

POLITICS IN THE TRIALS OF MANILIUS AND CORNELIUS

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As the *Commentariolum Petitionis* rightly points out, Cicero gained much popular support for his political career in 66 and 65 B.C. by "honoring Pompey, accepting the case of Manilius, and defending Cornelius" (*Comm. Pet.* 51).¹ The purpose of this paper is to investigate more deeply than has been done before the political aspects of the trials of Manilius and Cornelius in 66 and 65 B.C., especially their connection with Cicero's preparations for his consular canvass.

In 66, C. Manilius was a tribune of the plebs (*Ascon. Mil.* 39 St/45 C, *Corn.* 52–53 St/64–65 C; *Plut. Pomp.* 30.1), and Cicero served as praetor in charge of the extortion court, *quaestio de repetundis* (*Ascon. Corn.* 50 St/62 C; *Cic. Leg. Man.* 1–2, *Clu.* 147).² In the last days of December, after Manilius' term as tribune had expired, but a few days before the end of Cicero's term as praetor, Manilius was brought before Cicero's court on a charge of extortion, *res repetundae* (*Plut.*

N.B. Several works will be referred to by the following abbreviations. Broughton, *MRR* 2: T. R. S. Broughton, *The Magistrates of the Roman Republic*, 2 (New York 1952). Drumann, *D–G* 5: W. Drumann, *Geschichte Roms*, 5, ed. 2 by P. Groebe (Leipzig 1919). Gelzer, *Cicero*: M. Gelzer, *Cicero: Ein biographischer Versuch* (Wiesbaden 1969). Gruen, "Notes": E. S. Gruen, "Notes on the 'First Catilinarian Conspiracy'," *CP* 64 (1969), 20–24. Gruen, "Pompey": E. S. Gruen, "Pompey and the Pisones," *California Stud. in Class. Ant.* 1 (1968) 155–70.

¹ For a convenient review of the bibliography on the authorship of the *Commentariolum Petitionis* and a defense of Q. Cicero's authorship, see W. C. McDermott, "Commentariolum Petitionis 2," *Historia* 19 (1970) 384–85.

² Broughton (*MRR* 2.152) lists Manilius as "C. Manilius (Crispus?)" . In the Index (*ibid.*, 585), Manilius is erroneously designated as "Tr. Mil. 66". For "Crispus", see below, note 17.

Cic. 9.4–6; Dio 36.44.1–2; cf. Ascon. *Corn.* 50 St/62 C).³ The motivation for this accusation was political. As a tribune, Manilius had proposed two important laws which were detrimental to the *optimates*, that small number of powerful oligarchs amongst the senators, who maintained a strong grip on Roman politics.⁴ The first law was designed to increase the power of freedmen in the *Comitia Tributa* by distributing their votes among all 35 tribes of voters (Ascon. *Mil.* 39 St/45 C, *Corn.* 53 St/65 C; Dio 36.42.2).⁵ This law had been carried with the aid of considerable violence, however, and when the Senate was able to arouse strong plebeian opposition to it, Manilius tried to blame Crassus for originating the idea and acquiesced to the annulment of his own law (Ascon. *ibid.*; Dio 36.42.3). The second law was the much more famous and successful *lex Manilia* which gave Pompey command of the war against Mithridates (*Cic. Leg. Man. passim*, *Fam.* 1.9.11; *Livy Per.* 100; Ascon. *Corn.* 53 St/65 C; Dio 36.42.4–43.2). Upon the expiration of Manilius' tribuneship, therefore, the oligarchic, optimate opponents of Pompey charged Manilius with extortion in political retaliation for his tribunician actions (Plut. *Cic.* 9.4; Dio 36.44.1).⁶

As was his right, Manilius asked Cicero for the customary ten-day postponement of his trial (*ibid.*). Manilius' purpose is clear: by the end of the ten days, Cicero, who himself had eloquently supported the bill for Pompey's Mithridatic command (*Cic. Leg. Man.*), would have been freed of the praetorship and been able to use his eloquence in defense of Manilius.⁷ Cicero was now faced with a dilemma: thinking

³ Plutarch (*Cic.* 9.4) misrepresents the charge against Manilius as being one of embezzlement, *peculatus* (κλοπή). Cicero (Ascon. *Corn.* 50 St/62 C, *Clu.* 94 and 147) makes it clear, however, that during his praetorship, he presided over the extortion court, *quaestio de repetundis*, while his colleague C. Orchivius presided over the *quaestio de peculatu*. Cf. Drumann, *D-G* 5.399–401.

⁴ One must be careful here not to confuse the policies of the *optimates* with those of all senators. Many were uncommitted, and some openly supported Pompey. Cf. A. N. Sherwin-White, "Violence in Roman Politics," *JRS* 46 (1956) 5–9; Gelzer, *Cicero* 63–64.

⁵ Cf. L. R. Taylor, *The Voting Districts of the Roman Republic* (Rome 1960) 144–45.

⁶ For the criminal courts as political weapons in Rome, see E. S. Gruen, *Roman Politics and the Criminal Courts, 149–78 B.C.* (Cambridge, Mass. 1968).

⁷ Cf. Gelzer, *Cicero* 60. Of course, Cicero could have defended Manilius even while he was praetor, if Manilius had been prosecuted on some other charge, just as he had defended Cluentius (*Cic. Clu. passim*).

ahead to his campaign for the consulship, he was mindful of the enmity which his support of Manilius' law for Pompey's command had aroused among the powerful *optimates* (cf. *Leg. Man.* 71) and wished to avoid giving them further offense by defending Manilius in court; at the same time, since Manilius had gained tremendous popularity through his promotion of Pompey's cause, he did not wish to alienate Pompey and Pompey's numerous supporters by refusing to defend Manilius after he was free to do so.⁸ For the moment, Cicero decided that the least damaging course of action would be to deny Manilius' request for the usual postponement of ten days and grant him only one day. In this way, the case would still have come to trial before Cicero had left office (Plut. *Cic.* 9.5; Dio 36.44.1).

Cicero had miscalculated. The Roman populace was enraged at Cicero's apparent abandonment of Pompey's friend. Before the trial could begin, two tribunes summoned Cicero to appear at a public assembly and attacked his action in front of the angry crowd (Plut. *Cic.* 9.4–6; Dio 36.44.2).⁹ Faced with a clear choice of favoring either Pompey or the *optimates*, Cicero placed himself firmly in the camp of Pompey. He publicly reaffirmed his support of Manilius and explained that he had refused to grant Manilius a postponement of more than one day because he had wanted Manilius to have the advantage of being tried before him instead of some other, perhaps less friendly, praetor (*ibid.*). Properly mollified, the people simply requested him to defend Manilius, and he readily consented (*ibid.*).¹⁰

At this point, to confirm his support of Pompey, Cicero delivered a vigorous harangue against the "oligarchs and those jealous of Pompey" (Plut. *Cic.* 9.6). Plutarch's words are "... τῶν ὀλιγαρχικῶν καὶ τῷ Πομπηίῳ φθονούντων καθοπτόμενος." Dio (36.44.2) says, however, that he "railed against the Senate" (... κατὰ τε τῆς βουλῆς κατέδραμε. ...). Here Dio betrays an optimate bias, which identifies the *optimates* with the Senate as a whole. No doubt, sources with the

⁸ Cf. R. E. Smith, *Cicero the Statesman* (Cambridge 1966) 80–81.

⁹ For the violent reactions of urban crowds and the significance which political leaders attached to them, see Z. Yavetz, *Plebs and Princeps* (Oxford 1969) 1–37, esp. 21.

¹⁰ He must, therefore, have promised also to grant an additional extension of the case until such time as he would have been free to defend Manilius.

same bias supplied the information for the subsequent sentence, which says, "As a result of this, he received a bad reputation and was called a deserter. . . ." (*ibid.*). Cicero himself, nevertheless, always appealed to those who may be called moderates in the Senate.¹¹ He took pains to explain that he had the highest regard for the Senate as a whole and that any quarrel which he had with a few of its members did not reflect his attitude towards the whole body (cf. e.g., *Rosc. Am.* 136–39, *Verr.* 1.46–51, 2.1.2–6). In addition, a number of senators were favorable to Pompey and probably would have had little objection to Cicero's defending Manilius at this time.¹²

Gelzer believes that the whole problem of defending Manilius was removed because of the rioting identified with the so-called "First Catilinarian Conspiracy." He follows Dio (36.44.2), who says that in 65 rioting prevented the court from even being convened and, by failing to mention any further action, implies that the prosecution was abandoned. He concludes, therefore, that Cicero was freed from the painful necessity of defending Manilius.¹³ Yet Gelzer himself does acknowledge that Manilius was prosecuted in 65.¹⁴ Actually, during the period of postponement, the charge of *res repetundae* may have been dropped in favor of a new trial on a charge of *maiestas*, but the rioting which Dio mentions did not prevent the proper court, whatever the charge, from being convened.¹⁵

¹¹ The term "moderate" can be applied to those whom Gelzer (*Cicero*, 64) places in "der grossen Zahl der Senatoren, die sich—wie das Beispiel der *lex Manilia de imperio Cn. Pompei* zeigte, oft aus durchaus sachlichen Gründen—von Fall zu Fall entschieden." Many of them would have been concerned with broader issues of the constitutional position of the Senate and the welfare of the state as a whole rather than the narrow power struggles of the *optimates* and *populares*.

¹² Cf. above, note 4.

¹³ Gelzer, *Cicero* 60 and 65. For the connection between the trial and the "conspiracy," see also R. Seager, "The First Catilinarian Conspiracy," *Historia* 13 (1964) 338–47.

¹⁴ Gelzer, *Cicero* 63.

¹⁵ Broughton (*MRR* 2.153) says that Manilius was charged with *res repetundae* in 66 and convicted on a charge of *maiestas* in 65. F. Muenzer (*RE* 14.1 [1928] 1134.41–60, s.v. "Manilius" [10]) also favors the idea of the two charges, but admits the possibility of only one—*res repetundae*.

In support of the two different charges, Groebe (Drumann, *D-G* 5.400–1, note 8) quotes Schol. Bob., *ad Mil.* 22, 119 St:

Nam cum C. Manilius post annum tribunatus sui quem turbulentissime gesserat causam de maiestate dicturus esset accusante Cn. Minucio, id egit, ut per multitudinem conspiratam obsideret eundem Cn. Minucium accusatorem suum.

Asconius shows that the rioting disrupted the proceedings against Manilius only after his trial had begun. At one point, Asconius speaks of Manilius' disrupted trial (*de disturbato iudicio Maniliano*, *Corn.* 53 St/66 C), and in a longer passage, he makes it clear that the court had been convened and that then rioting had disrupted the proceedings, which were afterwards resumed under the watchful eyes of the consuls when order had been restored (*ibid.* 49 St/60 C):

Sequente deinde anno L. Cotta L. Torquato coss., quo haec oratio a Cicerone praetura *nuper peracta* [praetore] dicta est, cum prima pars . . . Manilius qui iudicium per operarum duces turbaverat, deinde quod ex S. C. ambo consules *aderant et praesidebant* ei iudicio, non *respondisset absensque* esset damnatus, recreavit se *Cominius*. . .¹⁶

Therefore, rioting did not prevent the start of Manilius' trial, and, regardless of whether or not the charge had been changed beforehand, Cicero was still bound by the pledge made at the end of 66 to defend him.

The scholiast may simply have misconstrued the charge against Manilius. Perhaps he confused the charge against Manilius with that against Cornelius since the two prosecutions were closely linked, as Cicero points out (*Ascon. Corn.* 50, 52 St/62, 64 C). Or, he may have confused the aim of the prosecution with the expressed charge. Bauman has pointed out that acts which could have been attacked through a charge of *maiestas* were often attacked through a more concrete charge such as *res repetundae* which was easier to prove: see R. A. Bauman, *The Crimen Maiestatis in the Roman Republic and Augustan Principate* (Johannesburg 1967) 27-30; 85-87.

If the praetor who presided over Manilius' trial in 65, before the consuls took over, was C. Attius Celsus as Groebe argues (*loc. cit.*), the charge against Manilius could not have been *maiestas*: Asconius says that in 65 Q. Gallius was the praetor in charge of the *quaestio de maiestate* (*Corn.* 50 St/62 C). There is, however, no assurance that C. Attius Celsus was a praetor in 65 and not in 66. Although Gelzer (*Cicero* 60, note 73) calls Celsus the praetor in charge of the *quaestio de repetundis* in 65, all we know is that when he was a praetor, he asked Cicero to defend Manilius (*Ascon. Corn.* 52 St/65 C). This request could have been made in 66 when Cicero refused to grant more than a day's postponement of the trial in order to avoid defending him. The name of C. Attius Celsus should be added to Broughton's list of possible praetors for 66 (MRP 2.151-52). Accordingly, whether Manilius was prosecuted on a charge of *res repetundae* or *maiestas* in 65 remains debatable.

¹⁶ The texts of Stangl and Clark differ slightly, but not significantly for the meaning, in this passage. The text given here, as elsewhere for Asconius, is Stangl's. Gelzer (*Cicero* 63) thinks that the disrupted *iudicium* to which Asconius refers is the trial of Cornelius which was broken off because of the threat of violence in 66. The words *ei iudicio* in the same sentence, however, show that the trial was Manilius' own.

Cicero himself, in his speech for Cornelius, made the following statement in reference to the disruption of Manilius' trial (*ibid.* 53 St/66 C):

Aliis in illum furorem magnis hominibus auctoribus impulsus est qui aliquod institui exemplum disturbandorum iudiciorum *reip.* perniciosissimum, temporibus suis accommodatissimum, meis alienissimum rationibus cupiverunt.

The question is, who were these men to whom Cicero referred with the words *magnis hominibus auctoribus*. Asconius, of course, conjectures that they were Catiline and Cn. [Calpurnius] Piso (*ibid.*).¹⁷ E. S. Gruen has questioned whether Cicero would have used these words to describe Catiline and Piso in 65.¹⁸ Nevertheless, accepting Asconius' statement as evidence that Catiline and Piso did take part in the disturbances that disrupted Manilius' trial,¹⁹ Gruen proceeds to look for greater figures behind them. He concentrates on the friends of Catiline and follows Brunt in rejecting the view that Catiline was connected with Crassus at this time.²⁰ Instead, he points out significant links between Catiline and the "distinguished senior *consularis* Q. Lutatius Catulus who led senatorial opposition to Pompey's eastern commands in 67 and 66."²¹

On the other hand, further investigation will reveal that Catulus and his powerful friends cannot have been connected with Catiline and

¹⁷ At first glance, Piso might be considered the prosecutor of Manilius, because of Valerius Maximus' statements about his prosecution of one Manilius Crispus (6.2.4). There is, however, no solid evidence that the C. Manilius of this trial and Manilius Crispus are the same. Cf. F. Muenzer (above, note 15, 1134.60–65; 11.40.51–59). Gruen ("Pompey" 160–61) has also demonstrated that Piso must have prosecuted Manilius Crispus in 69 or 68. Moreover, had Piso prosecuted C. Manilius in 66/65, Asconius is not likely to have considered him one of those behind the disruption of the trial. Therefore, whether or not he is right about the charge, the scholiast of Bobbio (above, note 15) can be considered correct in identifying the prosecutor as one Cn. Minucius.

¹⁸ Gruen, "Notes" 20–24.

¹⁹ Cf. R. Seager (above, note 13).

²⁰ Gruen, "Notes" 23; P. A. Brunt, "Three Passages from Asconius," *CR* 71 (1957) 193–95.

²¹ Gruen, "Notes" 24. Catiline was not entirely without merit as a person (cf. Cic. *Cael.* 12), and there is no great difficulty in seeing personal ties between him and Catulus: Catulus defended Catiline on a charge of *incestum* in 73 (Orosius 6.3.1); and in 63 Catiline trusted Catulus enough to place his own wife under his care (Sall. *Cat.* 34.3–35.6).

the disturbances that disrupted Manilius' trial in 65, whereas Crassus is still the most likely one with whom Catiline was associated in this instance. The *optimates*, whom Catulus had led against Pompey in 67 and 66, were the same ones who were prosecuting Manilius in 65. It would seem very strange indeed if they were behind the disruption of their own prosecution. Regardless of any friendship between Catiline and Catulus, it nevertheless seems best to link Catiline and the riots that disrupted Manilius' trial with the machinations of Crassus, Pompey's arch-rival.

Piso is the connection.²² He was working at this time with Crassus against Pompey. As Gruen points out, Crassus was behind Piso's pro-praetorian appointment to Spain in 65, an acknowledged anti-Pompeian move—Seager's attempt to downplay it notwithstanding—(Sall. *Cat.* 19.1–2), and he speculates that Crassus' interest in Piso began earlier with Piso's violently anti-Pompeian outburst recorded by Valerius Maximus (6.2.4), which he dates very persuasively to 69 or 68.²³ Therefore, although Catiline also had previous Pompeian connections,²⁴ his involvement with Piso in the disruption of Manilius' trial still links him with Crassus in another one of Crassus' anti-Pompeian schemes.

The best reconstruction of the events surrounding Manilius' trial (and also of the so-called "First Catilinarian Conspiracy"), therefore, seems to be as follows: with Pompey himself away in Asia and after Cicero's ambivalent action at the end of 66, Manilius probably feared that he could not rely on Cicero and the Pompeians adequately to protect him against his powerful accusers. Consequently, he sought aid from the only other powerful figure near at hand who could or would help him, Pompey's enemy Crassus. Although Crassus had enough reason to hate Manilius for his past deeds, support of Manilius

²² Gelzer (*Cicero* 65–66) suggests that Cicero was thinking of Crassus when he spoke of *magni homines* and points out the connection with Piso. The objections of C. E. Stevens ("The 'Plotting' of B.C. 66/65," *Latomus* 22 [1963] 426) to Piso's involvement in the disruption of Manilius' trial reverse the order of events: it was his involvement in this disruption that allowed a later fabrication of his involvement in a plot to kill the consuls, not the story of his involvement in a plot to kill the consuls that allowed an assumption of his involvement in the disruption of Manilius' trial.

²³ Gruen, "Notes" 24; "Pompey" 159–61; and Seager (above, note 13) 346.

²⁴ Seager, *ibid.* 344–45.

would have been helpful in his struggle with Pompey for popular favor at Rome: Crassus would have had an opportunity to show that his patronage was more valuable than Pompey's; and since Manilius was being prosecuted for his actions as tribune, Crassus would have been protecting the office of tribune, whose powers he had helped to restore in an earlier bid for popularity (cf. Ascon. *Corn.* 59 St/76 C). The form of aid was to be a violent disruption of the trial to dissuade the prosecution from pressing its case. Catiline, regardless of his earlier connections and not necessarily having any close association with Crassus as yet, may have learned of the scheme and offered his help in the hope that the favor would be returned later, if necessary, when he himself was to face trial for extortion.²⁵ Hence, Cicero's reference to those *qui aliquod institui exemplum disturbandorum iudiciorum reip. perniciosissimum* (*ibid.* 53 St/66 C) has a clear point.

The disruption of the trial gave Cicero grave reservations. As he said in the passage already quoted (*ibid.*), it was completely alien to his own views. Consequently, he may well have refused to continue with the defense. Nonius Marcellus gives the only reference to any speech by Cicero on behalf of Manilius and quotes one sentence (Nonius 5 *ad Confiteri et Profiteri*, 235 M/700 L = fragment Cic. *Man.* 397-98 S/29-31 P): *Hic ego non solum confiteor, verum etiam profiteor*.²⁶ If this sentence was spoken by Cicero during Manilius' trial, it could have been part of an opening statement in reply to the prosecution's accusations before the trial was disrupted.²⁷ After Manilius had

²⁵ For Catiline's indictment *de repetundis*, which was blocking his candidacy for the consulship, see Cic. *Att.* 1.1.1, 2.1; Ascon. *Tog. Cand.* 69 St/89 C. Of course, Torquatus and Cotta, the consuls, were in no way objects of the violence. In fact, they did not even enter the picture until after the disruption of the trial, when the Senate passed a decree entrusting them with the conduct of the trial (Ascon. *Corn.* 49 St/60 C). The idea of a plot against them is a later fabrication: Seager (above, note 13) 344; cf. R. Syme, *Sallust* (Berkeley and Los Angeles 1964) 101-2.

²⁶ References to the fragments of Cicero's speeches are to F. Schoell, *Orationum Fragmenta* fasc. 29 (Stuttgart 1917) and I. (Giulio) Puccioni, *Orationum Deperditarum Fragmenta* (Milano 1963).

²⁷ Cicero's remarks could have been preserved by a note-taker like the one who supposedly preserved the speech that Cicero actually gave on the day on which he spoke in defense of Milo. Cf. Ascon. *Mil.* 37 St/42 C; Quint. *Inst.* 4.3.17; J. S. Reid, *Pro Milone* (Cambridge, 1894) 22; and J. N. Settle, "The Trial of Milo and the Other *Pro Milone*," *TAPA* 94 (1963) 268-80. Although Settle is not certain that the other *Pro Milone* is a faithful copy of what Cicero actually said on the fateful day of delivery, he

secured the violent disruption of his trial, however, Cicero certainly would have had even less enthusiasm for defending him than he did in 66, when he accepted the case under public pressure. Indeed, the wording of the *Commentariolum Petitionis*, paragraph 51, may be significant for this point. It mentions only Cicero's acceptance of the case (*Manili causa recipienda*), whereas it refers to his actual defense of Cornelius (*Cornelio defendendo*). Finally, a refusal by Cicero to continue with the defense would help to explain why Manilius decided not to reappear in court when it reconvened (Ascon. *Corn.* 49 St/60 C).

Several factors could have induced Cicero to abandon his previous commitment to Manilius. First, as a moderate and a constitutionalist, Cicero would have been very reluctant to continue the defense of a man who, as a private citizen, had become involved in the violent disruption of due legal process. Second, other moderates, whose aid Cicero sought in the Senate, would have also been offended by Manilius' violence and no longer condoned his defense. Third, Manilius' actions may well have lost him the favor of Pompey and his followers, for whose electoral support Cicero himself was hoping after agreeing to defend Manilius in the first place. Certainly any association with Pompey's enemies Crassus and Piso would have been a mark against Manilius, and Pompey also probably would have been displeased with the violent disruption of the trial, since he was trying to win as many friends as possible in the Senate now that he had obtained the supreme command against Mithridates.²⁸ By dropping the defense of Manilius after the rioting, Cicero probably would have satisfied many whose political support he sought.

Whether or not Cicero refused to continue, however, it is clear that Manilius himself felt that his defense was hopeless when order had

does accept the existence of people who copied speeches in some fashion when they were spoken and then made the copy available to interested readers (277, note 21). Gelzer (*Cicero* 60, note 72) says that the words which Nonius has quoted were taken from the speech which Cicero made when he explained to the angry crowd why he had not granted Manilius a postponement of ten days. Schettler accepts the sentence as coming from what Cicero said at Manilius' trial in 65: R. G. Schettler, *Cicero's Oratorical Career*, (Diss. University of Pennsylvania, 1961) 107-8.

²⁸ The classic example of Pompey's desire for senatorial favor, of course, is his disbanding of his army when he returned to Italy from the East (Plut. *Pomp.* 43.2). Cf. also Pompey's speeches reported by Cicero in February of 61 (Cic. *Att.* 1.14.1-2) and Sherwin-White (above, note 4).

been restored and the prosecution persisted. He fled the city and suffered automatic condemnation (*ibid.*).

The trial of C. Cornelius proceeded completely differently and was a more positive political success for Cicero. In 66, the year after his tribuneship, P. and L. Cominius had charged Cornelius with *maiestas* for his actions concerning his proposal that dispensations from the laws be granted only by the people (*ibid.* 48–50 St/58–61 C).²⁹ The Cominii had not gone through with their prosecution in 66, however, because some thugs had threatened their lives if they should not have abandoned the case (*ibid.* 49 St/59–60 C). Finally, in 65, after Manilius had forfeited his case, the Cominii were emboldened to renew their charge against Cornelius, and Cicero defended him (*ibid.*). Cornelius, taking the lesson of Manilius' fate to heart, made certain that no one would disrupt these proceedings (*ibid.*).

The figure of Pompey loomed large behind the trial of Cornelius too. Cornelius had formerly served as a quaestor with Pompey (*ibid.* 47–48 St/57 C, 50 St/61 C). As a tribune of the plebs in 67, he had introduced several popular reform bills that would have limited abuses practiced by a number of senators, especially the oligarchic *pauci*, the optimate enemies of Pompey (*ibid.* 47–48 St/57–59 C).³⁰ They were now using the charge of *maiestas* in retaliation.³¹ The witnesses for the prosecution included many of Pompey's bitterest foes among the *optimates*, principally members of the Metellan *factio*: Q. Hortensius, Q. Catulus, Q. Metellus Pius, M. Terentius Varro Lucullus (brother to L. Licinius Lucullus, Pompey's implacable foe), and

²⁹ Asconius names the second brother Gaius, but Cicero himself calls this brother Lucius (*Clu.* 100). Cf. E. Badian, review of Malcovati, *ORF*², *JRS* 46 (1956), 200/*Studies in Greek and Roman History* (Oxford 1964) 247–48 and W. C. McDermott, "De Luceis," *Hermes* 97 (1969) 242, note 2. The laws proposed by Cornelius and the events of his tribunate have been investigated by W. McDonald in "The Tribunate of Cornelius," *CQ* 23 (1929) 196–208 and J. W. Heaton in "Mob Violence in the Late Roman Republic," *Univ. Illinois Stud. in the Soc. Sciences* 23.4 (Urbana 1939) 49–51. The exact reason for the charge of *maiestas* is the subject of some question. The best explanation seems to be that he was charged with *maiestas* for personally reading out his proposal to the assembly when Globulus was trying to interpose a veto. See R. A. Bauman (above, note 15) 71–83 and C. Meier, "Die loca intercessionis bei Rogationen," *MH* 25 (1968) 87–88.

³⁰ Cf. *indigne eam Corneli rogationem tulerant potentissimi* (Ascon. *Corn.* 48 St/58 C), *in vitis optimatibus* (*ibid.* 48 St/59 C) and *paucorum odio* (Cic. *Corn.* fr. 2.11, 424 S/64 P).

³¹ Gelzer, *Cicero* 63.

Mamercus Aemilius Lepidus Livianus (*ibid.* 49 St/60 C, 62 St/79 C).³²

Realizing that the attack on Cornelius included an indirect attack on Pompey, Cicero used the trial to vigorously defend Pompey's career. As if speaking in the name of Pompey himself, he praised Pompey's merit (Cic. *Corn.* fr. 1.47, 418 S/56 P = Quintil. *Inst.* 4.3.13). He staunchly defended the powers of the tribunate, the restoration of which Pompey had helped make complete in 70 (Ascon. *Corn.* 59-61 St/76-78 C). He upheld the reformation of the law courts, which Pompey had publicly supported (*ibid.*), and he praised the extraordinary commands which Pompey had obtained through the aid of Gabinius (*ibid.* 57 St/71-72 C) and Manilius (*ibid.* 52-53 B.C.). Clearly there could be no doubt that Cicero was supporting Pompey in this trial.

What has not really been pointed out before, however, is that Cicero's defense of Cornelius was designed not only to please Pompey and his followers but also to gain the support of the uncommitted moderates in the Senate.³³ Cicero argued that Cornelius' tribunician actions had in no way lessened the position of the Senate (*Corn.* fr. 1.33, 415 S/52 P). He made it clear that his only adversaries in this case were the oligarchic *optimates*, the *pauci*, those unregenerated "few" who would not relinquish the smallest prerogative to the other orders of the state (*ibid.* fr. 2.11, 424 S/64 P). Therefore, warning of the oligarchs' "most wretched and cruel tyranny" (*miserrimum crudelissimumque dominatum*, *ibid.* fr. 2.12, 424 S/64 P), he lined up squarely behind their opponent Pompey, as the champion of the Senate's true interests. In this way Cicero skillfully acted to unite behind himself the support of both the popular hero Pompey, with his many followers,

³² M. Terentius Varro Lucullus is listed as M. Lucullus in most MSS of Asconius. A variant reading of the Codex Matritensis X 81 (designated as P by Stangl and Clark) gives L. Lucullus, but the unanimity of the others seems decisive. The substitution of L. for M. seems to have been an erroneous emendation based on Val. Max. 8.5.4. Mamercus Aemilius Lepidus Livianus is erroneously listed as M'. Lepidus in most texts of Asconius, including those of Stangl and Clark. G. V. Sumner ("Manius or Mamercus," *JRS* 54 [1964] 41-48) has clearly demonstrated, however, that the name required is Mamercus.

³³ For example, Gelzer (*Cicero* 61) connects this trial only with an attempt to cultivate the favor of the *equites* and the people. See, however, Asconius (*Corn.* 50 St/61 C) who says that except for those who were *familiares principum civitatis* many of the senatorial jurors were well-disposed towards Cornelius.

and the moderate members of the Senate. Cornelius was also resoundingly acquitted in the process (*magno numero sententiarum*, Ascon. *Corn.* 63 St/81 C).

In summary, therefore, the trials of Manilius and Cornelius reveal Cicero's attempts to gain political support from both the popular hero Pompey and the moderates in the Senate. Originally, Cicero agreed to defend Manilius when he saw that failure to do so would lose him the favor of Pompey's followers. Then, after Manilius and Catiline had become involved with Pompey's enemies Crassus and Piso in a scheme to violently force abandonment of Manilius' prosecution, Cicero may well have broken his promise to defend Manilius, lest he offend both Pompey and the moderates. In the second trial, Cicero turned his defense of Cornelius into a defense of Pompey before the moderate senators in order to unite them behind his forthcoming consular canvass.³⁴

³⁴ I should like to thank Professors F. C. Bourne and T. J. Luce of Princeton University and Professor W. C. McDermott of the University of Pennsylvania for their encouragement and help at various stages in the development of this paper. Whatever errors may remain are my sole responsibility.