

# 1. INTRODUCTION

## 1.1. Scholarship

While M. Tullius Cicero's *Agrarian Speeches* (*LA*) provide important testimony particularly for approaches to agrarian legislation in the late Republic and for a consul's presentation of himself at the start of his year of office (significant political occasions for which only few extensive sources remain), the corpus of Cicero's *Agrarian Speeches* has found relatively little attention in modern scholarship on the ancient world.<sup>1</sup> These orations have not even received a complete modern translation into English: there is only a (now dated) Loeb edition by J.H. Freese (1930), since S. McElduff's more recent version (2001) just offers extracts (*LA* 2.1–32; 2.95–103).

Most studies taking account of *LA* deal with the text piecemeal, using it as a historical source. At the start of a fairly recent article K. Hopwood (2007, 73–74) summarizes the situation: 'Surprisingly, in view of the potential of the second speech on the Agrarian Law for revealing something of Cicero's career-strategy, it has received *per se* very little scholarly attention. The only commentary is that of Jonkers (1963), which covers all three speeches *De Lege Agraria* and limits itself to the social and economic aspects of the texts. MacKendrick (1995) has a useful, if limited, piece in his *Speeches of Cicero*, and there are discussions of some topics elsewhere (notably in Ann Vasaly's *Representations: Images of the World in Ciceronian Oratory*). Most comment has come from historians of the later Roman Republic and biographers of Cicero. In this discourse the three speeches on the Agrarian Law are central to the discussion of *leges agrariae* in the post-Gracchan period and to the question of Cicero's personal integrity. There is interesting work here, but almost all of it derives from Hardy (1924, 68–98). I hope to move the debate into the realm of literary criticism also, which in this case is inextricably bound up with history.' This assessment agrees with what J. Blänsdorf noted in 2002 (2002, 41–42), namely that for *LA* there was no school text and no recent scholarly commentary, that the 'social and economic commentary' by E.J. Jonkers (1963) was insufficient<sup>2</sup> and that C.J. Classen's detailed study (1985, 304–367) mainly focused on argumentative techniques, which left many areas unexplored.<sup>3</sup>

While a few commentaries have appeared since, it is true that *LA* have not been treated very frequently or comprehensively despite their potential relevance for a number of literary, rhetorical, political and historical questions. Besides the old text and Latin commentary by A.W. Zumpt (1861), there are other annotated 19th-century editions (e.g. Wolff 1825; Long 1855) as well as brief commentaries on individual speeches from the early 20th century (e.g. Agnès 1941 on *LA* 1; D'Amore 1938 on *LA* 2; D'Amore 1940 on *LA* 1) and editions for the

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<sup>1</sup> Cicero's *Orationes de lege agraria* / *Agrarian Speeches* will be referred to with the abbreviation *LA*, without indication of the author's name; *LA* without a number denotes the corpus of all three speeches.

<sup>2</sup> See also the critical review by Veyne 1964.

<sup>3</sup> On the state of scholarship see also Boulanger 1932, 26; D'Amore 1938, 14; 1940, 14; Bellardi 1981, 34 n. 100; Vasaly 1988, 409; Keßler 1992, 55. – The lack of full-scale commentaries does not apply only to these Ciceronian speeches (see Craig (2002a, esp. 508–509; 2002b).

use in schools from the 20th century (Levi 1935 on *LA* 1–3; Keßler / Eyrainer 1989 on *LA* 2). Moreover, there is the ‘social and economic commentary’ by E.J. Jonkers (1963); the unpublished dissertation of P.B. Harvey (1972), supplemented by a series of articles, provides a commentary on *LA* 3 and investigates a number of historical problems. There are notes to translations into various European languages (Freese 1930; Boulanger 1932; Vergès 1964; D’Arbela 1967; Kasten 1969; Fuhrmann 1970 [1993]; Bellardi 1981; Huchthausen 1989; Aspa Cereza 1991). Most importantly, a team of undergraduate students led by U. Walter (2013) has produced a commentary on *LA* 2.1–46, available online. This is a significant step forward even if they cover only a portion of the text and cannot go into great depth with regard to all relevant aspects.

A reconstruction of the proposed agrarian law has been published by J.-L. Ferrary (1988; in Crawford 1996). In addition to the studies mentioned, studies on various central issues of *LA* by J. Blänsdorf (2002), F. Bücher (2006, 229–237), A. Drummond (1999; 2000), J. Fogel (1994, *passim*), F. Fontanella (2005), M. Keßler (1992), J. Leonhardt (1998–99), C.E. Thompson (1978, *passim*) and A. Vasaly (1988; 1993, 217–243), D. Flach’s studies on Roman agrarian law (1973; 1990) as well as several contributions to the current historical discussion on the role of the *contio* in Republican Rome (e.g. Pina Polo 1989; 2005; 2011b; Millar 1998; Mouritsen 2001; 2013; Moreau 2003; Morstein-Marx 2004; 2013; Tan 2008; Tiersch 2009; Yakobson 2010; Frolov 2013) address key questions relevant for the interpretation of *LA*.

Building on these investigations, the present volume presents a revised Latin text, a new English translation and a commentary paying attention to textual and linguistic difficulties, the rhetorical and argumentative structure as well as the historical context since all these aspects, often considered separately, should be looked at together for a full appreciation of these speeches.

## 1.2. Historical Background

### 1.2.1. The political situation in 64/63 BCE

The years 64/63 BCE are situated within the turbulent final decades of the Roman Republic, in the period after the reform proposals by the brothers Ti. and C. Sempronius Gracchus (133/123/122 BCE), the Social War (91–89/87 BCE) and the civil wars followed by L. Cornelius Sulla’s dictatorship (82–79 BCE).<sup>4</sup>

At this point the Roman Republican system had failed to evolve and adapt to the development of a worldwide empire; the existing institutional structure was not able to deal satisfactorily with all challenges. The question of land distribution had lingered and not been sorted for decades: over the course of time some individuals had been able to take hold of

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<sup>4</sup> On the historical situation and developments until 63 BCE see e.g. Meier 1968; on the general historical context see e.g. Flower 2010.

large sections of *ager publicus* (land appropriated by Rome in conquered or inherited territories) and to buy up land, so as to create large estates.<sup>5</sup> In addition, the number of military veterans to be provided for increased, and there were several grain crises caused by a shortage of production in Italy.<sup>6</sup> Beyond the practical challenges arising from these developments, the question of land distribution had been a politically charged issue since the period of the Gracchi, leading to opposition between ordinary people, supported by Tribunes of the People, and wealthy landowners. This conflict is one element of what is known as the political opposition between *optimates* and *populares*.<sup>7</sup>

The abandonment of the proposal for agrarian legislation put forward by the Tribune of the People P. Servilius Rullus in December 64 BCE meant that there was still no longer-term answer to the question of land distribution.<sup>8</sup> Moreover, financially, debts had accumulated among soldiers and peasants, there was a vicious circle of usury in the provinces, and competitive ambition of senators led some of these men into debt. Besides, reverberations from the Sullan proscriptions were still being felt, both among beneficiaries and victims. Only M. Porcius Cato (95–46 BCE), when quaestor in 65 or 64 BCE,<sup>9</sup> started to ensure that debts were collected and public payments due were made and that people who had benefitted from killing under the proscriptions paid back their rewards and were punished (Plut. *Cat. min.* 17–18).

Taking concerted action to address such a situation was difficult in the Roman political system. For, in procedural terms, office-holders of any year did not form an overall government, but rather had independent positions; therefore they were able to act against each other, and tensions might exist between them.<sup>10</sup> Since only meetings of the People were in a position to formally approve laws, often proposed by Tribunes of the People,<sup>11</sup> other magistrates, intending to prevent bills from becoming law, had to exert an influence on this body (directly and / or indirectly).

The consuls for 63 BCE were M. Tullius Cicero and C. Antonius Hybrida (the latter coming just ahead of Catiline in the elections [Asc. ad Cic. *Tog. cand.*, p. 94 C.]). When they entered office on 1 January, Rullus' agrarian bill had recently been proposed; therefore they had to react to it immediately. According to later sources Antonius was in favour of the bill and the activities of that year's Tribunes of the People (Plut. *Cic.* 12.3 [T 13]; Cass. Dio 37.25.3 [T 16]).<sup>12</sup> At any rate, after the allocation of proconsular provinces, Cicero exchanged the provinces received with Antonius, so as to grant him the more profitable one and enable him to pay off his debts; he thus enticed him to support Cicero's policies (see LA 2.103 n.).<sup>13</sup>

<sup>5</sup> See e.g. White 1967. – The term *latifundia* for large estates is only attested much later.

<sup>6</sup> Varro (*Rust. 2, praef. 3*) laments Italy's dependence on imports from abroad.

<sup>7</sup> See Schneider 1976; on this terminology see Robb 2010.

<sup>8</sup> Sage (1921; tentative agreement in Gesche 1976, 33) assumes that the failure of Rullus' proposal might have prompted L. Sergius Catilina and his followers (later in 63 BCE) to pursue their aims by revolutionary means.

<sup>9</sup> On the date see *MRR* 2.162–163 with n. 5.

<sup>10</sup> See Millar 1998, 102–103.

<sup>11</sup> See Millar 1998, 209–210.

<sup>12</sup> References in the shape 'T + number' refer to the testimonia on LA; their texts (with English translations) are provided in ch. 2.1.

<sup>13</sup> Cary (1932, 486) sees a more direct link to the agrarian legislation: 'Cicero outbid Crassus for the support of his colleague Antonius: in place of a seat on the decemviral board he offered him first choice of a lucrative proconsular province'.

Among other prominent figures in this period, M. Licinius Crassus (cos. 70, 55 BCE; censor 65 BCE) had supported Catiline and C. Antonius Hybrida in their bids for the consulship of 63 BCE (Asc. ad Cic. *Tog. cand.*, p. 83 C.); from the mid 60s BCE he started to make overtures to Caesar (also supportive of Catiline and Antonius). For C. Iulius Caesar (cos. 59, 48, 46, 45, 44 BCE) was gaining political influence from the early 60s BCE: in 65 BCE he was elected curule aedile, sponsoring expensive games in the following year, and in 63 BCE he was elected praetor and *pontifex maximus*.

There is not much information about the other magistrates of 63 BCE (for the praetors see LA 2.26 n.). Of the Tribunes of the People three are known by name (see LA 1.23 n.) besides Rullus (see ch. 1.2.2.2). When the Tribunes of the People for 63 BCE took office on 10 December 64 BCE, they seem to have launched a series of reform proposals (Cass. Dio 37.25.3 [T 16]). Such a concerted enterprise is unusual<sup>14</sup> and may indicate that a need for action was felt and / or that the consuls of 63 BCE were believed not to be too powerful and at least one of them to be sympathetic to tribunician plans.<sup>15</sup> In addition to the agrarian law, the measures included a proposal by the Tribune of the People L. Caecilius Rufus to reduce punishment for *ambitus*, in order to support P. Autronius Paetus and P. Cornelius Sulla (Rufus' half-brother), who had been convicted as consuls designate in 66 BCE: on 1 January 63 BCE the praetor Q. Metellus Celer announced that Sulla did not want this law (Cic. *Sull.* 65 [T 2]; Cass. Dio 37.25.3–4 [T 16]); therefore the issue was dropped.

These pieces of evidence indicate that the circumstances in public life at the time when Cicero started his consulship and delivered LA were not untypical of the late Republic, characterized by contentious election campaigns, trials and proposals of bills for the benefit of particular individuals and groups, while there do not seem to have been any specific major upheavals in the mid-60s BCE.<sup>16</sup>

## 1.2.2. Roman agrarian laws

### 1.2.2.1. Roman agrarian laws (before and after 64/63 BCE) and Cicero's position

In Republican Rome access to land was an indicator of wealth and social standing as well as an essential resource for food supply; it thus was an element of political concern almost continuously. Initially, there was an increasing supply of land since the Romans, when they conquered the rest of Italy, appropriated this land for public use or the settlement of colonists. Over the centuries, though, since the possession of such land was not policed consistently and the influx of new land decreased, the distribution of available land in Italy developed unevenly: from the late second century BCE onwards increasingly a few landowners bought up land from subsistence farmers or appropriated public land to create large estates. This procedure limited access to private landownership for small subsistence farmers. So,

<sup>14</sup> See Mitchell 1979, 181–183; Walter 2014, 178.

<sup>15</sup> See Walter 2014, 178.

<sup>16</sup> For a description of the situation see also Walter *et al.* 2013, 15–16.

eventually, large holdings were concentrated in the hands of a few while other parts of the population depended on the public distribution of grain.<sup>17</sup>

Against this background the assignation of land was a long-standing bone of contention and frequently a source of social unrest. Accordingly, there were a number of attempts to address the issue, mainly by a series of Roman agrarian bills (some not realized) and laws throughout the Republican period.<sup>18</sup> The problem was compounded by the 60s BCE since there was not much public land left in Italy available for allocation,<sup>19</sup> as had been the case in the past when there was a constant supply of land as a result of new conquests. Accordingly, further agrarian reforms, in order to provide citizens with land, were only possible by purchasing land, by confiscating land or by using land in the provinces.<sup>20</sup> Moreover, the price of land seems to have gone down as a result of political instability in this period, which led to issues of liquidity (Val. Max. 4.8.3).

As regards Cicero's views, in the late treatise *De officiis* (44 BCE) he maintains that it is most important for a stable political system to ensure that everyone can hold on to what is theirs, that debts are not cancelled and that land is not taken away from owners and given to others (Cic. *Off.* 2.73; 2.78–85). In this context Cicero singles out for criticism *populares* who propose agrarian bills with such a purpose (Cic. *Off.* 2.78); for, according to him, it is one of the tasks of a community to guarantee the protection of assets.<sup>21</sup> Such comments would indicate an opposition to agrarian bills involving redistribution of land when it affects those currently in possession.

In a letter to his brother, written a few years after his consulship (late 60 / early 59 BCE), Cicero notes that some wealthy businessmen believed that their fortunes were untouched thanks to Cicero's consulship (Cic. *Q Fr.* 1.1.6).<sup>22</sup> It is unclear which initiatives during his

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<sup>17</sup> See e.g. Rathbone 2003, 175–176. – This is at least how the ancient tradition narrates the development (see App. *B Civ.* 1.7.26–31). – The Romans obviously distinguished between 'possession' and 'ownership' (e.g. Fest., p. 260.28–262.1 L.: *possessio est, ut definit Gallus Aelius, usus quidam agri, aut aedifici, non ipse fundus aut ager. non enim possessio est ... rebus quae tangi possunt ... qui dicit se possidere, † his vere † potest dicere. itaque in legitimis actionibus nemo ex † his qui † possessionem suam vocare audet, sed ad interdictum venit, ut praetor his verbis utatur: 'uti nunc possidetis eum fundum quo de agitur, quod nec vi nec clam nec precario alter ab altero possidetis, ita possideatis, adversus ea vim fieri veto.'*; Paul. Fest., p. 261.9–10 L.: *possessio est usus quidam agri aut aedificii, non ipse fundus aut ager.*)

<sup>18</sup> On Roman agrarian laws see e.g. Vančura 1924 (with a list of Roman agrarian laws on pp. 1154–1155); Gruen 1974, 387–404; Nicolet 1977, 117–142; Schubert 1980; Thommen 1989, 42–55; Flach 1990, 29–81; Lintott 1992, 34–58; for an overview of laws on land assignments and founding of colonies see Laffi 2012. – On soldiers and land distributions see Brunt 1962; on the role of *ager publicus* in Italy see Rathbone 2003; on the procedures for land assignments, colonization etc. see Gargola 1995.

<sup>19</sup> For a brief overview of *ager publicus* see Kay 2014, 162–166; on the extent and legal position of *ager publicus* see Frank 1927 (with a survey of the evidence and earlier theories); on the different types and uses of *ager publicus* see e.g. Marquardt 1881, 151–161; on the general background and the terminology related to *ager publicus* see Burdese 1952; on the different forms of obtaining land for distribution by the state see E. Kornemann, s.v. *Coloniae*, *RE IV* 1, 1900, 511–588, at 562–563. – See also *Dig.* 49.15.20.1: *verum est expulsis hostibus ex agris quos ceperint dominia eorum ad priores dominos redire nec aut publicari aut praedae loco cedere: publicatur enim ille ager qui ex hostibus captus sit.*; Plut. *Ti. Gracch.* 8.1.

<sup>20</sup> See e.g. Rathbone 2003, 173. – Hardy ([1913] 1924, 84–85) notes that Rullus' bill was the first agrarian proposal to include purchase of land. – E. Kornemann (s.v. *Coloniae*, *RE IV* 1, 1900, 511–588, at 563) also lists the earlier *Lex Appuleia*, *Lex Titia* and *Leges Liviae* as using this measure, but the meagre sources on those bills do not include information on this issue.

<sup>21</sup> On Cicero's ideas revealed in this passage see e.g. Frederiksen 1966, 138–140; Wood 1988, 200–205.

<sup>22</sup> Cic. *Q Fr.* 1.1.6: *constat enim ea provincia primum ex eo genere sociorum, quod est ex hominum omni genere humanissimum, deinde ex eo genere civium, qui aut, quod publicani sunt, nos summa necessitudine*

consulship are alluded to. If the rejection of Rullus' agrarian bill was among these measures, the remark would suggest that, at least in retrospect, Cicero's intervention could be seen as supporting the wealthier classes.

Cicero's opposition to Rullus' bill and its later abandonment meant that the *status quo* remained unchanged for the time being and those currently in possession of land were able to keep it, although Cicero does not mention this aspect in his speeches.

The most relevant attempts at agrarian reform in the period preceding Cicero's consulship, which are likely to have influenced the attitude to Rullus' proposal in 64/63 BCE, include the following measures (excluding initiatives focusing mainly on settling veterans in colonies).<sup>23</sup>

The Tribunes of the People C. Licinius Stolo (cos. 361 BCE) and L. Sextius Lateranus (cos. 366 BCE) are said to have proposed a *Lex Licinia Sextia de modo agrorum* in 377/376 BCE, eventually approved in 367 BCE; it limited possession of *ager publicus* to 500 *iugera* per person, along with some other restrictions (Liv. 6.35.5; Varro, *Rust.* 1.2.9; Gell. *NA* 6.3.37; 20.1.23; Vell. 2.6.3; App. *B Civ.* 1.8.33). The historical accuracy of this story is doubted by some modern scholars, and later dates for this law (esp. early 2nd cent. BCE) are being considered.<sup>24</sup>

After the Roman confrontation with Hannibal in Italy, which significantly affected the agrarian structure in the country, especially in the south,<sup>25</sup> the consul L. Postumius Albinus (cos. 173 BCE) brought large sections of the *ager Campanus* back into public possession (according to Livy). Thereupon, in 172 BCE, the Tribune of the People M. Lucretius proposed *Lex Lucretia de agro Campano*, which authorized the censors to lease the *ager Campanus* (Liv. 42.19.1–2), apparently taking up an earlier *Plebiscitum de agro Romano* of 210 BCE (Liv. 27.11.8).<sup>26</sup>

Perhaps in 145 BCE (or during another year of office) a *Rogatio Laelia agraria*, intended to limit the land-holdings of the rich and to improve the conditions of ordinary citizen-farmers in Italy, was tentatively put forward by C. Laelius Sapiens (cos. 140 BCE), but was immediately withdrawn when it met with hostility from the nobility (Plut. *Ti. Gracch.* 8.5).<sup>27</sup>

When Tribune of the People in 133 BCE, Ti. Sempronius Gracchus proposed an agrarian bill (*Lex Sempronia agraria*), devised in consultation with other eminent politicians (Plut. *Ti. Gracch.* 8–13; App. *B Civ.* 1.9.37–13.57).<sup>28</sup> According to Plutarch (Plut. *Ti. Gracch.* 9–10) Ti. Sempronius Gracchus first put forward a bill according to which possessors of land were asked to leave areas they had acquired unjustly against payment; the land becoming available thereby would be distributed to citizens in need. Because this proposal met with opposition, it

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*attigunt aut, quod ita negotiantur, ut locupletes sint, nostri consulatus beneficio se incolumes fortunas habere arbitrantur.*

<sup>23</sup> Hinrichs (1957, 51–52) notes that in late Republican legislation there was no longer a distinction between virgane land assignments and the foundation of colonies.

<sup>24</sup> See Rotondi 1912, 216–218; Elster 2003, 365–367, no. 177; on the modern scholarly discussion on this law (with further references) see Kay 2014, 163–164; for its authenticity see Cornell 1996, 99.

<sup>25</sup> See Cornell 1996.

<sup>26</sup> See Rotondi 1912, 258, 282; Elster 2003, 364–365 no. 176. – On the situation in the *ager Campanus* see also LA 1.20 n.

<sup>27</sup> See Rotondi 1912, 294–295; Elster 2003, 431–432, no. 206.

<sup>28</sup> See Rotondi 1912, 298–299; for the sources see also Greenidge / Clay / Gray 1986, 1–7. – On the nature of Tiberius' 'reform' proposals see Bauman 1979; Bringmann 1985; see also Russo 2002. – On the Gracchi and the question of whether the Gracchan agrarian laws affected the *ager Campanus* see LA 1.21 n. – Cf. also Cic. *Sest.* 103.

was changed: under the new plan the possessors of land were ordered to vacate it without compensation. When this revised bill was passed, a committee of *triumviri*, consisting initially of Tiberius, his brother Gaius and his father-in-law Appius Claudius, was constituted to administer it (Vell. Pat. 2.2.3; Plut. *Ti. Gracch.* 13.1; App. *B Civ.* 1.13.55).<sup>29</sup> The bill intended viritane assignments of *ager publicus* to poor citizens (plots of 500 *iugera* each, plus 250 *iugera* per child, with a maximum of 1,000 *iugera* per person) to be inalienable (Liv. *Epit.* 58). An additional law (*Lex Sempronia agraria altera*) endowed the *triumviri* with judicial competence to judge whether land was public or private (Liv. *Epit.* 58):<sup>30</sup> to give this duty to a land commission was a novelty, taken up in later laws. After Ti. Sempronius Gracchus' death, and because of various difficulties, the law was never fully implemented.

As Tribune of the People in 123/122 BCE, Tiberius' brother, C. Sempronius Gracchus, proposed another agrarian bill (*Lex Sempronia agraria*); this again intended the distribution of land to citizens as well as the foundation of colonies in Italy and the provinces; the allocation of land was to be administered by another committee of three, including C. Sempronius Gracchus.<sup>31</sup> Not much later a new law was passed, according to which landowners were allowed to sell their land, so that rich people immediately began to buy the land of the poor (App. *B Civ.* 1.27.121).

The *Lex agraria* of 111 BCE, the only Roman agrarian law to be attested by inscriptional evidence, may be identical with the *Lex Thoria* mentioned in literary sources (Cic. *De or.* 2.284; *Brut.* 136; App. *B Civ.* 1.27.122), a proposal brought forward by the Tribune of the People Sp. Thorius (*RE Thorius* 2). According to the literary sources the *Lex Thoria* stipulated that the current owners of land should keep it, but make payments to the state in return, and these funds should be distributed to the People. The *Lex agraria* of 111 BCE consists of an Italian, African and Greek section. The first of these affects the *ager publicus populi Romani* existing in Italy in 133 BC (but not public land excluded from division by C. Sempronius Gracchus): all such land possessed on the basis of various procedures is to be private and registered in the census; pasture is to be free on *ager compascuus* up to a certain limit; there is to be no *vectigal* or *scriptura* collected on land made private now or in the future; land granted in exchange for land surrendered is to be private; jurisdiction is to be available, and various existing rights are to be undisturbed.<sup>32</sup> Both for this law and for the Flavian bill of 60 BCE (Cic. *Att.* 1.19.4 [15 March 60 BCE]) the status of lands as private or public in 133 BCE (when P. Mucius Scaevola and L. Calpurnius Piso were consuls) serves as a reference point.<sup>33</sup>

<sup>29</sup> On the role of committees for land assignments see e.g. Hinrichs 1957, 51–61.

<sup>30</sup> See Rotondi 1912, 300. – See also *LA* 2.57 n.

<sup>31</sup> See Rotondi 1912, 307; for the sources see also Greenidge / Clay / Gray 1986, 38–39. – See Liv. *Epit.* 60; Vell. Pat. 2.6.3; *Vir. ill.* 65.3–4; Flor. 2.3(3.15).1–2; Plut. *C. Gracch.* 5.1.

<sup>32</sup> On the *Lex agraria* of 111 BCE see e.g. Hinrichs 1957, 324–404; 1966; Flach 1990, 58; for text and commentary of this *Lex agraria* see *Roman Statutes*, no. 2, pp. 53–63, 113–180 (for the text see also *FIRA* I<sup>2</sup>, no. 8); Sacchi 2006; for an English translation see also Johnson / Coleman-Norton / Bourne 1961, 50–57 (doc. 51). – On the controversial date and contents of *Lex Thoria* (dated to c. 118 BCE by others) and the question of its potential identification with the *Lex agraria* of 111 BCE see e.g. Badian (1965) 1964; Douglas 1966, 247–250; Johanssen 1971, 61–91 (third law in Appian and identical with Cicero's *Lex Thoria*); Flach 1990, 54–56; Sacchi 2006, 1–40 (second law in Appian and identical with Cicero's *Lex Thoria*).

<sup>33</sup> See e.g. *Lex agraria* of 111 BCE, cap. 1 (*FIRA* I<sup>2</sup>, no. 8, p. 103 = *Roman Statutes*, p. 113): *quei ager poplicus populi Romanei in terram It//aliam P. Mucio L. Calpur[nio co(n)s(ulibus) fuit, extra eum agrum, quei ager ex lege plebeiu scito, quod C. Sempronius Tif. tr(ibunus) pl(ebis) rogauit, exceptum cauitumue est, nei diuideretur ---; cap. 3/4 (p. 103 = p. 113); cap. 4 (p. 104 = p. 113); cap. 6 (p. 104 = p. 113); cap. 13 (p. 105 = p. 114) etc.*

In 104 BCE L. Marcius Philippus (cos. 91 BCE), while Tribune of the People, launched a proposal for an agrarian law (*Rogatio Marcia agraria*), which was not adopted (Cic. *Off.* 2.73).<sup>34</sup>

In 100 BCE the Tribune of the People L. Appuleius Saturninus (tr. pl. 103 and 100 BCE) put forward a bill proposing that *ager Gallicus*, conquered by Marius, was to be distributed among veterans (*Lex Appuleia agraria*), in addition to laws on the establishment of colonies outside Italy. After the Tribune's assassination in 100 BCE the Senate annulled his laws (Cic. *Leg.* 2.14).<sup>35</sup>

In 99 BCE the Tribune of the People Sex. Titius proposed an agrarian bill (*Lex Titia de agris dividundis*). It was approved, but subsequently annulled by the Senate because of irregularities in the voting process (Cic. *Leg.* 2.14; 2.31).<sup>36</sup>

In 91 BCE the Tribune of the People M. Livius Drusus (c. 124–91 BCE; *RE* Livius 18) proposed an agrarian bill (*Lex Livia agraria*), which envisaged the settlement of poor people in colonies in Italy and Sicily, administered by *decemviri agris dandis adsignandis*, of which he was one (*CIL* VI 1312; see *LA* 2.24 n.). There was opposition to it since some people feared that the public land they were cultivating might be taken away from them. The law was later annulled as illegal since it was said to have been carried against the auspices and by force.<sup>37</sup>

After the civil war Sulla settled veterans from his legions on land taken from communities and opponents in Italy; rather than founding new settlements, he typically allocated lands in existing colonies and municipal towns; the land assignments came with the condition that the land was not to be sold, but this does not seem to have been observed (Cic. *Cat.* 2.20; *Sall. Cat.* 28.4; *Liv. Epit.* 89; *App. B Civ.* 1.96.447–448; 1.100.470). It is unclear whether Sulla's arrangements were ratified by the *comitia* (*Lex* [?] *Cornelia agraria*).<sup>38</sup>

In 89 or in 70/69 BCE a *Lex Plautia agraria* was put forward, but seems never to have been implemented.<sup>39</sup> This was most likely a proposal by a Tribune of the People Plautius to buy up land in Italy and distribute it among veterans (Cic. *Att.* 1.18.6 [20 Jan. 60 BCE]; *Cass. Dio* 38.5.1–2).<sup>40</sup>

Subsequent to Cicero's consulship the issue of land allocation was taken up again in 60/59 BCE.

In 60 BCE the Tribune of the People L. Flavius (praet. 58 BCE) proposed an agrarian bill (*Rogatio Flavia agraria*), prompted by Pompey according to Cicero.<sup>41</sup> It suggested that the urban *plebs* and the veterans of the Third Mithridatic War should be provided with land in Italy and, in addition to the distribution of public land, private land should be bought for this

<sup>34</sup> See Rotondi 1912, 326–327.

<sup>35</sup> See Rotondi 1912, 331.

<sup>36</sup> See Rotondi 1912, 333.

<sup>37</sup> See Rotondi 1912, 337. – See Cic. *Dom.* 41; *Leg.* 2.14; 2.31; *Liv. Epit.* 71; *Ascon.* on Cic. *Corn.*, pp. 68–69 Clark; *Flor.* 2.5.9; *Diod. Sic.* 37.10.3; *App. B Civ.* 1.35.156; 1.36.162–163.

<sup>38</sup> See Rotondi 1912, 354; also Flach 1990, 70–71.

<sup>39</sup> See Rotondi 1912, 342.

<sup>40</sup> See Gabba 1950; Smith 1957; Marshall 1972.

<sup>41</sup> Cic. *Att.* 1.18.6 [20 Jan. 60 BCE]: *agraria autem promulgata est a Flavio, sane levis, eadem fere quae fuit Plotia.*; 1.19.4 [15 March 60 BCE]: *agraria lex a Flavio tribuno pl. vehementer agitabatur auctore Pompeio; quae nihil populare habebat praeter auctorem.* – See Rotondi 1912, 386. – On the procedures in this case see Moreau 2005, 205–207.

purpose; the expense was to be covered by the income from taxes from the new provinces Bithynia and Pontus, Syria and Cilicia over the following five years. The Italian territories affected included the areas around Arretium and Volaterrae. The Senate opposed this proposal; the consuls were even taken to prison by the Tribune of the People because of their opposition (see *LA* 2.101 n.). Cicero seems to have been inclined to modify the bill rather than to reject it. He explains his position in a letter to his friend Atticus: there he highlights his role in improving the agrarian bill by ensuring that the possessions of private individuals would be confirmed.<sup>42</sup> The proposal was eventually withdrawn.

That Flavius' bill was similar to that of Rullus in some respects has been seen as an indication that this was the only feasible solution at the time.<sup>43</sup> With respect to Flavius' bill Cicero claims that he ensured that the possessions of private individuals were safeguarded (in line with his theories in *De officiis*) and that he confirmed the Sullan possessions; he did not oppose the method to use revenue from new *vectigalia* to buy up land. This contradicts some of Cicero's arguments in *LA*. That Cicero seems to have supported Flavius' bill (with modifications) is therefore sometimes interpreted as a sign that he opposed Rullus' bill merely for political reasons.<sup>44</sup> Yet Cicero's strategy in response to Flavius' bill may have been influenced by his experiences when confronting Rullus' bill, by this bill apparently being influenced by Pompey, by the need to win support among landowners and / or by the fact that Cicero was no longer in office as consul.

C. Iulius Caesar took up the agrarian issue when consul for the first time in 59 BCE.<sup>45</sup> His bill (*Lex Iulia agraria*) stipulated that private estates should be bought from those willing to

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<sup>42</sup> Cic. *Att.* 1.19.4 [15 March 60 BCE]: *urbanae autem res sic se habent. agraria lex a Flavio tribuno pl. vehementer agitabatur auctore Pompeio; quae nihil populare habebat praeter auctorem. ex hac ego lege secunda contionis voluntate omnia illa tollebam, quae ad privatorum incommodum pertinebant, liberabam agrum eum, qui P. Mucio, L. Calpurnio consulibus publicus fuisset, Sullanorum hominum possessiones confirmabam, Volaterranos et Arretinos, quorum agrum Sulla publicarat neque diviserat, in sua possessione retinebam; unam rationem non reiciebam, ut ager hac adventicia pecunia emeretur, quae ex novis vectigalibus per quinquennium reciperetur. huic toti rationi agrariae senatus adversabatur suspicans Pompeio novam quandam potentiam quaeri; Pompeius vero ad voluntatem perferendae legis incubuerat. ego autem magna cum agrariorum gratia confirmabam omnium privatorum possessiones; is enim est noster exercitus, hominum, ut tute scis, locupletium; populo autem et Pompeio (nam id quoque volebam) satis faciebam emptione, qua constituta diligenter et sentinam urbis exhauriri et Italiae solitudinem frequentari posse arbitrabar. sed haec tota res interpellata bello refrixerat.* – On this text and its potential relation to Rullus' agrarian bill and Cicero's reactions see Hinrichs 1974, 72–73; Drummond 2000, 131–133.

<sup>43</sup> Strasburger (1938, 115–116) notes that in this period bills tended not to be developed from scratch, but rather to take up and combine elements of earlier proposals. So similarities between subsequent agrarian bills might be indicative of general procedures and not necessarily prove that the initiators shared political beliefs.

<sup>44</sup> See e.g. Schneider 1974, 341.

<sup>45</sup> Cic. *Att.* 2.16.1 [29 April / 1 May 59 BCE]: *cenato mihi et iam dormitanti pridie K. Maias epistula est illa reddita in qua de agro Campano scribis. quid quaeris? primo ita me pupugit ut somnum mihi ademerit, sed id cogitatione magis quam molestia; cogitanti autem haec fere succurrebant. primum ex eo quod superioribus litteris scripseras, ex familiari te illius audisse prolatus iri aliquid quod nemo improbare, maius aliquid timueram. hoc mihi eius modi non videbatur. deinde ut me egomet consoler, omnis expectatio largitionis agrariae in agrum Campanum videtur esse derivata, qui ager; ut dena iugera sint, non amplius homines quinque milia potest sustinere; reliqua omnis multitudo ab illis abalienetur necesse est. praeterea si ulla res est quae bonorum animos quos iam video esse commotos vehementius possit incendere, haec certe est et eo magis quod portorii Italiae sublatis, agro Campano diviso, quod vectigal superest domesticum praeter vicensimam? quae mihi videtur una contiuncula clamore pedisequorum nostrorum esse peritura. [2] Gnaeus quidem noster iam plane quid cogitet nescio: ... nam adhuc haec εὐοφίξετο, se leges Caesaris probare, actiones ipsum praestare debere; agrariam legem sibi placuisse, potuerit intercedi necne nihil ad se pertinere; ...; 2.18.2 [June 59 BCE]: *habet etiam Campana lex execrationem in contione candidatorum, si mentionem fecerint quo aliter ager possideatur atque ut ex legibus Iulii;* Schol. Bob. on Cic. *Vat.* 15, p. 146 Stangl; Schol. Bob. on Cic. *Planc.* 52,*

sell for a price fixed by the tax-lists with the revenue that Pompey's conquest had brought into the treasury from booty and new tributes and that this land and available public land in Italy should be distributed and then be inalienable for twenty years; a commission of twenty men (not including Caesar) was to be entrusted with the enforcement (Cass. Dio 38.1.4–7). Later in the year a second agrarian bill (*Lex Iulia agraria Campana*) was passed, specifying arrangements for the *ager Campanus* (and the *campus Stellatis*). The sources on this bill are not unanimous as to who would be eligible for allotments of land, either veterans or fathers of three children.<sup>46</sup> This initiative was the first time that an agrarian bill was not presented by a Tribune of the People; despite opposition from the Senate and Caesar's colleague M. Calpurnius Bibulus (praet. 62, cos. 59 BCE) these bills became law. Caesar apparently made sure that the proposal did not have any of the procedural faults criticized with respect to earlier proposals. Cicero seems not to have opposed Caesar's bill. This does not necessarily indicate a change of opinion, but could be a response to the altered political situation.<sup>47</sup>

Similarly, on 5 April 56 BCE Cicero delivered an (unpreserved) speech (*De agro Campano referendo*) in the Senate, suggesting moving the discussion of this issue to 15 May; Cicero did not participate in the postponed discussion after it had become clear that the triumvirs wanted him to be quiet (Cic. *Q Fr.* 2.6; *Fam.* 1.9.8–9).<sup>48</sup>

Cicero's position and interventions with respect to agrarian laws were obviously not only determined by factual circumstances, but also by the political conditions.

### 1.2.2.2. Rullus' agrarian bill of 64/63 BCE

Soon after entering office as Tribune of the People<sup>49</sup> on 10 December 64 BCE, P. Servilius Rullus, whose career or family are not particularly distinguished, put forward a proposal for an agrarian law (perhaps drafted in collaboration with colleagues and / or powerful individuals).<sup>50</sup>

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pp. 161–162 Stangl; Caes. *B Civ.* 1.14.4; Vell. Pat. 2.44.4: *in hoc consulatu Caesar legem tulit, ut ager Campanus plebei divideretur, suatore legis Pompeio. ita circiter viginti milia civium eo deducta et ius urbis restitutum post annos circiter centum quinquaginta duos quam bello Punico ab Romanis Capua in formam praefecturae redacta erat.*; Suet. *Iul.* 20.1: *lege autem agraria promulgata obnuntiantem collegam armis Foro expulit.*; 20.3: *Campum Stellatam maioribus consecratum agrumque Campanum ad subsidia rei publicae vectigalem relictum divisit extra sortem ad viginti milibus civium, quibus terni pluresve liberi essent.*; 38.1: *veteranis legionibus praedae nomine in pedites singulos super bina sestertia, quae initio civilis tumultus numeraverat, vicena quaterna milia nummum dedit. adsignavit et agros, sed non continuos, ne quis possessorum expelleretur.*; 81.1; *Aug.* 4.1: *functusque honore praeturae inter vigintiviros agrum Campanum plebi Iulia lege divisit.*; Liv. *Epit.* 103; Cass. Dio 38.7.3; App. *B Civ.* 2.10.35; 3.2.5.

<sup>46</sup> The tension that, according to the sources, Caesar intended to settle 20,000 people on the *ager Campanus* and Cicero thought that it can only accommodate 5,000 is resolved by Flach (1990, 81) with the suggestion that the sources talking about 20,000 mean the fathers including their three children each. – For Caesar's agrarian laws see Rotondi 1912, 387–388.

<sup>47</sup> See Minieri 2002, 266–267.

<sup>48</sup> On this speech see Crawford 1984, 152–157.

<sup>49</sup> On the political role of Tribunes of the People in Republican Rome see Kunkel / Wittmann 1995, 552–664. – For a discussion of the role of Tribunes of People see Cic. *Leg.* 3.19–26.

<sup>50</sup> On P. Servilius Rullus see Stein 1923; Harvey 1972, 208–221. – On the family of the Servilii Rulli see Badian 1984, 63–65.

In Republican Rome, prior to the promulgation of a bill, its wording could be discussed with individual experts and / or in the Senate.<sup>51</sup> Once it was promulgated, i.e. made publicly available, there was no option of modifying the proposal; it could merely be accepted or rejected.<sup>52</sup> This may explain why in the discussion of Rullus' agrarian bill Cicero does not make any attempt to distinguish between the consequences of different sections or to suggest modifications, but argues against the proposed bill as a whole, both in the Senate and in the *contio*.<sup>53</sup>

Cicero never uses the full name of the Tribune of the People (except in a single passage where he sketches a potential formal letter, *LA* 2.53), but always speaks of Rullus and sometimes P. Rullus when he refers to him by name. Accordingly, modern scholarship tends to talk of 'Rullus' agrarian bill' (a convention continued here), although, according to Roman naming systems, it would probably have been known as *rogatio Servilia*.

Since there is no independent record of this agrarian bill, details can only be reconstructed from Cicero's speeches delivered against it.<sup>54</sup> As a result of Cicero's way of presentation and his argumentative aims, the information about the bill's contents is tendentious and incomplete. Still, Cicero quotes some sections of the bill (though often piecemeal and out of context) and describes the contents of others. If one strips the outline of Cicero's biased reading, some elements of the bill can be established.<sup>55</sup>

The bill proposed arrangements to settle Roman citizens as subsistence farmers on land owned or acquired by the state (*LA* 1.6–22; 2.73–97). They were to be given parcels of public land still available, such as the *ager Campanus*, and cultivable land in Italy to be bought from willing private possessors (*LA* 1.14–15; 2.67; 2.72); they would not be allowed to sell their allotments, so as to prevent the creation of large estates (*LA* 2.78); settlers would be added to existing colonies (*LA* 1.17; 2.75) or settled in new colonies in Italy generally (*LA* 1.16; 2.73–75) and in Capua specifically (*LA* 1.18–22; 2.76–97). To acquire the necessary public funds to purchase land for distribution, there were to be a sale of land outside Italy acquired or inherited since 88 BCE (*LA* 1.10; 2.38; 2.56), a sale of land designated for sale since 81 BCE (*LA* 2.35–37), an investigation into whether land outside Italy was public or private and a potential imposition of heavier taxes on land declared as public (*LA* 1.10; 2.56–57), a sale of areas in Italy and Sicily (*LA* 1.2–4; 2.47–49), a confiscation of the booty of generals that had

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<sup>51</sup> There was no requirement for tribunician *rogationes* to be discussed in the Senate prior to their promulgation (Moreau 2005, 202; Ferrary 2012, 11).

<sup>52</sup> On the legislative procedures see Moreau 2005, 202–203.

<sup>53</sup> On the role of these discussions see Moreau 2005, 212–213. – Cicero thus does not offer an alternative solution to the socio-economic situation in Italy (Pina Polo 2011a, 320).

<sup>54</sup> In English law the term 'bill' denotes a draft of a proposed Act of Parliament, and its individual provisions are known as 'clauses'; once the bill has been adopted, it is referred to as an 'Act of Parliament', and individual provisions are called 'sections'. Therefore, if *caput* in Cicero's speeches were to be translated with the equivalent English term, it would have to be 'clause', since at the time of Cicero's speeches the Agrarian Law is just a bill. Cicero, however, almost always refers to it as 'law' (see ch. 1.3.3), and Roman law does not seem to have had a terminological distinction for individual provisions between draft stage and ratified laws. Accordingly, the term 'section' is used here, which also matches the broader Latin term *caput*. The proposal itself is described as 'bill' (except for paraphrases of Cicero's words), to indicate the status accurately, and since there is a distinction between *lex* and *rogatio* also in Latin.

<sup>55</sup> On Rullus' bill and its context see e.g. Rotondi 1912, 381–382; Hardy (1913) 1924; Ciaceri 1939, 192–215; Gelzer *et al.* 1939, 866–869; D'Arbela 1967, 13–15; Kumaniecki 1972, 182–190; Flach 1973, esp. 289–291; 1990, 71–76; Gruen 1974, 389–395; Schneider 1974, 328–344; Mitchell 1979, 184–205; Perelli 1982, 174–179; Thommen 1989, 54–55; Lintott 2008, 137–142.

not been paid into the treasury or spent on memorials and delivery of future booty (*LA* 1.12–13; 2.59–60) as well as a collection of money received from new *vectigalia* after 63 BCE (*LA* 1.13; 2.62). The land holdings of some Sullan possessors, i.e. of those who had acquired land as a result of the proscriptions under Sulla, are to be confirmed; they would then be in a position to sell off these lands (*LA* 2.68–70; 3.6–7; 3.11).

Among areas potentially to be sold off Cicero mentions the remaining public land in Italy and Sicily (*LA* 1.4; 1.20; 2.36; 2.48; 2.76–97; 3.12; 3.15; 3.16); regions in Spain (*LA* 1.5; 2.51; 3.12), Macedonia (*LA* 1.5; 2.50; 3.12) and Asia (*LA* 2.39–40; 3.12); the lands conquered by P. Servilius Vatia Isauricus, i.e. those that belonged to the people of Attaleia, Phaselis and Olympus and the land of Oroanda and Gedusa (*LA* 1.5; 2.50); the royal lands of Bithynia (*LA* 2.40; 2.50); the lands of Attalus in the Chersonese (*LA* 2.50); Corinth (*LA* 1.5; 2.51); Carthage (*LA* 1.5; 2.51); Cyrene (*LA* 2.51); the royal lands of Mithridates in Paphlagonia, Pontus and Cappadocia (*LA* 1.6; 2.51); Alexandria and Egypt (*LA* 1.1; 2.41–44). Cicero talks of ‘sale’ throughout, but what was intended was probably not an outright sale in all cases, but rather a fixing and leasing of *vectigalia*, potentially in different formats (see also ch. 1.3.4).<sup>56</sup>

This project was to be administered by a committee of *decemviri*.<sup>57</sup> These men were to be elected like the *pontifex maximus*, i.e. by seventeen tribes selected by lot (and thus a majority of nine) out of the thirty-five tribes (*LA* 2.16; 2.18; 2.21). The candidates for the election had to present themselves in person (*LA* 2.24). They were to be in charge for a five-year period with praetorian standing and other wide-ranging powers and given numerous staff (*LA* 2.32; 2.34). Power was to be conveyed by a *lex curiata* proposed by a praetor (*LA* 2.26–28); even without it the election would be valid (*LA* 2.29), and there was to be no intercession against the *lex curiata* (*LA* 2.30). The *decemviri* were to have the same rights in relation to *auspicia* as determined by the *Lex Sempronia* (*LA* 1.16; 2.31; 2.66): they were entitled to establish colonies and make allotments of land anywhere at their discretion (*LA* 2.74).

A tight timescale for translating these plans into action seems to have been intended, when an auction of some of the lands designated for sale was planned to take place within the month of January 63 BCE (*LA* 1.4).

Beyond indicating the overall scheme intended by the bill, Cicero refers to specific sections. It is not always entirely clear where Cicero’s (alleged) verbatim quotations begin and end and to what extent he has changed the wording, especially for reports in indirect speech and paraphrases. For those sections for which Cicero does not give a number (indicated by letters below), their relative position within the bill can only be inferred on the basis of the order of Cicero’s discussion, implicit references to their position and the assumed structure of such laws. There are relatively few verbatim quotations (about ten), mostly brief and taken out of context, and rather more paraphrases.<sup>58</sup> The quotations serve to give Cicero’s argument an air of objectivity, but paraphrases make it easier for him to present his interpretation of the regulations. Therefore the precise wording of the individual sections often remains uncertain. As the bill had been published by the time of Cicero’s speeches (*LA*

<sup>56</sup> Lintott (1993, 81–82) suggests that the lands under discussion were liable to payments of both tax and rent; once they were sold, Rome would no longer receive rent in return for a lump sum, but they would still receive tax.

<sup>57</sup> That the distribution of land was administered by a small group of men was not unusual (see *LA* 2.17 n.). – Since *decemviri* is a technical term in this context, the Latin term will be used to denote this committee.

<sup>58</sup> See e.g. Walter 2014, 173.

2.13), he is unlikely to have misquoted or misrepresented it completely, but rather to attach his own reading to extracts taken out of context. Since, especially among the popular audience, there would not be many who had read or understood the bill's text in full,<sup>59</sup> Cicero was able to convey his interpretation and present it as the real meaning.

The bill consisted of at least forty sections (LA 3.4), of which Cicero mentions about a quarter. The first few sections laid down rules on how the *decemviri* were to be elected and authorized: the *decemviri* were to be elected by seventeen tribes at *comitia* organized by the *tribunus plebis* (*cap.* 1: LA 2.16; 2.20). This is modelled on the election of the *pontifex maximus* (*cap.* 2: LA 2.18). The *decemviri* were to be authorized by a *lex curiata* put forward by a praetor (*cap.* 3: LA 2.26). Even without it, they were to have full rights (*cap.* 4: LA 2.29). Cicero provides numbers for these first four sections; thereby he gives the impression that he will go through the entire bill in order, but his discussion of later sections is vague and there are no more precise indications of their positions.

These indications yield the following reconstruction of the known elements of the bill:<sup>60</sup>

1 – ... *tribunu<s> plebis qui <hanc rogationem> tulerit* ... (LA 2.16; 2.20) [shall have *decemviri* elected]

2 – ... *item eodemque modo ut comitiis pontificis maximi* ... (LA. 2.18) [shall the election of *decemviri* take place]

3 – ... *lege curiata ... ab eo praetore populi Romani, qui sit primus factus* ... (LA 2.26)

4 – ... *tum ei decemviri eodem iure sint quo qui optima lege* ... (LA 2.29)

A – ... *eodem iure quo habuerunt IIIviri lege Sempronia* ... (LA 2.31)

B – ... *de quibus vendendis senatus consulta facta sunt M. Tullio Cn. Cornelio consulibus post<ve> ea* ... (LA 2.35)

C – ... *qui agri, quae loca, aedificia aliudve quid* ... (LA 2.38) [erit quod extra Italiam publicum populi Romani factum est L. Sulla Q. Pompeio consulibus postve ea]<sup>61</sup>

[section requiring the *decemviri* to sell a series of named sources of revenue (LA 1.2; 2.47)]

[section providing for an investigation as to whether land was private or public and the imposition of *vectigal*, probably on land now declared public (LA 1.10; 2.56–57)]

F – *aurum, argentum ex praeda, ex manubiis, ex coronario ad quoscumque pervenit neque relatum est in publicum neque in monumento consumptum* ... (LA 2.59; 1.12)

[section providing that future booty etc., except that of Cn. Pompeius, should be available to the *decemviri* (LA 2.59–60)]

[section providing that new revenues should be available to the *decemviri* (LA 2.62; 2.98)]

I – ... *qui arari aut coli poterit* ... (LA 2.66–67)

40 – *qui post C. Marium Cn. Papirium consules agri, aedificia, lacus, stagna, loca, possessiones publice data, adsignata, vendita, concessa sunt, <quaeque> possessa <sunt>, ea omnia eo iure sint, ut quae optimo iure privata sunt possessa* ... (LA 3.6–11)

<sup>59</sup> See Walter 2014, 175–176.

<sup>60</sup> The reconstruction is based on what was established by Ferrary (1988, and in Crawford 1996, 757–760; see also Reichel 1906, 17–22, 54–55; Schneider 1974, 329–334).

<sup>61</sup> The full section has been reconstructed by D'Amore (1938, 56–57) as follows: *ut qui agri, quae loca, quae aedificia aliudve quid quod publicum populi Romani factum esset L. Sulla Q. Pompeio consulibus, id venderetur; item ut omnia venirent, de quibus vendendis S. C. facta erant M. Tullio Cn. Cornelio consulibus: et ea pecunia agri in Italia emerentur, in quos coloniae a decemviris deducerentur ut Campanus ager et Stellas publicus populi Romani divideretur Capuam coloni adscriberentur.*

*Z* –... *quae in municipia quasque in colonias decemviri volent deducant colonos quos volent et iis agros adsignent quibus in locis volent ...* (LA 1.17) [this followed a specific proviso for the colonisation of the *ager Campanus* and the *campus Stellatis* (LA 1.20; 2.85–86)]

The bill was never turned into law; there is no reference to further legislative activity in the sources. Presumably, after Cicero's opposition and when another Tribune of the People of that year, L. Caecilius Rufus, announced intercession (Cic. *Sull.* 65 [T 2]), the plan was abandoned before it came to a formal voting process.<sup>62</sup> The respective importance of the different factors for this development has been debated. The information in the sources (see *Testimonia*) is not entirely consistent, but the discrepancies can be explained by the respective aims of the argument or the lack of information for later writers. Some scholars believe that Cicero's oratory was sufficient;<sup>63</sup> others think that Rullus gave up after the veto-threat or a combination of the two.<sup>64</sup> It has further been suggested that the proposal failed because it was promoted by politicians with insufficient *auctoritas* and attacked the control of finances and foreign policy by the Roman Senate.<sup>65</sup>

The motivations for the bill have also been much discussed, especially with a view to the question of whether the scheme was Rullus' own idea (or that of him and his tribunician colleagues) or whether other senior politicians were behind it. Cicero presents Rullus as the leader and spokesperson, but also indicates that the bill was down to a group, though he never gives any precise details about its identity (LA 1.11; 1.16; 1.22; 2.12; 2.20; 2.23; 2.25; 2.65; 2.98). Thus there is no information on who these people might have been. The following interpretations have been proposed: Caesar and Crassus are behind the proposal;<sup>66</sup> Caesar is

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<sup>62</sup> See e.g. Williamson 1990, 275. – Drummond (1999, 166, 167) observes that the Tribunes of the People of 63 BCE are united by their avoidance of outright confrontation and that it therefore is hardly surprising that none of them actually vetoes a proposal of a colleague. – Brunt (1971, 312) notes that the bill was defeated by senatorial obstruction. – MacKendrick (1995, 56) and McElduff (2011, 50) say that the People voted against the bill.

<sup>63</sup> See e.g. Wolff 1825, 368–369, 385; Haenicke 1883, 1, 10; Reichel 1906, 126; Petersson 1920, 233; Levi [1922] 1978, 62; Cary 1932, 486; Taylor 1949, 72; Hinrichs 1957, 130; Marsh 1963, 166; Vergés 1964, 9, 18; Köhler 1968, 118; Fuhrmann 1970, 124; Scullard 1970, 111; Rawson 1971, 26; Harvey 1972, 206; Huchthausen 1989, 453; Keßler / Eyrainer 1989, 8; Aspa Cereza 1991, 181; de Martino 1991, 204; Keßler 1992, 63; Wiseman 1994, 351; MacKendrick 1995, 32; Graeber 2001, 226; Hölbl 2001, 225; Minieri 2002, 263–264; Williamson 2005, 94; McElduff 2011, 50; Morstein-Marx 2013, 29–30. – Mouritsen 2001, 54: 'It is the only instance from the late republic where oratory applied in a contional address would appear to have prevented the passing of a regular bill.' – Minieri (2002, 264) infers from the mention of the veto in *Pro Sulla* [T 2] that the veto occurred after the delivery of Cicero's speeches and was rather a consequence of them.

<sup>64</sup> See Zumpt 1861, XV–XVI; Botsford 1909, 436; Niccolini 1934, 271; Carcopino 2013 (1935), 150; D'Amore 1940, 10, 11; Schneider 1974, 344; Classen 1985, 309 n. 18; Chouquer / Clavel-Lévêque / Favory / Vallat 1987, 220 n. 15; Flach 1990, 76; de Libero 1992, 32–33; Brennan 2000, 427; Mouritsen 2001, 54–55, 69; Minieri 2002, 260; Fezzi 2003, 53; Pina Polo 2011a, 320; Walter 2014, 179. – There is no suggestion in the sources that there was any interaction between Cicero and this Tribune of the People, as Anderson (1963, 19: 'Cicero, who secured the help of a fourth tribune, Caecilius Rufus, in defeating it') and Vergés (1964, 18) seem to suggest. – De Libero (1992, 32–33) notes that this is one of the few attested veto threats that had an effect (in combination with Cicero's oratory), but cautions that in case of vetoes realized the sources are unlikely to mention a preceding threat.

<sup>65</sup> See Gruen 1974, 394–395.

<sup>66</sup> See e.g. Wolff 1825, 364; Pluygers 1858, 346; Zumpt 1861, 2; Botsford 1909, 435; Petersson 1920, 227; Ciaceri 1926, 202, 209; Gelzer, 1926, 311; Frank 1927, 151; Boulanger 1932, 19–20; Salmon 1935, 308–309; Jones 1936, 90; D'Amore 1938, 7, 42, 107; 1940, 7, 43; Gelzer *et al.* 1939, 867; Afzelius 1940, 221 and n. 5; Agnès 1941, 41; Hinrichs 1957, 81–82; Marsh 1963, 165–167; Smith 1966, 99–100; D'Arbela 1967, 12, 15;

behind it;<sup>67</sup> Crassus is behind it;<sup>68</sup> Catiline and the conspirators are behind it (Cass. Dio 37.30.2);<sup>69</sup> Pompey is behind it, or it is at least in Pompey's interests;<sup>70</sup> Rullus and his fellow Tribunes have their own political ambitions and agenda.<sup>71</sup> Others have argued: there is no evidence of *nobiles* behind the proposal;<sup>72</sup> it was a genuine social reform;<sup>73</sup> it was a programme to abolish large estates;<sup>74</sup> it was meant to create unrest in Rome and challenge Cicero.<sup>75</sup> It has further been suggested that the bill was merely a means for other political aims: the bill was not intended to go through in this form, the purpose was rather to offer Cicero a chance to relieve discontent and improve living conditions, but in a form that would provoke attack;<sup>76</sup> the aim was to establish a position similar to that of Pompey for the leaders of the 'democratic party';<sup>77</sup> the intention was to embarrass Cicero by showing him as the mouthpiece of the Senate<sup>78</sup> and make him declare his political beliefs;<sup>79</sup> Crassus and Caesar were meant to get control of the Republic and Crassus to get an allotment of land; the plan was intended to rid the city of the proletariat; it was set up as a gigantic bribery scheme; the scheme pursued both social reform and power for its backers.<sup>80</sup>

Owing to the lack of independent evidence not all of these theories can be confirmed or rejected. As for supporters of the bill, according to later ancient sources, Cicero's consular colleague C. Antonius Hybrida was in favour of it or at least sided with the Tribunes of the People, but Cicero managed to render him innocuous by granting him a lucrative province (Plut. *Cic.* 12.2–6 [T 13]; Cass. Dio 37.25.3–4 [T 16]). Cicero's discussions of the prospective *decemviri*'s alleged plans for Alexandria and Egypt (LA 1.1; 2.44) assume that these are (at least partly) identical with those who made attempts in 65 BCE, i.e. Crassus and Caesar (see

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Gelzer 1969, 72–73 = 2014, 68; 1983, 36–37; Fuhrmann 1970, 120, 121, 124; Kumaniecki 1972, 183; Ward 1972, 251–252, 257–258; Thompson 1978, 29 and n. 7; Mitchell 1979, 183–184; Bellardi 1981, 31, 35–36; Huchthausen 1989, 453, 455; Aspa Cereza 1991, 261 n. 117; Keßler 1992, 58; Wiseman 1994, 349 (somewhat sceptically); MacKendrick 1995, 30, 32; Graeber 2001, 226; Minieri 2002, 260; McElduff 2011, 49; contra Sumner 1966; Gruen 1974, 389; Flach 1990, 71; Drummond 1999, esp. 153–162; Jehne 2011, 113 n. 7 (p. 122). – Gesche (1976, 29–33) summarizes existing scholarly opinions (see also Harvey 1972, 1–2) and notes that involvement of Crassus and Caesar is the general view, but voices some doubts, already expressed by Strasburger (1938, 114–116). – Graeber (2001, 226) suggests that, as a result of Cicero's oratory, the group pursuing the bill, i.e. the Tribunes of the People, Cicero's colleague Antonius and others not identified by Cicero, dissolved; such a detailed sequence cannot be inferred from the sources.

<sup>67</sup> See e.g. Schwarz 1978, 7; Haenicke 1883, 12–14; Reichel 1906, 116–118; Frank 1914, 332–333; Stein 1923, 1808; Carcopino 2013 (1935), 147 Köhler 1968, 112; Keßler / Eyrainer 1989, 8; cautiously Spencer 2013, 48.

<sup>68</sup> See Cary 1932, 485–486; Taylor 1949, 73; Scullard 1970, 111; contra Sumner 1966, 582.

<sup>69</sup> See Havas 1966, 41; 1976, 131; Schickel 1986, 818; Hölbl 2001, 225 (but Crassus and Caesar would have profited from it).

<sup>70</sup> See Sumner 1966, 577–582; Gruen 1970, 237; Seager 2002, 68–69 (also pointing to the exceptions of areas where Pompey had clients [LA 1.10–11; 2.57–59]). – The bill is directed against Pompey: e.g. Cary 1932, 485–486.

<sup>71</sup> See Drummond 1999, esp. 153–162.

<sup>72</sup> See Gruen 1974, 389.

<sup>73</sup> See Gruen 1974, 393.

<sup>74</sup> See Havas 1976.

<sup>75</sup> See Boulanger 1932, 13; Agnès 1941, 9; D'Arbela 1967, 13; Schickel 1986, 820; similarly Fuhrmann 1970, 120. – Schneider (1974, 336–339) regards the bill as a compromise between the economic interests of leading *nobiles* and the socio-political ideas of 'popular' politicians.

<sup>76</sup> See Sage 1921.

<sup>77</sup> See Mommsen 1911, 160; Saunders 1917, 153.

<sup>78</sup> See Saunders 1917, 153.

<sup>79</sup> See Agnes 1943, 40–41; Sumner 1966, 575–576; contra Gruen 1974, 392–393.

<sup>80</sup> See Mitchell 1979, 187; Gelzer 1983, 36.

LA 1.1 n.). This identification implies that the bill will benefit Crassus and Caesar and there is contact between them and Rullus, but does not prove that the two were involved in drawing up and proposing the bill.

In line with the divergent views on the backers of the bill and its aim, its true impact and thus the effect of Cicero's intervention have been interpreted differently: Cicero prevented a necessary social programme in the interests of the nobility, whose support the *homo novus* required;<sup>81</sup> Cicero opposed 'a novel, harmonious, well-planned, and far-sighted piece of legislation';<sup>82</sup> the proposal was meant to address general problems of impoverishment and its consequences, and the issue of veteran allotments was not its main focus;<sup>83</sup> Cicero saved the Republic; Cicero defended the interests of Pompey;<sup>84</sup> against his own better judgement Cicero advised the People to enjoy life in the city at public expense rather than engage in productive labour in the countryside.<sup>85</sup>

The basis for any conclusions can only be the arguments that Cicero puts forward against the bill over the course of the three extant speeches: the People's rights, such as their voting rights, will be infringed (LA 2.17; 2.22; 2.31; 2.99); the Roman People will lose some of their traditional possessions and revenue (LA 2.48–49; 2.81; 2.84; 3.12);<sup>86</sup> the provisions will set up a tyranny (LA 2.15; 2.24; 2.29; 2.32–33; 2.35; 2.75); the envisaged scenario contradicts tradition and precedent and affects key elements of the Republican constitution (LA 1.2; 1.6; 2.26–27; 2.65; 2.89; 2.98); the proposed colonies will be used by the backers of the scheme as military strongholds to control Italy for their own interests (LA 1.16–22; 2.73–97); the bill offers ample opportunity for bribery (LA 1.9; 2.20–21; 2.46; 2.99); the bill is hostile to Pompey, the People's favourite (LA 2.49); the bill is focused on the personal benefit of Rullus and his friends and relatives (LA 2.69; 3.4–14).

Thus, Cicero presented the bill not as a socio-political measure, but as designed to curb the power of the victorious and well-liked Pompey and to build up a power-base for a select few, who would be able to make arbitrary decisions, endangering the Republic. Cicero interprets the bill as directed against Pompey (LA 2.49)<sup>87</sup> since candidates for the office of *decemvir* will have to present themselves in person while Pompey is not in Rome (LA 2.24), land conquered by Pompey is to be sold while Pompey is still at war and due processes have not been concluded (LA 1.6; 2.52–54; 2.99), the *decemviri* will be in charge of new *vectigalia* resulting from Pompey's conquests (LA 2.62), and the colonists will form an army against Pompey (LA 2.99; 3.16). Some scholars have observed, however, that only a single section could be interpreted as directed against Pompey (LA 2.24), and many aspects of the bill could even be seen as favourable to him.<sup>88</sup> Similarly, it has been noted that the bill would only be directed

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<sup>81</sup> See Reichel 1906, 137–141.

<sup>82</sup> See Temelini 2006, 54.

<sup>83</sup> See Drummond 1999, 162.

<sup>84</sup> Blänsdorf (2002, 55–56) lists these options and finds it impossible to clearly decide between them. For a list of various political interpretations see Havas 1966.

<sup>85</sup> See Cary 1932, 486. – Or the People prepared public distribution of corn to cultivating fields themselves, in addition to perceiving the proposal to be directed against Pompey (Mommsen 1911, 161).

<sup>86</sup> Arena (2012, 230) assumes that the loss of revenues from Campania would not have been a problem since the treasury was enriched by the accumulation of funds from the envisaged sales. Some of this money, however, would have been spent on buying land, and it is uncertain to what extent it could have been used to guarantee income in the long term.

<sup>87</sup> See Pluygers 1858, 346; Ciaceri 1926, 202–203, 209; Hinrichs 1957, 82; Mitchell 1979, 192–194.

<sup>88</sup> See Rawson 1971, 27 and n. 4. – Sumner (1966, 581–582) argues that the bill supports Pompey; Lintott (2008, 140–141) notes that it is not specifically directed against Pompey; Flach (1990, 74) comments that

against Pompey if he did not cooperate, but would be helpful to him if he did, which was perhaps initially expected.<sup>89</sup> At any rate the bill included arrangements specific to Pompey since he was the only general to wage a major war at the time.

Irrespective of Cicero's assessment, Rullus' proposal could be seen as a pragmatic solution to current issues of land distribution in Italy.<sup>90</sup> Therefore it had to put forward novel measures, bound to provoke opposition. By confirming the holdings of the Sullan possessors the bill would give a legal basis to an established situation. Yet removing this legal uncertainty would reduce the land available for distribution. Therefore, if settlements on Italian soil were to be made, land could only be obtained by forcing private possessors of land out of their possessions (explicitly rejected by the bill; see *LA* 1.14), by purchasing land with public funds, by confiscating land or by dividing up the *ager Campanus*, one of the last pieces of *ager publicus*. Agrarian bills since the late second century BCE had attempted all these measures.<sup>91</sup>

Since Rullus' bill followed upon a long series of earlier agrarian bills, some of its arrangements had precedents in earlier legislation. Thus it has been suggested that 'the novelty and importance' lie 'not in its procedural regulations but in its scope'<sup>92</sup> and that the bill is not as revolutionary as Cicero presents it.<sup>93</sup> Indeed, some of its elements have parallels in earlier bills: panels of ten magistrates for land assignments are attested before (*Liv.* 31.4.2; 31.49.5; 42.4.3–4); the combination of ordinary and extraordinary magistracies is not unusual.<sup>94</sup> A board of ten with judicial powers was meant to implement the agrarian bill of L. Appuleius Saturninus.<sup>95</sup> The *decemviri* are to be assigned a great deal of power, but this is not necessarily as extraordinary and reckless as Cicero claims in view of their task.<sup>96</sup> Yet other scholars have noted a high number of irregular features in the bill.<sup>97</sup> Indeed, some of the procedural arrangements highlighted by Cicero are unusual: the election of the *decemviri* by seventeen tribes; Rullus being eligible to be one of the *decemviri*; the lack of restrictions on eligibility apart from personal presence; the arrangements concerning the *lex curiata*; the lack of rules on determining the value of land.<sup>98</sup>

On this basis evaluations of Rullus' bill can be attempted. Yet, assessments of whether or not Rullus' bill was a 'good' law and of whether Cicero was right in criticizing it tend to be somewhat subjective, reflecting scholars' views on Cicero and the general political situation.<sup>99</sup> On balance one might conclude that, while it is difficult to ascertain the true intentions of the

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excepting Pompey from the requirement for generals to hand over booty to the *decemviri* (*LA* 1.13; 2.59–60) could have been intended to ensure the interests of Pompey as general.

<sup>89</sup> See Ward 1972, 257; contra Gruen 1974, 392.

<sup>90</sup> See Gruen 1974, 390–392.

<sup>91</sup> Hinrichs (1957, 60, 74, 81, 88) highlights that this proposal goes beyond all earlier laws in the amount of finances and power involved, but shows a great economic and political vision on the part of the proposers. – On the traditional and novel features of Rullus' agrarian bill see also Boulanger 1932, 23–25.

<sup>92</sup> See Gruen 1974, 390.

<sup>93</sup> See Gabba 1966, 770–771.

<sup>94</sup> See Mommsen, *StR* II 630.

<sup>95</sup> See Brennan 2000, 427.

<sup>96</sup> See Hardy (1913) 1924, 94–95.

<sup>97</sup> See Mitchell 1979, 190.

<sup>98</sup> See Boulanger 1932, 17; Flach 1990, 74–75.

<sup>99</sup> See e.g. Haenicke 1883, 17; Frank 1914, 333; Marsh 1963, 166; Smith 1966, 100; Mitchell 1979, 186. – Mitchell (1979, 196) suggests that Cicero genuinely believed that the bill was pernicious and dangerous; it is unclear whether this can be inferred from his tendentious oratory, but his arguments against the bill can be seen as the first expression of some of his political ideals developed later (Mitchell 1979, 196–205).

proposers of the bill, it is unlikely that such a detailed scheme was put forward merely to confront and embarrass Cicero; it is more plausible that it had a more serious aim. That the plan included novel elements, such as the purchase of land, made it vulnerable to criticism; it could be argued, though, that such bold measures were only proposed when noticeable results were intended. Yet the way in which the scheme was to be administered made it open to abuse (intentionally or unintentionally), again a key target of opponents. Hence one might say that the bill included reasonable elements of genuine social reform while it would also benefit the men promoting it.<sup>100</sup> This would explain (in addition to the Roman legislative processes) why Cicero's tactic was outright opposition and rejection and his discussion focuses not on the principles, but on procedural issues and any implied advantages and disadvantages for individuals.

### 1.2.3. Procedural context

The role of the *contio* (generally an informal meeting of the populace at which speeches were made) in the political system of Republican Rome has recently been much discussed among scholars of ancient history:<sup>101</sup> views range from the position that the *contio* was an important political force to the opinion that it did not have real influence and rather was a playground for noblemen.

By far the greatest number of known *contiones* was called by Tribunes of the People; those run by consuls come second, and the number of *contiones* called by consuls increased considerably after the period of Sulla.<sup>102</sup> According to the formal terms of the Roman political system, one of the roles of the People was to vote on proposed bills; therefore, in order to get bills accepted or refuted, it was necessary to address the People, present the proposals to them and try to steer their attitude into the intended direction.<sup>103</sup> During the period in which a bill was promulgated it was possible not only for the proposer, but also for other magistrates to

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<sup>100</sup> The *agrimensores* mention distributions of land in which the *auctor divisionis* could reserve areas for himself or others (Hyg. *De gen. contr.*, p. 133 Lachmann = p. 96 Thulin; Siculus Flaccus, *De cond. agr.*, p. 157 Lachmann = p. 121 Thulin).

<sup>101</sup> The discussion was primarily provoked by Millar (esp. 1984; 1995; 1998); see the overview in North 1990a (and more general considerations on the Roman political system in North 1990b; see also Burckhardt 1990); on the *contio* and its role since then see e.g. Hölkeskamp 1995; Fantham 2000; Tiersch 2009. Pina Polo 1989; 2005; 2011b; Millar 1998; Mouritsen 2001; 2013; Moreau 2003; Morstein-Marx 2004; 2013; Tan 2008; Hiebel 2009; Tiersch 2009; Jakobson 2010; Frolov 2013. – For Ciceronian comments on appearances in *contiones* see e.g. Cic. *Sest.* 106–10; *Verr.* 2.1.68; *Att.* 4.1.6; *Leg. Man.* 1: *quamquam mihi semper frequens conspectus vester multo iucundissimus, hic autem locus ad agendum amplissimus, ad dicendum ornatissimus est visus, Quirites, tamen hoc aditu laudis, qui semper optimo cuique maxime patuit, non mea me voluntas adhuc, sed vitae meae rationes ab ineunte aetate susceptae prohibuerunt. nam cum antea per aetatem nondum huius auctoritatem loci attingere auderem, statueremque nihil huc nisi perfectum ingenio, elaboratum industria adferri oportere, omne meum amicorum temporibus transmittendum putavi.*

<sup>102</sup> See Pina Polo 1996, 52; 2011a, 277 with n. 120; Tan 2008, 188–200 (with a list of *contiones*); Williamson 2005, 16–20 (on people who proposed laws in *contiones*).

<sup>103</sup> On the role of oratory in Roman public life see David 2006; on the importance of delivery and visibility in the Forum see Bell 1997; for an overview of locations and occasions for public political interaction in late Republican Rome see Döbler 1999.

convene *contiones* to speak about the bill.<sup>104</sup> At such *contiones* both supporters and opponents could be asked to speak by the presiding magistrate (Liv. 34.1–8; 45.36.1–2; Cass. Dio 39.35.1–2; Dion. Hal. *Ant. Rom.* 10.41.1); magistrates could also summon *contiones* to comment on proposals of other magistrates.<sup>105</sup> Some scholars assume that proper discussions took place at these *contiones* and the People had some degree of knowledge of legal issues;<sup>106</sup> others believe that it was more a question of different speakers each persuading the audience to follow their lead.

Features of speeches to the *contio* are discussed in Cicero's (later) rhetorical works (e.g. Cic. *De or.* 1.31; 2.333–340; 3.211; *Brut.* 183–200; *Part. or.* 90–92). Moreover, he included a substantial number of *contio* speeches in the corpus of his consular speeches described to Atticus (Cic. *Att.* 2.1.3 [T 3]; see ch. 1.3.1); Cicero obviously considered publishing them as equally important as publishing Senate speeches.<sup>107</sup> Thus Cicero apparently regarded these orations as significant in political and oratorical terms. In *De oratore* (55 BCE) Cicero says that one should use some restraint when speaking in the Senate and not deploy the entire range of rhetorical embellishments, but that the full power and variety of a speech is required for the *contio*; a speech before a *contio* allows or forces orators to display all rhetorical ability (Cic. *De or.* 2.333–340). In *Brutus* Cicero adds that a great orator should be considered great by the People (*Brut.* 186: *id enim ipsum est summi oratoris summum oratorem populo videri*) and thus indicates again the importance attached to delivering rhetorically accomplished speeches before the People.

As his (later) rhetorical treatises reveal, Cicero was aware that orators have to speak differently depending on the audience (e.g. Cic. *De or.* 2.159; 3.211) and that one should not address the general public like an audience of a learned philosophical treatise, but in a style adapted to ordinary judgement and popular intelligence (Cic. *De or.* 1.221–224; *Orat.* 117; see further ch. 1.3.3).<sup>108</sup> At the same time Cicero did not think lightly of the People: they should not be approached in a way that they would feel like fools, and he knew that they, like experts, would recognize a good orator (though on a different basis) and that it was important for orators aiming for a good speech to have a receptive audience (e.g. Cic. *Brut.* 183–200). In another context Cicero has one of the interlocutors in a philosophical dialogue claim that the *contio* consists of uneducated people, though he still maintains that they can distinguish between serious and unreliable politicians (Cic. *Amic.* 95). While the public might not have the knowledge and experience of some of the senators, they would not be entirely ignorant

<sup>104</sup> See e.g. Pina Polo 1989, 93; 2011a, 89–90.

<sup>105</sup> See Kunkel / Wittmann 1995, 249 and nn. 520 and 523. – On legislative practice in Republican Rome see e.g. Sandberg 2001; Williamson 2005.

<sup>106</sup> See Williamson 1990.

<sup>107</sup> See Pina Polo 1996, 123. – See Morstein-Marx 2013, 30: ‘Now in the published version of the speeches themselves Cicero lays emphasis on how remarkable it was for a consul himself to take the offensive in the *contio* against an agrarian bill, so it would be reasonable to conclude that one of his objectives in publishing this rhetorical monument is precisely to offer an inspiring example of how highly ‘popular’ measures (in both senses of the word) could still be defeated in the arena of public deliberation, which conservatives had often forfeited as hopeless, by means of a rhetorical campaign undertaken by a sufficiently able orator.’

<sup>108</sup> Cicero describes the particular way of talking to the People as *popularis* (e.g. Cic. *Brut.* 136: *in populari genere dicendi*; 164: *in qua et auctoritas ornatur senatus, quo pro ordine illa dicuntur, et invidia concitatur in iudicium et in accusatorem factionem, contra quorum potentiam populariter tum dicendum fuit*; 191: *oratio popularis assensum vulgi debet movere*; 247: *hoc erant populare dicendi genus assecuti*). David (1980) therefore defines the style of addresses to the People in the late Republic as ‘*eloquentia popularis*’.

and would be prepared to listen to an argument on matters of interest to them.<sup>109</sup> Still, with regard to the People, with fewer means to obtain information at their disposal, a psychologically moving argument is seen as important (e.g. Cic. *De or.* 2.337).

Cicero delivered several *contiones* as praetor, as consul and as consular.<sup>110</sup> Where corresponding pairs of Senate and *contio* speeches are extant, the speech in the Senate chronologically precedes the speech before the People. This applies to *LA* 1 and 2; *LA* 2, though, is not a report of what took place at the Senate meeting and / or a comment on what happened since, but is a parallel to *LA* 1, presenting basically the same argument to a different audience. *LA* 3, as far as one can tell in the absence of the fourth speech (Cic. *Att.* 2.1.3 [T 3]), is a stand-alone intervention, triggered by activity of the Tribunes of the People rather than business in the Senate.

Prior to a vote on a bill at a popular meeting, there was a phase of drafting and discussion. Collaboration in the drafting of bills was not unheard of in the late Roman Republic (as Cicero implies: *LA* 2.11–12). It was even possible to produce various draft bills on the same issue and circulate them among interested parties, both public and private. Moreover, drafts of bills could be discussed among magistrates or even in front of a *contio*. The largest amount of drafting activity and interaction is attested on the occasion of Cicero's recall from exile in 57 BCE, when magistrates drafted several bills for his recall and Cicero was informed about them and comments on them in letters to Atticus (Cic. *Att.* 3.20.2; 3.23.1–4).<sup>111</sup>

During the legislative process there were apparently two occasions for amendments: during discussion in the Senate before promulgation, if the draft came from within the Senate or the Senate had access to it, and as result of opposition experienced at *contiones*.<sup>112</sup> Cicero's claim about the agrarian bill of 60 BCE that he initiated changes *secunda contionis voluntate* (Cic. *Att.* 1.19.4) reveals that there was at least the possibility for changes notionally in agreement with the popular assembly. Those could be triggered by a more factual discussion or by successful persuasive rhetoric.<sup>113</sup> Any alterations at the later stage are likely to have required the proposer to withdraw the draft and promulgate a revised draft.<sup>114</sup> The political procedure did not allow for a response to a proposed bill with a counter-proposal. So, once a bill had been promulgated, if one did not agree with it and the disapproval could not be resolved by minor changes, one could only argue against it, so that it would be withdrawn or not be approved.

Bills (and laws) in the Roman Republic did not include any context or explanation of why such measures were proposed.<sup>115</sup> On the one hand this was probably not necessary because of an established network of direct communication; on the other hand the lack of an approved interpretation opened up the political opportunity for individuals to propose, interpret and

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<sup>109</sup> See Morstein-Marx 2004, 200.

<sup>110</sup> On Cicero and *contiones* see Pina Polo 1996, 119–126.

<sup>111</sup> See Williamson 2005, 80–94. – For the bills relating to Cicero's recall from exile see Rotondi 1912, 400–402.

<sup>112</sup> See Ferrary 2012, 15–19.

<sup>113</sup> In contrast to many other scholars, Williamson (1990, 269–270) infers that there was public scrutiny of draft statutes and a discussion about substance and language.

<sup>114</sup> See Williamson 2005, 91.

<sup>115</sup> See Walter 2014, 177.

exploit a bill or law for their own purposes. In the case of the agrarian law, therefore, Cicero could fill in a particular context, attribute negative motivations to the proposer and the group of people allegedly behind it, deny potential benefits of the scheme and instead highlight advantages gained by the proposers. Thus, in the Roman political system the mere proposal of a bill could influence political developments, demonstrate attitudes and policies and create collaboration and opposition.<sup>116</sup>

#### 1.2.4. Cicero the consul

Marcus Tullius Cicero (106–43 BCE) came from a wealthy equestrian family in Arpinum (e.g. Cic. *Mur.* 16–17; *Cael.* 4; *Planc.* 17; 59; *Verr.* 2.2.174; *Rab. Post.* 15; *Rep.* 1.10), but none of his ancestors had reached the highest offices in Rome. Therefore Cicero was a ‘new man’ (*homo novus*), the first in his family to enter senior politics in Rome.<sup>117</sup> Despite the lack of ancestral support or military achievements, Cicero managed to go through the *cursus honorum* smoothly and obtain all ordinary offices *suo anno*, i.e. in the earliest year in which he was eligible for them and at the first attempt (see *LA* 2.3–4): he was quaestor in 75 BC, aedile in 69 BCE, praetor in 66 BCE and consul in 63 BCE.<sup>118</sup> Cicero achieved this not least by his oratorical brilliance, an ability, he claims, that enabled non-*nobiles* to ascend to the consulship (Cic. *Mur.* 24).

Because of this background it is not surprising that Cicero was determined to turn his consular year into a success and ward off any opposition or potential crisis immediately. Cicero remained proud of his achievements as a consul for the rest of his life and is well known to have sought all sorts of ways of publicizing them and spreading his consular image. Yet Cicero was not simply opportunistic, but, as becomes apparent also from his later political and philosophical treatises, had firm views on the best shape of the Republic and the role of individual elements within the system. Although attempts have been made to place him within the (modern) political opposition of *optimates* and *populares* in the late Republic, he had his own views of the attitudes described by these terms (on *popularis* see *LA* 2.9–10) and subscribed to an ideal of *concordia ordinum* and *consensus omnium bonorum*, according to which all good citizens, irrespective of position and background, should work together to support the Republic.<sup>119</sup> As a result, Cicero saw anyone pursuing policies or proposing measures affecting this ideal as an enemy of the Republic and not as a proper citizen. Therefore, he presented Rullus’ proposed measures not simply as concerning agrarian legislation, but also as an element in a fundamental attack on the status of the Republic. By a clever selection of arguments and their presentation in a language outside ‘party politics’, Cicero managed to demonstrate both his opposition to Rullus’ proposal and his alternative positive programme as something that could be attractive to various groups in the Republic;

<sup>116</sup> On this aspect see Walter 2016.

<sup>117</sup> On *nobilitas* and *homo novus* see Brunt 1982; Burckhardt 1990; Walter *et al.* 2013, App. 1, pp. 102–103 (with further references).

<sup>118</sup> On Cicero’s biography see e.g. Gelzer *et al.* 1939; Gelzer 1969 = 2014; Shackleton Bailey 1971; Rawson 1975; Mitchell 1979 / 1991; Habicht 1990; Fuhrmann 1992; Lintott 2008; Tempest 2011.

<sup>119</sup> See e.g. Strasburger 1956; see also *LA* 1.23 n.

he thereby avoided appearing as a partisan supporter of individual groups at the start of his term of office.<sup>120</sup> In the corpus of *LA* Cicero introduces himself as a good, responsible and constantly active leader who is concerned with the interests of Roman society, foresees trouble and will be able to arrange the best circumstances for individuals and for the Republic.<sup>121</sup>

While Cicero dealt successfully with this challenge at the start of his consular year (at least the agrarian proposal never became law), the general instable political situation continued (see ch. 1.2.1). There were further crises throughout the year, such as trials of eminent personalities and the Catilinarian Conspiracy at the end. Although this was an incident of a different nature, Cicero's reaction was determined by similar principles: he isolated Catiline as a thoroughly negative character who attacked the fundamentals of the Republic and encouraged everybody else to unite behind the consul in defending the Republic and its values. In that sense *LA* illustrate Cicero's principles and policies followed throughout his consular year.

### 1.3. The corpus of the *Agrarian Speeches*

#### 1.3.1. Title and structure

The group of *LA* forms a thematically coherent 'mini-cycle' (like the *Catilinarian Orations*) within Cicero's consular speeches, a selection of speeches out of all those delivered during his consular year that Cicero assembles for Atticus: in a letter of 60 BCE (Cic. *Att.* 2.1.3 [T 3])<sup>122</sup> Cicero describes a collection of his consular speeches called σῶμα (equivalent to *corpus*) as an illustration of his consulship, with reference to Demosthenes' *Philippics*. This is the first instance in antiquity of a group of speeches envisaged as a corpus, something that returns with the cycle of Cicero's *Philippic Orations* at the end of his life (44–43 BCE), again influenced by the model of Demosthenes.<sup>123</sup>

In this letter Cicero lists ten speeches from his consular year in chronological sequence, starting with the speech delivered in the Senate on 1 January 63 BCE, when he came into office (*LA* 1); at the end (outside the chronological sequence) he adds two short pieces called 'snippets of the agrarian law', of which one survives (*LA* 3).<sup>124</sup> Cicero does not give a title for the first speech (which is both his inaugural speech as consul in the Senate and his argument

<sup>120</sup> See Classen 1985, 308–309.

<sup>121</sup> See Pina Polo 2011a, 319.

<sup>122</sup> The relevant passage of the letter (*fuit enim mihi ... offerebam*) was once thought to be spurious (e.g. by Orelli and Tyrrell 1904, 245–246, but see Purser's arguments against this view), but is now accepted as genuine (see Harvey 1972, 188–189 with n. 30; Shackleton Bailey *ad loc.*).

<sup>123</sup> See Cape 2002, 114–115, 119.

<sup>124</sup> Presumably by mistake, Williamson (1990, 267) talks of 'the first of three speeches he delivered against the Rullan proposal (one of which is lost)' and later (1990, 268) of 'the speech (together with its shorter and fragmentary companion, *Leg. agr.* 3)'.

against Rullus' bill in the Senate), but he defines the topic of the second speech (delivered before the People) as *de lege agraria* (LA 2) and says that the two short ones refer to *lex agraria*.<sup>125</sup> Therefore there is a basis for the modern title of the four known orations (*orationes de lege agraria*); it focuses on the main substantive issue and ignores the fact that the first two also function as the consul's inaugural speeches before the Senate and the People respectively.

After the presentation of the agrarian bill at a *contio* by the Tribune of the People P. Servilius Rullus and its promulgation in December 64 BCE (see LA 2.13), LA 1 was delivered in the Senate (according to the pre-Julian calendar) on 1 January 63 BCE (Cic. LA 1.26; 2.6; Att. 2.1.3; Pis. 4).<sup>126</sup> Cicero chaired the first Senate meeting of the year (see ch. 3.2.1) presumably because he was the first of the consuls for 63 BCE to be elected (Cic. Pis. 3; Asc. ad Cic. Tog. cand., p. 94 Clark). LA 2 was given before the People at a *contio*, summoned by Cicero (LA 3.2). It took place not much later than the inaugural Senate meeting; the fact that in the speech to the People Cicero refers to the Kalends of January (sometimes with reference to the Senate speech) as a date in the past (LA 2.6; 2.8; 2.79) indicates that it was not given on the same day.<sup>127</sup> At some point after that Rullus seems to have arranged a *contio* of his own (without inviting Cicero), where he accused Cicero of favouring the Sullan *possessores* (LA 3.1; 3.3; 3.10).<sup>128</sup> This provocation prompted Cicero to call another *contio* slightly later and to deliver LA 3 to the People.<sup>129</sup>

Because of the sequential arrangement, it is likely that the fourth speech (the lost, second short speech) was given again somewhat later, but beyond the indication that it dealt with the agrarian bill, there is no information about its exact date, its audience or its particular focus.<sup>130</sup> Presumably because it is grouped with LA 3, it is often assumed that the lost speech<sup>131</sup> was

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<sup>125</sup> In the entire list Cicero defines some speeches by occasion and others by content. Thus for LA 1 a topic is not given explicitly (see Shackleton Bailey *ad loc.*). For the *Catilinarian Speeches* too the topic of Catiline is not mentioned for each oration and thus their close thematic connection is not clearly indicated. Thus, the way in which LA are listed does not tell against the idea that they were seen as connected by Cicero.

<sup>126</sup> Carcopino (2013 [1935], 147) says that it was in evening of 1 January 63 BCE, but there is no evidence for that, and a Senate meeting in the evening would be unusual.

<sup>127</sup> See e.g. the following views on the date: a few days later: Wolff 1825, 368; Haenicke 1883, 1; Mommsen, *StR* I 617 n. 6; Gelzer *et al.* 1939, 866; Puccioni 1960, 106; Smith 1966, 100; Köhler 1968, 113; Gelzer 1969, 71; Kasten 1969, 158; Ward 1972, 251 n. 31; Loutsch 1994, 218; Wiseman 1994, 351; Marinone 2004, 85; Blänsdorf 2002, 42; on 2 Jan.: Ciaceri 1926, 196; Carcopino 2013 (1935), 147; D'Amore 1940, 9; Agnès 1941, 9, 41; Vergés 1964, 17; D'Arbela 1967, 20; Aspa Cereza 1991, 178; Bell 1997, 1; Pina Polo 2011a, 319 (probably); on 2 Jan. or a few days later: Bellardi 1981, 32, 536, 544; later in the month: MacKendrick 1995, 24; on the same day: Millar 1998, 102; LA 2 and 3 on 2 Jan.: Minieri 2002, 258; 1 or 2 Jan.: McElduff 2011, 48.

<sup>128</sup> E.g. Bellardi 1981, *ad loc.* – Mouritsen (2013, 74) stresses that Rullus and Cicero each had their own *contiones*. – Plutarch's account (Plut. Cic. 12.5–6 [T 13]), which may ultimately derive from Cicero, is slightly confused: he apparently envisages only one impressive speech by Cicero before the People, which happened when the proposers of the bill had summoned him before the assembly. This does not agree with the evidence provided by Cicero (see also Harvey 1972, 185–187).

<sup>129</sup> See e.g. Puccioni 1960, 106; Marinone 2004, 85. – On the chronology of events see Harvey 1972, 179–190, 252–254. – When D'Amore (1940, 9 with n. 8) says that LA 3 was not part of the consular speeches and not published, the basis for this view is uncertain.

<sup>130</sup> Harvey (1972, 189–190) suggests that the fourth speech might be a literary production never delivered, comprising what Cicero would have said at a *contio* preceding the vote on Rullus' bill. It is unlikely, however, that Cicero would have selected such a speech to illustrate his consulship with respect to what he did and what he said. Fogel (1994, 143–144 n. 19) also argues against this idea and rather proposes that it was a *contio* or Senate reply to Rullus. Bellardi (1981, *ad loc.*) too believes that it was another reply to Rullus.

<sup>131</sup> For the evidence see Puccioni 1971, 182; Crawford 1984, 79–81.

also addressed to the People<sup>132</sup> and that it was a recapitulation<sup>133</sup> or, like the third speech, attacked particular aspects of the bill<sup>134</sup> or, again like the third speech, was triggered by the need to respond to an intervention by Rullus.<sup>135</sup> It has also been remarked that it is unclear whether the preserved short speech was the first or the second of those, i.e. the third or the fourth speech in the entire series.<sup>136</sup> It is probably more likely that the fourth speech is lost since the extant third speech follows on from the second speech without any references to another speech in between, and a codex containing the four *LA* might have been damaged at the beginning (as the opening of *LA* 1 is also missing) and the end (see ch. 4).

The addition of the two short speeches yields a group of twelve consular speeches, the likely size of the paradigmatic Demosthenic corpus in Cicero's time. It is unclear whether, in a potential collection, the short speeches would be placed at the end because of their length or inserted into the sequence in line with their topic and the chronological arrangement. In any case their addition results in a sub-group of four thematically connected speeches at the beginning of Cicero's consular year to match the four *Catilinarian Orations* at its end.

Also like the *Catilinarian Orations*, *LA* form a cycle of speeches given at different times on the same issue while it was evolving, but they only represent a selection of speeches on the issue from a larger number made by Cicero, Rullus and presumably other individuals: in addition to Cicero's three surviving speeches there was an occasion for Cicero's fourth speech, and there were at least two *contiones* by Rullus, one in December, when he presented his bill (*LA* 2.13), and one between Cicero's *LA* 2 and 3, when he accused Cicero of supporting the Sullan possessors (*LA* 3.1; 3.3; 3.10).<sup>137</sup>

### 1.3.2. Delivery and publication

The three extant *LA* have survived because they were written up and thus could be preserved. By circulating written versions of speeches, in the immediate political situation, an orator could communicate beyond the actual audience, which was limited,<sup>138</sup> and in the longer term, he could demonstrate his rhetorical ability, his political attitude and his political achievements, as Cicero indicates in his letter to Atticus.<sup>139</sup> While Cicero mentions his opposition to Rullus' agrarian bill a few times in later writings (see *Testimonia*), the only reference to speeches made in this context is the letter to Atticus from 60 BCE (*Cic. Att.* 2.1.3 [T 3]). It is not evident, however, what can be inferred from this letter about the publication history. Scholars have assumed that *LA* were published individually shortly after delivery and perhaps again as part of the collection three years later<sup>140</sup> or that they were only published

<sup>132</sup> See e.g. Zumpt 1861, XVIII; Helm 1979, 18; Coraluppi 2002, 103 n. \*; Pina Polo 2011a, 280. – Mouritsen (2001, 55) assumes two speeches in the Senate and two at *contiones*.

<sup>133</sup> See Afzelius 1940, 215; Helm 1979, 18.

<sup>134</sup> See Mitchell 1979, 185.

<sup>135</sup> See Petersson 1920, 233.

<sup>136</sup> See Puccioni 1960, 104, 106; 1971, 182; Cape 2002, 128; contra Crawford 1984, 80.

<sup>137</sup> See also Williamson 1990, 272.

<sup>138</sup> See also Mouritsen 2013, 78–79.

<sup>139</sup> On the importance of published *contiones* to influence politics see Mouritsen 2013.

<sup>140</sup> See e.g. McDermott 1972; Stroh 1975, 51 and n. 90; Steel 2005, 54–55; Mouritsen 2013, 66.

three years later (with some revision).<sup>141</sup> The letter sets out a plan for a collection of consular speeches, but it does not reveal whether this was ever realized (at least it has left no trace in the transmission), and it is left open whether this is the initial publication.<sup>142</sup> Obviously, Cicero can only envisage such a plan and send speeches to Atticus because he has written versions at his disposal,<sup>143</sup> but there is no indication of the extent to which these written copies might have been circulated previously or how widely they were made accessible afterwards. There is no mention of Cicero's expectation that Atticus might publish these speeches for him; he merely states that he sends him this corpus because Atticus asked for some of the speeches.<sup>144</sup> Sallust knew of a written version of the *First Catilinarian Oration* (Sall. *Cat.* 31.6); therefore it must have been 'published' in some form by his time; Sallust does not indicate whether this speech was part of a corpus.

The text of *LA* must have been available from at least the late first century CE onwards since the orations are quoted or mentioned by Quintilian, Gellius, Nonius Marcellus, Aquila Romanus, Iulius Victor, Charisius (see *Testimonia* and *Fragments*), but these references do not reveal anything about the format of the publication these later authors had access to. They mention Cicero's opposition against the agrarian bill in speeches and sometimes identify *LA* 1 as the one that was delivered against Rullus on the Kalends of January 63 BCE.

Because the external evidence is inconclusive, attempts have been made to determine the publication history from clues in the text. Scholars have assembled a number of passages that they suspect of having been altered for a publication three years later, when the political situation had developed.<sup>145</sup> In hindsight, on the basis of the knowledge of what happened after 63 BCE, some passages can indeed be read in a different light. Still, it is not implausible that these passages were already in a version of 63 BCE (read in a different way) or could have been changed at any point after delivery; they do not necessarily point to a publication of revised versions in 60 BCE.<sup>146</sup> Obviously, in 60 BCE Cicero supported, or modified, an agrarian bill put forward by the Tribune of the People L. Flavius (see ch. 1.2.2.1), which was similar in some aims and measures to Rullus' bill. Therefore it has been assumed that Cicero shaped his criticism of Rullus' bill in a way so as to align his positions in both cases.<sup>147</sup>

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<sup>141</sup> See e.g. Zumpt 1861, XVII–XVII; Boulanger 1932, 9–10; Brožek 1960; Settle 1962, 127–146; von Ungern-Sternberg 1971; André 1980, 1; Classen 1985, 304 with n. 2; Tchernia 1986, 121; Minieri 2002, 258 n. 26; Arena 2012, 229 n. 329. – Ciaceri (1926, 202) notes that Cicero did not regard the third and the fourth speeches as very important and therefore did not include them in the edition of ten speeches. – Ramsey (2007, 129–130) comments: '*Epistulae at Atticum* 2.1.3 shows that our texts of the speeches delivered in 63 almost certainly reflect what Cicero ultimately decided to include in or omit from the published versions that he put into circulation long after the delivery of the speeches themselves.' – Brennan (2000, 427 n. 346 [p. 810]) infers a publication in 59 BCE on the basis of this letter. When D'Arbela (1967, 28) mentions a special edition of Cicero's consular speeches made in 59 BCE, he probably assumes that the project described to Atticus in this letter resulted in such an edition a year later.

<sup>142</sup> For discussions of the publication of Cicero's consular speeches see Settle 1962, 127–146; McDermott 1972; Helm 1979.

<sup>143</sup> Pina Polo (2011a, 319 n. 5) assumes that Cicero sent the speeches to Atticus to be published.

<sup>144</sup> See Phillips 1986, 229. – Similarly, Cicero sends Atticus another speech on another occasion (Cic. *Att.* 4.2.2).

<sup>145</sup> For instance, Helm (1979, 13–56) identifies *LA* 1.13; 2.61–62 and 2.84 (see notes *ad loc.*) as modified passages.

<sup>146</sup> Cape (2002, 118, 120, 154) finds no evidence of revision (see also Stroh 1975, 51 n. 90).

<sup>147</sup> On the speeches' topicality in 60 BCE and the potential relationship to Flavius' proposal see Fogel 1994, 263–269, 332–338. – Von Ungern-Sternberg (1971) argues for the *First Catilinarian Oration* (part of the corpus) that it provides a stylized version of events, but that the substance agrees with the accounts in other sources.

Flavius' bill, however, was different in that it avoided some of the procedural issues that Cicero had attacked with respect to Rullus' proposal (such as the small size of the land commission and the involvement of the Tribune of the People), and Cicero's political role had changed, so that his reaction need not be identical. Yet the renewed discussion about agrarian legislation could have prompted Cicero to revisit his *LA* as part of the consular corpus outlined for Atticus.<sup>148</sup>

Further, the comment *praetermitto omnem hanc orationem et contioni reservo* (*LA* 1.21) has been interpreted as indicating a publication as a corpus in which duplication is avoided (see *LA* 1.21 n.). The remark certainly has this effect on a reader of the collection, since, while Cicero mentions (in *praeteritio*) the issue of the potential loss of grain supply in both speeches, he discusses it in greater detail in the second speech (*LA* 2.80–82). Still, such a comment is not impossible in the delivered version to justify the extended *praeteritio* in the Senate speech and the more detailed discussion in the *contio* speech; then it would not be evidence for either revision or publication as a corpus. Since it was common practice that a new consul delivered speeches in the Senate and before the People, the senatorial audience would expect a second speech before the People, and this would deal with the agrarian bill in this case. That some aspects are of greater interest to the People than to the senators could be mentioned, and the expectation of new material might make the *contio* relevant even for senators. The *praeteritio* enables the mention of this aspect without the need to provide a proper argument. There are no parallels for such a reference, but the other extant pairs of Cicero's Senate and *contio* speeches are not directly comparable: in those cases there is a development in between, which requires a different perspective in the later speech.

As with all transmitted Roman speeches, the question of the relationship of the extant version to the delivered version remains, irrespective of the date of 'publication'.<sup>149</sup> Given the high-profile nature of the event and the resulting widespread knowledge of Cicero's position in relation to the agrarian bill, he is unlikely to have changed the general direction of the speech significantly, though he will have touched up details and the style.<sup>150</sup> At any rate, one will have to assume that Cicero believed, as he indicates to Atticus, that these speeches provided a fair record of his political and oratorical activity during his consulship and could serve as models for political speeches.<sup>151</sup> In this respect it is significant that Cicero thought the two short speeches worthy of inclusion: the extant *LA* 3 shows his political position in the important matter of how to deal with the aftermath of the Sullan proscriptions and demonstrates how an accusation is cleverly turned on its head and applied to its author.

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<sup>148</sup> See also Craig (2007, 274–275) on Cicero's *Catilinarian Orations*, about which similar questions have been raised: 'Because the speeches were published as part of an ensemble in 60, this self-portrait has invited scholars to see in the text later accretions that are poorly matched to the circumstances of 63. ... Some have even labeled as accretions passages they find excessively dramatic or artificial, a highly risky procedure where Cicero is concerned ... . Finally, we cannot know whether the speeches were individually published before they appeared in the collection of 60, and the conviction that any given passage is a later accretion is in the eye of the beholder.'

<sup>149</sup> For a summary of the *communis opinio* on Cicero's motives for the publication of his speeches and the possible extent of revision see Craig 2007, 265.

<sup>150</sup> Accordingly, it has been pointed out that the existing 'speech' 'is also a literary text intended for an audience of elite Roman readers' (Williamson 2005, 66; Walter 2014, 170 n. 10). – Boulanger (1932, 10–11) assumes that the speeches have been heavily revised to suit the political climate of 60 BCE.

<sup>151</sup> See Classen 1985, 367.

### 1.3.3. Political and rhetorical strategies

Since there are no extant treatises or letters by Cicero from the years 64 and 63 BCE, there are no contemporary comments by Cicero in other contexts on what he intended to achieve by *LA*. Later remarks by Cicero and notes by other writers, which tend to be influenced by the Ciceronian speeches, comment on the effect of these orations rather than on the plans behind them (see *Testimonia*). Therefore Cicero's aims must be deduced from the speeches (and circumstantial information on the political situation in early 63 BCE); the political and rhetorical strategy employed not only demonstrates Cicero's sophistication as an orator and politician, but may also reveal his intentions.

Of the three extant speeches (which may have been revised; see ch. 1.3.2) *LA* 1 and 2 were delivered before different bodies (Senate and *contio*), but share the same occasion (Cicero's entering office as consul) and the same aim (creating opposition against the agrarian bill).<sup>152</sup> *LA* 3 also has this goal, but was delivered in a different context, and the orator had to defend himself against a particular allegation. *LA* 4 is not extant; all that is known is that it existed and was short like *LA* 3 (Cic. *Att.* 2.1.3 [T 3]).

In view of the distinction between three different types of speeches in ancient rhetorical theory (e.g. Arist. *Rh.* 1.3; *Rhet. Her.* 1.2; Quint. *Inst.* 3.4), Cicero's *LA* belong to the genre of deliberative oratory, including speeches before the popular assembly (*LA* 2; 3) and speeches in the Senate (*LA* 1), and can be classified as political speeches (by topic, oratorical situation and position of orator and audience). In this context the orator has to convey his views persuasively and authoritatively, so as to be able to guide opinions.<sup>153</sup> It is generally thought that Cicero addressed a mainly sympathetic audience in the Senate, but was faced with a more difficult job in convincing the People, when he opposed a Tribune of the People and a proposal for an agrarian law in the popular assembly.<sup>154</sup>

All speeches use standard rhetorical features in a sophisticated manner;<sup>155</sup> they are characterized by the frequent use of significant keywords;<sup>156</sup> they include detailed descriptions

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<sup>152</sup> There is no suggestion that Cicero acted on the instructions of the Senate in his speech to the People, as attested for consuls on other occasions (Cic. *Att.* 1.14.5 [13 Feb. 61 BCE]: *cum decerneretur frequenti senatu contra pugnante Pisone, ad pedes omnium singillatim accidente Clodio, ut consules populum cohortarentur ad rogationem accipiendam, homines ad quindecim Curioni nullum senatus consultum facienti adsenserunt, ex altera parte facile CCCC fuerunt.*)

<sup>153</sup> See Ueding 1992.

<sup>154</sup> See e.g. Ramsey 2007, 131. – Köhler (1968, 113) notes that Cicero defeated the proposal in the Senate, while most scholars think that the presentation at the meeting of the People was more important since the nobility are likely to have been opposed to it anyway.

<sup>155</sup> E.g. repetition, anaphora, asyndeton, tricolon, antithesis, climax, pun, metaphor, exclamations and questions, (alleged) quotations, series of names and other sequences, alternation between short sharp sentences and longer descriptive periods. – See Mack 1937, 91 (and n. 223), 109–113 (with a list of stylistic features of Senate and *contio* speeches in comparisons); MacKendrick 1995, 33–575 (on word frequency, metaphors, stylistic devices, although the lists are somewhat schematic and some expressions listed under 'metaphors' are not metaphors in the strict sense). – On the style of *LA* see also D'Arbela 1967, 28–30.

<sup>156</sup> In addition to words triggered by the subject matter (e.g. *lex, consul, tribunus plebis, ager, urbs, vectigal, pecunia, emere*, etc.) see e.g. *regnum / rex, maiores, popularis* (see also Thompson 1978, 28–46).

for illustrative purposes, sounding realistic even if they are invented; the audience is engaged by questions, exclamations and addresses at important points; key issues are presented memorably by pointed phrasing. The argument is structured by a sophisticated use of clausulae and prose rhythm more generally:<sup>157</sup> all major sections or points made conclude with a recognizable clausula, most frequently with a version of a dicretic or a ditrochee, common types in Cicero's works.<sup>158</sup>

In addition, the style may vary according to topic: in the main *contio* speech, of which the beginning is extant, the style changes when Cicero turns from the introduction about himself and his election (*LA* 2.1–10) to the discussion about the bill: irrespective of the fact that the first section is the *exordium* designed to win the goodwill of the audience, in the first section the tone is quieter and more subdued, the style is more declarative, there are clear and straightforward sentences setting out the situation, the focus is on Cicero and his relationship to the People, while there is little in terms of attack and criticism, irony or questions. Later in the speech the number of exclamations and questions increases, there is more attack, ridicule and recourse to rhetorical techniques to create pointed phrases.

It is generally acknowledged that Senate and *contio* speeches differ from each other in terms of style, level of argument and approach to the audience. While this is true, *LA*, which, uniquely, include two different types of *contio* speeches on the same issue, reveal that there are also differences between *contio* speeches: *LA* 2 is both a speech providing a full discussion of the proposed bill and the consul's inaugural speech before the People while *LA* 3 is a short statement on a specific issue in the same context, so that the basic background does not have to be repeated (even if the actual audience might not be exactly the same).

Even though the Senate and the main *contio* speech (*LA* 1; 2) deal with the same issues, have the same purpose and are similar in structure and linking of themes (as far as one can tell because of the incomplete status of *LA* 1),<sup>159</sup> they differ in length and style.<sup>160</sup> Typically, when there are two corresponding speeches before different bodies in Cicero's oeuvre, the *contio* speeches are shorter.<sup>161</sup> Here it is the other way round: this *contio* speech is an inaugural speech of a consul and offers a proper argument against a bill, for which there are no direct parallels, whereas other extant *contio* speeches paired with Senate speeches provide summaries of events.<sup>162</sup>

The main speech about the agrarian bill before the People is not only longer than the senatorial version, but also more explicit in outlining consequences for the audience and includes more references to sections of the bill.<sup>163</sup> Although the text of the bill had been

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<sup>157</sup> For an overview of the use and distribution of rhythmic endings in Cicero and their contribution to the argument see Hutchinson 1995.

<sup>158</sup> At the ends of major sections clausulae are identified in the commentary to illustrate the type of clausulae used and their continuous appearance. Elsewhere clausulae are only noted if they are important for textual questions or for analyzing the argument.

<sup>159</sup> See e.g. Ramsey 2007, 131–132.

<sup>160</sup> See e.g. Zumpt 1861, XVI–XVII; Pina Polo 1996, 124.

<sup>161</sup> See Pina Polo 1996, 124; Ramsey 2007, 131.

<sup>162</sup> Fuhrmann (1970, 123) regards *LA* 2 as the 'core' of the entire process, since it treats the matter in great detail, exploiting all means of persuasion. This assessment is true in terms of length and level of argumentation; but since Cicero selected four agrarian speeches to illustrate his consulship for Atticus, each of them and their combination must also have been important for Cicero.

<sup>163</sup> See e.g. Morstein-Marx 2004, 29. – For a comparison of *LA* 1.16–17 and 2.73–75 with respect to the divergent presentation of the same issue see Sklenář 1992; for a comparison of the two speeches see Thompson 1978, 86–99; Classen 1985.

published prior to Cicero's speech, it is unlikely that the majority of the People had detailed knowledge of it. Therefore Cicero presumably intends to create the impression that he informs them and gives a thorough and sequential assessment of the sections in *LA* 2. Yet only in one passage are sections of the bill read out (*LA* 2.48); otherwise Cicero prefers to quote or paraphrase. This is probably intended to make the discussion more accessible and opens up opportunities for slanted presentation:<sup>164</sup> selective quotations, misleading paraphrases and extracts inserted into particular contexts support a specific interpretation.

In this *contio* speech Cicero employs a wider range of stylistic forms of presentation, for instance the alternation between broad descriptive passages and brief emotional sentences; in the Senate speech there is mainly vivid argument with short sentences, contrast and concise metaphors. The *contio* speech tends to include more illustrative detail where it leads to a greater effect: Cicero visualizes the impact of the bill by listing specific examples of places affected by the planned measures, though these may not have been named in the bill.<sup>165</sup> At the same time, however, he talks generally of wars and ancestors before the People, while in the Senate he provides more names of individual generals, as their descendants might be present.<sup>166</sup> The *contio* speech tends to present the issues in a fuller and more emphatic way: Cicero uses a larger number of tricola and other lists (often arranged as climactic sequences), hyperbole, double expressions, structures of parallelism, expressive superlatives, contrasts and modified contrasts (*non solum ... sed etiam*) and highlighting of terms by the word order. Throughout Cicero inserts addresses to the audience at strategic points to direct their attention to important aspects and / or to emphasize the relevance for them and uses a large number of questions and exclamations.<sup>167</sup>

*LA* 3 is a far shorter and more focused *contio* speech. There are again a larger number of rhetorical features, though generally the style is more straightforward and less rhetorically elaborated. Since this speech addresses the audience's view of Cicero, there is a sustained attempt at engaging the audience by frequent addresses, brief questions, pointed contrasts and personal examples. Criticism is offered while the supporting argument is kept brief.

To varying degrees all the orations combine emotional agitation and technical detail, including the discussion of political, historical, legal, fiscal and social issues.<sup>168</sup> Even when speaking to the People Cicero puts forward complex arguments<sup>169</sup> and uses legalistic language.<sup>170</sup> Before both bodies details of the bill are explored with a high level of

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<sup>164</sup> That the technical language of Roman Republican bills could be difficult to follow is suggested by the advice to check on the basis of the first words whether it might be relevant to the particular individual (Cic. *Rab. Post.* 14: *Glauca solebat, homo impurus, sed tamen acutus, populum monere ut, cum lex aliqua recitaretur, primum versum attenderet. si esset 'dictator, consul praetor, magister equitum', ne laboraret; sciret nihil ad se pertinere; sin esset 'quicumque post hanc legem', videret ne qua nova quaestione adligaretur.*).

<sup>165</sup> See e.g. Vasaly 1988, 417; 1993, 227–231; Morstein-Marx 2004, 29.

<sup>166</sup> See Bücher 2006, 236.

<sup>167</sup> See e.g. Morstein-Marx 2004, 29. – For overviews of Cicero's style see e.g. von Albrecht 1973; 2003; Powell 2013; for (older) surveys of differences between Senate and *contio* speeches see e.g. Mack 1938; Thompson 1978.

<sup>168</sup> See Blänsdorf 2002, 55.

<sup>169</sup> See Millar 1998, 105.

<sup>170</sup> According to Williamson (1990, 269), Cicero's language is 'legalistic, by which I mean that Cicero concerns himself with the language of the proposal, with its legal precedents and constitutional ramifications, and with issues of Roman positive law. He argues that the proposal is poorly drafted – specifically, that it is dangerously worded and does not take cognizance of existing electoral procedure or statute.' – On Roman legal language see De Meo 2005, 67–131; Lotito 2012; on Cicero's familiarity with Roman legal language, its archaisms and the relationship to the ordinary language of his time see Powell 2005.

technicality.<sup>171</sup> At the same time Cicero does not go through the entire bill, obscures the lack of comprehensiveness of his treatment, reduces all issues to a limited number of isolated problems and points of criticism, quotes only snippets from the bill out of context and inserts selective references to other laws. Therefore, while he addresses ‘concrete issues of constitutional substance and legal draftsmanship’,<sup>172</sup> he does so in a tendentious way, presented in an emotionally moving and straightforward format.

While elsewhere Cicero shows himself well aware of a difference between the letter and the spirit of the law (Cic. *Inv. rhet.* 2.140; *Top.* 96; *Caec.* 51) and applies the latter when it suits him (e.g. Cic. *Phil.* 9.3), here he interprets the selected sections of the bill literally, so as to discredit them as unacceptable. On the basis of these sections Cicero makes inferences, especially on the unlimited power of the prospective *decemviri*, who were to form the committee tasked with realizing the bill, often exploiting general phrases and vividly illustrating the picture developed. Accordingly, it is only an impression that the topics addressed are determined by the content and arrangement of Rullus’ bill and that Cicero goes through all of them sequentially and objectively. For instance, in *LA 2* Cicero starts with references to the first four sections including their numbers; subsequently Cicero does not mention any further numbers, and he does not go through the entire text of the bill.<sup>173</sup> In *LA 3* he states that he has not previously discussed section 40 (*LA 3.4*): he claims that he has not mentioned it before out of concern for the Republic; this is proof that his treatment of the bill in the main discussion before the People in *LA 2* is incomplete despite appearances and that Cicero omits issues that are potentially controversial or could cause ill-feeling (or at least this is the alleged reason).

By employing opaque and arcane legal language<sup>174</sup> and by quoting sections from the bill Cicero gives the impression that he is the expert on whom the audience can rely and provides an objective and technical discussion, while he frequently alleges base motifs for individual sections by arbitrarily misinterpreting standard legal language or ignoring the context.<sup>175</sup> As a result, his argument is designed to work on an emotional and psychological level, since the audience might feel threatened, personally affected and thus prompted to avert dangers to their own wellbeing.<sup>176</sup>

Moreover, as in other speeches against opponents, Cicero operates on an emotional level by means of the political and moral disqualification of the Tribune of the People Rullus and the prospective *decemviri*; criticism of them often replaces political and economic

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<sup>171</sup> See Williamson 2005, 91.

<sup>172</sup> See Williamson 1990, 269.

<sup>173</sup> See Vasaly 1988, 410, 412; Drummond 2000, 133. – But see Williamson 2005, 75–76, who states that Cicero follows the order of sections in the bill; Ramsey 2007, 132: ‘Cicero chose to argue against Rullus’ agrarian bill point by point, following the arrangement of the provisions in the proposal itself’.

<sup>174</sup> On language and style of the texts of Roman laws see e.g. Honsell 1984. – These texts are characterized by long lists of similar items, to ensure full coverage, and repetition of these lists for all separate regulations. Examples of this can be found in *Lex agraria* of 111 BCE, with the exception of one instance of a cross-reference to what has been outlined before (*Lex agraria* of 111 BCE, *cap.* 29 [*FIRA I*<sup>2</sup>, no. 8, p. 109 = *Roman Statutes*, p. 116]: [- - - *quod ex h(ac) l(eg)e, i]ta ut ei s(upra) s(criptum) est, in agreis qu[ei in Ita]lia sunt, quei P. Mucio L. Calpurnio co(n)s(ulibus) publiceis populi Ro[manei fuerunt, c(eivei)] Romano facere licebit, ...*; Honsell 1984, 1667).

<sup>175</sup> See Morstein-Marx 2004, 196, 200.

<sup>176</sup> Blänsdorf (2002, 42–43) notes that it was important to provide the People with solid factual information; he regards this as an explanation for the large amount of detail in the *contio* speech and a tone that rarely becomes pathetic. Yet Cicero still operates with emotional language and unproven extrapolations.

arguments.<sup>177</sup> Since the prevailing Roman ideology still was that magistrates should work in the interest of the *res publica* and the People, by whom they were appointed, officials concerned about their personal advantages could be regarded suspicious. In such a context pointing out that the entire bill is designed for Rullus' personal gain is an effective strategy, while Cicero stresses that he is willing to listen to the People, take their advice and maintain their rights and announces in the Senate that he will not even take on a province after his consulship (*LA* 1.25–26).<sup>178</sup>

Therefore, to a large extent, the argument in *LA* is based on the personal discrediting of Rullus and his supporters as well as of the prospective *decemviri* without sufficient evidence being offered. The identity of the *decemviri* is still unknown, but it is insinuated that they will be (at least partly) identical with Rullus and his supporters and at any rate similar in character and aims, and their actions as described as imminent. The lack of information and the opportunity of avoiding the provision of details allow the orator to paint a threatening scenario: these men are criticized on the basis of their prospective position and their association with Rullus.<sup>179</sup> Apart from a brief comment on Rullus' changed appearance when he became a Tribune of the People designate (*LA* 2.13) and the allegation that the scheme is intended to benefit Rullus' father-in-law (*LA* 1.14; 2.69; 3.3; 3.8; 3.13–14), Cicero's attacks on his opponents do not focus on their personal qualities or biographies (which would be difficult if identities are kept vague).<sup>180</sup> There are merely some abusive terms (such as *helluo* or *nepos*) in the Senate speech, where more direct criticism might have been possible. Opponents are rather characterized by political slogans and exaggerated phrases: the *decemviri* are painted as a group of ten 'despots' with enormous, unjustified power; Rullus and his supporters are presented as not *populares* despite their claims (see below) and rather as irresponsible, unreliable and inept politicians, whose planned measures contradict tradition.<sup>181</sup> The addressees vary between singular and plural referring to an (undefined) group behind Rullus. Future beneficiaries of the scheme are presented as Rullus' henchmen and introduced as of unworthy character (*LA* 2.77; 2.82).

To stress the potential harmful consequences of the bill and make them appear more immediate, Cicero uses imprecise language: throughout (but cf. *LA* 3.3) he calls Rullus' proposal *lex* although it technically is a *rogatio* at this stage.<sup>182</sup> While it is therefore uncertain whether the proposed measures will ever come into effect, Cicero uses *iubet* for regulations of individual sections or presents the consequences in the present tense so as to make them appear more immediate.<sup>183</sup> With respect to the possessions of the Roman People Cicero tends

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<sup>177</sup> Valencia Hernández (1995, 582–583) states that Cicero argues on the personal level because of a lack of political and economic arguments; but he could have chosen to follow this strategy as a more effective one.

<sup>178</sup> See Jehne 2011, 113–116; 2013, 61–62.

<sup>179</sup> See Hopwood 2007, 81–83, 83–85.

<sup>180</sup> See Fogel 1994, 185. – On Rullus' presentation as an internal enemy see also Bücher 2006, 237.

<sup>181</sup> On political catchwords in the ideological debates of the late Republic, some of which appear in these speeches, see Weische 1966; Hellegouarc'h 1972; Achard 1981.

<sup>182</sup> See also Pina Polo 2013, 442.

<sup>183</sup> See Ferrary 1988, 146; Ferrary 2012, 4; Walter 2014, 173. – If the bill was put forward by the Tribune of the People in *concilia plebis*, it would have been a *plebiscitum*, strictly speaking. Because *plebiscita* had come to apply to all citizens since *Lex Hortensia de plebiscitis* (287 BCE; Rotondi 1912, 238–241; Elster 2003, 121–125), there was no longer a practical difference between *lex* and *plebiscitum* in the late Republic (Ferrary 2012, 3–5). A *plebiscitum* implied a less formal procedure and was voted on in the plebeian assembly; it would be identified by the name of the proposing Tribune of the People, rather than by the magistrate chairing the *comitia tributa* (Wieacker 1988, 396 with n. 38, 403–406; also Vishnia 2012, 97).

to speak of ‘sale’ (*vendere*), implying that they will be sold off and lost.<sup>184</sup> In fact, however, the envisaged transactions would probably consist in auctioning off or leasing (*locare*) usage rights in many cases rather than selling. Cicero chooses this phrasing to make the loss appear greater and the proposal more outrageous. He presumably capitalizes on the fact that the terminology for such transactions was not entirely straightforward: apparently, the expressions *locare* and *locatio* were more commonly used for the actions of the censors, while *vendere* was typically applied to quaestors,<sup>185</sup> which creates the potential for ambiguity in the case of extraordinary magistrates.

If it is correct that some of the details about Capua mentioned by Cicero were taken from L. Coelius Antipater’s monograph on the Second Punic War,<sup>186</sup> at least the published versions of the speeches were prepared on the basis of research into this matter, which might also be posited for other factual details. One could then infer that the argument becomes persuasive by the suggestive presentation rather than by the use of unsupported evidence.

Although Cicero uses emotive language, he identifies specific points of criticism against the bill across all speeches: the enormous and uncontrollable power given to the committee of the *decemviri*, the procedure for their election, the one-off lucrative sale of public property threatening revenue and food supply in the future, the lack of control over new settlements, which might become rivals to Rome, the unfavourable terms of sale and purchase.<sup>187</sup> As often, however, Cicero does not present the controversy as a dispute about an individual political issue, but rather styles his intervention as opposition to plans affecting the basis of the Republic and developed by disreputable individuals, who are selfish and do not care for the

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<sup>184</sup> See Flach 1973, 291; 1990, 73; Dilke 1978, 185. – Hinrichs (1957, 73–74, 84–87) concludes that in *LA vendere* in connection with measures envisaged in the bill is used in three different senses: with reference to the sale of small areas of public land in Italy, to the lease of *vectigal* at a fixed rate in the provinces and to the sale in leasehold of land of cities and *agri regii*, which would keep taxes for state, but eliminate the *publicani*.

<sup>185</sup> See Gargola 1995, 118 and n. 24. – Moatti (2003, 93) observes that some sources uses the two terms interchangeably. – For the similarity of the two procedures and the associated terminology cf. Gai. 3.145: *adeo autem emptio et venditio et locatio et conductio familiaritatem aliquam inter se habere videntur, ut in quibusdam causis quaeri soleat, utrum emptio et venditio contrahatur an locatio et conductio, veluti si qua res in perpetuum locata sit. quod evenit in praediis municipum, quae ea lege locantur, ut, quamdiu {id} vectigal praestetur, neque ipsi conductori neque heredi eius praedium auferatur; sed magis placuit locationem conductionemque esse.*; Fest., p. 516.14–16 L.: *vend<itiones> ... dicebantur censorum locationes, quod vel<ut fr>uctus locorum publicorum venibant*; for censorial *locare* see e.g. Liv. 39.44.7–8; for the parallel use of the terms see e.g. *Lex agraria* of 111 BCE, *cap. 85 (FIRA I<sup>2</sup>, no. 8, p. 119 = Roman Statutes, p. 122): pro eo agro aedi<f>icio locoque ex l(ege) dicta [quam L. Caecilius Cn. Domitius cen]s(ores) agri aedifici loci uestigalibusue publiceis fruendeis locandeis uendundeis legem deix/erunt, publicano dare oportuit.*; *Lex Coloniae Genetivae LXXXII (FIRA I<sup>2</sup>, no. 21, p. 180 = Roman Statutes, p. 405): qui agri quaeque silvae quaeq(ue) aedificia c(olonis) c(oloniae) G(enetiuae) I(uliae), quibus publice utantur, data adtributa erunt, ne quis eos agros neuē eas siluas uendito neuē locato longius quam in quinquennium, neuē ad decuriones referto neuē decurionum consultum facito, quo ei agri eaeue siluae ueneant aliterue locentur. neuē, si uenierint, itcirco minus c(oloniae) G(enetiuae) I(uliae) sunt. quique iis rebus fruc<t>us erit, quot se emisse dicat, is in iuga sing(ula) inque annos sing(ulos) (sestertium) c(olonis) c(oloniae) G(enetiuae) Iul(iae) d(are) d(annas).*

<sup>186</sup> See von Ungern-Sternberg 1975, 90–93.

<sup>187</sup> Sternberg (1982) lists five arguments: enormous power among *decemviri*; problems with election procedure; wasting of public income threatening future supplies; problems with settlements in Campania; advantages of living in Rome. – MacKendrick (1995, 32) identifies the following points: ‘Cicero’s counter-arguments may be reduced to four: (1) the people’s rights will be infringed; (2) the bill is hostile to P., the people’s favourite; (3) the provisions set up a tyranny: the proposed colonies, in particular, are planned with hostile intent; (4) the bill offers ample opportunity for bribery: this last argument is especially frequent in the speech to the Senate.’

common welfare.<sup>188</sup> Cicero therefore creates an opposition between all of ‘us’, the good citizens, and the single threatening individuals.<sup>189</sup>

Accordingly, Cicero’s objections consist of a series of emotionally effective broader points:<sup>190</sup> in contrast to the opponents Cicero is the true *popularis* (LA 1.23–24; 2.6–7; 2.9–10; 2.15; 2.102–103); the opponents ignore or overturn existing laws and the *mos maiorum* (LA 2.20–21; 2.26; 2.28–29; 2.55–56; 2.64; 2.89); the individual Rullus is unacceptable in the various roles in which he is depicted (LA 2.13; 2.23; 2.30); the bill is a threat to traditional Roman *libertas* (LA 1.21–22; 2.15–16; 2.24; 2.29; 2.32; 2.35; 2.75);<sup>191</sup> Cicero reveals the ‘true’ meaning of these measures to the People and thus allows them to make an informed decision (LA 2.25; 2.66; 2.77; 2.82; 3.3); the achievements of the ancestors ensuring a good life for future generations are put at risk (LA 2.9; 2.48–49; 2.71; 2.81); there are further, unidentified people behind the initiative (LA 1.11; 1.16; 1.22; 2.12; 2.15; 2.20; 2.23–25; 2.65; 2.78; 2.98); the proposal is an attack against Pompey (LA 2.23–25; 2.49–50; 2.52–55; 2.60–62; 2.99; 3.16); the realization of these plans affects the entire *orbis terrarum* (LA 2.15; 2.26; 2.37; 2.45; 2.64; 2.98); possessions acquired by the *maiores* will be sold off (LA 1.2–6; 2.38; 2.40; 2.44; 2.47–51; 2.81); the bill is advantageous for the Sullan *possessores* (LA 2.68–70; 2.98; 3.3; 3.10–12).

Although Cicero was not in a position to present another bill in response, he offers a kind of alternative (i.e. following his lead) by announcing the programme for his consular year, since the first two LA are also his inaugural speeches as consul (LA 2.1–10; 2.100–103).<sup>192</sup> In contrast to the allegedly ‘popular’ bill of the Tribunes of the People, Cicero presents himself as the true ‘*popularis*’, as a *popularis consul* (in his interpretation), as someone who protects the interests of the People, both in the Senate and before the People (LA 1.23; 2.6–10). In the speech to the People he comments on the different interpretations of the term by juxtaposing his interpretation and those of others who claim to be *populares* and by stating that the People’s *sapientia* is required for a proper understanding of the term (LA 2.7). In fact, Cicero knows very well what he means and what the others mean, but he wishes to emphasize this distinction and, in flattering the audience, to ensure that they distinguish between the two.<sup>193</sup>

That Cicero starts his first speech before the People by stressing that he is a *homo novus* and thus essentially ‘one of them’ (LA 2.1–6) makes it easier for him to claim that he is *popularis*.<sup>194</sup> He elaborates on this when he emphasizes that he is different from other consuls, talks to the People from the *rostra* and does not believe that it is a sin to praise the Gracchi (LA 2.6; 2.10). This presentation allows Cicero to offer arguments that run counter to the assumed standard views of consuls.<sup>195</sup> Yet, if *popularis* is understood as benefitting the

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<sup>188</sup> See Keßler 1992, 74.

<sup>189</sup> See also Minieri 2002, 265.

<sup>190</sup> See Walter *et al.* 2013, App. 3, p. 106; Walter 2014, 178–179.

<sup>191</sup> On Cicero’s presentation of the bill as a risk to *libertas* see Arena 2012, 229–243.

<sup>192</sup> On Cicero’s policy of aiming for harmony, rather than addressing the underlying problems, see Smith 1966, 101.

<sup>193</sup> Yakobson (2010, 297–298) believes that, by asking for help in defining this term, Cicero admits that his use of the term is controversial.

<sup>194</sup> See Yakobson 2010, 297–300; on Cicero’s collaborating with the audience and presenting himself as a *popularis*, in contrast to his opponents, see also DiLuzio 2013, 154–160. – Because of the prominence of this theme Tan (2008, 190) describes Cicero’s *contiones* on the agrarian law as ‘*popularis*’, as being central to Cicero’s *popularis* image, but this does not take into account Cicero’s specific definition of the term.

<sup>195</sup> See Cape 2002, 128.

People, it will become so broad a term that Cicero can state this position in the Senate without immediately provoking opposition. Throughout, Cicero stresses that the measures included in the bill will violate highly-regarded traditions and values established by the ancestors and lead to a sell-off of hard-won possessions, while his programme will maintain and restore the fundamental features of the Roman Republic; thus he can present the proposers of the bill as not respecting the shared well-established beliefs and principles. This turns the discussion away from the specific issue of the bill to the question of which side acts in the interests of the People. Cicero, therefore, does not adopt a strategy according to which he highlights his superior understanding and *auctoritas* and thereby encourages the audience to follow him; instead, he tries to demonstrate how he is working with the People in their interest and points them to ‘evidence’ they can see for themselves. The way in which Cicero exposes the flaws and the true character of the bill in his view and thus its disadvantages to the People (on the basis of his superior knowledge and his authoritative position) has been called a ‘revelatory strategy’.<sup>196</sup>

Cicero illustrates his concept of a ‘popular’ programme with several similar, but slightly different groups of three items: *pax, concordia, otium* (LA 1.23; cf. 1.24: *tranquillitatem pacis atque otii*), *pax, libertas, otium* (LA 2.9; cf.: *pacem externam, libertatem propriam generis ac nominis vestri, otium domesticum*); *pax, tranquillitas, otium* (LA 2.102), taken up by *otii et concordiae patronum* (LA 3.4). There is a recurring element, *otium*, understood primarily as domestic peace (e.g. Cic. *Cat.* 1.25; 4.17; *Mur.* 83; *Phil.* 11.38; *Rep.* 2.43; *Off.* 1.77); Cicero seems to regard it as the key precondition.<sup>197</sup> Scholars have suggested that these slogans have been adapted to the respective contexts and audiences,<sup>198</sup> but this is more a matter of nuances. It is true that, in relation to *popularis*, *libertas* is only mentioned in the speech to the People, where it refers to their voting and other political rights (LA 2.9; 2.15–16; 2.20; 2.24; 2.29; 2.71; 2.75; 2.102; 3.16). But *libertas* appears as a concern in the Senate speech (LA 1.17; 1.21; 1.22), where the focus is more on personal than on general *libertas* and the notion is therefore linked to *dignitas*.<sup>199</sup> *concordia* is an element of these lists only in the speech to the Senate, where it appears to mean ‘unity of all’, including *boni* and *improbi*, but it also occurs in LA 3 (LA 3.4).

It has often been argued that, in order to present himself before both bodies, Cicero’s understanding of *popularis* is based on slogans of the *optimates*, and he only sees a contrast of *boni* and *improbi*.<sup>200</sup> This view has been connected with the observation that presenting a straightforwardly optimate position is impossible in a *contio* because of its conventions. Therefore, to appeal to listeners with a variety of backgrounds and concerns, speakers have to claim to be *popularis*, based on a broad consensus on fundamental Republican values.<sup>201</sup> In the later speech *Pro Sestio* (56 BCE) Cicero defines as the *fundamenta* of *otiosa dignitas: religiones, auspicia, potestates magistratuum, senatus auctoritas, leges, mos maiorum*,

<sup>196</sup> See Morstein-Marx 2004, 254–255; Wisse 2014, 922.

<sup>197</sup> On *otium* see e.g. Jal 1961; Wirszubski 1954; on the different nuances of *otium* in LA see Vasaly 1988, 421–424.

<sup>198</sup> See e.g. Hellegouarc’h 1972, 538, 557. – On this complex see Temelini 2006.

<sup>199</sup> On Cicero’s changing views of *libertas* and its particular meaning in 44/43 BCE see Arena 2007; on *libertas* as an argument in the political conflict about the agrarian bill see Arena 2012, esp. 229–243.

<sup>200</sup> See e.g. Gelzer *et al.* 1939, 868; Thompson 1978, 25, 30; MacKendrick 1995, 56; Yakobson 2010, 297–300.

<sup>201</sup> See Morstein-Marx 2013, 42.

*iudicia, iuris dictio, fides, provinciae, socii, imperi laus, res militaris, aerarium* (Cic. *Sest.* 98). These elements have been seen as constituents of the optimate tradition.<sup>202</sup> Some of them certainly are; other aspects affect the organization and standing of the Republic as a whole, which should be supported by all *boni* in Cicero's definition, irrespective of their social status. Accordingly, these points feature in all *LA*.

In Cicero's terminology *otium* is connected with *dignitas*. In *LA*, apart from references to the standing of individuals and public offices held by them, *dignitas* mostly denotes the *dignitas populi Romani* (*LA* 1.2; 1.17; 1.23; 1.27; 2.9; 2.65; 2.71; 2.98), which seems to be regarded as 'property' of the Roman People, guaranteeing a peaceful and dignified life (Cic. *Sest.* 98: *cum dignitate otium*). Only rarely does it refer to the specific *dignitas* of senators (*LA* 1.22). Elsewhere *otium* is linked with the People and *dignitas* with the nobility (Cic. *Sest.* 104). That is in line with the fact that *LA* 1 ends with an emphasis on *dignitas* (*LA* 1.27) and *LA* 2 with highlighting *otium* (*LA* 2.102–103).<sup>203</sup>

In the (later) treatise *Partitiones oratoriae* Cicero distinguishes between two types of audiences and states that one would focus on *dignitas* or *utilitas* in front of each of them, depending on their interests (Cic. *Part. or.* 89–90). The distinction between an audience *indoctum et agreste* and an audience *humanum et politum* may match the distinction between *contio* and Senate. This would agree with the observation that across the first two *LA* *dignitas* is more prominent in the speech in the Senate and *utilitas* in the speech in the *contio*.

The relationship between *dignitas* and *utilitas* in oratory is also addressed in the rhetorical dialogue *De oratore*, where the emphasis is different (Cic. *De or.* 2.334–335). In a discussion of the relative use and importance of *dignitas* and *utilitas* in (*dis*-)*suasiones* the focus is not on different types of audiences, but rather on what counts as *utilitas* and whether a speaker should support *dignitas* or *utilitas*. The aspects covered by the respective argumentative perspective (*utilitas* vs. *dignitas*) are defined as follows (Cic. *De or.* 2.335): *quae* [i.e. *utilitas et dignitas*] *quia pugnare inter se saepe videntur, qui utilitatem defendet, enumerabit commoda pacis, opum, potentiae, vectigalium, praesidi militum, ceterarum rerum, quarum fructum utilitate metimur, itemque incommoda contrariorum; qui ad dignitatem impellit, maiorum exempla, quae erant vel cum periculo gloriosa, conliget, posteritatis immortalem memoriam augebit, utilitatem ex laude nasci defendet semperque eam cum dignitate esse coniunctam*. If these considerations are applied to *LA*, one could argue that Cicero covers both: he talks at length about money, revenue, securing supply, safety and military position, but he also mentions the traditions of the ancestors, respecting what they have achieved and the core values of the Roman People. *LA* 2 is longer and more detailed, but practical aspects falling under Cicero's definition of *utilitas* are given attention in *LA* 1 too. Yet there is more explicit emphasis in *LA* 2 on the facts that Cicero has the audience's advantages in mind and that the proposed bill, contrary to first impressions, will violate them.<sup>204</sup>

Still, in *LA* 2 Cicero claims that he says the same things in the Senate and before the People (*LA* 2.6), and he sketches a unity of all good men against the single threat created by Rullus and his supporters throughout. Thereby he tries to reduce the traditional contrast between the senators and the People. Later, too, Cicero insists that during his consulship he

<sup>202</sup> See e.g. Temelini 2006, 57.

<sup>203</sup> See Leonhardt 1998–99, 290.

<sup>204</sup> On *utilitas* and *dignitas* / *honestas* in *LA* see Leonhardt 1998–99, who argues that the Senate speech is more concerned with *dignitas* and the *contio* speech with *utilitas*.

always worked with both the Senate and the People and tried to unite the different orders (Cic. *Pis.* 7).<sup>205</sup>

Cicero's argumentative techniques in *LA* can be analysed, but it is more difficult to ascertain whether the argument is designed to fit the circumstances or reflects his genuine views.<sup>206</sup> Elsewhere Cicero indicates that talking about *concordia* and *otium*, as he does in *LA*, was one of his standard themes, which he could do easily with a lot of rhetorical embellishment (Cic. *Att.* 1.14.3). Therefore it is not clear whether Cicero opposes Rullus' bill because he thinks that an agrarian law is not needed at this point in time, he does not approve of the proposed solution, he disapproves of the suggestions for implementation, he believes that this is the wrong time for such a measure or he fears that supporting a proposal by the Tribunes of the People might affect power relations and destabilize the Republic. In another speech later in his consular year Cicero says that sometimes a consul must check the fury of a Tribune of the People and sway the People (Cic. *Mur.* 24). A combination of several motives is also plausible. Certainly, because of the political situation, Cicero tried to win the support of both the Senate and the People:<sup>207</sup> as elsewhere, so in these speeches, he assumes unity between both groups, presents himself as a consul for all and promises to restore the Senate's traditional position and ensure peace, liberty and tranquillity for the People (*LA* 1.26–27; 2.6–9).<sup>208</sup>

In *LA* 2 Cicero claims that he is not opposed to agrarian laws in principle and would have been willing to support this one had he approved of it and had been consulted (*LA* 2.10).<sup>209</sup> In the refutation of the bill Cicero largely avoids policy matters and focuses on procedural issues, which allows him to turn the discussion into an argument about credibility and motives of individuals.<sup>210</sup> That he mainly focuses on the plans for implementation and later supports an agrarian law (while asking for some modifications) put forward by the Tribune of the People L. Flavius (Cic. *Att.* 1.19.4 [15 March 60 BCE]) might suggest that Cicero was indeed not opposed to reorganizing the agrarian situation, but did not agree with details of Rullus' proposals or with launching such a project at this point in time. The fact that Cicero indicates that it was unusual to speak against an agrarian bill before the People (*LA* 2.101) may indicate moreover that he regarded the situation as offering a rhetorical challenge: such a speech, especially when published, would be an example of a successful instance of oratorical opposition to an agrarian bill.<sup>211</sup>

#### 1.4. Note on text and translation

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<sup>205</sup> Cic. *Pis.* 7: *atque ita est a me consulatus peractus, ut nihil sine consilio senatus, nihil non approbante populo Romano egerim, ut semper in rostris curiam, in senatu populum defenderim, ut multitudinem cum principibus, equestrem ordinem cum senatu coniunxerim.*

<sup>206</sup> At least with respect to lawcourt speeches Cicero is aware that they do not need to reflect the orator's true opinion (Cic. *Clu.* 139).

<sup>207</sup> Described negatively at Cass. Dio 36.43.4–5.

<sup>208</sup> See also Keßler 1992, 60–63.

<sup>209</sup> Schneider (1974, 343–344) regards this as mere rhetorical formula and believes that Cicero's speeches reveal a lack of socio-political insight and show him to be a supporter of the interests of landowners in Italy.

<sup>210</sup> See e.g. Morstein-Marx 2004, 201.

<sup>211</sup> See Morstein-Marx 2013, 30.

The earliest evidence of the existence of written versions of *LA* is Cicero's letter to Atticus, which accompanies a selection of his consular speeches sent to his friend in 60 BCE (Cic. *Att.* 2.1.3 [T 3]). It is uncertain, however, whether the speeches were then made accessible to a wider audience and how they were eventually transmitted (see ch. 1.3.2). Latin ancient authors from Quintilian onwards (see *Testimonia*) quote extracts, which indicates that a text was available by then.

Since these speeches seem not to have been read in schools and to have met with little interest among ancient grammarians and rhetoricians, there is not much evidence for activities of editors and commentators until the early printed editions in the Renaissance.<sup>212</sup> Yet the orations may have been worked on in antiquity: the Florentine humanist Poggio Bracciolini (1380–1459) records a note in an old manuscript, indicating that someone emended the text according to copies of Tiro and Laecanianus.<sup>213</sup> While the identity of Laecanianus is uncertain, the comment suggests that an early editor had access to a copy that he believed to come from Cicero's secretary M. Tullius Tiro and also that the text was in a bad state from early on.

The large number of manuscripts extant today can be divided into two main groups, ultimately descending from the same archetype: the German family and the Italian family.<sup>214</sup> The main representatives of the former are a codex from the 12th century (*E*) and two manuscripts from the 15th century (*e* and *ε*). The manuscripts of the latter (several, mainly from the 15th century) derive directly or indirectly from a copy made of an original manuscript (now lost) by Poggio Bracciolini (1380–1459) in 1417 (*V*). Another group (*n*) seems to be based on a manuscript (now lost) found by the German theologian and humanist Nicholas of Kues (1401–1464) in 1426 and also copied; this manuscript was apparently corrupt and difficult to read, so that the scribes have included a number of their own corrections or readings from other branches. Some of the group of manuscripts called *Lagomarsiniani* go back to this copy while others are based on the Poggio family, and some have mixed the two traditions.

A.W. Zumpt regarded the manuscript *Lagomarsinianus* 9 as the best,<sup>215</sup> and he defended many of its readings for the text of his annotated edition (1861). Even though this manuscript has a few instances of correct text, it is also full of scribal errors. It is no longer regarded as particularly authoritative. No single manuscript is now thought to be 'best' throughout.

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<sup>212</sup> See Classen 1985, 305–306; Keßler 1992, 55 n. 2.

<sup>213</sup> Poggio's note: 'In exemplari vetustissimo hoc erat in margine. Emendavi ad tyronē et laecanianū. acta ipso cicerone et antonio coss. oratio XXIII. In exemplo sic fuit. Statili' maximus rursus emdavi ad tyronē et laecanianū et dom' et alios veteres III. oratio eximia.' (quoted from Marek 1983, VI).

<sup>214</sup> On transmission and manuscript tradition see Coraluppi 1983; 2002; Marek 1983, *praefatio*; Rouse / Reeve 1983, 83–85.

<sup>215</sup> See also Karsten 1878.

The beginning of *LA* 1 does not survive, because two leaves of the archetype, from which all existing manuscripts descend, were lost at an early stage.<sup>216</sup> The four *LA* may have filled a single volume, mutilated at the beginning and the end.<sup>217</sup>

The *editio princeps* of Cicero's *Agrarian Speeches* by Io. A. Bussi Aleriensis appeared in Rome in 1471. Subsequently, the text of Cicero's *LA* was edited and commented on frequently throughout the Renaissance period, including works by the following men: P. Beroaldus (Bonn 1499), P. Iunta / N. Angelius (Venice 1515), A. Naugerius (Venice 1519), J. Camerarius (Basel 1540), P. Manutius (Venice 1540, 1578), D. Lambinus (Paris 1566, Straßburg 1581, Genève 1584). 1540 saw the appearance of an edition (in Paris) with brief explanations of the first speech by J. Bugelius and 'Leodegarius à Quercu' and a more detailed commentary on the second and third speeches by Eubulus Dynaterus. In 1552/53 (Paris) Peter Ramus published an edition with accompanying essays (also Basel 1580), immediately criticized by another publication in 1553 by A. Turnebus, released under the pseudonym Leodegarius à Quercu. Another commentary appeared in 1558 with P. Manutius in Venice; its author is assumed to be C. Sigonius and not his pupil B. Lauredanus, as stated on the title page. These early editions offer a number of emendations, several of which have found their way into the text with general approval.

In more recent times the Latin text of the speeches was edited by C.L. Kayser (1862), C.F.W. Müller (Teubner, 1885), A.C. Clark (OCT, 1909), L. Früchtel (Teubner, 1932) and V. Marek (Teubner, 1983). There are translations into English, French, German, Italian and Spanish (some with facing Latin text) from the 20th century (see also ch. 1.1).

The edition by V. Marek (1983) distinguishes itself from previous ones because it takes account of *V*, Poggio's manuscript, which had been regarded as lost, but was rediscovered before Marek's edition was compiled.<sup>218</sup> Marek's edition, therefore, has to be taken as the point of reference for further work on the text, even though it is not without problems; these include typographical errors, inconsistencies in the presentation, provision of too much detail in the apparatus, inaccuracies and lack of clarity in the reporting, assessment of the respective value of individual manuscripts and reliance on the information in earlier editions rather than inspection of the manuscripts.<sup>219</sup>

Still, since the main focus of the present edition is the commentary, no new work on the manuscripts could be done. Information on readings in the manuscripts has mainly been taken from the editions of Marek and Clark, but these references have been checked against the manuscripts *E*, *M* and *V* where necessary and against other textual contributions where possible.

Generally, Marek's Teubner edition and Clark's OCT differ in a number of spelling conventions. In addition to the evidence in the manuscripts and its interpretation (as well as editing conventions), some of these divergences result from different views on the character of Cicero's language, including the extent of its 'archaic' character. As has been pointed out

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<sup>216</sup> See note in manuscripts: 'in quodam antiquo volumine deficiunt due charte in principio, quare hoc non est principium orationis'. (quoted from Clark 1909, ix).

<sup>217</sup> See Settle 1962, 144–145.

<sup>218</sup> For a brief summary of the rediscovery and characteristics of the manuscript see Campana 1973.

<sup>219</sup> See the reviews (listed under 'Marek' in Bibliography) and the assessment in Classen 1985, 306–307 n. 12: 'V. Marek (1983; mit unnötigen Konjekturen)'.

with reference to *De legibus*,<sup>220</sup> it is uncertain what Cicero wrote, which versions of words he would have regarded as ‘archaic’ in general and with reference to legal language, whether he might have wanted to create an ‘archaic’ flavour in particular passages and in what way scribes and early readers may have interfered, either to normalize or to create an ‘archaic’ flavour where it was thought appropriate.

The divergences between Marek’s Teubner edition and Clark’s OCT have not been noted in the apparatus unless they are meaningful at particular points. Marek’s version has been adopted throughout.<sup>221</sup> The differences include issues of the following types: -u- vs. -o- (e.g. LA 1.1: *vinulentorum* [Marek] vs. *vinolentorum* [Clark]; 1.2: *vult* [Marek] vs. *volt* [Clark]; 1.18: *optumus* [Marek] vs. *optimus* [Clark]; 1.26: *vulnera* [Marek] vs. *volnera* [Clark]; 2.71: *mavultis* [Marek] vs. *mavoltis* [Clark]); -o- vs. -e- (e.g. LA 2.28: *pervorsum* [Marek] vs. *perversum* [Clark]); -u- vs. -e- (e.g. LA 2.32: *ferundus* [Marek] vs. *ferendus* [Clark]; 2.91: *capiundi* [Marek] vs. *capiendi* [Clark]); -ii vs. -i (e.g. LA 1.2: *imperii* [Marek] vs. *imperi* [Clark]; 1.4: *aerarii* [Marek] vs. *aerari* [Clark]; 1.4: *ii* [Marek] vs. *ei* [Clark]; 1.17: *iis* [Marek] vs. *eis* [Clark]); -i- vs. -e- (LA 1.1: *Alexandriam* [Marek] vs. *Alexandream* [Clark]); -es vs. -is (e.g. LA 1.12: *omnes* [Marek] vs. *omnis* [Clark]; 1.26: *immortales* [Marek] vs. *immortalis* [Clark]; 2.18: *populares* [Marek] vs. *popularis* [Clark]); -ll- vs. -nl- (e.g. LA 1.23: *collegae* [Marek] vs. *conlegae* [Clark]; 1.26: *colligite* [Marek] vs. *conligite* [Clark], 2.9: *collata* [Marek] vs. *conlata* [Clark]; 2.89: *illustri* [Marek] vs. *inlustri* [Clark]); -rr- vs. -nr- (e.g. LA 2.47: *irrupant* [Marek] vs. *inrupant* [Clark]); -rr- vs. -dr- (e.g. LA 2.2: *arrogantis* [Marek] vs. *adrogantis* [Clark]); qu- vs. c- (e.g. LA 2.29: *quom* [Marek] vs. *cum* [Clark]; 2.38: *consecuntur* [Marek] vs. *consequuntur* [Clark]); ext- vs. exst- (e.g. LA 2.90: *extingui* [Marek] vs. *exstingui* [Clark]); numbers written as words vs. figures (e.g. LA 2.96: *centum, decem, sex* [Marek] vs. *C, X, VI* [Clark]); differences in word division (e.g. LA 1.23: *nonnulli* [Marek] vs. *non nulli* [Clark]; 2.6: *magnopere* [Marek] vs. *magno opere* [Clark]; 2.22: *mehercule* [Marek] vs. *me hercule* [Clark]).

The *apparatus criticus* provided here is selective: it gives the manuscript readings and suggested emendations where they have been generally accepted, where the text has been interpreted as uncertain or lacunose or where construction or sense are difficult or controversial. Not all differences in spelling or word order have been recorded, and not all conjectures have been listed. Where an emendation is obvious and widely agreed, it is not normally discussed in the commentary; where, however, the text is debated and / or several restorations are possible, these are considered in the commentary.

The *Sigla codicum* have been taken from Marek (1983, XX):

E = codex Erfurtensis, nunc Berolinensis lat. fol. 252, saec. XII

e = cod. Palatinus 1525, a. 1467 scriptus

ε = cod. Erlangensis 618, a. 1466 scriptus

α = E e ε

π = codicis Pithoeani lectiones margini exemplaris Heidelbergensis 262<sup>a</sup> N. 18 adscriptae

<sup>220</sup> See Powell 2005.

<sup>221</sup> On Marek’s principles see his statement in the *praefatio* (Marek 1983, XII): ‘Quae ad orthographiam spectant, neque archetypum perscrutari neque veterem scribendi rationem servare studui, quod codices non solum inter se discordant, sed etiam diversos scribendi modos in eodem codice praebent librariis aut exempli sui orthographiam servantibus aut temporis sui aut proprium usum adhibentibus. in textu igitur orthographiam communiter usitatam conservo, apparatus criticum orthographiae rebus minime occupo.’

V = cod. Vaticanus Latinus 11458, a. 1417 a Poggio exaratus

M = cod. Laurentianus Conv. Soppr. 13, olim Abbatiae Florentinae CL II 39

n = codd. familiae Cusanae, post a. 1426 scripti, a Lagomarsinio sub n. 1, 7, 8, 13, 24 collati

χ = cod. S. Marci 254 (Lag. 3)

Lag. 9 = codex unus a Lagomarsinio adhibitus, saec. XV

ψ = codices reliqui saec. XV plerique consentientes

ς = codicum reliquorum saec. XV unus vel nonnulli dissentientes; nonnumquam etiam hi codices suo nomine indicantur:

c = cod. Oxoniensis Canonici 226

k = cod. Parisinus 7779 a. 1459 scriptus

s = cod. Monacensis Clm 15734

r = cod. Monacensis 527, fin. saec. XV

ω (vel *cett.*) = consensus codicum omnium (vel ceterorum omnium)

The English translation is meant to be a guide to the facing Latin text and therefore stays relatively close to the Latin, while obviously attempting to offer readable English.

Additions to the transmitted text are marked in both the Latin and the English versions (by < >). Individual function words added in the English translation that are not expressed in the Latin text, but are required for better fluency in English have not been indicated; only major explanatory additions have been put in square brackets [ ]. Latin words that should be deleted are enclosed in { }; these words appear also in the English translation (equally in brackets), so as to reproduce the status of the Latin text.