

CUM DIGNITATE OTIUM. REMARKS ON CICERO'S SPEECH IN DEFENCE OF SESTIUS

Tamás Nótári*

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1 Introduction

Cicero delivered his speech in March 56 BC in defence of Publius Sestius, who was charged on the grounds of the *lex Plautia de vi* with acts of violence offending public order/public tranquillity. He convincingly proved that they were measures required by the situation of lawful defence. We need to make it clear: the speech can be considered primarily a brilliantly executed statement of one of the important fundamental postulates of Cicero's philosophy of the state rather than a lawyer's or orator's achievement. *Pro Sestio* is the first occasion on which Cicero, having returned from exile, was able to formulate his program of rethinking the idea of a *res publica* harrowed by civil strife and the preserving-renewing reorganisation of the state. In this speech Cicero clearly takes a stand for Sulla's "constitution", that

* Senior Research Fellow of the Institute for Legal Studies of the Centre for Social Sciences of the Hungarian Academy of Sciences; Associate Professor of the Sapientia Hungarian University of Transylvania.

is, for what he interpreted as Sulla's constitution: An argument for strengthening the position of the senate meant to govern the state. His defendant was acquitted, owing not only to the brilliant handling of the facts of the case, but most probably also to the political program presented in the speech with such exhaustive details: A captivating pathos that won his audience's approval.

2 Historical background of *Pro Sestio*

Cicero reached the zenith of his career, indisputably, in the year of his consulate, 63 BC. It was at that time when the *homo novus*, the man from the order of knights, whose ancestors did not hold *magistratus curules*,¹ ascended to the rank of the leaders of the state, *principes civitatis*. Having created the desired *concordia ordinum*² while exposing and suppressing Catilina's plot, he was confident that by his deed he had ensured for ever that his fellow citizens would be grateful to him and he would have a permanent and authoritative influence on public life.³ Cicero was disappointed in his hope sooner than he could have expected: Two of the tribunes who entered office on 10 December 63 BC, namely L Calpurnius Bestia and Q Caecilius Metellus, immediately started a fierce agitation against him. According to the tribunes, under the pretext that merely on the grounds of *senatus consultum ultimum* having been awarded to him as *consul*,⁴ he had – without judgment at law – five conspirators executed.⁵ Bestia and Metellus vetoed Cicero's wish to address a speech to the people on the last day of his office on 29 December 63. So, Cicero could merely take a public oath that by his measures he had saved the state.⁶ Soon, on 5 December 61 BC, he wrote to Atticus that the *concordia* created by him and the merits he had obtained would not provide him with proper protection.⁷

He hoped to find this protection at Pompey who, having significantly extended the territory of the republic and excellently arranged for the administration of the territories conquered, returned home to Italy at the end of 62 BC as the hero of great deeds⁸ after a campaign that had lasted six years. Although the senate acknowledged his claim for a triumph,⁹ it did not satisfy his other claims (approval of his measures taken in the East; and giving land to his veterans). The dissatisfaction of Pompey, who reconciled with Crassus, and Caesar's initiative created the so-called first triumvirate with the aim that no event, changes or measures could take place in public life that

1 Meier 1968: 62.

2 Materiale 2004: 147.

3 Krüger 1991: 187.

4 Bleicken1975: 92f.

5 Uttschenko 1978: 121.

6 Cic *Fam* 5 2 7.

7 Cic *Att* 1 17 10.

8 Cic *Sest* 67.

9 Cic *Sest* 129.

might violate any of their interests.¹⁰ Pompey, who maintained a friendly relationship with Cicero, tried to win him over to this triple alliance. Cicero – although it was clear to him that accession to the triumvirate would provide protection against attacks against him due to his actions taken against Catilina's adherents – distanced himself from the triple alliance with little political vision and great moral conviction because he was not willing to make common cause with Caesar, whom he considered the manifestation of the archetypal populist politician in the first place. To produce greater pressure on Cicero, Caesar used P Clodius Pulcher, who passionately hated Cicero,¹¹ as a tool.¹²

Clodius,¹³ with the aim of taking revenge on Cicero for the injury he had suffered from him, decided to have himself elected a tribune. In 59 BC, with the approval of the *comitia curiata* through *arrogation* – and having changed his name from the patrician Claudius to Clodius – he had himself adopted by a plebeian, and thus he could be elected a tribune with the support of the triumvirs.¹⁴ After commencing his activity as a tribune on 10 December 59 BC, he carried through four bills that provided the grounds for his subversive activity. By abrogating the *lex Aelia et Fufia* he terminated the institution of *obnuntiatio*, that is, the possibility that holding the popular assembly and voting on bills could be adjourned in case of unfavourable *auspicia*.¹⁵ He also permitted setting up *collegia*, generally founded with political purposes and suitable for giving rise to public disturbances, which had been banned by law in 64 BC.¹⁶ In addition he deprived the censors of the ability to impose *infamia* by means of a reprimand and exclude citizens from their *classis* or *tribus* under their moral adjudication, except when a formal accusation was made and the accused was found guilty by both censors.¹⁷

Clodius concluded a bargain with the two consuls in office in 58 BC, Gabinius and Piso (Caesar's father-in-law), entailing that after their year in office, under proper military and financial conditions, they would get the provinces they wanted.¹⁸ At the end of 58 BC, he submitted the *lex Clodia de capite civium*, which set forth that everybody who had Roman citizens executed without court proceedings should be outlawed. This law (enacted with retroactive force!) did not mention Cicero by name, yet the aim of the legislation crushing the law was unambiguously clear to everybody. Cicero put on his mourning toga, and appeared before the popular

10 Suet *Caes* 20.1.

11 On the animosity between Clodius and Cicero see Rundell 1979: 301ff; Heinze 1925: 193ff; Spielvogel 1997: 56ff; Epstein 1986: 229ff.

12 Krüger 1991: 188f.

13 Gruen 1966: 120ff; Moreau 1982: 45-50 and 175-182.

14 Cic *Sest* 16.

15 Cic *Sest* 33.56.

16 Cic *Sest* 55.

17 *Ibid.*

18 Cic *Sest* 24.33.

assembly begging. Clodius and his gang instigated rioting. Thereupon, thousands of citizens – primarily members of the order of knights – went into mourning. A delegation appeared before the senate. Piso was absent from this meeting of the senate, and Gabinius refused to do anything in favour of Cicero. On the proposal of tribune L Ninius, the senate resolved to go into mourning as a whole.¹⁹ Gabinius summoned the *contio plebis* and declared that the senate had lost all its political significance. He also threatened the order of knights with bloody revenge because of the events on 5 December 63 BC, that is, the execution of Catilina's accomplices by Cicero. In order to give greater emphasis to what he had said, he exiled L Aelius Lamia, who was working for Cicero, to two hundred miles from Rome.²⁰ Soon, the consuls gave a command to the senators to take off their mourning garb and wear their usual clothing.²¹ At *contiones* Clodius repeatedly stated that he acted with the agreement of Caesar, Pompey and Crassus,²² and although none of them expressed their opinion *coram publico*, Cicero hoped that Pompey would keep his promise to help that had been made earlier.²³

However, to flee from the embarrassing need to take a stand, Pompey withdrew to his estate in the countryside since the speech implied that his enemies had suggested to him that Cicero's adherents wanted to take his life.²⁴ Clodius, to legitimate his acts, convened a popular assembly where he addressed a question to the consuls and Caesar regarding the executions that took place on 5 December of 63 BC.²⁵ Gabinius and Piso disapproved of Cicero's action in terms of legality since Cicero, as consul, had some participants in Catilina's plot executed without judgment and had denied the opportunity of *provocatio ad populum* which Roman citizens were entitled to.²⁶ At the same time, they "forgot about" the *senatus consultum ultimum* which vested consuls with additional rights. Caesar stated that he had been against the death penalty when it was passed,²⁷ but that he would consider it improper to apply the law with retroactive force.²⁸

Cicero thereafter went into voluntary exile.²⁹ Later on he explained this by stating that remaining in Rome would have triggered a civil war – since all decent citizens would have sided with him – and he could not assume liability for that.³⁰ Exile was not only a punishment but meant also a possibility to escape from punishment,

19 Cic *Sest* 25ff.

20 Cic *Sest* 28ff.

21 Cic *Sest* 32.

22 Cic *Sest* 39ff.

23 Cic *Sest* 15.

24 Cic *Sest* 41.

25 Drexler 1976: 124ff; Giebel 1977: 45.

26 Bleicken 1959: 324ff; Lintott 1972: 226ff; Martin 1970: 72ff.

27 Cf Sall *Cat* 51 1-43.

28 Caesar offered Cicero a legate's position to enable him to leave Rome, but it is not clear whether this happened before (see Cic *Att* 2 18 3 and 2 19 5) or after Clodius was elected tribune (Dio Cass 38 15 2). However, Cicero did not leave immediately (see Cic *prov cons* 41-42).

29 Materiale 2004: 147.

which Roman citizens were entitled to (*ius exulandi*) before or after conclusion of the lawsuit.³¹ So, early in March 58 BC, Cicero went into exile and his house was robbed; the loot was shared by Clodius and the consuls, who sacrificed the good of the state for the provinces they longed for.³² By means of another law Clodius managed to have Cicero's full property confiscated, and the exile was banned from choosing a place of living closer than five hundred miles from Rome.³³

Clodius now thought that he had Rome under his control indeed, and with his armed hordes he strove to quash every opposition.³⁴ Not only did he provoke Pompey,³⁵ but he also helped Tigranes (who had been brought to Rome as prisoner by Pompey) to escape.³⁶ He furthermore sold the sanctuary that belonged – in accordance with Pompey's orders – to king Deiotarus's territory for a huge sum to Brogitarus to whom he arbitrarily also granted a royal title.³⁷ Brogitarus did not appear in public since he no longer felt secure.³⁸ Clodius did, however, also turn against Caesar – who had helped him to power – to such an extent that at the end of his tribuneship he questioned the validity of Caesar's laws and regulations. It was at that time that those who had helped Clodius to power realised that they had made a fatal error by supporting their protégé. Clodius was unsuitable as a political ally and at this point the *optimates* would have had the opportunity to forge political unity and get Pompey (by threatening him with violence) to side with them by separating him from Caesar who had brought Clodius to the tribune's office. The *optimates*, however, were worn out by petty-minded civil strifes,³⁹ and the one-time allies Pompey and Crassus could not come to an agreement either. Thus cliques of *optimates*, Pompey, Crassus, Cicero's adherents, Clodius and the mob all brooded over their own way to find a solution, not knowing that long-term political trends were being determined in Caesar's camp in Gaul.⁴⁰

Nevertheless, Clodius's “politics” resulted in the rehabilitation of Cicero actually being placed on the agenda: This happened on 1 January 57 BC at the senate session led by consul P Lentulus Spinther. The other consul, Metellus Nepos, who entertained hostile emotions against Cicero, putting aside his private injuries, voiced his agreement with the agenda. In addition the one-time consul, L Aurelius Cotta,

30 Cic *Sest* 43ff. See, also, Fuhrmann 1960: 496.

31 Zlinszky 1991: 78.

32 Cic *Sest* 53ff.

33 Cic *Sest* 65 69. Following Cicero, another strong man of politics in the senate, Cato, was also sent away from Rome – however, in his case they took care of the appearance of fairness. Cf Meyer 2005: 10.

34 Krüger 1991: 192; Fuhrmann 2000: 281.

35 Materiale 2004: 147.

36 Cic *Att* 3 8 3.

37 Cic *Sest* 56.

38 Cic *Sest* 15 69.

39 Materiale 2004: 147.

40 Fuhrmann 2000: 282f.

believed that such a senate decree (*senatus consultum*) was sufficient for Cicero to return home since the applicable *lex Clodia* was invalid from the beginning.⁴¹ Pompey demanded a *lex* or a *plebiscitum*, reckoning that otherwise the people's party would organise rioting, and the senate agreed with this view. A tribune, namely Sex Atilius Serranus, requested one day to deliberate, and at the January sessions through his continuous *intercessio* he prevented a decision from being made.⁴² Then, eight tribunes loyal to Cicero, and led by Q Fabricius, seized the initiative and submitted a motion – to be put to the vote on 23 January – for calling the exile home. Under cover of night, however, Clodius, with armed slaves and gladiators of his brother, praetor App Claudius Pulcher, occupied the Forum and scattered the popular assembly. In the course of the action, Cicero's younger brother Quintus – among others – was assaulted, and during the following days Clodius and his horde subjected the streets of Rome to their rule. The senate and the consuls were powerless.⁴³

Milo, after he had made an unsuccessful attempt as tribune to bring a charge *de vi* against Clodius, decided to render Clodius's gangs harmless by his own troops.⁴⁴ Milo's example was followed by Sestius (also as a tribune) after Milo had almost fallen victim to a fatal attack.⁴⁵ The *militia* set up by Milo and Sestius – as it were in response to Clodius's gangs – soon gained ascendancy over them, and public order was partially restored in Rome.⁴⁶ At the beginning of July 57 BC, Lentulus again put the issue of calling Cicero home on the agenda of the senate, and Pompey read out his relevant proposal: The senate was now not willing to postpone the case anymore and resolved that if no decision was made on the issue in the popular assembly, then Cicero should by all means – albeit without the resolution of the popular assembly – return to Rome.⁴⁷ At the *contio* held on the Mars field, Lentulus and Pompey resolutely stood up for Cicero, and on 4 August the *comitia centuriata* accepted the proposal.⁴⁸ Cicero did not simply return to – but actually marched into – Rome in a triumphal procession as had never been seen before on such occasion.⁴⁹

Even then Clodius did not give up; he blamed Cicero for the price inflation that emerged in those days – thereby trying to instigate public disturbances – and chased away the labourers hired for rebuilding his house.⁵⁰ (Cicero attained invalidity of the irregular *consecration* of the plot on the Palatine executed by Clodius and its declaration by his speech registered under the title *De domo sua*.) Milo tried again to

41 Krüger 1991: 193.

42 Cic *Sest* 72ff.

43 Cic *Sest* 76ff, 85.

44 Cic *Sest* 86ff.

45 Cic *Sest* 79ff, 90ff.

46 Fuhrmann 2000: 282.

47 Cic *Sest* 129.

48 Cic *Sest* 109ff.

49 Cic *Sest* 131.

50 Krüger 1991: 194.

take action against Clodius by using the *quaestio de vi publica* but on the proposal of the senate he abandoned his intention to bring a charge.⁵¹ Simultaneously, Clodius made an attack on P Sestius who had resolutely fought for calling Cicero home, and on 10 February 56 BC he brought a charge of *ambitus* (electoral corruption) and *vis publica*⁵² on the grounds of the *lex Plautia de vi*⁵³ against him. This case was concluded on March 14 with the acquittal of Sestius.⁵⁴ (The state of facts set forth in the *lex Plautia de vi* was sanctioned later on by the *lex Pompeia de vi* adopted in 52 BC. Around the year 46 BC, Caesar probably also punished acts of violence by his *lex Iulia de vi*; later on, the most detailed laws, which now clearly distinguished *vis publica* from *vis privata*, were caused to be enacted by Augustus in 17BC.⁵⁵) The charge brought *de vi* – more precisely, the prosecutor, P Albinovanus⁵⁶ – reproached Sestius for recruiting and arming gladiators to achieve his political goals.⁵⁷ Clodius lined up L Aemilius Paulus, Gellius Publicola⁵⁸ and, among others, P Vatinius as witnesses.⁵⁹ The *quaestio* was chaired by *praetor* M Aemilius Scaurus, the defence was provided by Q Hortensius, M Crassus, L Licinius Calvus and – rising to speak as the last one as was his custom – by Cicero.⁶⁰

The orators who took part in the lawsuit constituted a politically quite heterogeneous group since they included one of the members of the triumvirate, Crassus, the conservative Hortensius, the people's party's Calvus and as a person standing in the middle, creating unity, Cicero. Among others, this group might have encouraged Cicero to define the role of those destined to govern the state of Rome and the fundamental principles of governance.⁶¹

3 *Cum dignitate otium* – Defining political values

Cicero's argument in the lawsuit is completely logical and clear. How could Sestius be convicted *de vi*? He had tolerated the raging of Clodius and his gang for so long, and only after he had been attacked by Clodius's gang on the Forum – and it was pure luck only that he did not die – did he set up guards to protect himself!⁶² Sestius used the tool of lawful defence only when the law did not provide him with proper

51 Cic *Sest* 95.

52 Boyancé 1941: 174. On *vis (publica)* see Zlinszky 1991: 114ff.

53 Fuhrmann 2000: 281.

54 Cic *Q fr* 2 4 1. Cf Fuhrmann 2000: 281.

55 Vitzthum 1966: *passim*.

56 Krüger 1991: 194.

57 Cic *Sest* 78, 84, 90, 92.

58 Cic *Sest* 110ff.

59 Cic *Sest* 132ff.

60 Cic *Sest* 3. Cf Fuhrmann 2000: 281.

61 Materiale 2004: 148.

62 Krüger 1991: 195.

protection.⁶³ Based on all that, Sestius did not commit a crime, but he rather used the principle of *vim vi* and *arma armis repellere cuique licet*.⁶⁴

The speech *prima facie* appears to be somewhat confused and “jam-packed”, and only a few passages of the speech actually deal with the accused.⁶⁵ Much more is written about the narrative of the orator’s own vicissitudes and triumph, that is, his exile and homecoming.⁶⁶ Cicero dwells on his notions on the state and the role of a statesman, which he commends to the attention of especially young people.⁶⁷ This is accompanied by the *prooemium*⁶⁸ and the invective against the incriminating witness, Vatinius, who spoke about the *optimates* in a contemptuous voice, insultingly⁶⁹ calling them *natio (natio optimatum)*.⁷⁰ Based thereon, the superficial spectator might agree with the opinions, voiced in antiquity already, that Cicero deviated far too much from the original subject of his speech, and might give credence to the presumption that *Pro Sestio* in the form it had been handed down to us has nothing to do with the speech as it was actually delivered.⁷¹ When studying the *oratio* more carefully, we can agree with Manfred Fuhrmann’s opinion that the speech constitutes a closed, well-edited and logical whole. As the orator expounds on the point-by-point refutation of the charges affecting Sestius by those who had spoken before him, there is nothing else left to do but praise Sestius’s conduct of life and activity as tribune against the detailed backdrop of the historical-political background.⁷² Accordingly, the speech after the *prooemium* can be divided into sections⁷³ with a historical⁷⁴ and programmatic character,⁷⁵ which are then concluded by the *peroratio* turning into a pathetic fortissimo stating that if Sestius was to go into exile, then the orator would not hesitate to follow him there since he could thank his return from his own exile to Sestius.⁷⁶

It is now worth analysing that part of the speech which may be considered a mere *excursus* – having an end in itself – containing Cicero’s political creed and the most precise definition of the role taken by the *optimates* in public life.⁷⁷ The paradigmatic nature of Sestius’s case enabled the orator to frame guidelines for

63 Cic *Sest* 79ff.

64 Ulp D 43 16 1 27. Cf Zlinszky 1991: 114f.

65 Cic *Sest* 6-14, 75-95, 144-147.

66 Cic *Sest* 15-74, 127-131.

67 Cic *Sest* 96-126, 136-143.

68 Cic *Sest* 1-5.

69 Wirszubski 1954: 7.

70 Cic *Sest* 132-135.

71 Meyer 1922: 135.

72 Fuhrmann 1991: 283; Materiale 2004: 149.

73 Fuhrmann 1991: 283.

74 Cic *Sest* 6-95.

75 Cic *Sest* 96-143.

76 Cic *Sest* 144-147.

77 Cic *Sest* 96ff.

the philosophy of state that would be more accessible in a public speech than in theoretical or philosophical works.⁷⁸ What might be superficially considered a mere *excursus* is a fully considered and well-founded argument: The definition of the concept of *optimates* is followed by the listing of the most important tasks of the state, and then, by determining the goals of persons who shape public life, the significance of *otium* and *dignitas*. The orator reconnects the seemingly extended theoretical train of thought with the stream of the oration.

To respond to the disparaging remark made by the prosecutor regarding the *optimates*, he develops his own *optimata* definition by *interpretatio extensiva* setting out from the *optimates* – *populares* opposition. The *optimates* and *populares*, as a matter of fact, did not indicate party affiliations, not even groups orienting themselves in terms of principles or slogans concerning political or public life, but primarily groups of specific politicians who achieved their goals relying on the senate (*optimates*) or the popular assembly (*populares*) respectively – in many cases the distinction covered difference in political style rather than content.⁷⁹ According to Cicero, the *optimates* are those who – contrary to the *populares* – do not seek applause and approval of the masses but try to earn acknowledgement by all decent citizens (*optimus quisque*).⁸⁰

The community of decent citizens comprises thoughtful, sober people living under balanced financial circumstances, irrespective of their class status – comprising even “well-meaning” slaves who had been set free. Consequently, the *optimus quisque* are all decent Roman citizens, people belonging to the highest orders, inhabitants of Roman cities and agricultural workers, traders, and liberated slaves who are by nature not depraved, not insane, and who do not enjoy civil strife. Thus, *optimates* are opposed to depraved adventurers, people who upset public life.⁸¹ And what is the common goal of this most diverse group of people? To unite all sober,

78 Fuhrmann 1960: 494.

79 Krüger 1991: 196.

80 Cic *Sest* 96; Boyancé 1941: 179ff; Fuhrmann 1960: 484; Meyer 2005: 27ff.

81 Cic *Sest* 97: “Quis ergo iste optimus quisque? Numero, si quaeris, innumerabiles, neque enim aliter stare possemus; sunt principes consili publici, sunt qui eorum sectam sequuntur, sunt maximorum ordinum homines, quibus patet curia, sunt municipales rusticique Romani, sunt negoti gerentes, sunt etiam libertini optimates. Numerus, ut dixi, huius generis late et varie diffusus est; sed genus universum, ut tollatur error, brevi circumscribi et definiri potest. Omnes optimates sunt qui neque nocentes sunt nec natura improbi nec furiosi nec malis domesticis impediti. esto igitur ut ii sint, quam tu ‘nationem’ appellasti, qui et integri sunt et sani et bene de rebus domesticis constituti. Horum qui voluntati, commodis, opinionibus in gubernanda re publica serviunt, defensores optimatum ipsique optimates gravissimi et clarissimi cives numerantur et principes civitatis.” (“Who then are they? Every good man. If you ask what are their numbers, they are innumerable. For if they were not, we could not stand. They are the chief men of the public council; they are those who follow their school; they are the men of the highest orders of the state to whom the senate house is open; they are the citizens of the municipal towns and Roman citizens who dwell in the country; they are men engaged in business; there are even some freedmen of the best party. The number, as I have said, of this party is widely scattered in various directions; but the entire body (to prevent all mistakes) can be described and defined in a few words. All men

honest citizens with orderly conduct of life, namely the preservation of tranquillity by maintaining dignity.⁸²

The political philosophy of the *optimates* is nothing else than “*cum dignitate otium*”.⁸³ *Dignitas* is appreciation, dignity obtained by individual merit or social background – that is, it is not a “civil right”. *Dignitas* is in every case a kind of award for an office fulfilled in public life, a service carried out for public good, efforts and peril undertaken for the sake of *maiestas imperii/rei publicae*, which raises the person who has become worthy out of the grey mass of average people.⁸⁴ This award, however, is not identical with the contents covered by *honos* and *laus* because they, too, can be attained by exemplary handling of a particular, given the historical and political situation. *Dignitas* is a greater and, above all, more permanent value: To a certain extent it can be related to the concept of nobility since it extends far beyond the glory of a year in office or a military expedition. It can be passed from generation to generation, and may also legitimise the influence or power in public life of descendants. It is only during the stormy periods of the state when this inherited *dignitas* can be attacked by subversive elements. The task of the *optimates* is therefore to protect this value – not primarily for their own sake, but to serve the public good and its stability.⁸⁵

Otium is, in a certain sense, the opposite of *negotium*, that is, every activity that can be carried out outside the field of public life. The word “*otium*” often goes together with the terms *pax*, *concordia*, *salus*, *quies* and *tranquillitas*, as it were as the opposite of *novae res*, *seditio*, *discordia* and *tumultus*. Thus, both *dignitas* and *otium* can be a trait of a single person,⁸⁶ a group⁸⁷ or a whole institution – for example, the empire or the state,⁸⁸ and can denote public tranquillity and public safety.⁸⁹

belong to the best party, who are not guilty of any crime, nor wicked by nature, nor madmen, nor men embarrassed by domestic difficulties. Let it be laid down, then, that these men (this race, as you call them) are all those who are honest and in their senses, and who are well off in their domestic circumstances. Those who are guided by their wishes, who consult their interests and opinions in the management of the republic, are the partisans of the best men, and are themselves accounted best men, most wise and most illustrious citizens, and chief men in the state.”) Source of the English translation: <http://perseus.uchicago.edu/perseus-cgi/citequery3.pl?dbname=LatinAugusti2012&getid=1&query=Cic.%20Sest.%2097>.

82 Cic *Sest* 98: “Quid est igitur propositum his rei publicae gubernatoribus quod intueri et quo cursum suum derigere debeant? Id quod est praestantissimum maximeque optabile omnibus sanis et bonis et beatis, cum dignitate otium.” (“What then, is the object proposed to themselves by these directors of the republic, which they are bound to keep their eyes fixed upon, and towards which they ought to direct their course? That which is most excellent and most desirable to all men in their senses, and to all good and happy men, – ease conjoined with duty.”)

83 Cf Wirszubski 1954: 1ff; Rémy 1928: 113ff. See, also, Pérez 1995: 57ff.

84 Fuhrmann 1960: 486; Wirszubski 1954: 12. Cf, also, Büchner 1957: 322ff.

85 Fuhrmann 1960: 487f.

86 Cic *Sest* 125, 128f; *Off* 3 1.

87 Cic *Sest* 104; *Fam* 1 8 4.

88 Cic *Sest* 1.

89 Cic *Sest* 15 46 104. Cf Fuhrmann 1960: 488ff; Wirszubski 1954: 4ff.

The question arises naturally whether the concepts of *otium* and *dignitas* cover contents that refer to public or private conditions.⁹⁰ According to Rémy the use of these concepts referring to the collective and the individual must be strictly separated from each other.⁹¹ Furthermore, these two keywords in *Pro Sestio* are meant to reflect idealised and desirable conditions of public life, in which *dignitas* denotes enforcement of the rule of the *ordo senatorius* considered “traditional”, that is destined to exercise power in Sulla’s constitution, and *otium* denotes public tranquillity arising from this *status quo*.⁹² In other cases Cicero often used the concept of *dignitas* to name the influence of the individual, more specifically, the senator and his power exercised in the senate, and *otium* to describe the deservedly earned tranquillity enjoyed after leaving office.⁹³ The strict distinction set up by Rémy was replaced by a somewhat subtler interpretation in the works of others. Pierre Boyancé, for example, increasingly emphasised that in Cicero’s works *dignitas* may be found both in the private sphere and in public life. He wanted to deduce this Ciceronian concept from Greek, primarily peripatetic, philosophy.⁹⁴ The literature – for example Chaim Wirszubski – considered the excessive nearing of *dignitas* to the private sphere exaggerated and as a demonstration of Greek philosophical roots problematic.⁹⁵ Chaim Wirszubski, however, also somewhat overshot the mark, and interpreted the idea of *dignitas* as a category that excludes political, philosophical and ethical connotations.⁹⁶

With his habitual ability to see the essence in synthesis, Manfred Fuhrmann declared that both Pierre Boyancé’s approach of taking only Greek philosophical bases into account and Chaim Wirszubski’s approach of ignoring other factors outside of Roman *realpolitik* are one-sided and therefore not correct. Fuhrmann integrates the two contradicting theories by claiming that the results of Greek philosophy served as tools for Cicero to formulate individual thoughts regarding Roman public life.⁹⁷

Thus, in *Pro Sestio* Cicero applies the phrase *cum dignitate otium* both to the entirety of public life and the leaders of the state. However, in this respect, due to the fundamental characteristics of Roman public thinking we cannot charge the orator-statesman with *mala fide* mingling of *in rem* and personal components, which are to be strictly separated nowadays, as it is done by Chaim Wirszubski.⁹⁸ It is only Cicero’s *res publica* definition that makes it justified and self-explanatory to mention

90 Cf Cic *fam* 1 7 7ff.

91 Rémy 1928: 113ff.

92 See, also, Heinze 1924: 73ff.

93 Fuhrmann 1960: 482.

94 Boyancé 1941: 172ff, 186ff.

95 Wirszubski 1954: 1ff.

96 Wirszubski 1950: 91ff; Wirszubski 1954: 3ff.

97 Fuhrmann 1960: 483.

98 Wirszubski 1954: 7ff.

“*in rem*” and “personal” elements of the state, that is abstract power and the elite exercising it.⁹⁹

The state of *otium* can be realised only if the State is governed by the *optimates* and the people of Rome acknowledges their *dignitas*, by which they can guarantee *otium* and *dignitas* of the *res publica*, that is, the stability of religion, state organisation, administration of justice, foreign relations and military administration.¹⁰⁰ This fragile balance is threatened by dangers from two sides. On the one hand, by subversive elements, anarchists, depraved political adventurers similar to Clodius;¹⁰¹ and on the other hand, by the citizens who either strive for *dignitas* and neglecting *otium*, or are willing to give up *dignitas* only to gain (or regain) *otium*. The latter group assumes an especially high risk because while chasing the false illusion of safety they fail to notice that, by giving up *dignitas*, *otium* will be endangered too.¹⁰²

After that, he enumerates examples from the rows of *propugnatores rei publicae*, who had protected the state, while facing trouble and danger, against subversive activity of the *populares*, which formerly involved significant peril as in those days the politics of the *populares* pleased the people.¹⁰³ Taking it to refer to the time when the speech was delivered, the orator, however, makes it clear that the ambitions of the *populares* evoke aversion also in the *verus populus*,¹⁰⁴ the people who approve of the politics of the *optimates* and long for *otium*, and that people like Clodius can

99 Fuhrmann 1960: 483.

100 Cic *Sest* 98: “Huius autem otiosae dignitatis haec fundamenta sunt, haec membra, quae tuenda principibus et vel capitis periculo defendenda sunt: religiones, auspicia, potestates magistratum, senatus auctoritas, leges, mos maiorum, iudicia, iuris dictio, fides, provinciae, socii, imperi laus, res militaris, aerarium.” (“And of this easy dignity these are the foundations, these are the component parts, which ought to be upheld by the chief men, and to be defended even at the hazard of their lives: religious observances, the auspices, the civil power of magistrates, the authority of the senate, the laws, the usages of one’s ancestors, the courts of justice, the jurisdiction of the judges, good faith, the provinces, the allies, the glory of the empire, the whole affairs of the army, the treasury.”) Cf Krüger 1991: 197f; Fuhrmann 2000: 285; Materiale 2004:151; Meyer 2005: 38ff.

101 Cf Alföldi 1985: 128.

102 Cic *Sest* 100: “Maioribus praesidiis et copiis oppugnatur res publica quam defenditur, propterea quod audaces homines et perditu nutu impelluntur et ipsi etiam sponte sua contra rem publicam incitantur, boni nescio quo modo tardiores sunt et principiis rerum neglectis ad extrellum ipsa denique necessitate excitantur, ita ut non numquam cunctatione ac tarditate, dum otium volunt etiam sine dignitate retinere, ipsi utrumque amittant.” (“The republic is attacked by greater forces and more numerous bodies than those by which it is defended because audacious and abandoned men are impelled on by a nod, and are even of their own accord excited by nature to be enemies to the republic. And somehow or other good men are slower in action, and overlooking the first beginnings of things, are at last aroused by necessity itself so that some times through their very delays and tardiness of movement while they wish to retain their ease even without dignity, they, of their own accord, lose both.”) Cf Fuhrmann 1960: 485f; Boyancé 1941: 184ff.

103 Cic *Sest* 101ff. Cf Fuhrmann 1960: 485; Fuhrmann 2000: 286.

104 Cic *Sest* 108 114.

only expect applause from the hired, heckled mob.¹⁰⁵ He resolutely calls citizens of Rome – who, except for hostile elements, all enrich the rows of the *optimates*, according to this extended definition – to follow the example of the enumerated men who long for and indeed attain authority, acknowledgement and glory, and who will be remembered for ever; at the same time, he does not deny that the task to be undertaken is difficult and involves troubles and perils.¹⁰⁶

The leaders of the *optimates*, namely the *principes civitatis* who follow the senate, which guarantees the good of the state, and the freedom, tranquillity and dignity of the people, must face their enemies (*audaces, improbi*), who sometimes come from influential circles (*potentes*). However, examples drawn from history show that these subversive elements, who tried to impress the mob, were, in most of the cases, badly defeated.¹⁰⁷ At this point, Cicero warns the youth – for, as he said, the definition of the concept of the *optimates* also served this¹⁰⁸ – to keep *dignitas* and *gloria* attainable through activities carried out for the sake of *res publica* in view¹⁰⁹ because he is afraid that, threatened by recent events and calamities suffered by them, there will be no citizens left willing to undertake duties and obligations in public life.¹¹⁰ Therefore, he does not omit to stress that – just as the *optimates* are quite often the vanguards of politics – he was exiled; yet, he was soon called to return home and was reinstated in his former *dignitas*.¹¹¹

105 Cic *Sest* 104: “Nunc iam nihil est quod populus a delectis principibusque dissentiat: nec flagitat rem ullam neque novarum rerum est cupidus et otio suo et dignitate optimi cuiusque et universae rei publicae gloria delectatur. Itaque homines seditiosi ac turbulenti, quia nulla iam largitione populum Romanum concitare possunt, quod plebes perfuncta gravissimis seditionibus ac discordiis otium amplexatur, conductas habent contiones, neque id agunt ut ea dicant aut ferant quae illi velint audire qui in contione sunt, sed pretio ac mercede perficiunt ut, quicquid dicant, id illi velle audire videantur.” (“At present there is no subject on which the people need disagree with its chosen magistrates and with the nobles; it is not demanding anything, nor is it eager for a revolution, and it is fond of its own tranquillity, and pleased with the dignity and worth of every eminent man, and with the glory of the whole republic. Therefore seditious and turbulent men, because they cannot at present stir up the Roman people by any bribery, since the common people, having gone through some most violent seditious and discords, appear for the most for ease and tranquillity, now hold packed assemblies, and do not concern themselves about saying or proposing what those men who are present in the assembly may like to hear, but they contrive by bribery and corruption that whatever they say may appear to be what those men wish to hear.”)

106 Cic *Sest* 102: “Haec imitamini, per deos immortalis, qui dignitatem, qui laudem, qui gloriam queritis! Haec ampla sunt, haec divina, haec immortalia; haec fama celebrantur, monumentis annalium mandantur, posteritati propagantur. Est labor, non nego; pericula magna, fateor.” (“Imitate those men, I beg you in the name of the immortal gods, you who seek for dignity, and praise, and glory. These examples are honourable; these are godlike; these are immortal; these are celebrated in fame, and are committed to the eternal recollection of our annals, and are handed down to posterity. It is a labour, I do not deny it.”) Cf *Materiale* 2004: 152.

107 Cic *Sest* 136-143. Cf Krüger 1991: 198f; Meyer 2005: 33ff.

108 *Materiale* 2004: 149.

109 Cic *Sest* 51, 96, 102, 119, 136.

110 Cic *Sest* 1, 49, 93, 95.

111 Cic *Sest* 51, 140.

4 Conclusion

The analysis of the situation and role in public life of the *optimates* far exceeded the extent required by the success of Sestius's case. It is, however, organically connected with other elements of the speech, as the orator points it out too.¹¹² Despite rhetorical exaggerations we can agree with Cicero.¹¹³ Sestius takes the part of the *optimates*, that is, every decent citizen (*quisque optimus*) as it is proven by his entire conduct in life and his political activity:¹¹⁴ He had not only stood up for Cicero, who had done so much for saving the state, but also represented the interests of the senate, of Italy entirely, and in general of the *res publica*¹¹⁵ against fanatic, subversive and traitorous political adventurers, who are deservedly referred to with scathing irony by the orator.¹¹⁶ (If we put the portrait of Gabinius and Piso in the scales of history, then Cicero undoubtedly drew a grotesque caricature of them; if, however, we wish to judge the description in terms of its literary value, then we regard them as masterpieces of Ciceronian irony.¹¹⁷) What was at stake in the fight of Milo, Sestius and the citizens who allied with them (the senate, the citizens and the whole of Italy)¹¹⁸ against Clodius, Gabinius, Piso and the heckled-hired scum of society¹¹⁹ out for the destruction of the state, was not calling Cicero home, but primarily *otiose dignitas*.¹²⁰

In the formulation of the pair of opposites of *ius* and *vis*¹²¹ Cicero could look back on earlier examples like, among others, Ennius.¹²² For the poet the figures of the soldier who uses violence and the orator who uses the weapon of persuasion represent two entirely different spheres: The key characteristic of the *orator* is *bonus*, his tools are *sapientia* and *ius*; opposed to him stands the *horridus miles*, whose main tools are *vis* and *ferrum*. Both figures grow beyond themselves through their symbolism as they provide us with two possible archetypes of settling disputed issues, representing the procedural orders of peace and war. Cicero emphatically uses the pair of opposites of *vis* – *ius* elsewhere too:¹²³ that is, it can be established

112 Cic *Sest* 96.

113 *Materiale* 2004: 150.

114 Cic *Sest* 6-14.

115 Cic *Sest* 15, 83, 87ff.

116 Cic *Sest* 18ff.

117 Fuhrmann 2000: 284.

118 Cic *Sest* 32, 36, 53, 72.

119 Cic *Sest* 25.

120 Fuhrmann 2000: 285; Cic *Sest* 98.

121 Fuhrmann 1960: 495.

122 Enn *Ann* 8 269-274: “Pellitur e medio sapientia, vi geritur res, / spernitur orator bonus, horridus miles amatur, / haut doctis dictis certantes nec maledictis / miscent inter sese inimicitiam agitantes, / non ex iure manum consertum, sed magis ferro / rem repetunt regnumque petunt, vadunt solida vi.”

123 Cic *Mur* 30.

that by that time this duality as a literary *topos* had been deeply rooted in Roman thinking.

The basic principle “*cum dignitate otium*”, which, beside creating *consensus/concordia ordinum* – that is the unity of the order of senators and the order of knights¹²⁴ – and *omnium bonorum*,¹²⁵ as one of the fundamental goals of Cicero’s activity as a consul too, did not fail to produce its impact during delivery of the speech either since the judges acquitted Sestius without any votes against it. According to Cicero this was a result difficult to overestimate politically.¹²⁶ *Pro Sestio* was delivered just at the right time and provided Cicero with the opportunity to expound his program of the theory of the state embedded in a rhetorical situation: For this brief moment a relative balance of forces developed in Rome between interest groups working against each other, and Caesar, who was able to turn the scales in his favour, was far away and did not directly intervene in the course of events.¹²⁷

Unfortunately, as is well-known, in the long run Cicero did not have the proper instruments available to him to enforce the goals and basic principles articulated in his speech *Pro Sestio*. Late republican Rome was no longer the place of making morally-based political decisions, but only interest-driven decisions. Caesar soon met Crassus, then Pompey, and they renewed the triumvirate of 60 BC. On the “proposal” of the senate, Cicero had to give up the legal debate regarding the settlement of Caesar’s soldiers, which was placed on the agenda for 15 May 56 BC. Thus, *otium* had been preserved but *dignitas* had been lost. Furthermore, the politics of the *populares*, which were again headed by Caesar, were, according to indications, followed not only by the mob of the city but also by the lower classes, presented as *optimates* in *Pro Sestio* by Cicero.¹²⁸

Nevertheless, in *Pro Sestio* Cicero gives a brilliant model how an orator-statesman can make the community aware of the danger of chaos in a crisis situation threatening the fundamental institutions of human co-existence, and in addition, how he can try to induce hesitating people to be guided by principles and values that the Roman state and public life had been based on.¹²⁹ The fortunate harmony of *dignitas*¹³⁰ and *otium*, that is, of idealistic basic values and material interests, and the formulation of the requirement to realise it even at the expense of sacrifices, deservedly raises *Pro Sestio* among Cicero’s best speeches.

Rhetoric virtuosity, contemporary politics and philosophy of the state – all of these are exemplarily combined in *Pro Sestio*. It is guide for the responsibly-thinking elite and the citizens of Rome on preserving and restoring the stability of the *res*

124 See, also, Bleicken: 1975 *passim*.

125 Materiale 2004: 147; Wirszubski 1954: 8. See, further, Strasburger 1931: *passim*.

126 Cic *Q fr* 2 4 1.

127 Fuhrmann 1960: 497.

128 Fuhrmann 2000: 288.

129 *Ibid.*

130 Cf Caes *Civ* 1 9 2.

publica. Moreover, the oration provides guidance for redefining classical values; an alternative to the value-destroying irresponsibility of people like Clodius. At that moment the orator-statesman could not know – but might have wished for – what occurred two years later: Clodius, who wanted to bring about the downfall of Cicero, died in a street fight provoked by him; and Milo, who killed Clodius and thereby did a great service to the public, would be defended by Cicero – unfortunately, with no success.

ABSTRACT

In this paper, first, we analysed the historical-legal background of the speech, which provided an insight into the events that evoked and followed Cicero's exile and calling him home. After that, it was worth paying attention to the thought of philosophy of the state articulated in *Pro Sestio* as Cicero determines the notion of *optimates* destined to govern the state by taking an individual approach – adjusting to the rhetorical situation but being true to his political conviction. In this respect, Cicero defined the goal that guides decent citizens (*optimus quisque*) in public life as *cum dignitate otium*, which crystallises in two keywords: *dignitas*, expressing moral values, firmness of mind, strength of character and dignity, and *otium*, the interest in material well-being, security (in law) and public tranquillity.

BIBLIOGRAPHY

Alföldi, Andreas (1985) *Caesar in 44 v. Chr. I. Studien zu Caesars Monarchie und ihren Wurzeln* (Bonn)

Bleicken, Jochen (1959) "Ursprung und Bedeutung der Provocation" *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* Rom Abt 76: 324-377

Bleicken, Jochen (1975) *Die Verfassung der römischen Republik* (Paderborn)

Boyancé, Pierre (1941) "Cum dignitate otium" *Revue des Études Anciennes* 43: 172-191

Büchner, Karl (1957) *Humanitas Romana* (Heidelberg)

Drexler, Hans (1976) *Die Catilinarische Verschwörung* (Darmstadt)

Epstein, David F (1986) "Cicero's testimony at the bona dea trial" *Classical Philology* 80: 229-235

Fuhrmann, Manfred (1960) "Cum dignitate otium. Politisches Programm und Staatstheorie bei Cicero" *Gymnasium* 67: 481-500

Fuhrmann, Manfred (2000) "Rede für Sestius" in Manfred Fuhrmann (ed) *Marcus Tullius Cicero, Sämtliche Rede* vol 5 (Düsseldorf-Zürich): 281-285

Giebel, Marion (1977) *Marcus Tullius Cicero* (Reinbek bei Hamburg)

Gruen Erich S (1966) "P. Clodius: Instrument or independent agent?" *The Phoenix* 20: 120-130

Heinze, Richard (1924) "Ciceros Staat als politische Tendenzschrift" *Hermes* 59: 73-94

Heinze, Richard (1925) "Ciceros Rede pro Caelio" *Hermes* 60: 193-258

Krüger, Gerhard (1991) *M. Tullius Cicero, Pro P. Sestio oratio* (Stuttgart)

Lintott, Andrew W (1970) "Provocatio. From the Struggle of the Orders to the Principate" in *Aufstieg und Niedergang der römischen Welt I/2* (Berlin-New York): 226-267

Martin, Jochen (1970) "Die Provokation in der klassischen und späten Republik" *Hermes* 98: 72-96

Materiale, Filippo (2004) "L'ideale politico di Cicerone nella Pro Sestio" in Salerno, Francesco (ed) *Cicerone e la politica* (Napoli): 145-152

Meier, Christian (1968) "Ciceros Consulat" in *Cicero, ein Mensch seiner Zeit* (Berlin): 61-116

Meyer, Eduard (1922) *Caesars Monarchie und das Prinzipat des Pompeius* (Stuttgart-Berlin)

Meyer, Inga (2005) *Von der Vision zur Reform. Der Staat der Gesetze – Ciceros Programm einer Neuordnung der Römischen Republik: 56-51 v. Chr.* (München)

Moreau, Philippe (1982) *Clodiana religio. Un procès politique en 61 av. J.-C.* (Paris)

Pérez, José Joaquín Caerols (1995) "Arceri oti finibus (Cic. har. 4): „,paz“ civil u „,ocio“ de los jóvenes aristócratas?" *Estudios Clásicos* 108: 57-92

Rémy, Eduard (1928) "Dignitas cum otio" *Musée Belge* 32: 113-127

Rundell, WMF (1979) "Cicero and Clodius: The question of credibility" *Historia* 28: 301-328

Spielvogel, Jörg P (1997) "Clodius P. Pulcher – eine politische Ausnahmehrscheinung der späten Republik?" *Hermes* 125: 56-74

Strasburger, Hermann (1931) *Concordia ordinum. Eine Untersuchung zur Politik Ciceros* (Borne-Leipzig)

Uttschenko, Sergej Lvovic (1978) *Cicero* (Berlin)

Vitzthum, Werner (1966) *Untersuchungen zum materiellen Inhalt der „Lex Plautia“ und „Lex Julia de vi“* (Dissertation, München)

Wirszubski, Chaim (1950) *Libertas as a Political Idea at Rome During the Late Republic and Early Principate* (Cambridge)

Wirszubski, Chaim (1954) "Cicero's cum dignitate otium – A reconsideration" *J of Roman Studies* 44: 1-13

Zlinszky, Janos (1991) *Római büntetőjog [Roman Criminal Law]* (Budapest)