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Dwadzieścia pięć lat działalności Wydziału Humanistycznego UMCS

Annales Universitatis Mariae Curie-Skłodowska. Sectio F, Humaniora 32, 1-23

1977

ANNALES
UNIVERSITATIS MARIAE CURIE-SKŁODOWSKA
LUBLIN—POLONIA
VOL. XXXII, 1 SECTIO F 1977

Instytut Historii
Wydziału Humanistycznego UMCS

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Attempts at Rescinding Caesar's Bills of 59 B. C.

Ataki na ustawodawstwo Cezara z 59 roku p.n.e.

Критика законодательства Цезаря из 59 г. д.н.э.

One of the immediate results of the formation of the first triumvirate was Caesar's consulship during which he brought forward and got passed laws concerning very different spheres of life. The most important among them were two agrarian bills. Another step of importance was the bill passed by the Comitia and confirming all the acts issued by Pompey in the Orient. A special *lex Iulia* granted considerable privileges to publicans farming taxes in Asia. *Lex de pecuniis repetundis* restricted abuses committed by governors of provinces. As consul Caesar probably also initiated other laws of which little is known.[1]

What is remarkable is the vigorous opposition of the nobility against the legislative activity of the consul, clearly observable already during the passing of the first *lex agraria*. As a result, after some futile attempts to make the senate understand his objectives and to let it discuss his projects during its sessions, Caesar resolved to go ahead without the senate or even against its will and got passed both the first law and all the later ones directly at popular assembly with the exclusion of the senate.[2]

But in this he did not proceed unopposed, either. The agrarian bills, in particular, met with strong resistance. The optimates succeeded in

[1] The text of the acts together with a complete list of source accounts can be found in: G. Rotondi: *Leges publicae populi Romani*, Hildesheim 1962[2], p. 387 ff.; T. R. S. Broughton: *The Magistrates of the Roman Republic*, vol. II, New York 1952, p. 187 ff.; F. De Martino: *Storia della costituzione romana*, vol. III, Napoli 1958, p. 144 ff.

[2] Cassius Dio, XXXVIII, 3, 4; Appianus: *De bellis civilibus*, II, 10.

rallying those who opposed Caesar and tried to counteract his measures. A fellow-consul of Caesar, Marcus Bibulus, spoke about bad auguries, which — in accordance with the law — was to break the session at once. Finally, the leader of the nobility, Cato the Younger, attempted to speak at the assembly attacking the bills proposed by Caesar and using the tactics employed commonly on such occasions, i.e. continuing a speech until late in the evening in order to prevent taking the vote on the proposed bill. If the existing procedure had been respected, no legislative activity of the consul would have been possible.

But times had already changed. The triumvirs could do nothing but have recourse to extralegal means and they had no scruples in applying those. They brought to Rome large numbers of Pompey's veterans and — contrary to the law — sent to the assembly a number of men from the provinces, many of whom turned up armed. Caesar took no heed of the tribunes' veto, nor of the declarations of his fellow consul Bibulus. The adversaries of the triumvirs were attacked, the tribunes of the plebs were beaten up and three of them suffered injuries; the fasces of Bibulus' lictors were broken and Cato was twice dragged off the rostrum by force and removed from the forum. True, Bibulus attempted to make the senate convene again next day and get passed senatus consultum which would overrule the resolutions of the earlier assembly but, under the impact of the events, the senators could not master enough courage to oppose Caesar's bills.

The other two triumvirs lent the consul their whole-hearted support. Pompey declared in public that if anybody drew sword against the bills he himself would use his shield. Crassus made a similar statement. These were clearly threats that force would be used and armed men sent against opponents.

Under the circumstances the senators gave in. The bills were passed. What was more, when Caesar had the Comitia accept the resolution making the senators take an oath to obey the new laws, all the senators — including Cato and Bibulus — took the oath after a long period of hesitation.[3]

[3] The situation in Rome in 59 B. C. and the struggle over the carrying through of Caesar's acts are presented in detail in: E. Meyer: *Caesars Monarchie und das Principat des Pompeius*, Stuttgart 1918, p. 62 ff.; M. Cary: *Notes of the Legislation of Julius Caesar*, "Journal of Roman Studies", XIX, 1929, p. 113 ff.; M. Gelzer: *Caesar der Politiker und Staatsman*, München 1942, p. 93 ff.; L. Ross Taylor: *Caesar and the Roman Nobility*, "Transactions and Proceedings of American Philological Association", LXII, 1942, p. 16 ff.; L. Ross Taylor: *Party Politics in the Age of Caesar*, Berkeley 1949, p. 113 ff.; L. Ross Taylor: *On the Chronology of Caesar's first Consulship*, "American Journal of Philology", LXXII, 1951, p. 254 ff.; J. van Ooteghem: *Pompée le Grand Bâtisseur d'Empire*, Namur 1954,

Bibulus, however, continued his resistance. After the events that had occurred at the beginning of the year he shut himself in his house and did not turn up either at the senate or at the assembly until the expiration of his consulship. But he repeatedly issued the famous edicts in which he declared that he would watch the sky till the end of the year and that on account of this any legislative activity conducted at the time would be illegal.[4]

It seems that the resistance of the nobility against the triumvirs has been presented rather one-sidedly, both in the sources and in much historical research. Many historians follow the opinion of Mommsen[5] and characterize Cato as a narrow-minded and foolish statesman, unrealistic and capable only of opposing the new, a kind of Don Quixote fighting the windmills in a thoughtless and futile manner. An equally negative view has been taken of the activity of Bibulus, the consul, who was in fact ridiculed already in the year 59 by his enemies. They coined a saying, which acquired wide circurlation in Rome, that in that year the power was in the hands of two consuls: Julius and Caesar[6] (because Bibulus was a complete non-entity). Some modern and present-day historians criticize sharply the way in which the nobles acted: their passive resistance which could not possibly yield any results, their indecision, their withdrawal into the privacy of their own houses and their unwillingness to fight openly, which made the situation easier for their enemies. They are also criticized for their rigid attitudes in politics and their stubborn loyalty to obsolete republican ideals. Many historians regard Cato and Bibulus simply as ridiculous figures arousing amusement rather than sympathy or respect.[7]

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p. 301 ff.; Ch. Meier: *Zur Chronologie und Politik im Caesars ersten Konsulat*, „Historia", X, 1961, p. 68 ff.; S. Utchenko: *Konsulat Cezaria — tribunat Klodia*, „Vestnik Drevney Istorii", 1963/3, p. 42 ff.; S. Utczenko: *Kryzys i upadek republiki w starożytnym Rzymie*, Warszawa 1973, p. 95 ff.

[4] Cassius Dio, XXXVIII, 6; Plutarchus: *Caesar*, 14.

[5] Th. Mommsen: *Römische Geschichte*, vol. III, Berlin 1857², p. 155 ff.; 198 f.

[6] Svetonius: *Caesar*, 20; *Cassius Dio*, XXXVIII, 8.

[7] W. Drumann: *Geschichte Roms in seinem Übergange von der republikanischen zur monarchischen Verfassung*, vol. IV, Königsberg 1838, p. 489 ff. The author quotes with unqualified approval Cicero's sentence saying that Cato acts "as if the lived in Plato's ideal republic and not among the descendants of Romulus" (Cicero: *Ad Atticum*, II, 1, 6); vol. V. Königsberg 1841, p. 160 ff.; Meyer: *op. cit.*, p. 43 f., 62 ff.; H. Cary: *Cambridge Ancient History*, vol. IX, Cambridge 1932, p. 509 ff.; J. Carcopino: *César, La République Romaine de 144 à 33 avant J. C.*, „Histoire Generale" (par G. Glotz) vol. III, Paris 1950⁴, p. 700 ff., 719; Gelzer: *op. cit.*, p. 92; M. Gelzer: M. P. *Cato Uticensis*, „Die Antike", X, 1934, p. 59 ff.; R. Syme: *The Roman Revolution*, Oxford 1939, p. 26, 34; R. E. Smith: *The Failure of the Roman Republic*, Cambridge 1955, p. 118 f.; Utczenko: *Kryzys...*,

One may ask, however: is this the right view? Should the leaders of the nobility in those days be regarded as inept, undecided, timid men, totally devoid of political realism and more than that — foolish and even ridiculous?

It seems that such a view would be a serious mistake. Undoubtedly, those men were presented as fools by their political enemies, in particular by Caesar, but there is no reason whatsoever why a present-day historian should echo these opinions or uncritically repeat insinuation of this kind.

For if one examines closely the situation in Rome at the beginning of 59 B.C. one will come to the conclusion that the triumvirs were unquestionably the stronger side. Any armed resistance against them would have been doomed from the start. It must also be stressed that the leaders of the nobility were not plagued by indecision. Neither Cato nor Bibulus lacked personal courage. They tried all the means of resistance open to them with the exclusion of force which did not hold any promise of a satisfactory solution. Does this indicate that they did not possess a sense of reality? After all, the optimates succeeded in making their enemies use physical violence and brute force during the sessions of the assembly. Considering the balance of power that existed at the time it was not a failure on their part, but rather an achievement. They proved beyond doubt that without the use of force and without violating the law the triumvirs could not reach their objectives. Thus the tribunes' intercession and in particular the obnuntiatio of Bibulus as well as his seemingly ridiculous withdrawal to his villa and issuing from there the edicts that questioned the legality of Caesar's legislation played their role effectively. Bibulus was not merely piling up obstacles in the path of the triumvirs. What was of far greater importance was that the edicts were to serve in the future as ground for an attack against *acta Caesaris*, offering an excuse which could be of use in re-examining the whole affair and, possibly, in invalidating the whole legislative activity of the consul in the year 59. The optimates realized fully that — for the time being — they were the weaker party and had no chance in a direct confrontation with the triumvirs. But their activity helped them to achieve a postponement of such an event. Thus was created a situation in which they could bide their time. That time would come with the weakening of the triumvirs'

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p. 99. 101: However, some scholars have attempted to defend Cato and his policy, e.g. A. Afzelius criticized vigorously the opinion of Mommsen, which is in his view both wrong and unjust, and concluded his argument with a statement that the only right and reasonable strategy in the struggle against the triumvirs was that adopted by Cato and the leaders of the nobility. L. Ross-Taylor: (*Party Politics*... p. 133 ff). has an equally high opinion about Cato.

position, with their loss of influence and, possibly, with the growth of differences and conflicts among them.

If this point of view is adopted it will have to be admitted that the whole activity of the optimates together with their seemingly hopeless, ill-calculated, ineffectual resistance appears as the only sensible procedure, in fact — as part of very clever tactics which could bring results in the future. In view of this a revision of opinions on the subject discussed here would seem necessary.

Some signs of danger that was later to beset Caesar's legislation appeared already in 59 B.C. When he encountered stubborn resistance trying to get his bills passed and when he consequently imposed the oath, Caesar probably realized that a threatening shadow was hanging from the start over his legislation and this was the way in which he tried to avert the danger.

During his consulship, starting with April 59, he could not have overlooked the change in the public opinion. It was at that time that a situation developed that was not very favourable for the triumvirs. Historical sources mention the loss of popularity suffered by all the members of the triumvirate and in particular by Caesar and Pompey. The mood of the public found its best expression in incidents at games and dramatic performances organized by Caesar in August of that year. In a lively account of the incidents, included in a letter to Atticus, Cicero wrote of how the public had applauded all the malicious allusions to the triumvirs. Their enemies were greeted with stormy clapping that ceased abruptly when Caesar appeared. Heavy applause was given to the actor saying the sentence: *Nostra miseria tu es Magnus* (Pompey, it will be remembered, was nicknamed Magnus), or: *Si neque leges neque mores cogunt.* The play was repeatedly interrupted and the actor encouraged by shouts from the audience to repeat these words.[8]

It was not merely a matter of the grudge that the optimates bore the triumvirs. Their dislike was understandable. But the hostile demonstrations against the triumvirs were not all inspired by them. H. Strassburger suggests that those demonstrations were equally, if not mainly, the work

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[8] Cicero: *Ad Atticum*, II, 19, 2 ff.; Concerning the anti-Caesarian demonstrations at the theatrical performances in 59 see: R. E. Smith: The *Significance of Caesar's Consulship in 59 B. C.*, "Phoenix", XVIII, 1964, p. 308; Utczenko: *Kryzys...* p. 105 f.; R. Seager: *Clodius, Pompeius and the Exile of Cicero*, "Latomus", XXV, 1965, p. 523 f.; L. R. Shackleton Bailey: *Cicero's Letters to Atticus*, vol. I, Cambridge 1965, p. 389 f.

of the Roman equites.[9] This opinion is shared by Lepore.[10] Without questioning the validity of their conclusions one can point out that those who participated in the demonstrations were not all members of the upper classes. Some fragments of Cicero's letters seem to suggest that the triumvirs were also treated with hostility by the Roman plebeians: *"Scito nihil unquam fuisse tam infame, tam turpe, tam peraeque omnibus generibus, ordinibus, aetatibus offensum, quam hunc statum, qui nunc est... Populares isti iam etiam modestos homines sibilare docuerunt. Bibulus in caelo est, nec, quare scio; sed ita laudatur, quasi: 'Unus homo nobis cunctando restituit rem'* [...] *Sunt enim illi apud homines invidiosi".*[11]

Those who are presented here as the enemies of the triumvirs, ironically called by Cicero *isti populares,* are said to be men of all sorts, also *"modesti homines".* Making a reference to the demonstrations in the theatre and at games, demonstrations hostile towards the triumvirs, Cicero writes: *Populi sensus maxime theatro et spectaculis perspectus est.* He also mentions that the members of the triumvirate met with a hostile reception of "the whole theatre".[12] We learn further that in retaliation for the hostile shouts Caesar threatened he would abolish not only *lex Roscia* (which granted the equites privileged seats in the theatre) but also *lex frumentaria* — the grain act. *"Tulit Caesar graviter. Litterae Capuam ad Pompeium volare dicebantur. Inimici erant equitibus, qui Curioni stantes plauserant; hostes omnibus. Rosciae legi, etiam frumentariae, minitabantur".*[13] The possibility of abolishing the distribution of grain was undoubtedly meant as a repressive measure for the poorest plebeians, who, as can be concluded from the passage quoted above, had a hostile attitude towards the triumvirs. What should also be noted is the statement: "they are the enemies of all" *(hostes omnibus),* which suggests that the triumvirs met with dislike all around and hence treated everybody as an enemy.

Instances of similar behaviour of the plebs could be observed at the time also at the contiones. Cicero wrote to Atticus in July of 59: *"Bibulus hominum admiratione et benevolentia in caelo est".*[14] Bibulus' edicts were read at the plebeian assembly and even copied and put into circulation; their author was praised enthusiastically, naturally, because of his resistance to the triumvirs. It was precisely owing to the change in the

[9] H. Strassburger: *Concordia Ordinum, Eine Untersuchung zur Politik Ciceros,* Leipzig 1931, p. 51.

[10] E. Lepore: *Il princeps ciceroniano e gli ideali della tarda repubblica,* Napoli 1954, p. 128.

[11] Cicero: *Ad Atticum,* II, 19, 2.

[12] *Ibid.,* II, 19, 3.

[13] *Ibid.,* II, 19, 4.

[14] *Ibid.,* II, 20, 4.

public mood that nothing was "so popular as hatred of the popular", i.e. of Caesar and his two political partners. That hatred was felt by many of the lowest members of society, who constituted the majority at the contiones.

It was at that time that a well-known treatise by M. Varro, "Trikaranos", directed against the triumvirs, won great renown. Short, satirical poems ridiculing Caesar were handed round the city; they were written, among others, by Licinius Calvus, Catullus, Laberius, Voltacilius Pitolaus and others.[15]

The general dislike of the triumvirs was revealed, among others, in the election of magistrates for the following year. True, the triumvirs succeeded in getting their supporters, Gabinius and Piso, elected consuls but they suffered defeat in the election of the praetors: Caesar's candidate, G. Alfius, lost the election, while G. Memmius and L. Domitius Ahenobarbus, both representatives of the optimates and enemies of the triumvirs, were elected praetors. Similarly, most of the new tribunes of the plebs turned out to side with the senate.[16]

As early as in April of 59 there were temporary disagreements between the triumvirs on one side and on the other — Publius Clodius, a candidate for the office of tribune of the plebs and a man strongly supported by the lower classes. Having helped him to become a plebeian the three men intended to send him on a mission to Armenia. However, this solution evidently did not suit Clodius. He preferred to start trying at once to get elected tribune of the plebs which threatened to ruin the plans of the triumvirs. It was then that the first open treats were expressed against Caesar's legislation. Cicero offered Atticus the following account of his conversation with Curio the Younger about the political situation in Rome at that time: *"Publius, inquit, tribunatum pl. petit"* — *Quid ais?* — *"Et inimicissimus quidem Caesaris, et ut omnia, inquit, ista rescindat."* — *Quid Caesar?, inquam.* — *"Negat se quidquam de illius adoptione tulisse."* This exchange of words is followed by Curio's remarks to Cicero about the wide-spread hatred of the triumvirs and also about Clodius's preparations to turn against them.[17]

Obviously, when Curio says that Clodius *omnia ista rescindat* — he will rescind it all — his words refer to Caesar's legislation. Clodius threa-

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[15] The matter is discussed at greater length by M. St. Popławski: *Polityczna publicystyka w dobie Cezara i Augusta*, Lublin 1935, p. 19, 29 f., 48 f.

[16] Cicero: *Ad Quintum Fratrem*, I, 2, 16. Concerning the results of the elections for 58 see: Broughton: op. cit., vol. II, p. 193 ff.

[17] Cicero: *Ad Atticum*, II, 12, 1 f.; Cf. also: R. I. Tyrrel, L. C. Purser: *The Correspondence of M. Tullius Cicero*, vol. I, Dublin—London 1904, p. 289; Shackelton Bailey: *op. cit.*, vol. I, p. 375.

tens Caesar with rescinding his laws, after which Caesar announces that he has never adopted Clodius, that is, he has never made him the son of a plebeian which was an indispensable condition of obtaining tribuneship. Thus Caesar, on his part, warns Clodius that his own change from a patrician to a plebeian may also be made illegal and he may therefore be barred from tribuneship.

It should be stressed that the fragment of Cicero's letter to Atticus analyzed above has been variously interpreted ane evaluated. Some investigators, in particular J. Carcopino, maintain that the disagreements which Clodius and Curio had with the triumvirs in 59 as well as the former's threats against acta Caesaris were merely a trick meant to deceive the public opinion. Both Curio and Clodius, it is argued, remained in the service of the triumvirs and only pretended enmity for tactical reasons.[18]

In the light of the sources, however, it seems beyond doubt that the enmity shown by Clodius and Curio to the triumvirs, was not merely pretended, at least for a short period in the first half of the year 59.[19] The majority of historians are in agreement about that; this is true in particular about such contemporary scholars as M. Gelzer, E. Manni, R. Seager, E. Smith, L. R. Shackleton Bailey, L. Ross Taylor, J. van Ooteghem R. Holliday, A. W. Lintott and others.[20]

If the views proposed in recent historiography on the subject are accepted, Clodius's threats against Caesar's legislation in April 59 will have to be regarded as real. This tallies quite well with the internal situation of Rome at the time. What is significant, besides, is the immediate decrease of tension between Clodius and the optimates which is also reflected in source material. The optimates expected that the future tribune would attack the triumvirs and perform for them a difficult and dangerous task. They were hopefully awaiting an attack on leges Iuliae.[21]

Yet obviously Clodius was not interested in the annulment of those laws. He merely used the threat as part of his tactics. He recognized with

[18] Carcopino: *op. cit.*, p. 691 ff.

[19] The problem is discussed at greater length in my paper: *Trybunat Publiusza Klodiusza w świetle źródeł i historiografii*, Warszawa 1974, p. 199 ff.

[20] M. Gelzer: *Pompeius*, München 1949, p. 131; E. Manni: *L'utopia di Clodio*, p. 169; Van Ooteghem: *op. cit.*, p. 324, note 3; Smith: *Significance...*, p. 308 ff.; Shackleton Bailey: *op. cit.*, vol. I, p. 375 ff.; Seager: *op. cit.*, p. 533; L. Holiday: *Pompey in Cicero's Correspondence and Lucan's Civil War*, Mouton 1969, p. 31; Utczenko: *Kryzys...*, p. 105; A. W. Lintott: *P. Clodius Pulcher — felix Catilina?*, "Greece and Rome", XIV, 1967, p. 162.

[21] For further discussion of the problem see: Manni: *op. cit.*, p. 168 ff.; The views of this investigator were adopted by E. S. Gruen, P. Clodius: *Instrument or Independent Agent?*, "Phoenix", XX, 1966, p. 124; R. J. Rowland: *Crossus, Clodius and Curio in the Year 59 B. C.*, "Historia", XV, 1966, p. 233.

acumen the weak point in the triumvirs' position and aimed his attack there. Hence the sudden interest of the optimates in him and the somewhat unexpectedly flattering remarks of his enemy, Cicero, about him.

The hopes that the nobles came to cherish in connection with Clodius's activity in the first half of 59 were soon wholly disappointed. Some sort of agreement was probably reached between him and the triumvirs who finally consented to let him try to get the tribuneship for the following year.[22] Perhaps his threats had brought the desired result.

The optimates could only adopt another conception and devise different tactics. First, they had to wait with their attack till Caesar's consulship was over, when they would have far greater chances of success. None of the triumvirs was trying to get elected to any office for the following year — 58, so they would then be private citizens.

It is believed that already when the two consuls were giving up their office Bibulus intended to make a speech vehemently charging Caesar with lawlessness and acts of violence committed during his term in office. Clodius, however, did not grant him the right to speak and then used force to keep him silent.[23]

The next men to plan an attack on Caesar's acts were the two newly elected praetors, G. Memmius and L. Domitius. They were avowed enemies of Caesar and their election was in itself a threat to his legislation. This was precisely why Caesar had tried to prevent it and had supported the candidacy of C. Alfius. But his candidate had lost the election and the praetorship went to the two enemies of the triumvirs.[24] It is probable that G. Memmius and L. Domitius had not kept their intentions secret from the start. But they officially expressed their criticism of Caesar's legislation only at the beginning of the year 58. A more precise indication of this date is difficult because source information on the subject is very scanty.

Let us see what ancient authors say about it. Suetonius writes in his *Life of Caesar: "Functus consulatu Gaio Memmio Lucioque Domitio praetoribus de superioris anni actis referentibus cognitionem senatui detulit; nec illo suscipiente triduoque per inritas altercationes absumpto in provinciam abiit".*[25] Again, in his *Life of Emperor Nero* he writes: *"Huius filius* (Cn. Domitii — T.Ł.) *praetor C. Caesarem abeuntem consulatu, quem*

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[22] The problem is discussed at greater length in my paper: *Trybunat Publiusza Klodiusza...*, p. 216 ff.

[23] Cassius Dio, XXXVIII, 12; See: Van Ooteghem: *op. cit.*, p. 335.

[24] Cicero: *In Vatinium*, 16; Scholia Bobiensia: *In Vatinium*, 16; See: Broughton: *op. cit.*, vol. II, p. 194.

[25] Svetonius: *Caesar*, 23.

adversus auspicia legesque gessisse existimabatur, ad disquisitionem vocavit."[26]

Cicero, in his speech *Pro Sestio,* maintains that the triumvirs were fearful at the time because they thought *quod acta illa atque omnes res anni superioris labefactori a praetoribus, infirmari a senatu atque a principibus civitatis putabant.* And the scholiast adds here the following explanation: *De actis loquitur, quae habuit in consulatu C. Caesar inauspicato, ut videbatur: qua de re adversus eum egerant in senatu C. Memmius et L. Domitius praetores, et ipsius Caesaris orationes contra hos extant, quibus et sua causa defendit, et illos insecatur.*[27]

Remarks on the danger besetting Caesar's bills can also be found in the subsequent portion of the *Pro Sestio* speech. Cicero explains there why the triumvirs offered him no help at the time of his distress, when Clodius was preparing the ground for his expulsion. He maintains that, as they were expecting an attack on *leges Iuliae,* they did not want to incur additionally the hostility of the tribune: *tribunum popularem a se alienare nolebant suaque sibi propriora esse pericula quam mea loquebantur.*[28] And in another speech he says: *Si non sum adiutus, non debui.*[29]

A similar explanation of this event is offered in the comment of in scholia Bobiensia, where the author suggests that Caesar probably gave his consent to the measures taken by Clodius against Cicero *ut ea, quae in consulatu gesserat, permanerent.*[30]

The possibility that the triumvirs did have a share in Cicero's expulsion need not be discussed here. Suffice it to say that according to several sources the triumvirs found themselves in a difficult situation then. If they themselves did not collaborate with Clodius — and on this point historical opinion is divided — their defence of Cicero would have been an awkward and at the same time a risky step indeed. If they had incurred on themselves an attack of the nobility, they might have also aroused the ill-will of an influential tribune.

The sources quoted above indicate that an attack against *leges Iuliae* did not come until after Caesar's consulship had expired. Still, it occurred before he set off for Gaul *(functus consulatu, abeuntem consulatu, superioris anni acta, res anni superioris).* The praetors merely demanded that the senate should open an investigation into the matter and not that

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[26] Svetonius: *Nero* 2.

[27] Cicero: *Pro Sestio* 40; Scholia Bobiensia: *Pro Sestio,* XVIII, 2.

[28] Cicero: *Pro Sestio,* 40.

[29] Cicero: *De provinciis consularibus,* 43.

[30] Scholia Bobiensia: *Pro Sestio,* XVIII, 2 (C. Caesar) *"videatur ea propter et Clodio tribuno et consulibus Pisoni et Gabinio in perniciem M. Tulli consensisse, ut ea, quae in consulatu gesserat, permanerent".*

it should rescind the bills. But it was clear to everybody that the real objective of the campaign was to make the senate repeal all of Caesar's laws.[31] It was probably quite unexpected that Caesar himself consented to have the matter discussed in the senate and then in three speeches *(triduoque per inritas altercationes; ipsius Caesaris orationes contra hos (Memmium et Domitium — T.Ł.) extant)* sharply attacked the movers, whereupon the senate could not resolve in a three-day debate whether any measures should be taken against *leges Iuliae.*

Gelzer's supposition that Caesar escaped danger only because he quickly received proconsulship and crossed the pomerium [32] does not seem justified. If any danger had existed, Caesar would have hardly submitted his affair to the discussion in the senate, whereas the sources suggest that he himself had consented to a preliminary discussion of the praetors' move.[33] Moreover, source accounts do not indicate by any means that Caesar was defeated by his opponents in a verbal clash. On the contrary, everything indicates that he emerged out of it victorious.

Hence one is more readily convinced by the opinion of Meyer that after the discussion, during which threats may have been expressed (such probably is the meaning of the phrase describing Caesar's addresses as *inritae altercationes*), the senate was unable to arrive at any decision, the more so that the threats were merely verbal. Outside the Roman walls Caesar's army was already waiting ready to march for Gaul.[34]

It was precisely this army, stationed at the gates of the city, that permitted its leader to exercise some pressure on his opponents by creating a very real threat that armed force might be used if circumstances made it necessary. The example of Sulla was very telling. Thus it is highly probable that in view of Caesar's strong reaction against the move of the

[31] For discussion of the problem see: R. A. Bauman: *The Crimen Maiestatis in the Roman Republic and Augustan Principate*, Johannesburg 1967, p. 94 ff.; E. J. Weinrib: *The Prosecution of Roman Magistrates*, "Phoenix", XXII, 1968, p. 43 ff.; E. Badian: *Two Roman non-entities*, "Classical Quarterly", XIX, 1969, p. 200 ff.; E. S. Gruen: *Some Criminal Trials of the Late Republic: Political and Prosopographical Problems*, "Athenaeum", XLIX, 1971, p. 62 ff.; E. S. Gruen: *The Last Generation of the Roman Republic*, Berkeley 1974, p. 291 f.; Concerning the power of the Roman senate to rescind laws and its practical activity in this respect during the decline of the republic see: C. Nicolet: *Le sénat et les amendements aux lois à la fin de la république*, „Revue Historique de Droit Français et Etranger", S. IV, XXXVI, 1958, p. 260 ff.

[32] Gelzer: *Caesar...*, p. 109; Gruen: *Criminal Trials...*, p. 62.

[33] Svetonius: *Caesar*, 23 *"Caesar praetoribus de superioris anni actis referentibus cognitionem senatui detulit"*; cf. Cicero: *In Vatinium*, 15 *"Primum quare, num tu senatui causam tuam permittas, quod fecit Caesar?"*.

[34] For a fuller discussion of the problem see Meier: *Zur Chronologie...*, p. 79 ff.; Bauman: *op. cit.*, p. 94 ff.; Gruen: *Last Generation...*, p. 291 f.

praetors the optimates — fearing that he might use armed force — did not want to run any risk and the move fell.

The question that arises here is this: was that the reason why his march for Gaul was delayed so long, even though there were urgent matters that called for his presence there and even though he had "to march there speedily" later on? [35] The keeping of Caesar's army outside Rome at the beginning of 58 has been variously interpreted in historiography. The thesis that has for a long time been respectfully accepted suggests that Caesar waited until Cicero had been expelled out of Rome and then calmly set off for Gaul.[36] This thesis, however, will not survive a critical examination. The tendency to explain all events by referring them to the person of Cicero is understandable in the great orator himself. In contemporary historiography the above thesis is probably connected with fairly wide-spread "Cicerocentrism", i.e. viewing all matters in such a way, as if Cicero and his affairs were always in the centre of Roman politics. However, the person of Cicero, who had by that time lost all importance and all influence, could not be dangerous to Caesar or the triumvirs in any way whatsoever.[37] If Caesar were afraid at that time of any particular leader of the senate, it would surely not be Cicero, but rather Cato, who remained in Rome after the proconsul's departure to Gaul and who only later set off on a special mission to Cyprus.[38]

E. Manni expressed the opinion that Caesar had been waiting with his army outside Rome, because he wanted to find out what could be expected of Publius Clodius, an extremely energetic tribune of the plebs, who had earlier spoken threateningly about his laws. Finally, he set off for Gaul only when the first part of Clodius's term in office had passed without any damage to the triumvirs' interests.[39]

This view need not be shared, however. At the beginning of 58 the relations between Clodius and the triumvirs were correct. There is no evidence that any slightest misunderstanding between them existed at the time. It should also be remembered that Publius Clodius had become a tribune not without the help of Caesar and Pompey.

[35] Caesar: *De bello Gallico*, I, 6 f.; Plutarchus: *Caesar*, 17. Concerning the chronology of the events discussed here see: Meier: *Zur Chronologie...*, p. 79 ff.; P. Grimal: *Études de chronologie cicéronienne (années 58 et 57 av. J. C.)*, Paris 1967, p. 48.

[36] Meyer: *op. cit.*, p. 100 f.; Gelzer: *Caesar...*, p. 111; J. W. Heaton: *Mob Violence in the Late Roman Republic 133—44 B. C.*, Urbana 1939, p. 68, W. Hugo: *Cicero und Caesar*, Göttingen 1944, p. 100.

[37] Some perceptive remarks on the subject are offered by: Utczenko: *Kryzys...*, p. 113 f.

[38] Cassius Dio, XXXVIII, 30; Appianus: *De bellis civilibus*, II, 23; Cicero: *Pro Sestio*, 60; 62; *De domo sua*, 65.

[39] Manni: *op. cit.*, p. 173.

It would probably be difficult to find any single reason why the proconsul put off his march to the province. The best guess seems that what kept him in Rome was not any single affair but the whole political situation in the capital, which developed after he had finished his term as consul, when the triumvirs became mere "private citizens" and when the optimates got their long-awaited chance to strengthen their uncertain position. It can probably be assumed without stretching facts too much that one of the most important reasons for Caesar's protracted stay in Italy was precisely the matter that is the subject of the present paper.

This is indicated by the circumstance that the optimates did indeed launch an attack on *leges Iuliae* and that Caesar had to defend them vigorously no fewer than three times. It was certainly only the fear of armed force, i.e. of the troops stationed outside the city walls, that prevented the senate from taking more decisive action. As can be concluded from Cicero's words, the triumvirs feared most that the result of their action in the preceding year would be altogether ruined.[40] Such, then, could be the principal reason why Caesar remained in Rome.

Additional support is lent to this supposition by the account of Suetonius who wrote that as soon as Caesar had defeated the efforts of the praetors in the senate, he set off to the province at once *(nec illo suscipiente triduoque per inritas altercationes absumpto in provinciam abiit).*[41] The joint reference of the author to two affairs in a single sentence may suggest that they were mutually connected. Caesar had to remain outside the city walls as long as there was any real danger that his laws of 59 could be attacked.

No sooner had the proconsul marched off to his province than the optimates — probably seeking revenge for their defeat — brought to court Caesar's quaestor charging him with financial offenses.[42]

They also made another attempt to attack the proconsul directly. Immediately *(mox)* after Caesar had left Italy the tribune of the plebs, L. Antistius, accused him formally of having performed illegal acts during his consulship. But Caesar's friends were on their guard. The other tribunes protested quoting the bill that forbade bringing to law any citizen remaining outside Rome engaged in the execution of public duties. As Caesar had already started his proconsulship, he escaped danger.[43]

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[40] See above, note 27.

[41] Svetonius: *Caesar*, 23; Gruen: *Criminal Trials...*, p. 62.

[42] *Ibid.*

[43] *Ibid.*, *"Mox et ipse a Lucio Antistio tr. pl. postulatus appellato demum collegio optinuit, cum rei publicae causa abesset, reus ne fieret"*. Cf. also: G. Niccolini: *I fasti dei tribuni della plebe*, Milano 1934, p. 293, 298; Broughton: *op. cit.*, vol. II, p. 195 ff.; Gruen: *Criminal Trials...*, p. 63; Weinrib: *op. cit.*, p. 44; Bauman: *op. cit.*, p. 103 f.

What strikes one is Suetonius's phrase *collegio optinuit* indicating that Caesar was supported by all the other tribunes. Moreover, it is curious that Suetonius does not mention here the name of P. Clodius who undoubtedly played a major role in the college of tribunes in 58. One may guess, however, that Caesar owed the support of the college of tribunes to no other person than Clodius. It is highly probable that in return the triumvirs allowed Clodius to score off his enemy, Cicero, by bringing about the latter's expulsion.

Suetonius's account clearly suggests that though danger had been temporarily averted, Caesar was still anxious about the future fate of his laws. That was the reason — as Suetonius writes — why he *"ad securitatem ergo posteri temporis in magno negotio habuit obligare semper annuos magistratus et a praetoribus non alios adiuvare aut ad honorem pati pervenire quam qui sibi recepissent propugnatores absentiam suam; cuius pacti non dubitavit a quibusdam ius iurandum atque etiam syngraphan exigere."* [44]

As the statement implies that Caesar repeated his strategy at the time of the elections held every year (*in magno negotio habuit obligare semper annuos magistratus*), it may be regarded as evidence that the proconsul had his misgivings for quite some time, at least for the next few years.

Yet at first his fears appeared unfounded. After the attempts of the praetors and of the tribune of the plebs had come to nothing, the optimates did not take any measures hostile to Caesar.

No other attack against *leges Iuliae* was launched until a few years later, when the political situation in Rome had already changed. In the course of 58 a strong tension developed between Clodius and Pompey which soon turned into an open conflict. A hope dawned that there might be discord in the triumvirate and that Pompey and the senate might become closer.

It was in this situation that P. Clodius somewhat unexpectedly directed his attack against Caesar's laws of 59. His action has been the subject of a lively discussion among scholars who hold different opinions on the matter. This is why it seems worth while to examine closely all those sources which mention it.

In his speech *"De domo sua"* Cicero said: *"Negant (augures — T. Ł.) fas esse agi cum populo cum de caelo servatum sit. Quo die de te lex curiata lata esse dicatur, audes negare de caelo esse servatum? Adest praesens vir singulari virtute, constantia gravitate praeditus, M. Bibulus: hunc consulum illo ipse die contendo servasse de caelo. — "Infirmas igitur*

[44] Svetonius: *Caesar*, 23.

tu acta Caesaris, viri fortissimi?" — Minime, neque enim me iam quicquam interest, exceptis iis telis quae ex illius actionis in meum corpus immissa sunt. Se haec de suspiciis quae ego nunc per breviter attingo, acta sunt a te. Tu tuo praecipitante iam et debilitate tribunatu suscipiorum patronus subito extitisti; tu M. Bibulum in contionem, tu augures produxissi; tibi interroganti augures responderunt, cum de caelo servatum sit, cum populo agi non posse; tibi M. Bibulus quaerenti se de caelo servasse respondit; idemque in contione dixit, ab Appio tuo fratre, productus, te omnis, quod contra auspicia adoptatus esses tribunum non fuisse. Tua denique omnis actio posterioribus mensibus fuit, quod omnia quae C. Caesar egisset, quod contra auspicia essent acta, per senatum rescindi oportere; quod si fieret, dicebas tu tuis umeris me custodem urbis in urbem relaturum. Videte hominis amentiam per suum tribunatum Caesaris actis inligatus teneretur." [45]

In *"De haruspicum responso"* can be found a similar passage on the same subject: *"Tum leges Iuliae contra auspicias latas et hic in contionibus dicere, in quibus legibus inerat curiata illa lex, quae totum eius tribunatus continebat, quam caecus amentia non videbat: producebat fortissimum virum M. Bibulum: quaerebat ex eo, C. Caesare leges ferente de caelo semperne servasset, semper se ille servasse dicebat. Augures interrogabat, quae ita lata essent, rectene lata essent? Illi vitio lata esse dicebant. Ferebant in oculis hominem quidem boni viri et de me optime meriti, sed illius ut ego orbitror, furoris ignari."* [46]

In his speech *"Pro Sestio"* Cicero mentioned Caesar's *lex de pecuniis repetundis* which Clodius announced to be invalid together with other laws,[47] and in another of his speeches, *"De provinciis consularibus"*, he mentioned Caesar's anxiety about the fate of his laws of 59 and that in a context unambiguously suggesting that the danger to them was caused by Publius Clodius in 58. [48]

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[45] Cicero: *De domo sua*, 39 f.

[46] Cicero: *De haruspicum responso*, 48.

[47] Cicero: *Pro Sestio*, 135. *"C. Caesaris legem de pecuniis repetundis non putat esse legem? et aiunt alios esse, qui acta Caesaris rescindant, cum haec optima lex et ab illo socero eius et ab hoc adsecula neglegatur!"* The fragment of the sentence deserving attention is that mentioning some men who *acta Caesaris rescindant*. It probably refers to the optimates who missed no opportunity allowing them to take up the matter again.

[48] Cicero: *De provinciis consularibus*, 44 *"Ecce illa tempestas, caligo bonorum et subita atque improvisa formido, tenebrae rei publicae, ruina atque incendium civitatis, terror iniectus Caesari de eius actis, metus caedis bonis omnibus, consulum scelus, cupiditas, egestas, audacia"*. It can only be a remark referring to Clodius's threats against Caesar, because he, together with the consuls of 58, was blamed by the orator for having created such a dangerous situation.

Evidently, Clodius's attack on the laws of 59 would not fit with the image of the tribune as Caesar's tool in 58. This is why L. G. Pocock, one of the most outspoken defenders of this idea, suggested that the whole campaign of Clodius against Caesar was nothing but a misunderstanding resulting from the wrong interpretation of the text. Interpreting in his own way the fragment of *"De domo sua"* quoted above (39—40) Pocock concluded that Clodius had only defended himself against the charge that his own activity at the time of his tribuneship was illegal in the following manner: "if my own activity is illegal having been conducted against the auspices (or else if the tribuneship was obtained against the auspices), then it would also be necessary to rescind the laws of Caesar, for — as everybody knows — they too, were passed against the auspices." Naturally — Pocock argues — these were but empty words. Clodius knew that rescinding Caesar's laws was impossible. He only wanted to demonstrate that it would be equally impossible to question the legality of his tribuneship. Clodius had not the slightest intention to attack *leges Iuliae* and there was in fact no attack. Pocock adds that in the situation that existed at the end of 58 no attack could have been made.[49]

This interpretation, however, has serious gaps and has consequently been sharply critized, especially by F. B. Marsh, who has accused Pocock of imprecise reasoning. Clodius, he points out, attacked Caesar's laws more than once and that not only when the legality of his own tribuneship was questioned. Now, Pocock considers chiefly a fragment from *"De domo sua"* which in itself could possibly give some support to such an interpretation, but he leaves out of account a fragment of *"De haruspicum responso"*, which makes this interpretation impossible. Marsh maintains, with a good deal of justification, that it was well known in Rome whether Clodius's attack was real or only apparent. If, as Pocock argues, Clodius merely compared the attacks on his tribuneship to the threats directed against Caesar's acts, all of Cicero's charges against Clodius and his statements that the latter said Caesar's acts had no validity would not only be nonsensical but downright ridiculous. If Pocock's interpretation were true, there could not possibly exist Cicero's statements quoted above from *"De domo sua"* and *"De haruspicum responso"*

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[49] L. G. Pocock: *Publius Clodius and the Acts of Caesar*, "Classical Quarterly", XXI, 1927, p. 52 ff.; Id.: *A Note of the Policy of Clodius*, "Classical Quarterly", XIX, 1925, p. 182 ff; In his later studies — *A Commentary on Cicero's In Vatinium*, London 1926, p. 19, 152; and: *Pompeiusve parem*, "Classical Philology", 1927. XXII, p. 301 ff. — Pocock developed the thesis that he had proposed earlier, maintaining that Caesar closely collaborated with Crassus at the time and that Clodius was an agent of both triumvirs. Pocock's view was adopted by: Carcopino: *op. cit.*, p. 796; Van Ooteghem: *op. cit.*, p. 353.

about Clodius's attacks on Caesar's acts, because all the Romans would immediately see that the orator's words lacked sense. Undoubtedly Cicero regarded Clodius's attacks as real, not apparent, if he used this affair as a basis for political accusation formulated in a direct and unequivocal manner. [50]

In recent time Pocock's thesis has been vigorously attacked by P. Grimal who regards Clodius's attack on Caesar's acts as real and who sees it as related to the mission of P. Sestius in Gaul undertaken to pave the way for Cicero's return from exile. According to Grimal Clodius threatened that he would rescind Caesar's acts of 59 in order to exercise pressure on him and prevent him from consenting to Cicero's return. Grimal assumes — rightly, it seems — that Clodius did not really intend to rescind Caesar's laws. This would have hardly been possible in the situation that existed in Rome at the time. Up to this point one can agree with Pocock's inference, but there is no need to follow him all along the course of his reasoning. Clodius's attack was indeed directed against Caesar. Perhaps he did not intend to rescind Caesar's legislation, but his action was very probably a clever political manoeuvre, or an attempt to blackmail Caesar. In any event, Clodius's threats against the acts of 59, and in particular his whole activity in the matter, described by Cicero, were certainly not a figment. [51]

The arguments of the scholars referred to above may be amplified by some conclusions suggested by an analysis of the fragments of Cicero's speeches quoted above. Cicero maintains that Clodius argued, not once but repeatedly, both in the senate and in the contiones (in plural) that Caesar's acts were illegal because they had been brought forward under unfavourable auspices. [52]

The statement that any charges against Clodius's tribuneship should be treated in the same way as attacks on Caesar's acts could have only been made once. It would have been pointless to repeat the statement in the senate and at contiones at a time when nobody had any intention of

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[50] F. B. March: *The Policy of Clodius from 58 to 56 B. C.*, "Classical Quarterly", XXI, 1927, p. 30 ff.

[51] P. Grimal: *Le contenue historique du "Contre Pison"*, "Comptes Rendus d'Académie des Inscriptions et Belles-Lettres", 1966, p. 103; Id.: *Etudes de chronologie...*, p. 112 ff. Discussing Grimal's suggestions Carcopino tried to reconcile them with the theses of Pocock maintaining that Clodius may have indeed wanted to exercise some pressure on Caesar in connection with Sestius' mission but that he could not have wanted by any means to attack his principal ("Comptes Rendus d'Academie des Inscriptions et Belles-Lettres", 1966, p. 196 ff.). In this way Carcopino argued in defence of Pocock's interpretation.

[52] Cicero: *De haruspicum responso*, 48 *"Tum leges Iuliae contra auspicia latas et hic in contionibus dicere"*.

attacking Clodius. Besides, the sources unambiguously mention the tribune's attack on Caesar's acts without relating it in any way to questioning the legality of his tribuneship. It is just an attack on Caesar's acts and one repeated many times both in the senate and at the contiones.

Cicero maintains in *"De domo sua"* that in the last months of his tribuneship Clodius did nothing but work to achieve the annulment of Caesar's laws.[53] This certainly does not look like a pretended attack. There is no mention here of comparing Caesar's acts and the situation of Clodius. For months Clodius repeatedly attacked Caesar's laws and attacked them in a very consistent manner. It is especially the tribune's statement that the senate ought to rescind *omnia quod Caesar egisset* that contradicts Pocock's thesis directly.

Another thing that makes this thesis doubtful is the description of the methods used by Clodius in his attacks in Caesar's legislation: his bringing Bibulus and the augurs to the contio, his questioning them in a provocative manner, a detailed discussion of the matter in public. This sort of procedure must have been in itself very damaging to Caesar. He could not have relished these constant reminders that his acts had been carried out contrary to the auspices. It was clearly a political demonstration against Caesar and not just a pretended attack. It is also telling that Clodius became allied to Bibulus, an inveterate enemy of Caesar, and that he also took the opportunity to return to the affair of his *obnuntiationes*. Bibulus's participation clinches the matter: he would have never joined in had it not been a real attack on Caesar. The figure of Bibulus is a final argument against Pocock's interpretation.

What also merits attention is the saying, quoted by Cicero, that some respectable citizens *(boni viri)* "unaware of Clodius's follies praised him to high heaven."[54] Those "respectable men" were — as the text makes clear — the leaders of the optimates (Cicero calls them his friends) who were only too pleased with Clodius's attack on Caesar. Caesar writes further about "a difference of opinions among the *boni viri*" and "dissent among the optimates"; finally, he maintains that after his tribuneship Clodius was defended by some optimates "so that he should not be brought to law and that he should not remain a private citizen" (he needed support when trying to obtain aedileship); also, "they wanted to have

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[53] Cicero: *De domo sua*, 40 *"Tua denique omnis actio posterioribus mensibus fuit, quod omnia quae C. Caesar egisset... per senatum rescindi oportere"*. Grimal: *Etudes de chronologie...*, p. 114 f. assumes that through the autumn of 58 Clodius made consistent attempts to have Caesar's laws rescinded.

[54] Cicero: *De haruspicum responso*, 48 *"Ferebant in caelis hominem boni viri et de me optime meriti, sed illius ut ego arbitror furoris ignari"*.

someone who would attack Pompey at the contiones." [55] This friendliness of the optimates towards Clodius, their readiness to support him and praise him directly after his attacks on Caesar (whereas earlier they had been united in their violent attacks on the tribune), become understandable only if Clodius did turn against Caesar and the triumvirs. There is an indication in the sources that at the end of 58, in view of Clodius's recurrent criticism first of Pompey and then also of Caesar, the senate saw a chance of gaining a tribune for its plans of renewing a struggle against the triumvirs. Hence Clodius's demands that the senate should rescind *acta Caesaris*, hence a close collaboration between the tribune and Bibulus, hence also a rather sudden — and to Cicero inexplicable — interest of the leaders of the optimates in the person of Clodius together with their open support of their former avowed enemy. [56]

Another piece of evidence that Clodius's attack on Caesar's acts was real and not pretended can be found in his earlier threats directed against Caesar in April 59 as soon as the relations between the two men grew cooler. [57] It is therefore very probable that he considered *acta Caesaris* an excellent excuse for an attack against the triumvirs and used it again at a later date.

Another passage indicating that Clodius's attack on Caesar in 58 was real comes from the *"Pro Sestio"* speech. There the author asks directly: "Did he not assert likewise that there was no legal power in *lex de pecuniis repetundis* of Caesar, the very man who — as he himself used to boast — offered him gifts by his law, protected him and armed him?" [58] Cicero uttered these words referring to Clodius's condemnation of many other laws, such as *lex Caecilia Didia, lex Licinia Iunia* and his own *lex Tullia*. The passage makes no specific reference to Clodius's attack on Caesar's legislation described above, but it mentions incidentally that Clodius regarded as illegal a number of acts, among them also Caesar's *de pecuniis repetundis*. The condemnation of this particular act as illegal is another weighty argument in this discussion and makes an attack on all of Caesar's legislation of 59 much more probable.

[55] Cicero: *Pro Sestio*, 135 *"Etiamne eius, quem sua lege et suo beneficio ornatum, munitum, armatum solet gloriari, C. Caesaris legem de pecuniis repetundis non putat esse legem? et aiunt alios esse, qui acta Caesaris rescindant, cum haec optima lex et ab illo socero eius et ab hoc adsecula neglegatur!"* See also: Strassburger: *op. cit.*, p. 59 ff.; Lepore: *op. cit.*, p. 158 f.; Chr. Meier: *Res publica amissa*, Wiesbaden 1966, p. 286; Some shrewd remarks about Cato's attitude to Clodius in this period can be found in: Ross Taylor: *Party Politics...*, p. 138 f.

[56] Concerning the political situation in Rome at the time see: Meyer: *op. cit.*, p. 102 ff.

[57] Grimal rightly stresses this argument in: *Études de chronologie...*, p. 116.

[58] Cicero: *Pro Sestio*, 135.

All the considerations presented above suggest that Marsh was right regarding Pocock's interpretation as wrong and entirely disproved by the sources. It can be assumed that towards the end of his tribuneship *(posterioribus mensibus)* Clodius did indeed attack Caesar criticizing his legislation of the preceding year. [59]

But Clodius must have restricted himself to threats. No formal attack followed and Caesar's laws were not rescinded. The matter was discarded when Clodius's tribuneship expired and he became, for the whole length of the year 57, a private citizen who had to think of preserving his own security. It was at that time that Pompey, who was just then staying in Rome, maintained very good terms with the senate and Clodius had to oppose their alliance. [60]

Naturally, regarding Clodius's attack on *acta Caesaris* as a fact throws a certain light on their mutual relations. Nevertheless, it is not necessary to accept the thesis of a complete independence of the tribune of 58 on the triumvirs, for it is possible that towards the end of his tribuneship Clodius changed his policy and abandoned his earlier allies. Clodius's attack on Caesar and the earlier hostility between him and the triumvirs should be viewed strictly in connection with that particular period. During his tribuneship, starting with April 58 Clodius became an enemy of Pompey and then of Caesar. If he had been in their service before, a complete rupture of their mutual relations must have occurred. [61] But the whole problem of the relations between Clodius and the triumvirs is far more complicated than that and is only partly connected with the question discussed here, so we can leave it unresolved.

Did Clodius really intend seriously to get Caesar's legislation rescinded? It seems doubtful. The political situation at the time made this sort of move next to impossible. Clodius had then not only Pompey against himself, but also the optimates and the senate. He had hardly enough

[59] This view is adopted by: Marsh: *op. cit.*, p. 30 ff.; W. E. Heitland: *The Roman Republic*, vol. III, Cambridge 1929², p. 173 f.; Manni: *op. cit.*, p. 174; L. Pareti: *Storia di Roma e del mondo romano*, vol. IV, Torino 1955, p. 42; Lepore: *op. cit.*, p. 137; R. G. Nisbet: *M. Tulli Ciceronis De domo sua ad pontifices oratio*, Oxford 1961, p. 104 f.; F. Wuilleumier: *Cicéron: Au sénat — Au peuple — Sur sa maison*' "Cicéron, Discours", vol. XIII, Paris 1952, p. 113; Hugo: *op. cit.*, p. 102 ff.; Lintott: *Clodius...*, p. 166; Meier: *Res publica amissa*, p. 286 ff.; R. Gardner: *Cicero: The Speeches Pro Sestio and In Vatinium*, London 1958, p. 17; Gruen, P. Clodius: *op. cit.*, p. 128 ff.; This scholar regards Clodius's attack against Caesar as the gravest political error which had a decisive effect on the further career of the tribune of 58.

[60] Meyer: *op. cit.*, p. 113 ff.

[61] This view is adopted among others by G. Giannelli: *Storia politica d'Italia. La repubblica romana*, Milano 1937, p. 674; and R. E. Smith: *Cicero: The Statesman*, Cambridge 1966, p. 161 f.

power or influence to carry through this kind of plan without incurring the hostility not only of Caesar but also a number of his own supporters. For it should be stressed that Caesar's acts, and in particular his *leges agrariae*, enjoyed considerable popularity among the city plebeians. After all it was owing to these laws — as sources make clear — that about 20 thousand poorest families with three or more children received plots of land. [62] Now, it is generally known that the city plebs and especially its lowest members, the proletariat, were Clodius's mainstay. It is doubtful or even downright improbable that he should indeed have intended to rescind the laws in whose preservation a large number of his supporters were interested.

One conclusion seems inescapable here: that Clodius was indifferent towards Caesar's laws. They did him no harm and brought him no profit, but any attempt to rescind them could have antagonized many people that had earlier been friendly to the tribune. Thus if Clodius broached the matter twice, it must have been for tactical reasons, when he was looking for an excuse to keep Caesar and the triumvirs at bay. He uttered threats but he never carried them out. What is more, some historians suspect, not without justification, that he did not intend to carry them out. There is complete agreement in this respect between Pocock, who professes the belief in Clodius's complete dependence of Caesar and the triumvirs, and Meyer and Grimal — who defend the tribune's independence. One cannot but agree with their conclusions. It is probable that voicing his threats Clodius merely wanted to make Caesar alarmed and inclined to grant him concessions in other matters, more important to the tribune.

In accordance with the opinions of most investigators Clodius's attacks on *leges Iuliae* should be regarded as a typical political manoeuvre. Meyer may be right suggesting that perhaps the tribune wanted to assert in this way his independance on the triumvirs. [63] Or else, as Grimal suggests — and this is even more probable — he wanted to exercise some pressure on Caesar in connection with the mission of Sestius who was to negotiate Cicero's return with the proconsul. [64] Finally, one cannot rule out the possibility that Clodius had both these aims in view, and perhaps some others as well.

It has to be admitted that taking up the matter of Caesar's legislation by Clodius could have caused quite a stir in Rome and could have changed the balance of power in the political situation of the city. Clodius

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[62] Appianus: *De bellis civilibus*, II, 10.

[63] Meyer: *op. cit.*, p. 106 f.

[64] Grimal: *Le contenu...*, p. 103; Id.: *Études de chronologie...*, p. 112 ff.

must have realized that the optimates, and in particular their leaders, were more keenly interested in the attack on Caesar's legislation than anybody else. Consequently, he could have expected their support and indeed they did give it to him. He succeeded in achieving one thing: his former enemies suddenly became — as Cicero writes — his warm admirers and allies. On the other hand, it was clear that the man sure to defend Caesar's laws would be Pompey, as one most keenly interested in their preservation. This in turn should lead to a tension and hostility between the triumvir and the senate. In fact, towards the end of 58 there was a certain tightening of bonds between Pompey and the senate on account of Cicero's proposed return and the shared hostility towards Clodius. The proposal to discuss Caesar's legislation could check the friendliness and lead to a disagreement between Pompey on the one hand and the senate and optimates on the other. Perhaps that was the main reason why the tribune of 58 took the matter up. At any rate, he could not have been interested in rescinding Caesar's laws.

Nevertheless, what was remarkable was the behaviour of the optimates both when Clodius was uttering his threats against *acta Caesaris* in April 59, and later, towards the end of 58. They invariably showed a keen interest in the matter. Cicero left an account of how Clodius was surrounded and praised to high heaven by them whenever he broached the subject of Caesar's legislation.[65] Unable to launch an open attack on Caesar and on Pompey who was standing behind him, they applauded the attacks of others on them and waited for someone to pull their chestnuts out of the fire.

One cannot help suspecting that they were more anxious than Clodius to see the laws of 59 rescinded because they were the party that was the more directly interested in it. Cicero's description of Clodius as a protector of men attacking those laws is very telling.[66] This statement seems to suggest that at the time there were other people who were greatly interested in launching attacks on Caesar's acts and Clodius merely supported them. No doubt Cicero referred to the leaders of the nobility and of the senate. It can be added that this statement tallies perfectly with Suetonius's account of the constant anxiety that Caesar revealed about his laws in the course of a few years following his consulship. Similar conclusions are also suggested by Clodius's formal statement, quoted by Cicero, that the senate ought to rescind Caesar's acts.[67]

However, the senate did not take such a daring step. The next attack on the acts occurred only at the end of 57 B. C. In the second half of

[65] Cicero: *De haruspicum responso*, 48 f.

[66] Cicero: *De domo sua*, 39 f.

[67] *Ibid.*, 40.

November or at the beginning of December Rutilius Lupus, then a tribune of the plebs, moved that the senate should discuss Caesar's second agrarian law concerning the land in Campagna. He sharply attacked the text of the law, modelling himself supposedly on Cicero's speeches against Rullus's project. This was accompanied by some jeering at Caesar and Pompey, but the senate listened to it in deep silence and no specific motion was proposed. Lupus was disappointed and, having remarked that the general silence was very telling, resigned the procedure, common in such cases, of calling one senator after another to speak. Only Marcellinus made a remark that "nothing can be inferred from silence" and that he himself considered a discussion of the ager Campanus in Pompey's absence inappropriate. After his words the senators dispersed. [68] This shows what fear the power of the triumvirs aroused in their opponents: they were apparently paralysed by it and unable to take any measures against it.

It should be added that Lupus proposed his motion at a very inappropriate moment. 57 was the year when Pompey and the leaders of the nobility drew distinctly together, as is witnessed by bringing Cicero back from expulsion which they accomplished together. There were hopes that the alliance might become lasting and might lead to disagreements between the triumvirs. A confidant of Pompey, Culleo, even advised the triumvir an open break with Caesar and collaboration with the senate.[69] In this situation an attack on Caesar's agrarian bills, which — among others — had brought grants of land to Pompey's veterans, was not a skilful move. It could bring the optimates nothing but harm and so the deep silence with which it was greeted as well as Marcellinus's remark seem quite understandable.

The affair of Caesar's acts of 59 cropped up again in 56 B.C. By then the political situation had become somewhat clarified, as Pompey, after long hesitation, had finally rejected the conception of breaking his alliance with Caesar. He had probably made a closer contact with Caesar by correspondence. At any rate, that was the period immediately preceding the meetings at Ravenna and Lucca, which led to the reviving of the triumvirate.

In April 56, at a session of the senate, Cicero brought forward a formal motion that, in connection with the distribution of the land in Campagna on the basis of Caesar's second agrarian act of 59, the full senate should consider the matter during the Ides of May. This is said to have caused a great stir and considerable confusion. As Cicero wrote to his brother:

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[68] See: *"noli [...] ex taciturnitate nostra, Lupe, quid aut probemus hoc tempore aut improbemus, iudicare"*. Cicero: *Ad Quintum Fratrem*, II, 1; Broughton: *op. cit.*, vol. II, p. 209; Niccolini: *op. cit.*, p. 303 ff.

[69] Plutarchus: *Pompeius*, 49.