THE LIFE and TIMES of MARCUS LICINIUS CRASSUS TRIUMVIR

VOLUME II

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Appendix I. The Descendants of Crassus.

Crassus had two sons, Marcus and Publius. The latter, who was with Caesar in Gaul, is often mentioned in this account. He married Cornelia the daughter of Metellus Scipio, whose mother was the daughter of Crassus the orator. After the death of Publius Pompey married Cornelia.1) The elder son Marcus was Caesar’s quaestor in Gaul in 54 B.C..2) He naturally supported Caesar in the Civil War and was sent to Cisalpine Gaul at the beginning of 49 B.C.. Since in 48 B.C. M. Calidius was in that province, it is assumed that Crassus died in 48 B.C. or 48 B.C..3) He married, presumably during the period 68 - 3 B.C., another of the Metelli, Caecilia Metella.4) The child of this marriage was M. Livinius Crassus, who is the most interesting of all Crassus’s descendants.5) Born perhaps in 67 B.C.6) he supported Sextus Pompeius but after Nauleochus attached himself to Antonius.7) He again changed sides before Actium and went over to Octavian. In 30 B.C. he was consul, although he had not previously been praetor.8) On July 1st of that year he gave up his office and afterwards went to Macedonia where he conducted a successful Balkan campaign.9) As a result of this he was not only hailed as imperator by his troops, but also claimed the spolia opima,10) for which there had been two precedents since Romulus. Octavian chose to regard his supreme authority as being jeopardised and set about scotching Crassus’s ambition. The details of the quarrel are not clear. Dio11) says that Crassus would have entitled to the spolia opima if he had been αὐτοκράτωρ στρατηγός but against his assertion is the fact that all historians before

4) C.I.L. VI 1274: Syme cit. p. 22 n.
5) P.W. No. 58 (Groag).
6) See P.W. cit..
7) Dio 51 - 4.
8) Dio cit.
Livy state that Cornelius Cossius won this honour when military
tribune. 1) Octavian seemingly persuaded Livy that Cossius had been
consul and that therefore Crassus had no valid right to the trophy
since he was not fighting under his own auspices. Crassus was also
robbed of the title imperator, although since Actium it had been con-
ceded to other proconsuls and to at least one general, Nonius Gallus,
who was not a proconsul. Octavian took the salutation himself and
added it to his list, although one premature Greek inscription
addressed Crassus thus. 2) After a belated triumph in 27 B.C. Crassus
disappeared completely from history, and for this the hostility of
the princeps was almost certainly responsible.

The identity of M. Licinius Crassus who was consul in 14 B.C. is
not certain, but it may be assumed that he was the son of Octavian's
rival. 3) Very little is known of him, and it is only an assumption
that M. Licinius Crassus Frugi was adopted by him. 4) Crassus Frugi
who became consul in 27 A.D. was the son of L. Calpurnius Piso, the
consul of 15 B.C. The family was now united with that of Pompey
by the marriage of Crassus Frugi with Scribonia, Pompey's great-
great-grand-daughter. The offspring, one of whom was the Piso
whom Galba adopted, met violent ends. One of the sons, C. Calpurnius
Crassus Frugi Licinius, was surprisingly allowed to live by
Domitian, relegated for conspiracy by Nerva and Trajan, and executed
by Hadrian. Another branch of the Pisones lasted until the second
half of the 2nd century A.D., when all trace of Crassus's
descendants is lost.

1) Livy IV. -19 f.
3) Groag in P.W. (No. 59)
4) I.G. II - III 2 4163 : Groag - Prosopographia Imperii Romani 2) c. 323:
Syme cit. p. 497. See Table I.
Appendix III. First Operations of Rome against Spartacus

The earliest operations of the Romans are by no means clear. We have first of all to decide how P. Varinius (or Varinus) and Clodius Glaber are to be fitted into the story. The following information can be gleaned from our authorities:

1. Plutarch - C.iss. 8 & 9: The rebels first of all defeated a force sent against them from Capua, whereupon Clodius the praeceptor was sent from Rome with 3000 men and besieged them (on Mt. Vesuvius.) Then P. Barinus (i.e. Varinus) took command.

2. Appian - B. C. I. 116: First Verinius and then P. Valerius were sent to deal with the situation but not with regular forces.

3. Sallust - Hist. III. 92-103 (Maerenbrecher): gives additional valuable details of the campaign of Varinius (particularly in the Vatican fragments 96 and 98); but these only help us in this connection by confirming Varinius against Varinus as the praeceptors name.

4. Frontinus - Strat. I. 5-21: Clodius and several cohorts were defeated on Mt. Vesuvius. In I. 5-22 Frontinus wrongly makes P. Varinius a proconsul.

5. Livy - Epit. 98: mentions the defeats of Claudius Pulcher as legatus and P. Varinus, the praeceptor.


7. Orosius V. 24: The rebels defeated Clodius the praeceptor on Mt. Vesuvius.

The first point to be decided is whether we are to follow Livy and make Clodius a legate of Varinius or Plutarch and Florus and give him a separate command. The question would seem to be decided conclusively by a senatus consultum for Oct. 14th 681 (73 B.C.) which gives as present at the meeting $\Gamma\alpha\iota\sigma\varsigma \ Κλαύδιος \ Κίου \ υίος \ Αντίπετος$ - $\gamma$ & $\lambda\beta\varepsilon\rho$. It is too much of a coincidence to suppose that both Plutarch and Florus could be in error in mentioning Clodius the praeceptor and Clodius Glaber respectively. Livy's epitomist must not have read his account carefully enough, and he hastily assumed that Clodius was a legate of Varinius instead of an independent
commander. How Clodius Glaber became Clodius Pulcher remains a mystery. Münzer's suggestion that Claudius Pulcher of Livy's Epitome was Varinius's legate and quite distinct from Clodius Glaber increases the difficulties, since he never appears in our other accounts of Varinius's operations. Besides, the coincidence of name would be a remarkable one. Münzer in urging the rejection of Livy is also unfair in his criticism of the Epitome. "The small worth of this account", he says, "is clear from a comparison with the remainder. The overthrow of the hastily raised militia of Clodius on Vesuvius has nothing in common with the reverse of the two legions under Varinius, which would have followed some months later".¹ But the account cannot be said to confuse Clodius's hastily-raised militia with Varinius's two legions. This epitome is a summary of a summary, and the author sums up in one sentence the campaigns of Clodius and Varinius, in the process unfortunately falling into the error - if it was not already there - about Clodius's rank and cognomen and Varinius's name.

Plutarch now becomes perfectly clear. He completely and correctly separates Clodius and Varinius. If we translate "a second praetor was sent out etc."² and not "the next general etc." as one scholar had done³ Plutarch agrees with Sallust and Livy on this point.

Florus unfortunately does not mention Varinius, but he does give definite information about the cognomen of Clodius.

Appian's brief account is the most difficult of all. No other author supports his statement that first Varinius Glaber and then P. Valerius was sent. No one else knows P. Valerius, and this suffices to make the former name suspect also. There is some difference of opinion as to whether the nomen should be Varinius or Varinus, but

² Long and the Loeb edn.
³ Langhorne Trans.
nowhere else is a cognomen given. The evidence of Sallust supported
by the weighty testimony of Cicero\(^1\) decides us in favour of the
former.\(^2\) Appian has somehow confused Clodius Glaber and P.Varinius.
I incline to the view that the solution lies in the proximity of the
similar names Οὐκρίνος and Οὐκλέος. Perhaps the copyist took down
Οὐκρίνος by allowing his eye to travel to the name following and
covered his error by supposing Οὐκρίνος to be Οὐκλέος which has
the same number of syllables and bears a marked similarity to it.
Besides it is a much commoner nomen. The first mistake granted,
the second is a reasonable assumption.

Thus Clodius Glaber, the praetor of 73 B.C., was sent against
Spartacus, defeated on Vesuvius and replaced by the praetor Varinius.\(^3\)
The defeated Glaber had returned to Rome by October 14th when he took
part in a meeting of the senate. I agree with Münzer that the laws
of coincidence would need to be stretched too far to admit any other
explanation.\(^4\) I am not, however, convinced by his argument that
Clodius's activities at Capua belong to the first half of the year.
The government had time to hear of the rising in July or August and
yet have the praetor back in the city by October. But the whole
chronology of the war is the subject of another note.\(^5\)

B. The Topography of the First Campaign.

Our main evidence for the events from the defeat of Vesuvius to
to the end of the year is in the two Vatican fragments of Sallust's
Histories (III. 96 and 98 M.), which are unfortunately cruelly
mutilated. I assume that Maurenbrecher (Sallust's Hist. p.151) has

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1) Cic. pro Flacc. 45.
2) Sallust mentions Varinius five times but nowhere hints at a cognomen
Glaber. This omission together with Appian's inclusion of Glaber -
though in the wrong place - is further evidence for the view that
previous commander (i.e. Clodius) had this cognomen.
3) Last in C.A.H. IX. p.329 agrees with this. Rice Holmes (Roman Republic
I. p.155) makes Glaber a subordinate of Varinius, though he does
refer to Münzer's note (see p.238) Mommsen (History of Rome IV.p.74
Every Trans.) seems to separate them.
4) Philologia cit.
5) Appendix III.
rightly decided that the old method of regarding them as one is wrong. In the second scene the situation has clearly changed.

Plutarch seems to be in error when he relates the episode of Cossinius as taking place at Salernae, which is unknown.1) Could Salernum have been the place meant? It would make excellent sense when compared with Florus's summary of the whole of this campaign.2) There it is stated that the rebels passed through Cora and the whole of Campania. They were not content with plundering villas and villages but ravaged such considerable towns as Nola and Nuceria, Thurii and Metapontum. The grouping is suggestive; and my own opinion is that Nola and Nuceria come into the same story as the Cossinius incident, while the ravaging of Thurii and Metapontum was made possible by Spartacus's decisive victories over Varinius and Thorenius.3) Incidentally, Florus's Cora seems to be wrong, as it was too near to Rome for even the daring slave bands to attack. Again, a move so far north complicates what we know of the rebel movements. A possible emendation is Cosa, for in addition to the Etrurian town of that name Velleius,4) in his account of the Social War, mentions one in the same context as Herculaneum and Pompeii. Antonini and Romanelli have placed it near Amalfi, which would suit admirably.5)

Mommsen's version that the rebel forces retired over the river Silarus into the mountains of Lucania is quite possible;6) but if we agree with Maurenbrecher that Sall. Hist. III. Frag.96 is the introduction to the decisive battle with Varinius, I doubt whether it may be assumed that they drew the praetor after them; it is more likely that the battle took place in Campania. It is annoying that

1) Plut. Crass. 9.
2) Flor. III -20.
3) Another suggested emendation - supported by Mommsen and Rice Holmes - is Salinae (Herculeae), a place near Herculaneum.
4) Vell. Pat. III -16.
5) See Cramer - Ancient Italy II. p.216.
there is a lacuna after "Cumas" - which is itself suggestive - in Sallust. Furthermore the words in 98C "occultus (sc. Spartacus) Eburinis ingis ad Nāris Lucanas atque inde prima luce pervenit ad Appi forum etc." indicates a march into Lucania after the battle. Therefore I prefer to believe that the sack of Nola and Nuceria took place before this move and not after it had proved successful. It was after the defeats of Varinius and Thoranius that the slave bands ranged over Lucania and caused havoc in Thurii and Metapontum. They had confined their activities to Campania for long enough, and a move south was clearly indicated.

C. The Consular Command Against Spartacus (72 B.C.)

Rice Holmes has made a thorough examination of the difficulties which arise from our authorities.

The crux of the problem seems to lie in Appian. His account is by far the most detailed, yet he makes no mention of a most important part of the campaign, of which we hear in Plutarch, Livy, Florus and Orosius - namely the defeat of Cassius at Mutina.

According to Appian, Spartacus moved as far north as Picenum, meditated an attack on Rome, and then retreated south again. We must assume that his account omitted Mutina for some reason, mixed it up with the consular defeat at Picenum or did not know of it. The last is not likely, as Appian goes into copious detail. If we follow Plutarch, Livy and the rest, at what point are we to assume the hiatus in Appian? Three solutions are open: firstly that it came after the defeat of the consuls in Picenum (i.e. while Spartacus was marching north); secondly that it was during the return move south; or thirdly that Appian was really thinking of the defeat of Cassius when he spoke of the defeat of the two consuls in

1) The position of both places is unknown.  
2) Roman Republic I. pp. 387-90.  
Picenum. The third possibility must be left for want of further evidence. If we had Appian's source, it might be possible to find a clue to the peculiar fact that he alone mentions this consular defeat.

I have adopted the first suggestion rather than the second for the following reasons. The words of Plutarch πρὸ τῆς Πίκενίδος 1) and Appian's Περὶ Τῆς Πίκενίτιδος 2) are undoubtedly difficult. Rice Holmes 3) inclines to the view that the former refer to the country of the Picentini in N. Lucania and the latter to Picenum. His references to Strabo 4) and Ptolemy 5) prove nothing: in fact they emphasise the difficulty of the Greek η, which appears in neither Πίκεντικα nor Πίκεντινοι. If we add the fact that the adjective of Picenum would naturally be Plutarch's Πίκενίς the district meant seems to be settled as Picenum. Rice Holmes's conjecture (originally made by Drummann 6)) that Plutarch mistook Picenum for the country of the Picentini is an unattractive way out of the difficulty, though he seems to support it by ascribing Appian's words - Ρωμάδιοι τε Παλιν σουνεκεχέντες ἐς Χείμας ἐκεντουν 7) - to Mummius's defeat. The evidence of the η makes Picenum more likely for both references. But apart from the difficulties of the η I cannot see that Appian's Πίκενίτις can mean anything else but Picenum for reasons both of time and of topography. If the defeat mentioned took place on the rebel march north Picenum must be meant: if Spartacus was moving south the armies of the consuls, even if these had not been superseded, could not have been in Lucania. 8) I have adopted the account given in the narrative because I do not believe it possible for the consuls to have been recalled and Crassus to have raised recruits and have decided on a position in Picenum during the

1) Plut.Crass. 10.
2) App. B.C. I -117.
3) Rice Holmes - Roman Republic I p.389.
4) Strabo V -6 -2 Πίκεντινη (Picenum): Πίκεντικα (chief town of Picentini).
5) Ptol. Geog. III -1 =45 Πίκενινοι (people of Picenum) 60 Πίκεντινοι (Picentini).
6) Gesch. Roms. IV 2 p.91 n. 10.
7) App. B.C. I =117: see p. 244.
8) As Rice Holmes cit. p.388.
rebel march south.

If Picenum was meant by Plutarch the events shape themselves thus - Spartacus defeated the consuls singly and then their combined forces. Later he was confronted by Cassius in Cisalpine Gaul. However, after the defeat of the combined consular forces the senate appointed Crassus. In view of the rumours of an attack on Rome when Spartacus was known to be marching south again, Crassus placed his main force for the defence of Picenum. There would have been little point in his moving it as far south as the country of the Picentini, since in the first place Rome was thought to be in danger and secondly he wanted to intercept Spartacus. He was much more likely to be able to do this successfully in Picenum than in N. Lucania. Perhaps he had either or both of the following objects in mind: Firstly the defence of Rome against a possible assault, and secondly a speedy and impressive victory. Crassus was clear-sighted enough to see the difficulty of forcing a quick and decisive action with the rebels in the south, and he had also good reasons for not wanting to protract the war into the next season, if it could be avoided.

Although interpretation must be according to the evidence and the sole mention of the consular defeat in Appian must stand, it is impossible to avoid a suspicion that further evidence would show that Appian somehow mistook the battle at Mutina for a further defeat of Lentulus and Gellius. But it is useless to regret the loss of the relevant section of Livy or of Sallust.

Whether or not Spartacus intended to attack Rome is relatively unimportant. Rice Holmes suggests that it was only a rumour.

Possibly it was, but it created enough panic to make the government
mobilise almost every available man\(^1\) and to make Crassus take up 
a position in which he would be within fairly easy reach of Rome. 
If, however, Spartacus had such a plan, it is more likely that he 
should have formed it after his scheme for escape had broken down. 
The knowledge that the rebels had unexpectedly turned back from 
Mutina would tend to increase the belief at Rome that 
Spartacus had decided to aim at a higher objective than escape from Italy - the 
city itself. I cannot believe with Rice Holmes that Appian is more 
plausible than Florus, as Spartacus would hardly have decided to 
attack Rome while he was marching away from Italy at all speed.\(^2\) 

Finally, a statement of Rice Holmes\(^3\) must be regarded as very 
doubtful. "If Appian is right", he says, "Spartacus, after he re- 
treated from Mutina to Thurii in Lucania, advanced northward again 
to the country of the Picentini. This seems unlikely, and although 
it is perhaps confirmed by Sallust\(^4\), I am tempted to suspect that 
Appian confounded the order of events." Whether or not Appian is 
correct he neither mentions nor implies a move north by Spartacus 
into the country of the Picentini after his retreat to Thurii. So 
difficult is it to follow Rice Holmes that we may wonder whether he 
has inadvertently made a mistake. His reference to Sallust proves 
nothing.\(^5\) The only explanation of the statement seemingly possible 
is that he is joining the reference in Appian to his own conclusion 
about Plutarch's \(\pi\varepsilon\delta\upsilon \tau\gamma\upsilon \nu\rho\omega\delta\sigma\). But he does not set about 
proving this point till later in the same paragraph, and even so, 
his remark is so worded as to limit his interpretation to the account 
of Appian. In this connection I would reply to his question - Who

\(^1\) According to Meurenbrecher's interpretation of Sall.Hist. IV. -21. 
\(^2\) App. B.C. I -117; Flor. III. -20. Last in C.A.H. IX. p.330 also 
preferences Florus to Appian. 
\(^3\) Cit. p.388. 
\(^4\) Cf. IV. 20 and 22. 
\(^5\) Sall.Hist. IV. -20 may just possibly refer to this time. But it is 
only an inference of the editor that places it before IV. -22.
were the Romans whom Spartacus defeated (in Lucania)? - that it is
doubtful from Appian's casual remark whether any particular engage-
ment is to be understood. 1)

D. The Command of Crassus

Neither of Appian's statements about the decimation by Crassus
is in the least credible. 2) Crassus was certainly not likely to
decimate the whole of the former consular forces, nor could his
worst enemy accuse him of decimating the whole army. Plutarch 3)
gives the most likely suggestion that Crassus selected the particular
corps of 500, which had started the rout in Mummius's two legions,
and decimated that.

In the account of Crassus's victory over Spartacus in the retreat
south I have based my interpretation on Appian. 4) He speaks of two
victories won by Crassus, one over 10,000 rebels separated from
Spartacus and the other over Spartacus himself. The C.A.H. apparent-
ly supports Appian in speaking of "various engagements". 5) Rice
Holmes is rather confusing. 6) He proposes to transfer these two
battles to a later stage and identify them with two engagements
mentioned elsewhere but not in Appian. This would be possible, but
in his narrative Rice Holmes introduces the encounters in the place
allotted to them by Appian, with the result that it is difficult to
decide exactly what solution he does favour. Furthermore, he seems
to be wrong when he says that no other writer mentions these defeats.
Florus actually hints at one of them - "a quo (sc. Crassus) pulsi
fugatique (pudet dicere) hostes, in extrema Italiae confugerunt". 7)
It is also likely that Orosius had such a defeat in mind when he
wrote - "is (sc. Crassus) mox ut fugitivorum pugnam iniit sex milia

1) See p. 29. Appian in the previous sentence mentions "frequent forays"
3) Plut. Crass. 10.
   followed him.
5) IX. p.331.
7) Florus III. -20.
eorum interfecit: nongentos vero cepit".1) From these hints we may assume that Crassus had a successful encounter with Spartacus before the retreat into Rhegium was accomplished, but that Appian has also introduced into the wrong place the engagement mentioned later by Plutarch.2)

I believe that Spartacus's negotiations with the pirates must have broken down very soon after his arrival at the coast of Rhegium. Crassus's command dates from the autumn of 72 B.C., 3) and it is impossible to account for all the incidents in the campaign of six months unless we assume that he began his blockade when Spartacus had but newly arrived in Rhegium. Furthermore, if the latter was still negotiating for the transport of his force, what was the point of the blockade? The obvious plan would then have been to press on and try to prevent the crossing. Is it not likely that Spartacus had been engaged in negotiations with the pirates during his march to the south and that they betrayed him before he reached the sea?4)

There is no evidence for the position of Crassus's wall. Mommsen5) ventures a guess, but without authority or confidence. The length was 37 miles - not 32 as Mommsen says. Sallust's reference to this wall is explainable only if we assume that he is giving a sketch map of S. Italy and that his description of Crassus's wall followed later.

Plutarch's mention7) of the letter from Crassus to the senate is difficult to understand. We can hardly doubt that Crassus would do anything rather than solicit the help of either Pompey or Lucullus. No other writer mentions this letter, and we have to decide from

1) Oros. V. -24.
2) Plut.Crass. 11; See Appendix II C.
3) See Appendix II E.
4) Plutarch (Crass. 10) seems to suggest this. Appian (B.C. I -118) might just favour this also. But too fine a point should not be placed on Appian.
5) Mommsen. History of Rome IV. p.78 n. 1 (Every. Trans.)
6) Sall.Hist. IV. -25 M. 300 stades (Plut.Crass. 10) is equal to 37½ Roman miles or 34¼ approx. English miles.
7) Plut.Crass. 11.
Appian the steps which caused Pompey's intervention. Reading between the lines we may assume that the real agitators for the despatch of the popular hero were probably the masses and not the senate. Ferrero, Last and Rice Holmes take this view: Mommsen follows Plutarch without comment. I am inclined to think that Plutarch has mistaken his authority. If Crassus did write to the senate, his object may have been to give warning that Spartacus had broken through his line and would perhaps head north. Or again if the rebels were moving towards Brundisium, perhaps he wanted to allow the sending of instructions to Lucullus. The fact that Lucullus was at or near Brundisium when the letter was sent strengthens the belief that the biographer misinterpreted the contents of such a letter, if it was ever sent. But that Crassus asked for the co-operation of Pompey is, to say the least, improbable.

The position of the remaining events must be worked out almost wholly from Appian and the more detailed account of Plutarch. The position of the Petelian Hills brings up the first difficulty. The best-known Petelia was in Bruttium, Strabo speaks of one in Lucania, but there is a suspicion that he has confused it with the Bruttian one. Mommsen places these hills in Calabria, though on what evidence I am unable to discover. Rice Holmes seems to follow Mommsen when he remarks that Appian's mention of Brundisium was probably identical with Plutarch's account of the movement to

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2) Greatness and Decline of Rome I p.156 n. § Eng.Trans.  
3) C.A.H. IX. p.331.  
4) Roman Republic I. p. 159.  
5) History of Rome IV. p.78 Every.Trans.  
6) M.Lucullus, of course not Lucius as App. B.C. I -120.  
8) Strabo VI. 264 - who mentions that Philoctetes founded it. Actually he was reputed to found the Bruttian one. Cramer (Ancient Italy II. p.367) thinks the issue is not affected and that there was a Lucanian Petelia, citing inscriptions gathered by the archaeologist Antonini (p.368 n,N; cf. p.390). Perhaps Cramer is correct - a Lucanian Petelia would confine the action, which is all to the good.  
9) Mommsen (History of Rome IV. p.78 Every.Trans.) is hard to explain - "the robbers refused to retreat further and compelled their general to lead them through Lucania into Apulia".
the Petelian Hills. 1) But in his narrative Rice Holmes says that after the defeat of Castus and Cannicus Spartacus retreated to the "southernmost extremity of Italy" - presumably Bruttium. 2)

I agree with Rice Holmes that Plutarch and Appian can be reconciled with fair ease, but I should do this in a different way. My account is based on the assumption that Petelia was in Bruttium.

After Spartacus broke the blockade with part of his forces, he went northward into Lucania, intending to attempt an escape by sea from Brundisium. Having turned Crassus from the wall he was faced with the revolt of the Gallic element under Castus and Cannicus. This force began to operate in Lucania and immediately attracted the attention of Crassus. Spartacus set about drawing his remaining forces from Bruttium, still hoping to retreat to Brundisium, but this was prevented by the presence of M. Lucullus. Crassus had perhaps sent to Rome to ask that instructions should be sent to Lucullus, in view of a possible approach by the rebels. He now took advantage of his good fortune in finding a divided rebel army.

The account of the first battle with Castus and Cannicus 3) assumes that Frontinus Strat. II -4-7 refers to the episode at the Lucanian Lake and not to the second battle near the source of the river Silarus. After an examination of the sources I can find no reason which makes it necessary to apply the popular drastic remedy of referring Frontinus Strat. II -4-7 and II -5-34 to the same battle. The strategy described is clearly not the same, and the only manner in which to explain this away is to assert that Frontinus told the same story in two different ways. This does happen occasionally, but it is an unsatisfactory solution and one to be adopted only when other and weighty evidence is present, and in this instance it is absent. Unfortunately our sources are vague. We do

1) Roman Republic I p.390.
2) Cit. p. 160.
not know the positions of Camalatrum or Mount Canenna. Cramer\(^1\) gives the "stagnum Lucanum" as the place "where Plutarch mentions that Crassus defeated a considerable body of rebels under the command of Spartacus", but he offers no proof. He also places in this district the"mons Camalatimus and mons Cathena, of which Frontinus speaks in reference to the same event". Mount Cathena at any rate is certainly to be connected with the second battle. Cluverius,\(^2\) who was Cramer's authority, says that Camalatius (or Camalarcus of the MSS. apparently) and Cathena are the same, which is an assumption that the two references are to the same battle. Another scholar\(^3\) places the Lucanian Lake near Paestum or Poseidonia, seemingly on the evidence of Strabo\(^4\) that the river makes marshes there - which is not by any means proof. Maurenbrecher\(^5\) discusses the question and rejects, rightly I think, the attempts of Drumm\^-\^-6) to join the two references into one battle - a solution which is followed by Rice Holmes.\(^7\) It is to be noticed that Gundermann in his edition of Frontinus does not include Strat. II \(\text{-}4\) \(-\)7 and II \(\text{-}5\) \(-\)34 in his list of examples of the same story told differently in two places, whereas Maurenbrecher does. I find his reason for this statement confusing, as the number slain is mentioned nowhere in II \(\text{-}4\) \(-\)7. Therefore I think it as likely that Camalatrum is to be identified with the Lucanian Lake as that Frontinus has written two such different accounts of the same battle. The reference to Livy is undoubtedly one of those interpolations which occur from time to time in the "Stratagems", and is classed as such by Gundermann. This solution I prefer to the unsatisfactory negative one, although I have found no similar rendering of the evidence.\(^8\)

Maurenbrecher's statement that Frontinus Strat. II \(\text{-}5\) \(-\)34 is at

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<td>(1)</td>
<td>Ancient Italy II. p.366.</td>
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<td>(3)</td>
<td>Kaltwasser - the reference I have lost. 4) Strabo V. -251.</td>
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<td>(4)</td>
<td>Proleg. to Sallust's Histories p.46.</td>
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<td>Gesch. Roms. IV. p.80.</td>
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<td>(6)</td>
<td>Roman Republic I. p.160.</td>
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<td>(7)</td>
<td>Rice Holmes (cit. p.390 n.6) gives Camalatrum as near to the source of the Silarus. On what evidence except possibly Oros. V. -24?</td>
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variance with Plutarch Grass. It is most doubtful. In my opinion the two can be reconciled perfectly. Plutarch's account shows that he was, as often, not at all clear about the strategy employed. The detection of the concealed force (also mentioned in Sallust\(^1\)) could well have been intended, as Frontinus describes; yet at the same time this force could at one point have been in a tight corner. But it is as likely that Plutarch viewed the incident from a completely wrong standpoint.\(^2\)

Orosius\(^3\) provides a puzzling reference to an attack of uncertain outcome near the source of the river Silarus. The phrasing of the passage ought to make it impossible that Camalatrum or Canteena was meant and is therefore at the head of this river. Consequently it is wrong to infer that Orosius has loosely stated that the action fought against the subordinate officers was really fought against Spartacus himself.\(^4\) There are two objections to this: 1) the priusquam clause and 2) (more forcibly) "ipsum Spartacum". If Orosius is to be trusted Crassus must have fought or contemplated an action against Spartacus after the rout of the Gallic army.

Thus the sequence of events after Spartacus had given up the idea of crossing from Brundium was as follows. Castus and Cannicus were defeated at Camalatrum and Mt. Canteena in Lucania (probably both were in the neighbourhood of the river Silarus.) Meanwhile Spartacus had come up from the outskirts of Calabria and intervened successfully in the first battle. After the second one he had retreated "ad caput Silari" - perhaps the southern one near Anxia - avoided a general engagement with Crassus and pressed south into Bruttium. Near Petelia he defeated Crassus's advance force and under pressure from his own men came north again, only to meet Crassus who was following southward with the main Roman army, and be finally

\(^{1}\) Hist. IV. - 40 M.
\(^{2}\) For the discrepancy in the number of slain between Livy (and the Frontinus interpolation) and Plutarch see Appendix IIF.
\(^{3}\) Oros. V. - 24.
\(^{4}\) Cf. p. 249n. 8. Could Rice Holmes be right in ascribing to Orosius this meaning when the writer says pointedly "ipsum Spartacum"?
crushed somewhere in Lucania.

E. The Chronology of the Spartacan War.

There are five main statements to be considered:

1. Appian B.C. I -118:— The war was in its third year and no candidates offered themselves for the praetorship. Crassus was elected etc. (i.e. 71 B.C.)

2. Appian B.C. I -121:— Crassus finished the war in less than six months.

3. C.I.L. X2 8070 -3:— Capua celebrated games in the amphitheatre on April 1st 71 B.C. 1)

4. Cicero II. Verr. II.38-9:— Lentulus and Gellius attended a meeting of the senate sometime before the Kalends of December 72 B.C.

5. Eutrop. VI. -7:— The war ended in its third year.

From these statements we can date the command of Crassus with some accuracy. Appian was wrong in his inference that Crassus was praetor in 71 B.C., since he clearly held that office in 72 B.C.

Taking together the Capuan inscription, App. B.C. I -121, and Cic. II. Verr. II. 38-9 we can conclude that Crassus was appointed c. Oct. 72 B.C. — i.e. the consuls were recalled to Rome before their year of office ended.

The mention by Appian and Eutropius of the third year of the war must refer, of course, to the third calendar year, not 2+ years, which would place the beginning of the revolt before April 73 B.C.

Mommsen was responsible for dating Crassus’s command from the autumn of 72 B.C. Maurerbrecher argued against this but recanted two years later in the second part of his work 3) and accepted Mommsen’s dating. His arguments in the Prolegomena cannot stand against Mommsen since he does not mention either Cicero or the Capuan inscription.

1) Tessera quattuor lateribus scripta. Capuae ad amphitheatrum ref:—

PLAC. NOVI
K. APR.
SPECT.
F. LEN. CN. AFID. U.C.683.


The remainder of the dating is mostly reasonable conjecture and my own version is as follows:-

73 B.C. The beginning of the revolt and the commands of Clodius Glaber and Varinius.

We have no direct evidence for more accurate dating. Livy places the outbreak between his accounts of the end of Scribonius Curio's Thracian expedition and L. Lucullus's victory at Cyzicus. Curio's command apparently lasted from 75 to 73 B.C., though Maurenbrecher argues for 76-4 B.C., and Ormerod mentions that the expedition is said to have ended in 75 B.C. But these suggestions as well as introducing other difficulties, a discussion of which is not in the province of this note, make the dating in Livy very confusing and are therefore to be discarded in favour of Mommsen's 75-3 B.C. Of L. Lucullus in Asia and the chronology of the Third Mithridatic War more will be said later.

Clodius Glaber was back in Rome in Oct. 73 B.C., so it is reasonable to date the beginning of the revolt in July or August. This would give time for immediate measures by the Capuans and for the senate to realise the situation at Rome.

Varinius must have been on the scene at the latest by the beginning of October. His activities may even have begun a little earlier, as we read that his army suffered from the unhealthy autumn season. Furius, Cossinius, Varinius himself and Thoranius were defeated in quick succession in a campaign which took place in a confined area and the praetor spent the last month or two of the year in hanging on, while Spartacus wintered in the district of Thurii.

72 B.C. The Campaign of Lentulus and Gellius; Crassus in S. Italy.

1) Livy Epit. 95.
3) See p.237.
4) Plut. Crass. 9.
5) There has been at least one attempt to date the outbreak of the revolt as 74 B.C. (O. Schambach - der Ital. slaveaufstand, in prog. Halberstadt 1872) - ridiculis argumentis, says Maurenbrecher (Prolegomena p.40). Rice Holmes (Roman Republic I. p.156) - "the early autumn".
6) Sall. Hist. III. 96-A M.
7) See Appendix II B.
The consuls must have wasted no time in beginning their preparations, as Crassus relieved them about September and their movements covered a large part of Italy. It is likely that they were ready to take the field in S. Italy as soon as weather conditions made campaigning possible - perhaps even before the beginning of February. They may have transacted several important pieces of state business before leaving Rome, passing laws - 1) abolishing remission of payment for the purchase of the goods of the proscribed1) and 2) sanctioning gifts of citizenship to Spaniards conferred by Pompey.2) It is, of course, possible that these laws were passed after their return to the capital.

Crassus must have been in Rhegium in October, and he abandoned his position only when Spartacus broke out - i.e. possibly in December or January.3)

71 B.C. The Two Defeats of Castus and Cannicus: Death of Spartacus.

The remainder of the events - the two victories over the Gauls, the retreat and return of Spartacus - followed in quick succession, and the war was over by the end of March except for the rounding-up of stray rebels.

We saw that in Livy Epit. 95 the outbreak of the Spartacan rebellion is placed immediately after the exploits of Lucullus at Cyzicus. Hence the question arises - when did this siege take place? It is not within the scope of this note to enter fully into this most involved problem, but it may be of interest to approach it from a standpoint rather different from that of Rice Holmes, who has collected, in a long note in his "Roman Republic",4) a vast body of evidence for the chronology of the Third Mithridatic War.

There are two schools of opinion. One led by Théodore Reinach5) holds that this war began in 73 B.C. and that the siege of Cyzicus

2) Cic. pro Balb. 19; cf. 33.
3) During a snowstorm (Plut. Crass. 10).
4) I pp. 388-403.
5) Mithridates Eupator pp. 312 n. 2; 321 n. 1.
took place in 73-2 B.C., Amius in 72-1 B.C., and Cabeira in 71 B.C. The second led by Mommsen\(^1\) takes 74 B.C. as the beginning of the war, Cyzicus in 74-3 B.C. and the rest accordingly. The chief difficulty, whether or not Lucullus went to the war as consul, seems to be settled by a reference to the Livian order of events in Epit. 93-7. Approaching the question from the Livian angle - which is ignored by Rice Holmes - and connecting it with our Spartacan dating, I would suggest the following dates for the Epit. 93-7:

**Epit. 93:**

74 B.C. - Bithynia taken over as a province by Rome.

Late 74-early 73 B.C. :- Cotta's reverse at Chalcedon.

": The war in Spain up to the results of Calagurrae (i.e. early 73 B.C.)

**Epit. 94:**

Late 74-middle of 73 B.C. :- Lucullus leaves Italy after completing his administrative duties and begins his campaign in Asia Minor.

**Epit. 95:**

73 B.C. :- Events in Spain.

73 B.C. :- Curio concludes his Thracian war.

73 B.C. (July or August):- Spartacan revolt till the end of the year.

73-2 B.C. :- Lucullus at Cyzicus: Mithridates retreats over the Halys into Pontus.

**Epit. 96:**

72 B.C. :- Death of Crixius; defeats of Lentulus and Gellius.

72 B.C. :- Assassination of Sertorius. End of Spanish War.

72 B.C. :- Defeat of Cassius at Mutina: Crassus appointed.

**Epit. 97:**

72-1 B.C. :- Command of Crassus: death of Spartacus.

71 B.C. :- Death of M.Antonius in Crete.

71 B.C. :- M.Lucullus concludes his Thracian campaigns.

72-1 B.C. :- L.Lucullus "in Ponto feliciter pugnavit" (i.e. Amius in 72-1 B.C. and Cabeira in 71 B.C.).

End of 71-70 B.C. :- Mithridates retreats to Armenia.

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1) History of Rome IV pp.48ff. (Every. Trans.): so Maurenbrecher Ip.47:
Epit. 98:—
70 B.C. :- Machares taken up by Lucullus etc.
Now consider the chronology of the Asian events from the viewpoint of Mommsen:

74 B.C. :- Cotta at Chalcedon.
74 B.C. :- Lucullus in Asia.
74-3 B.C. :- Cyzicus.
74-2 B.C. :- Amisus.
72 B.C. :- Cabeira.
72 B.C. :- Mithridates in Armenia.

Two notable points arise from this dating: Firstly, Livy after telling his story in chronological sequence from 74 B.C. to the end of 73 B.C. (Epit. 93-5), at this point jumps back to 74 B.C. to relate events which he could quite easily have related in Book 94. Secondly, after he has told of the consulship of 70 B.C., he makes an even more amazing backward step and tells of Mithridates's retreat into Armenia in 72 B.C.

It is my belief that Lucullus left Italy towards the end of 74 B.C., while he was still consul, 1) as Livy correctly states, and crossed over to Asia. The first half of 73 B.C. was taken up by the minor events which led up to his successful siege of Cyzicus— as proconsul (Epit. 95). Cotta had taken over the fleet in 74 B.C. and his defeat at Chalcedon is to be dated as late 74 or early 73 B.C.

This dating conflicts with only Velleius of the eight pieces of evidence furnished by Rice Holmes. 2) Velleius is, however, very vague, and, as all agree, not in this instance to be followed.

I am not concerned with the problem of the exact dating of the Amisus and Cabeira campaigns, and I shall content myself with suggesting that Livy's Epitome, though vague, tends to support the

1) Crassus did the same thing in 55 B.C.
2) Livy Epit. 93-4; Eutrop. VI. 6; Plut. Luc. 6; App. Mithr. 70; Phlegon Fr. 12; Vell. II. -35; Cic. pro Mur. 33; Acad. prior. II: —consulatum ita gessit (sc. Lucullus) ... post ad Mithridaticum bellum missus ...

Rice Holmes (Roman Republic I. p.402) gives a probable explanation of "post". Obviously Cicero did not contradict himself (cf. pro Mur. 33) and the weight of other evidence is against interpreting this as "Lucullus proconsul".
256.

dating given above. Rice Holmes, with whose general arguments I cannot agree, nevertheless accounts for the Phlegon reference - which Reinsch found difficult to explain away - in a manner which supports this suggestion.

Thus, to summarise the above table of dates, I think that both Mommsen and Reinsch have some truth in them. Mommsen in that he dated the beginning of the war correctly as 74 B.C., and Reinsch because he saw, though he used evidence that is in parts inconclusive, that Cyzicus took place in 73-2 B.C.

I have dealt in outline with the events and dates of the early stages of the Third Mithridatic War because a point of contact with Spartacan chronology occurs in Livy. I have not, however, attempted to reproduce the lengthy arguments of modern writers, although I have read them and have found nothing to make me doubtful about the truth of my contention that none of the ancient evidence compels any violent breach of the chronological sequence of Livy, who, it is true, is sometimes careless in this respect\(^1\) but in these books seems to have adopted a smooth and completely natural order.

F. Numbers in the Spartacan War.

If it is true that none of our ancient authorities had much technical knowledge of warfare, it is even truer that they had either no conception of numbers or derived their accounts from writers anxious to glorify Roman arms. In particular the numbers given of those slain in any battle can seldom be relied upon, or indeed used as evidence. Livy and Orosius mention 60,000 slaves killed in the final struggle - a fantastic number.\(^2\) Appian gives the force which intended to march on Rome as 120,000, the very thought of which would have caused more than alarm in the city.\(^3\) How Spartacus was to arm and feed a force, which was the equivalent of almost 30 Roman legions at full strength, should have been as great a mystery to Appian as it is to us. Not one of these writers

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\(^1\) Cf. Epit. 163-4.

\(^2\) Livy Epit. 97; Oros. V. -24.

\(^3\) App. B.C. I. -117.
is free from the wildest exaggerations: Orosius gives the rebels 40,000 men during the first campaign, a number which Appian raises to 70,000.\(^1\)

We must then be chary of accepting any numbers given by Plutarch, Appian and the rest; but accurate conjecture is impossible. A little truth can occasionally be gleaned: for instance, Appian's remark about the forces of Glaber and Varinius - that they were not regular armies but troops hastily collected - leads to the conclusion that the rebel forces were not as yet large enough to make it necessary to send the regular force which was to follow in the next year.\(^2\) Sallust deserves more consideration than the rest. If we can trust a suggested emendation of a very corrupt fragment, Varinius moved against Spartacus with the 4,000 least disaffected of his troops, a number which he hoped, as we see later, to double.\(^3\) He did, in fact, eventually increase this force "lectis viris". We had learned previously from Plutarch who is a little less extravagant than other writers in his numbers, that Varinius's lieutenant, Furius, operated with 2,000 men.\(^4\) Consequently, if we allow Varinius a total force of 8,000 - 10,000 men - miscellaneous and poor material - we shall probably still be overestimating.

The consuls set out with two legions each, not, as Appian says, with a total of two.\(^5\) Probably, since it was customary for consuls when in the field to have two legions each, the suggestion that Appian mistook "binis" for "duabus" is correct. Crassus took over the remnants of these four legions and, according to Appian, raised a new levy of six legions.\(^6\) Ten legions seems a large number even for the most cautious general; it was a larger force than Pompey had in Spain or Crassus in the Parthian War.\(^7\) Did not Appian mean that Crassus had six legions in all - i.e. the four

\(^{3}\) Sall. Hist. III: 96 & 98 M.
\(^{4}\) Plut. Crass. 9.
\(^{5}\) App. B.C. I. -116: Rathke - De. Rom. bell. servil. pp. 85-6; C.A.H. IX. p. 350 suggests that perhaps the four legions had been reduced to the strength of two.
\(^{7}\) i.e. 7 (or it is remotely possible 8) legions; see p. 214 n. 1.
consular ones brought up to strength and two new ones? As his army was certainly as large, or larger than, the fighting strength of the rebels, we can at once discount the large numbers of dead after the Lucanian battles, even if we allow for the indiscriminate slaughter of what must have been a very large body of camp followers. Actually it was more in the Roman interest to take alive as many as possible of these.

The following list of numbers given in our authorities is an interesting commentary on their credulity:-

73 B.C. -- The slaves immediately collected more than 10,000 men (Florus)

Clodius Glaber had 3,000. (Plutarch) 

" " no regular force but troops hastily collected. (Appian)

"Aliquot cohortes" beaten by the 74 gladiators on Vesuvius. (Frontinus)

Furius had a detachment of 2,000. (Plutarch)

Varinius like Glaber had not a regular force. (Appian)

Varinius followed Spartacus with 4,000 picked men - later increased. (Sallust)

73 B.C. - Spartacus had collected 40,000 men during first winter. (Orosius)

Spartacus had collected 70,000 after the defeats of Glaber and Varinius. (Appian)

72 B.C. -- Crixius lost 20,000 men. (Livy)

" " 30,000 men (two thirds of whom died with him) (Appian)
Lentulus and Gellius had two legions (each?). (Appian)¹

Cassius lost 10,000 men at Mutina. (Plutarch)²

After the defeat of the consuls the rebels had 60,000. (Eutropius)³

Spartacus intended to march on Rome with 120,000. (Appian)⁴

Mummius was sent with two legions. (Plutarch)⁵

Crassus had 4 + 6 legions. (Appian)⁶

In the first battle with Crassus 6,000 killed and 900 captured. (Orosius)⁷

In an encounter at the wall 6,000 killed. (Appian)⁸

71 B.C.:- Crassus sends 12 cohorts to shut in the Gallo-German force (1st battle). (Frontinus)⁹

Crassus sends a detachment of 6,000 in a manoeuvre against Castus and Cnannicus (2nd battle). (Plutarch)¹⁰

2nd battle - 12,000 killed. (Plutarch)¹¹

" " 10,000 beaten, two-thirds of whom were killed. (Appian)¹²

" " 30,000 killed. (Orosius)¹³

" " 35,000 killed. (Livy and Frontinus)¹⁴

Final battle - 60,000 killed, 6,000 captured, 3,000 Roman citizens taken back. (Orosius)¹⁵

" " number of dead impossible to count: Romans lost c. 1,000. (Appian)¹⁶

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² Plut. Crass. 9.
³ Eutropius VI. -7.
⁴ App. B.C. I -117.
⁵ Plut. Crass. 10.
⁶ App. B.C. I -118.
⁷ Oros. V. -24.
⁸ App. B.C. I -119.
⁹ Frontin. Strat. II. -4 -7.
¹⁰ Plut. Crass. 11.
¹¹ Plut. Crass. 11.
¹² App. B.C. I -118. Appian's numbers are generally higher than Plutarch's and it is perhaps doubtful whether it is correct to say that this is the same battle as that mentioned in Plut. Crass. 11. Was it perhaps another of the several actions? See Appendix IID p. 250.
¹³ Oros. V. -24.
¹⁵ Oros. V. -24.
¹⁶ App. B.C. I -120.
Final battle - 60,000 killed. (Livy)\textsuperscript{1}

" " 12,300 killed. (Plutarch)\textsuperscript{2}

" " Spartacus had 90,000 men. (Velleius)\textsuperscript{3}

Pompey killed 5,000 fugitives. (Plutarch)\textsuperscript{4}

Survivors killed piecemeal. (Orosius)\textsuperscript{5}

Crassus crucified 6,000. (Appian)\textsuperscript{6}

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\textsuperscript{1} Livy Epit. 97.
\textsuperscript{2} Plut. Pomp. 21: cf. p. 253n. 11. Plutarch seems to have mixed up the one or the other.
\textsuperscript{3} Vell. Pat. II. -30.
\textsuperscript{4} Plut. Pomp. 21.
\textsuperscript{5} Oros. V. -24.
\textsuperscript{6} App. B.C. 1. -120. Since Capua was about 100 miles from Rome, this works out at about one every 30 yards. The number crucified, if Appian is correct, was a very high one, and is perhaps an indication that the numbers given by our authorities should not be too drastically reduced. Again it is curious that the Roman masters were willing to lose so much of their property. But perhaps the government, which had been greatly alarmed by the revolt, resolved to make a serious example of the rebels, even if this meant sacrificing a number which was, in proportion to the numbers of the combatants, exceedingly high.
Appendix III. The Quarrel between Crassus and Pompey.

Mommsen, 1) joining Appian (B.C. I -121) and Plutarch (Crass. 12; Pomp. 23) decided that both consuls retained their armies during 70 B.C. and disbanded them only at the end of that year. There are objections, however, to this. How could even Crassus subsidise several legions for a whole year? Again, why is there no explicit mention of the armies in either of the Plutarch references? This was a detail upon which he would have seized. It is suspicious that Appian jumps from the elections of 71 B.C. to the reconciliation at the end of 70 B.C. Undoubtedly there were fears of military action in 71 B.C.; but Pompey promised during his election campaign to disband his army after his triumph, which took place at the end of December (Plut. Pomp. 21). No doubt he had every intention of doing so, but suspicion of Crassus (and vice versa) delayed the fulfilment of the promise. Plutarch 2) says Pompey disbanded his army during his consulship, and we may assume that by this he means early in the year, when some agreement between the consuls must have been reached. The later reconciliation could have had no such result; it was a purely political manoeuvre. Appian must have joined two similar events and made one story - an easy step, since he omits all the important legislation of the year. 3)

P.B. Marsh, 4) also combining Appian and Plutarch, decided that the two kept their armies together as consuls. As we have noted, Plutarch says nothing about the armies being retained, and it should be inferred from him that they were disbanded after the triumph. But, says Marsh, Plutarch is inaccurate in his account of this year, nor is Appian free from mistakes. However, the positive statement of the one should out-weight the silence of the other.

1) Mommsen - History of Rome IV. pp.92-4. (Every. Trans.)
3) See Rice Holmes - Roman Republic I p.391.
Marsh goes on to give instances of Plutarch's inaccuracy. In the first place his statements that Pompey supported Crassus because he was anxious to do him a favour\(^1\) and that Crassus was not only the richest but the greatest man and most powerful orator of his time\(^2\) cannot possibly be accepted. Again, in the "Crassus" we are told that Pompey became a candidate for the consulship after his triumph, while Velleius\(^3\) expressly tells us that this celebration took place the day before he entered upon his consulship. Plutarch also contradicts himself: in the "Crassus" the consulship is without political events, yet in the "Pompey" it has the restoration of the tribunate and the jury law. In the "Crassus"\(^4\) Crassus writes to the senate to summon Pompey and Lucullus; in the "Pompey"\(^5\) Pompey arrives by accident. The statement might be reconciled by assuming that the senate paid no attention to the letter, but Appian\(^6\) tells us that Lucullus arrived soon after Pompey. Two accidental arrivals are too much to believe and the conclusion is that the senate acted on Crassus's letter. Plutarch is careless and inaccurate here, and we cannot be justified in letting his silence about the armies outweigh Appian's statement. Marsh decided that Rice Holmes's point about the feeding and payment of the armies was not well taken.\(^7\) If the senate was overawed, it would not be likely to dare to let the armies starve. Besides we need not assume that the whole armies were retained. All that Appian can be taken to mean is that both Pompey and Crassus kept armies up to the time of their public reconciliation and that those armies were large enough to cause fears of a civil war.

Marsh's illustrations of Plutarch's inaccuracy are not well chosen.

\(^1\) Plut. Crass. 12; Pomp. 22.
\(^2\) Plut. Pomp. 22.
\(^3\) Velleius II. -30.
\(^4\) Plut. Crass. 11.
\(^5\) Plut. Pomp. 22.
\(^6\) App. B.C. I -120.
\(^7\) See p.261 &n.3.
The first is an example of Plutarch's often unhappy attempts to assign motives. The second is a chronological point of no importance. The apparent contradiction about the political events of 70 B.C. is easily explained: there were no important political events - none, that is, in which Crassus, in whose life this statement occurs, played a prominent part. The incident of the letter has been explained elsewhere:¹ Lucullus's arrival must have been a coincidence since there was not sufficient time for the senate to summon him. My own view is that the armies were disbanded early in the year - perhaps after the tribunes had had their former powers restored to them.

¹ See Appendix - IID, pp. 246-7.
Appendix IV. The Judicial Reform of 70 and 56 B.C.

The exact constitution of the Gracchan judicia and their reform by Pompey and Crassus has aroused much controversy. As a recent writer has observed, the issue is between possibilities owing to the irritating gaps in our evidence.1) A little more information about the tribuni aerarii, for instance, would clear up many of the difficulties.2)

From the researches of the last century it is possible to extract perhaps four main interpretations of the evidence, those of Madvig, Mommsen, Strehem-Davidson and Last. Each of these scholars has read much the same body of material in ways which vary in a greater or less degree. But two undisputed facts can be stated immediately. In the first place, the judicial reforms of 70 B.C. are to be connected closely with those of C. Gracchus and interpreted in the light of the lex Acilia. Secondly, the equites and tribuni are to be considered together: what applies to the one body obviously applies equally to the other.

But having stated so much scholars have gone their different ways. Madvig was the champion of what may be termed the old theory that the qualification for service on the jury was purely a financial one both for equites and tribuni aerarii.3) The latter did not, he considered, exercise any function as collectors of the tributum during the last century of the Republic. Our information about the tribuni aerarii is gleaned from the elder Cato, Varro, Festus and the pseudo-Asconius.4) Definite information about their duties is not to be

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2) For discussions on the military and political significance of the equites see in general - Mommsen (Staatsrecht III, pp.459-569): Greenidge (Roman Public Life pp.73-4; 224-5): Küber in P.W. under equites Romani (VI -1 -290): A collection of references to the lex Aurelia is given by Greenidge and Clay (Sources for Roman History pp.221-2).
3) Madvig - "De tribunis aerariis disputatio" in Opuscula Academica pp.597-614.
found in these writers; but we can at least say that in the last century B.C. they could have had nothing to do with the collectors of the tributum. Madvig pointed out that even if they had existed, their numbers could not have been large enough to supply a jury-panel which was not chosen promiscuously, 1) and again that three of the writers have only antiquarian interest, while the fourth is notoriously inaccurate. 2) In support of his contention that property was the only qualification sought, Madvig cited Asconius on the Pompeian law of 55 B.C. 3) But, as we shall see presently, "amplissimo ex censu" is capable of other interpretations. The weakness of his interpretation of Antony's proposed change in 44 B.C. 4) is discussed later. 5) Nor is his comparison of a passage from the Scholiast on the Ciceronian speech "In Clodium et Curionem" with a reference from Suetonius more convincing, 6) for these authors merely provide evidence that property was one but not necessarily the only qualification. What these references do show, although Madvig himself does not draw the inference, is that in all probability the census of the tribuni aerarii was HS 300,000. 7)

1) It seems from Cic. pro Pomp. 21 that some of them were resident in Rome but in the municipia.
3) Ascon. p. 17c: Pompeius promulgavit ut amplissimo ex censu ex centurias alter atque anteas iudices, atque tamen ex illis tribus ordinibus, res iudicaret......
5) See pp. 272ff.
7) Zumpt (Das Criminalrecht d. röm. Republik II -2 p. 194; Greenidge (Legal Procedure etc. pp. 443-5). Mommsen (Staetaer. III p. 536) inferred that Caesar left the third decury in existence but constituted it like the second of equites equo publico. But this is inconsistent with the "tertia decuria" of Cic. Phil. I -20.
Whether we define by property alone or not, the remark of the Scholiast1) that equites and tribuni aerarii were "eiusdem scilicet ordinis viri" has to be explained along with several references to the Aurelian panels in which the tribuni aerarii are omitted. 2)

Madvig said that they were joined thus because both were classed according to property3) and that the tribuni aerarii were often identified with the equites because Cotta was reviving a name long out of use. He explained away another Cicero reference4) by interpreting the orator as meaning those "qui nunc (sc. in 63 B.C.) sint tribuni aerarii et honestissimi cives tunc (i.e. as young men in 100 B.C.) arma cepisse". Heitland5) easily refuted Madvig's argument and drew the correct inference that the tribuni were clearly an "ordo" in 100 B.C. Mommsen6) in turn objected that even if tribuni aerarii differed from equites only in having a lower financial qualification, this was hardly sufficient reason for classing the two orders together. Zumpt7) on the other side maintained that the difference between equites and tribuni aerarii was unimportant, whereas equites were distinguished from senators by a firm line; 8) while Greenidge,9) on the strength of one doubtful reference,10) suggested that the error sometimes found in authors that the iudicia were shared between equites and senate is due to the fact that the original idea was to restore "in toto" the equestrian order. Madvig's theory,

4) Cic. pro Rabir. 27:- Quid de illis honestissimis viris atque optimis civebus, equitibus Romanis, dicemus, qui tum una cum senatu salutem rei publicae defenderunt? Quid de tribunis aerariis ceterorumque ordinum omnium hominibus, qui tum arma pro communi libertate ceperunt?
7) Zumpt: op. cit. II. - 2 p. 196.
8) Rice Holmes: Roman Republic I. p. 395 followed him in this.
9) Greenidge: Legal Procedure etc. p. 443.
10) Cic. verr. III. - 223: quid possumus contra illum praetorem dicere, qui quotidie templum tenet, qui rem publicam sintere negat posse nisi ad equestrem ordinem iudicia referantur?
in spite of much subsequent criticism, has won and continues to
win considerable support. 1) His conception of a purely financial
qualification and the borrowing of names from other classes with
the same monetary standards is attractive because it is simple.
But there are indications that property was not the only qualifica-
tion. Mommsen 2) affirmed that the only distinction between equites
and tribuni aerarii was that the former held, while the latter did
not hold, the public horse. He believed that Asconius meant by
"amplissimo ex censu" for the tribuni aerarii the equestrian census. 3)
But even if it were not difficult to see how he reconciled the two
beliefs, 4) the "De Petitione Consulatus" 5) would disprove the theory
that the equites of the jury-courts were "equites equo publico".
Mommsen had to extricate himself by denying that the treatise was
genuine, 6) but the evidence is all in favour of its authenticity.
Besides, the equestrian centuries were made up of young men; and
while the latest age for discharge was 46, there is some evidence
for the belief that it was usual in the late Republic for the age
of release to be 35. 7) Service in the courts, however became

1) Heitland (Pro Rabirio p.115); Greenidge (Legal Procedure, etc. pp.
443-5); Rice Holmes (Roman Republic I. p. ff.)
2) Mommsen - Rom. Strafr. p.210: Rom. Staatar. III. p.530 n.2; See also
Bursian's Jahresbericht. 176 (1918) p.224.
3) See p.265n.3 : Mommsen - de rom. tribus pp.45: 51-2.
4) But see the implication of his later restoration of the lex Acilia
(Staatar. III. -p.531 n. 1); cf. p.268.
5) Cic. Q.F. VIII. -33 - quod equester ordo tuus est, sequentur illi
auroritatem ordinis.
6) Mommsen - Staatar. III. p.484 n. 3; cf Tyrrell and Purser's edition
7) A man became senior at 46, but there were not normally limits of age
for service. Liability seems to have begun at a certain age and
continued until a certain number of campaigns had been served (for
the cavalry probably 10 - Polybius VI. -19 -2). Mommsen (Staatar.
17 pp.506 ff.) raised the question whether service meant active serv-
vice or formal enrolment only. Last, disagreeing slightly with Mom-
msen, thinks that the former was once the case, but as man-power
increased, a man ceased at a recognised age to be liable for military
service in the ordinary way as opposed to a crisis. What this age
was, he thinks we have mostly to guess. On the one hand Livy (XII.
11 -9) just hints at 35 in 217 B.C.; on the other he says that the
censors of 204 B.C. themselves held public horses (XXX. -37 -8)
and that Scipio Aslagesmus in 184 B.C., when he must have been between
40 and 50, had his horse taken away from him by Cato (XXXIX.-44 -1;
cf. Plut. Cat. Medor 18-1) From this and other evidence it seems to
me probable that liability for service of the usual sort ceased al-
together when a man became senior - i.e. at 46 - and that at some
earlier age, which in imperial times was apparently thought to have
been 35 ("apparently" because a good deal depends on the reading
(Over
possible only after the age of 30. 1)

Strachan-Davidson 2) went on to develop Mommsen's idea of an extra qualification but arrived at a different conclusion. He agreed that the minimum holding for the tribuni aerarii was HS 300,000 but denied that Asconius's "amplissimo ex censu" could be explained away on a purely monetary basis. His interpretation of the Scholiast's remark that equites and tribuni aerarii were "viri eiusdem ordinis" was that it indicates how the latter often belonged to the equestrian class. Because of the De Petitione Consulatus 3) he could not support Mommsen's conjecture, but at the same time he expressed guarded approval of the latter's theory that the tribuni aerarii reappeared as "curatores tribuum" 4). Besides, what was to prevent their continued election even if their office was insignificant? There was nothing in law to prevent a reimposition of the tributum. Strachan-Davidson's theory is based on Mommsen's later restoration of the lex Acilia - i.e. "qui in hac civitate equum publicum habebit, habuerit". This body of persons constituted an "equester ordo" in a sense midway between the widest and narrowest interpretations of the phrase. So also are the tribuni aerarii to be defined.

Rice Holmes 5) refuted Strachan-Davidson's theory. His argument was that there would be no need to regard Pompey's reform in 55 B.C. to the tributum.

7) (contd.) in Suet. Aug. 38-3) service ceased in practice to be required." (The above note is taken in substance and direct quotation from a private letter sent to me by Hugh Last from B.N.C., Oxford - Jan. 1937.)

1) Suet. Aug. 32 - Indices a tricesimo (v.i. vicesimo) aetatis anno alleges, id est quinquennio matu rius quam so lebant. The change must have been made between Gracchus and Augustus. Mommsen attributes it to the lex Aurelia.

2) Strachan-Davidson - Problems of Roman Criminal Law II. pp. 85 ff.

3) See p. 267 n. 5.

4) Mommsen (De rom. tribus pp. 45; 51-2: Staatsr. III pp. 189 ff): Zumpt (op.cit.) actually suggested that the tribuni aerarii had nothing to do with the officials of that name.

5) Rice Holmes - Roman Republic I. pp. 331 ff.
as anything but a raising of the financial standard if we intepreted "amplissimo ex censu" as a rise from say HS 400,000 to HS 500,000 for the equites and from HS 300,000 to HS 350,000 for the tribuni aerarii. 1) Mommsen's belief in the reappearance of the tribuni aerarii as "curatores tribuum" Rice Holmes dismissed as "mere hypothesis", and he considered it unlikely that Strachen-Davidson's ex-officials would supply a sufficiently large number for a jury-panel. 2) "I doubt", he remarked, "whether this theory will win general acceptance; rather it will provoke amazement at the rashness which could build so elaborate a structure upon a conjectural emendation. I see no reason to depart from the old view that the equites who received from Gaius Gracchus the right of serving on juries valued that privilege because it gave them a hold over provincial governors who belonged to the aristocracy, and would have been by no means satisfied if, instead of belonging to the equestrian order in the widest sense, it had been confined to those who served or had served with a public horse". 3)

Hugh Last 4) has approached the problem from rather a different angle. "There is no necessity to assume", he declares, "that the equites Romani of the lex Aurelia were defined by the formula wherein the positive qualifications of the Gracchan judices had been set forth. Admittedly it is conceivable that the relevant form of the words was taken without change from the lex Acilisia; but there is nothing to prove that this was so. Indeed, possibility is somewhat against the suggestion, for Gracchan judices had disgraced themselves in the case of Rutilius not less signally than

1) For Mommsen's interpretation see p. 267 n.2 and Mommsen - Staeter, III. p.192 n.4; 193 n.2; 533; 534 n.2; J.D. Denniston (Edition of Cicero - Philippics I & II. p.85) argued that Mommsen's inclusion of tribuni aerarii among the equites (in certain passages of Cicero - i.e. pro Placc. 4: 96; pro Rab. 27; pro Planc. 21:41; pro Cluent. 121: 130; pro Font. 36 - see above p.266 n.4 ) because Pompey raised their qualification to the "census equester" is proved false by the fact that Cicero spoke in some of the instances before 55 B.C. To make Asconius mean what Mommsen wanted "amplissimo" should have been "ampliore"

2) Mommsen's Curatores tribuum numbered 350. ("ampliore"

3) M. Gelzer (Regimentsfähigkeit und Nobilität d. römischen Republik) also argued against Mommsen and Strachen-Davidson, pointing out the difficulty of getting the required number of jurymen from 18

(over
senators had done in more recent years, and it is not easy to see
how any improvement could be expected from a scheme which divided
the majority of the places on every jury among two classes, both
of which had already proved unfit." His opinion is that the
missing definition in the lex Acilia contained nothing more than
a property qualification, and he supports it from Pliny, 1) who
stated that the name "equites" for jurymen was not fixed till 63 B.C.
This date is however open to criticism, as Cicero used the term in
70 B.C. 2) but it seems at least to show that Gracchus did not
define his judicial class as equites: rather he desired a definite
financial status only. The date 70 B.C. when the term first appears
may well be significant.

Last doubted whether the obscure term "tribunus aerarius", which
was that an unfamiliar official, could have its only significance
in the fact that its monetary qualification tallied with that of
the third panel of Aurelian judices. He pointed out that the
tribuni aerarii do appear several times in the Ciceroan period
as an order without any judicial reference. 3) If the tribuni
aerarii were named as such, the probability is that the equites

3) (contd.) centuries (minimised if we add ex-members) and citing
Cicero's use of the term "equester ordo" in II. Verr. III. 223-4 as
an implication that equestrian census, not membership of the 18
centuries was the qualification for jury-service.
4) C.A.H. IX. pp.355 ff; 352 ff.

1) Pliny N.H. XXXIII. -34.
3) Cic. pro Flanc. 21; pro Rab. 27; In Cat. IV. -15; Denniston (Cicero's
Philippines I & II. p.178)suggests the following line of reconcilia-
tion of conflicting passages which include or separate equites and
tribuni aerarii -- "The equestrian decury was drawn from the entire
equestrian order; the third decury from the tribuni aerarii, a body
of men included in the equestrian order but distinguished from the
rest of the order by the possession of certain unknown functions or
qualifications (just as the Hebdominal Council of Oxford University
formerly contained M.A.'s elected as such and M.A.'s elected as
Heads of Houses); thus under the lex Aurelia there were virtually
two equestrian decuries, though in strict parlance the second was
distinguished by a special name." But Denniston admits that this
is not very natural as the fragment of the In Clod. et Curion.(see
p.265 n.6 ) assigns a lower census to the tribuni aerarii. Follow-
ing a hint given by Mommsen (Staatsr. III. p.193 n.2) he therefore
attributes the occasional inclusion of the tribuni aerarii among the
equites to a desire to flatter them by giving them a social standing
superior to their real one. So Greenidge cit. p.444.
were too. Hence the law did not only require a property assessment but also that jurors should have held certain positions in public life. This is, Last thinks, supported by Pompey's modification of the Aurelian law in 55 B.C. The comparative youth of the "equites equo publico" would make it necessary to include past holders of the office - and this would presumably apply also for the tribuni aerarii.

"... if such an account of the lex Aurelia is not completely wrong, the aim of Cotta becomes clear. The attempt of Gaius Gracchus to recruit his juries from the whole population outside the senate which owned more than a certain fixed amount of wealth had ended in the scandal of Rutilius. Senatorial juries, in the days when Sulla had freed the senate from censorial control, had proved no better. But now, while the business men were granted their demand for readmission to the judicia, opportunity was taken to arrange that the panels should be formed from classes which were regularly under the supervision of the censors. It was the duty of these officers to exclude all persons of bad character from the senate; it was they who bestowed the equus publicus, for which evil-living was a bar; and it may be assumed that men like the tribuni aerarii, whose business was to handle money, were not wholly exempt from investigations of their integrity. There is, in fact, the possibility after all that the revival of the censorship and the passing of the lex Aurelia fell in the same year by something more than a coincidence."

"... But it would have been strange if a measure passed under the aegis of Pompey and Crassus had shown strict impartiality, and, as might be expected, the lex Aurelia marks a definite victory for the business interests. For the practical purposes of daily life tribuni aerarii were undistinguishable from equites: the Scholiast of Bobbio\(^2\) calls them "men of the same order" and Cicero\(^3\) addresses the non-senatorial members of a jury collectively as "equites Romani".

\(^1\) For another reason why the censorship might have been restored see P.\(^42\) n.3.
\(^3\) Cic. pro Flacc. 4; pro Rab. Post. 14.
None of the theories given above is wholly satisfactory. In spite of Madvig it now seems probable that equites and tribuni aerarii of the jury courts are to be explained in some fuller sense than that of holding certain property. The fact that the financial qualification is emphasised in our authorities to the exclusion of any other they might have had may have led supporters of the "old" theory astray. Naturally neither Cicero nor his commentators had any need to explain the functions of classes which were perfectly well known to their readers. Again, revisions of the jury law tended to lay emphasis on the property qualification. There is no evidence which denies that a man could be an eques - or a tribunus aerarius - without being eligible for jury service; but he could not be a iudex unless he was an eques or a tribunus aerarius. Our problem is to discover in what sense the terms were used.

We are sometimes inclined to approach jury-service in the Republic from a wrong angle. Today it is often, unfortunately, regarded as a civil duty to be undertaken with resignation, but at Rome by 70 B.C. it was a privilege eagerly sought by certain classes because of the advantage it gave. For such a privilege qualification was likely to be strictly defined. Hence I am of the opinion that something more was required from a juryman than the possession of HS 300,000 or 400,000. While I am unwilling to believe, as do supporters of Madvig's theory, that Cicero had in mind a property qualification only in Phil. I -20, this passage does at first sight seem to upset the theory of service as an "eques equo publico" - past or present. Antony is grumbling at the financial assessment for jurors. "But", objects Cicero, "that does not only apply to

1) In spite of Cicero's complaints about the praetor's habit of releasing unwilling jurors on occasion. Greenidge (Legal Procedure etc. pp.446-6). The list was made out annually by the urban praetor, who selected the jurors on his own discretion and on oath. (Cic. pro Cluent. 121). His choice of jurors was limited only by disqualification as a poena by certain criminal laws. For proving census requirements the assistance of the censors seems to have been called in (Dio 39-7).
2) See p.265n.4.
your jurors but also to the equites; and furthermore, some very
able company commanders have sat and still sit on the jury." "These
aren't the men I'm looking for", says Antony: "let every company
commander be a index." "If you were to go a step further and propose
that everyone who had held the public horse - a higher qualification
- should be a index, you would convince noone (nemini probaretis);
for in judges both fortune and worth ought to be examined."

The last retort of Cicero seems unexplainable if we suppose that
service on juries did in fact depend on service in the equestrian
centuries. Denniston saw the difficulties of explaining "nemini
probaretis" according to the accepted views and suggested alternat-
ives.1) Is it certain that a property qualification was required
from all officers in the Ciceronian age? Is it not improbable that
all young officers would have 400,000 sesterces of their own? The
words "census praefiniebatur non soluam centurioni sed etiam equit
Romano" seem at first sight to imply that the census was not a
qualification necessary for being an eques Romanus. But Denniston
admits that Cicero does not always express himself clearly, and he
may have meant the eques Romanus exclusively from a military stand-
point and the monetary qualification as superimposed. Or we may
take the datives "centurioni" and "equiti" as differently related
to "census praefiniebatur" - i.e. a census was laid down not only
for a centurion but for being an eques Romanus. Or again, if we
interpret with Strachan-Davidson2) and take the census demanded here
not as hs 400,000 but a higher census demanded by Pompey, we must
construe Asconius as meaning that definite higher census was fixed,
not mere general preference for the richer men in each class.

In the end, however, Denniston decided that it was safer to regard

1) Denniston - Cicero's Philippicas I & II pp. 178-80.
2) See p.268f.: Strachan-Davidson - Problems of Roman Criminal Law II.
   pp. 91-2.
the census equester as necessary for mounted service, particularly in view of the arrangement in force under Augustus. "But there are reasons for believing that in practice it was frequently dispensed with under the stress of the Civil War. Caesar's headquarters were a rendezvous for the impecunious, and it is improbable that he would refuse commissions to able men who fell short of the required census. We know that some of these were made tribuni militum and therefore mounted. Among those of his officers whose circumstances are known to us, Antony, who entered on manhood as a bankrupt went to Gaul in 54 B.C. still in highly embarrassed financial circumstances and was at once appointed "legatus" (probably a "militia equestris"), can scarcely have been the possessor of 400,000 sesterces. Nor can the younger Curio, whose debts Caesar paid. I feel sure that it is to young ex-officers of this type to whom Cicero refers."

There is no need to discuss the problems which arise from Denniston's theory of the conditions which might have been in force during the troubled times of the Civil War. But this passage of Cicero seems to me to remain the crux of the whole problem. Until recently I had thought some emendation possible and read, instead of "nemini probaretis", "rem mihi probaretis". Thus the interpretation of the passage would be - "if you were to propose service in the equestrian centuries as a qualification, you would win my approval: for in judges both fortune and worth ought to be examined". Cicero had remarked on the excellent examples of company commanders seen on the jury. Antony proposed to admit them "in toto"; whereupon Cicero replied that he would be more satisfied if Antony proposed equestrian service as a qualification, for then both character and fortune - necessities in a judge - would count. He had

3) Cic. Phil. II. - 44.
admitted to the character of some of those "qui ordines duxerant", but thought this was not enough.

There is, however, no suggestion of corruption in the text and emendation should be the last escape from a difficulty. In a private letter Hugh Last suggested to me an interpretation which is the most satisfactory I have read - "Cicero is asking what was the nature of the new third "ordo". Antony replies that it is to be an ordo of centurions. "But", retorts Cicero, "centurions have sat on juries in the past." "Yes", says Antony, "but they could not do so unless they satisfied certain requirements of a minimum census." Cicero's answer to that is the census requirements were fixed so as to secure not merely centurions but Roman equites - with the result that the best centurions are and have been able to act as jurors. "That", replies Antony, "is no good. I want anyone" (Quicumque is very emphatic) "who has been a centurion to be eligible." "In that case", Cicero replies, "you might even more plausibly ask that any member of the ordo equester (in the narrower sense) should be eligible too; and you will not persuade people that it is desirable to go back behind the arrangements introduced by Pompeius in 55 B.C., when jury service qua equites was confined to the richer members of the ordo, to the old arrangements of the lex Aurelia by which any eques (and not merely "amplissimo ex censu") could serve."

Last seems to me to have presented an account of the Acilian and Aurelian laws which has the greatest amount of probability, and I have agreed with his views in my account of the Aurelian and Pompeian legislation. But his conclusions may be expanded. The Graecian jurors had been chosen from a large moneyed class and had failed. The Aurelian judges had been confined to certain past

1) Hugh Last from B.N.C., Oxford, 16.2.38.
2) In the C.A.H. IX. cit.
or present office-holders, and they too had failed. Pompey, therefore, chose his judges "aliter ac antea" by retaining the triple division but insisting that they should come not from such of the two orders as had held office but from the wealthiest of each (amplissimo ex censu) as set out in the centuries (ex centuriis). Hence judges from the equites and tribuni aerarii could be "viri iusdem ordinis". Gracchus had made his qualification wealth in general; Pompey made it wealth in particular. Caesar found the distinction between equites and tribuni aerarii for judicial purposes so slight that he abandoned it.

Whatever view is favoured, difficulties are present, and it is to be regretted that unless additional data are forthcoming, certain interpretation is impossible.

1) Ascon. p.17 C; see p.265 n.3.
The cause and motives of the First Catilinarian Conspiracy - to give its common but misleading title - have aroused much controversy: and since Crassus was suspected of being connected with it, a study of the evidence will help to throw some light on his activities during these years. It was a mysterious affair even to contemporaries: Sallust, who must have known personally several people who should have been able to unravel the mystery, says guardedly that he will relate the story "quam verissime potero". Cicero, who in 65 B.C. was not in the confidence of the more influential senators, hinted in his speech for Sulla three years later that it might have been better if he had been consulted. It is certain that, as far as possible, the whole affair was hushed up. Apparently there was something which the government had to keep hidden and which explains not only the sending of Piso to Spain but also the action of the consul, Torquatus, who was with his colleague to have been a victim of the plot, in referring afterwards to the conspiracy in a very casual manner. Again, there was the unusual action of the consul of 66 B.C., Volcacius, in refusing the candidature of Catiline for the consulship of 65 B.C.

There are two main problems to be considered. When did Catiline propose to stand for the consulship? What was the composition of the conspiracy and what were its motives?

Owing to the disqualification of Autronius and Sulla there were

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1) The number of publications dealing with Catiline is legion. As long ago as 1883 E. Von Stern gave a list of more than forty published since 1866. The divisions of opinion are mostly about minutiae; for the broad issues there are two or three schools of thought.

2) Sall. Cat. 18-19: Whether Sallust actually knew more than he admitted is another matter and one connected with his motives for writing the "Catiline": see C. John (Entstehungsgeschichte der Catilinarianischen Verschwörung in the Jahrbuch für classische Philologie 1875-6 pp.725 ff.); Schwartz (Berichte über der Catilinarianischen Verschwörung in Hermes 1897 pp.568 ff.); AppendixW pp.232ff.

3) Cic. pro Sull. 81: post deletam ad eum primum illam coniurationem indicavit se audisse aliquid non credisse.
two consular elections in 66 B.C.; but scholars have been unable to agree about which of the two Catiline proposed to contest. The following evidence is supplied by ancient writers:

Sall. Cat. 18-19: The consuls elect had been impeached and punished. A little while afterwards (post paullo) Catiline, accused of "repetundae", was prevented from standing because he could not declare himself a candidate "intra legitumos dies".

Cic. pro Sull. 63: The accuser said that Sulla had raised a force against Torquatus in order to secure the election of Catiline.

Ascon. pp.66-68: Catiline returned from Africa and became "reus repetundarum". He sought to stand at the election but Volcacius refused his name; for he was accused of "repetundae". For this reason Catiline withdrew.

Dio 36-44: Cornelius Sulla and P.Paetus, convicted of bribery, plotted to kill their accusers, Cotta and Torquatus. Among others suborned were Piso and Catiline, who had himself sought the office.

The balance of probability seems to lie with the second election. Dio and Asconius leave the question open, but Sallust's account seems conclusive in favour of the second poll: only a repudiation of his authority or an alteration of the text can make any other view possible. At first sight Cicero's remarks in the "pro Sulla" seem to weigh against this view, but it is certain that Cicero or the prosecution or both were guilty of deliberate misrepresentation about what had happened four years before.1)

There are very few undisputed facts about the actual conspiracy. The motives of the plotters are very confused in our authorities. It is certain that Autronius at least was to be reinstated in the consulship and that Catiline was implicated in some way. Equally certain is the complicity of Piso and his subsequent dispatch to Spain.2) The other fact which is beyond doubt is that the

consuls at least were to be disposed of to make way for Autronius and his colleague — whoever that was to be. Sallust thought the second consul was to be Catiline, but he is alone in his opinion, since Livy implies and Dio and Suetonius state that P. Sulla was to regain the office he had lost.¹) Cicero's opinion is obscure; for in the "pro Sulla"²) he was fighting a difficult battle for his client. One of the charges against Sulla was that he had raised a force to help to make Catiline consul. It would, one feels, have suited the prosecution better to accuse Sulla of aiming at the consulship himself.³) Cicero ridicules the suggestion that Sulla claimed to be entitled to the consulship and yet helped Catiline in his attempt to gain it: he refrains, however, from accusing Catiline of aiming at it himself. Again, there is no evidence in the fragments of the speech "In Toga Candida", in which Cicero produced every scandal he knew connected with Catiline, that he believed his rival to have aimed at the consulship in 66 B.C.: and we may be sure that if he had believed this he would have made the most of it. But the fragmentary nature of the speech robs the point of some of its weight. The whole of the "Pro Sulla", however, does not ring true, and very likely Sulla actually was involved in the plot. If his arguments were thin, Cicero would not hesitate to misrepresent the accuser's words, and this is what he seems to have done here.⁴) Perhaps Torquatus did accuse Sulla of having plotted

¹) Sall. Cat. 13-19; Livy Epit. 101: Ascon. p.94 C; Dio 36-44; Suet. Jul. 9 where Cicero's letter is wrongly interpreted, since Caesar was not aedile till 65 B.C.
²) Cic. pro Sull. 54 ff.
³) See Hardy (op.cit. p.13).
⁴) John (op.cit. p.70) brings out the fallacy in Cicero's logic in pro Sull. 67-8. The orator argues thus: - Sulla was said to aim at the consulship for himself. He was also accused of helping Catiline to get it. Therefore the former is wrong. The latter is also wrong, because Sulla would not help Catiline to get a consulship of which he himself had been deprived. Therefore Sulla was innocent of both charges. Such reasoning shows how hard pressed Cicero was to extricate his client from a difficult situation: that he misinterpreted the words of the accuser there can be little doubt. As John points out, Sulla was not the man to endanger himself for another's gain. His life aim had been the (over
to gain the consulship. 1) On the other hand, since by 62 B.C. Catiline had been given the role of arch-plotter, Sulla's accusers probably over-emphasised Catiline's part in the conspiracy so as to present a more credible story and, incidentally, blacken Sulla's character the more. But nothing certain can be deduced from a case in which at least one side blatantly misrepresented the facts. 2)

Our evidence supports Sulla as the obvious candidate to be Autronius's colleague. We gather from Cicero that his main asset was his wealth: so he possibly supplied the funds, while his more active colleagues did the work. The whole affair was, however, kept so completely dark that none but those actually concerned knew the details. This is the explanation of the discrepancies in our authorities.

What exactly was to happen on January 1st 65 B.C. when Autronius and Sulla were to seize the consulship? Who was to be removed when the "coup d'état" took place? Sallust and Dio 3) thought the consuls; but Sallust complicates his story by relating two attempted "coupés". On the second occasion the conspirators "non consul-

4) (contin.) consulship (pro Sull., 73) and he must have been more annoyed to be accused by the man who had stepped into his shoes. He was active in the Sullan proscriptions and took part in the sale of confiscated goods in 46 B.C.; but he was not keen to risk his own neck. It is quite in character that he had not involved himself in the disturbances at his own trial (pro Sull., 15). For his later connection with Caesar see - Caes. B.C. III. 51: 89: 99; Cic. Fam. XV -17 -2; cf. Von Stern (op.cit. pp.19-21).

1) Cic. pro Sull. 11-12, where Torquatus was said to have accused Sulla of complicity but Hortensius, who knew the facts, to have denied his guilt.

2) I find that John (op.cit. p.710) has struck a similar note but arrived at the opposite conclusion - i.e. that it was Cicero who had to make Catiline the arch-plotter in the earlier conspiracy, since in a letter to Pompey he had connected the two into one great whole. The In Tog. C&nd., John declares, shows quite clearly that Cicero knew very well that Catiline was not aiming at the consulship; and in 63-2 B.C. he does not accuse Catiline of having done more than plotted murder in 66-5 B.C.: cf. Cic. Cat. 1-15; pro Mur. 82.

ibus modo sed plerisque senatoribus perniciem machinabantur": and in this Sallust is supported in a greater or less degree by Cicero, Asconius and Suetonius. 1) Cicero's version became more extravagant as time passed. Sallust is alone in his belief that a second attempt was made. The chief merit of such a plot was its surprise element, and a second attempt would be more than useless. 2) He must have mixed two versions of the one attempt and made two distinct stories from them. If we follow Asconius, who probably meant no more than "principes senatus", a revised version of Sallust, and Cicero's more restrained account, we may infer that the conspirators meant to murder the consuls and a few of their more troublesome senatorial opponents, seize the consulship and overawe the city. It is most improbable that any large-scale plan such as Suetonius supposes had been evolved. 3) The plot was discovered because Catiline gave the signal too soon. 4) What possibly happened was that Autronius and Catiline decided to take advantage of


2) Hagen (Untersuchungen uber Rom. Geschichte pp.99 ff.) has tried to show that in the first attempt of Jan. 1st 65 B.C., Sulla and Autronius were to replace the consuls, while in the more violent scheme for February 5th Catiline took the place of Sulla. John (op.cit.p.711 n.) points out that Cic. Cat. 1 -16 is directly opposed to this. Dietrich (op.cit) voted for a historical hiatus after Sallust's "ex ea re cognita". But Cicero, Dio and Suetonius are all against a double attempt. John himself favours an attempt on Feb. 5th. The senate's resolution to give the consuls an armed guard was taken when Catiline showed himself armed at Manilius's trial, in order to gain supporters for the plot. This was not sufficient to prove the existence of a conspiracy, however, and light must have been thrown on the events of Dec. 30th by those of Feb. 5th. Hardy (op.cit. pp.17 ff.) suggests that Sallust's February attempt is to be attributed to rumour caused by the nervousness which had resulted from the January affair. Boissier (op.cit. p.49) decided that the coup was fixed first for the Nones of December, discovered and precautions taken. It was then put back to Jan. 1st and the list of people to be murdered enlarged. Did Boissier get his extraordinary date from Sallust? If so, he did not read him very carefully.


4) Ascon. p.92 C: cf. Suet. Jul. 9 which alone differs from this version. Meyer (op.cit. p.18) thinks Asconius and Sallust's premature signal in February wrong. Sallust had to correct Tanusius's version, which he did by passing the onus on to Catiline. The original signal must therefore have been given too soon. But Meyer is making an unwarrantable assumption. McDonald (op.cit. P.207) also believes Suetonius.
the disturbances which occurred during the trial of Manilius at the end of the year.\textsuperscript{1)} Sulla, however, while willing to take advantage of the scheme, remained discreetly in the background. Catiline paraded his armed force too openly, perhaps took part in the riots at the Manilian trial, and gave the senate an excuse to provide the incoming consuls with an armed bodyguard.\textsuperscript{2)} That the date of the attempt was to have been January 1st is shown by Cicero, who mentions a display of armed men on December 29th. Dio, who must be referring to the same event as Cicero, says that the plot was revealed prematurely and the consuls granted an armed guard; and this tallies with Sallust's first date.\textsuperscript{3)}

The part played by Caesar and Crassus has aroused much controversy. Suetonius\textsuperscript{4)} declares that both were deeply involved, and Cicero also accuses them of complicity.\textsuperscript{5)} But Suetonius bases his story on the statements of Caesar's political enemies; and Cicero in the "In Toga Candida" had, as often, an axe to grind.

Mommsen\textsuperscript{6)} admits that the statements of the political opponents of Caesar cannot be accepted as sufficient evidence, but points out that Crassus made preparations to enrol Egypt and Cyprus in the list of Roman domains,\textsuperscript{7)} and again that "about the same time" Caesar had a proposal submitted to send him to Egypt. But what does Mommsen mean by "about the same time"? Had the Egyptian plan been formulated yet? Could Caesar have hoped for an army to support him? However, Mommsen concludes that these activities coincide suspiciously with the charge made by their political opponents, that

\textsuperscript{1)} For the circumstances of the trial or trials of Manilius see John (op.cit. p.711 n.) cf Hardy (op.cit. p.13).
\textsuperscript{2)} Dio 36-44; Ascon. (p.66 C) apparently thought Catiline and Piso were involved in the Manilian disturbances: cf. Cic. Cat. I -16.
\textsuperscript{3)} See p.281 n.2.
\textsuperscript{4)} Suet. Jul. 9.
\textsuperscript{5)} Ascon. p.83; 92 C.
\textsuperscript{6)} Mommsen - History of Rome IV. pp. 166-7 (Every. Trans.)
\textsuperscript{7)} Plut. Crass. 13: de leg. agr. II. -44: see p.61ff..
"there is great probability that Caesar and Crassus had formed a plan for seizing the military dictatorship during the absence of Pompey, that Egypt was selected as the basis .... and that Catiline and Piso had been tools in the hands of Crassus and Caesar".

John¹ shows in great detail that Crassus and Caesar were directly concerned in the plot. The version which gives Sulla, Autronius, Catiline and Piso as its leading figures he rejects on the grounds that the conspiracy was too significant not to have had larger aims than mere personal gain. He stresses the fact that Sallust assumed the despatch of Piso to Spain to be part of the plan and suggests that the connecting link with that province was to be the fleet of Gellius in the Tuscan Sea.² This was a step taken to meet a possible civil war and could have had no connection with the limited aims of Autronius and Sulla. But Cicero cannot be taken to prove this point: if anything he seems to be pointing to a later attempt. John thinks that the second and more radical plot did not demand this step, but his reference to the Pro Sulla³ is not convincing, since Cicero is trying to prove that his client could not possibly have been connected with such a far-reaching scheme. John goes on to say that an undertaking like this could not have been planned in the few months available after Catiline's return from Africa. Since Sulla, Varus and Autronius were attacked later, the plotters did not escape through lack of evidence, but rather because they had powerful backers in the senate. John was correct in attributing to this the disinclination to prosecute the conspirators. But the

³) Cic, pro Sull. 57.
cases of Sulla, Autronius and Vargunteius cannot be quoted in support, since their trials occurred in 62 B.C. when Catiline's intimates were being attacked. The senate, says John, realising that there were powerful figures in the background, made concessions, and a section of it was willing to use Piso against Pompey. John seems to argue that the senate recognised the nature of the plot and was ready to help it. But it would be strange if the senate countenanced a conspiracy influenced by Crassus, part of which involved the massacre of its leading members. However, probably John really means that the senate acquiesced in Piso's appointment - afterwards. But he is far from clear in this crucial part of his argument.1)

The case against Crassus and Caesar is clinched for John by Suetonius who declared unhesitatingly that they were the real leaders and tried to gain domination at home through dictatorship. The fact that Catulus and Cicero were the earliest witnesses for the prosecution supports the charge, he thinks, as Catulus had then no personal enmity against Caesar, and Cicero obviously knew the facts in 64 B.C.2) John gives to Suetonius an importance out of all proportion to his worth. The latter is clearly repeating a highly coloured version current afterwards. The fact that he knew the stories were partisan ones is not a point in favour of their acceptance, since he does not hesitate to recount any story, however strongly biased. Nor can John's statement about Catulus be proved: indications are that it was not true. Again, Cicero cannot be trusted in the "In Toga Candida", as it was his aim to blacken Crassus and Caesar, who were supporting Catiline's candidature. The later references of Cicero3) are more closely connected with

1) John says that Sallust's acceptance of this version that Piso was killed at the instigation of Pompey proves why the former was sent to Spain. But does Sallust accept this version? See Sall.Cat. 19.
2) Suet. Jul. 9; Plut.Caes. 6; Ascon. pp.92-3 C.
3) Ascon. p.74; Plut.Crass. 13; Caes.9.
the second plot. In any case, he confessed in the "Pro Sulla" that he did not know the details of the conspiracy. Although Von Stern accepts John's theory and advances many of the same arguments, he surprisingly rejects Suetonius, on whom the whole case depends, because he drew his version from anti-Caesarian sources.

Meyer also accepts Suetonius. Crassus was to rule in Rome while Caesar went to Egypt: Piso was to have the two Spains and P. Sittius was to go to Mauretania with the idea of supporting Piso from Africa. Although the affair had to be hushed up, the facts were well known.

Schwartz and Hardy are other writers who believe that Crassus and Caesar were implicated. Hardy, however, suggests that Suetonius overstates Caesar's part. "It is difficult", he says, "to see what measures would meet the case except the assumption of the dictatorship by Crassus. In a few days adjustments would be made: the consulship would be placed in safe hands, and Piso sent to Spain against Pompey. Then Crassus would take up his post of censor and Caesar that of aedile." But what was the opposition to do then? However, continues Hardy, though the conspiracy failed the senate and the popular party were agreed that precautions should be taken against Pompey, hence Piso was sent to Spain. Cicero made obvious insinuations to this effect in his electioneering speech.

On the other side Boissier considers that the whole affair was too slight to have involved Crassus and Caesar. To explain the behaviour afterwards of Torquatus and the senate he quotes the

1) Von Stern op.cit. pp. 24 ff.
2) Von Stern (op.cit. p.45) suggests that Sittius, Caesar's later associate, was to replace Piso in Spain. But his influence as a private individual could not be so great. There is no evidence that Sittius was in Spain for any but private reasons - see Cic. pro Sull. 56, who must, however, be accepted with reserve.
4) See above n.2.
7) Boissier op.cit. p.49.
affairs of Saturninus and Ofella in 100 B.C. There were two reasons for the despatch of Piso to Spain; the senate wanted to be rid of him and also to annoy Pompey. Deknatel\(^1\) disbelieves Suetonius and follows Sallust. He thinks it out of character for Crassus to declare himself openly, as Suetonius suggests he would have done. Furthermore, Crassus appeared to ally himself with Caesar only in the year of his censorship,\(^2\) and during that year he had other plans.\(^3\) Lastly, he tried to equal Pompey's extraordinary power by legal means and not by force. Ferrero\(^4\) compromises; he rejects the dictatorship story, since Crassus had no army to support him. Probably his aim was to have the consuls on his side and proceed with the annexation of Egypt. But had Crassus formed this design yet? Rice Holmes\(^5\) believes that Piso was appointed to Spain through the agency of Crassus, who knew him to be an enemy of Pompey; and his interest coincided with that of the senate. But it is impossible that Crassus and Caesar instigated the plot; their object was to take advantage of it if it succeeded. Cary\(^6\) remarks that the crime would have defeated its own ends and played into Pompey's hands. In all probability Crassus was neither its author nor an accomplice in it. His part was merely to shield the culprits so as to use them for its own ends. The despatch of Piso was part of a bigger scheme and was an afterthought. Probably, thinks Cary, Catiline was the real leader of the movement.\(^7\)

My own view is that neither Crassus nor Caesar did more than watch events and use the opportunity to have Piso sent to Spain. They had much more to lose than to gain from such a plot, which in any case bears all the marks of a hasty attempt at revenge.\(^8\)

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\(^1\) Deknatel - De Vita M. Crassi p. 27.
\(^2\) A most questionable statement.
\(^3\) Not a convincing argument.
\(^4\) Ferrero - Greatness and decline of Rome II. p. 333.
\(^5\) Rice Holmes op.cit. I. p. 449.
\(^7\) Cary suggests that the fact that Autronius was not even second in command in the later plot seems to show that Catiline was the leading figure in this one. I doubt this; what it does seem to show is that Autronius was the instigator of a scheme of revenge, which had no direct connection with the second conspiracy.
\(^8\) See p. 55-6: where the movements of Crassus and Caesar during 67-6 B.C. are discussed.
If we are to understand the position of the Cis- and Transpadani, we must discuss broadly the history of the Cisalpine province. There is little doubt that the whole "ager Gallicus" had, until the Social War, been under the supervision of the consuls. By 75 B.C., we know that it had become a regular province with a consular governor. Hence we must decide when the change took place. It is usually supposed that Sulla formed the province during his dictatorship. The arguments for this dating are plausible. A passage of Cicero seems to indicate that as late as 82 B.C. the ager Gallicus was controlled by the consuls: and, if this were so, in view of Cotta's proconsulship in 75 B.C., the change could hardly have been made by anyone but Sulla. Last supports the evidence in Cicero with two references from Appian, I cannot, however, see that any definite conclusion can be drawn from Carbo's presence as consul in Cisalpine Gaul in 82 B.C. The fact is indisputable; but, since there was a state of civil war in Italy, the consul, who had never shown an over-nice regard for legalities, was not likely to be deterred from using the province; if such it was, as a suitable ground for military operations. Furthermore, there are other objections to this theory. One of these arises from the first of the passages of Appian put forward by Last to support it. This indicates that...
Pompeius Strabo was, perhaps as proconsul, in charge of Gallia Citerior in 87 B.C. Licinianus also,\(^1\) in referring to a date some time before Sulla's dictatorship, implies the existence of the Cisalpine province before 82 B.C. The interpretation of this passage cannot be certain, however. By a different chain of reasoning Hardy\(^2\) concludes that the lex Pompeia of 88 B.C. was really the "lex provinciae" of Cisalpine Gaul. The province was, he says, "bound to include all that the "ager Gallicus" had once included". The southern region was all but a part of Italy, but it would help to Romanise the backward districts. The southern boundary seems to have been originally the Aesis-Arnus line. It was moved later, says Hardy, to the Rubicon and Varus,\(^3\) a change which was perhaps Sulla's extension of the pomerium mentioned by Tacitus and Seneca.\(^4\)

While I cannot accept Hardy's arguments in toto,\(^5\) I believe that he has demonstrated convincingly that Gallia Cisalpina was a province before 82 B.C. The exact date must remain unknown, but the most likely suggestion is that the "lex data" of the province was passed during the rearrangements made necessary by the Social War.

However by 66 B.C., the question of enfranchising the Transpadanes had come to the fore, and from motives of their own Crassus and

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2) Hardy - Some Problems etc. pp.46-9.
4) Tac. Ann. XII -23; Sen. de brev. vit. 13; Mommsen (History of Rome III p.346 n.1 Every, Trans.). Hardy remarks that by placing the formation of the province in the dictatorship, Mommsen is spoiling his own argument that Sulla's claim to have extended the pomerium was based on this moving of the boundary line at the same time. For, if he had formed Cisalpine Gaul he would have lessened considerably Italian territory.
5) I am not convinced that "what we know of the lex Pompeia" makes it so likely that it was actually a provincial charter. Hardy's interpretation of the lex Julia is open to doubt also: cf. Mommsen - Jurist. Schriften p.183.
Caesar had taken it up.1) Mommsen thinks2) that the attempted enrolment of the Transpadanes by Crassus was a manifesto intended to show that they were in the popular view already citizens. But there is no evidence that, except for the minority who qualified through local magistrates, this was the case. No doubt there were ways and means of using the Transpadanes unofficially for military service, and in all probability Caesar did this in his Gallic campaigns. But, as Hardy suggests,3) the whole business of recruitment from these regions is not clearly defined.

What steps were taken to ensure the enfranchisement of the Transpadanes? The simple act of enrolment by Crassus would not in itself be enough, since the censors could concern themselves only with the existing list of citizens. The sole condition which would enable Crassus to enrol the Transpadanes in the list would be a previous act of legislation conferring the citizenship upon them. Mommsen fails to follow a hint given by Suetonius4) that this was intended, and he thus assumed that Crassus’s action was in reality a public statement to the effect that the Transpadanes were merely receiving something to which they were legally entitled. Such a view coming as it does from Mommsen is almost incredible, the more so since he accepts Asconius.5) There is not the slightest trace of any post-Pompeian law creating such a position, and Dio6) says emphatically that the Transpadanes were not included εἰς τὴν πόλιν. Moreover, Mommsen must have forgotten the haste with which Caesar passed the lex Roscia as soon as he had the opportunity in

1) See p.59.
2) Mommsen - History of Rome III p.346 n.1 (Every,Trans.): Jurist. Schriften I p.181: Cary (C.A.H. IX p.481) seems to mean that Crassus did intend to include the Transpadanes on the burgess roll without previous legislation.
3) Hardy op. cit. p.58
4) Suet. Jul. 11.
5) Ascon. p.3 c.
The cause of the dispute between the censors was not a refusal by Catulus to enrol the Transpadanes on the burgess-list but a refusal to include them should legislation be introduced which admitted their claim.  

The exact scope of the lex Papia of 64 B.C. has caused much discussion. That its real object, the expulsion of the Transpadanes from Rome, was in some degree disguised seems probable. I cannot agree with Hardy that all foreigners in the sense of Greeks, Asiatics etc. were excluded from its sphere of operation.  

It is not clear from Dio's words whether or not there was an attempt to rid Rome of its surplus population of resident aliens. Hardy interprets Dio's \( \pi \lambda \eta \nu \tau \bar{o} \nu \tau \eta \nu \nu \sigma ' \iota \tau \alpha \lambda \iota \nu \pi ' \sigma \kappa \varepsilon \beta \omicron \tau \omicron \nu \nu \nu \) as "with the exception of those peregrini now in Rome who have a domicile in Italy as now determined". Any rendering of \( \tau \eta \nu \nu \sigma ' \iota \tau \alpha \lambda \iota \nu \pi ' \) as "Italy of the author's time" is untenable, so Dio must have been quoting either from the text of the law or from his authority. But there are passages of Cicero which make difficult Hardy's interpretation that the wording of the law made any peregrini permanently resident in Rome exempt from expulsion. He is evading the question when he suggests that perhaps Glaucippus was a Transpadane resident who was exempt from the law; there is not the slightest proof of this. Furthermore, it is possible that if only the Transpadanes were ineligible for residence in Rome,

1) Dio 41-36: The Atestine Fragment gives March 11th 49 B.C.  
2) So Hardy (op.cit.) with whom Rice Holmes (op.cit. I p.236) agrees.  
3) Cary(C.A.H. IX pp.401 ff.) thinks that all non-citizens were liable to eviction, but in practice the law was directed mainly at the unenfranchised residue of Italians.  
4) Dio cit.  
5) cf. Cic. pro Balb. 52; pro Archia 10; de Off. III -47; Rice Holmes (op.cit. I p.236) interprets as all aliens resident at Rome except those permanently domiciled in Italy as distinct from Cisalpine Gaul. What does he mean by "permanently"? He makes the curious statement that after the lex Papia, even if the Transpadanes were enfranchised, they would be excluded from the poll. How could they be, if they had ceased to be aliens?  
Dio would not have used such a periphrasis. Again, in my view it is highly improbable that the lex Papia was so open and definite an attack on the Transpadanes. The simplest explanation is that all peregrini came under its ruling but that there was an exemption clause for those who could prove residence at Rome over a number of years - i.e. ΠΛΑΙ Ν ΝΟΥ ΝΟΥ ΠΑΛΑΙ ΝΟΥ ΟΙΚΟΥΝΤΩΝ. The law in fact contained a clause somewhat similar to the residence clauses in our own Alien Laws. Professor R.W. Husband¹) thinks Cicero's remarks "quite out of harmony with the idea that the law was intended to secure the departure of aliens from Rome". But they are much more out of harmony with the idea that no aliens except the Transpadanes were affected. If we assume that its main object was to secure the expulsion of the Transpadanes but that other aliens were included to give at least a semblance of impartiality, we must conclude that there was a clause, which exempted a large class. The obvious qualification for exemption would be residence at Rome over a period of years.

Appendix VII. The Historical Value of Sallust's "Catiline".

If Sallust's account of the elections of 64 B.C. were true, the complexion of the Catilinarian Conspiracy would be completely changed.1) His reason for Cicero's election was the discovery of a plot to introduce proscription and "novae tabulae". The nobiles, fighting down their distaste for a "novus homo", resolved to keep out Catiline, even if they had to vote for Cicero. Sallust's story is certainly an anachronism. Cicero would have mentioned this plot in his speech "In Toga Candida" if he had known of it. It is true that in the "Catilinarians" he accuses Catiline of having plotted against the state for years before steps were taken against him. Late in 63 B.C. he was bent on portraying his enemy as the arch-plotter who would stop at nothing; and in later years his vanity led him to assume that the danger he had removed was much greater than it really was. But the speeches he made before July 63 B.C. contain no hint of a revolutionary plot.

Attempts to support Sallust's dates with references to passages where Cicero speaks of the second plot as a continuation of the first2) carry no weight. John3) has refuted these arguments convincingly. He points out that Sallust speaks of the first plot only incidentally, and therefore he really dates from 64 B.C. Secondly Cicero not only wanted as much kudos as possible, but he wished also to seem to oblige Pompey, Crassus and Caesar. Pompey would be obliged to him doubly, while Crassus and Caesar were obliged to him for hiding their past. I believe that John has interpreted Cicero's motives correctly so far as Pompey was concerned, but I cannot

1) Sall. Cat. II ff.; Plut. Cic. 10 supports Sallust, but he probably followed either the Catiline or an account derived from it.
agree that he had any thought of trying to put Caesar and Crassus under an obligation to him, since he was in no position to exact payment for any favour he did them. Later, however, as John points out, Cicero could change his tune about the Catilinarian Conspiracy considerably. 1) Would he, if Catiline had formed a conspiracy before July 64 B.C., have said in November 63 B.C. - His tum rebus conmotus et quod homines iam tum coniuratos (i.e. even at that time - July 65 B.C. - conspirators) 2) etc. if he had been speaking of men who had conspired more than a year before? Sallust also, though his motives are different, is intent on making Catiline the scapegoat for everything which could possibly be attributed to him. Many pages have been written disproving his chronology, and the most minute discrepancies have been noticed. John, for instance, emphasises 3) how improbable is the speech which Sallust 4) puts into Catiline's mouth before the elections of 64 B.C. It is not delivered at a meeting arranged to collect supporters, but to encourage those already won. There is, however, no sign of the speech of a general to his men before battle, and one hears only that everything depends on the consulship. Sallust has vouched for the existence of an armed conspiracy at this time, and he must be consistent, even if it means transposing events. The riddle of Sallust is "not the impossibility of the chronology but of the whole combination of an anarchistic plot with the consulship".

The main question is not how Sallust erred but why he did so, since he must have known the essential facts. He is intent on giving his subject dramatic unity. Catiline must be the main figure throughout, and his actions must be guided by one clearly

2) Cic. pro Mur. 52.
4) Sall. Cat. 17 ff.
defined motive - 'the overthrow of the existing government. An examination of the evidence shows unmistakably that Catiline, so far from being the instigator of a revolution in 64-5 B.C. was being backed by figures behind the scenes for their own ends. One of these was Sallust's patron, Caesar; and to connect him directly with the crimes of Catiline would have been most indiscreet. Consequently, Catiline must be the leader of a definite conspiracy before the elections of 64 B.C. in order to give a reason other than the real one for his failure at the elections of that year. Rice Holmes agreed that there was no conspiracy of violence before the elections of 64 B.C., but he thinks that "Sallust has some foundation for his story". His points are:- 1) Catiline says that he would put his plans into operation "as consul"; 2) Sallust says nothing of Catiline's having been ready to strike in 64 B.C.; 3) the complicity of Cassius Longinus at this time is explained by assuming that, if beaten at the election, Cassius "might still expect as a fellow-conspirator to benefit by the success of the rival candidates". But surely this was not a sufficient reason for prejudicing his chances of election by joining a revolutionary conspiracy? Rice Holmes remarks on the contradiction in Hardy, who says in one place that Crassus's interests were opposed to such a plot and in another that in 63 B.C. he again supported Catiline's candidature on the grounds that "it might be necessary to go to all lengths". Rice Holmes himself believes that, though Sallust embellished his authority, Catiline "even before the election of 64 confided to his friends the programme to which he hoped to give effect". But Catiline's meeting

1) Rice Holmes op.cit.p.456.
2) Sall. Cat. 20 : 21.
3) cf. Cic. de pet. cons. 7: Ascon. p.82 C.
4) Hardy op.cit. pp.24ff.
5) cit. p.37.
in June 64 B.C., which has been the starting-point for discussion among scholars, follows simply from Sallust's literary plan. 1) There was certainly no such meeting: even if there had been, Sallust would not have been able to give such intimate details of the discussion there. A speech by Catiline and an account of his plans and motives is necessary at this point, for it gives the first definite information of a Catilinarian Conspiracy. Until this point Sallust has been fulminating against the morals of the republic, in order to lead up to the early career of Catiline. Now he must give proof of his tenets in the form of a statement from Catiline's own lips of his iniquitous designs. Besides, a Thucydidean speech at this juncture is typical in Sallust. The name of Crassus is introduced, strangely among those who were said to have supported Catiline. 2) Salust does not implicate Crassus definitely; it is hardly likely that he was unaware of his connection with Caesar at this time or that the inclusion of the one automatically implicated the other. Perhaps Sallust's desire to emphasise the importance of the conspiracy overcame his better judgment. John 3) thinks that Sallust sacrificed veracity in order to whitewash Caesar and the result is a strange mixture of truth and fiction. To clear Caesar he made Catiline the

1) Dio (37-30) has a somewhat similar meeting of the conspirators, but he puts this more naturally late in 63 B.C. 
2) Sall.Cat. 17: John (op.cit. p.769) — That Sallust himself can scarcely have been convinced that all the revolutionary movements of that time originated with Catiline is shown partly in the manner of his mention and still more of his omission of important facts in Catiline's history — cf. Crassus and the plot, where he overlooks the real (?) fact that Catiline participated in the original plans of Crassus. It is foolish to believe that Crassus supposed he could use Catiline as head of a victorious party, and quite as foolish to imagine that Catiline would believe he could accept influential support and still remain the dominant figure. Caesar's connection, though quite as notorious as Crassus's is not mentioned. The omission of Antonius's connection with Catiline in 63 B.C. is natural in Sallust. 
3) John (op.cit. pp.703-613).
moving spirit from the beginning. To do this he had to explain away many contradictory facts, and this accounts for all the existing discrepancies. But if John is right it is the more strange that he does not keep Crassus further in the background. Schwartz\(^1\) reasons as follows - Catiline was for a year the tool of Caesar and Crassus in their agitation against Pompey. They dropped him, since in 63 B.C. Pompey's homecoming might be expected soon, and thereby drove him to attempted revolution. But can Schwartz produce any evidence that Crassus and Caesar were connected with Catiline during the whole of 63 B.C.? Sallust, continues Schwartz, had to extricate Caesar: Crassus could be involved. Therefore, since one of the leading figures has to disappear, Catiline must be made more important than he really was. To eliminate the interval Sallust pushed the beginning of the conspiracy to 64 B.C. Catiline could not stand alone in the plot of 66-5 B.C., so Sallust - like Cicero but for other reasons - makes him Autronius's future colleague. His mention of the suspicion against Crassus is significant. It is introduced indirectly through the Piso story and Pompey's part in his death. Sallust could increase the trustworthiness of his "apologia Caesaris" if he did not allow Crassus to be completely exonerated. With skill he leaves the issue in the balance; Tarquinius's accusation is given in full, but the most dangerous indictment of all, the letters to Crassus, is omitted.\(^2\)

The fact is that Crassus had long been dead when Sallust wrote, and there was no need to be careful with his reputation. I do not believe along with certain scholars\(^3\) that the "Catiline" was written with the definite purpose of excusing Caesar's connection with Catiline. Certainly Sallust is discreet in his mention

\(^1\)Ed. Schwartz (Berichte über der catalinarischen Verschwörung - Hermes 1897 pp.568 ff.).
\(^2\)Von Stern (op.cit. pp.175 ff.) tends to steer a middle course.
\(^3\)Hommersen (History of Rome IV p.173 Every.Trans.); Wiz (Philol. Anzeig. 1897 pp.529 ff.).
of the dictator but if the "Catiline" is an attempt at an apologia Caesaris skilfully written to include his name without damaging his reputation, it is not a very successful attempt. Even Cicero's speeches are less damning to Crassus and Caesar than the "Catiline".

In 42 B.C. the aims of Caesar in 64-3 B.C. were ancient history; there was no need to disguise Crassus's part in the conspiracy, and so far as Caesar himself was concerned, facts which during his lifetime were likely to be damaging to him were no longer important. So long as Sallust was reasonably discreet, he could not damage his reputation any more than his detractors had already done. If his primary object had been to whitewash Caesar he would not have written the "Catiline" as it stands. But his aim was to emphasise Catiline's revolutionary designs in 64 B.C. and in these Caesar naturally had no part. He chose the "Bellum Catilinarium" for its apparent dramatic unity as the most suitable instrument by which he could express his views on the period as a whole. Its drama would appeal to his artistic sense.

Consequently we need not pay much attention to Sallust's account of Catiline's plans before the elections of 64 B.C. Since Catiline had long been a revolutionary he must plan revolution. It is not apparent why he should have needed the consulship to obtain his ends. Therefore Sallust, says Catiline, intended to put his schemes into operation "as consul". His actual speech is vague: the concrete statements given in reported speech seem to have been added to give substance to general remarks about privilege and oppression. The attempted coup of 66 B.C. had

1) Sall. Cat. 21.
2) Sall. Cat. 20-21.
3) John (op. cit. pp. 742-5) effectively disposes of a suggestion that the "domestica contio" of July 63 B.C. (?) was the basis of this meeting of 64 B.C. given by Sallust.
4) The hair-raising story of the human sacrifice, which Sallust takes care not to vouch for, appears elsewhere - Plut. Cic. 10: Dio 37-30: Flor. II -12 -4. Although we hear a similar story about Vatinius (Cic. In Vat. 14), this is most certainly an adornment collected from later gossip.
already been reported - quite incidentally1) - and so Piso and Sittius are connected with the second plot. The mention of Piso is evidence of Sallust's disregard for detail, for Piso was already dead when these words were spoken.2)

1) Sall, Cat. 18; Mommsen remarks that if Sallust had wished to represent the two plots as an organic whole, he would have begun in 66 B.C. (cf. John op. cit. pp. 727ff.).

2) Furthermore Sallust's story about Curius and Fulvia (Cat. 23) must be regarded as very doubtful. Rice Holmes (op. cit. pp. 456) believes that it was not impossible for Catiline to have discussed his plans with Curius "in the early months of 63 B.C." Perhaps: but Sallust expressly says that the gossip of Fulvia was one of the reasons why Cicero was elected. Hardy, having previously disposed of Sallust (op. cit. pp. 24ff) rejects wholly the Fulvia story on the grounds that Catiline must have known he had a spy in his camp for a year and a half, since Fulvia was still giving information in Nov. 63 B.C. In any case it seems certain that the introduction of Fulvia in July 64 B.C. is incorrect and that it is merely another example of Sallust's efforts to find reasons for Cicero's unexpected election. Asconius (p. 82 C) says of Cassius Longinus - "post paucos menses in conjuratione Catilinae esse sum apparuit". But it seems that he is speaking of the months of 63 B.C. before July.
Appendix VIII. The Informer Tarquinius.

That Tarquinius's story in the senate on December 4th was a deliberate lie there can be no doubt. Not only had Crassus given up his connection with Catiline long before but he had a few weeks earlier deliberately manufactured evidence against him.\(^1\)

Even if at a late stage Crassus had been involved in the conspiracy, as the largest property holder in Rome he could not have approved of the burning of the city. The only merit of Tarquinius's story was that it played on the connection Crassus was thought to have had with Catiline in 65 and 64 B.C. Ancient writers were unable to find a satisfactory explanation of Tarquinius's motives. Sallust,\(^2\) who gives the fullest account of the affair, does not commit himself. As we have already seen,\(^3\) he was not particularly concerned to vindicate Crassus; but beyond giving the versions current in his day he is of little help. Some thought the accusation true but were unwilling to provoke so powerful a man; others suggested that Autronius started the story so that Crassus might, if he were himself accused, be willing to screen the others, as he was thought to have done in the earlier plot.\(^4\) Sallust himself had heard Crassus publicly accuse Cicero of engineering the charge. His uncertainty is shared by later writers, Plutarch\(^5\) says that Cicero implicated both Crassus and Caesar after their deaths but that in writing of his consulship he admitted the service rendered by Crassus. Even so, after this Crassus conceived a deadly hatred of Cicero. Dio\(^6\) gives much the same stories as Sallust but he does not mention Cicero.

That many believed Crassus guilty is natural, since he had backed Catiline's first candidature. This fact influenced later

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1) Mommsen (History of Rome IV, pp.170 ff. Every, Trans.): Tyrell (Correspondence of Cicero I, pp.16-9):
2) Sall. Cat. 48:
3) See Appendix VII.
4) So Von Stern (op.cit. pp.133-4):
5) Plut. Crass. 13: Caes. 9:
6) Dio 37-35:
writers, since they could focus the events of these years more clearly. But it is most unlikely that Autronius or his friends tried to blackmail Crassus into helping them. No more is heard of Tarquinius after his condemnation for perjury. If this was the truth why did he not save himself by a confession after the prisoners had been executed? The false accusation of a prominent public man would have given further proof of the unsurpassed wickedness of the conspirators. Many modern writers have considered that Cicero was responsible for Tarquinius's action, chiefly, it seems, because Crassus himself was heard to say so. Hardy\(^1\) has put the case for this interpretation clearly. "If Cicero, as was almost certainly the case, was seriously mistrustful of Crassus and yet had no evidence against him, the artifice ascribed to him might promise two results. It would create or accentuate suspicion of Crassus among senators, and this would make them more ready to support the extreme measures against the prisoners, which he no doubt, though with some misgivings, contemplated. It would also embarrass Crassus himself, make disloyal action, if any was intended, more difficult, and perhaps prevent Crassus from defending more lenient proposals. The effects would not really be weakened by the quashing of the information, which would conceal Cicero's own part in the matter. .......... It is not an incident which he would include in the history of his consulship."

If this were the explanation, we should have to credit Cicero with dangerous political blackmail likely to antagonise one of the most powerful figures in public life. Further, the possible gain from such an involved scheme was far outweighed by the risk to Cicero himself. To implicate Crassus successfully would obviously have been a rash move; and merely to make a show of doing so would not have made Crassus innocuous, as Hardy thinks, but would have had

\(^1\) Hardy (op.cit. pp.82-3):
precisely the opposite effect. Cicero later regretted antagonising Crassus, and had he done this he would have regretted it even more bitterly. Hardy's theory is improbable. In the first place suspicion does not seem to have been either aroused or accentuated in the senate as a result of Tarquinius's information, since he was quickly howled down. Nor could suspicion of Crassus make hesitant senators more ready to support Cicero's proposed treatment of the prisoners. In the debate of December 5th Crassus made an effective protest by staying away; and his ally, Caesar, came within an ace of foiling Cicero. If the latter had really intended to forestall powerful opposition to his 'extreme measures' (which, as his speech to the people shows, he fully expected) he must have known that to disable Crassus would be useless if Caesar were left free. This is the fatal weakness of Hardy's argument, a weakness which he reveals when he says, 1) "Cicero virtually refused to do this (i.e., have information laid against Caesar) realising no doubt that, from his point of view, it was unnecessary, since the suspicion aroused against Crassus would inevitably extend to Caesar".

In fact, not only was the attempt against Crassus a complete failure but, after Caesar had spoken and the decision seemed likely to go against Cicero, he made no use of the distrust of Caesar, which Hardy says he had created, and it was left to Cato to throw out broad hints of Caesar's complicity.

In the attempts of Piso and Catulus to have Caesar's name brought forward by the Allobroges we have the surest indication of the origin of Tarquinius's story. It is well known that these two were bitter personal enemies of Caesar: Catulus considered that he had been unfairly deprived of the Chief Pontificate by Caesar, 2) and we gather from Plutarch 3) that Piso had his own grievances. Both

1) ibid., p. 83;
2) See p. 82.
3) Plut., Cíc., 20; Sall. Cat., 49: Piso's grudge against Caesar was connected with a decision given against him in a case involving the execution of a Transpadane, whom he knew Caesar championed.
tried to persuade Cicero to implicate Caesar in the conspiracy as a means of paying off old scores. Cicero refused, as he was bound to do, not because he had aimed an indirect attack at Caesar through Crassus, but rather on the grounds of common sense. Both Crassus and Caesar had helped to outlaw Catiline so that, if either was thought to be involved in the plot, he would have to make a public statement of the help both had given - as actually did happen some time later. The result would have been exactly the opposite of what Piso and Catulus had expected. Although there is no direct evidence, it seems probable that these two men were behind Tarquinius's attack on Crassus for the same reason as they were eager to involve Caesar. Personal hostility coupled with the belief that the "popular" leaders were trying to destroy senatorial privilege made them seize an apparently golden opportunity to get rid of troublesome opponents. Cicero showed a firmer grasp of the situation and realised that, much as he would have liked to strike a blow at Crassus and Caesar, the recoil would be on his own head. Later, when he wished to vilify them, he accused them of complicity with Catiline, and perhaps he really believed that they had been behind the scenes. But in December 63 B.C. he was not in a position to implicate men who had supplied the government with information against the plot, nor did he deem it politic to do so.

1) Flut. Cic. 20 gives part of the reason why Cicero refused to have Caesar attacked.
2) Flut. Crass. 13:
Appendix IX. Were Crassus and Caesar Involved in the Conspiracy of 63 B.C.?

The connection of Crassus and Caesar with Catiline has already been discussed. 1) Caesar's greatest admirer, Mommsen, thinks, however, that they participated not only in the plot of 66 B.C. but also in the later conspiracy. 2) "That this party (i.e. the democratic)," he says, "and in particular Crassus and Caesar had a hand in the game on the present occasion as well as in the plot of 66 B.C., may be regarded not in a juristic, but in an historical point of view as an ascertained fact." Mommsen disregards the accusations of Catulus and Piso as coming from acknowledged opponents of Caesar, but he gives a list of facts "of more weight". Firstly, it was definitely established that Crassus and Caesar had supported Catiline's candidature in 64 B.C. That this support had nothing to do with a revolutionary conspiracy I have tried to show elsewhere. 3) Secondly, Caesar had Catiline acquitted in his court de sicariis in 64 B.C.. But this again does not prove a connection with the coniuratio Catilinaria. 4) Mommsen admits that in his evidence of December 3rd 63 B.C. Cicero did not try to implicate Crassus and Caesar but asserts that in later years, when there was no necessity to disguise the truth, he expressly named Caesar— and, he might have added, Crassus. This fact together with the story of Tarquininus, the placing of Statilius and Gabinius in the care of Caesar and Crassus and the demonstration against Caesar after the meeting of December 5th finally convinced Mommsen. In his view the "two least dangerous" conspirators were given to Caesar and Crassus so that, if they allowed them to escape, they would compromise themselves in the eyes of the people, and, if they detained them, they would compromise themselves in the eyes of

1) See Appendix V.
2) Mommsen (History of Rome IV pp.170-3 Every Trans.):
3) See pp. 81 ff.
4) See pp. 87-8.
their fellow-conspirators. If any further evidence is needed, it is supplied by Caesar's later connection with P. Sittius, the only surviving Catilinarian.

But Cicero had needed the help of Crassus and Caesar to arouse the senate against Catiline. He was well aware of their past connection with Catiline. But he could not be sure that this connection was not over and done with; and he refused to satisfy Piso and Catulus by implicating Caesar on faked evidence. His later attitude is interesting, but it does not prove that it was their innocence but only political expediency that kept him from attacking Caesar and Crassus. In February 61 B.C. he tells how pleased he was when Crassus praised his action against the Catilinarians. There is no trace of sarcasm, so we must assume that a year after Catiline's death he had no reason to believe that Crassus had been deeply involved. Plutarch says explicitly that in his work 'de consulatu' Cicero not only kept silent about the suspicion against Crassus and Caesar but admitted that Crassus at least had given him information. Suetonius says that in 62 B.C. Cicero had made the same admission publicly about Caesar. Plutarch, however, adds that after the deaths of both Cicero accused them of backing Catiline. But after March 44 B.C. he strongly supported Caesar's murderers, and it would suit him to collect as many as possible of the old scandals. If the Philippics are a criterion, Cicero would accuse Caesar of much worse than complicity with Catiline. So far as Crassus was concerned, the dislike was mutual: in spite of his regard for Publius Crassus, Cicero detested his father. His references to Crassus in private are always tinged with dislike, and he shed no tears for the disaster at Carrhae. Publicly he was compelled

1) See pp. 100ff.; 103 n. 2.
2) Cic. Att. 1 -14
3) Plut. Caes. 7-8; Crass. 13:
4) Suet. Jul. 17:
5) Plut. Crass. 13:
to be circumspect, but everyone knew that there was no love lost between them.¹)

There is no reason to believe Mommsen's assertion that two of the conspirators were handed over to Crassus and Caesar in order to compromise them in one way or the other. Even if suspicion was justified, there was no question of either allowing his charge to escape: such an act would have been madness. Again, what did it matter whether they compromised themselves in the eyes of their fellow-conspirators? The plot was finished, and the best thing that could happen in the interests of Crassus and Caesar was that the leading conspirators should be put to death.²)

Finally, the fact that Caesar used Sittius later means nothing: the chances are that the latter had no connection with the coup of 66 B.C. in any case.³)

Mommsen's conclusions are even rashier than his interpretation of the authorities. "Anyone," he writes, "who impartially considers the course of the conspiracy will not be able to resist the suspicion that during all this time Catiline was bashed by more powerful men, who ....... knew how to hinder any serious interference with the conspiracy on the part of the authorities,

¹) Schwartz (op. cit. pp. 599-600) has decided that the speech mentioned by Plutarch (Crass. 13) must be the 'de consilii', but that the Greek writer had not read it himself. It is to be observed that the enmity between Crassus and Cicero dates directly from Cicero's writing about the conspiracy. (This, incidentally, assumes that Cicero's reference in the 'de consulatu' was not meant to exclude Crassus definitely from participation.) Cicero was jubilant in 61 B.C. because Crassus praised his consulship (see above), but then he drew closer to Pompey and consequently tension existed between him and Crassus. Shortly before the elections of 60 B.C., when the Greek Memoirs were just finished he declared his intention of sticking to Pompey and winning over Caesar; of Crassus there is no mention, therefore it is understandable that in the 'de consulatu' he spared Caesar but not Crassus, who was at this time hostile to Caesar. (On what authority does Schwartz say this?) When the triumvirate was imminent at the end of 60 B.C. the Greek Memoirs were already finished. Schwartz thinks the story in Plut. Caesar 8 true; though Sallust does not support it Suetonius does and also Cicero himself. The reason why he did not mention it in the 'de consulatu' was not respect for Caesar but diplomatic reserve. His 'diplomatic reserve' corresponds ill with pro Sext. 28, where the coniurati meant were as easy to guess then as now.

²) See p. 114.

³) See p. 285 n. 2.
to procure the departure of the chief of the insurgents, and even so to manage the declaration of war and the sending of troops against the insurrection, that it was almost equivalent to the sending of an auxiliary army." This is speculation gone mad. Nowhere do we find any hint that Crassus and Caesar crippled the movements of the government to help Catiline. The danger to the state did not exist until after Catiline's second defeat at the polls, and Cicero repeatedly regrets that the senate did not take the matter seriously enough. Furthermore, how does Mommsen account for the fact that "the departure of the chief of the insurgents had been effected", yet Crassus certainly and Caesar probably had already instigated the move which doomed Catiline's enterprise even before he reached his army? The 'declaration of war' and the 'sending of troops' were so managed that Cicero was perfectly confident thereafter that it would be easy to deal with Catiline.

These machinations were aimed in Mommsen's eyes at counter-balancing Pompey's power. But Mommsen is led into a false parallel between the conditions of Cinna's time and those of 63 B.C. Crassus and Caesar, he declares, wanted to raise a military force with the help of Catiline in order to meet the returning Pompey, just as Cinna had met Sulla. Cinna, however, had five years in which to prepare; that he failed to do so was, as Rice Holmes points out,¹ his own fault. A similar situation was just possible in 65-4 B.C., but a year later it was out of the question. Up till 64 B.C. when Crassus and Caesar had thought of using Catiline, there was no suggestion that he was to be primarily a military agent: it was his election to the consulship they desired, and when this failed they lost interest in him. What could Crassus

¹ Rice Holmes (op.cit. pp.470-3);
² cf. Von Stern (op.cit. pp.134 ff.):
in particular have gained from a programme which included a
cancellation of debts, murder and arson.\(^1\) It is more typical
of both that they tried in various ways to control the machinery
of government to further their ends against Pompey. It is iron-
ic that when at last they had the opportunity to do this, it was
in alliance with and not against Pompey. In 66 B.C. Crassus and
Caesar had begun their attempts to dominate the government. For
six years this goal remained fixed; but ultimately they found
it necessary to change their tactics in order to reach it.\(^2\)

\(^1\) cf. Von Stern (op.cit. pp.134 ff.);

\(^2\) Tyrrell (Correspondence of Cicero I\(^2\) pp.18 ff.) thinks that Caes-
ar was involved and adds to Nommens\'s reasons the following:-
a) the unequivocal evidence of Suetonius. Undoubtedly he uses
evidence hostile to Caesar, but who can deny that the testimony
of Tamusius Geminus, Auctorius Naso and Cicero's letter to Axius
is unimpeachable (Suet. Jul. 8). If he relied on the same author-
ities for his account of 63 B.C., surely his evidence is altogether
worse of credence; b) why should Caesar avoid novae tabulae,
since he was up to the ears in debt? - cf. his words on the day of
his election as Pontifex Maximus: c) the argument that Caesar would
not have stooped to be the subordinate of Catiline is not really
valid, since his importance at this time has been much exaggerated.
Hardy also (op.cit. p.37) strongly favours the view that Crassus
and Caesar backed Catiline. He admits there is no direct evidence,
but denies that they would leave the elections "in this critical
government to further their ends against Pompey. It is iron-
gen" to chance, " .... they must have realised that it might be
necessary to go to all lengths or that a man like Catiline, if
unsuccessful or desperate, might decide to go to all lengths his
own way". Hence the Rabirius affair, since disturbances were
possible. But unless we assume that Crassus and Caesar, who had
been doing all they could to get what they wanted by legal means,
practically reconciled themselves to a repetition of the dis-
turbances of 106 B.C., it is almost impossible to interpret
Hardy's statement at all. A little later (p.40) he complicates
his position by stating - " .... nothing is more likely from what
we know of the man (see Catiline) than that his promises went
far beyond what Crassus or Caesar would have sanctioned. .....
Catiline was a dangerous instrument to use, difficult to control
and not unlikely to produce serious complications for his employ-
ers, which might even eventually induce them to throw him over".
Just what does Hardy mean? A little later (p.41) he says ".....
we may be surprised at the comparative smoothness with which
the lex Tullia (i.e. de ambitu) went through, and perhaps even be
inclined to wonder whether at the last moment the popular leaders
had any thought of dissociating themselves from their compromising
agent. There were, however, sharp passages of arms in the
debate". (cf. ibid. p.49). Hardy cannot be said to have offered
any proof of why Catiline should be dropped just before the election,
even if we assume that the position was as he has stated it.
In any case support for Catiline must have meant money, and it is
difficult to believe that anything which happened during the
election campaign made Crassus and Caesar decide to cut their
losses. For other discussions see - Rice Holmes (op.cit. pp.470-
3); Strachan-Davidson (Cicero pp.118-20); Meyer (op.cit. pp.25 ff.):
Ferrero (op.cit. I p.243.):
Appendix X. Did Pompey send Metellus Nepos to Rome to Negotiate with Crassus and Caesar?

Hardy makes the following statement: "It is difficult to believe that it (i.e. the idea of coalition) was a scheme only thought out in January 62 B.C.: it was far more likely the basis of an understanding arrived at six months earlier, when Metellus had first come from the east as Pompey's emissary. The latter's work was then approaching completion, and, in view of the strong senatorial position, threatening equally to Pompey and to the two leaders at home, it may well have seemed conducive to the interests of all for Pompey to come home next year with his position legitimised by a popular summons. What use should be made of the army might be left for events to decide. The programme was not at this time carried out, and we do not know how order would have been restored, but that there would have been an end to the tumult of Cicero, or more correctly of the senate, we may be sure."

Rice Holmes discusses this theory. He admits with Hardy that - a) Metellus was not expecting a rapprochement between Pompey and the senate: b) he had no idea of acting alone against both optimates and populares. He does not, however, agree that Caesar's bill concerned with the Capitoline Temple showed his 'completely changed relationship with Pompey'. It was only meant to show that Caesar, who had supported the Gabinian (?) and Manilian laws and had failed in secret attempts to undermine Pompey's influence, wanted to stand well with him. There is no reason to believe that Pompey had suggested the transference of the temple work. Hardy is wrong in saying that there was no suggestion of recalling Pompey to deal with the Catilinarians. When he made his suggestion that Nepos was intended to make preliminary overtures for a triumvirate,

1) Hardy (op.cit. pp.108-9):  
2) Rice Holmes (op.cit. pp.466-7):  
Hardy forgot, says Rice Holmes, that in 62 B.C. Crassus left Rome with his family1) and that Pompey and Crassus were still at enmity in 60 B.C. Furthermore, Pompey believed that he was the idol of the people and had the support of the equites. Long before he returned to Italy the machinations of Metellus and Caesar had broken down, and there is no reason to believe that Caesar acted with or for him till 60 B.C. So Pompey did not disband his army because he had anything to expect from Caesar.

My own suggestion is that Nepos was sent home to find out how the land lay and that Pompey had no thought at the end of 63 B.C. of attempting a coup d'état. Nepos realised Cicero's strength and attacked him, hoping to win another command for Pompey. This attack was used to advantage by Caesar, who had already expressed disapproval of Cicero's action on December 5th. He was eager enough to use Metellus against the senate but probably not wholly sorry when the attempts broke down. In 62 B.C. Caesar was playing Pompey and the senate off against each other, and in this he was aided by Crassus. The results are seen in 61-60 B.C.2)
Appendix XI. The Date of the Formation of the First Triumvirate.

Rice Holmes believes that Caesar contemplated an alliance with Pompey before he returned to Rome from Spain, that he made it before the elections and that he later reconciled Pompey and Crassus. He asserts that all our authorities, even Suetonius, who seems to date the alliance after the elections but who takes no trouble to give events in their strict chronological sequence, support this order. I agree with him that Pompey and Crassus had not been formally reconciled in December 60 B.C.; Cicero would certainly have known if this were so. But I am not inclined to rate the other evidence as high as he does. For what it is worth, there was no rumour of overtures from Caesar to Pompey early in June 60 B.C. Velleius is not of much account, but neither from the other side is Livy in questions of minute chronology. Plutarch is emphatic that Pompey supported Caesar's candidature; but his chronology in the matter of Clodius has been shown to be uncertain, and it would be natural for him to suppose that Caesar owed his consulship to Pompey's support. Rice Holmes did not notice that Plutarch's account of the elections accords ill with a letter from Cicero to Atticus - unless we assume that Cicero was a simpleton. Appian and Dio I would disregard for the same reason as Plutarch, namely that they would naturally assume that Caesar owed his election to Pompey and Crassus. While along with Rice Holmes I disagree with J.D. Duff's remark that Suetonius adhered strictly to chronological order,

1) Rice Holmes (op. cit. pp. 474-6); Our authorities are - Dio 37-34 ff.; App. B.C. II -9; Suet. Jul. 18-19; Livy Epit. 103; Plut. Crass. 14; Pomp. 47; Caes. 13-14; Cic. Att. II-1; 3; Vell. II -44:
2) Cic. Att. II -1;
3) Vell. II -44;
4) Livy Epit. 103;
5) Plut. Pomp. 47; Caes. 13-14;
6) Plut. Pomp. 47;
7) Plut. Caes. 14;
8) Cic. Att. II -3;
9) J.D. Duff (J.P. XXXIII 1914 pp. 166-7);
I nevertheless believe that here he has recorded the events in their most natural sequence. If Appian, Dio and Plutarch were correct, we should be unable to answer certain questions which Rice Holmes omits from his argument. In the first place, why did Caesar need Pompey's help before the elections? He was certain to win the consulship: he had the support of Crassus, who would not at this stage have agreed to an alliance with Pompey and much less to being associated with him in the canvass. The loss of his triumph would not drive Caesar to so extreme a step, and the disposition of the provinces would be decided too late to give him time to negotiate with Pompey and to win over Crassus. Caesar did not arrive back in Rome until the very last moment for handing in his name. Again, why was he still connected with Lucceius in June 60 B.C.? If the Pompey-Caesar alliance was made before the elections, why did it not use its resources to have the sleeping partner elected, in order to facilitate its schemes?

In view of these difficulties I cannot agree with Rice Holmes. What made Caesar seek Pompey's support was first the clear intention of his opponents in saddling him with Bibulus as a colleague, and second the necessity for altering the senate's allocation of the provinces. His consulship was secure without Pompey's help: but after he was elected and saw what was likely to happen, an alliance with Pompey was necessary. Deknatel says that Pompey was allied with Caesar before the elections and promised him a five-year command. Ten years later Pompey said that Caesar owed him everything. Crassus, thinks

1) Cic. Att. II -1:
2) I notice that C.A.H. IX pp. 513-4 adopts a similar sequence, but without giving arguments. Mommsen (History of Rome IV p.186 Every Trans.) supports the view that the alliance was made before the elections.
3) Deknatel (op.cit. pp.58 ff.); Ferrero (op.cit. I p.263) thinks that the triumvirate was organised after the elections. He follows Suetonius and argues that Caesar had not the time necessary for negotiations with Pompey and Crassus before the elections. Sage A.J.P. XXXIX 1918 pp.567 ff.) disputes this interpretation of Suetonius and takes the igitur sentence as parenthetical.
4) Plut. Pomp. 57:
Deknatel, did not know what Caesar had promised Pompey and that, if he had known, he would not have helped him. But the facts make this very unlikely. Deknatel supposes, in all probability correctly, that Caesar negotiated with Crassus and Pompey separately. But on what does he base his assumption that the two were reconciled only when Caesar saw he could not fulfil his promises unless each approved; that Crassus was very hostile to Caesar when he learned of the proposed agrarian law and the ratification of Pompey's acta; and that Caesar devoted his whole energy to reconciling Crassus?
Appendix XII. Clodius and the Triumvirs

Many¹ have thought that after Cicero had gone into exile Clodius turned against Crassus and Caesar and even declared that Caesar's legislation was invalid because it had been carried contra auspicia. Cicero² says that Clodius maintained this attitude for some months. In view of what happened later this is improbable, unless we assume that Clodius threw discretion to the winds, as Cicero says that he did.³

Pocock⁴ was the first to work out a new and more convincing interpretation of Clodius's behaviour. He bases his theory on the assumption that Caesar — and he might have added Crassus — did not trust Pompey from the beginning. Cicero⁵ makes it fairly clear that on June 1st 58 B.C. Minnius proposed Cicero's recall on the ground that Clodius's adoption and therefore all his acts were illegal. Clodius's countermove — which was perhaps suggested to him by Crassus — was to produce Bibulus at a public meeting and bid him declare that he had watched the skies while Caesar and Vatinius were carrying their legislation. At another meeting Appius Claudius drew from Bibulus the statement that, since Clodius had been adopted into a plebeian family contra auspicia, his tribunate was illegal. Thereupon Clodius declared that all Caesar's acts ought to be rescinded, since they had been carried contra auspicia, and that if this were done he would carry Cicero back to Rome on his own shoulders.⁶ He wanted to emphasise that to press for Clodius's recall on the ground that the adoption had been illegal would hurt not only Caesar but Pompey himself: he knew very well that he would not

¹) See Heitland (op.cit. III pp.173-4); Ferrero (op.cit. II p.30); Meyer (op.cit. pp.103 ff.), C.A.H. IX p.528 inclines to this view. Deknatel (op.cit. p.78) thinks Clodius became too confident.
²) Cic. de dom. 40; cf. 66: de herus. resp. 48;
³) Cic. de dom. 40;
⁴) Pocock in C.Q. XVIII 1924 pp.59-65;
⁵) Cic. de dom. 69; cf. Plut. Cat. Min. 40; Dio 39-41; Greenidge (op.cit. p.361 n.5); Heitland (op.cit. III pp.173-4);
⁶) Cic. de dom. 40;
have to keep his word. Pompey took the hint and the proposal was dropped.

Pocock\(^1\) says that Clodius's objects were to attack Pompey at his most vulnerable point: to bring up the old matters of contention between him and the optimates; to check thereby his rapprochement with the senate and drive him back to the alliance with Caesar; to block the recall of Cicero; to secure the support of a section of the irreconcilables who were foolish enough to take the bait; to protect his own position; and to camouflage his connection with Caesar. If Clodius had really been attacking Caesar, we should, he thinks, have expected some mention of the lex Vatinia de Caesaris imperio as well as some protest from Caesar and the prompt suppression of Clodius by the combined triumvirate. But apart from Cicero's remarks there is no sign that relations between Clodius and Caesar were at all strained; on the contrary Dio\(^2\) says that they were hand in glove at this time. Again Clodius and Vatinius combined in the attacks on Milo and Sestius, and Vatinius continued to boast of his excellent relations with Caesar.\(^3\)

Marsh\(^4\) thinks that Cicero would not have dared to publish statements which his hearers knew to be flagrantly untrue: therefore we must admit that the attack on the Julian legislation was made. Pocock's theory, says Marsh, comes near to the truth while just missing it. Its weak point is that we cannot assume that Caesar was the real head of the popular party and Clodius his lieutenant. Marsh doubts whether Crassus would spend large sums of money to gain control of the clubs without a quid pro quo; and he suggests that it was Crassus who largely controlled the populares and that Clodius was his henchman. It is unlikely that Crassus would be content without some share of the triumviral spoils: therefore

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1) Pocock in C.Q. XIX 1925 p.183:
2) Dio 33-33:
3) Cic. in Vat. 13: 16; 38; pro Sext. 132: 135:
4) Marsh in C.Q. XXI 1927 pp.30-6:
Caesar turned his part of the popular machine over to Crassus and relied on him to keep an eye on Pompey.

At the elections for 57 B.C. the position of Crassus and Clodius was weakened, and it became more precarious when Milo used armed bands to check the Clodians. Finally they were forced to recognise that Cicero's recall was inevitable. It was under these circumstances that Clodius questioned the validity of Caesar's acts. Marsh says that the triumvirs were not all equally interested in maintaining the Julian laws. Caesar had not benefited at all, since the laws affecting him were brought forward by others. To annul his legislation did not necessarily cancel the lex Vatinia. Strictly it could be declared illegal on the same grounds, but the senate did not need to be completely logical. Pompey had gained most from Caesar's laws. The equites had probably made the most of their bargain by this time, and Crassus would lose little or nothing. To call into question the Julian laws was therefore an excellent device for driving a wedge between Pompey and the senate. It was not certain that Crassus and Caesar would lose much, and in any case they could afford to take chances. If they could harass Pompey and eventually isolate him, he would be driven back to the triumvirate from which he was trying to secede. Therefore they worked steadily to achieve this. Nevertheless Cicero's recall was a partial triumph for Pompey and the senate. The conservatives, however, perhaps with the help of Crassus and Clodius, who had carefully refrained from attacking the nobles in general, carried the day in the elections for 56 B.C. and, elated by their success, seized the bait which Clodius had thrown to them. Pompey's Egyptian ambitions were thwarted, and possibly Crassus played a large part in having Messius's bill rejected. 1) The conservatives unwittingly helped Crassus and

1) See p.178.
Caesar to drive Pompey into a corner. When he had been reduced to desperation his partners invited him to Luca.

Except in his interpretation of Clodius's attack on Caesar's laws Marsh is substantially in agreement with Pocock. His doubts about whether Crassus was connected with the popular party are cleared up if we remember that Crassus and Caesar worked together closely until 56 B.C. His point that Pompey alone was vitally affected by the Julian legislation is open to question, since apart from other objections there are grounds for believing that the law confirming the eastern acta was a lex Vatini a and not a lex Julia. ¹)

I believe with Pocock that Clodius called the Julian laws into question not because Caesar was unaffected by them but because he knew that Pompey must support their validity. Caesar himself had no intention of risking the repeal of his leges agrariae. Furthermore, if his laws were illegal, so also were the leges Vatini a, and although Marsh stresses the conciliatory attitude of the senate in late 57 B.C. and early 56 B.C. I am unwilling to believe that Caesar expected that the law which had given him Gaul would be excluded if an attempt was made to annul the Julian-Vatini a legislation. Clodius played the part which Crassus and Caesar had allotted to him. When they had won the game they abandoned him in order to satisfy Pompey. ²)

²) See p. 194.
Many scholars have assumed that Cicero's motion in the senate on April 5th 56 B.C. aimed at having Caesar's Campanian law cancelled, like the acts of Saturninus and Drusus, on the score of illegality.\(^1\) Others more cautious have stated only that this law was to be considered.\(^2\) Others think that Cicero wanted to have the lex Campana not cancelled but suspended.\(^3\)

Cary\(^4\) has given the objections to these views. Cicero could not have been concerned primarily with the question of legal forms, since the original lex agraria offered a much better target for criticism. The lex Campana had been in operation for three years,\(^5\) and it is natural to assume that Pompey's veterans had benefited long before.\(^6\) Thus the way would have lain open to wholesale evictions; and while a Sulla might have done this, it was against Cicero's whole policy. Again, such a motion would have seriously offended Pompey. Cary asks whether Cicero aimed his motion equally at Caesar and Pompey.\(^7\) If he did, there are further difficulties. So open an attack on Pompey is quite out of keeping with Cicero's usual attitude towards him; and early in 56 B.C. Clodius's attacks had drawn Pompey and Cicero close together.\(^8\) Cicero was certainly aiming at breaking up the triumvirate; but an attack directed against Caesar and Pompey equally would have had exactly the opposite effect. The only chance of overthrowing the triumvirate lay in causing friction among its members. Pompey had complained about the actions of Crassus, and he had equal reason to complain against Caesar.

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1. Mommsen (History of Rome IV p.287 Every. Trans.); Meyer (op.cit. p.136); Tyrrell and Purser (Correspondence of Cicero II p.42); Watson (Select Letters of Cicero p.140);
2. Ihne (Rom. Gesch. V p.367; Warde Fowler (Julius Caesar p.181);
3. Strachan-Davidson (Cicero pp. 260-2); Heitland (op.cit. pp.181-2);
5. See Cic. post red. ad sen. 29; pro Sest. 19; pro Mil. 39; Caes. B.G. I -14; Ferrero (op.cit. II p.42) denies this but gives no evidence.
6. cf. Cic. Phil. II -101;
Caesar in turn never trusted Pompey, who had from the start sought a way out of the alliance and later continually toyed with the idea of leaving Caesar in the lurch. As the meeting at Ravenna shows he deliberately ran the risk of losing touch with his partners. Cicero's aim was to make overtures to Pompey, and Cary thinks we cannot say definitely that he did not do so. He assumes that Rupilius Lupus wanted action to be taken against Caesar and that he was pursuing the same policy as Cicero. Rupilius was consistently on the side of Pompey, and no doubt the latter inspired his attack of December 57 B.C. Therefore, concludes Cary, Cicero distinguished between Pompey and Caesar. He admits, however, that at first sight this theory does not accord with Pompey's complaint to Quintus Cicero that his brother had been ungrateful. But, he argues, if this complaint had been made before Luca, it would have proved that Pompey was being attacked; since it came afterwards, it carries no conviction. Cicero was very surprised to hear of it. But Caesar "had coached his colleagues in the parts they were to play".

Cary then asks what were the terms of Cicero's motion and on what grounds he made it. His answer is that, since the treasury was in low water, there was an excellent reason for economising on land allotments; and it is simplest to suppose that Cicero merely advocated the suspension of the lex Campana until the state finances had recovered. This would not endanger the position of existing allotment holders; and as presumably Pompey's veterans had first claim, it would not injure him. Caesar could object

1) cf. Meyer (op. cit. pp. 192 ff.);
2) cf. Cic. Q.F. II 61;
3) Rupilius in P.W. (No. 27);
4) Cic. Fam. I 9 8 - or he said he was. Cicero is not altogether honest in this letter of justification.
5) Cic. de harba. resp. 31: de prov. cons. 11: pro Balb. 61: Q.F. II 65;
6) Strachan-Davidson and Heitland cit.
because it robbed both the deserving poor. In 51 B.C. Pompey himself renewed the agitation for justice this second reason.

Cary admits nevertheless that Caesar would not have been ruined; and therefore Cicero must have had an ulterior motive. Probably he counted on Pompey being so far compromised by his action in December 57 B.C. that he could not openly oppose it. Thus Cicero could hope to expose in broad daylight the growing estrangement between Caesar and Pompey and so deal the triumvirate "a blow from which it might not recover". He erred in believing that the optimates would refrain from pin-pricking Pompey. It is possible that Lupus's motion was introduced to see which way the wind was blowing and was withdrawn when the senate gave it no hearty support. Cicero blundered more seriously when he did not realise that Pompey might play false twice over, that having originated the attack on Caesar he might return to Caesar's camp. Hence we can understand why Cicero called himself a "complete ass".

Pocock makes some further points about Cicero's attitude to Caesar. When he was claiming the restoration of his property Cicero attacked Clodius's tribunate as null and void on the ground that his transference had been illegal. But he denied that he was refusing to acknowledge Caesar's legislation on the same grounds and argued that Caesar personally was not affected. In his speech for Sestius he came very near to an open attack on Caesar's consulship. It is true that he excused Caesar his

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2) Cic. de prov. cons. 34.  
3) Cic. Fam. VIII -10:  
4) Cic. Fam. I -9: 10 ff.: Att. IV -5:  
5) asinus germanus - Cic. Att. IV -5.  
6) Pocock in C.Q. XIX 1924 p.64.  
8) Cic. pro Sest. 114: 134:
irregularity because of his subsequent exploits\(^1\) and glossed over his connection with Vatinius.\(^2\) But in the same speech he hinted very broadly that the latter had been bribed by Caesar.\(^3\) Pocock's impression is that, if Cicero had been particularly concerned to steer clear of Caesar, he would not have taken the line he did against Vatinius. His conclusion is that "Cicero made a damaging attack on Caesar in his interrogation of Vatinius".

For although he protested\(^4\) that he was not attacking Caesar, two years later in a letter to Lentulus\(^5\) he declared that he was in reality doing this. Moreover, some of the charges which in his speech he imputed to Vatinius he elsewhere attributed to Caesar.\(^6\)

In 54 B.C. Cicero indicated in a letter\(^7\) that the speech against Vatinius was an attack on Pompey also. But, as Pocock points out, he can hardly have meant this seriously, since in the same letter he admitted that he took Pompey's lack of irritation at his motion as a good sign.

Rice Holmes\(^8\) rejects the view that Pompey was not affected by the reconsideration of the Campanian law. For in December 57 B.C. Marcellinus refused to discuss the question because Pompey was not present at the meeting; and again seven years later Pompeian veterans were settled in Campania.\(^9\) Rice Holmes's opinion is that Pompey "though he could hardly have intended to break with Caesar, was looking for a power which would make him independent but which the senate, unable to discern that he might be made the mainstay of the tottering Republic, were determined he should not have".

\(^1\) Cic. in Vat. 16:
\(^2\) ib. 22:
\(^3\) ib. 38:
\(^4\) ib. 13: 15:
\(^5\) Cic. Fam. I -9 -7:
\(^6\) E.g. the Vettius business - Cic. Att. II -24: in Vat. 24-6:
\(^7\) Cic. Fam. I -9 -6 -7:
\(^8\) Rice Holmes (op. cit. II pp.72 ff.).
\(^9\) Caes. B.C. I -14:
The only reason he can suggest for Cicero's action is that he hoped
at the eleventh hour that Pompey would support the "cause"; or he
may have had reasons of which we are ignorant.

In a later work Cary says that it is fairly certain that the
terms of Cicero's motion were framed so as to safeguard Pompey's
interests. Cicero was trying indirectly to drive a wedge between
Caesar and Pompey: the direct assault upon the former was delivered
by Domitius Ahenobarbus. Both moves were based on the expectation
that in his present mood Pompey would connive at an attack upon
his colleague. Pocock has little doubt that in the "In Vatinium"
Cicero believed that he had the sympathy of Pompey, since the latter
listened without protest. With this "tacit encouragement" he
proceeded "to translate words into deeds and develop his attack
upon the Campanian law." But the moment Pompey showed hostility
Cicero's policy collapsed. Pocock asks how Cicero could venture to
attack Caesar through Vatinius without offending Pompey. His reply
is that Cicero believed there was a breach in the triumvirate which
might easily be widened; and Pompey encouraged him in that belief
for purposes of his own.

All these theories contain elements of truth. Cicero wanted
to attack Caesar indirectly: he believed that, if the Campanian
question was raised without opposition from Pompey, it would be
easy to safeguard his interests: he expected that Pompey would
acquiesce in his motion. But I do not believe that he ever counted
on active support from Pompey or that he received definite assur-
ances from him. What Cicero did expect was that the optimates

2) See p.191.
3) Pocock - Comm. to Cicero's In Vatinium pp.8-9.
4) Cic. Fam. 1-9-9; Q.F. II-5.
would support his attack upon the triumvirate and not be influenced by their attitude towards Pompey personally. Afterwards he was much more bitter against them than he was against Pompey, who he knew would actively support the loyalists only if he was certain that his own position was safeguarded. But he was led astray in his deductions by the policy which Crassus had pursued with the very purpose of setting the optimates and Pompey even more at loggerheads. It was this realisation that he had been thus led astray which made Cicero admit that he had been a "complete ass".  

1) See pp. 189-92.
Appendix XIV. The Lex Liciinia Pompeia of 55 B.C. 1)

It is not the purpose of this note to enter into a full discussion of the question of the date when Caesar's Gallic command expired. Since Mommsen decided on March 1st 49 B.C. and Hirschfeld disputed his conclusions there have been many and varying accounts of the lex Liciinia Pompeia. But as the date when Caesar was to leave Gaul has a bearing on the talks at Luca and is connected with the quinquennial commands given to Pompey and Crassus, I shall state why I have adopted March 1st 50 B.C. 2)

After reading the ancient evidence and the interpretations of it given by modern scholars I decided that Adcock's opening words in his article on the lex Liciinia Pompeia 3) ought to be a preface to any discussion. "It may be affirmed with some confidence," he says, "that on this topic no generally accepted solution will be found in default of new evidence, for which we can only faintly hope. Against certainty on the matter it would seem that the Everlasting has fixed his canon: quis iustius induit arma seire nefas. Dogmatism is out of place: we must be content with whatever is least difficult to reconcile with the texts and with a reasonable interpretation of the course of events at the time and the comments on them of contemporary observers."

A summary of the most important references may be given as follows:-

Cicero:- Att. IV -13; VII -3; 7; VIII -3; Fam. VIII -8; 9; 11; 14: de prov. cons. 37; Phil. II -10:
Caesar:- B.C. I -2; 9:
Hirtius:- B.G. VIII -39; 53:
Livy:- Epit. 105; 107; 108:

1) Plut. Pomp. 52 says Caesar's command was prolonged by a Trebonian law, but all the other evidence is against this. Long (op. cit. IV p.178), however, follows Plutarch.
2) See pp.201-2.
3) Adcock in C.Q. XXVI 1932 p.14:
Laqueur would be 5th Appian II Velleius. Judeich^2\(^{1}\) has disputed the theory that the question of a successor to Caesar should not be discussed before March 1st 50 B.C. 

More recently Laqueur^3\(^{1}\) seems to have followed Hirschfeld in assuming that the lex Licia Pompeia contained no fixed terminus ad quem: but he decided that the de facto end of Caesar's command would be on December 29th 50 B.C., since he meant to stand for the consulship in that year. Holzapfel^4\(^{1}\) immediately attacked Hirschfeld and ranged himself alongside Mommsen. But a few years later Judeich^5\(^{1}\) renewed the attack on the latter's dating and decided that the last day of December 50 B.C. was the last day of Caesar's command, though his arguments are very different from

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1) Mommsen(Gesam. Schriften IV pp.92-145). He was supported by Hardy (J.P. XXIV 1918 pp.161-221). Rice Holmes (op.cit. II pp.293-310); T.Frank (C.R. XXIV 1919 pp.68 ff.); Cary (C.R. XXIII 1919 pp.109 ff.).

2) Hirschfeld in Klio IV pp. 76-87.

3) Laqueur in Neue Jahrb. f. Klass. Alt. XLV pp.241-55; XLVII pp.433-50. He referred the Kalends of March in the lex Vatini to March 1st 55 B.C. instead of to the usually accepted 54 B.C. Gelzer (Hermes LXIII 1928 pp.113-37) thinks this is disproved by Cicero's de prov. cons. There (39) the position of the consul Philipus is discussed and the following considerations emerge - If one could not in June 56 B.C. (14:15; cf. Q.F. II -6; p.197:) declare Cisalpine Gaul a consular province, it would happen that 'post eos consulat qui erant designati (i.e. the consuls for 55 B.C.) - i.e. in the year 54 B.C. - the province would be carried over against the senate through a resolution of the people to one person; and therefore the strength of the senate's decision would be weakened. So it is certain that the lex Vatini fixed March 1st 54 B.C. as the date for a possible new arrangement about Cisalpine Gaul: and from 37 it is seen that this might not happen before that date. Cicero points out that it was no loss not to have a province which one could not hold during the whole of 55 B.C. Also after 55 B.C. the consul in question could not leave the city "paludatus", since he was not able to take over the province before March 1st 54 B.C.

4) Holzapfel in Klio V pp.107-16.

those of Laqueur. Adcock makes the tentative suggestion that the date in question was the Ides of November 50 B.C.

All the most important literary evidence can be interpreted to suit any of these dates according to the way in which it is read. As Adcock remarks, unless new evidence appears, the problem cannot be solved with certainty. Therefore, while regretting the absence of the relevant books of Livy or the History of Asinius Pollio, I can only state why March 1st 50 B.C. seems to me the most likely date.2)

In the first place, the complicated arguments of Hardy and the rest of Mommsen's supporters cannot conceal the fact that the whole of Cicero's correspondence during 51 and 50 B.C. points to a date in the latter year and not in March 49 B.C. There are certain difficulties of textual interpretation which these scholars cannot explain satisfactorily; and both Appian and Dio make remarks which indicate that they knew Caesar's command was due to end sometime in 50 B.C. While both authors are often unreliable, it is evident that Dio especially did not believe that Caesar was to have five more years added to his first quinquennium.3) The date suggested by the senate and Pompey at some point in the negotiations - the Ides of November4) - is proof that Caesar's command ended before March 1st 49 B.C. If the Ides of November 50 B.C. is meant, Pompey could not claim to be fair to Caesar; if the Ides of November 49 B.C., as Hardy and Rice Holmes thought, there are serious objections. Caesar would thus gain everything for which he asked and he would return as consul elect. But, in spite of Hardy, it is difficult to believe that he would have been prosecuted before he entered

1) Adcock cit. Following Zumpt (in Studia Romana).
2) Stone (in C.Q. XXXII 1928 pp.193-201) suggests March 1st 50 B.C., but I have not followed his reasoning.
4) Cic. Fam. VIII -11:
office. Further objections to March 1st 49 B.C. are noted by Adcock. If Caesar had held the Gauls until this date under the lex Licinia Pompeia, would he have omitted the fact that he had been deprived of three months of his command, when he was stating his case in the Bellum Civile? Again, how could a senate which had been quibbling about legal points for more than a year declare quite illegally that Caesar's provinces must be given up "ante certam diem" (which is not a substitute phrase for March 1st 49 B.C.) and threaten outlawry if he refused, when there was no certainty that Caesar would actually break the lex Licinia Pompeia? If, therefore, as seems probable, the legal termination of Caesar's command was meant to be some time in 50 B.C., the most natural date is March 1st. It is now generally admitted that by the lex Vatinia Caesar held Cisalpine Gaul from March 1st 59 B.C. until February 28th 54 B.C. Therefore a similar terminus for the Licinian-Pompeian and Trebonian laws is probable. At Luca three quinquennial commands were arranged; and since Caesar held the Transpadane province by a decree of the senate which had to be renewed annually, it is a reasonable assumption that when the Spains and Syria were allocated to Pompey and Crassus from 55 B.C., Caesar's provinces were put on the same footing. He

1) See p. 329.
2) Caes. B.C. I -7: 9;
4) Cic. de prov. cons. 37: see p. 324 n. 3
6) Gelzer (Hermes LXIII 1928 pp. 113-37) thinks the date in the lex Vatinia was reckoned as ante Kalendas Martias quintas and quotes Brun's Pontes' 12 in support of this. He thinks that Cicero de prov. cons. 39 shows why the lex Licinia Pompeia prolonged Caesar's command in exactly the same way. Pompey on Sept. 29th 51 B.C. declared (Cic. Fam. VIII -8) se ante K. Martias non posse sine insinia de provinciis Caesaris statuere, post K. Martias se non dubitaturum. In 55 B.C. Kalendae Martiae quintae were named; and the same date was provided for Pompey and Crassus in the lex Trebonia (cf. Cic. Att. IV -9). This solves for Gelzer all the difficulties of the quinquennium and decern anni. His point is that one cannot reckon in years and months in this case.
would sacrifice a year of his command in Cisalpine Gaul and Illyricum; but this was not a serious loss, since he stipulated that he should remain in Gaul until his election as consul for 48 B.C. So long as the lex Sempronia was in operation, his only requirements to achieve this were permission to be a candidate in absence and a clause inserted in the lex Licinia Pompeia to prevent discussion about the allocation of the Gauls before the date when his imperium was due to end.¹) I disagree with Adcock who thinks that such a clause would be a "legislative irrationality" and also that Caesar would not at the very moment when the strength of the coalition had been proclaimed show that he did not trust Pompey to prevent such senatorial discussion.²) Caesar was only protecting himself from the danger which had arisen in 56 B.C., when the senate actually had discussed a proposal to send his successor on March 1st 54 B.C. Again he was not admitting distrust of Pompey by insisting on the insertion of this clause, since he thought it probable that not only Pompey, whom he certainly had every reason to mistrust, but also Crassus, his chief ally, would be in Rome. There was no certainty that the latter would wish to spend the whole of his proconsulate in the east; and it is for this reason that I disagree with Stone's view that there was a similar clause in the lex Trebonia. I do not believe that the sentence of Hirtius³) is the stumbling block to an acceptance of March 1st 50 B.C. which he and other scholars make it. Admittedly Stone's interpretation of reliquam esse unam aestatem as 'one summer left to be finished' is unsatisfactory; but surely it is

¹) Cic. Fam. VIII -8;
²) On the other hand in C.A.H. IX p.617 Adcock remarking upon the fact that Pompey had seven or eight legions in Spain suggests "the duration of the coalition might well seem better secured by equality of strength and tenure than by the mutual trust and regard of three men of diverse temperaments and divergent ambitions".
unwise to stress unduly this phrase of Hirtius, since even if the summer of 50 B.C. is meant, both Caesar and the Gauls of Uxellodenum had every reason to assume that he would be in command for another season.

Adcock finds it difficult to account for the date in November without assuming that the Ides of that month is the day in question. Against this are the facts that Crassus seems to have started for his province paludatus - although it is just possible to infer from Cicero that he set out on the Ides - and secondly that the lex Trebonia was passed long before November. Adcock would like the law to have anticipated the date when Crassus and Pompey should take up their commands; but this is unlikely in view of the lex Vatinia, which both the lex Licia Pompeia and the lex Trebonia would follow in outline. Again, why was the Ides of November chosen and not January 1st if the Trebonian law was to anticipate? Furthermore, if Adcock were right, Pompey could hardly without impudence say that he was being fair to Caesar, if he merely expressed himself willing to concede to Caesar what he could not legally take away from him: nor would the senate have needed to discuss the matter at length, as Caelius said it did.

My own view is that about March 50 B.C. after Caesar's command had expired, the senate and Pompey, knowing that so long as Curio's veto hung over them Caesar would stay in Gaul throughout the year,

1) Cic, Fam VIII -11.
4) Cic, Fam VIII -11.
5) Adcock gives two further points to support his view - a)there was opposition to the consular levy in the summer of 55 B.C., presumably on the ground that the commands had not yet begun; b)Gabinius refused to accept Crassus's legatus for the same reason. To the first we may reply that, according to our authorities (see p. 209) the tribunes opposed the levies because Crassus intended to wage an unprovoked war on the Parthians; to the second that it is more likely that Gabinius refused to accept Crassus's legatus because he was in no hurry to leave the province. His Egyptian escapade was not long past, and he wanted to allow feeling in Rome to die down by remaining away for as long as possible. His action apparently led to no serious quarrel with Crassus (see p. 211).
suggested that he should remain till the Ides of November and thus have another summer to complete his work. His supporters possibly argued that he had relied upon having the summer of 50 B.C. to settle affairs in Gaul. Therefore the senate offered to concede him thus and remove one of his grievances. As this was not the crux of the matter, it was a specious proposal and apparently soon fell into the background. But at least the senate could say that its rejection proved conclusively that Caesar's excuses for staying in Gaul were only pretenses to disguise the fact that he intended to remain as long as he wanted. As Cælius remarks, 1) Pompey was out to prevent Caesar from becoming consul elect while he retained his army. If there was any reason for the date in November, perhaps it was to allow the Gauls to come naturally into the list of provinces for which governors were to be discussed at the beginning of 49 B.C. 2) Stone's contention that at one point it was suggested that Caesar should be consul in 49 B.C. is possibly true, but his theory that the senate offered to postpone the elections till the end of 49 B.C. and leave Caesar in Gaul till November 15th on the understanding that he should come to Rome as privatus to canvass in person has little to commend it. Why should this arrangement not be made for the normal election time? The difficulties of assuming that Caesar could be prosecuted when he was consul elect have already been noted. 3) In any case the proposal fell through. 4)

It was the death of Crassus which caused the complications of 51-50 B.C. At Luca Caesar had felt it necessary to make clear to

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1) Cic. Fam. VIII -11;
2) T. Frank (C.R. XXXII 1919 pp.68-9) says that Pompey's offer probably contained a clause which was to restore in February 49 B.C. the forty-five days the calendar had lost by two previous failures to insert intercalary months. If these were restored there would be exactly 365 days in 49 B.C. before the Ides of November. Cæry (C.R. XXXII 1919 p.103) supports this by quoting Cic. Fam. VII -6 (March 50 B.C.). The question of calendar reform was in the air at the time. What attitude Pompey adopted to this we do not know, but once Curio had dropped his motion Pompey had a double interest in reviving it - a) to make a specious offer to Caesar; b) to baffle Curio.
3) See p.200 n.4.
4) Cic. Fam. VIII -8:
Pompey that the triumvirate was not intended to benefit himself more than his colleagues and to allay Pompey's suspicions by proposing that all the quinquennial commands should be put on an equal basis. So long as the existing arrangements held good a second consulship was secured for him, if there was a clause in the lex Licinia Pompeia forbidding the discussion of a successor when the provinces for 49 B.C. were before the senate, and if he were able obtain permission to stand in absence. Doubtless when their pro-consulates ended the triumvirs could arrange their future plans on the basis of Caesar's second consulship. Crassus disappeared from the scene in 53 B.C., but Caesar tried to carry out his part of the scheme. In 52 B.C. by the Law of the Ten Tribunes he was given permission to stand for the consulship in absence. For his part Pompey kept to his bargain by assisting the passage of the law. But the lex de iure magistratum completely altered the position. Pompey had become princeps civitatis, as he had long wanted to be, and perhaps he decided that this position was preferable to an alliance with Caesar which he had always considered rather unsavoury. But it became increasingly obvious that he was intent on reducing Caesar to depend on his patronage instead of himself having to rely on Caesar's aid. As was Pompey's way, he vacillated and tried to persuade himself that he was acting strictly honourably in insisting that Caesar should observe the constitution. Caesar for his part was indignant that the constitution, which had been worked in Pompey's favour, should not be worked again to give him what he wanted. He insisted that the Law of the Ten Tribunes gave him the right to retain at least part of his province. In the later months of the year it became clear that if the senate insisted on appointing a successor it would have to disregard the tribunician veto. Various attempts were made by each side to put the other in the wrong; but finally the extremists in the senate had their way, and the tribune's veto was ignored. Thereupon the Caesarian tribunes fled to their master who decided to uphold the constitution by force of arms.
Appendix XV. Was a Motion for Crassus's Recall Put Before the Senate Early in 54 B.C.?

It has been suggested that at the beginning of 54 B.C. a motion was set before the senate that Crassus should be recalled. The sole evidence for this assumption is a letter from Cicero in January of that year informing Crassus that he had defended him in the senate against the attacks of the new consuls, Domitius and Appius Claudius, and several consulares.¹ "The defence of your position," writes Cicero, "which I have undertaken in your absence, I shall persist in, not only for the sake of our friendship but also because of my reputation for consistency. Therefore I have thought it sufficient at this time to write to you that, if there was anything which I thought to be in accordance with your wish, your convenience or your dignity, I would do it without being asked; but if I received any hint from you or your friends, I would take care to let you know that neither you yourself had written nor your friends requested me in vain. So I would wish that yourself should write to me on all matters, great, small, or of indifferent importance, just as to a very close friend, and to urge your friends to make use of my labour, advice, position and influence in all matters, public or private, forensic or domestic, whether your own or those of your friends, your guests or your clients, so that, as far as possible, the want of your presence

¹ Tyrrell (Corresp. of Cicero II p.100) thinks Att. IV -13 refers to disputes whether the consular provinces should be confirmed. This is merely a guess, and the passage is very corrupt. It is difficult to believe that there would be any question of confirming the lex Trebonia. Mamitius first suggested that a motion was put forward for Crassus's recall. Watson (Select Letters of Cicero p.144) says Crassus was attacked for his measures against the Parthians, citing Plut.Crass. 16; Dio 40 -12 neither of which are to the point. He seems also to have placed Cicero's effort on Crassus's behalf too late in the year. Regling (Klio VII p.363) supports the theory that the optimates tried to secure Crassus's recall, their reason being that success in Parthia would strengthen the triumvirate enormously. The means they used were - a) moral grounds; b) hardships of the troops; c) the usual prodigies, omens, etc. Deknatel (op.cit.p.108) also gives this view.
may be lessened by my labour."¹) One may conjecture what "our friend Crassus, the good-for-nothing" thought of this effusion. Apologists for Cicero point out that letters such as this were purely formal and meant to be regarded as impersonal. But even if the final draft of the letter is less objectionable than his rough draft, which has by accident been attached to it, it is difficult to excuse Cicero, however anxious he was to keep on good terms with the triumvirs. It is likely that he defended Crassus when the impending Parthian War was once more attacked in the Senate. That there was a motion for Crassus's recall is difficult to believe, since there could be no question of contesting the validity of the lex Trebonia. But the consuls may have put forward a motion forbidding a war against Parthia as against the best interests of the state.

¹) Cic. Fam. V - 8. C. Bardt (Hermes XXXII 1897 pp. 267 ff.) points out that this letter contains both the rough draft and the finished copy.
Writers both ancient and modern have criticised most severely Crassus's campaign on the Belich.¹ It is said that he should have pressed on immediately towards Seleucia before Orodes could make adequate preparations to meet an invasion;² or that he would have been better occupied in supporting the pretender, Mithridates, as Gabinius had planned to do, then in reducing towns in north-east Mesopotamia which were of little use to him. Ancient writers usually fail to understand the scale and the object of the Parthian War, and their criticisms are of little account.³ This was to be no war merely to replace Orodes by his brother.⁴ Crassus intended to conquer the whole country between the Euphrates and the Tigris down to the Persian Gulf and to open for Rome the road to the wealth of the east. So immense a project needed careful preparation; and, as we have seen,⁵ Crassus seems to have formed his plan of campaign before he left Rome.

Why did he confine his operations to the Euphrates-Belich rectangle during the first season? Manfrin⁶ thinks that he was anxious to win allies and to establish a strong base for his future operations on the eastern side of the Euphrates. Ferrero⁷ sees in Crassus's action a desire to attract the Parthian army as near as possible to the Roman base in Syria. In Regling's view⁸

¹ See Plut. Crassus, 17; Dio 40-13. Regling (de fontibus etc. pp. 15; 28) has pointed out the attitude probably adopted by Livy.
² Günther (op. cit. p. 15) takes this view.
³ cf. Plut. Crassus; Dio 40-13;
⁴ Tarn (C. A. H. IX p. 606) makes this point. The rebellion of Mithridates kept Orodes occupied during 54 B.C., and there was no attempt to move against the Romans, a fact upon which Crassus perhaps relied. Regling (op. cit. p. 361 n. 5) on the other hand thinks - wrongly I believe - that the rebellion must have been over in 54 B.C., by the time Crassus was ready, since otherwise he would have taken advantage of it.
⁵ See p. 214.
⁶ Manfrin (La cavalleria dei Parti pp. 70-2) which I have not seen.
⁷ Ferrero (op. cit. II p. 369); Rice Holmes (op. cit. II p. 159) is inclined to agree with this.
⁸ Regling (op. cit. p. 368). He points out that the Romans could not have reached Babylon before the autumn in any case and therefore gives as further reasons: a) the need to make up the fifth of his garrison; b) Orodes was ready in the force which he had left as garrisons (Plut. Crassus 18). The army winter to attack the garrisons (Plut. Crassus 18).
Crassus wanted not only to have a strong base and to win local support but also to acclimatise the Roman army to Mesopotamian conditions. Francis Smith 1) puts forward the weakness of the Roman cavalry in 54 B.C. to explain Crassus's reluctance to advance into the heart of Parthia. All these suggestions contain some truth. Crassus would undoubtedly take care to secure the allegiance of the local chieftains and to establish a strong base in his rear. But he could win the support of states like Osrhoene equally well from Syria itself. Since his object was to break Parthian resistance, his tactics, if viewed only from these standpoints, would be obscure. To succeed Crassus had to defeat the main Parthian army, and it was improbable that the enemy would be so obliging as to fight on ground chosen by the Romans. 2) Thus it was inevitable that he should advance into the heart of Parthia, as in fact he set out to do in the following year.

I believe that the real clue to an understanding of the first campaign lies in the part to be played by Artavasdes. Our authorities make it clear that the support of Armenia was to be an important factor in the attack upon Seleucia. Northern Mesopotamia had been a bone of contention between Parthia and Armenia ever since Tigranes had taken advantage of the temporary weakness of Parthia to seize Sophene, Gordyene, Adiabene and the territory around Nisibis. The dispute had subsequently been settled; but Armenia had lost Adiabene and was no doubt anxious

8) (contd.) Surenas had used against Mithridates was still mobilised. Regling (cit. p.371) thinks that the blaming of Crassus must be attributed to systematic misrepresentation by the optimates, their incitement of the army by prodigies (Was this possible?) and the lack of discipline which extended from the quaestor Cassius to the common soldier.

1) Smith (op.cit. pp.240-2) Crassus intended to take in the Mesopotamian garrisons the next year.
2) Smith (op. cit. p.241):
3) Regling (op. cit. pp.370 ff,) thinks it was in the Armenian interest to help Rome against Parthia, since a Parthian alliance held out no prospect for her. If she soon concluded one it was under compulsion, and later she is again found helping Antonius (whom, incidentally, she betrayed).
Crassus intended that in 53 B.C. the Armenian force should travel down the Belich, collect the garrisons left there and join him at Nicephorion. To put such a scheme into operation he had to win over beforehand the towns on the Belich, and this he undertook to do in 54 B.C.. No doubt he had entered into communication with Artavasdes in the spring of 54 B.C. and had been promised Armenian help. Plutarch tells us that at the beginning of 53 B.C. the king himself arrived in Syria with a bodyguard of six thousand horsemen. He promised "ten thousand more and thirty thousand foot-soldiers" but advised Crassus to invade Parthia by way of Armenia. When Crassus refused Artavasdes returned with his bodyguard to his own country. The story is, as it stands, incredible: the numbers are much too large for a country like Armenia. Alexander had founded his empire with far fewer cavalry than, according to Plutarch, Artavasdes promised Crassus. Later, however, Plutarch virtually contradicts himself when he tells how messengers came to inform Crassus that Orodes had invaded Armenia. The truth seems to be that after the campaign of 54 B.C. Artavasdes became less enthusiastic about the part allotted to him and tried to persuade Crassus to join him in a march along the Tigris. Crassus, however, saw that if he did this his campaign in north-east Mesopotamia would be wasted and furthermore that it would be hazardous to march through Armenia.

1) Justinus 42.2.4; see pp. 212-3.
2) Plut. Crass. 19. In Dio Artavasdes plays no part (see Regling - de fontibus etc. p.4). Deknatec (op. cit. p. 111) says quite wrongly that Artavasdes left his 6000 cavalry and 300 foot with Crassus. He gives as one of Crassus's reasons for refusing the Armenian suggestion that he knew that Orodes had planned to invade Armenia. Regling (op. cit. p. 371) seems to accept the 6000 cavalry. He remarks that Artavasdes could not leave his kingdom unprotected. For the relations between Crassus and Artavasdes see - Kromayer (Hermes XXXI p. 97). Artavasdes came to Antony - again with 6000 cavalry (Plut. Ant. 37: Strabo XI-530: Kromayer cit. p. 33; D.G. I p. 331 n. 7). In both places his collected force was 16,000 (Plut. Ant. 50: Crass. 19: Strabo cit.). Has this fact any significance?
3) i.e. to substitute Ecbatana for Seleucia as his objective (C.A.H. IX p. 607). That Crassus continued to count on Armenian support even after the difference of opinion with Artavasdes is clear from Plutarch. Orodes certainly expected Artavasdes to help Rome.
without supporting forces on the Euphrates. Consequently, in 53 B.C. he counted heavily on Armenian support, and he was bitterly disappointed at the news from Armenia. Not only did Artavasdes's defection make his previous campaign useless and expose his garrisons on the Euphrates to enemy attack but he lost a large body of cavalry of which he was in sore need. He had very few horsemen and was relying almost entirely on what Artavasdes brought. Sixteen years later Artavasdes kept his promise to join Antony but betrayed him, as no doubt he would have betrayed Crassus, if Orodes had not settled the question by invading Armenia himself.

The news from Armenia arrived after Crassus had started down the Euphrates. Plutarch's account indicates that he changed his plans after he had begun his march. Probably he made up his mind to march across country only when he realised that otherwise his garrisons would remain isolated. That his sole aim was to push

1) C.A.H. IX p. 607: Regling (op. cit. p. 372) gives the advantages of a march through Armenia: a) friendly country; b) useful mountains; c) food supplies secured. The disadvantages mentioned above decided Crassus, he thinks. Antony too was troubled about leaving Syria and the Belich exposed by marching through Armenia: (cf. Kromayer-Hermes XXXI p. 101 n. 3). Günther (op. cit. pp. 15-7) also remarks on the advantages of a march through Armenia. According to him Crassus's plan was by the campaign of 54 B.C. to confine the enemy to their frontier territory, to attack them not far from their boundaries and then after a march to Babylonia to triumph as emperor.

2) Plut. Crass. 28; Dio 40-16;

3) This was written before I had seen Smith (op. cit. pp. 244ff.). I find that he has emphasised the importance of Artavasdes in the plan of campaign. He points out how little the Romans knew of Orodes's plan of campaign. The Roman tradition which blamed Ariamnes is of little importance, says Smith, since the latter gave Crassus no information or advice of which he would not be aware himself. Again, he thinks that too much emphasis is placed on the Parthian desire for flat country. If there is any truth in Dio, the uneven surface of the battlefield does not seem to have worried them. Furthermore, Crassus had heard that his garrisons on the Belich were being threatened by Surenas, and he wanted to protect them. He had hoped that Artavasdes would travel down the Belich, collect the garrisons and join him at Mithridatis. Günther (op. cit. p. 26), however, thinks that the presentation of the facts which influenced Crassus given in our authorities is consistent to the end, and he keeps to it.
ahead as quickly as possible without any regard for the terrain or for the welfare of his soldiers, as our authorities assert, cannot be the whole truth. The story that he was betrayed by his native allies must be treated with caution. Ariamnes and Alachaudonius abandoned Crassus on the battlefield; therefore historians who wrote from the Roman standpoint automatically assumed that they were traitors. If Artavasdes was operating on the Belich, the Roman outposts were in no danger, and the main army could follow the Euphrates with equanimity. With his forces so disposed Crassus was confident that he had provided against a main Parthian attack on the Euphrates-Belich rectangle. Crodes appreciated the Roman strategy and defeated it by immobilising Artavasdes. With the loss of his ally Crassus was forced to change his plans and to cover his outposts. At the same time, when he learned that there was a Parthian force east of the Euphrates, he decided that if he could engage and defeat it, he might draw the main Parthian army away from Armenia. Therefore, although he was inadequately protected by cavalry, he turned east to pursue Surenas.

B. Where did Crassus meet the Parthian Envoys?

Florus places the meeting at Nicephorium. 1) Dio 2) dates it in the first campaign, but Plutarch 3) puts it in the next spring at the moment when Crassus was preparing to cross the Euphrates. Plutarch and Florus cannot be reconciled unless we assume that the commonly accepted march to Carrhae never took place. 4) Dio says that the envoys were sent ἐς τὴν Εὐφράτην, which may, however, well mean 'in the direction of Syria'. 5) Tarn 6) follows Plutarch, but

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1) Florus I- 46- 4;
2) Dio 40- 16;
3) Plut. Crass. 18;
4) Holzapfel (Ber. Phil. Woch. 1901:351-2) actually adopts this solution;
5) Regling (op. cit. p.366 n.10);
6) Tarn in C.A.H. IX p.607;
Rice Holmes\(^1\) places the meeting at Nicephorium. This seems to me to be the most likely solution. Orodes received news of Crassus's activities from his defeated satrap, Sillaces, and he would have time to send his envoys before the Romans returned to Syria. Probably the rebellion of Mithridates had been put down in the meantime.\(^2\)

The Formation of the Roman Army before Carrhae.

At first the Romans seem to have marched in columns of single centuries with the cavalry in front. Then Crassus changed his formation to a long line with a cavalry detachment on each wing and another in front to reconnoitre. Behind came the baggage, which was protected by the rearguard.\(^3\) Realising that he would be heavily outnumbered in cavalry Crassus drew his fifty-six cohorts together into a deep square with twelve cohorts on each side, and to each cohort he allotted a detachment of cavalry. What happened to the remaining eight cohorts is not certain. Smith\(^4\) gives an interesting account of these manoeuvres. The change over to a long line, he says, can only have been accomplished after several hours.\(^5\) Therefore it is a question whether Crassus after completing this manoeuvre would have had time to change his formation yet again before he reached the Belich. Plutarch not only speaks of two wings, whereas strictly speaking a square has none, but he mentions only three commanders and not four or one for each side of the square as we should expect. Stranger still, thinks Smith, is Plutarch's assumption that after the rest on the Belich this square advanced quickly against the

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1) Rice Holmes (op.cit. II pp.160; 312).
3) Plut.Crass. 25:
4) Smith (op.cit. pp.349ff.)
5) For the space taken up by a legion and the time taken to execute such manoeuvres see- Rüstow (Heerweisen und Kriegführung C.Julius Caesar) quoted by Ferrero (op.cit. II p.90)
enemy. The subsequent activities of Publius Crassus would have upset the whole arrangement. Furthermore a square cannot be attacked in the rear, as Plutarch said it was. For these reasons Smith has decided that Publius's eight cohorts were not meant to form part of the square; and since he commanded the right wing in the battle, it is impossible that the square was formed before the Belich was reached.

Smith then goes on to give his own account of the Roman movements. When on the morning of the battle Crassus learned that the enemy was near, he made a long line, to each end of which he attached thirteen hundred cavalry under the command of his son and Cassius. The rest of the cavalry marched in front. Behind came the baggage and a rearguard. It is possible that this manoeuvre was not completed when Crassus changed his mind and decided to form a square. The troops marching in front of the baggage, the two wings and the rearguard were to form the sides. Meanwhile the army was approaching the Belich, where it had to turn right. Perhaps it was this circumstance which caused Crassus to change his mind a second time. The wing in the south stood firm and provided protection against the enemy; all the other troops advanced to the river, to change front somewhat later and to form up alongside Crassus. Before this manoeuvre was completed, Crassus instructed the right wing to advance as quickly as possible, and by this movement gave the enemy the chance to surround it.

Smith is, I think, reading into Plutarch's words more than is intended. His account, although vague, does not rule out the possibility that Crassus formed his square before he reached the Belich. Against Smith's own version stands the fact that Plutarch refers Publius's charge to a much later period in the battle. Again, Smith is far from clear about the part played by the eight cohorts. Does he mean that they were or were not to form part of the square?
If they were excluded what purpose were they originally meant to serve? 1)

The movements of Publius Crassus are the crux of the problem. I believe that the eight cohorts became a separate wing under his leadership. This was placed on the right of the forward side of the square, which was commanded by Marcus. When the army turned south, Publius transferred his division to the right of the new front in order to protect his father and his staff, who apparently moved from one end of their line to the other. Cassius took the left wing. When the army turned this became the rear, so Cassius rode forward in a line parallel with the Belich to the front of the new left. Such a formation left the right wing open to attack from the rear. When this became probable, Publius was able to lead his men to the attack without breaking the square.

D. What Course did the Battle of Carrhae take after the Loss of Publius Crassus?

Neither Plutarch nor Dio was interested in tactical manoeuvres, and the course of the action after the loss of Publius is far from clear. 1) Smith 2) remarks that the Romans do not seem to have tried to take advantage of the natural obstacles of the ground. How was the pilum used? How did the remaining two thousand seven hundred

1) C.A.H. (IX p. 603) follows Smith but adds that there is no certainty. Rice Holmes (op. cit. II p. 162) also thinks the square was not completed. Elsewhere (p. 314) he thinks Smith plausible and remarks that he is to some extent supported by Dio (40-21; 22). Nevertheless, he raises the objections given above, but does not offer an alternative solution. Other suggestions are hardly worthy of consideration; D.G. IV p. 115 n. 4 (whom Regling - op. cit. p. 381 follows) thinks Plutarch's square was a parallelogram with 25 cohorts in front, 25 behind and 10 on each flank. Plutarch got 12 because he counted in the corner cohorts. As Rice Holmes says, this is a 'gratuitous distortion of Plutarch's statement. Ferrero (op. cit. p. 114 n. 22) is also attracted by corner cohorts, but he counts only 40 cohorts in the square-12 for the front and back and 10 for each side (the 4 end cohorts are reckoned doubled). Gunther (op. cit. p. 28 n. 1) inclines towards this view but counts 70 cohorts; therefore he cannot account for 22. He suggests that they may have been in the middle of the square or that they followed with the baggage. But these scholars still do not answer the question-What happened to Publius?

2) Plut. Crass. 27: Dio 40-21ff.;

3) Smith (op. cit. p. 256):
cavalry and three thousand five hundred light-armed came into the action? Manfrin¹) says that the Parthian arrows could not pierce the Roman shield defence, and Delbrück²) asserts that mounted bowmen would make little impression on a closed infantry. In close battle the legions were bound to win. Yet their subsequent demoralisation can only be explained on the assumption that they suffered severe losses. How were these inflicted? Manfrin's explanation is based on a very free reading of Dio.³) The Romans fought with spirit: but if they made a wall of shields to protect them against arrows, the cataphracts scattered them; if the first column raised itself to drive off the cavalry, the Parthian bowmen seized their chance. When the cataphracts charged the legions, they were followed closely by the bowmen, who shot at the closely-packed Romans over the heads of their comrades. When the legionaries tried to meet this indirect fire by building a testudo, the cataphracts scattered them. Smith⁴) scouts the suggestion that the Parthian bowmen shot over the heads of the cataphracts. He suggests that on the contrary the bowmen had more to gain from flank attacks; if they shot both horizontally and in a high curve, the legions, particularly the wings, would not have known how to protect themselves. Apparently the Romans were surrounded; and we know that single parts broke out of the square, only to be scattered by the cataphracts.⁵) Although the rest of the Roman cavalry were not strong enough to scatter the Parthians, at least they made it possible for the cohorts to hold fast. At nightfall the Parthians drew off. Regling⁶) thinks that after the departure of his son Crassus had time to extend his line westwards towards the raised ground.⁷) Reinforced

¹) Manfrin (op.cit. pp.75ff.);
²) Delbrück (Geschichte der Kriegskunst I ² p.465);
³) Dio 40-22;
⁴) Smith (op.cit. p.257);
⁵) Plut.Crass. 27:
⁶) Regling (op.cit. pp.335-6);
by the troops which had disposed of Publius the Parthians attacked so heavily that the Roman cavalry and light-armed were pressed close together and had no chance to make contact with the enemy. Single units advanced, but these fell easy victims to the cataphracts. Nevertheless, the bulk of the army retained its order till night-fell.

All that can be safely inferred from our authorities is that the Romans held their square throughout the day. Probably their defensive plan was to make short sorties against bands of the enemy which approached to close range. But their lack of cavalry made it impossible to come to grips with the main body of the Parthians, and their sorties proved very costly.

E. The Direction of Crassus's Retreat from Carrhae.

Polyaenus\(^1\) says that Crassus tried to travel \(\delta\alpha\nu\tau\nu\varepsilon\varepsilon\iota\omega\iota\gamma\varepsilon\varphi\)\(\varepsilon\)\(\alpha\). REGLING\(^2\) suggests that these hills were either Nimrud Dar to the north-west, Kopru Dar to the north, or Tektek Dar to the north-east of Carrhae. He dismisses Tektek Dar because this road to Armenia lay along level ground. He prefers Nimrud Dar for two reasons: the way lay through marsh-land, which is mentioned by PLUTARCH;\(^3\) and Crassus could make his way through the mountains, cross the Tigris at Amida and from there reach Armenia. Günther\(^4\) states that he found no marshes when he travelled over this country, and he doubts very much whether Crassus did. But he admits that it would be very difficult country to cross in the dark. SMITH\(^5\) thinks that Crassus would have headed not for Armenia but for Syria, as he was obliged to return to his main base. Since the hostility of Ariamnnes made a march through Samosata dangerous, he moved north to the mountains in an attempt to reach Cilicia or Syria through

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\(^1\) Polyaeus VII. 41;  
\(^2\) Hegling (op.cit., p.388 n.4);  
\(^3\) Plut.Crass. 30;  
\(^4\) Günther (op.cit., p.35 n.1);  
\(^5\) Smith (op.cit., p.260);
Commagene. Plutarch's account, however, is so vague that we can only speculate on the identity of the hills he mentions. The arguments which suggest the Nimrud Dar can be applied equally well to the Köprü Dar, and I have adopted these hills for no other reason than that they can be reached rather more easily from Carrhae.

F. The Chronology of the Battle of Carrhae.

Does Ovid's reference in the Fasti 1) apply to the day of the battle or to the day on which Crassus died? Drumann 2) and Mommsen 3) think the latter; but, as Groebe 4) points out, Plutarch and Dio make it absolutely certain that Ovid meant the former. Therefore, the battle of Carrhae was fought on June 9th- by the Julian calendar May 6th- 53 B.C.

The most important question to be answered is when Crassus was killed. At first the course of events is clear:-

1st Day: Battle. 5)

2nd Day: Parthians settle with the wounded and those left behind. Surenas sends an envoy to Carrhae. 6)

3rd Day: Surenas appears before Carrhae. The Romans decide to flee as quickly as possible (e u δ θε's ), 7) but to keep the plan a secret from the inhabitants. Crassus engages Andromachus as guide. 8)

But how long after this did the Romans stay in Carrhae? Plutarch 9) leaves the date of their departure undecided. It can be inferred that they moved the day Surenas appeared before the walls- i.e. May 8th (or June 11th); but Plutarch's silence is not conclusive.

1) Ovid Fasti VI- 465ff.- Crassus ad Euphraten aquiles natumque suosque Perditit, et letō est ultimus ipse datus. The feast of Vesta, of which he is speaking, was held on June 9th.

2) Drumann IV p.107:

3) Mommsen (History of Rome IV p.316 Every. Trans.):

4) Groebe (Hermes XLII 1907: pp.315-22):

5) Plut. Crass. 23-7; Dio 40-21-5:

6) Plut. Crass. 28; Dio 40-25:

7) Dio 40-25; cf. Plut. Crass. 29:

8) Plut. and Dio cit.: 8)

9) Plut. Crass. 29:
Dio\(^1\) says that the full moon prevented Crassus from marching and that he waited for moonless nights. Regling\(^2\) points out that Crassus could not possibly stay in Carrhae for fourteen days till there was no moon. Gutschmid\(^3\) suggests that Dio tried to reconcile two accounts, one that it was full moon and the other that it was a dark night.

Groebe\(^4\), who discusses the question from an astronomical point of view, makes several interesting suggestions. He adds to Regling's argument against accepting Dio the fact that Plutarch did not know of two attempts. It is a further point that, if the Romans had insisted on darkness before they retreated, they would never have reached Carrhae in the first place. On the night of the battle there was a moon, and the Parthians knew all about the retreat.\(^5\) The story of Cassius's desertion proves that Dio's story is false. Groebe discovered that the moon travelled out of the Plough into the Scorpion on May 10th 53 B.C. (or June 13th) at 11 a.m. at Carrhae and out of the Scorpion into Sagittarius on May 12th (or June 15th) about 6 p.m.\(^6\). The full moon falls on May 11th (or June 14th) shortly before 9 p.m., or almost exactly in the middle of the period in which it is in the Scorpion. The remark made to Cassius was made on the night on which Crassus fled towards Sinnaca.\(^7\) Since the moon passed out of the Scorpion on May 12th, the remark must have been made at the latest on the night of the 11th-12th May. So Crassus was killed at the latest on May 12th—and here, incidentally, is further proof, if any were needed, that Ovid's lines refer to the day of the battle.

Groebe makes the following deductions from the astronomical

\(^1\) Dio 40- 25;
\(^2\) Regling (op. cit. pp. 388ff.);
\(^3\) von Gutschmid (op. cit. p. 90n.1);
\(^4\) Groebe cit. His astronomical data were obtained from one Prof. F.K. Ginzel. I have followed his article closely.
\(^5\) Plut. Crass. 28;
\(^7\) Plut. Crass. 29:
evidence: that the flight took place at the earliest on the third
night after May 6th—i.e. on the night of the 8th-9th May (or the
11th-12th June), two days before the full moon and a day and a
half before the moon entered the Scorpion: that the day of Crassus's
death was at the earliest May 9th (or June 12th), at the latest
May 12th (or June 15th). He gives the following list of dates:

6th May—Battle.
7th May—Night Flight to Carrhae.
8th May—Rest in Carrhae.
9th May—Second day in Carrhae.
11th—12th May—Earliest terminus for flight.
12th May—Earliest terminus for Crassus's death.
11th May—Earliest terminus for Crassus's death.
10th May—(Scorpion).
11th May—(Scorpion; Full moon).
12th May—(Scorpion) Latest terminus for flight.
(Scorpion) Latest terminus for Crassus's death.

Rice Holmes is not satisfied with Groebe's arguments, but
he does not give his reasons. He seems to assume, quite wrongly,
that Groebe definitely places Crassus's death on May 9th. Yet
elsewhere he says himself that Crassus left Carrhae two days
after he entered it, that is on the night which he criticises
Groebe for choosing. Tarn and Günther follow Groebe and give
the evenings of May 8th, 9th, 10th, and 11th as those on which
the Romans may have left Carrhae. The date of Crassus's death
cannot be fixed more definitely than this.

1) Groebe makes further points— a) We do not know how accurately
the ancients could calculate the full moon: it appears full
earlier than it really is. If their calculation was accurate,
Crassus fled on the night of May 11th-12th; b) When Dio (40-23)
speaks of the battle as having been fought μέτωπος τοῦ Ἐκροευς,
he is making the old calendar agree with the Julian. For
further examples see— 41-44: 42-58:
2) Rice Holmes (op.cit. II p.315):
3) cit. II p.163:
4) Tarn in C.A.H. IX p.611 n.1:
5) Günther (op.cit. p.28 n.3):
What Happened to the Roman Prisoners Taken at Carrhae?

Professor Homer H. Dubs of Duke University, Durham, North Carolina, has made an interesting conjecture about the fate of the Romans captured at Carrhae.\footnote{A Note from 'An Ancient Military Contact Between Romans and Chinese' (to be published in A.J.P.). Professor Dubs kindly allowed me to read his MS before publication.} While translating the Ch'ien han-shu (Annals of the Former Han) he came across an item about Sogdiana, which he decided must refer to these prisoners.

In 36 B.C., the Chinese Protector General of the Western Frontier Regions made an expedition into Sogdiana to attack the Hun Shan-yü Chih-chih, who had built his capital on the Talass river (c.71°E.; 48°N.). After a march of about a thousand miles the expedition was completely successful, and Chih-chih's capital was stormed. The account of this campaign in the Chinese History of the Former Han Dynasty was taken from some paintings sent by the Chinese general, Ch'en T'ang to the emperor. Probably these paintings showed scenes from the attack on Chih-chih's city; and they were clearly used by the historian. In his account is the extraordinary remark that there were 'more than a hundred foot-soldiers lined up on either side of the gate in fish-scale formation'.

Dubs thinks that such a formation would involve the locking of shields, and that it plainly indicates the presence of highly disciplined professional soldiers. The only professional soldiers of the period, of whom regular formations are recorded, are the Greeks and Romans; for nomads and barbarians rushed into battle in a confused mass. Since the Greeks used round or oval shields, they could not lock these to protect themselves against arrows; only the rectangular Roman scutum would be effective. The best-known Roman formation in which shields were locked was the testudo. Crassus's men did not form a testudo at Carrhae, but they placed
their shields together in a line. Dubs thinks that such a line of Roman scuta extending in front of the foot-soldiers would look like a 'fish-scale formation' to someone who had never seen it before: "it would indeed", he adds, "be difficult to describe it otherwise".

The ten thousand prisoners taken at Carrhae were moved to Margiana, about fifteen hundred miles from Carrhae,¹ and they would not be treated kindly on such a march. It was about five hundred miles from the Parthian border of Margiana on the Oxus to Chih-chih's capital. Those who survived probably welcomed an opportunity to serve as Chih-chih's mercenaries. Since the silk route ran from his capital to Antioch in Margiana, they would hear that soldiers were wanted on the Talass. Therefore, says Dubs, the 'more than a hundred soldiers lined up in fish-scale formation' were almost certainly some of Crassus's legionaries. Dubs thinks that the double wooden palisade which the Chinese found outside the walls of the city confirms the presence of Romans. The Greeks did not construct such palisades, but the Romans used them regularly to strengthen their ditches. Therefore Chih-chih seems to have had the assistance of Roman engineers in building his fortifications.

Dubs does not believe that the 'fish-scale' effect could have been produced by natives trained in Roman fashion, and in this he is supported by Tarn.² But it is unlikely that further evidence will come to light either to prove or to disprove his suggestion. If he is correct, perhaps these Romans were the one hundred and forty-five enemy, who the Chinese historian says were captured and divided among fifteen kings of states in the Western Frontier Regions.

¹ Pliny N.H. VI 18(16) - 47;
² Tarn in correspondence with Dubs about this reference.
Who are meant by the "populares" during this period? That the term was used to denote some kind of "people's party" which embraced all those who opposed the senate is clearly false. The "populus" as such wholeheartedly supported the laws which gave Pompey control against the Pirates and against Mithridates. Yet Crassus and Caesar, both of whom are credited with "popular" views at this time, are seen plotting against Pompey only a few months later, while the "populus" as a whole was praising his victories. Again, Catiline is often termed a "popularis", though his supporters came from the discontented of all classes from bankrupt "optimates" to penniless veterans. In fact, the term "populares" was used very freely to signify those politicians who could rely upon a following to oppose the senate's control of the administration.

The Gracchi had set the example; but their aims differed widely from those of a Pompey, a Crassus, a Caesar or a Catiline, all of whom were dubbed populares at some time in their careers. The aims of Pompey and Crassus, who were populares from convenience, of Caesar, who was one partly by connection and partly from convenience, and of Catiline, who began as a Sullan and ended as a downright revolutionatory, shows the loose application of the term. Cicero also found it useful when seeking the lower offices to be a "popular" candidate. The restored powers of the tribunate complicated the issue, since the "popular" magistracy was used during this period not only by anti-senatorials but also by the senate itself. Parties as we know them, did not exist at Rome. The optimates had everything to gain by standing together, and this they generally did.

1) Equestrian financiers - a small but influential group within the equestrian order - are frequently found in cooperation with the "popular" opposition to the senate.
2) Cicero calls himself "consul popularis" in 63 B.C.; by which he presumably meant that he commanded the support of all sections of opinion, cf. his "concordia ordinum".
3) See Dio 36-38 -1 & 2.
But the grouping tended to change from time to time and to depend largely on an issue of the moment or on personal inclination. The less extreme group in the senate might, for example, favour a policy of mild reform and with the support of the anti-senatorials oppose the die-hards. But during these years the personal element in politics outweighed everything else, and the leading figures moved backward and forward, finding support first on one side and then on the other. It would be quite false to class Pompey, Crassus Caesar or Catiline as "populares", unless we are to interpret the term in a purely negative sense as embracing all who at a particular moment opposed the prerogatives of the senate. It is in this sense that for the sake of convenience we use the term.
Appendix XVIII. Plutarch's Life of Crassus.

Research into the sources used by Greek and Roman historians rarely advances beyond the stage of conjecture. By far the greatest part of ancient historical literature has been totally lost; a fraction of the remainder has survived only in fragments; and many of the writings which are extant complete or in considerable sections are of late origin. 1) Again, the ancients wrote history in a manner which makes it all but impossible to assess the value of individual writers by comparing them with their sources. 2)

Since a detailed study of the attitude of ancient historians to their subject and to the material at their disposal would lead far beyond Plutarch's 'Life of Crassus', I shall only indicate some of the difficulties which face modern scholars.

The writing of history in the Republic sprang naturally from the development of official records, 3) and by the time of Augustus it contained many branches. Apart from history written in the form of annals 4) there were world-histories 5) biographies. 6)

1) The pre-Sallust annals are wholly lost; Sallust's Histories and two-thirds of Livy are not extant, to say nothing of considerable parts of Tacitus. No Greek writing before Polybius has survived, and only an eighth of his work remains. Fragments of Latin authors are preserved in such writers as Aulus Gellius, Macrobius, Nonius Marcellus, Friscian, Servius and in less degree in Varro, Festus, Pliny. The basis for Greek fragments is Athenaeus together with Photios and Constantine.

2) A close study of the sources of extant authors, because of the connection which ancient historians sought to preserve with their predecessors, does help a little towards the reconstruction of lost writings—e.g. Poseidionius from Diodorus. Whether 'the persistence of modern scholars has achieved good results,' as Rosenberg says (Einleitung und Quellenkunde zur römischen Geschichte pp. 109ff.) is open to question.

3) i.e. the Consular Fasti and the Chronicles of the Pontiffs, which were extended as time passed. See Rosenberg (op.cit. pp. 133ff.).

4) For the development of annals in Sullan times see Rosenberg (op.cit. pp. 133ff.). The younger annalists, from whom Plutarch, Appian, Dio, Livy etc. got their material, are to be treated with the greatest reserve, since they were not greatly moved by considerations of truth. They tended to introduce new details without troubling to verify them—particularly numbers, which are notoriously unreliable in ancient authors.

5) i.e. Poseidionius, Strabo, who wrote one as well as his Geography, Nicolaus of Damascus, Diodorus, Pompeius Trogus.

6) For the biographical tradition see Rosenberg cit. Varro wrote (over)
autobiographies or memoirs⁴, monographs, political pamphlets² and exempla³. Thucydidss collected his material scientifically; but, so far from following his example, his successors were influenced largely by rhetoricians. Thus history became part of artistic literature; and this conception of it persisted throughout antiquity. Since they concentrated on form rather than on accuracy of detail, historians did not trouble to go back to primary sources; instead they took over from their predecessors only that material which interested them and arranged it in their own way⁴. Indiv-

6 contd.) Lives in groups of Greek and Roman: Nepos 16 (1797) books de viris illustribus, which were arranged in pairs, and several single biographies. The biographers had for the Gracchan period the annals, and for the post-Gracchan period they had in addition contemporary monographs, memoirs, funeral orations, political writings etc. The Greeks of the 1st century A.D. used Roman biographies but introduced material from many other sources. The collections de viris illustribus contain extracts from Roman history (see Leo- Die griechisch-römische Biographie p. 309). Velleius used some such collection as well as annals.

1) Memoirs began in the 5th century B.C. with John of Chios. Xenophon wrote them in the 4th. The oldest known Roman work of this kind was by Scipio Africanus. In the last century B.C. Scaurus and Rutilius Rufus both wrote books de vita sua, of which scanty fragments survive. Catullus and Cicero each published a work de consulari. But most important was Sulla's XXI rerum gestarum libri (see Peter- Reliquiae etc., I pp. 196ff.). Beside Cicero's de consularis stands his de consilia suis, in which he attempted to tell the real story of the part played by Crassus and Caesar in the Catilinarian Conspiracy (see Schwartz in Hermes XXII pp. 567ff.).

2) It is impossible to make a clear distinction between political pamphlets proper, open letters written by politicians, commentarii, memoirs, biographies like those of Cato and Brutus, and verses such as Catullus wrote. This literature was very extensive: C. Gracchus justified his brother's legislation in an open letter to Pomponius, and the pseudo-Sallust writings to Caesar take the same form (see Meyer op. cit., p.568). Varro attacked the triumvirate in a pamphlet-The Three-Headed Monster (see Peter op. cit. II pp. 45ff.). Cicero wrote a laudatio of the dead Cato, against whom Metellus Scipio had written a pamphlet in 55 B.C. Caesar wrote an anti-Cato in two books.

3) Exempla were used for school themes. Nepos wrote at least five books and used material from an annalistic source. Extant are those of Valerius Maximus which are divided into chapters of discipline militari, de fortitudo etc. Livy certainly used these. Besides general collections there were special ones-e.g. Frontinus, who used Livy, Caesar, Sallust and an exempla collection.

4) Rosenberg (op. cit., p.106)-"The rule is a polished presentation without a learned apparatus." The ancients did not usually quote documents, since this would detract from the artistry of their presentation.
idual writers were sometimes more conscientious1), but the pre-

vailing tendency was to sacrifice accuracy to form2).

This is particularly true of the biographers, whose subject al-

lowed them much greater latitude in their choice of material. Plut-

arch is often criticised for his attitude towards his authorities.

But neither he nor his forerunners considered it necessary to

guarantee the accuracy of their accounts or to stress those details

which a modern historian would consider most important. Plutarch

aimed at producing a certain impression about his subject. Facts

which did not conform with this he neglected.3) His method of

comparing a famous Greek with a famous Roman and his interest in

moral philosophy naturally influenced his choice of subject matter.

He did not seek to verify his statements and regarded himself not

as a historian but as an artist whose purpose was to breathe into

the material which lay before him a new spirit. He would have been

surprised that anyone should expect him to satisfy himself about

the accuracy of his sources4).

Therefore estimates of the Life of Crassus are based almost wholly

on conjecture. Plutarch wrote almost a century and a half after

Crassus's death; yet it is practically certain that he made little

if any attempt to consult late Republican writers at first hand.

Sallust, Cicero, Livy, and writers like Asinius Pollio, whose works

1) e.g. Varro and Asconius.
2) Rosenberg (op.cit. pp.106ff.)- "It is not so much the inability

of the ancients to write history as the modern conception of it.'
3) Lytton Strachey, who has found many imitators, returned to the

Plutarch tradition in his Life of Queen Victoria. Unlike Plut-

arch, however, he does offer documentary evidence- but only

that which illustrates his thesis.
4) Plutarch did not do any individual research into sources for

his Lives, says Rosenberg (cit.), but used biographies ready at

hand and worked them according to his own ideas. He introduced

an abundance of anecdotes from his own copious reading. It is

a rule that whenever Plutarch quotes particular works, he does

so at second hand; he has not consulted Livy, Sallust or Cicero
directly. For his Roman Lives we must begin with the biograph-

ers of the Augustan age. These were worked over and filled out

by Greek writers, who also drew on Livy, Dionysius of Halicar-

nessus and newer historical works. The results reached Plutarch,

who filled them out again from his own reading.
have not survived, are thus not found at second hand in Plutarch. He seems to have used Greek writers, who had worked over and presented in their own way the writings of late Republicans and Augustans. Consequently, Plutarch's material is two and perhaps three stages removed from the original. 1)

Plutarch was much less interested in Crassus than in his contemporaries, Caesar, Pompey, Cicero and Cato. He uses Crassus to point the moral that greed is a folly; and since he is only concerned to illustrate this, Crassus's place in Republican history is not emphasized. Possibly he had before him a biography of Crassus, and this he rearranged and expanded from his own reading. The whole is thrown together almost with indifference.

It is clear that the account on which Plutarch drew used at either first or second hand a general history as the background for the Lives of Crassus, Caesar and Pompey; so much is certain from an examination of the corresponding parts of each Life. 2)

Plutarch is not so much at home in his Roman as in his Greek Lives. Heeren (de font. et auct. vit. per., Plut. proem.) suggests that since he wrote in Boeotia he would not have a library available. It is assumed from the Demosthenes that he took up Latin late in life and used Greek sources wherever possible. Leo (op.cit. pp.146f.) thinks on the other hand that Plutarch had read Nepos, Varro and certainly Livy, and that he took excerpts from them. But it is another matter whether Plutarch was in a position to quote an author occasionally; or he based any large extract on this author and worked him up personally. Leo goes on to say that there are few biographies of Plutarch about the immediate sources of which one can say anything. The real feature of his work is the forming of history according to his individual style. He had to have his material ready to hand: to work through original sources would have been too laborious for him. For Plutarch's use of connected histories see- Schwartz (Hermes XXII p.592). For the possible original source of the tradition which came down to Appian and Plutarch and its connection with the first Caesar period see- Schwartz (F.W. II pp.216ff) Meyer (Untersuch. zur Gesch. der Graecen p.11); Leo (op.cit.pp. 154ff.)

2) The Augustan biographers could supply plenty of material for the Pompey and Crassus. There is still a body of opinion which holds that Strabo is at the bottom of Plutarch and Appien (cf. Vogel-Quaestiones Plutarchae); a theory which Rosenberg (op.cit. pp. 201ff.) thinks hangs in the air. For Strabo see- Jacoby F.H.C. II 91; cf. Rosenberg (op.cit. pp.203ff.) on Appian's annalistic source: Maurenbrecher (op.cit. pp.19; 32; 42; 63); Meyer (Kleine Schriften pp.398ff.); Meyer (Caesaris Monarchie etc. p.608).
C.A.H. (IX pp.386-7) points out the marked resemblances between the Pompey, Crassus and Caesar in their general historical setting, which point to the use of a source of considerable range, which may be the same as that used by Appian- Fannius to 70 B.C. and then Asinius?
Life of Crassus may be divided into the following eight sections:

I. General remarks on the character and disposition of Crassus (1-3).

II. Crassus in Spain (5-6).

III. Crassus and Sulla (6).

IV. General remarks on the political career of Crassus and his relationship with Pompey and Caesar (7).

V. Spartacus (8-11).

VI. The consulship of 70 B.C. (12).

VII. The censorship and the Catilinarian Conspiracy. The triumvirate and Luca. The elections of 55 B.C. (13-16).

VIII. The Parthian War (16-33).

The three main features of the Life are the rivalry between Crassus and Pompey, the Spartacan rebellion and the Parthian War. The space which is devoted to both wars shows clearly that Plutarch's source had before him a full account of each. Since the rivalry between Crassus and Pompey is frequently stressed, it is tempting to assume that Plutarch's source used the same account for the Life of Crassus as for the Life of Pompey. Many scholars have examined the points of similarity in Plutarch, Appian, the Livian authors, Sallust, Cicero and the extant fragments of the Augustans, but their differences of opinion have been more numerous than their agreements. We may guess that these similarities are to be traced back to the same annalist; but all that can be said with safety is that the tradition on which Plutarch drew is hostile to both Crassus and Pompey and may therefore be attributed to the Caesarian writers of the Augustan age. Plutarch himself emphasises the rivalry between Crassus and Pompey, not because it is politically very important, but in order to illustrate the evils of ambition.

Crassus's life would certainly be treated by Augustan and post-Augustan writers, and it is quite likely that Plutarch's introduc-
tory chapters go back to such a biography). This he could expand from examples. The Parthian War was an excellent illustration of the moral that wealth brings disaster; when it is used to further ambition, and Crassus's wealth would naturally be a popular subject for writers who were more influenced by the drama than by the demands of scientific history. It has been suggested that Fenestella, who is known to have treated late Republican history very copiously and who seems to have combined valuable material with gossip, was the original source of this section of the Crassus. But while Fenestella perhaps supplied certain incidents, books of exempla are the likeliest source.

The account of Crassus's exile in Spain is full of personal details, which Plutarch must have drawn from a biography. Although Fenestella is quoted in a way which suggests that Plutarch must have consulted him, it is possible that not Plutarch but his source found the gossip about Licinia in Fenestella.

The story of Crassus's relationship with Sulla is almost certainly an excerpt from the same source as that used for the Sulla and the Pompey. That this was not Sulla's Memoirs seems clear. Though

1) Peter (Quellen Plutaruchs pp. 108-9) thinks that where Plutarch lacked a coherent account he worked out his own.
2) Rosenberg (cit.) attributes these intimate details to biographical tradition. For the politics of both Pompey and Crassus he thinks Plutarch could not pass over such writers as Sallust, Theophrastes of Mytilene and Pollio. He suggests that a late post-Augustan biography used Fenestella. The latter lived in the principate of Tiberius and wrote annals from the beginnings of Rome to the late Republic (book XXI deals with 87 B.C.). He seems to have treated Sullan-Ciceronian times very copiously. To judge from Asconius he was one of the most important sources for the period. The fragments we possess show considerable critical sense (see Peter- Reliquiae II pp. 70ff.; P.W. VI- 277: Leo op.cit. pp. 146ff. who disagrees): Schwartz (Hermes XXII p. 682) says Plutarch's authority was "no politician or historian of great style; he was an exceedingly well-read pedant, who wove a mosaic from good and bad".
3) Peter (Quellen Plutaruchs pp. 109ff.), however, thinks ch. 1-7 were taken from Fenestella. The Licinia incident is given again according to Fenestella in Macrob. Sat. 1-10-6.
4) Such a source was Sisenna (ob. c. 60 B.C.) whose work Sallust continued. He had copious material for the Social and Civil Wars, and in spite of his literary tendencies he was not by any means worthless. It is possible that not a little of the later annalists on the Social and Civil Wars goes back to him (see Rosenberg- op.cit. pp. 17ff.; Peter- Reliquiae p. CCCXXXIV). Peter (Quellen Plutaruchs pp. 57ff.), however, thinks Sulla's Memo-
Crassus's success at the Colline Gate is emphasised in both the Sallust and the Sulla, his part in the events leading up to it is passed over very lightly, and for this reason an annalistic source appears most likely.\(^1\)

A few general remarks on Crassus's political career follow. These perhaps came from the general history which Plutarch, or his source, used as a background for the Lives of all three triumvirs; but they are so vague that it is quite possible that Plutarch is giving here his own views on Crassus's public life.

There follows a full and fairly trustworthy account of the Slave War. If Maurenbrecher's reconstruction of Sallust's Histories is in any degree accurate, Sallust, as we should expect, treated Spartacus in detail. The many almost verbal agreements between Plutarch and the Histories suggest that Sallust was the basis of this part of the Crassus.\(^2\) Small inaccuracies were probably added by an intermediate writer from other sources.\(^3\)

It is tempting to infer that the story of Crassus's first consulship was also derived from Sallust, who would naturally supply much material for this very important year. Unfortunately, the fragments collected by Maurenbrecher give no more than a hint that Sallust

\(^{4 contd.}\) oirs were the chief source of the Sulla.

1) Claudia Quadrigarius (used by Livy) gives an account of Sacripontus. Did it influence Plutarch's source? Valerius Antias also described these years in great detail. Fenestella is again mentioned in Sulla 28 on Sacripontus.

2) So Peter (Quellen Plutarchs pp. 109-12) who gives a list of similar passages in Sallust and Plutarch and remarks that the Spartacus War is clearly given from a common account. Heeren (op. cit) thinks that as well as Sallust Plutarch used Fenestella. Leo (op.cit pp. 146ff.) stresses the fact that Plutarch need not have gone directly to the Histories for the Crassus and Pompey, since he could find the Sallustian account in Greek writers. Maurenbrecher (op. cit, pp. 40ff.) agrees with Peter and adds to the list of similar passages. He remarks that the prodigy given in Crass. 8 was not taken from Sallust but, as often, is due to Livy. Appian, thinks Maurenbrecher, also used Sallust as a primary source for this period, but he had another also.

3) The curious recurrence of the number 120,000 in late Republican history - the number conquered at Chaeronea; settled by Sulla in Italy; led against Rome by Spartacus; used by Pompey against the pirates - has been noted by Hirschfeld (Kleine Schriften p. 291).
influenced Plutarch's source. But in neither the Pompey nor the
Crassus are politics prominent, and it is difficult to believe
that the work from which Plutarch drew found in the Histories the
many personal details which completely overshadow public affairs.
The stories of the reconciliation between Pompey and Crassus and
of Pompey's behaviour at the review of the equites point rather to
a writer like Fenestella. 1)

The next fifteen years of Crassus's life are given only two
chapters. His censorship and his designs on Egypt are barely
mentioned, and there is but the briefest notice of his suspected
connection with Catiline. The triumvirate and the conference at
Luca call for a few general remarks; but these give no clue to the
events leading up to the alliance or to the part Crassus played
between 63 and 56 B.C.. The cursory treatment of this most impor-
tant phase in the life of Crassus is the most surprising and regrett-
able feature of the biography. But perhaps Plutarch did not think
it worth while to repeat what he had already written 2) in the Pompey
and the Caesar, where these years are dealt with in much greater
detail. Again, Crassus's infrequent appearances in public doubt-
less made the collection of material difficult. Plutarch's brief
account undoubtedly came from the same writings as his source had
used for the Lives of the other triumvirs, and we may conjecture

1) Maurenbrecher has dealt with the fragments of Sallust's Histories
in the greatest detail. He thinks that Sallust's sympathies would
lead him to belittle Pompey, and it is possible that the basis of
Plutarch's remarks on the rivalry between Pompey and Crassus lies
in Sallust. Certainly his attitude towards Pompey is in none of
the Lives favourable. Rosenberg (cit.) is of the opinion that
Sallust has greatly influenced tradition for the years 78-67 B.C.
and that most of what we know of this period goes back to him. It
is disappointing that Maurenbrecher does not discuss the relation-
ship between Sallust and Plutarch for the year 70 B.C. C.A.R. (IX
p87) thinks that Sallust's influence can be clearly traced in
that part of Plutarch which deals with the years on which he wrote.
Peter (Quellen Plutarchs pp.103-12) thinks that the Crassus was
written after the Cicero, Caesar, Pompey, and Cato, and that there-
fore events are more lightly sketched in it; cf. Crass. 12 and
Pomp. 22: Crass. 14-5 and Pomp. 61-2: Cat. Min. 41:
that these were Caesarian and Augustan Lives of Caesar and Pompey. 1) Although Plutarch refers to Cicero by name there is nothing to show that he used him at first hand. 2) His source had perhaps read the political pamphlets of the day, since he knew that there were two schools of opinion about Catiline’s connection with Caesar and Crassus. Since Plutarch says much the same as Sallust about the part Crassus was suspected of playing in the Catilinarian Conspiracy, it has been suggested that he used the Catiline. But it is clear from the Life of Caesar that Plutarch was influenced not by Sallust, who never mentions the suspicion against Caesar, but by the tradition handed down from Caesar’s enemies and Cicero’s later writings. His source knew the Caesarian version also but preferred not to support either side. 3) The consulship of 55 B.C., which takes up two chapters of the Crassus is closely connected with the corresponding chapters of the Pompey. The legislation to check bribery is omitted from both Lives, but the disturbances at the elections, the Licinian-Pompeian and Trebonian laws and Crassus’s ill-omened departure from Rome are all mentioned. It is impossible to say how much came from annalistic and how much from other sources.

1) Rosenberg (cit.) suggests that the biographical tradition for Caesar’s life up to his consulship must have come from Oppius, who wrote a Life of Caesar with whom he was friendly. For Oppius see Peter - Reliquiae p. LXIII: F.W. under Oppius.

2) That Cicero’s published speeches and letters exercised a great influence on his successors is undeniable. The commentaries of Aspronius prove the care with which his writings were studied. That they were widely read is clear from the emphasis laid by ancient writers on the Catilinarian Conspiracy, which was far from being the earth-shaking event portrayed by Cicero. A further proof of Cicero’s influence is the pamphlet written by Sallust to counteract it. Peter (cit.) does not think that Plutarch used Cicero directly - but for inadequate reasons. Von Stern (Catilina etc. pp. 169 ff.) working from the fact that Plutarch says nothing of the attempt against Caesar on Dec, 6th 63 B.C., and from Caes.3 assumes that Plutarch used Cicero’s ὑπομνήματα περὶ Βερετίου (cf. Crass. 13: John - Die Entsteh. d. cat. versch. p. 770). Von Stern concludes that all our sources go back to Sallust and Cicero. Meyer (op.cit. p. 22 n.) remarks that Livy, like Sallust and Cicero, seems to have been silent about Caesar’s and Crassus’s connection with Catiline.

3) For the purpose behind Sallust’s Catiline see Appendix VII: John (cit.): Rosenberg (cit.): Schwartz (Hermes XXXII pp. 554 ff.) Von Stern (cit.).
Some have thought that Asinius Pollio was the basis of much of our information about the years from 60 B.C., but very little is known about the scope of his work. Since Cato played an important part in the struggles of 55 B.C., Plutarch may have at second or third hand many details from the writings of Munatius Rufus.

By far the most important part of the Crassus is the story of the Parthian War. That Plutarch's source was derived from a well-informed and remarkably accurate source is clear from a comparison with the equally detailed but inaccurate narrative of Dio. Plutarch's attention to military details, in which he was not usually interested, points to a Greek source well acquainted with the country over which the campaigns took place. Heeren thinks that this writer was Nicolaus of Damascus and that Plutarch drew

1) Asinius Pollio (76 B.C.-4 A.D.). His Histories began in 60 B.C. and went probably to Philippi. He had no party bias and corrected Caesar's version of the Civil War. He emphasised his own part in the events of these years. It has been assumed that both Appian's and Plutarch's source drew on him (see Rosenberg pp.182 ff.; Peter - Salicuius p.LXXIII; Groebe - R.E. II 1559 ff.; Kormann - D. historische Schriftenstellerei des C.Asinius Pollio in Jahrh. f. klast. Philol. 1896 pp.555 ff.). Meyer (Kleine Schriften pp.397 ff.) thinks from Plut. Case. 46 that Plutarch knew Asinius only through the medium of a Greek writer (cf. Caesar's Monarchie p.345 n.2). Neither Appian nor Plutarch have a primary source. It is hopeless to try to give a name to the derived one they did use. Meyer thinks it not impossible that Ateius Fructuatus, Sallust's and Pollio's helper, is the name for which we are looking.

2) Possibly the life of Cato came originally from the writings of his friend Munatius.

3) Regling (de fontibus etc. p.11) remarks that Plutarch compares the Bellum Crassium with a tragedy.

4) For Dio see Meyer (Caesar's Monarchie etc. p.605): Schwartz (in P. W. XII 1684). Regling thinks he undoubtedly used Livy but not as a primary source (op.cit. pp.36 ff.). For the Livian account see Epit. 106: Florus I -46: Festus 17: Ausp. VI -18: Oros. VI -13: Julius Obsequens 124: Val. Max. I -6 -11. It is clear from Livian sources that he was hostile to Crassus (cf. Regling op.cit. pp.22-3). For a list of items in the Livians but not in Plutarch, discrepancies etc. see Regling (op.cit. pp.24 ff.). Regling has given a list of places where he thinks Plutarch used Livy - a rather arbitrary list - and he concludes that Livy is sometimes used for the Roman parts not found in the main Graeco-Asiatic source. For Livy's connection with the omens etc. found in the Crassus - see Regling (op.cit. pp.40 ff.).

5) Heeren (op.cit.), who says Plutarch's account came directly or indirectly from an eye-witness. He does not think that Plutarch would neglect Strabo who wrote at length on Parthia (Bk.XI).

6) For Nicolaus of Damascus see Jacoby in F.H.G. II 90.
also on the writings of Artavasdes. There is no evidence that Artavasdes wrote an account of the Parthian War, and Plutarch's reference to him is probably only a literary note. Peter disagrees with Heeren and contents himself with suggesting 'a writer who was accurately informed on Parthia'. Regling was the first scholar to discuss in detail the identity of this writer, whom he calls an Asiatic Greek and identifies with Timagenes. But in the forty years since Regling wrote the Timagenes theory has been completely exploded. More recently Tarn has suggested a

1) So Peter cit. Regling (op. cit. p. 43) disagrees without giving any sound reason. But would not Plutarch have given some indication if Artavasdes had been his source? Tarn (The Greeks in Bactria and India pp. 51-3) examines the Artavasdes theory. He admits that most of the story would fit Artavasdes as well as a Greek, though it is strange that Plutarch does not mention that he was using one of Artavasdes's Histories. His dislike of Surenas would be explained, since he was Pacorus's brother-in-law. The account of the triumph at Seleucia seems to have come from an eyewitness; but Plutarch could not get it from one. Plutarch's statement (Crass, 32) that the Arsacid kings were sons of Greek courtesans would, of course, disprove this theory if it came from Plutarch's source: but it is certainly a much later addition, since the Arsacids married their half-sisters or other princesses. Volageses I. (57-77 A.D.) was the first to marry a Greek courtesan, so the statement cannot be earlier than his reign. So also the mistaken statement (Crass, 17) that Seleucia was always hostile to the Parthians must be later than the city's revolt (37-43 A.D.). But there appear to be two decisive points against Artavasdes -
a) the historian knew of the advice given by citizens of Carrhae to P. Crassus, which it is almost impossible Artavasdes should have known; b) the Euripides story. The historian knew that half a line had been altered to fit the situation. If Artavasdes had read the Bacchae, would he have known it so well as to detect and record so slight an alteration in the text of a work in a foreign language? Jason was a shrewd player and could have been sought out to tell his story by anyone. But, though Artavasdes gave him money, would he have sought out the actor to receive another and more minute version of a scene he had already witnessed? Tarn thinks not.

2) Peter (op. cit. pp. 103-12). Heeren has based his assumption on a note in Athenaeus VI p. 252 D which in which there is a reference about a traitor Andromachus from Nic. Dem.. Now Plutarch does not mention the later fate of Andromachus, and if he knew it, it was his custom to do so. Nic. Dem. (in Athen.) on the other hand tells us this. Peter points out that with equal justice we can think of Livy from whom Val. Max. I - 6 - 11 and Jul. Obseq. 124 give the same list of omens as we find in Plut. Crass. 23. Yet Florus names the traitor not as Ariamnes, as Plutarch, but Mazeres; cf. Regling (op. cit. p. 54).

3) For Timagenes of Alexandria see Jacoby in F.H.G. II - 88. Regling (op. cit. pp. 44-53) gives the case for Timagenes, but he infers all manner of things about Timagenes's writings for which there is not the slightest evidence. Most of his points are very far-fetched, and his assumption that Timagenes ever wrote on the Parthian War is quite unsupported. All we know of Timagenes - and perhaps rather more than we know - is found in Jacoby F.H.G.
Mesopotamian Greek whose familiarity with Carrhae, which is shown by the number of names of its citizens he is able to quote,¹ points to that town as his home. On the other hand his account of Surenas’s triumphal procession may suggest that he lived at Seleucia. But that he was a Mesopotamian Tarn thinks certain. As a historian he takes a high place:² he is well-informed, and it is clear from Plutarch that he was biased towards neither side.³ The slight bias he shows seems, as Tarn points out, to have been against Surenas personally. But in addition to this excellent source there are traces of an account written to justify Cassius, which appears more prominently in Dio.⁴ Nor need we attribute the numerous omens and portents which appear in the Crassus to his Mesopotamian Greek source.⁵ Plutarch, like many other ancient writers, frequently introduced such superstitious tales into his Lives. Those in the Crassus may have come originally from Livy; but it is equally possibly that he used a contemporary or Augustan collection.⁶

¹ Tarn (op.cit. pp.50-3). W. Otto (Himerus, Hyrodes in P.W.) first suggested a Mesopotamian Greek.

² Plut. Crass. 25 - Nicomachus and Hieronymus in particular.

³ Tarn (op.cit. p.51) says that so far his work has not been shown to be part of any comprehensive history. "It may be simply a monograph on the Roman invasion of Parthia, just as Demetrius of Byzantium had once written a monograph in 13 books on the Galatian invasion of Asia Minor."

⁴ Regling (op.cit. p.10), however, thinks that this writer was anti-Roman and pro-Parthian. Tarn (op.cit.p.51 n.2) takes back his statement in C.A.H. IX p.611 that this writer was hostile to both Rome and Parthia, and he substitutes Surenas for Parthia; cf. Plut. Crass. 21: 24: 30: 32: 33 on Surenas. He does not belittle Surenas’s real qualities, but adds what he can to his discredit, while he defends Cyrus for taking the Armenian front himself.

⁵ Regling (op.cit. p.15) thinks Plutarch had a second source agreeing with Dio; cf. Plut. Crass. 17 and Dio 40-13. Tarn (op.cit. p.51) thinks that the psychology introduced by Plutarch at the end of the Crassus may have been Plutarch himself.

⁶ cf. p.359 n.4.

⁷ Pompeius Trogus included in his history of the east an account of Parthia in Bks. 41-2. What we know of Trogus comes from Justinus (3rd century A.D.), who must be treated with reserve. There are indications that in the Parthian section he used a source hostile to Rome. Was Plutarch’s source meant by Livy IX -13 -16 - id vero periculum est, quod levissimi ex Graecis, qui Partherum quoque contra nomen Romanum gloriae favor, dictator solent, ne maiestatem nominis Alexandri, quem ne fames quidem illis notum arbitror (over)
Only general conclusions can be drawn from the Life of Crassus. Plutarch’s material was at least third hand: he had not studied Roman writings on the late Republic except through Greek translations, summaries and derived accounts: he did not think it necessary to check his statements, and he gives variant versions only when his immediate source expresses doubt: he shows no ability to take a broader view of the political movements of the late Republic. A closer analysis must be based on conjecture. Imposing edifices have in the past been built upon the flimsiest foundations. But conjecture is always unsatisfactory and in the field of Quellenforschung it has made more difficulties than it has solved.

d)uisse, sustinere non potuerit populus Romamus. Schwab (de Livio et Timagene historiarum scriptoribus aemulis; Progr. Stuttgart 1834) thinks Timagenes was meant because — a) he was contemporary with Livy; b) he was a Greek hostile to Rome; c) he especially favored the Parthians, which is confirmed by what we know of Timagenes. Regling (op.cit. p.47) makes the additional point that Livy would not have made such a long excursion against any but a well-known writer. Timagenes was such, especially as a friend of Asinius Pollio. Schwab was followed by many other writers. Jacoby (P.H.G. II 22) includes the Livy reference among his testimonia for Timagenes, which, as Tarn (J.H.S. LIX 1939 p.134 n.3) points out is ‘quite unwarranted’. That Livy meant Timagenes has never been more than guess-work; and dictitare solent cannot refer to a single author. Tarn (The Greeks in Bactria and India p.51 n.2) suggests — though without discussing — that Plutarch’s Parthian author may have been one of Livy’s levissimi ex Graecis. In J.H.S. cit. he points out that dictitare solent (go on asserting repeatedly) shows that Livy was dealing with a circle of ideas spread over a certain period of time, not with a single utterance. In my opinion it is extremely hazardous to identify Plutarch’s author with the levissimi since — a) there is no evidence; b) this writer, as Tarn points out elsewhere, is by no means favourable to Parthia, and we should expect this from Livy. It is more likely that after Carthage when Roman prestige in the east was low there arose a school of opinion which proclaimed loudly that Rome’s day was setting, and thus aroused Livy’s patriotic spirit. A series of writings glorifying Parthia at the expense of Rome was natural: but from what we know of it in Plutarch, his authority was not one of those of whom Livy complains. The whole tendency of Plutarch is against this — though he could, of course, have removed such bias. But again, his attitude towards Crassus would be difficult to explain.
Mommsen stated that Sulla abolished the farming of taxes in Asia and that the consuls of 70 B.C. reverted to the Gracchan arrangement. His statement - little proof is attempted - is based on three references of Cicero and one of Appian; and the argument is that Sulla's division of the province into districts formed a standard for the future. Therefore the system of middle-men must have been abolished by him. To prove his point he would have been compelled to produce evidence that Sulla's arrangement necessarily removed the publicani. His first reference - to Appian shows only that Sulla wanted five years arrears of taxes immediately (αὐτόν ἐκ τοῦ) and therefore presumably as a lump sum. Careful organisation was needed if the required sum was to be raised, so Sulla divided the province into districts. Cicero points out that L.Flaccus, governor of Asia in 62 B.C., used Sulla's divisions in apportioning the raising of money, as did Pompey. Again, Cicero says that in 82 B.C. Murena ordered the people of Miletus to supply ten ships "out of the taxes paid to the Roman people just as other cities of Asia did". None of these references gives grounds for assuming that Sulla had dispensed with the publicani. But the passage which led Tenney Frank to expand Mommsen's statement does at least mention the publicani in this connection. Cicero says, "The people of Asia

1) Mommsen - History of Rome III. p.337 n.1 ; IV. p.90 (Every. Trans.): Delmatel (De Vita M.L.Crassi p.19) hints that Crassus might have had something to do with the restoration of the publicani in Asia - provided that Mommsen was right.
3) Cic. pro Flacc. 32.
4) Cic. II. Verr. I. 69.
6) Cassiod. Chron. which is not very likely.

\[\text{Note A. \ Did the Publicani Continue to Operate in Asia between the Sullan Settlement and the year 70 B.C.?}\]
cannot despise the name "publicamns", since without his help they
could not pay the impost, which Sulla had equitably fixed". 1)
The inference, according to Mommsen and Tenney Frank, is that
there had been a time when the people of Asia had been obliged to
manage without the tax-gatherers. But is this inference the only
one? Marcus is sympathising with Quintus in the difficulties of
reconciling the provincials of Asia to the necessary evil of the
"publicanu". That they were in many ways an evil he agrees; but,
he remarks, the provincials have something for which to thank them,
as without their help they would not have been able to raise the
huge sum demanded by Sulla. This view is diametrically opposite
to that of Mommsen and Tenney Frank: but it is an equally obvious
interpretation - and in the light of what evidence there is, more
satisfactory. 2)

1) Cic. Q.F. 1-1-33.
2) V. Chatot - La province romaine d'Asie p. 323: Rice - Holmes - Roman
(Nom. Staatsverw. 13) p. 368) thought the evidence for the withdrawal
of the taxes of Asia from the publicani insufficient and that, if it
did take place, it was abandoned soon after Sulla's death.
I cannot accept in its entirety the thesis put forward by the American scholar, W. McDonald, in his article on the Tribunate of Cornelius. His object is to show that the populares spent the years of 69-3 B.C. in trying to break the senatorial monopoly of the higher offices. Their aim was popular reform by constitutional means, and when this failed the extremists resorted to reform by violence. Cornelius was the first powerful weapon they obtained, and his tribunate is to be interpreted in the light of this supposition. "The fundamental reason", says McDonald, "why the elements of discontent were forced to abandon a policy of constitutional reform and resort to open rebellion is to be sought in the practically uninterrupted domination of the turbulent tribunate of Cornelius in 67, the attempted murder of the consuls in 66 and finally in 63 the armed outbreak of the Catilinarians."

"The ascendancy of the optimates", continued McDonald, "was due to the obviously superior organisation of that faction. Years of experience had given it a distinct influence among the Roman electorate. There is no doubt that the actual machinery for the control of votes and elections was much more highly developed among the optimates than among the populares." He considers that certain remarks of Aesconius show that the senatorial party had evolved a political organisation, the management of which was vested in a few leading optimates. These "managers" of the senate were Catulus, Hortensius, Metellus Pius, Lucullus and Lepidus: and while their influence was being attacked by Cornelius and their "system of patronage" threatened, they opposed him violently and finally

1) C.Q. XXIII. 1929 pp. 196 ff.
revenged themselves by bringing him to trial.¹)

No one will deny that certain optimate families had very great influence over the electorate. As candidates for responsible posts of government they had an immense advantage, since they inherited, or so it was supposed, the administrative tradition. Undoubtedly they tended to form a closed circle and were prepared to help one another into office, if necessary by bribery. Again, it was natural that the senate should have certain more influential members, whose opinions and recommendations carried great weight with the rank and file - i.e. potentissimi quique quorum gratia minuebatur² by Cornelius's attack on the system of individual dispensations from the laws. But it is rash to infer from Asconius's references to these facts the existence of a small inner circle which directed senatorial policy. Asconius nowhere suggests that there was such an "inner cabinet"; nor do we get any hint of it elsewhere in Roman literature.³) McDonald holds, and rightly, that Pompey was careful not to identify himself closely with the populares and that his real aim was a military command. Crassus and Caesar, however, while they could have no close control over the actions of the rank and file of the popular party, directed operations from the background.

¹) Ascon, p.58 C :— indignē eam Corneli rogationem tulerant potentissimi quique ex senatu quorum gratia magnopere minuebatur.

²) Ascon, p.58 C :— nemo enim negare poterat pro senatus auctoritate esse eam legem: sed tamen eam tuliīt optimatis qui per pæcūs (sc. amicis) gratificāri solebant.

³) McDonald's suggestion that Metellus Creticus knew he could rely on powerful senatorial backing in Rome when he defied Pompey in Crete is most unlikely. Pompey could have forced his point but refrained from doing so. He abandoned the quarrel when it was clear he was making himself ridiculous; any suggestion that he did so because he was afraid of the "senatorial clique" is far-fetched: see Plut.Pomp. 33; Livy Epit. 93-100; Dio 36-13 & 19; Florus III -7: Rice Holmes (op.cit.pp.175-6) - "although Pompey's dignity was wounded, he was not so foolish as to embroil himself in a civil war. He was expecting an opportunity of achieving distinction greater than anything he had yet won".
But, he continues, their efforts were unavailing against the "superior organisation" of their opponents. Actually, there is not one jot of evidence to show that Crassus and Caesar were connected at this time. But their position and their relations with the popular party are discussed elsewhere. ¹)

"The consuls of 67 B.C. were suspected of bribery", says McDonald; therefore "Cornelius struck with a law against bribery." Our evidence for the events of this year and their relation to one another comes almost wholly from Asconius and Dio. ²) They are largely in agreement except in their accounts of the occasion of the disturbances caused by Cornelius's measures. "According to Asconius" - to quote McDonald - "the troubles began with a "relatio ad senatum" aimed against the practice of lending money at usurious rates to foreign envoys. When the senate refused to consider it, Cornelius attacked the senate at a meeting of the plebs and tried to carry a plebiscitum forbidding the senate to dispense from the laws in any case without first submitting the question to the "populus". The narrative of Dio is quite different. According to his account, Cornelius submitted a relatio to the senate on bribery. The senate contended that his proposal was unnecessarily severe and instructed the consuls to prepare a bill couched in more moderate terms for submission to the assembly.³) But the elections had already commenced, and the consuls were forbidden to summon a legislative assembly until after the elections. To obviate this difficulty the senate passed a "privilegium" dispensing the consul, Piso, from the provisions of this inconvenient law (i.e. the lex Aelia

²) Ascon. pp.57-9; 69 C: Dio 36-38 to 41.
³) McDonald remarks that Dio does not say precisely that Cornelius introduced his proposal in the form of a "relatio ad senatum" but his account points to this.
et Fufia). Cornelius retaliated by bringing forward a bill to forbid the granting of such dispensations save by vote of the assembly. From this point the narratives of Asconius and Dio are in substantial and sometimes even in verbal agreement."

What was the connection between a proposal about lending money to foreign legati and one against the granting of dispensations from the laws? McDonald can see none in Asconius's account and so adopts Dio's explanation. Cicero makes it clear that there must have been two serious disturbances since the elections were attempted three times.1) Both, according to McDonald, were caused by rioting about the "lex de ambitu". The first took place at the meeting of the "concilium plebis" called to discuss the "privilegia". Probably Piso was given a bodyguard because of this disturbance: thereupon he attempted to carry his "lex de ambitu", and the result was further rioting, which caused a second postponement. Protected by a stronger bodyguard (maiore manu)2) he succeeded in carrying the law.

This reconstruction is ingenious and attractive, but it has one serious defect. McDonald admits that Asconius was more likely to know the facts than Dio: yet he neglects the more reliable authority and puts forward an account which can in no way be reconciled with Asconius. The Argumentum to the Pro Cornelio makes it improbable that the proposal "ne quis in senatu legibus solveretur"3) had any direct connection with the law to check bribery. It is significant that if McDonald's reconstruction of the events were correct, the "lex de ambitu" would have played a large part in Cornelius's prosecution and therefore in Cicero's speech. But

1) Cic. pro leg. Man. 2.
2) Ascon. p.76 C.
3) Ascon. pp.72-3 C.
neither in the fragments nor in Asconius's commentary is there evidence of this. Again, if we follow McDonald, we must admit that Asconius jumped in the course of one sentence from a proposal about lending money to foreign envoys to an entirely different theme; in other words with Cicero's speech to help him he was guilty of a gross error.1)

The most reasonable deduction to be made from Asconius is that, when his attack on the practice of lending money to foreign envoys at Rome was repulsed by the senate, he proposed to abolish the granting of exemption from the laws to senators, except with the approval of the people, precisely because these exemptions were used to extract money from provincials. Some years later Brutus used his influence to have two senatorial "consulta" passed - 1) indemnifying his agent Scaptius and the Salaminians against any penalty for breach of the law; and 2) making the bond of loan valid.2) Cicero mentions the circumvention of the "lex Gabinia", which was probably largely the law formulated by Cornelius, and his letters leave little doubt that the senate knew perfectly well who was the real lender to the Salaminians. If such sharp practice could take place some years before Cicero was in Cilicia, we need not doubt that in 67 B.C., when his attempt to remove some of these money-lending abuses was defeated by the senate, Cornelius tried in another way to minimise them by attacking the "privilegia" which helped to make jobbery possible.3)

1) Ascon. p.53 C reads; - Cornelius ea re offensu senatui questus est de ea in contione: exauriri provincias usuris: providendum ut haberent legati unde praesenti die (?) darent: promulgavitque legem qua auctoritatem senatus imminuebat, ne quis nisi per populum legibus solveretur.
3) Last had (C.A.H. IX. p.344) unknown to me connected the Brutus episode with Cornelius's law "de privilegiis". But he tends to regard it as a reinforcement of the law on the praetorian edict and does not mention a possible connection with Cornelius's previous attempt to protect the provincial embassies.
It is most improbable that Asconius misunderstood this measure of Cornelius when he had before him, as well as Cicero's speech, that of Cominius,\(^1\) one of the accusers. It seems certain that the prosecution attacked the tribune for "maiestas" on the grounds of his irregular conduct in trying to pass this law "de privilegiis"; and it is a further point against McDonald's theory that, if the "lex de ambitu" was so closely connected with it, Cicero should apparently have dealt with his topics in the reverse order of importance and that Asconius in his preface to the speech should have relegated it to a position among "aliae quoque complures leges, quibus plerisque collegae intercesserunt".\(^2\) The fact that the elections were twice postponed is not such an important point as McDonald makes it, since Asconius says that the whole of the tribunate was passed in "contentiones", some of them of a violent nature.\(^3\)

McDonald naturally concludes that the attempted coup d'état of January 1st 65 B.C. was the result of the failure of the constitutional attempts at reform; nor does he doubt that Crassus and Caesar were implicated in the plot. However, these conclusions lead to a discussion of this unsuccessful conspiracy.

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1) Ascon. pp. 61-2 C.
2) Ascon. p. 59 C.
3) Ascon. p. 59 C.
Did Catiline attempt to stand at the First or Second Election in 66 B.C.?

Various attempts have been made to show that Catiline was disqualified at the first election. John thought that because of Asconius's silence Sallust's "post paullo" - the crucial point in the problem - should be altered to "ante paullo". This, however, would involve altering a text in which there is no evidence of corruption to suit a theory, and must therefore be rejected.¹)

Mommsen's explanation is more ingenious.²) According to him Sallust meant that Catiline intended to stand for the consulship in 65 B.C. Furthermore, his remark - "quod intra legitumos dies profiteri nequiverat"³) - is not, in Mommsen's view, inconsistent with the statement that the consul refused him because he was "reus" in a criminal prosecution. "Plainly", says Mommsen, "this held good for as long as the prosecution was in the air, and it is credible that Catiline, particularly as he returned to Rome towards the end of 66 B.C. and as the action could first begin in 65 B.C., seeing that he might not be acquitted till July 65 B.C. (in fact the case was still undecided then⁴) deferred his candidature till the elections for 64 B.C. and later postponed it till those for 63 B.C."

Mommsen next tries to prove that the "legitumi dies" mentioned by Sallust are identical with the "quasi legitimum tempus ad petendum" spoken of by Cicero.⁵) He notes that Cicero himself began his canvass on July 17th 65 B.C. and was elected in 64 B.C. Again, Caesar was canvassing in 50 B.C. for a consulship to be taken up on January 1st 48 B.C. This interval was Cicero's "usitatum et

¹) John (Rhein. Mus. XXXI, 1876 p.413) followed by Von Stern (Catilina und die Parteikämpfe in Rom der Jahre 66-3 pp.36-7)
³) Sall. Cat. 18-19.
⁴) Cia. pro Cael. 10: Att. I -1: The absence of a public prosecutor at Rome was responsible for such delays. (H. Wirz - Catilina's und Cicero's Bewerbung um den Consulat für das Jahr 63 p.8 n.1).
⁵) Cia. Fam. X -25.
"in vetinium", as the "biennium, quo quis petat petiturusque sit", in the course of which the candidate could give no public enter-
tainments. Actually, this ban appears to have been confined to
the calendar year in the course of which his inclusion was permitted;
and furthermore a man became "petitor" when his name appeared on
the official list. The definite decision, says Mommsen, on the
question of permission to be a candidate could not be given before
the publication of the details of the elections, since it was only
then legally decided who was to conduct them. But there was
nothing to prevent the person prospectively to be called upon to
conduct the elections for a certain year - in this instance for
64 B.C. - from making public his decision. So in 66 B.C. the
consuls designate as members of Volcacius's consilium declared
through the consul that, since Catiline's action was not likely
to be settled before 65 B.C., he could not be included in the list
of candidates for that year. In the same way Pompey and Crassus
were excluded by the consul of 56 B.C., Marcellinus. Although the
conference at Luca took place in April, they submitted their names
too late, with the result that they had to force their way into
office by causing a postponement of the elections till Marcellinus's
year was over and an interregnal election could take place.2)

Mommsen's theory has little to commend it save ingenuity. The
difficulty of Sallust's "legitimi dies" is admitted, but to adopt
Mommsen's view would be to create several more serious problems.
Dio and Sallust show that Catiline's reason for entering the cons-
spiracy was his rejection in that very year. Hardy3) points out
that the "legitimi dies" occur again in connection with Caesar's

1) Cic. in Vet. 27.
3) Hardy - Catilinarian Conspiracy p. 10 n. 1.
first consulship. Plutarch and Suetonius make it clear that this period was the interval between the fixing of the elections and polling-day, i.e. the "trimundimum.\(^1\)\) Mommsen, arguing from a letter of Cicero, in which Caesar was said to have declared "se praesentem trimum mundum petiturum",\(^2\)\) says that the "legitimi dies" must have been before this. But Caesar obviously meant that he would "profess" his candidature within the prescribed time instead of at the last minute. Again, the letter on which Mommsen bases his theory\(^3\) proves nothing. The writer is clearly not trying to pretend to Furius that there was any legally prescribed period for "petitio": he is merely speaking of a practice which was customary and as it were (quasi) a "legitimum tempus". Nor can we believe that such a procedure, which depended on custom, would have caused Catiline to give up his candidature so weekly. Mommsen's reference to the "In Vatiniurn" carries no weight, as Cicero is speaking there of a law which he himself carried through and which was certainly not in operation in 66 B.C. As far as Crassus and Pompey were concerned their names were already submitted in 56 B.C. after the interval for "professio" had passed but not because they had not time after Luca to enter legally.\(^4\) Again, Cicero's remark that

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2) Cic. Fam. XVI -12 -3.
4) There are diverse accounts of the termination of the "professio". Mommsen (Staatsr. I\(^3\) p.494) says there was no official starting-point for the list of candidates, but there was a fixed closing time (i.e. the trimundimum.) So also Lange (Rom. Alt. I\(^3\) p.714). Von Stern (op.cit. pp.34-5) declares that such an interval was impracticable (cf.Livy III -35: IV -6). The fixing of the elections was the beginning "terminus" for seeking office. Sallust's "legitimi dies" are the trimundimum, as is shown by Caesar's first candidature, for he solicited on the last day fixed for professio (App. B.C. II -8). This was not, says Von Stern, as Mommsen concluded from a forced interpretation of Suetonius Jul. 18 the day for the fixing of the election, but the last or one of the last days before the election (cf. Plut.Caes 13). Dietrich (Zeits. für d. Ostreich. Gymnasien 1863 pp.579-626) followed by H.Wirz (op.cit. p.7 n.1) regarded "Intra legitimus dies" as an interpolation. John's theory (Rhein. Mus. XXXI p.411) is the natural one and is followed here. He says that the "legitimi dies" of the professio were those between the fixing of the election and the election day - i.e. the trimundimum. When the professio had ensued the magistrate in charge had the right of refusal. For the circumstances connected with the election of Crassus and Pompey in 56 B.C. see pp.198-200.
Catiline was in Africa during his praetorship - i.e. in 66 B.C. - proves nothing; he was certainly there during the first part of the year. But not, so far as we know, during the latter part.

Mommsen's explanation that Catiline was barred by the consul of 66 B.C. from standing in 65 B.C. is unconvincing. Groebel believed that Catiline intended to stand in 65 B.C. but was barred for the reasons given by Sallust. The context, however, shows that 66 B.C. is meant: and it is a further, though not conclusive point, that if Catiline had really intended to stand in 65 B.C., Cicero would probably have included his name in his list of candidates for that year.

Thus we are reduced to the alternative of either disregarding Sallust's "post paullo" or assuming that Catiline wished to be a candidate at the second election. The latter solution is easier: Asconius can refer equally to either, and Sallust seems to settle the question. Possibly the course of events was something like this: Catiline, preceded by the African deputation, arrived in Rome to find that the consular election had been declared void. Thereupon without any attempt at cooperation with the popular party, he tried to give in his name at the last moment. The presiding consul, Volcacius, after the troubles of the July elections, knowing that the reputations of Catiline and his associates were unsatisfactory, and fearing further upheavals at the second poll, hesitated to accept him, particularly as a prosecution for "repetundae" was inevitable. A consul who had a charge of extortion hanging over his head, was not likely to be welcomed by the senate. Consequently

1) D.G. V p.415 n.4.
2) i.e. with John and Von Stern; see p.371.
3) Rice Holmes (op.cit. I p.466) thinks Catiline learned before he left Africa that the first election was void. Baur (Wurt. Correspond. 1870 p.270) favours a double attempt which in view of Cicero's and Asconius's silence is unlikely, particularly since if he had been refused once the reason would still be operative at the second election: cf. Boissier (La Conjuration de Catilina p.48); Hardy (op.cit. p.6); Dietsch (Ausgabe d.Sallust V. 1859 I p.56); Hagen (Untersuchungen über römische Geschichte I p.83).
4) cf. Boissier (op.cit. p.48); Von Stern (op.cit. p.41).
after taking the advice of the senate either at an open meeting of its leading members or at a regular session,\(^1\) Volcacius announced that he would refuse Catiline's name. Catiline could not be rejected on the ground that he was "reus" in a criminal action, since he did not become this till the prosecution was set in motion. The consul must, therefore, have used his discretionary power and cited the impending charge, perhaps supporting his rather weak excuse with another, that Catiline could not fulfil the conditions of "professio". Since Catiline was not yet a prominent figure in the political world, his last-minute rejection caused little comment in comparison with the scandal of Autronius and Sulla. At any rate Sallust and Asconius knew that the rejection had something to do with an action for "repetundae", but neither was very clear about the details. Sallust had heard a version which gave as the reason for Catiline's rejection his inability to satisfy the conditions of "professio", so he included this also.\(^2\) That the senate had in mind Catiline's revolutionary intentions - an idea supported by Sallust and Plutarch - is, as Hardy points out,\(^3\) nonsense. He had been absent from Rome for a year or more, so that he could not possibly have prepared the far-reaching revolutionary plot later attributed to him. Certainly his unsavoury reputation as one of Sulla's henchmen, his restless disposition and his extravagant talk told against him; nor did the senate wish to deal with another and more troublesome Autronius at the second election. Hardy\(^4\) and Rice Holmes\(^5\) suspect that the influence of Crassus

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1) Ascon. p.99 C.; Cic. pro Sulla 68 seems to settle the point in favour of the former, cf. de repub. III. 28.
2) Hardy (op.cit. p.10) - Volcacius "on one excuse or another" refused during the "legitumi dies" to accept Catiline's "professio". Summers (Sallust's Catiline c.18-3) thinks that the trial was in progress when Catiline had to give in his name. We might note that his reading is "nequiverat" and he rejects nequiverit of the MSS., which is not however to be interpreted non liciturum est. The mood gives the reason.
3) Sall. Cat. 5; Plut.Cic. 10-11; Hardy (op.cit. pp.8-9): Both versions were written when Catiline could be said to have had revolutionary designs throughout his career; cf. Cic. pro Sull. 56; pro Caes. 14 ff: which however suited his cases.
4) Hardy (op.cit. p.6)
5) Rice Holmes (op.cit. p.234)
Caesar was feared, but the reasons for doubting this are given elsewhere. After the recent scandal it was natural that Volcaci us should use any excuse to be rid of a candidate who was relatively unimportant but whose reputation was far from good and whose recent political career was soon to be the subject of a public enquiry.

1) See Appendix V.
2) Hardy (op.cit. pp.8-9) points out the weakness of the excuse that Catiline was "reus" - which he was not technically till the "nominis delatio". This whole question of Catiline's rejection could be settled definitely if we knew whether or not it was legally possible for new candidates to appear at by-elections. Perhaps the procedure on such points was not clear, hence the uncertainty of our authorities about the reasons for Catiline's disqualification. None of the authoritative accounts of election procedure mention the point, however, and it seems that evidence is non-existent. Dr. Cary, whom I approached on the matter, was unable to supply any information. But although I have not ventured to include the opinion, I feel that, if we knew something about the regulations controlling by-elections, we might find that Volcaci us summoned his "consilium" because he doubted whether he could legally accept Catiline.
The Trial of Rabirius.

The course of the trial after the appeal of Rabirius to the comitia centuriata has caused much controversy. The crux of the problem is the point at which Cicero delivered the "Pro Rabirio". At a first glance one would conclude that he spoke before the comitia centuriata at this appeal. Niebuhr was the first to see the objections inherent in this supposition. Cicero makes it clear in his speech that he was somehow able to intervene and nullify the proceedings. Probably he did this by the application of his general powers as consul and with the backing of the senate. Now Cicero mentions another action against Rabirius set in motion by Labienus, a "multae irrogatio" which would result, if the accused were found guilty, in a fine. This would involve a series of examinations by Labienus and finally an appeal by Rabirius to the comitia tributa against the fine imposed. Niebuhr thinks Cicero's speech was delivered during some part of this trial, and his view has been widely accepted.

We have to decide firstly whether the appeal against the duumviral sentence took place, secondly how the fine-process fits into the story, and thirdly when the "Pro Rabirio" was spoken. These questions have been answered in many different ways.

Firstly there is the theory that the "multae irrogatio" was a preliminary to the duumviral proceedings and was dropped when this

1) Niebuhr - Ed. of Ciceronis pro Fontelo, C.Rabirio etc. Fragmenta.
2) Cic. pro Rab. 10: 17.
4) R. Mommsen (Staatsr. II p.296 n.3; 618 n.2; Strafr. p.588 n.1): Huschke (die Multa und das Sacramentum App. II pp.513 ff.): Lallier (in Revue Historique XII. (1880) p.256).
5) For a summary of the theories advanced see Strachan-Davison. (Problems in Roman Criminal Law II pp.188-92).
The death-blow to this interpretation is Cicero's statement - "judicium perduellionis a me sublatum". We might add that he was not likely to devote any of a half-hour speech to discussing charges already dropped.

Other scholars infer that the "judicium perduellionis" as constituted in Labienus's bill to the people was modified by Cicero and the senate in such a way that the usual penalties of exile and confiscation were substituted for the old sentence of crucifixion - i.e., judicium perduellionis a me sublatum. The appeal took place and was met with Metellus's stratagem. Thereafter Labienus began a new series of charges against Rabirius - i.e. the multae irrogatio and Cicero's speech was delivered at some stage in these proceedings. There are serious objections to this theory. In the first place, Caesar would not be side-tracked by allowing a substitution for the old penalty, on which he depended for his effect. Again, everything points to a trial on a capital charge at the occasion of Cicero's speech, and not to one merely involving a fine. Heitland tries to escape this conclusion by showing that a large enough fine would involve exile and therefore be tantamount to a sentence "aquae et ignis interdictio", but without success.

1) Zumpt (das Criminalsrecht der röm. Republik I - 2 p.472) goes so far as to suggest that this charge was not aimed directly against Rabirius but that he only entered into it by implication - a far-fetched suggestion. Heitland (Ed. of pro Rabirio p.39) and Strachan-Davidson (op.cit. II p.195) point out the fallacies.

2) Cic. pro Rab. 10.

3) See Drumm III pp.162-4: Rein (das Criminalsrecht der Römer von Romulus bis auf Justiniamus p.487). Strachan-Davidson (op.cit. II p.195) asks how we are to account for the fact that the duumviri, who would be the leading figures at an appeal against the sentence, are not mentioned by Cicero. Zumpt (op.cit. I -2 p.396) and Wirz (Perduellionisproces der C.Rabirius p.197 n.17) thinks Cicero later removed references to Caesar from the speech. But he could not do this, if Caesar had been one of the chief figures. cf. Cic. Att. II -1: Heitland (op.cit. p.39)

4) Heitland (op.cit. p.32). By a reenactment of the Porcian Law?


7) Hardy (Some Problems etc. p.115): Heitland (op.cit. p.32) thinks Caesar gave way on this to gain his initial point - the election of the duumviri.

8) Cic. pro Rab. L 3: 5: 10-17: 31 etc.: cf. in Pís.4: Orator 102:

(over)
A further point to be noticed is that, if the flag incident had already taken place, it is very odd that Cicero does not mention it. There is a third and more complicated theory. The duumvir condemnation of Rabirius and his subsequent appeal was followed by the intervention of Cicero and the senate. Therefore the appeal did not take place: or as an alternative, if it did, a lost speech of Cicero helped to secure acquittal (i.e. perduellionis iudicium a me sublatum), and the device of the flag was not need-ed. Labienus then brought a second charge of perduellio, presumably by the more usual method, and it was during one of the preliminary hearings that Cicero delivered his extant speech. But a "mitia irrogatio" was going on at the same time, and in due course Labienus summoned the comitia centuriata, as he was entitled to do by requesting the praetor or consul for his auspices, and Metellus put an end to the trial. Thereupon the fine-process was dropped. We cannot, however, assume that Cicero delivered more than one speech for Rabirius; indeed the list of his consular speeches given in 60 B.C. indicates that he did not. Again, why should he waste his valuable time in discussing the fine-charge if this was not directly connected with the case on hand? Cicero's speech shows clearly that both charges were intimately connected. No-one can reasonably assume that he spoke on any occasion but at

8) (contd.) Heitland deals with the objection raised by the title of the speech weakly (op. cit. p.35), as does Huschke (op. cit. p.528), Mommsen (Staatsr. II 3 pp.298 n.3; 618 n.2; Strafr. p.588 n.1): cf. Hardy (op. cit. pp. 119-22).
9) For another suggestion see Greenidge (Legal Procedure etc. p.355 n.5)

1) Rubino (Röm. Verfassung p.315 n.1); Wirz (op. cit. p.200).
2) cf. Schneider (op. cit. p.38).
3) It was apparently possible for a tribune to renew the charge of perduellio; cf. Dio 37-27: Val. Max. VIII -1 - 4.
4) The best commentary on this procedure is Varro (de lingua Latina VI -90 ff.) where the quaestor M'.Sesquis is advised to ask for a day' from the praetor or consul. For the tribune's similar power see Livy XXVI -3; XLIXI -16; Aul. Gell. N.A. VI -9 -9.
a meeting of the assembly.

Strachan-Davidson thinks that parallel with the duumviral trial was the "multae irrogatio". Cicero intervened against the actual execution of the culprit by either preventing or terminating the arrest of the accused; for this arrest was a vital part of the procedure of the duumvir. Meanwhile Labienus was using the "multae irrogatio" both to inflict a large fine and to introduce the Saturninus story into the contiones. It was at one of these that Cicero spoke. He hints that he would have another opportunity to speak; but the incident of the flag made this unnecessary.

Some of the objections to this theory have already been raised; and, as Strachan-Davidson himself sees, Cicero's "hodiernum diem et ad multus salutem conservandum et ad r.p. constituendam illuxisse" introduces a serious difficulty. Strachan-Davidson explains it away by assuming that "the case was really decided by Cicero's speech". But this is a lame explanation.

Of all the suggestions put forward the third is the most attractive. The difficulties which it raises are firstly the lack of connection between the capital trial and the fine-charge; and secondly the gap which must be assumed in the narrative of Dio.

Hardy has explained the former satisfactorily. The "multae irrogatio", which had probably been begun at the time of the duumviral proceedings in order to rouse feeling against the accused, was converted into a capital charge when the appeal against the duumviral sentence had been quashed. As we see from Livy, such a step had been taken in the trial of Fulvius, and this procedure would supply exactly the connection required by Cicero's speech.

1) Strachan-Davidson (op. cit. II p.60 n.5) quotes the case of Kasso Quintius (Livy III.13.5) for the importance of previous arrest. He emphasises that exile was never the punishment for a crime: cf. Cic. pro Caec. 100.

2) Cic. pro Rab. 17.

3) Hardy (op. cit. pp.118 ff.)
between the perduellionis judicium and the "multae interrogatio".  

Dio's inaccuracy over these involved proceedings need not surprise us. He clearly included in his account only the main stages in the affair. Probably he had studied Cicero's speech; but he did not know of any consular or senatorial intervention. His story of the struggle about the court (περὶ τῶν δικαστηρίων) would take place during the passing of the original bill. Simultaneously with the duumviral proceedings there was going on the "multae interrogatio", and after the collapse of the former the charge of perduellio was immediately attached to the latter. He knew that there had been a further clash about the mode of trial, and the words following περὶ τῆς ἀρχαιοτῆτος make it clear that he knew the cause of the protest was the revival of a barbaric archaism.  

But he either did not know or did not understand the significance of the consular intervention, and he saw only the speed with which the trial was converted from a duumviral appeal to a judicium perduellionis. But what interested Dio most was the story of Metellus and the flag.

In conclusion we may ask whether the apparatus for the execution of the duumviral sentence was actually displayed. I favour the view that Cicero's words need not be interpreted as anything but vivid description. But it is quite possible on the other hand that all the necessary details were observed and that the infelix arbor and the rest were produced when sentence was passed. There was, of course, no intention of actually using them, since an appeal was inevitable.

1) Livy XXVI-3; Heitland (op.cit. p.19) tends to argue that in the latter period the tribune had to state at the outset whether he was pursuing a fine or a capital charge. Huschke (op.cit. p.146) thinks that such limitation existed; cf. Cic. pro Mil. 36 where it looks as if Cicero was threatened with a fine process by Clodius, who then took the more extreme step of a perduellio charge. Renkema (De Judicio Perduellionis Sublato; Linum, LV pp.395ff.) criticizes Hardy. Why, if the senate could intervene, did it not do so to prevent the duumviral sentence being passed at all? Again, if Rabirius had two indicia perduellionis, why does Cicero not say - de priore indicio sublato? He tries to prove that the indicium had two meanings: a) the whole action, b) the sententia of the magistrates, populus or indices, and quoting Livy I-26 he suggests that this was the meaning in Cicero. But he does not shake Hardy's theory.

2) Hardy (op.cit. pp.113-4) does not seem to have read what appears to me to be obvious in Dio's following words.

3) cf. Hardy (op.cit. pp.113;119.)
The Date of the Consular Election in 63 B.C.

It is certain that there was some postponement of the elections in 63 B.C., and various dates have been suggested for polling day. Evidence can be found in Cicero, Dio, Plutarch, Sallust, and Suetonius. Mommsen, in defiance of all our authorities, thought the day was postponed until October 28th, and his disciples followed him in deciding upon various dates in the latter half of that month. It is now generally admitted that this dating is much too late and is incompatible with subsequent events. Lange and another group of scholars thought Suetonius meant that the first date fixed was September 23rd. Rice Holmes, reasoning similarly but interpreting by the Julian calendar, favoured September 25th. On the other hand, John, and later Hardy, believed that the elections were originally fixed for the usual month of July and that the postponement was for no more than a few days.

Cicero gives a full account of the events of this time but does not indicate anything unusual in the time of the elections, while Dio, whose authority was well-informed about the conspiracy, knows nothing of any later arrangement of polling day or of any lengthy postponement. The chronology of Sallust and of Plutarch is against this late dating. Lange and Rice Holmes prefer to accept the

1) Cic. pro Mur. 49-53;
2) Dio 37-39;
3) Plut. Cic. 14;
4) Sall. Cat. 26;
5) Suet. Aug. 5: 94-5;
6) Mommsen (Staatsr. I p. 481 n. 6) gives Oct. 21st as the original date fixed for the elections; in History of Rome IV p. 162 Every. Trans. - Oct. 20th, and 25th as polling day. Previously in Hermes I 1866 p. 454 he had given Nov. 4th. Zumpt (op. cit. p. 569) and Drumann (V p. 450) give election day as Oct. 23rd. Hagen (Untersuchungen über römische Geschichte I p. 180) gives the first meeting of the senate in July but allows a postponement until Oct. 21st.
7) In addition to many other difficulties the movements of the Faesulani could not possibly be fitted in.
9) Rice Holmes (op. cit. pp. 455-60);
10) John (op. cit. pp. 742-63) makes many good - and some bad - points in his long discussion: cf. Von Stern (op. cit. pp. 75 ff.): Hardy (op. cit. pp. 43-5):
statement of Suetonius rather than the silence of the rest. But his words are by no means conclusive. He says that Augustus was born a.d. IX Kal. Oct. i.e. 23rd September and later - quo natus est die, quum de Catilinae coniuratione ageretur in curia et Oct-avius ob uxoris puerperium serius adfuisset etc. Rice Holmes points out that this meeting could not have been one of those which took place on Oct. 21st, Oct. 22nd, Nov. 8th (7th?) or Dec. 3rd, so it seems probable that the one he meant was that on the day originally fixed for the elections. John argues that, as the coup was not planned till after the elections, Catiline had not time to make all his preparations in a month. He is, however, wrong in saying that there was no talk of 'conspiracy' before the elections: for, while he may have exaggerated, Cicero mentions a coniurationem nascentem and homines iam tum coniuratos before the elections. Suetonius must have interpreted the coniuration in a broad sense without any reference to aimed revolt. If we remember Suetonius's frequent inaccuracies, there is little weight in John's argument that there was no discussion of the conspiracy before October 21st but merely of Catiline's threats during his canvass. There is a further point in favour of September 23rd. Plutarch says that 'not long after (i.e. the elections) Crassus paid his nocturnal visit to Cicero. But, as Hardy points out, does not mean much in Plutarch. Rice Holmes, after arguing for September, admits that Hardy may be right on this point.

It is most unlikely that Cicero would fix the elections so late that a postponement, which must from the evidence have been a

1) Suet. Aug. 5;
2) ibid. 94-5;
4) Cic. pro Mur. 52;
5) John (op. cit. pp.759 ff.) suggests that Suetonius was dating by the Julian Calendar and that the date was really some time in the middle of November; cf. Zumpt (op. cit. p.885). But see Rice Holmes cit.
6) Hardy (op. cit. pp.43-5 -5):
short one, took them to late September or early October, and then
make no use of this in the Catilinarians and the Pro Murena. He
would certainly have used a postponement to hint at violence,
danger to the state and to himself, troubles in Rome and Manlius's
activities in Etruria. Certainly Rice Holmes thinks the postpone-
ment lasted only a few days, but the difficulties apply with equal
force to an original dating of the comitia on September 25th. If
it were not for Suetonius, I doubt whether anyone would think of
dating the elections at any but the usual time. Suetonius must
have had access to a biography of Augustus which related the circ-
stances of his birth in great detail, and Hardy discounts the
story too readily. The subject of the debate to which Octavius
came late was the doings of Catiline. Therefore Suetonius says -
quum de Catilinae coniuratione ageretur. But it is rash to infer
that the meeting was the one held on the day originally fixed for
the elections. If the consuls were elected as usual in July and
Catiline, as our authorities agree, spent the time until October
28th preparing for an armed rising, his activities must have
caused comment enough for the senate to discuss his conduct on
more than one occasion. Cicero had brought up the question in
July, and he would have equally good reason for doing so again long
before the middle of October, particularly as he thought his person-
al safety was threatened. Suetonius must have meant some such
meeting which discussed Catiline's conduct, and he loosely described
it as de Catilinae coniuratione, thereby misleading Lange and those
who followed him.
The Dates of the Attempted Murder of Cicero and the First Catilinarian.

The question is whether the Catilinarians attempted to murder Cicero on November 7th and were in return attacked in the First Catilinarian on the same day, or whether Cicero spoke on November 8th, the day after Cornelius and Varquanetus had visited him.

Attempts to place both events on November 8th or on the morning and evening of November 7th are unconvincing and may be neglected. 1)

The direct evidence is fairly clear-cut. 2) In the first place, the meeting at Laeca's house is fixed definitely on November 6th by a passage of Cicero. 3) His remarks in the first two Catilinar-ian speeches should make it clear that the date of the senate's meeting was November 8th. Furthermore, the same passages show reasonably plainly that Cornelius and Varqumei was went to Cicero's house early on the morning following the meeting apud Leacm - i.e. November 7th. But several scholars, making difficulties where none exist, have tried to arrange these dates differently. 4)

Mommsen 5) asserted that the meeting at Laeca's house lasted so long that the assassins had to wait till the morning of the 8th. The news would take time to reach Cicero, and not only did he make preparations, but he also communicated with prominent citizens.

All this could not take place in a few hours. Besides, hesterno die cum domi meae peene interfexus esse, senatum convocavi 6) points to the fact that the attempted murder and the meeting of the

1) See the excellent article of John (Phil. XLVI 1888 pp. 650-665) which shows that Nov. 8th was the date of the 1st Catilinarian.
2) Direct evidence comes from - Cic. Cat. I - i.e. 8; 9-10; 12-13; more indirect is - Sall. Cat. 27-31; Plut. Cic. 16; Dio 37-32-3; App. B.C. II -3;
3) Cic. pro Sull. 52 - ea noxte quae secuta est posterm dix Non. Nov.;
4) Manutius, indeed, placed the 1st Catilinar on Nov. 6th.
6) Cic. Cat. II -12
senate took place on the same day. This leads to the discovery of fresh difficulties. On what day did the senate meet? Mommsen, of course, thinks it was November 8th, and the circumstances are all in favour of this view. But those who feel that Mommsen's deductions from the words of Cicero given above prove that the attempted murder and the speech in the senate took place on the same day but cannot accept his theory of a day's interval complicate the issue further by placing both events on November 7th. Some scholars have made very far-fetched suggestions.

Let us examine the supposed difficulties. Cicero says plainly that he was speaking on the second day after the meeting at Laeca's house, and he repeats this later in the same speech. Hardy says - "That the meeting at Laeca's house was on the night before the first speech is not only implied by all accounts but is proved by Cicero's words - recognosce tandem mecum noctem illam superiorem etc. - coupled with the phrase - priore nocte - just after. It is true that Cicero says - quid proxima, quid superiore nocte eris; but here the meeting was held proxima nocte, the word superior being always relative to a later terminus, here to proxima in the other passage to the date of the speech. Cicero obviously only inserts superiore to convey the impression that he had been watching Catiline for days." Such a statement from a scholar of Hardy's standing is surprising. If by 'all accounts' he means Sallust - whom he admits elsewhere to have gone sadly astray - Dio and Plutarch together with Cicero, he must have read into his authorities what is not there. He recognises that Cicero distinguishes between

1) Such as - a night sitting (Madvig); doubt about the exact night (Wirs): textual error (Racht mann): rhetorical effect (Zumpt): Cicero's thoughtlessness (Nohl).
3) Ibid. 3.
4) Hardy (op. cit. p. 57 n. 1).
6) Ibid. 1.
7) Hardy (op. cit. p. 51).
two nights and yet asserts that proxima was the night of the meeting and quid superiore nocte was added for effect. The only way in which Hardy argument could be supported would be by assuming that superiore and priore nocte mean 'last night'. But, as he says himself that superior is always relative to a later terminus and he had declared in a previous article¹ that superior and prior were equivalent, it is very difficult to decide what he does mean. If Cicero had distinguished between two nights for effect and if, in reality, the meeting had been the night before, he would have sacrificed a golden oratorical opportunity to mention only the vital night. But a more pertinent question to Hardy would be the meaning of illa ipsa nocte paullo ante lucem. Noone will believe that it can mean "last night a little before dawn".

The difficulties raised by Mommsen are not really serious. If the meeting finished comparatively early, Fulvia could have warned Cicero in time for him not only to have made his preparations but also to have spread the news to the leading senators. Again, the objection that Hesterno die, cum domi meae paene interfectus essem, senatum convocavi must refer the two events to the same day, which we have seen to be November 8th, is not valid. In the first place, Cicero is reporting on November 9th to an audience which knew the dates mentioned, so that he ran no risk of being misunderstood. Again, cum need not be taken in a purely temporal sense: Cicero could mean equally well - 'yesterday, since I had nearly been murdered, I called the senate'.

R. Wirtz² has propounded the theory that there were two meetings of the conspirators, one on November 5th and another the following night, and he has explained away the controversial passages on this

¹ i.e. in J.R.S., 1916 pp. 56-7;
² R. Wirtz (Beiträge zur cat. Verchworung pp. 1-4):
assumption. Rice Holmes⁴ has, however, pointed out that Wirtz has overlooked one fact about Cicero's speech to the people. It is clear throughout the Second Catilinarian that Cicero is narrating what had happened in the senate as if he were speaking the same day. In order to make his story as vivid as possible he keeps as near to the actual words as he can. His audience would have no difficulty in following him, even if he did use superioris notio² rather loosely, since they knew the actual dates as well as he did.³

We might ask why Cicero delayed calling the senate for a whole day. John⁴ has given the answer. Catiline had decided to leave Rome on the night of November 7th, and nothing would have suited Cicero better than to have him out of the city when the plot was unfolded to the senate. Catiline’s unexpected presence certainly gave Cicero the opportunity for a magnificent tirade, which was doubtless made more effective before publication in 60 B.C. But throughout he is clearly anxious to have Catiline prove his guilt by leaving the city.⁵ The senate had roused itself sufficiently to pass the last decree; but so far it had been unwilling to prosecute Catiline. His presence in the senate-house must have made Cicero thankful that he had spent a day in circulating the story of the heinous conduct of the plotters and had thus influenced senatorial feeling. Catiline certainly had a very hostile reception when he entered the house, and this indicates that his plans

1) Rice Holmes (op.cit. pp.461-5). He has also dealt with Nutting, who produced new arguments to support Mommsen (Proc. Amer. Philol. Assn. XXV 1904 pp.73-6).
2) Cic. Cat. II-6.
3) John (Antst. der cat. Versch. etc. pp.778 n.50; 794 n.).
5) Cic. Cat. I passims. In his speech to the people Cicero is jubilant because Catiline had done what he had hoped he would do on Nov.7th - i.e., left Rome. John (op.cit. p.792) suggests that Catiline may have stayed in the city to give his accomplices time and because he still believed he could remain in the background.
of the 6th had become public property. Nevertheless, Cicero's speech showed the weakness of his position. The senate refused to vote for Catiline's arrest, and he had to content himself with shouting to his enemy that he should quit Rome. The next day, still feeling his position insecure, Cicero had to make a speech in the Forum to counter rumours that he was responsible for driving Catiline out of the city. How much easier the situation would have been if the day's delay had served its purpose and Catiline had travelled north when he originally intended.

If the First Catilinarian was spoken on November 8th, we can now fix the day on which the s. c. u. was passed. Scholars, by combining Cicero\(^1\) - meministine me ante diem XII Kalendæ Novembræ dicere in senatu, fore in armis etc. - with Dio, Plutarch and Sallust, concluded that this date was October 21st. Asconius,\(^2\) commenting on a remark of Cicero - at nos vicesimum iam diem patimur hebscore aciem horum auctoritatis - says that the speech in the senate was actually delivered on the eighteenth day after the passing of the last decree. If the former was November 8th, the latter by Roman counting would fall on October 22nd. Asconius explains the discrepancy by saying that Cicero was speaking in round terms. Probably he is correct: an English speaker might well in similar circumstances have said 'three short weeks'. John\(^3\) has shown that the discrepancy is more apparent than real. Dio\(^4\) mentions two meetings of the senate, one at which the state of tumultus was declared, and a second at which the last decree was passed. Sallust and Plutarch know of only one meeting, but it seems certain from Dio that Cicero's remark in Cat. I -7 was made at the first meeting of October 21st, while the eighteen days were

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1) Cic. Cat. I -7;
2) Ascon. p. 6 C.
3) John (Phil. XLVI 1888 pp. 663-4); R. Wirz (op. cit. p. 30 n.) says Asconius counted in modern fashion; cf. John (Entst. der Cat. Versch. etc. p. 785); Von Stern (op. cit. pp. 173-4);
4) Dio 37-31; cf. 41-3;
counted from October 22nd to November 7th.

Hardy, independently of John, realised the significance of Dio; but he interprets Cicero's vicissimum diem literally. Asconius's explanation is, he says, "wholly inadmissible", and Cicero was taking his terminus a quo from the first meeting of the senate, which, since he places the First Catilinarian on November 7th, must have been on October 19th. Since, however, we have seen that Cicero spoke on November 3th, Hardy's explanation must be rejected.\(^2\)

Thus we arrive at the following dates:-

July:- Murena and Silesus elected consuls.

October 20th:- Crassus goes to Cicero's house.

21st:- First meeting of the senate: a state of tumultus declared.

22nd:- Second meeting of the senate: the S.C.U.

27th:- Manlius stated to have moved from Faesulae.

November 6th:- Meeting at Laeca's house.

7th:- Attempt to murder Cicero.

8th:- First Catilinarian.

9th:- Second Catilinarian.

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1) Hardy (op. cit. pp. 56-8); John (Phil. cit.);
2) Schwartz (op. cit. pp. 587-8) distinguishes between two meetings thus: a) the decretum tumultus made on the production of the letters; b) the s.c.u. passed on Oct. 21st, when Cicero foretold the rising of Manlius.
Although it is fairly easy to follow the course of this debate in outline, several points are by no means clear. Silanus, who as consul elect was asked to give his sententia first, voted for death, and he was followed by Murena and fourteen consulars. Cicero then went on to ask the opinions of the praetors, and Caesar, as praetor elect, spoke first. Hardy, however, holds that Tiberius Nero spoke before Caesar and proposed that the prisoners should continue in custody until Catiline had been dealt with and new evidence procured. Everyone agrees with him that the version of the proceedings given by Cicero in a letter several years later is wrong. In his eagerness to correct Brutus, not, I think, because his memory played him false, he says that everyone who spoke before Cato except Caesar was in favour of the death penalty. What he certainly meant was that all the consulars, who preceded Caesar, agreed with Silanus. Whether or not Hardy is correct in saying that Appian places Tiberius Nero's proposal before Caesar's speech, he is certainly wrong in supposing that Sallust does the same, for the passage in question does not admit this interpretation. Furthermore, Hardy does not notice a further point suggesting that Appian is wrong. The inference to be drawn from our authorities is that the ex-consuls spoke after the consuls elect: then came the praetors. Tiberius Nero was not a consular; therefore he could not have spoken till after Caesar. It is natural to assume that he was influenced by Caesar's speech;

1) The following provide evidence for this debate:- Sall. Cat. 50 -3: Cic. Cat. IV; Att. XII -21; Dio 37-36; Plut. Cic. 20 -1: App. B.C. II 5-6; Suet. Jul. 14: Hardy (op.cit. p.90): Cic. Att. XII -21 written in 45 B.C.: Hardy (op.cit. p.90): Sall. Cat. 50: App. Mythr. 75: Florus III -6: cf. Rice Holmes (op.cit. pp.466-9): He was the grandfather of the emperor, and his son was left as Caesar's legate in Alexandria in 47 B.C. Nero seems to have had a career of moderate distinction; he did not rise to a consulship, nor do we hear of him again.
for his proposal was basically the same as Caesar's except that detention was to be in Rome and only until such time as Catiline was defeated. Appian seems to have been led astray by points of similarity between Caesar's and Nero's proposals.

This error in Appian is closely connected with another immediately following. Completely confused between the suggestions of Caesar and Nero, he says that Caesar wanted the detention of the prisoners in Italian towns only until they could be brought to a regular trial. 1) Hardy seizes upon this, supports it with a reference from Plutarch and declares that it is ridiculous to suppose that Caesar wanted to confine the prisoners in aeternum. 2) Yet both Sallust and Cicero are explicit on this point, and their authority must be placed higher than that of Appian and Plutarch, the latter of whom reveals his confusion by saying that the property of the prisoners was to be confiscated. Such a step would be illegal if they were to come forward later for regular trial, as Hardy supposes. A further point against Hardy is that Cicero afterwards referred to Caesar's sententia as tam severa. 3) It is futile for Hardy to say that Cicero's rhetoric has deceived modern scholars. 4) Cicero would not have dared to mislead his audience - our speech must, in outline at least, resemble what he actually said - which had just heard Caesar's own words. Again, it would be necessary to assume that Sallust was similarly misled. That the 'Catiline' is inaccurate in parts is undeniable; but Sallust seems to have taken care to collect evidence for the text of both Caesar's and Cato's speeches. 5) Caesar's proposal was certainly

1) App. B.C. II -6;
2) Plut. Cic. 21: App. B.C. II -6; Sall. Cat. 51. Merivale (History of the Romans under the Empire I p.84 n.75) had previously made the same suggestion as Hardy.
3) Cic. Att. XII -21; cf. Cat. IV -8; 10: That the prisoners' property was to be confiscated is seen from Sall. Cat. 51; Cic. Cat. IV -8; Suet. Jul. 14; Dio 37-36; Plut. Cic. 21.
4) Hardy (op.cit. pp. 33-4): cf. Cic. Cat. IV -10;
5) Plut. Cat. Min. 23 says that Cato's speech was taken down while he spoke. Possibly the whole proceedings were recorded by short-hand.
to incarcerate the prisoners in strong country towns, to confiscate their goods and to impose a stiff fine on the municipium which allowed its charge to escape. I agree with Hardy that the proposal was ridiculous, since its terms could not possibly have been carried out. But probably Caesar himself did not take it seriously. His chief aim was to stress the illegal use of the last decree. At the same time he tried not to give the impression that he was endeavouring to reduce the punishment of those whom he was suspected of helping, and so he proposed a sentence almost equally severe but which avoided the creation of a precedent in the use of the s.c.u. It was just this severity upon which Cicero seized in his reply. Probably Caesar hoped that, when the excitement had died down, a favourable senate might reconsider the question. 1)

Caesar's speech made a strong impression, and not only did the speakers following him decide to vote for his proposal, but some of the consuls who had approved of Silanus' s sententia changed sides. 2) Thereupon Cicero, realising that the feeling of the house was now against the death penalty, intervened in the debate and summed up the two proposals so far submitted. 3) While he is careful not to suggest which he favoured, it is apparent that he wanted to win back the house to Silanus' s proposal. That he was fully aware of the opposition of the popular leaders to such a use of the last decree is clear. He realised that the absence of Crassus was as much a protest against the death sentence as the speech of Caesar. He professed to believe that Crassus' s presence in the senate two days before, when the prisoners had been given into custody, was in reality an admission that the lex Sempronia had no force in the case of men declared public enemies as was

1) Hoc Holmes (op. cit. P. 275) suggests this.
2) He says that everyone agreed with Caesar's proposal, but other sources show this to be an exaggeration.
3) Cic. Cat. IV:
Caesar's presence on the 5th. His allusion to the death of C. Gracchus is, however, a wilful misstatement of the position. Opimius had been justified because as consul he was dealing with an enemy in arms. No such position existed now; the prisoners were not public enemies in that sense, and unless Cicero could prove that death was necessary on the grounds of public expediency, a strong case could be made out against him for violating the Gracchan law. 1) Crassus had not committed himself in the least by agreeing to the detention of the plotters. 2)

The consul seemed to be wavering, 3) and it was, I believe, at this point that Tiberius Nero came forward with his compromise. His sententia apparently won some support, since Silanus decided that his proposal was now unpopular and spoke again saying that he he had been misunderstood: what he had really meant was the severest punishment Roman law could impose, which was not death but exile; he would now vote for Nero's proposal. 4)

Cato, as all our authorities agree, spoke at the end of the debate. Disregarding the technical niceties of the question, he proposed to apply common sense. The prisoners no longer deserved to be treated as if they possessed citizen rights but to be put to death as dangerous enemies of the republic. Cicero took heart again and put Cato's sententia to the house, which approved it by a large majority.

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1) For literature on this subject see - Botsford (C.W. March 1st 1913 p.131): Boissier (La conjuration de Catilina); Strachan-Davidson (Cicero: Problems of Roman Criminal Law I); Hardy cit.: Rice Holmes cit.: Hommagen (Staatsr. III p.1946; Strafr. pp.256 ff.) etc.
2) Cic. Cat. IV 19-10; cf. Hardy (op.cit. pp.87-9):
3) Plut. Cic. 21:
4) Plut. Cic. 21; Cat. Min. 22; Suet. Jul. 14:
Few definite assertions can be made about the order of events in 59 B.C. E. T. Sage, rating Suetonius unusually high, has attempted a reconstruction from the "Life of Julius". He suggests the following:

1. Acta diurna.
2. Revival of the custom that a consul without fasces be attended by an accensus and lictors.
3. First Agrarian Law followed by:
5. Second Agrarian Law.
6. Remission of the Asiatic tax.
7. Other acts of generosity: during these:
8. Arrest of Cato and
10. Clodius becomes a plebeian, while Cicero in iudicio quodam was deploring the state of the times.
11. Plot of Vettius.
13. " " Pompey and Julia.
14. Vatinian Law: supplemented by:
15. Decree of the senate giving Caesar Transalpine Gaul.

The first two are not mentioned elsewhere and therefore cannot be dated. The lex agraria was passed and the XXvirī appointed in April.

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4. cf. Plut. Pomp. 47:
6. Caesar gave exhibitions of all kinds, presumably about this time - App. B. C. II -2.
7. There were many laws not specifically mentioned - Dio 38-7 ff.
There is no reference to the lex Campana before April 29th, and Cicero writing after June 1st mentions the oath accompanying the law. The agrarian laws seem to belong to March and April, as February was given up to the hearing of foreign embassies. Bibulus was in retirement for eight months, and this fits well. It is more doubtful whether the clashes with Cato and Lucullus are to be connected with the agrarian laws. Sage may be right about Cato, but I prefer to connect Lucullus with the ratification of Pompey's acts.

Cicero's appeasement of the equites is difficult to date. It might be expected fairly early in the year, and, as Sage points out, it figures early in Suetonius's list and not much later in Appian and Dio. It may be referred to in a letter of Cicero at the end of April, but with Sage I doubt whether we can infer that anything more definite than the whole question, now two years old, was in Cicero's mind. Similarly it is difficult to date the ratification of Pompey's acts. One would assume that this would be done early, and there is nothing to prevent this assumption.

The transfer of Clodius must have taken place during the first three months of the year. Cicero says that it was the result of remarks he made when defending Antonius. In 60 B.C. the jury for that trial was being empanelled, although Antonius had not yet reached Rome. Early in the next year Vatinius proposed a law de alternis consiliis reiciendis, which Cicero praises, though he blames Vatinius for waiting so long before having it passed that Antonius could not benefit by it. The adoption of Clodius

had been completed by the middle of April. 1) Cicero seems to have heard first from Curio on April 19th that Clodius was to be a candidate for the tribunate. 2) Usually the trial of Antonius is ascribed to the first two months of the year, but it is safer to say that it could not have taken place later than early April. The Vettius affair can be dated with some certainty in September. The plot occurred before the elections, which took place about October 13th, 3) while in late August Cicero had not heard of it. 4) The date of the lex Vatinia would help to solve certain problems connected with the lex Licinia Pompeia of 55 B.C., but unfortunately it is impossible to say with any certainty when it was passed. Sage thinks that it was passed late in the year when Caesar had gained plenty of support. In June he offered to take Cicero as his legate, 5) which indicates that he already had Gaul. But Sage argues that Caesar knew he would have a province and that he intended to have an army, even if he had not one already. Connected with this problem is the date of Metellus Celer’s death. The earliest reference to it is in mid-April. 6) Ferrero 7) places it in the middle of February but without offering evidence. He explains the dating of Caesar’s command by supposing that the lex Vatinia was passed on March 1st 59 B.C.; but this was not a comitial day. March, 8) following the same line of thought, places it on February 28th and before the first agrarian law. 9) His theory is that

1) Cic. Att. II -7; 2) Cic. Att. II -12; 3) Cic. Att II -24; 4) Cic. Att. II -23; 5) Cic. Att. II -18; cf. II -16 for Caesar’s army. 6) Cic. Att. II -5; 7) Ferrero (op. cit. I p. 290); Lange (op. cit. III p. 283) had assumed that Caesar was appointed to Cisalpine Gaul because of the death of Metellus, and Ferrero seems to get his date from Lange. But surely Metellus was governor of the Transalpine? In 62 B.C. he had been in the Cisalpine but as praetor: see pp. 108-9 n. 2. 8) Marsh in C.J. XXII 1927 pp. 504 ff. 9) He bases his argument on Cic. Att. II -16:
Caesar became proconsul of Gaul while still consul and enlisted soldiers whom he kept in Rome, until he was ready to leave.

1) Gelzer disputes this and wants a later dating. He argues that our accounts of 59 B.C. place the lex Vatinia after the agrarian laws. 2) In a letter written in May 3) Cicero mentions 'Caesar's army'; but Gelzer takes this to mean his political following; and he quotes other passages 4) to support his view. The next letter 5) was written before May 10th and the two following; 6) by which time Cicero had been offered a legateship, between July 6th and 12th. Therefore in the interval Caesar had secured Cisalpine Gaul. Gelzer favours the month of June as the date for the lex Vatinia. 7) It is impossible to be definite, but we may assume that it was passed some time in the summer and that the grant of Transalpine Gaul soon followed.

1) Gelzer in Hermes LXII 1928 pp.113-37;
2) i.e. Dio 38.1-3; App. R.C. II -10 -13; Plut. Cat. Min. 31-2; Caesar 14: Pomp. 48: Suet. Jul. 20-2; Vell. II -44.
3) Cic. Att. II -16;
5) Cic. Att. II -17;
6) Cic. Att. II -18: 19;
7) Gelzer says the date must lie between May and July; most probably it is in June, and the grant of the Transalpine soon followed; Reid (Hermathena 1905 pp.378-9) and C.A.H. (IX pp.519: 549) follow Gelzer. The C.A.H. is, however, difficult to understand. In IX p.549 Hignett says that the lex Vatinia probably followed the death of Metellus Celer (early in April): therefore Caesar could have had no interest in the Transalpine at first. Whether he realised immediately the full possibilities of Metellus's death must remain doubtful. The Transalpine was added in June. Hignett's reasoning is not clear. But in IX p.519 Cary says that soon after the enactment of the lex Vatinia (May or June) the province of Transalpine Gaul fell vacant by the sudden death of Celer. The two are in direct contradiction; the authors cannot have coordinated their chapters. Rice Holmes (op.cit. pp.324 ff.) places the lex Vatinia after the consular elections.
Caesar's Agrarian Legislation.

Certain aspects of Caesar's agrarian legislation are not clear. I cannot, however, agree with the assumption of Groebe and Mommsen that only one lex agraria was passed in 59 B.C. Groebe\(^1\) thinks that the discrepancy arose because Caesar enacted a general law bearing upon technical questions connected with the founding of colonies. This was the lex Mamilia Roscia Peduccia Alliena Fabia, the five sponsors of which were the Vviri, to whom Caesar entrusted the drafting of regulations in accordance with which he was to plant his colonies. Mommsen\(^2\) supports this theory and argues that the lex Mamilia mentioned by Cicero\(^3\) was drafted by the Vviri and was a reproduction of the general agrarian law of that year. He mentions that ch.II of this lex is in large part identical with ch.XIV of the lex colonia Genetiva of 44 B.C.\(^4\) Reid\(^5\) thinks that if Mommsen were right, the lex agraria would be very wide in scope both in space and time. His opinion is that the whole effect of the law of 59 B.C. is to give the impression that it was restricted to Campania and embodied no plan stretching "far beyond and into the future". There is only one allusion to land outside that territory, Volaterrae, which had been confiscated by Sulla. His law, though treated by the courts as null and void, was never repealed, and when there was danger that the land might become public, Caesar reassured the owners.\(^6\) Hardy\(^7\) thinks that Caesar's agrarian law contained provisions for dealing systematically with the municipal system of Italy so as to remedy "the desultory operation of the lex Julia of 90 B.C. and the supposed

\(^1\) D.C.III p.182 ff.: Mommsen (History of Rome IV p.183. Every Trans.)
\(^3\) Cic. de leg. I -21 -5:
\(^4\) Pruns Fontes et al. pp.95-6; cf. Digest 47 -3 -1 -5 where a paragraph of the lex colonia Genetiva closely resembles the Julian lex agraria as quoted here - but the Digest uses aurei, the lex Mamilia ES: cf. Coq in Daremberg and Saglio III p.1164.
\(^5\) Reid in J.R.S. V 1915 p.247.
\(^7\) Hardy in J.R.S. IV 1914 p.106.
law of Cinna". With this Reid disagrees on the ground that Caesar seems to have handled municipal problems piecemeal.

Various other theories have been advanced about the lex Mamillia. Willems\(^1\) thinks that it was passed by five tribunes in 55 B.C.\(^1\) Cary\(^2\) suggests five partisans of Caesar in 49 B.C. \(\text{He points out that L.Roscius and A.Allienus were colleagues in the praetorship in 49 B.C. and Sex. Puducaeus was governor of Sardinia in 48 B.C.}\(^3\) Whether Puducaeus could have been praetor the year before in view of Pompey's lex de iure magistratuum is open to some doubt, but Roscius certainly passed an important law for Caesar in his praetorship.\(^4\) Mommsen objects that the lex Mamillia must have been passed before 51 B.C., as it is mentioned in Cicero's De Legibus, which was completed in that year. But, asks Cary, can this be assumed? Cicero was still working on it in 46 B.C.\(^5\) Hardy,\(^5\) while admitting that 49 B.C. was entirely suitable for the passing of a law to constitute newly enfranchised towns in Cisalpine Gaul, does not feel sure that such clauses would be added to a law for the establishment of transmarine colonies like that at Urso or the military settlements in Gaul and Spain. He would prefer to limit the operation of the law to Italy and to find an earlier date for it, perhaps when the praetors of 49 B.C. were colleagues in the tribunate. He argues thus: colonisation was the principal feature of Caesar's agrarian measures of 63, 59 and his dictatorship; his interest in giving logical effect to the enfranchisement of Italy is shown by

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\(^{1}\) Willems - Le senat etc. I p.498 n.5; cf. Botsford (Roman Assemblies p.441) and another suggestion of Mommsen (De röm. Feldmesser II pp.223-7).

\(^{2}\) Cary in J.P. XXXV 1920 pp.174-90:


\(^{4}\) This was a law regulating the administration of Transalpine Gaul (Brunn pp.101-2). The consuls of 49 B.C. had fled, so perhaps the praetors took over their job of formulating laws.

\(^{5}\) Hardy in C.Q. XIX 1925 pp. 185-91, which is an answer to the theory of Fabricius that the lex Mamillia was connected with C.Mamilius, a tribune of 109 B.C. (cf. T.Frank - Economic History of Rome p.166 n. : Rostovtseff - Social and Economic History of the Roman Empire p.493; Kroll in P.W. XIII² 2397.)
his municipal law and especially by the last paragraph of the
table of Heraclea: the description of the towns to be "constituted"
in the lex Mamilia corresponds exactly with those of enfranchised
Italy in the lex Julia Municipalis and with those of enfranchised
sicilpine Gaul in the lex Rubria; Caesar's care for setting up
boundaries within a colonial territory is shown by the second
chapter in the charter of his Spanish colony: the last of these
chapters is headed in the Digest with the words - lege agraria
quam C.Caesar tulit. In 63 B.C. he had in view an extensive scheme
of colonisation, while in 59 B.C., so far as is known, no more
than two colonies resulted, and it seems to have dealt only with
the ager Campanus. It is a reasonable hypothesis, thinks Hardy,
that in some year after 59 B.C. and before 52 B.C. (after which
the breach with Pompey would have made it impossible) Caesar en¬
trusted to his friends among the tribunes the furtherance of his
scheme for the establishment of colonies as well as the task of
speeding up the "constitution" of enfranchised towns by sending
out commissioners.

Some years after his original article Cary propounded a new
theory. 1) In his view Mamilius and his colleagues formed part of
Caesar's land commission and issued a lex data by way of filling
is details not provided for in Caesar's acts. But the lex Mamil¬
liis did not merely add the finishing touch to a scheme of land
assigntation; it initiated a programme. A substantive act like
this needed the authorisation of the comitia; therefore it could
not have been issued as a simple ordnance by a group of subordinate
officials. Magistrates with the ius agendi must have presented
it. The fasti of 59 B.C. leave no place for Mamilius and his
colleagues. In the lists of magistrates for 49 B.C. were a L.
Ressius and A.Alliernus certainly and a Sex. Peducaeus and Q.Fabius

1) Cary in J.R.S. XIX 1929 pp.113-6:
probably as praetors. In spite of his former view that the law was passed in that year Cary now admits that joint legislation by the college of praetors was not normal. Such cooperative measures usually proceeded from the tribunes. At the end of the Republic the interval between the tribunate and praetorship was six years; presumably therefore the praetors of 49 B.C. were tribunes in 55 B.C. This date is not excluded by the tribunlcian fasti, which would admit of Manilius and his four colleagues being placed on the roll of that year. Therefore Willem’s suggestion of 55 B.C. appeals to Cary.

But there is a new problem. Why after two land laws in 59 B.C. should Caesar have required a third at so short an interval? Cary’s reply is that in 59 B.C. Caesar had four legions: by 57 B.C. he had eight. Therefore more allotments would be required for them. It is impossible to say whether he could have satisfied these claims out of territory gained in 59 B.C.: but it is clear that his soldiers had only "deferred shares in the stock issued in that year". Pompey’s soldiers and fathers of three or more children had first claim: thus Caesar supplementary land law is no longer a mystery.

Furthermore, continues Cary, given the necessary fresh legislation an Caesar’s behalf, it was in his interest to have it passed with the least possible delay. He did not intend to disband his troops immediately: on the contrary it was plainly his object to keep his army together as long as Pompey and Crassus were cum imperio. But mistrust of his partners, which made him postpone

1) See p. 400.
2) See below.
3) But in J.P. XXXV 1920 pl 87 Cary had thought it inexplicable that Caesar’s acts of 59 B.C. should have required in 55 B.C. so sweeping a measure as the lex Mamilia to supplement them; for a)Pompey’s veterans must have had full provision long before (cf. Dio 38-1 -7); b)Caesar’s soldiers were still on active service and had no prospect of being pensioned off; c)the proletarian had been given free corn by Clodius. Therefore there was no urgent demand for a new land law in 55 B.C.: d)there was still land awaiting distribution in 51 B.C. (Cic. Fam. VIII -10 -4).
demonising his troops, also compelled him to hasten the bill for their pensions. This bill could not be carried without the cooperation of the other triumvirs; therefore it was incumbent upon him to bring it forward while he was on good terms with them.

After Luca was plainly the right moment: probably the measure was carried at the same time as the other triumviral enactments. On this view the lex Mamilia was a "junior partner" to the leges Liciniae Pompeia and Trebonia. The absence of any reference to this law in Cicero's letters is of little importance, as very few of his letters have survived. Neither can conclusions be drawn from the silence of the Greek writers, whose accounts of 55 B.C. are incomplete and episodic. ¹)

None of these theories is completely satisfactory. ²) It is undoubtedly tempting to connect the lex Mamilia with the agrarian legislation of 59 B.C.; but it is probably safer to refer it to the period of Caesar's dictatorship, since it is difficult to assign statements about Caesar's agrarian schemes definitely either to his consulship or to his dictatorship.

It is unfortunate that Cicero's letters for the important period of Caesar's agrarian legislation do not begin until after March, by which time the scheme had in its first part become law: besides, the information he does supply is scanty. But a study of Att. II 1-19 leaves us in no doubt that the original lex agraria contained no suggestion that the ager Campanus was to be included. Dio ³)

¹) Adcock (C.A.H. IX p.618 n.) supports Cary and Willems — "possibly provision was made for Caesar's veterans when the time came". Tyrrell (Correspondence of Cicero I p.412 n.) thinks it was passed by a subsection of five similar to the Vviri in 44 B.C.
²) Meyer (op.cit. p.63) has, it seems, killed Mommsen's theory about the lex Mamilia. He points out that one of the Vviri was an ex-consul M. Valerius Messala (C.I.L. VI 3826) and that this law was therefore certainly not drafted by the Vviri. Cary, however, (J.P.XXX 1920 p.186 n.4) thinks this inconclusive, since the constitution of the board would change from time to time. For the Vviri see p.405.
³) Dio 38-1;
states explicitly that this territory was definitely excepted, presumably in order to avoid the additional difficulties which would arise from the eviction of existing tenants. He gives a clear and coherent account of the original proposal in which land was to be bought with the money from Pompey's eastern campaigns.

On April 29th, Cicero was astounded to hear what Caesar proposed to do with the ager Campanus — and, if we are to believe Suetonius, the campus Stellatus. His letters during this month mention a land commission, the membership of which had already been determined.

There is no reason to suppose that Caesar departed from the customary procedure and nominated his commissioners before the measure had been ratified. Therefore by the end of April 59 B.C., one of his land laws stood on the statute book. In May Cicero refers to the distribution of the ager Campanus as if the measure had just been promulgated; hence the lex Campana must have belonged to a later and separate bill. That Caesar was experiencing difficulties with his original law is seen from Cicero's remarks to Atticus. He declared himself quite unable to solve the land question nullo recusante. Caesar seems to have found it more difficult to buy land than he had expected: perhaps few landowners were willing to sell at the censors' rating, or the land he was being offered was unsatisfactory. But whatever the reason he now came forward with this new and sweeping proposal.

Thus I cannot agree with Mommsen's statement that there was only one agrarian law which involved the distribution of Italian domain land i.e. substantially the territory of Capua — and, if
this should not suffice, other Italian land was to be bought. 

Our authorities show that the procedure was exactly the reverse. Against this theory stand not only Cicero and Dio but Livy, who speaks of leges agrariae,1) Appian, who mentions vo\mu\omicron; 2) Sestonius, who after relating the struggle over the original lex agraria adds that the ager Campanus and campus Stellatis were to be divided among twenty thousand citizens,3) and Plutarch, who states explicitly that the lex Campana was an afterthought.4) The status of the quinquerviri and their connection with the vigintiviri have never been satisfactorily explained.5) That they were distinct from the larger body seems certain. Various suggestions about their composition have been made: that they were of four commissions charged with the superintendence of part of the land defined in the agrarian law,6) that they exercised judicial functions, while the rest were occupied in assigning land;7) that they were charged with the distribution of the ager.

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1) Livy Epit. 103: Cic. Att. II -18 speaks of the Julian laws after the Campanian proposal.
2) App. B.C. II -10:
3) Suet. Jul. 20:
4) Flut. Cat. Min. 31: cf. Caes. 14: Pomp. 47 where he speaks of agrarian laws. Those who favour the view that there was only one agrarian law are: Drummam III pp.182-91: Merivale (History of the Roman Empire ... pp.173-5): Mommsen (History of Rome IV p.188 Every.Trans.): Hille (Gesch. Roms. VI p.317): Watson (Select Letters of Cicero pp.16-7): Tyrrell and Purser (Corres. of Cicero I p.412) etc.: Those who vote for two laws are: Lange (op.cit.III pp.272-80): Ferrero (op.cit. I p.297 n.: 291): Heitland (History of the Roman Republic III pp.127-9: 136-9): Warde Fowler (Caesar pp.109-13) Poebford (Roman Assemblies p.439): Tyrrell and Purser (cit. I p.457): P.W. (under Campanus ager): Meyer (op.cit. pp.61-2): Cary (J.P. XXXV 1920 pp.176-90): Long (op.cit. III pp.417-8) asks what land was included in Caesar's original scheme, if the Campanian was not. That the territory of Volaterrae was excluded is shown by Cicero, who was, however, not anxious at first about the ager Campanus. Rice Holmes (op.cit. pp.476 ff.) suggests that Dio may be interpreted in one of two ways: either Caesar meant to distribute all the land except the ager Campanus, and thus the campus Stellatis was meant as distinct from the Campanian territory: or Dio ought to have said that Caesar originally meant to use such land as he could purchase and afterwards added the ager Campanus and campus Stellatis. He had thought of including Volaterrae but afterwards excluded it. The latter alternative is to my mind preferable.
5) Cic. Att. II -7: Atticus hints that even the Vviri are speaking against the III viris.
6) Mommsen - Die Rom. Feldmesser II p.224:
7) Mommsen - Eph. Epigr. III p.3 - a later opinion.
or that they were a group of figure-heads much the same as those employed by certain companies of today in order to create confidence. 2) The first of these suggestions is unlikely, since there was no reason why Atticus should pick out one group of the Viri rather than the other three; he speaks as if they were a single body. The second theory does not account for the fact that Cicero, who was not likely to be included to exercise judicial functions since he was hostile to the law, was offered a seat on the board. 3) That they had to do with the ager Campanus as distinct from the rest of the scheme is disproved by the fact that Cicero mentions them before he knew there was to be a Campanian law. 4) I incline to the view that they were an ornamental body and for this reason Cicero was offered a seat, while Pompey and Crassus, who were members of the XXvir, had no connection with them. 5)
Before we can discuss this lex Clodia we must examine the lex Aelia Fufia. 1) This came into operation about 150 B.C., 2) the period of senatorial ascendancy, and its intention was to impose a check on the tribunate. It enacted that a magistrate could prevent the holding of an assembly for either legislative or electoral purposes. The right of obnuntiatio was based on two kinds of auguria, oblativa and impetrativa. 3) With the auspicia oblativa we are not immediately concerned, since the signs were not sought beforehand and, while a private citizen could legally make them, they were binding only when made by an augur. 4) The auspicia impetrativa lay only within the power of a magistrate, who could state beforehand that se de caelo servaturum esse. This ius obnuntiationis could prevent a measure or an election of which the magistrate disapproved. In practice the only two magistrates to take advantage of this power were the consul and the tribune. There are only two possible instances of attempts to disregard it before 59 B.C., 5) Cn. Fulvius tried to use it against Caesar. In the next year Clodius took measures to provide against a similar occurrence.

It is generally admitted that Clodius did not repeal all the clauses of the lex Aelia Fufia; 6) for during the period down to

There were in reality two laws - see Cic. post red. in sen. 11; in Vet. 5: 18: 23; de prov. cons. 46; de harus. Resp. 58; in Pis. 9. In the pro Sest. 11 and Att. II - 9 Cicero mentions the lex Aelia alone and in Att. IV - 16 the lex Fufia alone. The relationship between the two is unknown, and for convenience they are referred to as a single law.

Cic. in Pis. 10:
Serv. to Aen. VI - 130; Donatus to Ter. Ad. 547:
Cic. in Phil. II - 80 - 4. Auspicio oblativa could therefore only obstruct a meeting if they occurred during it. See Greenidge (C.R. VII 1593 pp. 153 ff.). For Pompey's use of them in 56 B.C. see p. 201. Cic. in Vet. 5: 18: 23: The two instances on which the ius obnuntiationis was possibly disregarded were - Calpurnius Piso in 67 B.C. and the tribune Lurco in 61 B.C.. An instance in 58 B.C. is more doubtful - see App. B.C. I - 55.

But in de harus. Resp. 58 Cicero says Clodius "sustulit" these laws, in pro Sest. 33 he says that by the lex Clodia the auspices and the Aelian Fufian laws were to have no validity. Nevertheless, as is shown below, these sweeping statements are open to much doubt.
408.

[4 B.C., there are several instances of the use of the power of obnuntiatio. 1) Some have maintained that the lex Clodia was disregarded; 2) but if this were the case we should expect some mention of it. It is more likely that Clodius repealed only certain forms of the jus obnuntiatio. McDonald 3) has collected the instances of obnuntiatio which occur after 58 B.C., and from them he has produced a reasonable account of the terms of the Clodian law.

In 44 B.C. Antonius wanted to prevent the election of Dolabella in his colleague success in the consulship. He therefore stated that he would stop the proceedings, not by imposing his obnuntiatio as consul but in his capacity as augur. Cicero 4) taunts him with his ignorance of augural procedure because he chose to act in an illegal manner instead of using the legal means open to him. 5) From this passage we must assume that the consul retained the right of obnuntiatio after 58 B.C. so far as elective assemblies were concerned. That the tribunes retained this is clear from the activities of Milo in 57 B.C. 6) There was another instance of the tribunes use of the obnuntiatio in 54 B.C., when Scaevola tried to prevent Scaurus's election as consul. 7)

These instances are connected with elective assemblies; but most

3) McDonald in J.R.S. XIX 1929 pp. 164-79, on which this note is based.
4) For modern works on the lex Aelia Fufia see Mommsen and Greenidge cit.: Denniston (Cicero's Philippica I-II pp. 180-6): Willems (Le droit public Romain pp. 139-40): Valeton in Mnem. XIX 1891 pp. 243ff:
5) Tyrrell (Correspondence of Cicero I pp. 409-10; 414):
6) Cic. Phil. II 50-4:
7) Antony violated augural practice by a) announcing beforehand that he would discover unfavourable auspicia oblativa; b) trying to obstruct the assembly by announcing auspicia oblativa which none else but he had seen. Pompey stopped the praetorial elections in 56 B.C. by using his power as augur (Plut. Cat. Min. 42: p. 201). In 44 B.C. the tribune Asprenas tried to do the same but failed (App. B.C. III 7).
9) Cic. Q. P. III 3: Att. IV 17:
probably the tribune's ius obnuntiationis extended also to legislative assemblies. In 57 B.C. Sestius obnuntiavit consul (probably Metellus Nepos), and since there is no suggestion of elections, presumably the assembly was a legislative one. Another instance in 44 B.C. is not very clear, but it at least points in the same direction. For further evidence McDonald cites the senatus consultum concerning Cicero's recall - ne quis de caelo servaret, ne quis moram ullam adferret. Since this came after the lex Clodia it can be explained only on the assumption that the tribunes retained the right of obnuntiation in connection with legislative assemblies. It seems, therefore, that Clodius deprived the consuls of their right of obnuntiation against legislative assemblies but left untouched their right to obstruct elective meetings, while the tribunes retained both these powers. McDonald points out that if the consul had been able to announce se de caelo servaturum, he would certainly have done so in 56 B.C., when the conservatives in the senate resorted to the clumsy method of banning dies comitialis, one after another on religious grounds in order to prevent the tribune C. Cato from passing certain anti-senatorial laws. One passage of Cicero has been put forward in objection to this theory that curule magistrates lost their ius obnuntiationis in 58 B.C. When speaking of a meeting of the assembly summoned to vote on his recall and dispersed by the Clodians he says - victa est causa rei publicae, et victa non auspicius, non intercessione, non suffragiis, sed vi, manu, ferro. Nam si obnuntiasset Fabricio pr(ætor) qui se servasse de caelo dixerat, accepisset res publicam, sed eam quam acceptam generale posset. According to

1) Cic. pro Sest. 79; 2) Cic. Phil. I - 25; 3) Cic. pro Sest. 129; cf. Greenidge (cit.) who argues that all instances of obstruction after 58 B.C. are based on auguria oblativa. Valeton (cit.) argues that this was not touched by the lex Clodia. Danniston (op. cit. pp. 182 ff.) disagrees.
4) Cic. Q.F. IV - 5;
5) Cic. pro Sest. 78:
the usual interpretation of this passage the praetor must have had the right of obnuntiatio at legislative assemblies. But against this there is no other recorded instance of obnuntiatio by a praetor. It is suspicious that the text has only p.r. One possible explanation given by McDonald is that Cicero is stating a hypothetical case, or again that the praetor made a threat which he recognised as illegal and which he had no intention of carrying out. Cicero was speaking only from hearsay and may have been wrong in his details. But none of these explanations is satisfactory. Cicero was not likely to make a mistake of detail; nor was there much point in a praetor threatening an action which he knew to be illegal; nor again do the words 'servasse' and 'dixerat' make a hypothetical case possible. Reid1) has suggested that that - is ...... dixerat was a gloss or that we should read - is qui ...... diceret and translate - if someone had interposed his obnuntiatio - I mean by saying that he de caelo servasse. The second suggestion is attractive, but I doubt whether it will bear the meaning put upon it. The one definite point is that there is textual corruption; thus we are not justified in assuming from such a passage that the praetor possessed the ius obnuntiationis at legislative assemblies in 57 B.C..2)

McDonald thinks it likely that the lex Clodia repealed another clause of the lex Aelia Fufia, which is mentioned by the Scholiast - that which gave elective assemblies precedence over legislative ones and which apparently forbade the holding of the latter during the trimmunicum.3) There are two recorded instances of dispensation from this last part of the Aelian Fufian law: in 57 B.C. Piso was allowed to introduce a lex de ambitu after the elections had been announced,4) and in 61 B.C. the tribune Lurco was given the same

1) Reid in Holden's edition of Cic. pro Sest. 76: de prov. cons. 46:
2) Greenidge (cit.) - "a purely imaginary case".
3) Schol. Bob. II p.148 (Stengl)
4) See p.46:Note B.
concession. Although the absence of such dispensation after 58 B.C. is not conclusive evidence that Clodius abolished this clause of the lex Aelia Fufia, certain passages of Cicero suggest that after this date legislative assemblies might be held on dies fasti non comitiales.

1) Cic. Att. 1 -16: see p.133.
2) Cic. pro Sest. 33: de prov. cons. 46:
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<td>Corpus Inscriptionum Etruscarum.</td>
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Since September 1939 difficulties of transport have made inaccessible a few publications which I should normally have read. Those writers whom I have not seen at first-hand are marked - x


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THE PTOLEMIES OF THE FIRST CENTURY B.C.

Lagus = Arsinoe (cousin of Philip)  
Ptolemy I

Ptolemy VII Euergetes = Cleopatra II  
(Physcon) d.116 b.c.  = Cleopatra III  
by Cleopatra II  
Ptolemy Apion  
(by a concubine)

Ptolemy VIII Soter II  
Ptolemy IX Alexander I  
Cleopatra IV  
Cleopatra V

Ptolemy VII Neos Dionysus  
(Auletes) 107-10 b.c.  = Cleopatra VI  
Ptolemy x Alexander II (by ?)  
Ptolemy xii  
Ptolemy xiii

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SPARTACAN WAR 73-71 B.C.

Movements of Spartacus—→→March to North Italy,
→→→from

100 Miles (English).
Scale—1:1,350,000.
CRASSUS'S PARTHIAN CAMPAIGNS

Scale 1: 800,000

Except in the rainy season only the main rivers would be running.
PARTHIAN GRAFFITI from DOURA

A footsoldier with spear, sword, helmet and baggy trousers — perhaps standing on enemy's decapitated head.

A horseman shooting an arrow.

A knight in full armour: a tall metal helmet with vizard, chain mail, sword, spear and apparently greaves.

reproduced by Jack Lindsay in “Marc Antony” by permission of the Associates in Fine Arts at Yale University.