than just *patientia* and *obsequium* — Cicero avoided explicit bluntness by using this order of topics.

The passage which usually misleads readers to believe that Cicero forswore all gubernatorial ambitions prior to 63 is *Leg. agr.* 1.25 f., which was delivered on January 1, 63:

. . . praesertim cum mihi deliberatum et constitutum sit ita gerere consulatum quo uno modo geri graviter et libere potest, ut neque provinciam neque honorem neque ornamentum aliquod aut commodum neque rem ullam quae a tribuno plebis impediri possit appetiturus sim. Dicit frequentissimo senatu consul Kalendis Ianuariis sese, si status hic rei publicae maneat neque aliquod negotium exstiterit quod honeste subterfugere non possit, in provinciam non iturum.

In view of the other passages already quoted it can be seen that Cicero here states that he still had a province but that he would later relinquish it if circumstances so dictated.² Yet when Cicero spoke of the *concordia quam mihi constitui cum conlega* (*Leg. agr.* 2.103), it would appear that he had already entered into the agreement with Antonius about Macedonia.

Further information about this particular phase of the events of 63 can be derived from the letter of 62 in which Cicero replied to the arrogant letter sent him by Metellus Celer, who was then proconsul of Cisalpine Gaul. *Fam.* 5.2.3 both confirms that Cisalpine Gaul was the province Cicero relinquished in the *contio* and describes how that province happened to fall to Metellus Celer's lot:

Ego si hoc dicam, me tua causa praetermisisse provinciam, tibi ipse levior videar esse; meae enim rationes ita tulerunt, atque eius mei consili maiorem in dies singulos fructum voluptatemque capio; illud dico, me, ut primum in contione provinciam deposuerim, statim, quem ad modum eam tibi traderem, cogitare coepisse. Nihil dico de sortitione vestra; tantum te suspicari volo, nihil in ea re per conlegam meum me insciente esse factum. Recordare cetera, quam cito senatum illo die facta sortitione coegerim, quam multa de te verba fecerim, cum tu ipse

² Plut. *Cic.* 12.4 in one sentence has Cicero dispose of both provinces, but there would have been no reason for Plutarch to stress the relative chronology.

mihi dixisti orationem meam non solum in te honorificam sed etiam in conlegas tuos contumeliosam fuisse.

It is just possible that this passage from Cicero's letter gives us a hint as to the date when Cicero relinquished the province. I assume, for reasons to be given later, that Cicero took this action prior to the date of the consular elections, which were expected to occur in July, whether or not they actually did occur in July of 63. One matter which had to be dealt with prior to the election of consuls was the selection of provinces for those consuls who were to be elected for the following year. Cicero's renunciation of his province thus opened the question of whether Cisalpine Gaul was to fall to a praetor of 63 or a consul of 62, or to both. The same situation arose for different reasons in 56 and the classic discussion of the topic is to be found in *De provinciis consularibus* (especially § 17), which was probably delivered in June of 56.³

We cannot bar out the possibility that Cicero gave up the province in May rather than in June. This possibility arises from the fact that Cicero summoned the senate, an action which would perhaps be presumptive evidence that he at that time held the fasces. In Cicero's case, for his priority of election as consul favors his holding the fasces in January and in the odd months of the year,⁴ it would be unlikely, although not impossible, that he would have called a meeting of the senate in June. Since Antonius apparently presided at the *sortitio*,⁵ both consuls were active in the same month, and perhaps we should recall Willems' convincing argument that joint action by the consuls was common, an argument which would render the possible alternation of the fasces less useful in dating Cicero's *contio* in 63.⁶ I doubt that Cicero

³ H. E. Butler and M. Cary, *M. Tulli Ciceronis de Provinciis Consularibus Oratio ad Senatum* (Oxford 1924) 104-106. They are inclined to believe that the date of their oration was late in June of 56, quite properly observing the example of 60 B.C. They refer also to the convincing article by C. Saunders, "The Date of Cicero's *Oratio De Provinciis Consularibus*," *CP* 12 (1917) 304 f.

⁴ L. R. Taylor and T. R. S. Broughton, "The Order of the Two Consuls' Names in the Yearly Lists," *MAAR* 19 (1949) 1-14. Cf. some reservations on their article in *TAPA* 81 (1950) 163; also the fact noted by them in p. 11, n. 11, that Cicero apparently presided at all meetings of the senate on and after October 21, presumably because Antonius was unwilling to preside on that occasion and was not in Rome for the rest of his consulship.

⁵ As Sall. *Cat.* 26.4 points out, Cicero's exchange of his province with Antonius was a *pactio*. The exchange (*commutatio*) required no state action.

⁶ P. Willems, *Le sénat de la république Romaine* (Louvain & Paris 1878/83) 2.127 f. *Fam.* 5.2.4 speaks of a *praescriptio* of the senatus consultum passed at the meeting of

would have deliberately produced confusion in early July by postponing until then the announcement of his decision about his province.

A further argument for a date comfortably before the consular elections is the fact that Metellus Celer received his province at a formal *sortitio*, which shows that there was a general allotment of praetorian provinces, not a question of a single province. While the *sortitio* of praetorian provinces was sometimes very late (Cic. *Att.* 1.14.5, 1.15.1), it certainly could take place before the time of the consular elections,⁷ even though the meager evidence (Cic. *Prov. cons.* 17) indicates that the praetorian provinces were actually selected after the consular provinces. [Just to clarify matters, it may be well to note that the praetorian provinces would be for the praetors of 63, while the consular provinces would be for the consuls to be designated for 62. Hence I can see no objection to a *sortitio* for the praetors of 63 prior to the election of consuls for 62.]

It will be noticed that I have assumed, on the basis of Cicero's remark in *Fam.* 5.2.3, that there was no great interval of time between the date when Cicero gave up Cisalpine Gaul and the date when it fell to the lot of Metellus Celer (or when it fell to him by some legal fiction rather than by a true *sortitio*?). The reasoning behind this assumption is that Cicero held to the promise he had made in *Leg. agr.* 1.26 by now giving up the province since conditions demanded his presence in Rome (cf. Cic. *Phil.* 11.23: . . . qui instructam ornatamque a senatu provinciam deposui, ut incendium patriae omissa omni cogitatione restingerem). Such an action on

the senate called by Cicero immediately after the *sortitio* at which Antonius had presided and Metellus Celer had received Cisalpine Gaul; the *praescriptio* must have contained Cicero's name as presiding officer: cf. Willems 2.209 f.; O'Brien-Moore, "Senatus consultum," *RE* Supplbd. 6 (1935) 802 f.

⁷ Gelzer (above, note 1) 876, and E. G. Hardy, *The Catilinarian Conspiracy in its Context* (Oxford 1924) 47 f., wish to date the assignment of Cisalpine Gaul after the consular elections, but they seem to have neglected the constitutional aspects of the problem. Surely Gelzer is in error in asserting that Metellus Celer began around the end of October to function as proconsul, even though he dates the assignment of the province after the consular elections; cf. Constans (above, note 1) 106 f. Hardy's interpretation of the evidence on pp. 47 f., 70 f. is provocative but, to me at least, unconvincing; largely on the basis of Dio Cass. 37.33.3 f., and treating the other evidence somewhat cavalierly, Hardy dates both the exchange of provinces with Antonius and the assignment of Cisalpine Gaul to Metellus Celer after Catiline's departure from Rome. Dio was in that passage anything but precise, for he had Antonius in the field before Metellus Celer received his province, and he also had Cicero send Metellus Celer to Cisalpine Gaul, in which latter point Dio had perhaps been misled by some remark like the one in Cic. *Cat.* 2.26.

Cicero's part was also a guarantee that he could not go to a province in 63 (which is what I think he was talking about in *Leg. agr.* 1.26), for consuls could still go to their provinces in the course of their year of office, although that action was unusual.⁸ Cicero thus declined to avoid a clash with Catiline by going out to a province just as later in the year he met the menace of Catiline himself rather than attempt to postpone the crisis until 62.⁹

It is my opinion, therefore, that Cicero gave up his province at just this time so that it could be made a praetorian province and assigned to one of the praetors of 63, with the result that this province, so strategically located at the top of Italy, would be in the hands of a safe man in 62;¹⁰ we do not know who was in charge there in 63.^{10a} It is also necessary to admit ignorance as to the provinces selected for the consuls of 62, although these provinces must have formed part of Cicero's cautious plans against the possible eventuality of Catiline's election for 62. Cicero had no way of knowing before the elections that he would be so successful in preventing Catiline's election to the consulship, although Cicero of course later claimed credit for Catiline's repulse.¹¹ It would

⁸ I here accept the argument on this point by J. P. V. D. Balsdon, "Consular Provinces under the Late Republic," *JRS* 29 (1939) especially 58-65; cf. Willems (above, note 6) 2.578-581; J. M. Cobban, *Senate & Provinces, 78-49 B.C.* (Cambridge 1935) 75; G. H. Stevenson, *Roman Provincial Administration* (New York 1939) 63; W. F. Jashemski, *The Origins and History of the Proconsular and the Proprætorian Imperium to 27 B.C.* (Chicago 1950) 74. *Cic. Prov. cons.* 36 f. states clearly that a consul actually had his province on January 1 of his year of office. The view opposite to Balsdon's is expressed in Th. Mommsen, *Römisches Staatsrecht*³ 2.95; and J. Marquardt, *Römische Staatsverwaltung*² 1.520, who both acknowledge exceptions in emergencies.

⁹ *Cic. Planc.* 90.

¹⁰ The system of allotting provinces to praetors and consuls is described in Mommsen (above, note 8) 2.217 f.; Marquardt (above, note 8) 1.522; Cobban (above, note 8) 71-77. The device of making consular provinces praetorian for political reasons is discussed in *Cic. Prov. cons.* 17.

Normally the provinces for the praetors of 63 would probably not have been arranged before the time of the selection of the provinces for the consuls of 62. But the *sortitio* and *ornatio* of praetorian provinces seem to have been subject to irregularities in time: *Cic. Att.* 1.13.5, *Q. Fr.* 2.3.1. Willems (above, note 6) 2.574, n. 5, on the strength of *Cic. Att.* 1.14.5, 1.15.1, shows that the matter of praetorian provinces could be delayed until after the year of office. Willems (above, note 6) 2.570-575 has a general discussion of praetorian provinces.

^{10a} In "The Acting Governor of Cisalpine Gaul in 63 B.C.: *Sall. Cat.* 42.3," to appear in *CP* for July, 1953, I suggest that C. Murena had been left in charge of both Narbonese Gaul and Cisalpine Gaul by L. Murena when he went to Rome to be a consular candidate.

¹¹ *Cic. Mur.* 52.

appear reasonable, then, to think that Cicero arranged for two "safer" provinces for the consuls of 62, and did not allow Cisalpine Gaul to be one of them because of the possibility of a consul's going to his province in the course of his year of office. Perhaps it was the nature of these provinces which distressed D. Silanus, who was elected for 62, and which caused him to bring up the subject in 62 (Cic. *Pis.* 56).

Our first guess as to why Cicero was so anxious to have Metellus Celer awarded Cisalpine Gaul is surely wrong, for we should be likely to hazard the opinion that the province was in the nature of a bribe, as Macedonia had been for Antonius.¹² This notion is refuted by Cicero's informing Metellus Celer that he had been responsible for the award only after Metellus Celer was in his province (*Fam.* 5.2.3), which surely precludes Cicero's receiving any return in 63 in the way of aid against Catiline. Metellus Celer was not the sort of man to be pro-Catiline, although he was at this time still in favor of Pompey with whom he had served in the East in 66 (Dio Cass. 36.54.2 f.). There had apparently been some coolness between Cicero and Metellus Celer, and seemingly Cicero's handsome speech after the *sortitio* had helped to mend the breach, but his gaining the province for Metellus Celer would surely have been a more effective means of reconciliation.¹³ Possibly there was a more unselfish reason in that Cicero desired a responsible and conservative man in charge of the troops nearest Rome. If that was the case, Cicero made a wise choice since the conspiracy did reach as far as Cisalpine Gaul,¹⁴ and since Metellus Celer was definitely active in suppressing it.

It might be easier to understand Cicero's selection of Metellus Celer if we knew whether he was urban praetor in 63, for then he would be the more likely candidate for a prominent post.¹⁵ The evidence does seem to indicate, although far from conclusively, that he was urban praetor.¹⁶

¹² For the details of Cicero's arrangement with Antonius cf. Drumann-Groebe, *Geschichte Roms* 5.452-455.

¹³ In *Fam.* 5.1.1 Metellus Celer had written to Cicero of *reconciliata gratia*. Cicero had replied in *Fam.* 5.2.5: Quod scribis de "reconciliata gratia" nostra, non intellego cur reconciliatam esse dicas, quae numquam imminutast.

¹⁴ Plut. *Cic.* 10.3.

¹⁵ Cisalpine Gaul was usually given to a consul: cf. Willems (above, note 6) 2.576 f.

¹⁶ I have previously expressed myself as of the opinion that he possibly was urban praetor in *CJ* 34 (1938) 73 f. F. Stella Maranca does not know what Metellus Celer's

The question might well come to mind as to whether Metellus Celer took the field in 63 as urban praetor or as governor of Cisalpine Gaul with proconsular imperium.¹⁷ While the consuls could go to their provinces in the course of their year of office, the evidence *ex silentio* is that the praetors did not do so.¹⁸ The manner in which Cicero in *Fam.* 5.2.1 emphasized that Metellus Celer defended Italy in 63 would seem to show that he was not yet proconsul: . . . mihi tecum ita dispartitum officium fuisse in rei p. salute retinenda, ut ego urbem a domesticis insidiis et ab intestino scelere, tu Italiam et ab armatis hostibus et ab occulta coniuratione defenderes. . . .¹⁹ I also agree with Constans (see my footnote 1) that Cic. *Fam.* 5.2.4 indicates that Metellus Celer was not yet proconsul in late 63 because he came to Rome then.

In the year 62 Metellus Celer's troops, operating somewhere around the modern Bologna, pushed Catiline's forces back in a southerly direction so that the fight finally took place at Pistoria. It is difficult to specify the exact southern boundaries of Cisalpine Gaul at this time²⁰ for we really know only that the Rubicon was the boundary on the East and that Luca was north of the boundary on the West. Pistoria may well have been within the territory of Cisalpine Gaul, or it may have been just south of that territory. As the campaign worked out, Metellus Celer actually operated within his own province and he did not go over the border into

assignment as praetor was, refers only to Cic. *Cat.* 1.19 and *Fam.* 5.2.3 with regard to him, and indicates that L. Valerius Flaccus was *praetor urbanus* or *praetor peregrinus*, with a question mark: F. Stella Maranca, "Fasti Praetorii, Parte I," *MemLinc* ser. 6, vol. 2, fasc. 4 (1927) 326-329. Münzer, "Caecilius," *RE* 3 (1899) 1209 refers to Cic. *Sull.* 65 and Val. Max. 7.7.7 as demonstrating that Metellus Celer was urban praetor in 63. Certainly the passage in Cic. *Sull.* 65 would seem to prove that fact, since Willems (above, note 6) 2.130 f. indicates that in presiding over the senate the urban praetor ranked after the consuls.

There seems to be reasonable evidence that the urban praetor could be exempted from the limitation of ten days' absence from Rome: Willems (above, note 6) 2.273 f. (with footnotes); Mommsen (above, note 8) 2.195 f.

¹⁷ Evidence that Metellus Celer's title was proconsul: salutations of Cic. *Fam.* 5.1 & 2, Plin. *HN* 2.170, Mela 3.5.45; cf. on the latter two passages T. R. S. Broughton, *TAPA* 79 (1948) 75 f., also 73.

¹⁸ Willems (above, note 6) 2.292, especially n. 2. The contrary view is maintained by Balsdon (above, note 8) 59; Jashemski (above, note 8) 73 f.

¹⁹ The *Italiam* refers to Metellus Celer's commission to raise troops in the *ager Picenus* and the *ager Gallicus*: Cic. *Cat.* 2.5, 2.26; Plut. *Cic.* 16.1.

²⁰ R. Thomsen, *The Italic Regions (Classica et Mediaevalia: Dissertationes IV; Copenhagen 1947) 71 f., 113, 124.*

Italy, for after all a proconsul was normally well advised to stay within the territorial limits of his own province.²¹

We can only wonder whether this speech in which Cicero gave up Cisalpine Gaul was ever published or whether it has been lost. The passage from the *In Pisonem* certainly appears to allude publicly to published speeches which Cicero's auditors could have known. Since Cicero's letters from Cilicia are so uniquely informative, it seems a pity that Cicero did not keep his province and leave us as a monument *Cicero's Gallic Commentaries*.

²¹ Cobban (above, note 8) 158–160.