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THE POLICY OF CLODIUS FROM 58 TO 56 B.C.

THE motive of Clodius in attacking the validity of Caesar's laws in the latter part of 58 B.C. has been the subject of many conjectures on the part of modern historians. In a recent article¹ Pocock has propounded a new theory as to the position and policy of the turbulent tribune, which is highly suggestive and deserving of a careful consideration. In the first place Pocock, in opposition to all previous historians, flatly denies that Clodius made any such attack at all, and offers a new explanation of the passage in Cicero's speech for his house where this is asserted. In the oration in question Cicero declares that Clodius called Bibulus before the people and by the testimony of the former consul showed that all Caesar's laws had been passed in disregard of the auspices, drawing from this the conclusion that they should all be annulled by the senate. If the conscript fathers would do this, Clodius offered to bring Cicero back on his own shoulders as the saviour of his country.² Pocock believes that Cicero has flagrantly misrepresented Clodius and wilfully distorted his meaning. Some of Cicero's friends had denied the legality of Clodius' tribuneship and hence of the great orator's exile, and what Clodius did was to demonstrate that this denial logically involved the repudiation of all the Julian legislation. His offer to bring back Cicero was an ironical defiance, and amounted to telling the nobles that they had better not raise such a question unless they had the courage to cancel all Caesar's laws, something which he knew that they would not dare to do. Such an interpretation is not without plausibility, but it must be remembered that in another speech addressed to the senate, Cicero repeats the story and declares that Clodius had attacked the Julian laws both in that body and in the popular assembly.³ Certainly we cannot trust implicitly in Cicero's fairness or veracity in his orations, but there were limits beyond which he could not safely venture to misrepresent his opponents. He would hardly dare to make, or publish, assertions which his audience could not help knowing to be flagrantly untrue. In his speeches he does not claim to quote private conversations of Clodius, but to narrate events of public notoriety. Every one in Rome must have known whether or not Clodius had openly attacked the validity of Caesar's laws, and for Cicero to lie about the matter would simply have rendered him ridiculous. It seems to me incredible that the orator's mendacity, or misrepresentation, can have been carried to such a length, and I think that we must accept the attack on the Julian legislation as having been really made.

¹ Pocock, L. G., *Publius Clodius and the Acts of Caesar*, in the *Classical Quarterly*, XVIII., 1924.

² *De Domo*. XV., Heitland, *The Roman Republic*, III., p. 173, has expressed doubts as to

the reliability of Cicero in the details, but accepts the fact of an attack on Caesar's laws.

³ *De Har. Resp.* XXIII.

This leaves us under the necessity of seeking some explanation unless, with Cicero, we are to regard Clodius as an irresponsible madman.

The rest of Pocock's theory seems to me to come close to the truth, though still just missing it. He believes that from 58 to 56 Clodius was acting in Caesar's interest. Pompey was an untrustworthy partner, and Caesar feared that if the general were allowed to rally a party of his own he would abandon the triumvirate and go over to the senate. To prevent this Caesar instructed Clodius to 'keep Pompey's comb cut,' and the reckless tribune exceeded his employer's intentions. His attacks on Pompey were meant at first to discredit the great general and to keep Cicero in exile lest the orator should succeed in reconciling Pompey and the senate. Later the violence of Clodius was designed to prevent such a coalition.

There is certainly some truth in this reading of the situation. Pompey had undoubtedly been ill at ease and anxious to regain the friendship of the nobles in the latter part of Caesar's consulship,¹ and Caesar, who can hardly have been blind to this, may well have felt that his unsteady partner needed watching. It seems to me, however, that there are some weak points in Pocock's theory. First and foremost was Caesar the real head of the popular party during his absence in Gaul and was Clodius his lieutenant? His leadership has generally been taken for granted, but there are some difficulties in the way. From the passage of the Manilian law till Pompey's return from the East, Crassus and Caesar had been engaged in a series of intrigues against the absent general. In these Caesar acted as the political manager of Crassus, to whom, when he left Rome for his propraetorship in Spain, he was heavily in debt. There can be little doubt that both men had indulged in lavish expenditure to get control of the clubs and associations of voters which constituted the party machine of the democrats. Did Crassus part with his money without a *quid pro quo*? Did he pay out large sums to build up a political machine solely for Caesar's benefit? For myself I cannot believe that the millionaire was so disinterested in his friendship, and I think it practically certain that Crassus took care to secure for himself a very large control over the democratic party. The trial of Clodius for sacrilege seems very significant in this connexion. Caesar's attitude in this matter is well known, but it is always explained as though Caesar were a perfectly free agent. We should remember, however, that it was Crassus who bribed the jury to acquit Clodius,² and that soon afterwards the millionaire assumed the responsibility for Caesar's debts to a huge amount.³ This strongly suggests that Clodius was a henchman of Crassus, and if this were so it would furnish another explanation of Caesar's attitude.

Before his consulship, therefore, there seems some reason to think that Caesar was by no means the unquestioned head of the democrats. When the time came for him to leave Rome for Gaul his arrangements for the government

¹ *Att.* II. 22 and 23.

² *Att.* I. 16.

³ Plutarch, *Caesar* XI., says for 830 talents.

seem somewhat strange. The consuls for 58 were Gabinius, a supporter of Pompey, and Piso, Caesar's father-in-law. Crassus appears to have been entirely ignored, unless we assume that Clodius was really his lieutenant. This seems from every point of view a probable conjecture. It is unlikely that Crassus would consent to be left without some share of the spoils, and Caesar was aware that Pompey was, from his point of view, more or less untrustworthy. Under the circumstances it would be a natural course for Caesar to turn over his share of the democratic machine to Crassus and to rely on him and his tribune to hold Pompey in line. To assume such an arrangement will supply a reasonable explanation of the subsequent course of events.

With Caesar gone the old enmity between Pompey and Crassus soon revived, as there were few common interests to bind the two together. Clodius probably had little love for Pompey, who had long held out against the banishment of Cicero,¹ and he may have attacked the great general of his own accord. Crassus, if he did not instigate the hostile moves of Clodius, was not displeased at seeing Pompey humiliated, and made no effort to restrain the tribune. It is very likely, as Pocock suggests, that Clodius went too far, and Pompey in his anger began seriously to seek a reconciliation with the nobles. As a means to this end he brought forward the proposal to recall Cicero, a measure which he knew the conservatives would eagerly support. The result was a temporary coalition which was successful in the elections for 57. One of the consuls was a tool of Pompey and the other a conservative. Among the other magistrates Crassus and Clodius were only able to secure one praetor and two tribunes. Their position was still further weakened when the mobs of Clodius began to be checked by the rival mobs of Milo, and they were finally forced to recognize that the recall of Cicero was inevitable. It was under these circumstances that Clodius raised the question of the validity of Caesar's laws, and his purpose may, I think, be reasonably conjectured. There is, however, one point which it is necessary to bear in mind to understand his move.

It seems to be always taken for granted that the triumvirs were all equally interested in maintaining the Julian legislation, but this was by no means the case. Caesar himself was not in the least benefited by his own laws because he had taken care to have all measures affecting him brought forward by others, especially by Vatinius. Now to annul the laws of Caesar did not necessarily cancel the Vatinian law. It is true that it could be declared void on the same grounds as the Julian laws, but it would have to be considered and acted on separately by the senate. In such matters the conscript fathers were not bound to be severely logical, and it was possible for the senate to annul all Caesar's laws while leaving those of Vatinius on the statute book. Now the chief gainer by the Julian legislation was Pompey, and he would be the chief

¹ In 59 Clodius had threatened an attack on Caesar's laws (*Att.* II. 12 and 22). This was probably a device of Caesar and Crassus to extort Pompey's consent to the banishment of Cicero.

loser if these laws were declared null and void. It is true that Caesar had put through a profitable bargain for the knights, in which Crassus was more or less interested, but the knights had probably by this time reaped the profit, and the annulling of the law would not of itself force them to disgorge their gains. It is, therefore, possible that Crassus would lose little or nothing by the repudiation of Caesar's acts. Pompey's situation was, however, very different. Among the Julian laws were two for the benefit of Pompey's veterans and one ratifying his eastern *acta*. If Caesar's legislation were cancelled he would lose most, if not all, of what he had joined the triumvirate to secure. Thus, while the conservatives could not without stultifying themselves support the validity of Caesar's laws, Pompey could not permit them to be questioned. To raise the issue was, therefore, an excellent device for driving a wedge between the general and the senate and for breaking up their temporary alliance. Whatever happened to the laws it was not certain that either Caesar or Crassus would lose much, and their position was such that they could well afford to take some chances.

Crassus and Clodius must have realized that a permanent coalition between Pompey and the nobles would be a very serious danger to them. Pompey's importance did not rest chiefly on the support of a party, though he unquestionably had a considerable following among the voters, but on his military reputation and his popularity with the classes from which Rome drew the volunteers for her legions. If he and the senate were once cordially allied the mobs of Clodius would be powerless. All that the senate needed to do was to pass the last decree and to have friendly consuls appoint Pompey as their legate to restore order. This done the democrats could be easily and quickly crushed, Clodius punished for his sins, and Crassus rendered helpless. It may safely be assumed that the two men thus menaced were far-sighted enough to see the danger and were anxious to avert it. The policy which they adopted is clear if we but keep in mind the end at which they aimed. Clodius raised the question of the Julian laws, hoping to sow dissension between Pompey and the senate; and Crassus exerted all his influence in secret among the conscript fathers with the same purpose in view. If they could once succeed in isolating Pompey they might so harass him that he would be driven back to the triumvirate from which he was trying to secede. Along these lines they fought steadily and persistently. Clodius and his mob raged in the streets of Rome with apparent recklessness, but in all his violence he was careful to abstain from any attack upon the nobles in general. The recall of Cicero, however, was successfully carried in spite of his exertions, and was a joint triumph for Pompey and the senate. The conservatives, perhaps with the help of Clodius and Crassus, were able to secure the lion's share of the fruits of victory. In the elections for 56 they returned both the consuls¹ and a majority of the other magistrates, though Pompey and Clodius alike had

¹ Plutarch, *Cato minor*, 39 and *Q. Fr.* II. 6.

friends among the new tribunes. Crassus was content to work under cover and to leave the responsibility to his lieutenants in case of failure.

The nobles were elated at a success which was probably greater than they had anticipated, and were still further encouraged by the obvious disruption of the triumvirate. While the struggle over Cicero's recall had been going on the conservatives had refrained from taking up the question of Caesar's laws. No sooner had the orator returned, however, than they seized upon the bait which Clodius had thrown them. The tribunes for 56 had hardly entered on their duties (in December of 57) than one of them raised the question of the Campanian land which was to have been distributed under Caesar's second agrarian law, probably chiefly for the benefit of Pompey's veterans. For some reason the distribution had not yet taken place, and if the law could be annulled immediately this valuable domain, the sacrifice of which the nobles had bitterly resented, might still be saved to the state. At the moment the question was not pushed, but the conservatives had served notice that they meant to follow the lead which Clodius had given them.

Meantime Rome was suffering from a scarcity of food, and the mob, in spite of Clodius, was clamouring that Pompey should be given charge of the corn supply. On this point the senate, willingly or unwillingly, was forced to yield. But two bills on the subject were presented to the house, one drawn up by the consuls and the other by a tribune who was a supporter of Pompey. The consular bill was sweeping in its provisions, but it was moderate in comparison with that of the tribune, which gave Pompey an army and the most extravagant powers. The general professed to be entirely satisfied with the consular measure, but his friends worked for the other.¹ There can be no doubt which of the two Crassus favoured, and the moderate bill was easily enacted. Thus Pompey had been thwarted by the senate and was unable to resent it, since the conscript fathers had given him all he asked while refusing what he really desired.

Having failed to obtain the command of an army in connexion with the charge of the corn supply, Pompey now sought to find a pretext for one in a commission to restore Ptolemy Auletes to the throne of Egypt. That worthless monarch had recently been driven from his kingdom by his subjects, and was now trying to secure his reinstatement at the hands of Rome and Pompey. When the matter was brought up, however, a tribune allied with Crassus discovered an oracle which forbade the restoration of an Egyptian king by an army. Out of jealousy of Pompey the senate seized on this religious pretext,² and the general was unable to obtain a commission to interfere in Egypt on any terms whatever.

While the nobles were thus alienating Pompey they took care to abstain from any attack on Caesar. At the beginning of 56 they voted a thanksgiving of unprecedented length for his victories in Gaul. Ferrero believes that

¹ *Att.* IV. 1.

² *Fam.* I. 1.

they were carried away by the popular enthusiasm,¹ but such honours as had been given Pompey would surely have been enough to satisfy the people. The unprecedented distinctions heaped on Caesar seem rather to be due to a desire to diminish the prestige of Pompey and to intimate to Caesar that the senate was willing to forgive his past offences, and that he need not fear for himself, whatever happened to his laws.² At the same time the nobles showed a marked tolerance for Clodius. Cicero later complained that they openly caressed that turbulent politician,³ and when a dependent of his, Sex. Clodius, was brought to trial he was acquitted by the votes of the senators on the jury.⁴

It would seem that for the moment the conservatives had joined hands with Crassus and Caesar against Pompey. Such an attitude may be easier to understand if we remember that during Caesar's consulship Pompey had seemed to the Romans to be the head of the triumvirate.⁵ Caesar had trampled the constitution under foot mainly to gratify Pompey, and the resentment of the nobles was directed more strongly against the main offender than against his accomplice. Moreover, the danger from Caesar did not yet appear very imminent. He and his army were far away while Pompey was near at hand. If Pompey could secure an army he would be in a better position to make himself dictator than Caesar. Very probably they hoped to attack one enemy at a time, and were willing to leave Caesar unmolested until they had effectually disposed of Pompey. Caesar was well able to comprehend their motives and was unlikely to put much confidence in their good will, but, unless he could find means to renew the triumvirate, he might be forced to trust the senate in spite of himself.

While Crassus was exerting his influence in the senate to thwart Pompey, Clodius was assailing the general with the utmost violence in the streets. The famous scene at the trial of Milo need not be recited in detail, but one or two points in Cicero's account of it are suggestive. The orator absented himself from the senate, where his party were attacking Pompey, for fear of giving offence by defending the general. Moreover, Pompey confided to him that Crassus was supporting his enemies and supplying them with money. Pompey declared further that plots were being formed against his life, and that he feared being completely crushed by Clodius.⁶ Insulted by the mob, with the senate and nobility hostile, Pompey was reduced to desperation. The con-

¹ *Greatness and Decline of Rome*, II. 38. According to Cicero, *de Prov. Cons.* XI., Pompey approved the unprecedented honours, probably because he saw that they would be voted anyway.

² It may be of interest to note that, in his speech against Vatinius, Cicero not only refrained from any attack on Caesar, but declared that the proconsul of the Gauls was trusting his case to the senate. Writing to Lentulus Spinther the orator later affirms that at this time Caesar was supporting the senate (*Fam.* I. 9) and that Pompey had likewise been won over. In a letter to Lentulus, Cicero may not have been entirely candid, especially as he was seeking to

justify himself, but his acts confirm his words. He evidently believed that both Caesar and Pompey would acquiesce in a conservative revival. This idea was not wholly wild. If his own position were not touched Caesar cared little about the Campanian land and Pompey alone was helpless. I think, however, that, in his attack on Vatinius, Cicero allowed his personal feelings to run away with him and went beyond the program of his party.

³ *Fam.* I. 9.

⁴ *Q. Fr.* II. 6.

⁵ Cicero's letters during 59 show this clearly.

⁶ *Q. Fr.* II. 3.

servatives, exultant and confident, now began the long deferred attack on the Campanian land law in earnest. This cut Pompey to the quick, but he gave no outward sign of displeasure.¹ Probably he did not dare to risk another humiliating defeat in the senate, and felt that nothing was left for him but to try and come to terms with Caesar and Crassus. If this should prove impossible he would have to shape his course as best he could, if necessary giving up the Campanian land in the hope of placating the nobles. Instead, therefore, of making a vain attempt to resist the clamour of the senate he betook himself to Luca, and there succeeded in arranging a renewal of the triumvirate. If Crassus and Clodius had blundered in driving Pompey over to the senate, they had averted the possible consequences of the mistake by forcing him to seek a new understanding with Caesar and themselves. The influence of Crassus, the violence of Clodius, and the question of the validity of Caesar's laws had all been skilfully used to accomplish this result, and the agreement at Luca was the triumph of the policy which they had consistently followed for the past two years.

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¹ *Fam. I. 9.*