LETTERS OF RECOMMENDATION:
CICERO-FRONTO

by

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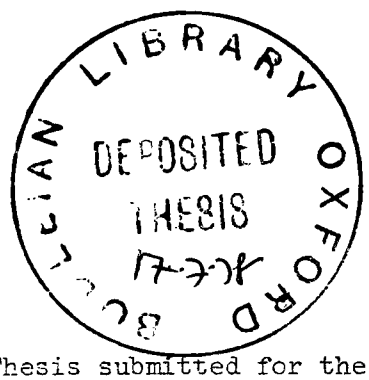

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ABSTRACT

Part I, Chapter 1, after a short definition of letters of recommendation and a conjecture about their probable origins, discusses the Greek usage, theory and terminology but casts doubt on the theory that Cicero, the earliest extant writer of Latin letters of recommendation, was influenced by Greek precedents. The term litterae commendaticiae, and its occurrences in Cicero's letters, is discussed among other proofs of the rootedness of the practice in the Rome of Cicero's day. The discussion will avail itself of all the relevant evidence about recommendations, but will concentrate on the formal letter of recommendation.

The Addenda discuss pre-literary forms of recommendation which left their stamp on the letter of recommendation. Letters of recommendation from the Old Testament and the Jewish Diaspora are mentioned. Greek letters of recommendation are discussed briefly, and Octavian's letter to Rhosus (Sherk, RDGE, 'Epistulae', no. 58, IV) serves as an additional argument against the theory that the Latin letter of recommendation was influenced by Greek terminology.

Chapter 2 opens with a challenge to the traditional view that a patron-client relationship lurks behind every recommendation. The crude equation of 'instrumental friendship' - adumbrated by a letter of recommendation - with patronage or bartering is rejected and the multifarious nature of Roman amicitia is re-emphasized. A definition of the essence of letters of recommendation follows: these letters tap sources of personal, unofficial and extra-legal influence. It is suggested that, in turn, this reliance on personal influence hampered the development of bureaucratic officialdom under the Republic. However, the volume of letters of recommendation written at all levels of society under the Empire puts in doubt the assumption that such a practice would be excluded by the emergence

of a centralized administrative hierarchy. These letters are embedded in a social milieu in which personal connections claimed pride of place, often overriding the claims of justice, merit and seniority. The very existence of litterae commendaticiae puts in question the attempts of historians to impose anachronistic legal bureaucratic conceptions on the working of the Roman state. It is then suggested that the interplay between the three parties to the recommendation process takes its cue from basic notions of reciprocity expressed in Latin by amicitia, beneficia mutua and above all by gratia. This last term, designating the source of energy behind the whole process, is described from linguistic, sociological and psychological points of view. The end of the chapter contrasts the tenacity of the terminology with the transformation brought about in its content by the transition from Republic to Empire.

The Addendum amplifies the discussion of 'instrumental friendship' and its complexity. The tension between altruism and utilitarianism characteristic of friendship is illustrated from studies of other societies.

In Chapter 3 it is argued that reliable criteria for distinguishing a recommendation written with serious intent from one which is a matter of routine are hard to come by, in view of the uniformity of expression and the ever-present protestations of the existence of friendship with the person recommended. Both are part of the etiquette (decorum) of writing recommendations. The rules of decorum impose the need to maintain the delicate balance between fear (verecundia, pudor) of imposition (ambitio, molestia) on the recipient and reluctance to incur the charge of failing one's friends (neglegentia). Consequently a whole series of formulae is created to stand in the breach. Most noticeable are the saving formulae in those recommendations which might compromise the integrity of a judge. The benefits which each party can derive from a successful recommendation are dwelt on, with special emphasis on the credit redounding to the prestige

of the recommender when acting as a suffragator in an election campaign. Finally, it is suggested that the lack of specification and the vagueness in phrasing the requests that are characteristic of such letters, while they are the direct corollary of the rules imposed by decorum, stem from wider considerations also: the single letter of recommendation was not expected to take effect in isolation from other factors.

In Chapter 4 the letters of Cicero written during Caesar's dictatorship are analysed in order to demonstrate the change in idiom and atmosphere introduced by the transition from Republic to Empire. It is suggested that in order to intercede with the Dictator one had to rely on his favourable disposition (clementia) rather than on the amicitia of bygone days. Moreover the Dictator's presence is felt even in letters addressed to his lieutenants and to provincial governors, in the constant reassurance that one's protégé is a 'safe' man and in the persistent request to follow the spirit of the Dictator's instructions, or, failing this, to refer the matter back to him. Even after the Ides of March Cicero had to invoke the authority of Caesar in order to save the cause of his protégés.

Part II, Chapter 1, demonstrates that although Cicero addresses Roman officials with requests that often call for an official act on their part, nevertheless his letters of recommendation maintain in their atmosphere, tone and idiom the nature of personal letters containing personal appeals in the name of personal ties. The subsequent review of the principles underlying Roman provincial government shows that such letters could easily fit into a system which allowed the provincial governor very wide discretionary powers with no effective checks on them except for the governor's own regard for his existimatio; a regard which Cicero's letters never fail to acknowledge and take into consideration. It is then suggested that besides being

invaluable for a proper understanding of Roman provincial government, these letters faithfully reflect the social scene in the provinces in the Late Republic, documenting social trends which would eventually transform the face of the Empire. Methods for removing the vagueness and obscurity which the rules of decorum and other factors have forced on Cicero's letters of recommendation are then discussed.

Chapter 2 points out the limitations and advantages of Cicero's letters of recommendation in gaining an insight into Roman provincial government and jurisdiction. Technical and theoretical problems involved in appeals in litigation are reviewed. The assize system as the key to the administration of justice in the provinces and the issue of the governor's accessibility are outlined, and a contrast is drawn between letters of recommendation to the praetors at Rome and those to provincial governors: the latter usually aim at something other than obtaining favours at the trial stage. The elusive nature of Cicero's letters of recommendation is illustrated in a discussion of Fam., XIII, 59 and Fam., XIII, 14. Various arguments are put forward to suggest the need to modify Kelly's view which brands all these letters as 'improper influences in Roman litigation'. The actual review of selected problems starts with recommendations on behalf of members of the senatorial class. Three issues are raised: the so-called 'reiectio Romam', individual senatus consulta and the legatio libera. A new interpretation is offered of the consul's litterae quasi commendaticiae of Fam., XIII, 26.3. It is suggested that the consul's letter, like individual senatus consulta, was meant to free the governor who complied to further the interests of members of the senatorial class. However, the need felt to reinforce consular letters, individual senatus consulta and a legatio libera with letters of recommendation demonstrates the Roman preference for relying on personal influence even when constitutional measures did exist. The relevance of distinguishing between constitutional

and non-constitutional measures is questioned in view of the fact that constitutional practices could be manipulated to further the interests of a class. The appeal for intercession on behalf of a publican (Fam. XIII, 65) leads to a discussion of the publican companies and their pactiones in the provinces. This is set in the context of the performance of functions vital to the state by private initiative. Two theories which suggest that litigation between publicans and tax-payers was subject to state regulation are discussed. No conclusion can be reached on the nature of the appeal in the letter since it was probably not addressed to the governor of the province in which the pactiones were to take place. Recommendations in cases of litigation between Roman creditors and provincial debtors raise the issues of 'conflict of laws', the nature of the edictum provinciale, the privileged status of free cities and the legal position of Roman citizens vis-à-vis such cities. It is admitted that there is some evidence in the letters for special treatment of free cities; but letters of recommendation which appeal to the wide discretionary powers of the governor may have envisaged here, as in the case of cities which are not free, the exercise of personal influence and authority. The Addendum suggests that the Romans could hardly by that time have formulated hard and fast rules with regard to 'double citizenship'.

Chapter 3 argues that patronage might not be the right term to use in order to describe the ties of friendship with provincials documented in the letters. Greeks who receive recommendations are distinguished by one or more of three qualifications: local eminence, possession of Roman citizenship and ties of hospitium with Roman officials. A group of fifteen Greeks is surveyed. It is then suggested that the dearth of evidence on hospitium publicum stems from the fact that private relationships fulfilled a public and official function. The fact that the governor had no official residence in the province but was entertained in private homes clearly illustrates the interaction between private and public life.

Chapter 4 examines the effectiveness of Cicero's letters of recommendation, relying on four sources of information: prosopographical studies which document Cicero's relationship with the persons involved; repetitions and references to previous recommendations; various expressions scattered throughout the letters; and finally inferences from Cicero's own replies to recommendations addressed to him. This chapter relies heavily on the information contained in the Appendix to Part II which can be found in Volume II of the thesis; it does not pretend to be an exhaustive prosopographical study of Cicero's circle of friends and protégés. The decorum of replies to letters of recommendations is briefly discussed and illustrated.

Part III. Chapter 1 supports a claim for the authenticity of Pliny's letters of recommendation and rejects the possibility of major revision before publication in spite of the marked reduction in the use of formulae and set phrases. This phenomenon is seen as a sign of growing urbanity, greater familiarity with the genre and a new taste for rhetorical and artificial expressions. In addition to stylistic distinctions between Pliny's and Cicero's letters of recommendation, there are differences in subject matter. It is suggested that the presence of the Emperor in Pliny's recommendations to friends recalls the atmosphere of the letters Cicero wrote under Caesar's dictatorship.

Chapter 2 relies heavily on prosopographical studies in order to prove that Pliny's protestations of the existence of friendship with the persons recommended correspond to reality and are not only used to comply with the rules imposed by decorum. Common patria, shared interests and similar career are proposed as the origins of these ties. Ties of friendship as well as official position and social prestige define the range of the recipients of Pliny's recommendations.

Chapter 3 draws attention to the difficulty of deciding the nature of requests addressed to the officials because of the deliberate omission of details for reasons - *interalia* - of *decorum*. It is suggested that the vagueness disappears when Pliny, who has secured the posts beforehand, has only to name his candidates. The *suffragium*-letters are seen against the background of the encroachment of imperial patronage on the freedom of the Senate. *Ep.* IV, 15 does not fall into this category, being a request to a prospective consul to select Pliny's protégé as his quaestor, an occasion which calls for special tact and delicacy. Recommendations to the Emperor, although they share the phraseology of the others, really belong to the petition genre. The scope and volume of imperial patronage is surveyed through these.

Chapter 4 centres on the concept of *indulgentia*, the key-term in recommendations to the Emperor, which evokes a frame of reference completely different from that evoked by the notions of reciprocity, *gratia* and *amicitia*, and thereby sets the recommendations to the Emperor apart from those to Pliny's peers. Pliny's recommendations serve to emphasize the importance of the appearance of *indulgentia* in contemporary political propaganda, which stressed the paternalistic nature of the reign. It is claimed that *indulgentia* at this period retained its original connotations, which restrict its usage to specific occasions: recommendations, or rather petitions. The term is not yet used as an empty form of address, nor does it yet denote specific juridical prerogatives of the emperor; but rather it describes his general paternal disposition, the source of all *beneficia*. The disappearance of reciprocity from letters of recommendation to the Emperor means that no claim can be put to his favour nor can the prospect of recompense even be contemplated. The recommender is reduced to a position of inferiority with only obedience and gratitude as his lot. The discussion ends with a review of similarities of phraseology between letters

addressed to the Emperor and those to social equals. However, these are superficial and make the intrinsic dissimilarities appear more pronounced. The Addendum discusses non-literary letters of recommendation under the Empire. The wide dissemination of epistulae commendaticiae at all social levels proves that the practice is a well-known and well-established social institution. Homage paid in non-literary letters to the rules of decorum shows clearly that Pliny's letters do not have to be seen as literary elaborations.

Part IV suggests that the centralization of very many powers in the hands of the emperor, unaccompanied by an effective system of delegation of decision-making power, was counter-balanced by a system of patronage. The essential passivity of the emperor invited the exercise of initiatives from below, such as letters of recommendation. Fronto's letters to the Emperors illustrate what an intimate of the imperial household, serving in no official capacity, could achieve for his protégés. Letters requesting promotion in the procuratorial career are examined. Fronto's success in obtaining the imperial favour is accentuated by the multiplicity of interests competing for it. A suggestion that Fronto's influence derived mainly from his friendship with Marcus Aurelius, his pupil, is documented in a letter where the heir-apparent is used as an intercessor with his father. A letter of recommendation written by Marcus Aurelius on behalf of a Greek philosopher leads to a discussion of the tenacity of the recommendation-formulae and the respect for the traditional form of the recommendation shared by 'good' and 'bad' emperors alike. The same letter also attests to the change in attitude towards the Greek world which had occurred since Cicero's days. The fusion of the two traditions, the Greek and the Roman, has taken place in the meantime.

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PART I: INTRODUCTION

Chapter 1

TERMINOLOGY, THEORY AND PRACTICE

'Letters of recommendation were written at all periods among all peoples'.[1] Such letters probably developed from the pre-literary token of identification.[2] By bringing the credibility of a mutual friend to bear such letters helped to create ties of hospitality and guest-friendship in a world where only the rudiments of international law existed, and where the foreigner, even if not treated as an enemy, could otherwise hardly have expected the help and protection which those ties secured for him.[3]

Later on letters of recommendation came to have much wider aims than the mere rectification of the precarious position of the foreigner, but those modest beginnings left their stamp on some of the formulae in them and on some of the attitudes associated with them.[4]

In the earliest Greek guide to letter writing, the τύποι ἐπιστολικοί attributed falsely to Demetrius of Phaleron,[5] the τύπος συστατικός[6] ('commendatory') comes second in a list of 21 types of letter.

> Ὁ δὲ συστατικός, ὃν ὑπὲρ ἄλλου πρὸς ἄλλον γράφομεν, ἔπαινον συγκαταπλέκοντες ἅμα καὶ τοὺς πρότερον ἀγνοουμένους ἄγοντες εἰς γνῶσιν.[7]

In keeping with the usual procedure in this manual an example follows the brief description:

> τὸν δεῖνα τὸν παρακομίζοντα σοι τὴν ἐπιστολὴν καὶ παρ' ἡμῖν κεκριμένον καὶ δι' ἣν ἔχει πίστιν ἀγαπώμενον καλῶς ποιήσεις ἀποδοχῆς ἀξιώσας καὶ δι' ἐμὲ καὶ δι' αὐτόν, ἔτι δὲ καὶ διὰ σαυτόν· οὐ μεταμελήσει γὰρ ἐν οἷς θέλεις εἴτε λόγον ἀπόρρητον εἴτε πράξιν εἰπεῖν. ἀλλα καὶ πρὸς ἑτέρους ἐπαινέσεις αὐτόν, αἰσθόμενος ἣν ἐν παντὶ δυνατός ἐστι χρείαν παρασχέσθαι.[8]

A later handbook, the Libanius-Proclus ἐπιστολιμαῖοι χαρακτῆρες,[9] places it fourth in a list of 41 types of letter:

> Συστατική ἐστι δι' ἧς συνιστῶμέν τινα παρά τινι· ἡ δ' αὐτὴ καὶ παραθετικὴ καλεῖται. - Ἡ ἐπιστολή. Τὸν τιμιώτατον καὶ περισπούδαστον ἄνδρα τόνδε δεξάμενος ξενίσαι μὴ κατοκνήσῃς, σεαυτῷ πρέποντα πράττων κἀμοὶ κεχαρισμένα.[10]

The practice does not always reflect the rigid and pedantic divisions into types found in the handbooks; many of the extant letters from real life are border-line cases or a fusion of more than one type, while some of the types are absent altogether in daily usage.[11] Not so the συστατικός, which has rightly been described as 'perhaps the most distinctive in purpose and character of them all',[12] and as 'eine der wenigen [i.e. Briefarten], die schon lange fest bestimmt waren'.[13] This is adequately proved by letters of recommendation from Ptolemaic Egypt dating back to the third century B.C. which show clear signs of being a distinct type: a 'stereotyped formality', an easily discernible formula in the background and a recurrence of traditional formulae.[14]

However, the formulae in the extant papyrus letters are different from those found in the τύποι ἐπιστολικοί,[15] whose Egyptian provenance has been proved by Brinkmann.[16] It has been conjectured, therefore, that 'there were manuals of letter writing which were more popular - perhaps a considerable number',[17] for 'the letters of introduction do not slavishly adhere to any single formula';[18] and that these manuals are now lost.[19]

Yet it seems hardly necessary to postulate an acquaintance with such manuals in order to account for the faithful adherence to conventional forms and traditional formulae in the extant papyrus letters; these like the assumed manuals would reflect what had become by that time a common practice,[20] although there is nothing to exclude mutual influence. It is more likely, however, that the process of systematization and classification in handbooks will have followed upon the practice rather than the

other way round.[21]

This examination of the relationship between theory and practice, handbooks and actual letters, leads naturally to a discussion of the possible influence exercised by Greek theory and practice on Roman letters of recommendation, or more specifically on those of Cicero, our earliest extant source for such letters.

It must first be said that there is some doubt as to whether there existed by Cicero's time a Greek theory of letter writing, systematically formulated in the schools of rhetoric.[22] It is a fact that the subject did not receive a place of its own in the rhetorical handbooks prior to Julius Victor's Ars Rhetorica, where the chapter De Epistulis comes, significantly, at the end of the treatise.[23] By its very nature, maintain the opponents of the existence of a theory of letter writing at an early date, the private letter was excluded from rhetoric.[24] Yet some scholars attribute the absence of a τέχνη ἐπιστολική to the caprice of transmission and try to glean and reconstruct the theory from various comments made en passant in general treatments of style or in other contexts, as well as from the practice itself.[25]

Those who uphold the early existence of a learned theory of letter writing advance in support of their view - among other arguments - the system of classification into types as demonstrated in the τύποι ἐπιστολικοί and in incidental comments on the genera epistularum made by Cicero in his own letters.[26] These comments, according to this argument, prove that Cicero was acquainted with a systematic division of letters into types and, therefore, with a general Greek theory of letter writing.[27]

However, the very tenets on which this hypothesis is based are open to question: 1) The broad dating of the τύποι ἐπιστολικοί in the period 200 B.C. to A.D. 300 and the question of the unity of the work[28] make it unsafe to use it as a proof of the existence of a fully-fledged theory of letter writing in the first century B.C., which could have been known

to Cicero.[29] 2) It might be that the division into types is of a popular origin, i.e. it does not go back to the schools of rhetoric but to practical manuals of letter writing. At a later date, when the letter was treated sui generis by rhetoricians, this popular classification was incorporated into their treatises.[30] 3) Cicero's references to genera epistularum, when seen in context, hardly justify the assertion that 'Gleichwohl stand ihm ein System dieses Abschnittes der mit Vorliebe teilenden und wieder teilenden Rhetorik von der Seele'.[31] The genera he mentions defy a systematic classification into τύποι or χαρακτῆρες along the lines of the Greek handbooks mentioned above:[32] 'Bemerkenswert ist auch ihr [i.e. der genera] Charakter. Sie enthalten nichts an und für sich besonders Brieftheoretisches, sondern sind sozusagen allgemeinen rhetorischer Natur.'[33] In fact if Cicero mentions them at all, it is only to remark that they fall short of what the occasion calls for:[34]

> Quaerenti mihi iam diu, quid ad te potissimum scriberem, non modo certa res nulla, sed ne genus quidem litterarum usitatum veniebat in mentem.[35]
>
> Antea misissem ad te litteras, si genus scribendi invenirem.[36]

Keyes in a supplement to his discussion of the form of the Greek letter of introduction calls our attention to close correspondences between the Greek and the Ciceronian formulae in this type of letter.[37] The 'cumulative weight' of these correspondences seems to him to go beyond 'a mere coincidence': 'It seems quite clear that Cicero knew and adapted some Greek formulae for letters of introduction, and very probable that he possessed and used one or more Greek handbooks of letter writing.'[38]

It is debatable whether or not two languages could have developed similar and even identical ways of expressing the same topics. But the unsoundness of the hypothesis lies in the false assumption that Cicero was the first Latin writer of recommendations. As stated above,

letters of recommendation were written always and everywhere. The circumstances calling for them had existed in Rome for a long time. Cicero could have borrowed from his Roman forerunners no less than from the Greeks.

It might be argued that the primitive and crude Latin recommendation had to have recourse to Greek patterns when Roman civilization matched in its complexity and variety the Greek and Hellenistic civilizations. The arid and schematic quality of the extant papyrus letters does not lend much force to this supposition, nor do the more sophisticated literary letters which Keyes quotes.[39] Yet even if there had been a Roman adaptation of Greek formulae at this stage of its development, it hardly coincided with Cicero's time; in fact the economic and social forces which these letters utilize, the atmosphere and the milieu in which they seem to thrive and the political framework within which they operate had existed in Rome - even if in a less developed form - long before the first century B.C . Consequently Cicero inherited more than form and formulae; the practice of recommendation had taken deep root in the Rome of his day. Whatever the Greek influence on its formal aspects was, in its atmosphere, vocabulary and function, the Roman letter of recommendation is an expression of Roman society and its unique ethos. This fact, to which this whole thesis is dedicated, is reflected also in the terminology which we come now to discuss.

The Latin equivalent of ἐπιστολὴ συστατική , litterae commendaticiae, is in itself by no means a servile translation of the Greek term, even if coined under its influence. The adjective commendaticiae is a later offshoot of a family of words with a strictly native frame of reference, evocative of Roman practices and social behaviour.[40] In other words, even if the term is of a later origin than the Greek term, there existed already an independent Roman framework into which it could be fitted.

Cicero's writings contain the first documentation of the term, yet no theoretical definition is ever given and one must infer its exact mean-

ing from the context.[41] However, the fact that the term is used in a strictly technical sense is one of the many arguments for Cicero's awareness of the independent nature of the genre constituted by letters of recommendation.

The term litterae commendaticiae is used for the first time[42] in a letter to his former colleague in the consulate, C. Antonius Hibrida, who was at that time (January, 61 B.C.) the governor of Macedonia:[43]

> Etsi statueram nullas ad te litteras mittere nisi commendaticias (non quo eas intellegerem satis apud te valere, sed ne iis, qui me rogarent, aliquid de nostra coniunctione imminutum esse ostenderem), tamen, cum T. Pomponius, homo omnium meorum in te studiorum et officiorum maxime conscius, tui cupidus, nostri amantissimus, ad te proficisceretur, aliquid mihi scribendum putavi, praesertim cum aliter ipsi Pomponio satis facere non possum.

This extract, besides containing the term litterae commendaticiae, gives us some insight into its connotations, as well as into the process of recommendation; it becomes clear that not every recommendation was written in earnest ('non quo eas intellegere satis apud te valere'). And it is precisely this fact which proves that the practice was deeply rooted in Roman social life, for only under such circumstances could a title be divorced from its content, and a letter of recommendation be written, not for the purpose which it ostensibly sets out to achieve, but rather to conjure up the atmosphere its very existence implies ('ne iis ... aliquid de nostra coniunctione imminutum esse ostenderem'); a close co-operation between two friends who are ready to do each other a good turn.[44]

The rootedness of the system is implicitly proved also by the apparent contradiction between the opening statement, which implies that the present letter is not a letter of recommendation, and the whole gist of the letter, as well as the concluding sentence, 'atque ipsum Pomponium ita commendo ...' which proves it to be nothing but litterae commendaticiae. The solution is at hand: Cicero finds that the ordinary letter of recommendation falls short of what his intimacy with Atticus calls for.[45] In other words, by now the letter of recommendation has been used so much that it seems insufficient for a request meant in earnest; new methods and new ways of

expression have to be found to avoid the levelling down of all recommendations. Cicero is aware of this danger, as we shall have the occasion to show.

The term litterae commendaticiae appears again in a letter from 46 B.C. addressed to the governor of Achaia, Servius Sulpicius Rufus.[46] Cicero asks Servius to help his former quaestor to clear up certain matters connected with the inheritance left to him in the province by a relative; he goes on to say that he would like Servius to send to Rome people who prove intractable, and adds: 'quod quo minore dubitatione facere possis, litteras ad te a M. Lepido consule, non quo te aliquid iuberent (neque enim id tuae dignitatis esse arbitramur) sed quodam modo quasi commendaticias sumpsimus.'

As in the previous case no straightforward definition of the term is given here. Nevertheless the phrase 'non quo te aliquid iuberent .... sed quodam modo quasi commendaticias' allow us to draw some negative conclusions about the nature of a letter of recommendation as conceived by Cicero: it has no compelling, official authority and therefore it does not purport to achieve its effect by command but by request.[47] It is an affair between privati and compatible with the dignity of both recommender and recipient.

Gurlitt's very plausible hypothesis, that the collection of letters of recommendation in Fam. XIII was made and perhaps even published in Cicero's lifetime,[48] would prove beyond doubt that Cicero regarded these letters as a definite type. And if Fam. XIII was conceived as a handbook containing Musterbriefe for a type of letter that was in great demand in daily practice, in addition to being a demonstration of Cicero's skill in varietas,[49] then we have impressive evidence for the rootedness of the practice in Rome.

The easily detectable schema or formula in the background,[50] the recurrence of traditional set phrases,[51] and certain conventional attitudes that emerge from Cicero's letters of recommendation[52] put it beyond doubt that when used in reference to them, the term genus has the narrow, technical sense of the τύπος or the χαρακτήρ of the Greek handbooks mentioned above.[53]

However, for us, the more significant phenomena are the attempts at deviations from the norm and the assertions that the present recommendation does not conform to the ordinary pattern of recommendation.[54] This is the best proof of wide usage and entrenched practice.

In a letter from 56 B.C. Cicero writes to Q. Valerius Orca, the proconsul of Africa, on behalf of the publican P. Cuspius:[55]

> Eius ego studio vix videor mihi satis facere posse, si utar verbis iis, quibus, cum diligentissime quid agimus, uti solemus; nova quaedam postulat et putat me eius generis artificium quoddam tenere. Ei ego pollicitus sum me ex intima nostra arte deprompturum mirificum genus commendationis. Id quoniam adsequi non possum, tu re velim efficias ut ille genere mearum litterarum incredibile quiddam perfectum arbitraretur.

All this elaborate circumlocution armed with rhetorical devices would have been unnecessary had fewer letters of recommendation been written, and the line of demarcation between a letter written in earnest and one which is a matter of routine could have been easily drawn.

In the same letter, Cicero mentions a nota,[56] agreed upon between himself and Valerius Orca, by which, as it has been suggested, the latter 'could distinguish a serious commendatio from those given as a matter of routine'.[57]

An attempt to invent a novum genus litterarum is a letter from 45 B.C., addressed to the dictator, Julius Caesar.[58] Probably on account of the quotations from Greek poets Cicero feels that he has transcended the ordinary pattern of recommendation: 'Genere novo sum litterarum ad te usus, ut intellegeres non vulgarem esse commendationem'.

The last expression, commendatio vulgaris, occurs also in a letter addressed to M. Acilius, governor of Sicily, to whom ten (or eleven)[59] recommendations are found in our collection:[60] 'Quae ego omnia conlegi, ut intellegeres, non vulgarem esse commendationem meam'. The same expression is used about the recommendation of A. Trebonius to P. Cornelius Lentulus Spinther, governor of Cilicia:[61] 'omnibus rebus eum ita tractes, ut intellegat meam commendationem non vulgarem fuisse'. Commendatio vulgaris perhaps describes the ordinary letter of recommendation, abounding in formulae and set phrases, in contrast with one which goes beyond the formulae into new kinds of phrases and detail, like that written to Antonius about Atticus,[62] or that written to Caesar about Precilius.[63] However it can also mean a recommendation 'extended to all' or 'to anybody':[64] 'ego autem tribuo non numquam in vulgus, sed plerumque necessariis, ut hoc tempore'. Of course the last remark is not necessarily to be interpreted as an admission by Cicero. It may be a way of playing down the others in order to exalt the present case. Even the ordinary letter of recommendation was presumably given to people Cicero knew or knew of. Nevertheless there is no doubt that by being one among many the single letter of recommendation stands to lose much of its effect.[65] Cicero is perfectly aware of the danger:[66] 'Sed vereor ne quia complures tibi praecipue commendo, exaequare videar ambitione quadam commendationes meas'.

An attempt to avoid even the impression of writing a letter of recommendation comes up in another letter to Caesar from 45 B.C.;[67] introducing P. Crassus' libertus Apollonius, he tells his correspondent that he was sure the man could get enough recommendations from other people, whereas Cicero, 'testimonium mei de eo iudici, quod et ipse magni aestimabat et ego apud te valere eram expertus, ei libenter dedi.'[68] Testimonium mei iudici is nothing but a recommendation, and yet, by denying that, Cicero is trying to reinvigorate and breathe new life into what must have seemed to him to have lost its former vitality and hence its efficacy.

From Cicero's own writings we know of other writers of recommendations.[69] We also know that other people left behind them collections of letters, lost to us but known in antiquity. Such considerations make it unsafe to assume that Cicero's letters were the only model on which later writers drew. It is true that their letters sometimes echo his own style and phrases, and even utilize his very argumentation.[70] Yet the assumption of conscious imitation can always be offset by the possibility of coincidence or at least a common stock of knowledge. Efficiency and expediency could have led these later writers to the same constructions, the same set phrases and similar arguments.

A recommendation is the raison d'être of the formal letter of recommendation, but it is not restricted to such letters. It is often embedded in letters which have other purposes. Thus a man might be recommended in a letter which he delivers,[71] or one or two recommendations may appear among other material in a letter.[72] In both cases, although the letter cannot be assigned to the genus commendaticium, the recommendation may contain some of its features. As such, these recommendations can be used as evidence for the prevalence of the custom. Further evidence for such prevalence may be drawn from reference to oral recommendations in letters which reinforce them once the parties concerned are at a distance.[73] In addition we may draw on replies to recommendations. These references have the additional merit of illustrating the effects of a recommendation. Our letters abound with examples.[74]

Although our discussion will avail itself of all this relevant evidence its main emphasis will fall naturally on the formal letter of recommendation. Here the custom is not merely registered or referred to en passant, nor does it figure as only one item among others: the entire letter, through its phraseology, its idiom, the flow of its arguments and the proprieties preserved, illustrates the practice. Consequently the formal letter of recommendation gives us the most complete picture of the social and moral framework in which the recommendation takes place.

ADDENDA

§1 In fact a pre-literary form was not altogether dispensed with even after the letter of introduction took over its function, although it was integrated into the letter itself, as shown by H.C. Youtie ('Σημεῖον in the Papyri and its significance for Plato, Epistle 13 (360a-b)', Zeitschr. f. Papyrologie u. Epigraphik 6 (1970), 105) in his comments on the use of σημεῖον in the papyri. The σημεῖον is a remark or conversation known only to the writer and the recipient and which serves as a token of genuineness. Youtie mentions among other papyrus letters P. Cairo Zen., II, 59192, which is a letter of recommendation from 255 B.C.: σημεῖον δε ὅτι is followed by a piece of information which proves the authenticity of the letter. Plato's letter uses in fact a synonym of σημεῖον - σύμβολον ('σύμβολον ὅτι παρ' ἐμοῦ ἔστι'). This latter word translates the Latin tessera hospitalis. The principle underlying the use of tessera hospitalis may also point to a pre-literary practice (cf. RE, Suppl. V, 851 and Daremberg-Saglio, Dictionnaire des antiquités grecques et romaines s.v. for illustrations).

The term σύμβολον appears in a letter of recommendation, not mentioned by Youtie (P. Passalacqua, 1563 = Witkowski, Epistulae Privatae Graecae^{2} (1911), no. 34), from the third century B.C.: ἀπεδόθη τάδ' αὐτῷ καὶ τὸ σύμβολον τῶν ἔγ.

Ironically enough, in the only Homeric passage which contains a reference to the art of writing - the πύναξ πτυκτός given to Bellerophon by Proteus on which the latter wrote θυμοφθόρα πολλά - it is not the actual letter, but its recognition as a token of identification which convinces the King of Lydia to receive Bellerophon as his guest. He entertains him for nine days before he demands to see the letter; in spite of his previous assumptions it turns out not to be a letter of introduction (Il., VI, 155 ff.).

The Old Testament provides us with a similarly inverted letter of

recommendation. David, the King of Israel, coveting Bathsheba, the wife of Uriah the Hittite, sends her husband with a letter to his general Joab who is laying siege to Rabbah at the time. David instructs the faithful Joab to assign Uriah to the front battle-line so that he will be killed in the first pitched battle (II Samuel 11, 14 ff.).

Since we have mentioned the Old Testament it may not be amiss to draw attention to another letter of recommendation there, this time not only referred to, but partly quoted (the translation given below from The New English Bible conveys the false impression that the whole letter is quoted; not so the Hebrew text). The King of Aram sends his general Naaman, who is inflicted with leprosy, to seek a cure in Israel, giving him a letter to the King of Israel, Jehoram, son of Mohb: 'This letter is to inform you that I am sending to you my servant Naaman, and I beg you to rid him of his disease' (II Kings, 5, 6: ויבא הספר אל-מלך ישראל לאמר ועתה כבוא הספר הזה אליך הנה שלחתי אליך את נעמן עבדי ואספתו מצרעתו׃

§2 One letter of recommendation from the Jerusalem Talmud (or Palestinian Talmud, cf. Schürer, The History of the Jewish People in the Age of Jesus Christ (175 B.C.-A.D. 135), edd. G. Vermes, F. Millar (1973), 78-9) reflects the Jewish custom of sending scholars from one school to another. The Prince writes to Rabbi Hiyya ben Abba: 'Here, we are sending you a great man, our emissary and like us until he comes back to our place' (Nedarim, ch. 10, 10 p. 42b: הרי שלחנו לכם אדם גדול כמותנו וכדומה לנו עד שיבוא למקומנו׃ The words 'like us' mean that he too is a Rabbi. However, the title was conferred on him only temporarily for the period he was going to spend away from his own school.

Another version of the same letter appears somewhat further on: 'Here we are sending you a great man who is not ashamed to say: "I have not heard"' הרי שלחנו לכם אדם גדול שאינו מתבייש לומר לא שמעתי׃

§3 Chan-Hie Kim's study of the letters of recommendation in the papyri (Form and Structure of the Familiar Greek Letter of Recommendation, Society of Biblical Literature, 4 (1972)), became accessible to me only after the present study had been completed and therefore no reference to it could be made either in the text or the notes. However, his study, which is formal and literary, analysing mainly structure and formulae in the Greek letter of recommendation, does not greatly affect my discussion. In fact it expands and elaborates C.W. Keyes's investigation ('The Greek Letter of Introduction', A.J.Ph. 56 (1935), 28) often referred to above.

To his list of eighty-one papyrus letters (ibid., 146-7; 150-3) which coincides substantially with a list I have compiled, I would like to add the following missing items:

1) P. Cairo Zen., 59037 (258-7 B.C.).

2) P. Cairo Zen., 59039 (257 B.C.).

3) P. Cairo Zen., 59341(b; c) (247 B.C.).

4) P. Cairo Zen., 59853 (250 B.C.).

5) P. Pet. II, XI(1) = Witkowski, no. 5 (3rd century B.C.).

6) P.S.I., 570 (252-1 B.C.).

7) P.S.I., 584 (3rd century B.C.).

K. Treu's study of Christian letters of recommendation (Zetesis (1973), 629) adds three more letters to those analysed by Chan-Hie Kim (ch. V; pp. 99-118):

1) P. Alex. Inv., 317 = Naldini, Il cristianesimo in Egitto (1968), no. 19 (3rd century A.D.).

2) Naldini (op. cit.), no. 20 = Naldini, Atene e Roma ns. 11 (1966), 27-30 (3rd or 4th century A.D.).

3) P. Oxy, 2785 (4th century A.D.).

Finally a petition addressed to the Emperors Constantius and Constans by an officer named Flavius Abinnaeus (ca. A.D. 341), which is a kind of self-recommendation, is of extreme importance for us since it mentions the

multiplicity of letters of recommendation addressed to officials: when Abinnaeus presented the sacrae litterae for his promotion, the comes Valacius replied that other people submitted similar letters. However, we are given to understand that those other letters were not the sacrum iudicium of the emperors but suffragia of others (P. Abinn, 1, cf. H.I. Bell, V. Martin, E.G. Turner, D. van Berchem, The Abinnaeus Archive (1962), no. 1).

§4 'Epistulae Octaviani de Seleuco Nauarcha' (Sherk, Roman Documents from the Greek East (1969), no. 58, IV, p. 298.

In his commentary on the fourth part of the dossier, Sherk says: 'it is addressed to the city of Rhosus and may be described as a letter of recommendation' (p. 302).

It is true that Octavian writes: 'τοῦτον οὖν ὑμεῖν συνίστημι·', and that the verb συνιστάναι does appear in letters of recommendation (e.g. P. Cairo. Zen., 59002; 59039; 59853; P. Giss., 71; P. Mich. Zen., 6; P. Oxy., II, 292; 787; P. Flind. Petr., II, 2.4 (Wit. no. 12); P. Pet., II, 1.7 (Wit. no. 3). Yet unless the content, the pattern and the flow of the argument make it a letter of recommendation, the occasional appearance of the verb συνιστάναι does not make it so. A letter of recommendation is never disinterested; it sets out to achieve a goal: to ingratiate a person with the addressee in order to render the latter favourably disposed towards him and therefore ready to bestow favours on him.

Here, it is the opposite case; on Seleucus' account Octavian promises to bestow favours on the people of Rhosus:

> οὐ γὰρ τοιοῦτοι ἄνδρες καὶ τὴν πρὸς τὰς [πατρίδας] εὐνοίαν προθυμοτέραν ποιοῦσιν· ὡς οὖν ἔμου πάντα δύνατα ποιήσαντος ὑμεῖν ἤδειξον διὰ Σέλ]ευκον, θαρροῦντες περὶ ὧν ἄν βούλησθε πρός με ἀποστέλλετε. (ll. 91-93).

But aside from the question of τύπος, I believe that we have here, in the use of the verb συνίστημι in this meaning, an obvious Latinism. For Octavian cannot be said to be introducing Seleucus to the people of

Rhosus. He is commending him to them. Yet in all the earlier documentation of the verb συνιστάναι, this broader meaning, which is certainly present in the Latin commendare, is lacking.

In three of the papyrus letters mentioned above (P. Giss., 81; P. Oxy., 292, 787), the verb appears in a paraphrastic construction which might have the broader meaning of the Latin verb: 'ἐρωτῶ (or, παρακαλῶ) σε ... ἔχειν αὐτὸν συνεσταμένον'. But it is significant that these examples date from the Roman period (Early Hadrian, A.D. 25, A.D. 16 respectively, and P. Oxy., 292 is addressed to an official) and, therefore, the widening of the meaning of the verb could be attributed to Latin influence and especially to the constant process of translation of letters of recommendation from the one language to the other.

Keyes ('The Greek Letter of Introduction', op. cit., 44), remarking on the striking similarity between the expression 'ἔχειν αὐτὸν συνεσταμένον' and 'habeas tibi commendatissimos' (e.g. Fam. XIII, 64), completely ignores the later date of the Greek expression and goes on to postulate, especially on the basis of this expression, a Greek influence on Cicero.

Octavian's letter dates from 30 B.C. One wonders whether by that time the Greek verb has already taken on the wider meaning, or whether the writer of the letter (possibly Octavian himself) assumed that it had and gave a literal translation rather than an idiomatic one to the Latin commendo.

(This conclusion reached independently is now confirmed by Chan-Hie Kim's study (op. cit., 68 ff.) which adds two more examples; P. Merton 62 (A.D. 6) and P. Hermo., 1 (1st century A.D.). Chan-Hie Kim suggests that this kind of request formula, ἐρωτῶ / σε (οὖν) / ἔχειν / αὐτὸν / συνεσταμένον, was first introduced in the Roman period (ibid.) and refers the reader to J.H. Moulton and G. Milligan, The Vocabulary of the Greek Testament (1963), 270, who also maintain that ἔχειν συνεσταμένον is a Latinism.)

Chapter 2

SOCIAL CONCEPTS AND LETTERS OF RECOMMENDATION

It has been suggested above [1] that, even though the technical term litterae commendaticiae might have been coined under the influence of the Greek term, already in existence, it was not created in a void. The Latin term is neither a literal nor a precise translation of the Greek. Moreover, the choice fell on a root from which a whole cluster of uniquely Roman concepts had been derived. Both facts prove that while introducing a new term, the Romans did not think they were transplanting a new institution, but rather assumed a similarity between the Greek usage and their own, in that the former corresponded to existing Roman social institutions.

Needless to say, the new term, litterae commendaticiae, naturally assumed all the connotations with which the other words derived from the same root - e.g. commendare, commendatio - were imbued, regardless of whether or not these connotations were identical with the Greek. In other words, it could never have been an artificial, bloodless creation, but right from the beginning was stamped with the Roman Weltanschauung.

The literal meaning of the verb commendare, to quote the T.L.L., is 'tradere, credere, committere, differe, mandare, in manum dare, deponere'.[2] 'Quid est enim aliud commendare quam deponere?' asks Papinian in his Quaestiones.[3] The primary concrete significance 'to entrust to one's charge',[4] which can be applied to people as well as to inanimate objects, explains the idiomatic collocation, commendare et tradere, in letters of recommendation: 'L. Genucilio Curvo iam pridem utor familiarissime ... Eum tibi penitus commendo atque trado'.[5] Or in the passive form: 'Cum Patrone Epicurio mihi omnia sunt ... iam a Phaedro ... traditus mihi commendatusque est.'[6]

However, the verb not only went through a process of abstraction, perceptible in such collocations as 'ego me tuae commendo et committo fidei'[7] or 'totum me tuo amori fideique commendo',[8] but developed new

meanings; to ingratiate with, to commend to one's favour, to procure favour for; or in the words of the T.L.L.: 'favorem, gratiam addere, conciliare, gratum facere, insinuare, acceptum facere.'[9] Numerous examples of this could be brought forward from the letters of recommendation: 'deinde Nysaeos ... habeas tibi commendatissimos';[10] 'sic tibi eum commendo, ut neque maiore studio quemquam neque iustioribus de causis commendare possim, faciamque id quod debent facere ii qui religiose et sine ambitione commendant; spondebo enim tibi vel potius spondeo in meque recipio eos esse M. Curi mores eamque cum probitatem tum etiam humanitatem, ut eum et amicitia tua et tam accurata commendatione, si tibi sit cognitus, dignum sis existimaturus'.[11]

In spite of these developments, not only is it possible for the various shades to co-exist in the same context, but quite often it is hard to extract from the context a dominant sense.

However, etymology and semantics might well turn out to be treacherous tools in the interpretation of social phenomena, and, by laying down hard and fast rules and clear-cut definitions, tend to stand in the way of a true understanding of the lax and imprecise meaning these terms are likely to take on in the daily rapport between people. Rather than get entangled in this linguistic labyrinth, we should aim at the meaning lurking behind the words themselves and sometimes deliberately concealed by them. Only an examination of the letters themselves will yield the answer to the question 'what did the Romans mean by commendare, commendatio, litterae commendaticiae'?

In his attempt to discern the origins of the feudal system in the Roman patrocinium, Fustel de Coulanges says about the latter:

> Le terme qui paraît avoir été le plus usuel pour désigner l'acte de se faire client était se commendare. Or ce mot n'avait pas le sens vague du français 'recommender'. Il signifiait "mettre

> dans les mains d'un autre". C'est ainsi qu'il se disait d'un dépot qu'on confiait à quelqu'un pour qu'il en eût la garde ... Quand le client disait me commendo, il voulait dire qu'il se livrait tout entier, totum trado ... le client faisait abandon de soi. L'idée qui dominait dans l'acte de clientèle était qu'on renonçait à sa personalité pour la remettre entière dans les mains du patron.[12]

The same terms were used when a third party was involved, as when Cicero recommends Trebatius Testa, the jurisconsult, to Julius Caesar: 'Ei te commendavi et tradidi',[13] on which Fustel de Coulanges comments: 'Ces mots etaient apparemment les termes consacrés pour cette sorte de transfert de clientèle'.[14]

As a result of these acts and words a tie of fides was established between a patron and a client; a form of patronage which is distinct from others in being extra-legal, non-religious and engaging merely the conscience of the parties concerned.[15]

The assumption that 'the relationship based on fides was initiated by a commendation',[16] seems on first examination to be borne out by the frequent recurrence of the request-formula: 'eum in tuam fidem recipias'; e.g. 'Quam ob rem a te maiorem in modum peto ut ... hunc in primis ... in tuam fidem recipias'.[17]

Nevertheless, it would not take much to cut the ground from under this assumption and prove that no magic power inheres in the formula; the words by themselves cannot bring about or establish formally the permanent tie Fustel de Coulanges has in mind; firstly, the assumed force of the formula is considerably impaired by the pendant it often trails behind it: 'Ut igitur eum recipias in fidem habeasque in numero tuorum te vehementer etiam atque etiam rogo',[18] or 'Peto igitur a te ut ... recipias eum in tuam fidem, polliceare omnia te facturum mea causa,'[19] or 'Peto a te ... ut eum in tuam fidem recipias eiusque rem famamque tueare'.[20] While giving the formula a more specific content, the adjunct suggests its intrinsic hollowness. The same is implied by the several 'variations on a theme' that characterize the occurrence of the formula: 'a te contendimus ut Lysonem

in fidem necessitudinemque tuam recipias';[21] 'Eorum ego domicilia, sedes, rem, fortunas,... tuae fidei, iustitiae bonitatique commendo.'[22]

Finally, this formula seems to be interchangeable with similarly structured formulae in which the term fides fails to occur: 'Qua re pergratum mihi feceris, si eum in amicitiam tuam receperis'[23] or 'Caput illud est ut Lysonem ... recipias in necessitudinem tuam'.[24]

Altogether, Fustel de Coulanges' neat reconstruction seems to be far too dogmatic and rigid. In spite of his insistence on the distinction between the voluntary bond brought about by a commendation and the older ties of patronage sanctioned by law and religion,[25] his attempt to base his arguments on terminology, by pressing the literal meaning of the words, confuses this very distinction.[26]

Gelzer's modification is, therefore, welcome: 'It would be quite perverse to look for a tie of fides behind every recommendation.'[27] In fact tradere and commendare in letters of recommendation have lost their literal meaning, and are used loosely and even metaphorically. So is the term fides for that matter. They are relics and fossilized phrases divested of the obligatory and moral connotation which once imbued them, and can be bandied about in a manner which will recall their original meaning, as they are by Cicero in the very recommendation of Trebatius Testa to Caesar of which both Fustel de Coulanges and Gelzer make so much: 'totum denique hominem tibi ita trado "de manu", ut aiunt, "in manum"'.[28]

Badian hits the right note when he says that 'phrases like in fide esse (or in fidem venire) do not at any time have a single, simple meaning',[29] and so does Gelzer: 'no precise line can be drawn between the employment of the term [i.e. fides] which still implies this personal relationship and the wider usage.'[30] Gelzer offers the following explanation: 'This is a result of the very loose structure of these relationships which on the one hand were hereditary, but on the other could be dissolved at will and replaced by new ones'.[31]

One should bear in mind that the results envisaged in most of the letters of recommendation are limited in scope, restricted to a definite period, a particular place and to the matter at hand. The nexus of fides, if brought about, is the corollary of the favour conferred rather than that of the words written or pronounced: 'There is ... especially under Roman notions of gratitude, a tendency for a benefit conferred (especially on one in need) to establish a permanent obligation'.[32] For this one can adduce Seneca's distinction between the repayment of a loan and the repayment of a favour:

> ... diligentius quaerendus beneficii quam pecuniae creditor. Huic enim reddendum est, quantum accepi, et si reddidi, solutus sum ac liber; at illi plus solvendum est, et nihilo minus etiam relata gratia cohaeremus; debeo enim, cum reddidi, rursus incipere, manetque amicitia. [33]

Yet it requires more than credulity to take Seneca's precepts as a description of social behaviour in Rome. In order to establish a sense of permanent obligation, the bestowal of one favour would not suffice. It seems reasonable to assume that only continuation and repetition of these acts will result in the creation of a permanent bond, and even then it would not always be correct to call it a patron-client tie, especially when a relationship of mutual services could be envisaged.

This last is sometimes designated by social anthropologists 'instrumental friendship' to set it apart from 'emotional friendship',[34] whose mainspring is in the spontaneous and mutual affection between like-minded men, which can in its own turn result in an exchange of services, but is primarily and originally disinterested:[35] 'non igitur utilitatem amicitia, sed utilitas amicitiam secuta est.'[36] One is reminded of the Aristotelian distinction between friendships based on utility (φιλία διὰ τὸ χρησιμόν) and those based on pleasure (φιλία διὰ τὸ ἡδύ) and those based on virtue (φιλία δι' ἀρετήν).[37,38]

It must be stressed, however, that the interested or 'instrumental' friendship does not necessarily presuppose bartering and is compatible with the existence of true affection.[39]

Mutual services and obligations are basic to the characterization of Roman friendship: 'The Roman amicitia ... gave rise to a number of serious and very real duties .... In Rome there was no hesitation about asking a friend for help - either active or advisory - in any situation; a friend could be asked for hospitality, to execute commissions, to give recommendations to others, he might even be asked for money .... In the great mass of Cicero's letters almost every one contains some kind of request to the addressee or else expressions of gratitude for some service or kindness rendered by his correspondent.'[40] Cicero on one occasion makes this reciprocity into the very raison d'être of friendship: 'Non enim possumus omnia per nos agere; alius in alia est re magis utilis. Idcirco amicitiae comparantur, ut commune commodum mutuis officiis gubernetur.'[41]

The concept of 'instrumental friendship' is far from being a monolith, although the notion of reciprocity is fundamental to all its forms. So when is it that the so-called 'instrumental friendship' can no longer be called friendship, but a patron-client tie - from which reciprocity is by no means absent - emerges?

E.R. Wolf gives the following description:

> When instrumental friendship reaches a maximum point of imbalance so that one partner is clearly superior to the other in his capacity to grant goods and services, we approach the critical point where friendship gives way to the patron-client tie .... The two partners to the patron-client contract ... no longer exchange equivalent goods and services. The offerings of the patron are more immediately tangible. He provides economic aid and protection against both legal and illegal exactions of authority.[42] The client, in turn, pays back in more intangible assets.

This description tallies with the usual view of clientela under the

auspices of fides in the later Roman Republic; individuals as well as entire communities place themselves under the protection of a powerful patron and entrust their interests to him. In exchange for this, they would support him in his pursuit of power.[43] The imbalance in this 'lop-sided friendship', as Pitt-Rivers describes patronage,[44] is stressed in the Roman context as well; it is said to be illegitimate to speak of the patron as being in the fides of his client and it is inconsistent with the nature of fides to suggest that it confers on the patron a right to exact services from his client; the latter will perform them anyway in recognition of his dependence and in compliance with his sense of pietas.[45]

However, Wolf's as well as Heinze's description of patronage is far too narrow, as the former practically admits when allowing the actual manifestations of patronage to be contingent on the social structure and political system within which patronage operates; these factors open up a whole range of different degrees of dependency, from the total economic dependence to the most loose and ephemeral bond where 'patronage will take the form of sponsorship, in which the patron provides connections ... with the institutional order' and where 'his stock-in-trade consists less of the relatively independent allocation of goods and services than of the use of influence'. As a result of this the patron's 'hold on the client is weakened and in place of solid patron-client blocks we may expect to encounter diffuse and cross-cutting ties between multiple sponsors and multiple clients, with clients often moving from one orbit of influence to another'.[46]

The canopy is now wide enough to cover the whole gamut of social relationships in Roman society whose multifarious character has been convincingly demonstrated by P.A. Brunt.[47]

There is no a priori reason why we should assign the recommendation-situation to one category of friendship, or patronage, or another, especially in view of the one-sided perspective the letters vouchsafe us: the nature of the reciprocity is mostly unknown to us and hence also the nature of

the relationship it would imply.

The fact of being recommended does not necessarily reduce a man's status and brand him as a client. Numerous reasons could be adduced to refute this haphazard generalization and to explain why a man of a high social standing should need a recommendation, not the least among which is the technical obstacle of not being personally acquainted with the personage who has the ability or the opportunity to confer the favour sought: an obstacle not to be made light of in a political and social system which was tardy in developing official channels for voicing a request or a protest to replace the overriding influence of personal connections, or where, later on, delegation of decision-making was so defective as virtually to paralyse the lower administrative echelons. But on that more will be said later.[48]

These general considerations are consistent with the terminology used in these letters; nowhere is it suggested that a patron-client relationship either precedes or follows the recommendation; throughout the letters Cicero does not refer to the recommended as a client or to himself as a patron. Only in one single place is the recommended presented as a client of the recipient: 'A. Caecinam, maxime proprium clientem familiae vestrae non commendarem tibi ... nisi ... etc.'[49] Yet it seems odd that Cicero is to be found recommending a client to his patron if the bond based on fides between patron and client was as morally binding and exclusive as some claim it was.[50] To the objection that it is in the nature of an extra-legal bond to remain vague and undefined, one could reply that not much is left to it once the most basic assumption - protection - is withdrawn from it. We have here the reverse of the situation mentioned above:[51] it is not that the term has lost its original meaning but that the institution never existed in the form modern historians assumed. Again a disparity between terminology and reality and another warning against pressing too hard the literal meaning of a term.

The context in which the terms patronus and cliens occur in letters of recommendation makes it amply clear that their usage is restricted to very specific situations: they are used either in reference to liberti, i.e. in the old legal and technical sense - 'cum T. Ampio Balbo mihi summa familiaritas necessitudoque est. Eius libertum T. Ampium Menandrum ... et patrono et nobis vehementer probatum tibi commendo'[52] - or, once, in reference to the patronage exercised by T. Claudius Nero, over provincial communities in Asia: 'si te fautore usus erit ... amplissimas clientelas acceptas a maioribus confirmare poterit et beneficiis suis obligare.'[53] This statement, in fact, reinforces the impression that the so-called patron-client tie was extremely loose and impermanent.[54]

The term cliens is never applied to provincials with whom Cicero claims to have a guest-friendship (hospitium). This fact is certainly at odds with the traditional view that: 'Naturally as Roman power became dominant, hospitium, originally a relationship between equals, developed into a form of clientela; the Roman senator would in fact be the patron of his Sicilian hospes.'[55] Not at all, judging by the words used: 'Cum Demetrio Mega mihi vetustum hospitium est, familiaritas autem tanta quanta cum Siculo nullo';[56] or: 'In Halaesina civitate tam lauta tamque nobili coniunctissimos habeo et hospitio et familiaritate M. et C. Clodios Achagatum et Philonem.'[57]

One could argue, of course, that the appellation is suppressed in view of the social stigma attached to it: 'Patrocinio vero se usos aut clientes appellari mortis instar putant'.[58] Fustel de Coulanges maintains that: 'Aux clients, du moinx aus plus élevés d'entre eux, s'appliquait aussi le titre d'amicus. C'était un terme de convention. La politesse voulait que le patron appelât ainsi ceux de ses gens qui avaient droit à quelques égards.'[59]

Nevertheless, when due allowance has been made for politeness and good manners, the almost total absence of any reference to a patron-client bond casts serious doubts on the familiar picture of Roman society as portrayed by the historians of the later Roman Republic.[60] This traditional picture of the social texture as made up of blocks of patrons and their dependents is nowhere reflected here, where one would have expected it most.

For all these reasons our approach should be free not only of pedantic linguistic interpretations but also of preconceived notions about Roman society. Let the letters speak for themselves!

It seems to me that the essence of such letters lies in the tapping of personal, unofficial and extra-legal sources of influence which is to be seen in the context of a society in which the development of our modern bureaucratic officialdom was hampered by a preference for relying on personal connections, and in the case of letters of recommendation, the personal connections between the three persons involved in the process. Even under the Empire, when the rudiments of administrative state-machinery started taking shape, the volume of letters of recommendation written at all levels of society,[61] as well as the constant violation of the system, should dispel a naive assumption that the existence of a hierarchical career, minutely graduated, is tantamount to an automatic advancement in a recognized system. The wheels of the machine of advancement seem to be in constant need of lubrication supplied by personal influence through unofficial channels. These letters of recommendation are embedded in a social set-up in which personal connections can eclipse all else, overriding the claims of justice, merit and seniority and in the process of doing so deriding as puny the attempts of historians to set up a system of promotion meticulously regulated according to protocol.[62]

As hinted above,[63] the existence of a developed, centralized bureaucratic system is not mutually exclusive of a reliance on personal contacts. In fact, it tends to encourage it as 'a short-cut through the maze of

authority or as a fight against anonymity (especially in the urban setting) and a seeking out of primary personal relationships.'[64] In his discussion of the life of a Spanish pueblo in the Spanish Sierra, Pitt-Rivers maintains that 'the tension between the state and the community is balanced in the system of patronage ... through the system of patronage the will of the state is adapted to the social structure of the pueblo ... The two systems interlock, not as juxtaposed groups of personalities but as juxtaposed systems of sanctions which operate with relative force on the individual in every situation, and define, through the balance they strike, his social personality.'[65] Such systems mitigate the working of impersonal law and bureaucratic machinery, relieve the tension inherent in every structure of authority, and give the individual a chance.

An important factor in the development of the need for reliance on personal contact is brought into prominence in another anthropological study which describes the nomadic community of the Sarakatsani in modern Greece: officialdom in modern Greece, says Campbell, suffers from lack of delegation of power (especially power of decision-making), so that the lower one goes, the less effective it becomes. The system of patronage, which goes in the other direction, counter-balances it. As a result we get two hierarchies related through ties of friendship.[66]

This factor comes into play in the Roman Empire, where the only real authority lay with the Emperor, who could hardly have been acquainted with all the citizens and non-citizens and therefore, had to rely on the advice of his trusted friends, who in their turn advanced the interests of their own protégés. It was almost inevitable for a man or a community to voice discontent or aspirations through a hierarchy of personal relationships: 'In a system where decisions were made at the centre, the exercise of patronage by letters of recommendation was indeed natural and necessary.'[67]

It will be our duty in the following pages to see whether the

practice of reliance on personal contacts, by means of letters of recommendation, underwent any significant changes in the transition from the Republic to the Empire; due attention will be given to the period of Caesar's dictatorship as being the turning-point.[68]

To return. The situation in the background of a letter of recommendation could be compared to a 'triangle of forces'[69] at whose three points of intersection stand the recommender, the recommended and the recipient, and whose sides are the vectors indicating movement in both directions; for it is in the interaction between those three that the dynamics of such a letter are set into motion. And to proceed in this metaphorical vein, I would suggest that those social dynamics take their cue from some deeply entrenched notions of reciprocity common to all societies which are conveyed in Latin by such terms as gratia, amicitia and its synonyms, fides and beneficia mutua; and yet any attempt to define those concepts by retracing their morphological and etymological properties or to give them a narrow conceptual application will result in their distortion. Like the reciprocity they represent, they elude strict definition and are susceptible of the most various connotations and nuances, depending on the collocation, the context, the status and intimacy of the personalities involved, the conventions of style, courtesy and etiquette and numerous other factors, all of which avail themselves of the elasticity and fluidity of the human language in daily communication between people.[70]

If we now proceed to discuss these operative terms in the abstract, it is only in order to show, later on, why and how they were built into the system. The discussion will concentrate mainly on the concept of gratia, whose meanings encompass, to a large extent, the ground covered by the other terms.

Gratia, about which much has been written,[71] is one of those singular words that seem to have defied time and its ravages and to have outlived social, political and religious upheavals; in spite of seeming so

inextricably interwoven into the texture of contemporary life, nevertheless by constantly taking on new meanings the term succeeded in maintaining its vitality and freshness and remained in currency even when some of its oldest connotations fell into disuse. Thus it constitutes one of those elements of continuity linking the ancient world with the Christian era.[72]

We can afford to pass over the religious origins of gratia which are to be found in the inter-relations between men and God,[73] and concentrate on the social significance of the word whose 'remarkably common occurrence ... in the sources is itself evidence for the importance of the social relationship it expressed.'[74]

With this comment, which makes gratia express a 'social relationship', we have already made the easy transition from the unilateral expression of gratitude by feelings or acts ensuing upon the conferment of a favour to the social tie produced by the combination of the two. As Moussy points out in his thorough discussion of the term, gratia in some phrases is almost interchangeable with amicitia, friendship,[75] following in the wake of mutual services.[76]

This notion of reciprocity which paved the way for the overlapping of the two terms gratia and amicitia explains away the apparent antinomy between the meaning of gratia in some collocations and other terms derived from the same root, e.g. gratiis, gratuitus, gratuito. For whereas gratia, especially in the phrase gratiam referre, is almost the standard way of expressing 'a reciprocity of favour', 'a return', the related terms are the essential Latin terminology for expressing the notion of 'a gratuitous act', i.e. done for no recompense, freely given.[76a] However, as Moussy observes, 'there is no real antinomy; the terms "a return" and "a gratuitous act" (French, acte gratuite) appear to us to be contradictory only because we are in the habit of regarding the latter as a synonym of "disinterestedness"', but in fact:

> gratuité et rémunération ne sont pas deux notions antonymes, mais solidaires; toutes deux se fondent sur la réciprocité; le don gratuit, comme toute autre prestation, appelle une compensation, un contre-don.[77]

Moussy, as his very turn of phrase betrays, has in mind M. Mauss's celebrated Essai sur le don, which brought to light the important role of gifts and counter-gifts in cementing human relationships in archaic societies. Mauss points out that 'prestations which are in theory voluntary, disinterested and spontaneous' are in fact 'obligatory and interested. The form usually taken is that of the gift generously offered; but the accompanying behaviour is formal pretence and social deception, while the transaction itself is based on obligation and economic self-interest.'[78] Mauss stresses the threefold obligation this 'total prestation' entails: 'the obligation to repay gifts received ... the obligation to give presents and the obligation to receive them.... To refuse to give or to fail to invite,[79] is like refusing to accept - the equivalent of a declaration of war; it is a refusal of friendship and intercourse.'[80]

Not only have Mauss's theories been fully documented by ethnographical studies published since his book appeared in 1927,[81] but his observation that a gift is not 'inert' since it possesses a part of the personality of the giver, the keeping of which is dangerous unless a return gift is made, has proved 'to be derived as much from first principles of psychological introspection as from sociological analysis';[82] one's possessions are an extension of oneself and by giving them one gives away part of oneself: 'Hence there is, explicitly or implicitly, a personal claim bound up with every gift. There is always an unspoken "give that thou mayest receive".'[83]

Another stimulus as well as a sanction in this process of gifts and counter-gifts is that of social prestige: one asserts one's superiority and social status by giving and loses face if one does not make at least

an equal return.[84] The importance of this factor in the process of recommendation will be revealed later on.[85]

This is as far as one needs to go, for the purpose of this discussion, in identifying the sociological and psychological substratum underlying the notion of reciprocity in gratia.

* *
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Almost diametrically opposed to the archaic and crude 'do ut des reciprocity described by Mauss stands the conscious attempt on the part of Roman men of letters to inform social relations with a moral principle and to introduce into them subtlety, refinement and delicacy.[86] Cicero laid the groundwork in his De Officiis and the process culminates in Seneca's De Beneficiis. Here both the 'favour conferred' and the 'return made' are portrayed as things desirable in themselves; to the question: 'an beneficium dare et in vicem gratiam referre per se res expetendae sint?'[87] there can be only one reply seeing that: 'beneficium, de quo nunc agitur, dare virtutis est et turpissimum id causa ullius alterius rei dare, quam ut datum est',[88] and the same applies to gratitude: 'per se expetendam esse grati animi affectionem, per se fugienda res est ingratum esse'.[89] Expressions such as 'Ego illud dedi ut darem'[90] and: 'Hoc est magni animi et boni proprium est, non fructum beneficiorum sequi, sed ipsa',[91] can be multiplied endlessly. Favour conferred with an ulterior motive is condemned as base and mercenary: 'interituram tantae rei dignitatem, si beneficium mercem facimus';[92] 'demus beneficia, non faeneremur'.[93] Conversely, the attempt to make an immediate return is condemned as being equally mercenary and base: 'Qui festinat utique reddere non habet animum grati hominis sed debitoris.'[94] Mere gratitude, cherished at heart, is an adequate return: 'Qui grate

beneficium accipit, primam eius pensionem solvit',[95] or more expansively: 'Egi illi gratias, id est rettuli';[96] 'reddit enim beneficium, qui debet'.[97] Finally the very endeavour to keep a ledger of credit and debit is derided and demolished by pointing out its futility: 'Cum aliter beneficium detur, aliter reddatur, paria facere difficile est.'[98]

The term gratia, as found in daily communications, moves along the imaginary line that runs between the two polarized concepts of reciprocity described above: the term takes on different shades of meaning in accordance with the degree of intensity to which each of them is blended into it. It is neither the crude, archaic and almost obligatory 'give-and-take relationship' described by Mauss, nor the crystal-clear ideal of Seneca, but is impregnated with the inconsistencies and half-measures typical of human relationships and daily practice. And as such its presence is always assumed in the background of our letters of recommendation; an inexhaustible source of energy that sets the social dynamics between the three people into motion.

In one of these letters, Cicero, having entered into a detailed exposition of the case of the senator C. Curtius, suddenly cuts himself short with the following declaration:

> Sed mihi minus libet multa de aequitate rei scribere, ne causa potius apud te valuisse videar quam gratia.[99]

What is this gratia of which Cicero will avail himself and whose claim should be put over those of justice and truth?[100] When does a man possess it?

The common description runs smoothly and schematically as follows: the possession of gratia follows upon the conferment of favours (beneficia) on people which puts them under obligation to repay in kind, by returning officia. The benefactor becomes thereby a gratiosus or a vir magna gratia, that is, a man to whom the many are grati, i.e. under obligation, beneficio obligati, obstricti. Gratia becomes the means of wielding power and influence. However, gratia is also the property of one who is

in a position to confer a favour. This last explains why wealth, family and social connections, tenure of office, military fame and so forth confer the title gratiosus on one and are mentioned in the same breath with gratia to describe such a man.

Be then the origins of gratia as they may, it is the assumption of its being in someone's possession that sends others to seek a letter of recommendation from him; he, in his turn, can draw on a credit account (again gratia) he has with another who is in a position to confer a favour. The debt which has been created formerly between them can be dormant and inert for a while, but the bond is capable of being realized when the occasion calls for it.[101]

Although true in some cases,[102] this version suffers from being over-simplified and schematic. It leaves out of account the Roman concept of friendship, dwelt upon earlier,[103] which entails a strong sense of duty and obligation between friends and which contributes towards making gratia a residuum of goodwill, devotion and even eagerness to extend help when needed.

There is no reason to accuse Cicero of duplicity and dressing up what is essentially a collection of a debt when he makes an appeal in the name of friendship and goodwill as the source of gratia between himself and his correspondent: 'Quia non est obscura tua in me benevolentia, sic fit ut multi per me tibi velint commendari',[104] or: 'multos tibi commendem necesse est, quoniam omnibus nota nostra necessitudo est tuaque erga me benevolentia'.[105]

The cynical equation of gratia with an impending debt is hardly ever made in our letters, not only because good manners and tact dictate otherwise, but also because the existence of benevolence and willingness between the two correspondents should not be doubted unless sufficient reasons can be found to do so. In fact not only to remind a person of former favours but even to rely on them tacitly is considered to be in bad taste: 'grave est enim homini pudenti petere aliquid magnum ab eo, de quo se bene meritum

putet, ne id, quod petat, exigere magis quam rogare et in mercedis potius quam benefici loco numerare videatur',[106] writes Cicero to the younger Curio when trying to enlist his help for Milo's candidacy in 53 B.C.

It is only when smarting under what seems to him an undeserved insult and ingratitude on Antonius' part that Cicero is found pressing the demands of former favours:

> Ego si abs te summa officia desiderem, mirum nemini videri debeat. Omnia enim a me in te profecta sunt, quae ad tuum commodum, quae ad honorem, quae ad dignitatem pertinerent. Pro his rebus nullam mihi abs te relatam esse gratiam tu es optimus testis.[107]

But this is the exception which proves the rule, for this sulking letter is also devoid of the ease, grace, buoyancy and good humour which characterize his other letters of recommendation,[108] and reveal the sure touch of a man who is confident of the essential willingness of his correspondent to comply with his wishes.

On occasion, when Cicero does invoke the notion of obligation, it may be obliquely invoked by a reference to a mutual exchange of benevolence between himself and his correspondent: 'pro nostra summa necessitudine parique inter nos et mutua benevolentia'.[109] But more often he would rather call to mind the former favours shown to him by the man, which serve as a precedent for the present request: 'pro nostra summa coniunctione proque tua in me perpetua et maxime benevolentia ...',[110] or use a word-play in order to bring into relief the notion of reciprocity: 'nunc quoniam ab amico officiosissimo tantum oneris imponitur ego quoque tibi imponam pro tuis in me summis officiis ...'.[111] An extreme formulation can be found in the letter to Curio mentioned above where Cicero says that he overcame his scruples against making a request to a man who is in his debt, owing to the following consideration:

> ... quia tua in me vel nota omnibus vel ipsa novitate meorum temporum clarissima et maxime beneficia existiterunt, estque animi ingenui, cui multum debeas, eidem plurimum velle debere, non dubitavi id a te per litteras petere, quod mihi omnium esset maximum maximeque necessarium.[112]

To sum up: left out, unobtrusively suggested or actually inserted, the notion of gratia as a residuum of goodwill, gratitude, obligation or influence to be relied on in times of need hovers over the whole process of recommenda-

tion suffused with some intrinsic magic power which could reconcile a request for preferential treatment and partiality with the demands of justice: 'ne causa potius apud te valuisse videar quam gratia'.[113]

I would like to round off this section with a glimpse of the practice: two cases of grants of citizenship through the intercession of a third party, one from the late Republic and one from the middle Empire, illustrate the persistence not only in the terminology but also in the forms which the granting of favours took.

The first is the case of the Sicilian Demetrius Megas mentioned in a letter to the governor of Sicily in 46 B.C.:[114]

> Ei [i.e. Demetrio] Dolabella rogatu meo civitatem a Caesare impetravit, qua in re ego interfui;... cumque propter quosdam sordidos homines, qui Caesaris beneficia vendebant, tabulam, in qua nomina civitate donatorum incisa essent, revelli iussisset, eidem Dolabellae me audiente Caesar dixit nihil esse quod de Mega vereretur; beneficium suum in eo manere.

The second case, or rather, cases are mentioned in the Tabula Banasitana and refer to grants of citizenships to the families of two persons from Mauritania in the reign of Marcus Aurelius and Commodus.[115] The document contains two letters of the joint emperors to two procurators as well as an entry from the imperial commentarii. Since it is too long to quote in full we shall concentrate on those points which refer to the procedure and contain the operative terminology:[116]

> li<i>bellum Iuliani Zegrensis litteris tuis iunctum legimus, et quamquam civitas romana non nisi maximis meritis provocata in[dul]gentia principali gentilibus istis dari solita sit, tamen cum eum adfirmes et de primoribus esse populorum suorum, et nostris rebus prom[p]to obsequio fidissimum ...

And now the second letter:

> legimus libellum principis gentium Zegrensium, animadvertimusq(ue) quali favore Epidi Quadrati praecessoris tui iuvetur proinde et illius testimonis et ipsius meritis et exemplis ... permoti ... civitatem romanam ... dedimus.

And the entry:

> Rog(atu) Aureli Iuliani principis Zegrensium per libellum, suffragante Vallio Maximiano per epistulam, his civitatem romanam dedimus.

The procedure and the terminology are extremely similar: the republican document mentions the intercession of Cicero ('rogatu meo') and the imperial document mentions favor, testimonia and suffragatio of the procurators. The beneficia of Caesar are parallel to the indulgentia principalis of the two emperors. Yet it is rather the republican term, beneficium, that acquired a legal status in the Empire; by the early second century A.D. the beneficium principale as a technical term for, inter alia, a grant of citizenship by the emperor was an established institution of the Empire.[117] There is hardly any better example of how an extra-legal, unofficial figure of speech can be crystallized into a recognized prerogative of the supreme ruler once he has become the ultimate source of gratia.

ADDENDUM

Anthropology of the Gift; Reciprocity and Friendship
(to nn. 81, 84)

§1 (81) Originally M. Mauss's Essai sur le don was stimulated by B. Malinowski's description of the kula among the Trobriand Islanders, Argonauts of the Western Pacific (1922). The importance of the exchange of gifts in maintaining social relationships, stressed by Mauss and somewhat overlooked by Malinowski himself, has been adequately applied to the Kula-Ring by J.P.S. Uberi in his Politics of the Kula Ring (1962), who says (159):

> The social importance of this continual give and take is not that it satisfies some 'over-developed love of exchange' [referring to Malinowski's account for the phenomenon] ... but that in these activities, with their continual iteration of reciprocity and equal return, generosity in giving and honour in meeting debts, there continuously occur those inter-relations of interests which bind the individual men, women and children into a society.

All the ethnographical field-works mentioned above in connection with 'patronage' and 'friendship' seem to rely heavily on Mauss's interpretation of the exchange of gifts and favours when describing those institutions in their respective communities. So for example J.P. Campbell (Honour, Family and Patronage: A Study of Institutions and Moral Values in a Greek Mountain Community (1964)), says:

> Friendship begins where one man accepts a favour (χάρη) from another. The person who gives the favour will assert that he expects no return; it would be insulting to suggest that his act of friendship had a motivation. It is however the very altruism of the act, whether this is simulated or not, which demands a counter favour. Default destroys the friendship and provokes accusations of ingratitude. Although liking and sympathy are alleged to be the premises on which friendship between village equals is based, it would be more true to say that villagers who are able to do each other reciprocal favours sometimes discover from this experience confidence in one another.... But in essence friendship of this kind remains a contractual relation , a form of co-operation in which services of various kinds are exchanged and counted. (223, italics mine.)

The sustained tension between altruism and utilitarianism, the main characteristic of friendship, is stressed also by J.A. Pitt-Rivers in his

discussion of friendship-patterns in the Spanish pueblo (The People of the Sierra (1954)):

> Friendship, properly, is the free association with a person of one's choice. It implies a mutual liking (simpatia) but ... this aspect of it is sometimes put at the beck and call of its other aspect: mutual service. To enter into friendship with someone means putting oneself in a state of obligation. This obligation obliges one to meet his request ... one must not, if one can help it, say 'no' to a friend. On the other hand accepting a service involves him in an obligation, which he must be ready to repay ... favour is at the same time both personal esteem and also service.... The former can only be proved by the latter, hence the double meaning of the word. Friendship which is interested is not true friendship since the bond of simpatia is missing - in its place a vile calculation. The paradox is this: that while a friend is entitled to expect a return of his feelings and favours he is not entitled to bestow them in that expectation ... this paradox gives to the institution of friendship the instability which has been noted. The friend who fails one ceases to be a friend (138-9, italics mine).

The similarity between the italicized phrases and Cicero's language in the letter to Curio quoted above is indeed striking (supra, p. 33) and justifies the attempt made here to characterize Roman notions of friendship against the background of other societies.

A more recent study made on the Negev Beduins comes up with a similar interpretation of gift-links (E. Marx, 'Circumcision Feasts among the Negev Beduins', International Journal of Middle East Studies, 4 (1973), 411):

> When reciprocating a previous gift he [the Beduin] has no choice but to tender the exact equivalent.... The [donor] considers the gift as either the cancellation of an old debt or as means of establishing a new credit account, and the [recipient] considers it as engaging a future commitment.... Prosperous Beduins, it seems, are inescapably caught in a network of gift exchanges.... The gift creates, or reaffirms, a bond between donor and recipient.... The non-ceremonial presentation indicates that the gift does not symbolize a transfer of rights or a defined relationship, but that the relationship between the exchange partners entails diffuse undefined obligations ... the link is apparently expected to become useful in a variety of circumstances, including unforeseeable ones (419-421).

Finally R. Benedict's study of obligation and friendship in Japanese society, The Chrysanthemum and the Sword (1947), describing at great length the on and giri kind of obligations (98 ff.) reveals similar attitudes and conceptions prevailing there.

§2 (n. 84) The accretion to one's prestige in bestowing a gift or a favour or in being in a position to do so is an indispensible ingredient of the friendship-complex and the gift relationship. In the potlatch of the Indians of the American North-West it reaches an extreme degree; enormous amounts of food and valuables are destroyed in great feasts which one group gives to another and, as Mauss observes (op. cit., 72-3):

> the motives of such excessive gifts and reckless consumption ... are in no way disinterested. Between vassals and chiefs, between vassals and their henchmen, the hierarchy is established by means of these gifts. To give is to show one's superiority, to show that one is something more and higher, that one is magister. To accept without returning or repaying more is to face subordination, to become a client and subservient, to become minister....

Malinowski (op. cit.) observes that 'Wealth is indispensable to prestige and yet in order to preserve this prestige one has to give. The greater the rank, the greater the obligation' (95), and later on: 'the handing over of wealth is the expression of the superiority of the giver over the recipient' (178). In a similar vein Pitt-Rivers says (op. cit., 140): 'The rich man employs, assists and protects the poor man, and in return the latter works for him, gives him esteem and prestige.' Similarly J.K. Campbell (op. cit., 109): 'The ability to bestow patronage is its own reward for it increases his [the benefactor's] prestige.' No better characterization could have been given to the sentiment expressed by Pliny the Younger in a reply to Suetonius Tranquillus' request to transfer the military tribunate which his patron obtained for him to Suetonius' kin:

> Praeterea intellego mihi quoque gloriae fore si ex hoc tuo facto non fuerit ignotum amicos meos non gerere tantum tribunatus posse verum etiam dare (Ep., III, 8.3).

Heinze's illuminating comments on the nature of the Roman fides should be quoted in full to illustrate a recurring theme:

> Für den Patronus aber bedeutet die Zahl der Klienten nicht nur den unmittelbaren Zuwachs an Macht wie ihn Gelzer geschildert hat; man darf nicht vergessen, dass die Zahl deren, die in fide eines Grossen sind, gleichsam der sichtbare Ausdruck seiner fides selbst ist; wenn, wie wir oben sahen [67-68] der Wert des römischer

> Mannes ganz wesentlich auch nach seiner *fides* bemessen wird, so wächst jener Wert, je mehr Mitbürger sich dieser *fides* anvertrauen (*Vom Geist des Römertums* (1960), 69).

The modifications made above (p.22) to Heinze's view will disappear under the Empire, when the inexhaustible *liberalitas* of the emperor, stemming from his infinite resources, will subordinate all to him, for all are under his patronage (Cf. F. Millar: 'The Imperial Wealth : Gifts and Exactions', *The Emperor in the Roman World* (1977), 133, and H. Kloft, *Liberalitas Principis* (1970), *passim* and *infra*, p.219ff.

Friendship with the emperor, although not impossible if by that we mean a tie based on mutual sympathy and shared views and interests, lacked the firm basis such a union calls for: the existence, even theoretical, of a certain balance between services rendered and returned. Hence the precarious nature of friendship with the emperor and its instability. It 'involved a complex of undefined relationships, with privileges and dangers which were both essentially dependent on the character or passing whim of the emperor himself' (F. Millar, op. cit., 111-12). In the relations between subject and emperor we have reached the stage in which a 'lop-sided friendship' becomes too unbalanced even to keep a semblance of equality and reciprocity. Here we can speak confidently of patronage.

Chapter 3

SOCIAL ETIQUETTE AND SAVING FORMULAE; DECORUM IN LETTERS OF RECOMMENDATION

The observation that 'in letters he [i.e. Cicero] bestows the name of friend on far too many people to warrant the supposition that he ever expected his correspondents to think that they were all his close associates' [1] is fully vindicated by what Cicero himself says on more than one occasion in letters of recommendation:

> Quia non est obscura tua in me benevolentia sic fiat ut multi per me tibi velint commendari; ego autem tribuo non numquam in vulgus, sed plerumque necessariis, ut hoc tempore.[2]
>
> Multos tibi commendem necesse est quoniam omnibus nota nostra necessitudo est tuaque erga me benevolentia; sed tamen etsi omnium causa quos commendo velle debeo, tamen cum omnibus non eadem mihi causa est.[3]
>
> Sed vereor ne, quia compluris tibi praecipue commendo, exaequare videar ambitione quadam commendationes meas.[4]

In another letter Cicero admits that more than once he was forced into writing a recommendation; having achieved a military tribunate for Curtius, he told Oppius to write to Caesar that: 'si cui praeterea petiero ... facile patiar mihi negari, quoniam illi qui mihi molesti sunt sibi negari <a> me non facile patiuntur'.[5]

A much later writer of recommendations, Symmachus, was faced with the same problem:

> Multi a me conciliationem litterarum poposcerunt, sed quorundam meritis, aliorum precibus parem gratiam dedi ... dabis igitur in quibusdam verecundiae meae veniam, quae cessit orantibus.[6]
>
> Omnibus, qui occasionem impertirent, et commendationis quandam rependo mercedem.[7]

As a result, Symmachus 'expected his correspondents to distinguish those which were written from mere kindness and sense of duty from those inspired by genuine warmth of feeling and respect for the abilities of their beneficiaries. In these as in many other cases, clearly much was to be understood by Symmachus' correspondents that was not actually stated in the letters themselves.'[8]

The last statement already adumbrates some of the difficulties involved in distinguishing a recommendation that is a matter of routine from one which is meant in earnest. Reliable criteria are hard to come by in view of the large measure of uniformity in style, in modes of introduction and in the development of the arguments.[9] One cannot be certain that it is anything more than a stylistic device when writers claim to be in earnest in individual letters.[10]

Almost invariably the terminology of friendship crops up in the recommendations. The list given below, consisting mostly of opening phrases from Cicero's letters and yet hardly exhaustive of the great master's versatility, may give some idea of how many different ways of expressing this relationship there were:

- A. Trebonio, qui in tua provincia magna negotia et ampla et expedita habet, multos annos utor valde familiariter.[11]
- A. Fufium, unum ex meis intimis.[12]
- L. Valerium ... est ex meis domesticis atque intimis familiaribus.[13]
- Cum sociis scripturae mihi summa necessitudo est, non solum quod ea societas universa in mea fide est, sed etiam quod plerisque sociis utor familiarissime.[14]
- L. Egnati Rufi, quo ego uno equite Romano familiarissime utor et qui cum consuetudine cotidiana tum officiis primis maximisque mihi coniunctus est.[15]
- M. Fadium unice diligo, summaque mihi cum eo consuetudo et familiaritas pervetus.[16]
- M. Orfium ... nostrum et per ‹se› necessarium et quod est ex municipio Atellano, quod scis esse in fide nostra.[17]
- Cum municipibus Volaterranis mihi summa necessitudo est.[18]
- L. Titio Strabone ... omnia cum eo intercedunt iura summae necessitudinis.[19]
- Cum Demetrio Mega mihi vestustum hospitium est, familiaritas autem tanta quanta cum Siculo nullo.[20]
- Hippiam ... hospitem et necessarium meum.[21]

- C. Curtio ab ineunte aetate familiarissime sum usus.[22]

- Cum Lysone Patrensi ... familiaritas tanta nullo cum hospite, et ea cum officiis eius multis tum etiam consuetudine cotidiana sic est aucta, ut nihil sit familiaritate nostra coniunctius.[23]

- Cn. Otacilio Nasone utor familiarissime, ita prorsus ut illius ordinis nullo familiarius.[24]

- A. Licinius Aristoteles Melitensis antiquissimus est hospes meus et praeterea coniunctus magno uso familiaritatis.[25]

- Democritus Sicyonius non solum hospes meus est sed etiam, quod non multis contigit, Graecis praesertim, valde familiaris.[26]

No less embellished with protestations of intimacy and friendship are Pliny's recommendations:

- Voconius Romanus ... Hunc ego, cum simul studeremus, arte familiariterque dilexi; ille meus in urbe ille in secessu contubernalis, cum hoc seria cum hoc iocos miscui. Quid enim illo aut fidelius amico aut sodale iucundius?[27]

- Arrianus Maturus ... Huius ego consilio in negotiis, iudicio in studiis utor ... Amat me (nihil possum ardentius dicere) ut tu.[28]

- Si quid omnino, hoc certe iudicio facio, quod Asinium Rufum singulariter amo.[29]

- Atilium Crescentem ... ego non ut multi, sed artissime diligo.[30]

- Cornelius Minicianus ... amicus fidelissimus.[31]

- Rosianum Geminum ... habui enim illum quaestorem in consulatu. Mei sum observantissimum expertus; tantam mihi post consulatum reverentiam praestat, et publicae necessitudinis pignera privatis cumulat officiis ... propter caritatem eius nondum mihi videor satis plene fecisse.[32]

- Nymphidium Lupum, primipilarem commilitonem habui ... inde familiariter diligere coepi. Crevit postea caritas ipsa mutuae vetustate amicitiae.[33]

The same is noticeable in Fronto's letters of recommendation:

- Quanta et quam vetus familiaritas mihi intercedat cum Gavio Claro, meminisse te ... arbitror.[34]

- Supplicavi tibi iam per biennium pro Appiano amico meo.[35]

- Faustianum Stati<a>ni mei filium non minus diligo neque minus eum diligi cupio quam si ex me genitus esset.[36]

- Aemilius Pius ... mihi carus est.[37]

- Sardius Saturninus certissima mihi familiaritate coniunctus est.[38]

Sometimes in the absence of a personal relationship between the recommender and the recommended, or conversely, in order to reinforce its

claim, a paterna amicitia or a friendship with a third party is mentioned:

- Avitum mihi hospitium est cum Lysone.[39]

- Cum A. Caecina tanta mihi familiaritas consuetudoque semper fuit, ut nulla maior esse possit; nam et patre eius ... plurimum usi sumus.[40]

- L. Bruttius ... in meis familiarissimis est meque observat diligentissime; cuius cum patre magna mihi fuit amicitia iam inde a quaestura mea Siciliensi.[41]

- Precilium tibi commendo unice, tui necessari, mei familiarissimi viri optimi filium.[42]

- M. Curius, qui Patris negotiatur, multis et magnis de causis a me diligitur ... Maximum autem mihi vinculum cum eo est quasi sanctioris cuiusdam necessitudinis, quod est Attici nostri familiarissimus eumque unum praeter ceteros observat ac diligit.[43]

Attempts to distinguish different nuances of friendship and different degrees of intimacy, and consequently of earnestness, by recalling the etymologies of the various Latin synonyms of 'friend' and 'friendship' are far from convincing.[44] Once it is admitted that terms like familiaris, necessarius, amicus, intimus, and correspondingly, familiaritas, necessitudo, amicitia, as well as consuetudo and usus, have lost their primitive and literal meaning, it seems safe to assume that the choice between them is arbitrary and that none of the Latin writers should abide by punctilious distinctions made for the sake of an argument or under the influence of philosophical dogmas.

It is clear that the most diversified relationships, and consequently different degrees of earnestness, may be obscured by this indiscriminate usage. However, it seems to me that splitting hairs over differences of degree and quality not only misses the entire point behind these protestations of friendship, but in fact threatens to obscure or even negate the very raison d'être of these protestations, which, in fact, is the reverse of what this approach assumes. These declarations, protestations or pretences are there in compliance with the demands of social etiquette, of decorum or τὸ πρεπόν, this golden rule of the ancients, so much insisted upon by Cicero in his rhetorical treatises in analogy to the

right conduct of life: 'semperque in omni parte orationis ut vitae quid deceat est considerandum'.[45] Decorum, then, makes it one of the unwritten laws of the system, and perhaps the most prominent amongst them, that a recommendation must stem from friendship.[46] It is a sufficient justification for making a request on behalf of someone else, and thereby, whether or not this was the original intention, increasing one's own prestige and consolidating one's own position as a gratiosus.[47] Sheer good manners impose on a man the need to demonstrate that he is not working solely for the aggrandizement of his own influence but is impelled by his obligations towards his friends:

> Nunc quoniam mihi ab amico officiosissimo tantum oneris imponitur, ego quoque tibi imponam pro tuis in me summis officiis, ita tamen ut tibi nolim molestus esse.[48]

The eloquent word-play helps to bring out the perfect balance between the interests of the three parties. Initially, for fear of upsetting this delicate balance, one hesitates to make a request. This hesitation or even reluctance stems from what the Romans called verecundia or pudor,[49] a natural feeling of shame, an innate modesty. Cicero often finds himself held back by it: 'Impedior verecundia, ne te pluribus verbis rogem',[50] or: 'Commendo tibi hominem, sicut tua fides et meus pudor postulat'.[51] It is present even when not explicitly stated.[52]

The strong antidote needed to overcome this feeling of verecundia is the fear that a snub and a refusal of a request for recommendation would be construed not as yielding to one's sense of modesty (verecundia) but rather as a selfish remissness in the performance of duties towards one's friend. In other words, it is the fear of being taken to task for neglegentia, a grave sin indeed under Roman notions of the duties friendship entails,[53] especially when the relationship between the recommender and the recipient is known to be sufficiently intimate to justify the appeal to the latter and guarantee its success.[54]

Accordingly we find Cicero applying this very argument in his letter

to Memmius from 51 B.C. when the latter was in exile in Greece. Patro, the head of the Epicurean school in Athens, requested Cicero to intercede with Memmius to hand over to the society the site which contained the house where Epicurus had lived, owned at that time by Memmius. Moved by Patro's appeal and knowing that Memmius has given up the idea of building there himself, Cicero proceeds: 'Nunc vero si audierit [i.e. Patro] te aedificationem deposuisse neque tamen me a te impetrasse, non te in me inliberalem sed me in se neglegentem putabit'.[55]

The motif of neglegentia comes up again in a letter to Servius Sulpicius on behalf of Lyso of Patrae: 'Quod cum fieri vehementer studeo tum etiam illud vereor ne, si minus cumulate videbere fecisse aliquid eius causa, me ille neglegenter scripsisse putet, non te oblitum mei.[56]

One may protest here that, especially in this last instance, it is merely an elegant way of reinforcing a request: a stylistic device used to exert pressure without giving the impression of doing so. But it is precisely through such trite set-pieces which might well be considered lip-service and which no one takes too seriously or too literally, that one can learn the etiquette to which a society pays homage.

Nothing epitomizes better the delicacy, finesse, courtesy, urbanity and subtlety required in a letter of recommendation than Horace's witty letter of recommendation in verse.[57] In his poem, after apologizing for the liberty he has taken and for the presumption the writing of such a letter presupposes on his part (a presumption which is quite at odds with his innate modesty), Horace contends that it was the less reprehensible of the two courses of action open to him: refusal would have been construed as selfishness. The poetic letter maintains a perfect balance between facetiousness and earnestness, between the fear of giving offence to the recipient on the one hand (verecundia, pudor) and that of letting down a friend on the other (neglegentia). To sustain this delicate and fragile equilibrium, Horace deploys all his urbanity, tact and wit. On that account alone, the poem is worth quoting in full:

Septimius, Claudi, nimirum intellegit unus,
quanti me facias. nam cum rogat et prece cogit
scilicet ut tibi se laudare et tradere coner,
dignum mente domoque legentis honesta Neronis,
munere cum fungi propioris censet amici,
quid possim videt ac novit me valdius ipso.
multa quidem dixi cur excusatus abirem;
sed timui mea ne finxisse minora putarer,
dissimulator opis propriae, mihi commodus uni,
sic ego, maioris fugiens opprobria culpae,
frontis ad urbanae descendi praemia. quod si
depositum laudas ob amici iussa pudorem,
scribe tui gregis hunc et fortem crede bonumque.

The similarities with the Ciceronian turn of phrase and shuttle-movement between different claims are striking: both writers display in their art the agility and resourcefulness of the tight rope walker.

Once a person has overcome his verecundia in order to fulfil his duties towards one party, the suppliant, he must not, however, lose sight of the interests and the integrity of the other party to the triangular relationship, the recipient; he should not implement his duties to the one at the expense of the other. Furthermore, he might be suspected of a greater crime, that of abusing the 'fund of gratia' he has with the recipient to nurse his own ambition and to gain a reputation for being a man of vast influence.

The fear of incurring such a suspicion lies at the bottom of several formulae invented for no other reason than to anticipate this very fear and dispel it. Such, for example, is the cluster of formulae which insist on the absence of ambitio, selfish solicitation:

- faciam id quod debent facere ii qui religiose et sine ambitione commendant.[58]
- neque id ambitione adductus facio sed cum familiaritate et necessitudine tum etiam veritate.[59]
- non committo ut ambitione mea conturbem officium tuum.[60]
- Hoc me non sine causa facere neque aliqua levi ambitione commotum a te contendere etsi te existimare arbitror, tamen mihi adfirmanti credas velim me huic municipio debere plurimum.[61]

It would be a grave sin against the rules dictated by decorum to take advantage of friendship with the recipient through tactless imposition,

that is, through forcing the recipient into accommodating what might conflict with the latter's own interests or compromise his integrity; to anticipate and guard against this, we find the 'saving formulae':[62]

- operam des, quoad tibi aequum et rectum videbitur, ut quam commodissima condicione ... negotium conficiat[63]
- tantumque ei commodes ... quantum tua fides dignitasque patietur.[64]
- commendo tibi hominem, sic ut tua fides et meus pudor postulat.[65]
- quae aequa postulabit ut libente te impetret .[66]
- nihil enim abs te umquam, quod sit alienum tuis aut etiam suis moribus postulabit.[67]

A variant of these formulae assures the recipient that complying with the request entails no more than application of his customary impartial justice: 'ius enim quem ad modum dicas clarum et magna cum tua laude notum est; nobis autem in hac causa nihil aliud opus est nisi te ius instituto tuo dicere';[68] 'etiam sine mea commendatione ab aequitate tua res ipsa impetrare debet ut illis subvenias.'[69]

Another set of formulae, revealing the same frame of mind, picks up the motif of molestia, inconvenience, which the recommender is unwilling to cause: 'Peto igitur a te in maiorem modum, quod sine molestia fiat, ut ei de habitatione accomodes',[70] or the variant: 'ego quoque tibi imponam ... ita tamen ut tibi nolim molestus esse'.[71]

This attitude is partly[72] responsible for the lack of specification in most of our letters and especially for a marked abstention from spelling out the way in which the recipient's benevolence would express itself: it is left entirely to the latter's discretion to choose the methods of giving assistance, if willing to do so:[73]

- cui quibuscumque rebus commodaveris, tibi profecto iucundum, mihi certum erit gratum.[74]
- quidquid habent negoti des operam ... ut ... conficiant.[75]
- T. Manlium quam maxime quibuscumque rebus honeste ac pro tua dignitate poteris, iuveris atque ornaveris.[76]
- Commendo tibi hominem, sicut tua fides et meus pudor postulat ut faciles ad te aditus habeat.[77]

The last example, taken from a letter to the urban praetor, is singled out by Lossmann[78] as a perfect representative of its type: all the tendencies enumerated above seem to converge in this brief letter: the 'saving formula', the absence of a definite request[79] and the reliance on the good will of the recipient whom the letter set out to propitiate.

The routine of writing recommendations has resulted in their being crystallized into a series of hackneyed set phrases and formulae. In this situation economy and expediency are not the sole gainers: at the same time such formulae and set phrases help to sustain the vagueness which the recipient could use either to reconcile the request with his own interests or to refuse without damaging his friendship with the recommender.

Contrary to the view, often put forward, that much was read into the letter by contemporaries which is lost to us,[80] I would suggest that it was left to them to interpret the vagueness in much the same way as is open to the modern reader, since the vagueness was deliberately put there. The set phrases and formulae may be likened to safety valves, regulating and channelling the interests of both parties, recommender and recipient.

These considerations should dissuade us from equating an abridged and highly formularized letter of recommendation with our blank form where only the name of the applicant need be inserted. Zeal and earnestness cannot be excluded merely on grounds of style. An absence of pressure and eagerness may indicate either that no insurmountable obstacles were foreseen, or, conversely, that stubborn perseverance would be tactless and inconsiderate and might even jeopardize the case.

A case in point would be Cicero's letter to the urban praetor, C. Curtius Peducaeanus, on behalf of M. Fabius,[81] whose case was to be brought up before the praetorian court. This letter is remarkable for its highly formularized style; in fact, it is simply a series of set phrases and formulae:

> M. Fabium unice diligo, summaque mihi cum eo consuetudo et familiaritas est pervetus. In eius controversiis quid decernas a te non peto (servabis, ut tua fides et dignitas postulat, edictum et institutum tuum), sed ut quam facillimos ad te aditus habeat, quae erunt aequa libente te impetret , ut meam amicitiam sibi, etiam cum procul absim, prodesse sentiat, praesertim apud te. Hoc te vehementer etiam atque etiam rogo.

Did we not possess the exchange of letters between Cicero and M. Caelius Rufus,[82] L. Papirius Paetus[83] and C. Cassius Longinus[84] in connection with Fabius' case, as well as intimate letters exchanged between Cicero and Fabius,[84] which prove beyond doubt Cicero's zealous concern for the welfare of an intimate friend, we might have committed the grave error of inferring from the style of the letter to the praetor that this is a commendatio vulgaris.

To sum up: the insistence on friendship, in the name of which one makes an appeal on another's behalf, is present in almost every letter of recommendation and is an integral part of the etiquette of the system. Indeed, it can be said about the recommender that he 'doth protest too much', yet such a criticism is quite irrelevant in the realm of etiquette where the emphasis shifts to appearances rather than to reality. Again, it would be wrong to infer from what has just been said that these letters are ridden with insincerity and hypocrisy. It is simply that etiquette in this case endeavours to create a certain atmosphere which will make all parties feel at ease.

The tensions between the different claims imposed by different concepts - verecundia versus neglegentia, gratia and amicitia versus integritas and iustitia, and ambitio versus all of these - are well grasped, anticipated and sustained with tact and virtuosity. Cicero's prose is a match for Horace's verse, in perfect command of tact and skilful manoeuvring of phrases. The transition from the one claim to its opposite, although striking, does not upset the balance:

> Ius enim quem ad modum dicas clarum et magna cum tua laude notum est: nobis autem in hac causa nihil aliud opus est nisi te ius instituto tuo dicere ...

And now comes the crucial turn:

> Sed tamen cum me non fugiat quanta est in praetore auctoritas praesertim ista integritate, gravitate, clementia, qua te esse inter omnis constat, peto abs te pro nostra coniunctissima necessitudine plurimisque officiis paribus ac mutuis ut voluntate, auctoritate, studio tuo perficias ut M. Anneius intellegat te et sibi amicum esse.[86]

However, it is not only on the style and phraseology of the letter that considerations of etiquette leave their impact; the content of the letter, the choice of arguments and the weight given to each of them, are the direct corollary of the social conventions described above.[87] In fact, at least on the face of it, nothing more clearly distinguishes the content of contemporary letters of recommendation from the Romans' than the laying of the main weight of the argument on the personal relations between the persons concerned rather than on the character and personal qualifications of the person recommended or the merit of his case. The latter may be dismissed on occasion as almost irrelevant, as it is once by Cicero:[88]

> Sed mihi minus libet multa de aequitate rei scribere, ne causa potius opud te valuisse videar quam gratia.

As for the character and personal qualifications of the person recommended, these are so much dependent on the trustworthiness of the recommender and his gratia with the recipient that it is hardly sufficient to mention them by themselves. Hence the close relationship between a letter of recommendation and a testimonial of character (testimonium), about which more will be said later:[89] in both it is the trustworthiness of the one who gives it which counts most. We have already drawn attention to the specious contrast Cicero draws between them in the recommendation of Apollonius to Caesar.[90] The same rhetorical device is found in a letter of recommendation to M. Brutus, in which Cicero attempts to exonerate the tribune designate L. Clodius from the suspicion of being a partisan of Antonius. But whereas in the previous case Cicero pretended to be writing a testimonium rather than a recommendation, here he makes the opposite claim:[91]

> Multa eius iudicia, sed ad scribendum non necessaria; nolo enim testimonium hoc tibi videri potius quam epistula.[92]

These facts explain the great abundance of verbs of promise and guarantee[93] or circumlocutions which likewise show the recommender taking full responsibility for the character and behaviour of the recommended:[94]

> Spondebo enim tibi vel potius spondeo in meque recipio esse M. Curi mores eamque cum probitatem tum etiam humanitatem, ut eum et amicitia tua et tam accurata commendatione, si tibi sit cognitus, dignus sis existimaturus.[95]

The recommender stands surety not only for the character of the recommended but also for the benefits the recipient will derive in consequence of bestowing favours. This attitude tallies with everything we said before about amicitia, gratia and beneficia as the concepts that underwrite the process of recommendation: although never merely the opportunistic 'co-operation of gratiosi in all circles'[96] or 'a weapon of politics, not a sentiment based on congeniality',[97] the Roman amicitia never lost sight of reciprocity and mutual benefit.[98]

Therefore, by conferring a favour on a man, the recipient will be putting him under obligation to himself:

- ipsum praeterea summo officio et summa benevolentia tibi in perpetuum devinxeris.[99]
- honestum municipium tibi ... in perpetuum obligari.[100]
- illud tibi expertus promitto et spondeo te socios Bithyniae, si iis commendaris, memores esse et gratos cogniturum.[101]
- All in all, it is a good investment for the recipient: 'nam apud ipsum gratissimum hominem ... bene positurus sis studium tuum atque officium'.[102] We find a most extreme expression of this attitude in what Atticus says to Cicero after recommending Brutus to him: 'Si nihil aliud de hac provincia nisi illius benevolentiam deportassem, mihi id satis esse'.[103]

However, the recommender will find himself under obligation to the recipient as well since he regards compliance with the appeal as a favour shown to himself. Again and again we find variations on the formulae: 'eius negotium sic velim suscipias ut si esset res mea'[104] and 'quidquid

offici, benefici, honoris in Genucilium contuleris id te existimare in me ipsum atque rem meam contulisse'.[105] As a result the recommender will take it upon himself to repay the favours: 'Ego quae te velle quaeque ad te pertinere arbitrabor omnia studiose diligenterque curabo'.[106]

For the recommender, the writing of a recommendation might be an occasion to repay a debt of gratitude owed to the recommended, as Cicero claims to be doing in the case of T. Annius Milo: 'In me non offici solum fructum sed etiam pietatis laudem debeo quaerere'[107] or Pliny in the case of Sextus Erucius' family: 'Omnes me certatim et tamen aequaliter amant, omnibus nunc ego in uno referre gratiam possum'.[108]

However, the benefits accruing to the recommender go far beyond this immediate effect; the ability to intercede for someone else is a way to prove and consolidate one's claim to be among the gratiosi, the primi, the foremost men of Roman society. In this respect Lossmann is right to mention the semi-official character of the commendation, by which he means: 'dass Commendationen zu einem guten Teil mit dem Blick auf die Öffenlichkeit und auf die Gesellschaft gegeben und geschrieben werden'.[109] To prove this he mentions Cicero's letter to his former colleague, Antonius Hibrida.[110] Although the relationship between the two men had deteriorated, Cicero decided to continue to send him letters of recommendation: 'ne iis, qui me rogarent, aliquid de nostra coniunctione imminutum esse ostenderem';[111] had the conflict become known Cicero's influence would have suffered as a result.[112]

Conversely, one's influence in the political arena depends on one's ability to realize the ' fund of gratia' one has with other influential people. Hence, the frequent concluding formula: 'Cures ut intellegat hanc commendationem maxime ... sibi usui fuisse',[113] on which L.R. Taylor comments: 'he (the nobleman) was seeking too, through patronage to add steadily to the group of men who had received favors which they might be expected to repay. When Cicero writes to a friend about some senator, public contractor, or provincial he frequently adds: "Please tell him I wrote to you about this".[114]

No doubt the formula is capable of assuming another meaning as well: 'let him become aware that my recommendation was useful to him' can be tantamount to saying - though in a polite and circumlocutory way - 'make it useful to him'.

However, in some cases no two readings are possible: 'iis si tibi videbitur significas te non moleste ferre quod intellegas ea quae facies mihi quoque grata esse, pertinet enim ad officium meum eos existimare curae mihi suas res esse'.[115] Nor is there any ambiguity in the case of the public company recommended to P. Silius, the governor of Bithynia in 50 B.C.: 'Ita ... societatem mihi coniunctiorem feceris'.[116]

The desire and the awareness that the after-effects of a successful petition redound to the credit and the prestige of the intercessor continued uninterrupted into the Empire: 'It is precisely the fact that the credit of persons of superior standing was related to their ability to secure posts for their protégés which explains why posts could be gained by recommendation and then declined by the recipient'.[117] In one of the letters to Trajan, Pliny makes no bones about his personal interest in the promotion of his former quaestor: 'teque, domine, rogo, gaudere me exornata quaestoris mei dignitate, id est per illum mea, quam maturissime velis'.[118]

The impression that the recommender's reputation and prestige are really at stake is most prominent in letters begging suffragium for one's candidate:[119] their tone is vehement and impelling. No doubt it is in the election campaign that one's influence is put fully to the proof. Recommending L. Lamia to D. Brutus, Cicero writes: 'Quapropter persuade tibi, mi Brute, me petere praeturam'.[120] Pliny picks up the same argument when recommending various people running for office: 'hoc tempus meum, hoc fides, hoc etiam dignitas postulat. Suscepi candidatum, et suscepisse me notum est; ego ambio, ego periclitor, in summa, si datur Nasoni quod petit, illius honor, si negatur, mea repulsa',[121] or: 'Anxium me et inquietum habet petitio Sexti Eruci mei,

adficior cura et, quam pro me sollicitudinem non adii, quasi pro me altero patior; et alioqui meus pudor, mea existimatio, mea dignitas in discrimen adducitur'.[122]

It is in this political arena that the gratiosi no longer co-operate but rather contend with each other in an attempt to assert and consolidate their superiority; as a result the competition becomes fierce and ruthless. No wonder that the motif of fear and risk figures largely in the suffragator's letters: 'is ambitus excitari videtur ut ego omnia pertimescam totamque petitionem Lamiae mihi sustinendam putem';[123] so far Cicero about Republican elections. However, genuine electoral competition continued somewhat modified under the Empire, as Pliny's words make clear: 'Petit honores Iulius Naso; petit cum multis, cum bonis, quos ut gloriosum sic est difficile superare. Pendeo ergo et exerceor spe, adficior metu et me consularem esse non sentio.'[124]

Of a different quality but of no less intensity is the personal involvement of the recommender in those cases which engage in particular his constantia[125] and fides and which come nearest to the concept of clientela described by Fustel de Coulanges. This occurs firstly when the recommender has already benefited the recommended and as a result a strong tie has been created between them and the moral obligation of the benefactor becomes more binding. The Volaterrani, for example, have a special claim on Cicero: 'praecipuam causam haberent ad ius obtinendum ... quod summo studio p.R. a me in consulatu meo defensi sunt'.[126] The same was true of Pliny's friend and protege, Voconius Romanus: 'Haec beneficia mea tueri nullo modo melius quam ut augeam possum'.[127]

Similarly this occurs, when one has inherited such beneficiaries, as for example Ti. Claudius Nero, who needs the governor's co-operation, expressed in concession made to his protégés, in order to re-attach them to himself: 'Qua re si te fautore usus erit ... amplissimas clientelas acceptas a maioribus confirmare poterit et beneficiis suis obligare'.[128]

The last case is of particular interest for another reason: it demonstrates that the transition was not automatic. The so-called inherited clientela had to be re-attached in each generation; one wonders whether the necessity to do so does not, in fact, make the designation 'inherited' meaningless. The individual has to prove himself to be a homo gratiosus per se in order to re-establish the ascendancy and influence of his family. In other words, no inherited, rigid relationships can exist in a world permeated by contending parties. All is in a state of flux and will gravitate towards those centres in which real power inheres.

This movement will change its quality or cease altogether when one person becomes able to bring much more than personal influence to bear, and this will render him, to a large extent, independent of this traffic d'influence, this 'co-operation of gratiosi', which is the essence of an aristocratic Respublica. This, among other phenomena, heralds the new era of the Principate. The transition occurred already in Cicero's time and we can detect it in his own letters of recommendation. We shall deal with this in more detail in the following chapter.

However, a few words must be said first about the more concrete side of the system, the actual delivery of the letter, even if only to correct a wrong impression that the foregoing analysis of literary devices and stylistic manoeuvres might have given. Although a great deal was expected from the single letter it did not take effect in isolation from other factors. Sometimes we possess previous letters written on the behalf of the same person and in connection with the same request,[129] and on other occasions the letter was preceded by a talk between the recommender and the recipient: 'Ego etsi coram de te cum Furfanio ita loquar ut tibi litteris meis ad eum nihil opus sit'.[130] The letter itself, then, might be a concession to the recommended who desires to have something in writing, as in the case which we have just quoted: 'tamen, quoniam tuis placuit te

habere meas litteras, quas ei redderes, morem eis gessi'.[131] Or it may serve for future emergency, should this arise; a provision to that effect is made then in the letter itself: 'si quid habebit cum aliquo Hellespontio controversiae, ut in illam διοίκησιν reicias'.[132] Or it might be merely a supplementary device, designed to call the matter back to the recipient's mind, a sort of memorandum.[133]

If the letter was given to the recommended himself to be delivered by his own hand to the recipient, as is sometimes attested,[134] we can safely assume that having been given a proper introduction, the recommended himself will go into further details.

Finally, one could implement and reinforce a recommendation sent by another person, or mention it in order to reinforce one's own, as in the case of the recommendation of the praetor designate, L. Flavius, where Cicero tells his brother Quintus, the governor of Asia at that time: 'et, ut opinor, Flavi aliquando rem et Pompeius et Caesar tibi commendarunt'.[135]

Chapter 4

THE HISTORICAL SCOPE: THE TRANSITION FROM THE REPUBLIC TO THE EMPIRE

The three letter-writers whose letters of recommendation fall within the scope of the present discussion span a period of more than two centuries; from the last generation of the Republic to the first years of the reign of Marcus Aurelius.[1]

Pliny and Fronto lived under the established Empire, yet even the Republican Cicero wrote many of his recommendations during the transition to monarchy, in so far as Caesar's dictatorship foreshadowed all that was to follow.

That Pharsalus announced the end of the Republic is admitted even by those who take the extreme view that the Republican machinery and institutions continued functioning uninterrupted until the Civil War, and that practices sanctioned by a long-standing tradition were employed by political rivals whose aims did not exceed the legitimate aspiration of the Roman aristocrats.[2]

However, by admitting a constitutional change we have not yet explored the repercussions it would have had on the texture of life: on social relationships and on the conventions underlying the letters of recommendation. How far were these affected by political change? The spirit of an aristocratic republic is not necessarily incompatible with a certain kind of monarchy, especially with a monarch who does not 'seek to depress all his subjects to the same level' but one who like the Roman Emperors 'upheld a hierarchical order'.[3]

As evidence for the foregoing statement we can adduce many letters written by Pliny and Fronto which conjure up the same atmosphere as that which surrounds Cicero's letters; a comfortable and leisurely exchange of mutual benefits and services between social peers.[4] Moreover, many of

Cicero's letters were written to provincial governors during Caesar's dictatorship and yet do not differ, either in content or in form, from those which preceded it. Even the two recommendations written to Caesar himself at this period, are not different in style or tone from the recommendation of Trebatius written nine years before, when Caesar was not yet in absolute power.[5]

But it would be less than accurate to regard letters of recommendation exclusively as a matter of social etiquette, an exchange of personal favours between private individuals with no bearing on the political, administrative and judicial structure. In republican times their existence compensated for the lack of an official machinery or took advantage of the absence of a strong central supervision over officials. The reliance on personal nexus was both a cause and a result of these two deficiencies.[6] However, even the larger measure of centralization introduced under the Empire left room for letters of recommendation. As had been pointed out before,[7] a centralized government which kept a wide range of decision-making in the hands of one man invites 'pressures from below' which will be translated to the ear of the sovereign by the intercession of advantageously placed individuals.

We may at this point leave aside the established Empire and concentrate our efforts on Caesar's dictatorship, which is crucial to our discussion both from historical as well as from a methodological point of view. For the Empire realized Caesar's legacy; its history unfolded the logical consequences of a one-man regime, executing and consummating what was in the first attempt to establish a single man's rule in Rome. Much that came to be taken for granted in the established Empire is still in a nascent stage in this period of transition. The convulsions of a society adjusting itself to a new order, still groping its way hesitatingly and self-consciously, make it possible for us to distinguish the salient features of the change as they originally emerged, free from later accretions and disentangled from inessential appurtenances.

As the question of Caesar's final goals impinges only indirectly on the nature of the change, we shall not try to join forces with one side

or another in the battle of opinions that has been waged around it ever since his time.[8] In order to gauge the intrinsic significance of the change we shall apply here the same method applied elsewhere in the assessment of the past and ask the crucial question: 'How did the matter seem to contemporaries?'[9] and thereby avoid the pitfalls of both preconceived and misconceived generalizations as well as of later and therefore anachronistic assessments. A close perusal of the letters of recommendation, in which the intruding presence of the dictator can be acutely felt, might recreate for us the reaction of contemporaries to the change and enlighten us on its nature. Incidentally, more general conclusions can be reached about the nature of the dictatorship itself.

The concentration on the period of transition has, as pointed out above, its methodological advantages as well, for we are fortunate in possessing letters of recommendation written by the same person, Cicero, both before and after the Civil War, and the contrasts should, on that account, stand out all the more clearly.

In a letter of 50 B.C.[10] Cicero rebukes Sallustius, the proquaestor of Bibulus when the latter was governor of Syria, for requesting from him a letter of recommendation to his superior: 'Petis a me, ut te Bibulo quam diligentissime commendem. In quo mihi voluntas non deest, sed locus esse videtur tecum expostulandi'.[11] The reason for his uneasiness is Bibulus' recent estrangement from himself, of which the proquaestor must have been aware in spite of not giving Cicero any notice of it.[12]

As demonstrated at length in a previous chapter,[13] a measure of amicability is one of the pre-requisites in the process of recommendation. The absence of such a reservoir of good will - not to mention open hostility - makes a recommendation a tactless imposition on the recipient and, in the likely event of a refusal, a slight upon the dignity of the recommender.

In the light of these observations it is easy to see why Cicero expostulates with Sallustius[14] for infringing the unwritten rules of <u>decorum</u>

even before pointing out to him the unfeasibility and futility of a recommendation under such circumstances: 'Sin autem a me est alienior, nihil tibi meae litterae proderunt'.[15] the effectiveness of a recommendation with no gratia and amicitia to support it is very doubtful.

A few years later the question of propriety comes up again in another letter of recommendation.[16] While waiting in Brundisium for Caesar's permission to remain in Italy, Cicero writes to the dictator in order to exculpate his brother Quintus from the charge of being responsible for Cicero's departure for Greece to join the Pompeians:[17]

> De Quinto fratre meo non minus laboro quam de me ipso, sed eum tibi commendare hoc meo tempore non audeo.

A comparison of the two letters suggests that in 47 B.C. we are on the threshold of a new era; it is not the absence of amicitia between social peers, but Cicero's precarious position, 'hoc meo tempore', that deprives him of the privilege of recommending his brother. The underlying assumption is that a certain relationship vis-à-vis the dictator is in order, or more specifically the recommender himself must be sure of being in the good graces of the dictator before daring to intercede for another. The good graces of the absolute ruler replace the egalitarian amicitia of former days.[18]

It would not be long before Cicero would refer to this benign and indulgent disposition of the dictator with a term that was destined to have a long history under the Empire: clementia. As we shall see below it already figures in his letters of recommendation from this period.

Whether the emergence of the new motif of clementia in letters of recommendation from this period is due to the fact that Caesar appropriated to himself or re-interpreted this old-fashioned quality, or whether the political climate in the aftermath of the Civil War was conducive to its resuscitation and application to the predicament of the vanquished political opponents of the dictator, pinning their hopes on his generosity

and clemency, is a question that should not concern us here,[19] where its significance lies in its very occurrence; for the term, as standard definitions prove,[20] 'exprime le comportement d'un homme de classe supérieure ou pourvu de quelque autorité à l'égard de ceux qui lui sont *soumis*'.[21] That this is the light in which one has to regard the relationship between the defeated Pompeians and the victorious Caesar in the aftermath of the Civil War, the following discussion will help to prove.

Unlike the letter written on Quintus' behalf, which we discussed above, the letters which will concern us here are not addressed directly to Caesar,[22] yet his presence and authority overshadow those of the actual addressees, the dictator's lieutenants, special nominees or provincial governors whose intervention is sought on behalf of individuals and communities who, having made the 'wrong' choice during the Civil War, suffer, in consequence, by its outcome. On other occasions a 'safeguard' has to be shown even before laying down the request; Cicero assures his correspondent that the recommended has obtained Caesar's pardon and, therefore, is a 'safe' man and worthy of his friendship and protection.

The latter motif appears in a letter to Servius Sulpicius,[23] governor of Achaia in 46 B.C., beseeching him to accept Lyso of Patrae into his friendship and to protect his family and property. The only obstacles to achieving this have been surmounted - at least as far as Cicero knows[24] - when, in spite of Lyso's former political loyalties, a personal letter has been obtained from Caesar to prove to the governor that the man is now in favour with the new régime:[25] 'Effectum ... est et ipsius splendore et nostro reliquorumque hospitum studio ut omnia quae vellemus a Caesare impetrarentur, quod intelleges ex iis litteris, quas Caesar ad te dedit.'[26]

Cicero goes so far as to admit that before obtaining this token of the dictator's indulgence he had to act cautiously and moderately, and his recommendation could not be pursued with the vehemence and earnestness it now has; it would not have been safe: 'cuius (i.e. Lysonis) dubia fortuna

timidius tecum agebamus ne quid accideret eius modi ut ne tu quidem mederi posses .'[27]

Two letters of recommendation are written for A. Caecina[28] who also fought on Pompey's side[29] but added insult to injury by writing a book of violent invective against Caesar[30] and thereby dug his own grave, for the latter would not permit him to return to Italy. He even needed special permission to prolong his stay in Sicily, which Cicero, in Caesar's absence, obtained from Balbus and Oppius.[31] To Cicero's great surprise the man was deliberating whether to go to Asia to settle his affairs there, as if his stay in Sicily was assured.[32] He advises Caecina against such a move, since the nearness in location might help in hastening his return to Italy.[33] In addition he fortifies him with a letter of recommendation to the governor of Sicily, T. Furfanius Postumus, whose Republican tendencies are known.[34] A year later, in 45 B.C., another letter goes to the governor of Asia, P. Servilius.[35] Caecina is presented as a cliens of the latter's family.[36] The governor is asked to facilitate the settlement of Caecina's Asian affairs. The man is described as 'calamitosus', a word which in this context has political undertones. However, the motif of the clementia Caesaris counterpoises this description: 'tamen magnam spem habemus freti clementia collegae tui'. Caecina's departure for Asia can be explained in two ways in view of what we know from the advice in Fam., VII, 8.2, and Caecina's compliance with it:[37] 1) either his affairs in Asia were too pressing or 2) the permission to stay in Sicily was not renewed. The interpretation of the tone of the letter will vary significantly, depending on which view we take. If the latter is the case then the allusion to Caesar's clemency is both pathetic and resigned.

An eloquent appeal to human compassion and sympathy is addressed to P. Cornelius Dolabella, Caesar's legate in Spain, on behalf of two men from Cales who desire to be united with their families in Italy.[38] According to Cicero's confused exposition[39] they arrived in the province

with M. Varro in order to get away from the Civil War, but were caught unprepared in the turmoil of the outbreak of a new war there. Having thus justified their presence in the wrong camp, Cicero proceeds, undaunted by casuistry, in his tortuous argument: 'Quod dicturus sum, puto equidem non valde ad rem pertinere, sed tamen nihil obest dicere: Res familiaris alteri eorum valde exigua est, alteri vix equestris. Quapropter, quoniam iis Caesar vitam sua liberalitate concessit nec est quod iis praeterea magno opere possit adimi, reditum ... hominibus confice'. In their impoverished condition the men are worthless to Caesar, whose clemency, it is to be inferred, should serve as a precedent for Dolabella's. The last motif will recur much more forcefully and unequivocally in the letters discussed below.

Not an immediate result of the Civil War, yet serving perfectly to reveal the patterns of life and behaviour that emerged in its wake, is the case of Demetrius Megas,[40] the Sicilian who was granted citizenship by Caesar in concession to Cicero's request transmitted by Dolabella. Later, the discovery of malpractice among the Roman officials who conferred citizenship for money caused Caesar to order the destruction of the tablet on which the names of those who were granted citizenship - Demetrius Megas included - were engraved. Cicero, apprehensive lest together with those illegal grants that of his protégé should also fall to the ground, hastens to inform the governor of Sicily that Caesar has confirmed his previous <u>beneficium</u>: 'Caesar dixit nihil esse quod de Mega vereretur; beneficium suum in eo manere'.

As a reflection on this letter, one can hardly improve on the following comment:

> Nothing could show more clearly the introduction of typically monarchic social patterns, the acquisition of benefits for their protégés by well-placed intermediaries, the activities of corrupt hangers-on of the monarch and the ultimate dependence of the distribution of favours on the will of the monarch.[41]

The rest of the letters are concerned with confiscations of land and

property in general, a recurrent sequel to the termination of civil wars, where the property of the vanquished was to provide for the discharged veterans.[42]

A letter[43] addressed to L. Munatius Plancus, one of Caesar's legates in Africa at the time,[44] contains a request to intercede on the behalf of C. Ateius Capito,[45] heir to his cousin T. Antistius,[46] who as quaestor or more probably as a proquaestore[47] in Macedonia at the outbreak of the Civil War could hardly have avoided joining Pompeius when the latter arrived there. Cicero finds it more difficult, however, to account for the man's presence in the mint at Apollonia,[48] yet he assures Plancus that later the man disappeared from the scene of the war and took no part in the hostilities against Caesar. Unfortunately for the heir, Antistius died before making his peace with Caesar, and the present letter is, therefore, an attempt to forestall a possible confiscation of the inheritance: 'The scope of confiscation was not clear at the time; it was doubtful if the will of ... Antistius would be upheld or not'.[49]

This letter is held to reveal 'that one consequence of the power of life and death wielded by individuals without the restraint of law was that it could fall to these individuals to make consequential decisions on matters of civil law';[50] and as such another precedent laid down during Caesar's dictatorship to be taken up again by his successors to the supreme power.

The subsequent attempt to sway Plancus in Capito's favour is worth quoting in full:

> Illud fore tibi adiumento spero, cuius ipse Caesar optimus esse iudex potest: Semper Caesarem Capito coluit et dilexit. Sed ipse huius rei testis est, novi hominis memoriam. Itaque nihil te doceo; tantum tibi sumito pro Capitone apud Caesarem quantum ipsum meminisse senties. Ego, quod in me ipso experiri potui, ad te deferam; in eo quantum sit ponderis tu videbis. Quam partem in re p. causamque defenderim, per quos homines ordinesque steterim quibusque munitus fuerim non ignoras. Hoc mihi velim credas, si quid fecerim hoc ipso in bello minus ex Caesaris voluntate (quod intellexi scire ipsum Caesarem invitissimum fecisse), id fecisse aliorum consilio,
>
> me

> hortatu, auctoritate; quod fuerim moderatior temperatiorque quam in ea parte quisquam, id me fecisse maxime auctoritate Capitonis; cuius similis si reliquos necessarios habuissem, rei p. fortasse non nihil, mihi certe plurimum profuissem.[51]

This passage is a tour de force of special pleading to the extent that it discredits Cicero's own integrity and spiritual independence of which he made so much in a letter to Atticus: 'Nihil enim erat quod minus eum [i.e. Caesarem] vellem existimare quam me tanta de re non meo consilio usum esse.'[52]

One wonders what motivated this volte-face. Is he just carried away by his own words? Is it a conscious concession, a personal readjustment to the new turn things had taken when one man emerged supreme and omnipotent? Is he aware that the new era calls for new methods of recommendation and different modes of intercession? Or is it a tacit admission that with the fall of the free Republic values have changed and what once was held sacred and meaningful for an honourable man is no longer so? Or maybe it is a cunning and unscrupulous determination to accommodate the tyrant by all means at his disposal in order to achieve his aim, and to pit against overbearing and insolent force the only effective weapons of the weak - hypocrisy and adulation.

Yet not only are these several motives compatible with each other, but in all probability, in view of the complexity of human motivation, each played some part in the composition of this letter, and the result is invaluable for the historian, who can see emerging before his very eyes a new way of employing language, a new idiom which will suit the new mode of life introduced by the monarchy.

Four letters refer to land-allotments made in Italy after the Civil War for the settlement of veterans.[53] They plead the causes of communities and individuals whose land is to be divided by Caesar's commissioners. Two are addressed to Q. Valerius[54] Orca who was in charge of the division of lands at Volaterrae; the first[55] pleads the case of the entire municipality,

whereas the second,[56] far more limited in scope,[57] is on behalf of the newly-made senator, C. Curtius[58], whose very ability to keep his rank depends on his continued possession of his estate at Volaterrae.[59] Another letter[60] is addressed to Cluvius[61] who is in charge of the division of land in Cisalpine Gaul[62] in which the ager vectigalis of Atella is located. The last one,[63] to M. Rutilius,[64] is made on behalf of the senator C. Albinius[65], who received in lieu of a debt ('in aestimationem')[66] an estate which was bought from confiscated land and whose title to it depends, therefore, on Caesar's sale.[67]

With the exception of the last one, it has been suggested that 'all these letters relate to the resumption of ager publicus for distribution rather than to expropriation of private owners with a clear title.'[68] The case of C. Albinius is puzzling if Cicero is disclosing all the circumstances - which some suspect he is not[69] - for Caesar would be undermining his own dispositions by dividing a territory whose title depends on them.[70]

So far the nature of the property in question. It might be added here that it is quite likely that all this has its bearing on the issue; drawing the attention of the man in charge to special circumstances which have been overlooked at the time for formulation of a general policy of confiscation might lead to its modification in particular cases; the example of Regium[71] proves that the policy was not intransigent; this cases could be referred back for re-appraisal and could possibly result in a grant of special dispensation from the general application of the rule.

However, the crucial point seems to lie in the question of the actual competence - constitutional or otherwise - of the persons appealed to here.

Regarded as a passing phase in which policies could hardly have been formulated and trends, if at all discernible, could hardly have reached their natural conclusions, Caesar's dictatorship has not received from Roman historians the attention it deserves. Questions such as the extent to which the Republican institutions continued to function and real power

inhered in them and the scope given to the exercise of authority by the traditional magistrates and the continued adherence to time-honoured practices and constitutional law have all remained unanswered and have been relegated to the realm of the obscure and the uncertain.

All this tends towards the conclusion reached before: we must rely on the letters themselves to yield us their clues to the period.

A few points, however, must be made first:

(1) Since we are ignorant of the titles of the commissioners (with the exception of Q. Valerius Orca) we are in no position to claim or disclaim any traditional Republican competence for them.[72]

(2) Q. Valerius Orca possessed probably an imperium emanating from and dependent, if we follow the Republican practice, on that of Caesar and therefore subordinate to his.[73]

(3) Yet whether the possession of a Republican title would have made a difference depends solely on Caesar's attitude, at the time, to the constitutional forms: to what extent did he, like Augustus after him, care to maintain a constitutional facade?

In spite of all this, if we bear in mind that Cicero in appealing to these officials is more likely to exaggerate than to minimize the extent of their competence, a few of his remarks are striking in their implication of the imperfect freedom of action left to these people.

Firstly we have a blatant and unequivocal statement of this: 'Non sum nescius et quae temporum ratio et quae tua potestas sit, tibique negotium datum esse a C. Caesare, non iudicium, praeclare intellego.'[74]

Secondly, there is a request to consider the spirit of the dictator's instructions, as revealed in his actions in the past, rather than the letter of the law: so for example in the appeal to Valerius Orca to spare the lands of Volaterrae, he asks the legate to follow Caesar's authority as expressed in the Lex Agraria of 59 B.C., which according to Cicero

confirmed the Volaterrani in their possessions.[75] Again in the case of C. Curtius he points out to Valerius Orca that having enrolled the man in the Senate Caesar would hardly wish him to lose the estate on which his rank as a senator depended.[76] To M. Rupilius he points out, therefore, that by confiscating C. Albinus' estate, Caesar will invalidate his own actions.[77]

Lastly, we find a request to reserve the case intact to Caesar: 'ideo a te non dubitavi contendere ut hanc causam illi integram conservares', Cicero writes to Cluvius;[78] and to Valerius Orca he writes: 'Quam ob rem est tuae prudentiae aut sequi eius auctoritatem, cuius sectam atque imperium summa cum tua dignitate secutus es, aut certe illi integram omnem causam reservare'.[79]

Unlike Cluvius, Valerius Orca, it seems, could follow Caesar's auctoritas without first referring the matter back to him. In other words, he had more discretion than Cluvius had. However, Cicero may out of politeness be refraining from pointing out to a man marked out as an official - legatus pro praetore - and a friend[80] the imperfect authority left to him by Caesar, and therefore uses more subtle language.[81] If this interpretation is accepted, then here too we do not have anything more than a request for intercession with the dictator.

In addition one may notice Cicero's emphasis on his lack of ambitio: 'Nam cum multi a me petant multa, quod de tua erga me voluntate non dubitent, non committo ut ambitione mea conturbem officium tuum';[82] or 'Hoc me non sine causa facere neque aliqua levi ambitione commotum a te contendere etsi te existimare arbitror, tamen mihi adfirmanti credas velim me huic municipio debere plurimum'.[83] This motif, as pointed out before,[84] indicates the recommender's recognition that, under certain circumstances, a selfish and stubborn perseverance in solicitation is both inconsiderate and in bad taste.

It is more than apt here where, as Cicero himself admits, it is not entirely up to his correspondent to grant the request.

As a conclusion to this chapter we might mention a case that remained unresolved at the time of Caesar's death, and therefore casts some light on the complexity of the period which follows: the Buthrotum affair.

The confiscation of the lands of the Buthrctii in order to settle veterans and needy citizens[85] was decreed by Caesar as a penalty for remissness in the payment of a debt. After Atticus had paid the money from his own pocket Caesar promised to settle them elsewhere once they had crossed the sea.[86] Caesar's murder and the ensuing confusion complicated matters and the new powerful politicians of the day, the consuls, C. Antonius and C. Cornelius Dolabella,[87] and later L. Antonius,[88] who was put at the head of the commission of seven to divide all available public land among veteran soldiers and needy citizens, were approached.

We possess seven letters of recommendation written in connection with the affair: one to the consul Dolabella,[89] three to L. Plautius Plancus, the man charged by Caesar with the settlement of the veterans,[90] and three to other persons, C. Cupiennius and C. Ateius Capito, who were either his subordinates or had some influence with him.[91]

One can surmise what powerful interests operated on the opposing sides[92] from the fact that, with all their influence and wealth, Cicero and Atticus failed to achieve what they set out to get; for we know that a colonia Julia was established there.[93]

It is very interesting to note that Cicero implies that, in spite of the senatus consulta and the letters from the consul, the final decision lay with Plancus.[94] Should we assume that the extraordinary authority of Plancus reflects the chaotic political situation at the time and that the existence of conflicting interests at the top conferred power on the lower official?

Maybe, even without being torn from within, the central government failed altogether to command obedience from an official who held a commission and asserted independence. We know that Plancus was an ardent republican.[95] This might have made him less amenable to carrying out Caesar's acta. This interpretation gains force from the constant emphasis Cicero puts on the necessity of abiding by them, in spite of one's reservations, in order to prevent a total upheaval: 'ea te esse prudentia ut videas, si ea decreta consulum quae de Caesaris actis interposita sunt, non serventur, magnam pertubationem rerum fore. Equidem cum multa non probentur quae Caesar statuit, tamen oti pacisque causa acerrime illa soleo defendere.'[96]

If the progress of the Roman State on the road to monarchy was hampered by Caesar's assassination, it seems that the Res Publica was not the gainer: the anarchy that followed endangered the very unity of the Empire. Hence, the paradoxical reliance on the acta of the dictator: his legacy would not be dispensed with after all.

PART II: CICERO'S LETTERS OF RECOMMENDATION: SOCIETY, GOVERNMENT AND JURISDICTION IN THE PROVINCES

Chapter 1

GENERAL CONSIDERATIONS

If we let ourselves be guided by Cicero's correspondence, we almost inevitably come upon the provincial scene since most of Cicero's letters of recommendation are addressed to Roman officials in the provinces. They are written on behalf of Romans and provincials who came under the officials' sphere of competence and influence, or their imperium (or potestas) and auctoritas.[1]

However, it is very rarely that Cicero mentions these terms explicitly. Dozens of letters of recommendation yield but a handful of such explicit references and even then their exact content eludes us: their meanings are only hinted at and vaguely outlined.

In his letter[2] to the governor L. Culleolus[3] Cicero tells his correspondent that although the people of Byllis have promised to pay their debt to L. Lucceius, nevertheless 'vehementer opus est nobis et voluntatem et auctoritatem et imperium tuum accedere'.[4] In his recommendation of the African public company[5] Cicero requests Q. Valerius Orca, the governor of Africa, to show Cicero's protégés 'omne genus liberalitatis, quod et ab humanitate et potestate tua proficisci poterit'[6] adding: 'quae quantum in provincia valeant veilem expertus esse, sed tamen suspicor'. When requesting P. Furius Crassipes, quaestor of Bithynia-Pontus under P. Silius, to protect and promote the interests of the public company operating there,[7] Cicero parenthesizes: 'cuius rei quantam potestatem quaestor habeat non sum ignarus'.[8] Similarly he writes to Q. Minucius Thermus, the governor of Asia, who is presumably going to adjudicate the case between Cicero's legate

M. Anneius and the people of Sardes:[9] 'me non fugiat quanta sit in praetore auctoritas'.[10]

One may mention the expressions 'te obtinente Achaiam' in the recommendation of C. Aemilius Avianius and his freedman to Ser. Sulpicius Rufus,[11] and 'te provinciam obtinente' in the recommendation of Q. Pompeius to Curius.[12]

Finally in another letter to Ser. Sulpicius,[13] this time on behalf of L. Mescinius, Cicero's former quaestor, he requests the governor 'ut eius negotia ... explices et expedias cum iure et potestate, quam habes, tum etiam auctoritate et consilio tuo'.[14]

The paucity of references to official authority vested in the recipient is further emphasized by the many appeals to the man's humanitas, liberalitas, voluntas, integritas, mansuetudo, clementia, officium, studium etc. All of these are patently personal qualities not derived from the man's official position. Sometimes these personal qualities are mentioned in the same breath as official authority, as in most of the examples given above, but in general the appeal is only to them:

- (to Caesar) Huic ego ... benevolentiam tuam et liberalitatem peto .[15]
- Cui (scil. Caesari) quidem ego rescripsi, quam mihi gratum esset futurum si quam plurimum in te studi, offici, liberalitatis suae contulisset .[16]
- (to Crassipes) a te peto Cn. Pupium ... omnibus tuis officiis atque omni liberalitate tueare .[17]
- (to Silius) Id cum gratum mihi erit tum etiam existimabo te humanitate tua esse usum'.[18]
- (to Silius) 'sed quoniam, quem ad modum omnes existimant et ego intellego, tua cum summa integritate tum singulari humanitate et mansuetudine consecutus es ut libentissime Graecis nutu quod velis consequare .[19]
- (to Sulpicius) a te peto ... ut eum etiam atque etiam tuis officiis, liberalitate complectare .[20]
- (to Brutus) ipsosque ... ut quam honorificentissime pro tua natura et quam liberaliissime tractes .[21]

- (to Acilius) Quapropter velim ... quibus rebus ... poteris, quam honorificentissime et quam liberalissime C. Flavium tractes .[22]

- (to Valerius Orca) Eorum ego domicilia, sedes, rem, fortunas ... tuae fidei, iustitiae, bonitatique commendo .[23]

- (to Sulpicius) quom ea facies Lacedaemoniorum causa quae tua fides, amplitudo, iustitia postulabit ... [24]

- (to Cornificius) si negotia Lamiae ... defenderis, gratius mihi futurum quam si ea tua liberalitas pertinuisset ad rem familiam meam. [25]

In the same way very few recommendations explicitly ask for an official act on the part of the recipient. Generally they are requests to extend his friendship (amicitia, necessitudo, fides and similar locutions) to the person or persons recommended:

- (to Valerius Orca) Ipsum hominem, quem tibi commendo, perdignum esse tua amicitia.[26]

- (to Ancharius) commendo tibi ... adulescentis ... tua amicitia dignissimos.[27]

- (to Silius) perficias ut M. Anneius intellegat te et sibi amicum esse ... et multo amiciorem his meis litteris esse factum.[28]

- (to Allienus) recipias eum in tuam fidem ... si ... dignum eum tua amicitia hospitioque cognoveris peto ut eum complectare, in tuis habeas.[29]

- (to Sulpicius) Lysonem in fidem necessitudinemque tuam recipias.[30]

- (to Quintius Gallus) Oppium igitur praesentem ut diligas.[31]

- (to Sulpicius) eum et amicitia tua ... si tibi sit cognitus, dignum sis existimaturus.[32]

- (to Sulpicius) ut eius procuratorem ... diligas habeasque in numero tuorum.[33]

- (to Sulpicius) eum in amicitiam tuam receperis.[34]

- (to Sulpicius) Eum tibi ... commendo ut ... tua necessitudine dignissimum.[35]

- (to Brutus) Bonos viros ad tuam necessitudinem adiunxeris.[36]

- (to Brutus) Qua re ut ... tua dignum amicitia tibi commendo.[37]

- (to Brutus) tu ipse L. Titium cognosces amicitia tua dignissimum.[38]

- (to Acilius) habeasque in numero tuorum.[39]

- (to Servilius) tu ipse eum dignum hospitio tuo iudicares ... receperis eum in fidem tuam.[40]

- (to Servilius) eum recipias in fidem habeasque in numero tuorum.[41]

- (to Curius) hunc in primus ... in tuam fidem recipias.[42]

- (to Caesius) eum in tuam fidem recipias.[43]

- (Caelius to Cicero) M. Feridium ... tibi commendo et te rogo ut eum in tuorum numero habeas.[44]

Cicero's replies to recommendations addressed to him prove that the terminology of friendship was adopted by the recipients as well:

- (to Cassius) quod te ab eo egregie diligi sensi, multo amicior ei sum factus.[45]

- (to Atticus) Numestium ... libenter in amicitiam recepi.[46]

Finally we may note the non-committal verbs which are used, perhaps euphemistically but constantly nevertheless, in the context of the request, e.g. iuvare, adiuvare, commodare, expedire, ornare and paraphrases of these. A few examples may suffice: 'ut de loco, quo deportet frumentum, et de tempore Avianio commodes';[47] 'quod habet in tua provincia negoti expedias';[48] 'T. Manlium ... quibuscumque rebus ... poteris, iuveris atque ornaveris';[49] 'ut tibi ea res curae sit operamque des ut per te quam commodissime negotium municipi administretur'.[50]

The informal language and the personal tone are altogether fitting to the nature of these letters: although in the main not intimate they are neither official nor semi-official letters, as one writer describes them,[51] but private letters even when addressed to officials. As has been shown above[52] it is the ties of friendship uniting the persons concerned which are the main justification for putting forward such requests.

However, the appeals contained in letters of recommendation not infrequently touch upon the official powers vested in the recipient, especially, as we shall have occasion to see, upon his juridical powers. In what light then are we to regard these personal and non-official interventions in the working of provincial government?

The answer to this question will also be our assessment of the nature and scope of the requests put forward in letters of recommendation. Before we can do this, however, we must glance briefly at the principles underlying the working of Roman provincial government, the code of behaviour to which its officials subscribed and the nature and scope of the discretion which we allow them to have had.

As is well known, the provincial governor enjoyed very wide discretionary powers. Cicero contrasts them once with those enjoyed by the praetors at Rome: many factors restrict the praetor's freedom of action at Rome, 'ubi tanta adrogantia est, tam immoderata libertas, tam infinita hominum licentia, denique tot magistratus, tot auxilia, tanta vis plebis , tanta senatus auctoritas.'[53] No such checks exist on the powers of the provincial governor, for here, in the provinces 'tanta multitudo civium, tanta sociorum, tot urbes, tot civitates unius hominis nutum intuentur ... nullum auxilium est, nulla conquestio, nullus senatus, nulla contio.'[54]

Moreover, the provincial governor, unlike the praetor at Rome, was not bound by the terms of the Lex Cornelia of 67 B.C., which demanded: 'ut praetores ex edictis suis perpetuis ius dicerent'.[55] Hence the governor did not have to abide by the terms of his own edict, let alone by those of his predecessors' edicts or those of the lex provinciae.[56]

Whatever real constitutional checks there were on the almost untrammelled powers of the provincial governor seem to have amounted to a general supervision of the senate over the provinces,[57] the charters of individual cities[58] and the constant threat of being put on trial at Rome for crimes committed during his term of office. The governor's position in relation to the senate and the charters of cities will be discussed later. In the meantime it may be pointed out that the effectiveness of these measures and safeguards depended to a large extent on a non-constitutional factor

whose importance can hardly be over-emphasized, namely the governor's concern for his reputation and prestige - his existimatio.[59]

In his famous advisory letter to his brother Quintus, the proconsul of Asia at the time, Cicero compares the province to a theatre in which one displays one's virtues and enhances one's existimatio.[60]

> Qua re quoniam eius modi theatrum totius Asiae virtutibus tuis est datum, celebritate refertissimum, magnitudine amplissimum, iudicio eruditissimum, natura autem ita resonans ut usque Romam significationes vocesque referantur, contende, quaeso, atque elabora non modo ut his rebus dignus fuisse sed etiam ut illa omnia tuis artibus superasse videare.[61]

The claim made for the crucial importance of the governor's existimatio is fully substantiated by the tone and manner of Cicero's letters of recommendation to provincial governors. Here, various locutions and formulae receive their explanation. In fact, regard for the governor's existimatio is one instance of the general regard for the recipient's interests which is the key to the decorum of letters of recommendation. The full list[62] of saving clauses and formulae given below shows clearly that no other obstacle to compliance with a request was assumed apart from the fear that the request might injure the governor's existimatio.[63] The most elaborate expression of Cicero's desire to do justice to both claims, that of the recommended person's interest on the one hand and that of the governor's existimatio on the other hand, is found in a letter to P. Servilius Rufus, the governor of Asia in 46 B.C., written on behalf of the sons of Antipater of Derbe:[64]

> A te autem pro vetere nostra necessitudine etiam atque etiam peto ut eius filios, qui in tua potestate sunt, mihi potissimum condones, nisi quid existimas in ea re violari existimationem tuam. Quod ego si arbitrarer, numquam te rogarem mihique tua fama multo antiquior esset quam illa necessitudo est; sed mihi ita persuadeo (potest fieri ut fallar) eam rem laudi tibi potius quam vituperationi fore.

No less eloquent are the briefer clauses inserted in many of the letters:

-- (to Brutus) operamque des, quoad tibi aequum et rectum videbitur, ut quam commodissima condicione libertus Strabonis ... negotium conficiat.[65]

- (to Sulpicius) T. Manlium ... quibuscumque rebus honeste ac pro tua dignitate poteris, iuveris atque ornaveris.[66]

- (to Sulpicius) Is (Scil., L. Mescinius) quamquam confidere videbatur te sua causa quae honeste posses libenter esse facturum ...[67]

- (to Sulpicius) Illud praeterea, si non alienum tua dignitate putabis esse, feceris mihi pergratum ...[68]

- (to Sulpicius) Quod reliquum est, velim augeas tua in eum beneficia omnibus rebus, quae te erunt dignae.[69]

- (to Sulpicius) quom ea facies Lacedaemoniorum causa quae tua fides, amplitudo, iustitia postulabit ...[70]

- (to Acilius) quibus rebus honeste ac pro tua dignitate poteris, quam honorificentissime ... C. Flavium tractes.[71]

- (to Acilius) Quam ob rem peto a te ... ut iis omnibus in rebus, quantum tua fides dignitasque patietur, commodes.[72]

- (to Acilius) peto a te ut honoris mei causa eum expedias tantumque ei commodes et in hac re et in ceteris, quantum tua fides dignitasque patietur.[73]

- (to Thermus) omnibus in rebus ei commodes, quoad fides tua dignitasque patietur; patietur autem in omnibus: nihil enim abs te umquam, quod sit alienum tuis aut etiam suis moribus, postulabit.[74]

- (to Thermus) operamque des, quoad fides tua patietur, ut socrus adulscentis rea ne fiat.[75]

- (to Thermus) Ius enim quem ad modum dicas clarum et magna cum tua laude notum est; nobis autem in hac causa nihil aliud opus est nisi te ius instituto dicere.[76]

- (to Silius) Pergratum igitur mihi feceris ... si dederis operam, quoad tua fides dignitasque patietur, ut quam plurimum pecuniae Pinnio solvatur Nicaeensium nomine.[77]

- (to Silius) a teque vehementer ... peto ut quod habet in tua provincia negoti expedias, quod tibi videbitur rectum esse ipsi dicas.[78]

- (to Servilius) quibuscumque rebus honeste ac sine molestia tua poteris adiuveris.[79]

- (to Servilius) Peto igitur a te ut in ea controversia ... et in ceteris rebus quantum fides tua patietur quantumque tuo commodo poteris tantum ei honoris mei causa commodes.[80]

- (to Servilius) Peto igitur ut memineris te omnia, quae tua fides pateretur, mihi cumulate recepisse.[81]

We learn indirectly from this list the attributes necessary for the governor's existimatio or dignitas: iustitia, fides, ius, aequitas, honestum and rectum are the typical terms. More explicit definitions are offered in the letter to Quintus: 'Qua re sint haec fundamenta dignitatis tuae: tua primum integritas et continentia',[82] and a little further: 'qua re sit summa in iure dicendo severitas, dum modo ea ne varietur gratia sed conservetur aequabilis'.[83]

But are not letters of recommendation, by their very nature, overt attempts to compromise the governor's integrity and impartiality, to sway him in favour of one group whose interests they represent?

Most of Cicero's letters of recommendation to provincial governors are written on behalf of Roman negotiatores and publicani whose interests often if not always clash with those of the provincials. In fact Cicero admits to his brother Quintus that to reconcile the conflicting interests of these two groups is the hardest task confronting the provincial governor:[84]

> Atque huic tuae voluntati ac diligentiae difficultatem magnam adferunt publicani: quibus si adversamur, ordinem de nobis optime meritum et per nos cum re publica coniunctum et a nobis et a re publica diiungemus; sin autem omnibus in rebus obsequemur, funditus eos perire patiemur quorum non modo saluti red etiam commodis consul ‹ ere deb› emus. Haec est una, si vere cogitare volumus, in toto, imperio tua difficultas.

And if letters of recommendation are intended to tilt this delicate balance in favour of one group, may one not suggest that although the surface never so much as hints at them, the polite language of social intercourse conceals sinister appeals to coercion and the use of brute force? May one go even further and maintain that many of the acts of abuse, exploitation and oppression committed by Roman officials in the provinces were initiated and perpetuated by such seemingly innocuous letters?

We may recall in support of this view the famous incident of Brutus and the people of Salamis.[85] The letter of recommendation written to

Cicero by Brutus on behalf of M. Scaptius and P. Matinius presumably read like any of Cicero's recommendations of money-lenders in the provinces, as might be gathered from the letters to Atticus where Cicero partly quotes, partly paraphrases its contents:

- Familiares habet Brutus tuus quosdam creditores Salaminiorum ex Cypro, M. Scaptium et P. Matinium; quos mihi maiorem in modum commendavit.[86]

- quin etiam libellum ipsius habeo, in quo est 'Salamini pecuniam debent M. Scaptio et P. Matinio, familiaribus meis', Eos mihi commendat; adscribit etiam et quasi calcar admovet intercessisse se pro iis magnam pecuniam.[87]

Cicero promised to comply with Brutus' request: 'Pollicitus ei (sc. Scaptio) sum curaturum me Bruti causa ut ei Salamini pecuniam solverent'.[88] The request to confer a praefectura on Scaptius so as to enable him to use military force in order to exact the debt from the people of Salamis was not conveyed in writing, but was made orally by the recommended person: 'Egit Scaptius gratias; praefecturam petivit'.[89] Thus it may be assumed that Cicero's recommendations too were accompanied by such oral requests - or the governor was expected to read such a request between the lines - which patently give the lie to the manner and content of the written appeal, which explicitly requested a peaceful intervention, limited by the demands of justice and equity.

The sequel of the Salaminian affair, however, proves the opposite of what the above opinion maintains: Cicero could not reconcile the request for a praefectura with his own existimatio, which as he saw it rested on not bestowing a praefectura on a negotiator and in abiding by the terms of his own institutum.[90] We shall have more to say about this affair. In the meantime we may use its evidence that at least one governor refused to go beyond what could be honourably committed to writing, and what befitted the decorum of a letter of recommendation, in order to rebut the view which cynically dismisses the courtesies and civilities

in letters of recommendations as mere lip service paid to a code of behaviour to which no one subscribed.

In fact the evidence of our letters seems to redress the imbalance reflected in the traditional view of Roman provincial government: acts of abuse and maladministration may have eclipsed in their glaring and conspicuous brutality the more tranquil and regular conduct of provincial government.

There is much to be said for the view which regards letters of recommendation not as calls for coercion but as calls for an exercise of auctoritas, namely a call for the use of the governor's influence in order to convince the provincials to come to terms with the Roman publicans and moneylenders. However, the possibility of peaceful collaboration with the provincials seem to have depended on the governor's ability to have gained beforehand a reputation - existimatio - for integrity and clemency. Thus the governor's existimatio both prepares the way for collaboration with the provincials and is, in turn, enhanced by it.

The letter to Quintus, on whose evidence we have drawn before, makes it quite clear that this is the only way in which the governor may hope to reconcile the almost incompatible interests of the Greeks and the Romans in the province:[91]

> potes etiam tu id facere ... ut commeres quanta sit in publicanis dignitas, quantum nos illi ordini debeamus, ut remoto imperio ac vi potestatis et fascium publicanos cum Graecis gratia atque auctoritate coniungas ... et ab iis de quibus optime tu meritus es et qui tibi omnia debent hoc petas, ut facilitate sua nos eam necessitudinem quae est nobis cum publicanis obtinere et conservare patiantur.

Cicero used this very argument in order to convince the people of Salamis to pay their debt to their Roman money-lenders:[92] 'petivi etiam pro meis in civitatem beneficiis ut negotium conficerent'.[93]

It is not a coincidence, therefore, that it is those governors who are known to have conducted themselves most honourably, P. Silius and

Q. Minucius Thermus[94], who receive requests to use their personal influence with the provincials. Q. Minucius Thermus' auctoritas is founded on his integritas, gravitas, and clementia[95] and similarly that of P. Silius on his integritas, humanitas and mansuetudo.[96] To the latter Cicero writes on behalf of the public company which farms the scriptura: he requests Silius' assistance in concluding the pactiones with the reluctant cities, confessing that he himself could not induce the cities to reach an agreement with the company's representative, P. Terentius Hispo 'sed quoniam, quem ad modum omnes existimant et ego intellego, tua cum summa integritate tum singulari humanitate et mansuetudine consecutus es ut libentissime Graecis nutu quod velis consequare, peto a te in maiorem modum ut honoris mei causa hac laude Hisponem adfici velis'.[97]

To read more sinister intentions into this language is to charge Cicero with downright hypocrisy. The onus of proof, particularly in the case of recommendation written to upright governors,[98] is on those who refuse to take the manner and the tone on the one hand and the terminology on the other hand on their face values.

The need for peaceful collaboration with the provincials is further explained by the essential passivity of Roman provincial administration.[99] On the whole one tends to accept Greenidge's formulation that 'the amount of administrative work which the governor undertook was as much or as little as he pleased'.[100] The governor's intervention in provincial affairs was bound to be fitful and intermittent and often followed upon the exercise of initiatives from below, not the least among which are the letters of recommendation.

Another aspect of these letters is hereby revealed: they fulfilled an essential function in a system which left the governor with wide discretionary powers on the one hand and without the machinery needed to discharge judicial and administrative transactions on a regular and impersonal basis on the other hand. Hence we may regard these letters as part and parcel of the Roman

political system as opposed to assigning to them the ancillary role which they have in modern bureaucracy. One can hardly regard letters of recommendation as irregular interferences in the regular working of government where no such regularity existed. There is room to suspect that whatever we might resolve into a well-defined system of government, may have been in reality a sequence of ad hoc decisions resulting from personal appeals, in the name of personal ties, to wide discretionary powers vested in the official addressed. This wide discretion of the Roman governor, the absence of 'a clearly defined sphere of competence in the legal sense' should deter us from too hastily branding the governor's bestowal of personal favours as illegal. At the same time it extended the realm of what was considered legal to cover all that was tolerated by public opinion and the governor's conscience or rather his regard for his own existimatio. Within this realm personal and non-official influence could be brought to bear.

In Weber's words, we are still in a pre-bureaucratic stage of development, where the practice of discharging state transactions by 'purely objective considerations' and 'without regard to persons, sine ira ac studio' does not constitute the norm of conduct, 'love, hatred and all purely personal and irrational and emotional elements which escape calculation' have not yet been eliminated from official business. The Roman official still comes under the definition of 'the lord of older social structures who was moved by personal sympathy and favor, by grace and gratitude', his sphere 'constitutes a realm of free, arbitrary actions and discretion, of personally motivated favor and valuation'.[101]

In this respect as in many others the letters of recommendation seem to be the best evidence we have for determining certain social and political attitudes which underwrote the working of Roman provincial government. At the same time this fact makes it harder for us to erect a framework according to which such letters should be interpreted.

In order to extricate ourselves from the vicious circle in which we seem to be caught, the letters must be subjected to a detailed and rigorous analysis. By comparing the bits of information each of them yields against each other and, when available, checking them against external evidence, we might obtain some valuable clues for the interpretation of the letters, as well as of the system within which they were written. At the same time attention will be drawn to deficiencies and imprecisions prevailing in those theories, which, ignoring the details, attempt to reconstruct a consistent Roman system of government.

Yet apart from being invaluable for a proper understanding of the working of the provincial government, these letters reflect faithfully the social scene in the provinces in the Late Republic. Social trends whose real significance will be discovered only under the Empire start taking shape even then. When fully developed these trends will transform the face of the Roman world.

When Aelius Aristides announced in 143 A.D.[102] that τὸ Ρωμαῖον εἶναι ἐποιήσατε οὐ πόλεως, ἀλλα γένους ὄνομα κοινοῦ τινος[103] he was not voicing a naive utopian Stoic ideal but, on the contrary, he was summing up the final result of a long process in which a consolidated universal empire supplanted the rule of a conquering and exclusive city-state. This result was achieved through the elevation, the co-option and finally the assimilation of the provincial oligarchies into the ruling class of a world empire. A network of personal ties based on friendship and common interests prepared the ground for a full participation of these oligarchies in the actual running of the Empire and ultimately for their complete identification with Rome's history and mission.[104]

The beginnings, however, go back to the Republican age, when, simultaneously with acts of oppression, exploitation and violence, ties of friendship were created between influential Romans and a certain class of provincials.[105] Cicero's letters of recommendation provide so many insights into this process.

The human voice, still audible in them, enhances and confirms the dumb lapidary evidence of the inscriptions.[106]

Ties of hospitality and friendship are the reasons adduced by Cicero in recommending provincials for preferential treatment by the Roman provincial authorities. Behind these ties several factors, which helped to bring them about, can be discerned: local status, wealth, social connections with other Romans, education and in some cases the possession of Roman citizenship.[107]

Sponsored by eminent Romans and thereby singled out from the rank and file of Rome's provincial subjects, these people not only consolidated their local ascendancy, but in fact acquired a new status whose terms transcended the local context to make them an imperial privileged class.[108]

The third chapter of the discussion of Cicero's letters of recommendation will be dedicated to this issue: it will concentrate on letters of recommendation written on behalf of provincials.

It might have been suggested that the process we have just described has its complement in the provincialization of the Romans who emigrated into the provinces and founded their homes there. Common economic interests cemented by common worship, cultural ties and inter-marriage, resulted in the fusion of these people with the local upper classes.[109] The initial privileged status of both groups - reflected in our letters - facilitated this process. But here we must tread warily. Many recommendations are given to Romans who were not resident in the provinces and whose business there was discharged through agents, procuratores, usually freedmen.[110] Others, although present in the provinces, did not establish a permanent base there. Moreover, at this stage, conflicting interests between these two groups still take precedence over common ones. The mentality of an exploiting conquering race underlies many of the recommendations given to Romans with interests in the provinces.

Some of these letters will be reviewed closely in the following chapter: provincial government, as observed before, may be viewed as a series of

decisions about issues raised in them.[111] The social aspect of recommendations of Romans, namely the co-operation between the moneyed and the political classes, between the equestrian and the senatorial orders, between politics and business interests, these issues have been the subject of many detailed discussions.[112] There is no need to recapitulate the various arguments here. We shall touch on them, however, in the last chapter which deals with the effectiveness of letters of recommendation as seen in the Ciceronian corpus.

A minute analysis of every single letter of recommendation written by Cicero would be both impossible and unnecessary. Only recurrent themes and salient features will be treated below. For the rest, a table will list the entire corpus according to date, persons concerned and their status and subject matter.[113] A cursory glance at the contents of the column which classifies the requests according to subject matter reveals what the Introduction to this work will have foreshadowed, namely that most of the letters contain no specific item of business for which succour is requested. The letters, as we have noticed before,[114] are couched in the most general terms and read more like testimonials of character. Of the numerous examples available only one need be quoted fully here:[115]

> P. Messienum, equitem R. omnibus rebus ornatum meumque familiarem, tibi commendo, ea commendatione quae potest esse diligentissima. Peto a te et pro nostra et pro paterna amicitia ut eum in tuam fidem recipias eiusque rem famamque tueare. Virum bonum tuaque amicitia dignum tibi adiunxeris mihique gratissimum feceris.

Sometimes, probably, no more was intended than an introduction which by rescuing the man from anonymity could serve for future eventualities, unforeseen at the time of writing. In other general recommendations the lack of specification is to be ascribed to Cicero's superficial acquaintance with the man recommended; they convey the impression of some vagueness in Cicero's mind as to what is demanded of him. The following is suggested as an example:[116]

> P. Cornelius, qui tibi litteras has dedit, est mihi a P. Cuspio commendatus; cuius causa quanto opere cuperem deberemque profecto ex me facile cognosti. Vehementer te rogo ut cures ut ex hac commendatione mihi Cuspius quam maximas quam primum quam saepissime gratias agat.

In this case, as in many others, any specific item of business would presumably be conveyed by the recommended person himself.

The majority of recommendations given to provincials fall into the category of 'general recommendation'. Here the sole purpose of the recommendation, as we shall see later,[117] might have been to introduce the man to the governor as worthy of his special attention and thus to single him out from the anonymous mass of subjects. This is explicitly stated in the recommendation of Democritus of Sicyon to the governor of Sicily, A. Allienus:[118]

> Huic ego tantum modo aditum at tuam cognitionem patefacio et munio; cognitum per te ipsum, quae tua natura est, dignum tua amicitia atque hospitio iudicabis.

However, when these factors have been taken into account and due allowance has been made for the demands of decorum[119] and for technical considerations which suggest that a single letter of recommendation is not supposed to take its effect in isolation from other factors,[120] there is still room for suspicion that our ignorance regarding the realities of life in the provinces and the range of possibilities there is to blame for the elusive nature of the unspecific general recommendations. The obscurity increases when we have no internal or external information about the status or occupation of the person recommended and, therefore, no explanation for his presence in the province.[121] Conversely, even a general recommendation may be rendered more specific when the man is introduced as a negotiator, as is M. Curius 'qui Patris negotiatur',[122] or T. Manlius 'qui negotiatur Thespiis',[123] or when we possess external information about his occupation, as in the case of L. Cossinius, who, as we learn from Varro's De Re Rustica, was a landed proprietor in Epirus.[124]

However, the task of interpretation is not easy even in those cases which mention explicitly the man's occupation and recommend his negotium,

negotia or res; for, as has been shown elsewhere,[125] these terms may refer to various items of business: money-lending, trading, banking, or any combination of these. A further obstacle to clarity and certainty here is the vagueness of the hortatory and supplicatory verbs in which the recommendation of the man's provincial affairs is couched, e.g., commodare, expedire, iuvare, adiuvare, tegere, tueri, defendere, curae esse, operam dare etc.[126] : what measures was the governor expected to take in order to meet these requests?

- (to Silius) a teque vehementer etiam atque etiam peto ut quod habet in tua provincia negoti expedias.[127]
- (to Quintius Gallus) Oppium igitur praesentem ut diligas, Egnati absentis rem ut tueare.[128]
- (to Sulpicius) Qua re velim, quidquid habent negoti, des operam, quod commodo tuo fiat, ut te obtinente Achaim conficiant.[129]
- (to P. Caesius) eiusque rem famamque tueare.[130]
- (to Servilius) te rogo at oro ut eum in reliquiis veteris negotiationis conligendis iuves et ceteris rebus tegas atque tueare.[131]
- (to Cornificius) Eum velim rebus omnibus adiuves operamque des ut quam commodissime sua negotia conficiat.[132]
- (to Cornificius) si negotia Lamiae, procuratores, libertos, familiam quibuscumque rebus opus erit defenderis, gratius mihi futurum quam si ea liberalitas pertinuisset ad rem familiarem meam.[133]
- (to Allienus) Ut illius dignitatem praesentis ornes, rem utriusque defendas a te rogo.[134]

However some light may be shed on the meanings lurking behind such requests once we compare them with more specific ones which, on the whole, as we shall see, involve disputes between Roman money-lenders and publicans on the one hand and provincial individuals and communities on the other, but also disputes among the Romans themselves. Most of these disputes involve the presence of procuratores.[135] Hence one is disposed to recognize the validity of Nicolet's hypothesis about recommendations which, while failing to mention a dispute, nonetheless reveal the presence of procuratores: 'Nous pourrons en déduire que même lorsque la commendation ne mentionne pas formellement procès ou controverses en cours, elle en implique au moins la possibilité'.[136]

A case in point may be the recommendation of A. Trebonius to the governor of Cilicia, P. Cornelius Lentulus Spinther.[137] After recommending the man's negotia, liberti, procuratores and familia, Cicero comes to the most important item: 'in primisque ut, quae T. Ampius de eius re decrevit, ea comprobes'. If 'decrevit' means, as it often does, a judicial decision, then the recommendation may refer to litigation which occurred under Lentulus' predecessor, whose result Lentulus is asked to implement.

However, such evidence is not available in other cases, and one should guard against unfounded conjectures. Moreover, there is at least one letter in our corpus which shows that help can be sought in matters other than disputes and litigation. The appeal to a legate of an unknown province, T. Titius,[138] on behalf of C. Avianius Flaccus contains a request to continue special privileges which the man had enjoyed when Pompeius was in charge of the cura annonae:[139]

> A te idem illud peto ut de loco, quo deportet frumentum, et de tempore Avianio commodes, quorum utrumque per eundem me obtinuit triennium, dum Pompeius isti negotio praefuit.

A similar request, for continuation of favours shown to a man under the governor's predecessor, can be read into the recommendation of Q. Pompeius to a governor of an unknown province, Curius:[140]

> Q. Pompeius Sex. f. multis et veteribus causis necessitudinis mihi coniunctus est. Is cum antea meis commendationibus et rem et gratiam et auctoritatem suam tueri consuerit, nunc profecto te provinciam obtinente meis litteris adsequi debet, ut nemini se intellegat commendatiorem umquam fuisse.

These two letters may not be the only examples of requests for continuation of former favours in the transition from one governor to another: many of the letters of recommendation belong to the early part of the governor's term of office in the province, as can be inferred from a reference to a conversation which had taken place before the governor's departure for his province,[141] or from various other expressions. So, for example, Cicero writes to the legate Quintius Gallus:[142] 'Velim memoriae tuae causa des litterarum aliquid, quae

tibi in provincia reddantur, sed ita conscribas ut tum, cum eas leges, facile recordari possis huius meae commendationis diligentiam.'

It could be argued therefore that many of the recommendations imply the renewal or confirmation of privileges enjoyed under the addressee's predecessor.

We shall turn now to a discussion of the more specific letters of recommendation using the information contained in them as a lever with which we can raise more general issues of Roman provincial administration.

Chapter 2

CICERO'S LETTERS OF RECOMMENDATION: PROVINCIAL GOVERNMENT AND JURISDICTION

It goes without saying that one should not take the title of this chapter to mean that an attempt will be made here to study the as yet unwritten story of Roman provincial government and jurisdiction. Such an enterprise goes far beyond the evidence yielded by Cicero's letters of recommendation. Invaluable as they are for the first-rate authentic evidence contained in them, these letters can only be expected to fill in gaps, to confirm or modify a general study of these issues. Yet the almost total neglect of their significance in such a context justifies a special study from their point of view, if only to redress the balance.[1] Moreover, as a prism through which one can ascertain, discuss and criticize theories about the Roman provincial government they are more than adequate - indeed, they are indispensable.

As will be seen later, the most controversial issues in Roman history can easily be rekindled in the course of studying these letters: dual citizenship, local law and imperial law (Volksrecht and Reichsrecht), the principle of personality (i.e. 'judging a man according to the law of his own state'[2]) and numerous others. Needless to say, these issues will only be touched upon here. The present discussion will be selective in more than one sense: not all the issues arising from the letters themselves will be treated, and even those issues which will be discussed will not always find a solution; more often than not, these last will be raised only to be dismissed with the suggestion of a need for re-appraisal of the entire issue.[3]

It is precisely because total theories tend to overshadow the details that these letters have not received the attention they deserve. Therefore no such theories will be put forward prelusively, but the details will adumbrate the general outlines of a total system.

1. Appeals in Litigation : Technical and Theoretical Problems.

Generally where the vagueness and obscurity of the letters of recommendation give way to a more definite and specific request, a matter of dispute or litigation is involved. This comes out vividly in a complaint made by one of Cicero's correspondents mentioned by Cicero along with his own retort:[4] 'Itane ? praeter litigatores nemo ad te meas litteras? Multae istae quidem; tu enim praefecisti ut nemo sine litteris meis tibi se commendatum putaret'.

This is hardly a cause for surprise. Jurisdiction, after all, was the main duty of the governor in a peaceful province, as Cicero points out to his brother, the governor of Asia at the time:[5] 'Ac mihi quidem videtur non sane magna varietas esse negotiorum in administranda Asia, sed ea tota iuris dictione maxime sustineri.'

In order to determine the exact role fulfilled by letters of recommendation in the sphere of provincial jurisdiction a word or two must be said about the system under which justice was administered by the governor. Unfortunately the evidence for the late Republic is incomplete. However, we know that the assize system which was common to all the provinces under the Empire[6] existed already in some of the provinces in Republican times.[7] It is hard to know, though, what stage in its development had been reached by then. For Cilicia we have Cicero's evidence, which shows the governor holding annual assizes in fixed assize centres along a fixed route.[8] Cicero's conduct proves, however, that there was a larger measure of flexibility in the Republican assize system: instead

of going on circuit he dispensed justice to six conventus in a single assize held at Laodicea.[9]

The length of an assize seems to have varied in accordance with the bulk of the business and also the governor's pleasure.[10] Later evidence shows that there was no fixed order of cases to ensure a hearing for every petitioner.[11] Hence there arises the problem of access to the governor's court: this provides the occasion for praising the governor who shows facilitas in audiendo[12] and grants faciles aditus to himself,[13] as also for the condemnation of the governor who shows himself inaccessible.[14]

It seems that under these circumstances letters of recommendation may be a great help. One is tempted, therefore, to antedate and apply to the Republican context also the observation made of the imperial situation[15]: 'it was precisely the absence of any formal structure for the preliminaries to the hearings themselves that ensured the effective operation of the informal social influences of status (honos) and bribery (improbitas)'[16]

However, it must be conceded that no explicit request for facility of access to the governor's court is found in letters of recommendation addressed to provincial governors. On the other hand we find two such appeals, using two variants of the same formula, made to the urban praetors: 'ut facilis ad te aditus habeat'[17] and a hightened version: 'ut quam facillimos ad te aditus habeat'.[18]

Although we can safely interpret this formula as a request for accessibility, it is less easy to determine how this accessibility is to express itself. Should the praetor construe it as a modest plea to fix a date for a hearing or as a more ambitious request to let the man 'jump the queue' of litigants trying to gain a hearing at the praetor's court?[19] Both interpretations are legitimate. However, it seems to me that here as elsewhere[20] the formula should not be pressed too hard to yield one

dominant meaning. In fact its indefiniteness is its chief virtue: being vague it is less likely to give offense or meet with a rebuff. Thus not only is the praetor's honour safeguarded but Cicero's as well.

The desire to make the recipient more accessible, although never so explicitly stated, is nevertheless implicit in letters of recommendation to provincial governors. Thus we learn from the letter to Servilius, the governor of Asia, that the magnitude of affairs calling for the governor's attention compels Cicero to persist in recommending Caerellia's affairs to him:[21] 'Caerelliae procuratores scripserunt te propter magnitudinem provinciae multitudinemque negotiorum etiam atque etiam esse commonefaciendum'. Numerous letters in our corpus repeat a request made before either orally[22] or in writing:[23] the governor's business, slowness or inaccessability may have occasioned these repeated appeals. In spite of Cicero's protestations to the contrary, the many letters presumably served as polite reminders. The following example seems to prove this;[24]

> Etsi non dubito quin ad te mea commendatio prima satis valeat, tamen obsequor homini familiarissimo, C. Avianio Flacco, cuius causa omnia cum cupio tum me hercule etiam debeo. De quo et praesens tecum egi diligenter, cum tu mihi humanissime respondisti, et scripsi ad te accurate antea; sed putat interesse sua me ad te quam saepissime scribere. Qua re velim mihi ignoscas, si illius voluntati obtemperans minus videbor meminisse constantiae tuae.

Cicero admits once to Ser. Sulpicius that he often uses the expression of thanks as an opportunity to repeat and strengthen a previous request:[25] 'Licet eodem exemplo saepius tibi huius generis litteras mittam, cum gratias agam, quod meas commendationes tam diligenter observes...'. Thus a letter which sets out as an actio gratiarum often betrays Cicero's real aim at the sequel: the governor has failed to bring the matter at hand to a satisfactory conclusion.[26]

Nevertheless, it still seems to me that the absence of a concrete request for facility of access to the governor's court and, conversely, the insertion of the formula in which such a request is embedded into the letters addressed to the urban praetors may not be merely coincidental. There are other features

which distinguish the two letters to the praetors and set them apart from the rest of the letters. Firstly, both letters stand out for their extreme formality and cordiality. Secondly, although they are addressed to two different praetors and written on behalf of two different litigants, both use almost identical phraeology. No two letters, even when addressed to the same governor bear such a close resemblance to each other. In addition to the request for 'aditus faciles' there are two more requests in the letters to the praetors: (1) 'quae aequa postulabit ut libente te impetret'[27] and the variant 'quae erunt aequa libente te impetret'[28]; (2) 'sentiatque meam sibi amicitiam, etiam cum longissime absim, prodisse, in primis apud te'[29] and the variant: 'ut meam amicitiam sibi, etiam cum procul absim, prodesse sentiat, praesentim apud te'.[30]

The formulaic similarity of the two letters to the praetors encourages us to think of two specimens of a special type with its own rules of decorum. These rules prescribe the tone, the manner and above all the content of recommendations written to praetors. Only certain appeals are tolerated and the tactful writer will not go beyond these: facility of access, fair treatment and due consideration for the recommender's friendship with the litigant. No such limits, it seems, are imposed on requests to provincial governors in matters involving legal disputes. Thus the disparity between the situation at Rome and that in the provinces is brought into further relief in the difference between letters of recommendation to praetors and those to provincial governors: the wide and almost untrammelled discretion of the provincial governor and the privileged position of Roman citizens in the provinces contrast sharply with the circumstance of the praetors and citizens at Rome. Cicero's tact and good taste lead him to adjust the content, the tone and the manner of his requests accordingly: where the competence of his correspondent is more circumscribed by law and tradition (as that of the

praetor at Rome was) Cicero's requests show restraint and moderation.

However, there is also a marked distinction between the background of the letters to the praetors and that of those to provincial governors. Whereas the first envisage legal proceedings, to be conducted in the praetor's court, the legal disputes mentioned in letters to governors do not necessarily imply court proceedings. In fact, more often than not Cicero's requests aim at something other than obtaining the governor's favours at the trial stage. Some letters have a prophylactic and provisory tone, as in case of L. Genucilius Curvus, where Cicero requests Q. Minucius Thermus to hear in the assize centre of the area, i.e. Adramyttium,[31] any dispute which may arise in the future between his man and a provintial:[32] 'si quid habebit cum aliquo Hellespontio controversiae, ut in illam διοίκησιν reicias'. Similarly in the case of L. Manlius who inherited his brother's estate in Sicily, although no complications are foreseen at present, it may be assumed that the recommendation is intended to provide for such an eventuality:[33] 'Nullam omnino arbitramur de ea hereditate contoversiam eum habiturum, et est hodie in bonis; sed quoniam habet praeterea negotia vetera in Sicilia sua, et hanc hereditatem fraternam et omnia eius tibi commendo'. The same may be said about the recommendation of Lyso's son who was adopted by a Roman exile:[34] 'ut eius ipsius hereditatis ius causamque tueare.'

Alternatively, Cicero may attempt to prevent legal proceedings from taking place at all, as he does in the recommendation of the son of his interpres to Q. Minucius Thermus:[35] 'Operamque des...ut socrus adulescentis rea ne fiat'.

In his recommendation of T. Claudius Nero's protégé, Pausanias of Alabanda, Cicero tries to delay legal proceedings pending Nero's arrival[36]: 'de Pausania Alabandensi sustentes rem, dum Nero veniat'. In contrast, Cicero expresses his desire that the case of Nero's other protégé, Strabo Servilius,

should come before the present governor, P. Silius, rather than be put off to the possible rapacity of his successor[37]: 'Strabonem Servilium tibi saepe commendavi; nunc eo facio id impensius, quod eius causam Nero suscepit. Tantum a te petimus ut agas eam rem ne relinquas hominem innocentem ad alicuius tui dissimilis quaestum'.

On other occasions the governor's influence is enlisted as an alternative to legal remedies by inducing the other party to come to terms with Cicero's protégé outside the court. In this way litigation may be forestalled. Thus P. Silius is asked to induce the Greek cities to conclude their pactiones with the representative of the public company in charge of the scriptura, P. Terentius Hispo.[38] An expeditious solution is desired in the case of Cicero's legate, M. Anneius, whose services are indispensable to his superior.[39] If legal proceedings have already begun, we may assume that Cicero attempts to prevent them from dragging on. The alternative explanation is that the recommendation aims at arriving at a swift solution outside the court. The same uncertainty exists in the case of L. Lucceius and the people of Byllis.[40]

Litigation with free cities lies outside the sphere of jurisdiction of the provincial governor.[41] However, the latter may force the cities to send legal representatives (ecdici) to Rome.[42] Similarly, Hippias' controversy with his own city ought to have come before a local court, as we know from the terms of the Lex Rupilia.[43] The appeal to M. Acilius,[44] the governor of Sicily, may imply either that he should put pressure on this court or that he should revoke the case to his own court. In contrast, the case of L. Mescinius should be remitted to Rome although presumably the governor was competent to judge it.[45]

The variety of requests surveyed here suggests a corresponding variety of measures assumed to be at the disposal of the provincial governor.

Whether these putative measures are to be called judicial, administrative, extra-judicial, authoritative or something different is often merely a matter of definition. As has been observed elsewhere,[46] the formulary system often did not apply in those provinces into which it was introduced in the same way as at Rome: the great influence and authority of the provincial governor called into being many hybrid types which resembled in some of their features the cognitio extra ordinem procedure,[47] which could be described as a kind of 'bureaucratic justice'. The appeals to provincial governors, unlike those addressed to the praetors, assume much more than the exercise of iurisdictio by the governor. They call for more than strictly judicial measures, thus faithfully documenting the larger measure of flexibility in the administration of justice in the provinces.

The language they use constitutes another proof: instead of the technical terms generally used in the context of jurisdiction we find in these letters vague and ambiguous terminology: 'peto igitur a te ut in ea controversia, quam habet de fundo cum quodam Colophonio, et in ceteris rebus ... ei honoris mei causa commodes';[48] 'Pergratum igitur mihi feceris ... si dederis operam ... ut quam plurimum pecuniae Pinnio solvatur Nicaeensium nomine;[49] 'Caunii praeterea debent, sed aiunt se depositam pecuniam habuisse. Id velim cognoscas[50] et, si intellexeris eos neque ex edicto neque ex decreto depositam habuisse, des operam ut usurae Cluvio instituto tuo conserventur'.[51] The rules of decorum are partly responsible for the vagueness and ambiguity. However, the possibility cannot be excluded that Cicero refrains from using terms specifying strictly judicial remedies because his mind is set on other measures.

In conclusion, we may suggest that the difference of background between appeals to praetors and appeals to provincial governors goes a long way to explain the restraint found in the one and its virtual or complete

absence in the other. When only iurisdictio is at stake - as in the case of the appeals to the praetors - Cicero is held back from a flagrant display of gratia both by the rules of decorum and out of respect for the ideal of equal and objective justice. We shall return to the latter issue below.

So far we have regarded the language in which the letters are cast as the major sources of confusion and ambiguity. However, there are other obstacles than the merely linguistic in the path to certainty and consequently to a true evaluation of these letters.

Firstly, there is the problem of partial and scanty information which conceals from our eyes the various contingencies and circumstances behind a recommendation. The case of M. Fabius recommended to the urban praetor, although outside the geographical scope of the discussion, may serve as an illustration of the tantalyzing and evasive nature of the evidence:[52]

M. Cicero C. Curtio Peducaeano Pr. S.

M. Fabium[53] unice diligo summaque mihi cum eo consuetudo et familiaritas est pervetus. In eius controversiis quid decernas a te non peto (servabis, ut tua fides et dignitas postulat, edictum et institutum tuum), sed ut quam facillimos ad te aditus habeat, quae erunt aequa libente te impetret, ut meam amicitiam sibi, etiam cum procul absim, prodesse sentiat, praesertim apud te. Hoc te vehementer etiam atque etiam rogo.

As we had occasion to point out in another context,[54] the particular circumstances surrounding M. Fabius' case are preserved for us in other letters written on his behalf.[55] His case is rescued thereby from the enigmatic darkness in which an isolated letter of recommendation is shrouded and is thrown into sharp contrast with an almost identical letter to an urban praetor about which no additional details are disclosed elsewhere.[56]

M. Fabius' predicament is set out in a letter to L. Papirius Paetus, whose advice and help are sought:[57]

Is cum ad me Laudiceam venisset mecumque ego eum esse vellem, repente percussus est atrocissimis litteris, in quibus scriptum erat fundum Herculanensem a Q. Fabio fratre proscriptum esse,[58] qui fundus cum eo communis esset.

The appeal to the praetor, before whom the case is about to come, seems to be accounted for fully. But do we have sufficient information to gauge its urgency, in other words do we know whether the odds are against M. Fabius or in his favour? Is there a causal connection between them and the appeal to the praetor? It is clear that no conclusions can be drawn about the nature of the appeal without such foreknowledge. What were the odds then?

In view of what we know about the rules governing the different forms of *societas* the merits of our case will vary considerably in accordance with the kind of *societas* behind it. If it was a case of *societas ercto non cito*,[59] where a provision was made for a unilateral disposition of property held in common,[60] then M. Fabius' case was much more urgent and desperate than if it was a case of a contractual *societas*.[61] In the first case, since the exercise of the *ius prohibendi* of the censors depended on 'the publicity of the acts of manumission and mancipation',[62] it is easy to see how M. Fabius' absence untied his brother's hands and may have put the case beyond remedy. Unfortunately it is at this crucial point that our material fails, and satisfaction is denied us; there is no means of ascertaining the kind of *societas* envisaged here and, consequently, no assessment of the nature of a recommendation to the praetor is possible. The scales have been removed from our eyes only to accentuate the deceptive nature of the material with which we have to work.

Another difficulty in interpretation stems from discrepancies and incompatibilities as between the evidence which can be inferred from our letters and that contained in other ancient and even contemporary sources. As an example we may consider the recommendation of the knight L. Titius Strabo to M. Junius Brutus, the governor of Cisalpine Gaul in 46.[63] Cicero notifies the governor that P. Cornelius, a resident of Cisalpine Gaul, owes money to L. Titius Strabo and that the case has been remitted

to the province by the praetor Volcacius ('Ea res a Volcacio, qui Romae ius dicit, reiecta in Galliam est'). This brief exposition is followed by the request:

> Peto a te ... ut negotium conficiendum cures, ipse suscipias, transigas operamque des, quoad tibi aequum et rectum videbitur, ut quam commodissima condicione libertus Strabonis, qui eius rei causa missus est, negotium conficiat ad nummosque perveniat.

For once the language is free of ambiguities. The italicized words can only mean that Cicero desires that the case will be undertaken by the governor himself. He is aware of no obstacles to this course of action. However the Lex Rubria of 49 B.C.[64] which regulated the jurisdiction of Cisalpine Gaul divided the judicial competence between the local magistrates, and the praetor at Rome leaving out entirely the provincial governor.[65] /c

Various conjectures can be made to reconcile the two pieces of evidence. It may be suggested that at least in those parts of Cisalpine Gaul which were attributed and lacked proper municipal arrangements the proconsul retained his jurisdiction. Or possibly the provisions of the Lex Rubria were more flexible than may be gathered from the fragments which we possess.[66]

Plausible as these explanations may be, we cannot exclude entirely the possibility that Cicero preferred to disregard the provisions of the Lex Rubria in hopes of Brutus' connivance.

The two obstacles to an accurate evaluation of the letters of recommendation dealt with so far have been of a technical nature. We turn now to a different sort of issue: the ethical attitudes disclosed by the letters. Since many of the letters contain appeals to officials to intervene in legal disputes or in litigation, they may justly be held to reflect Roman attitudes to the administration of justice.

A discussion dedicated to them cannot but join issue with Kelly's study of Roman attitudes to the administration of justice or, as the title of the book concerned defines it: Roman Litigation.[67] These appeals are

branded by Kelly as 'Improper Influences in Roman litigation'[68] since they are in conflict with 'the theory of an equal and objective justice' which 'was perfectly familiar to the Romans '.[69] One may make his point even more strongly: aequum ius or aequae leges, namely equality before the law, one law equally binding on all, was regarded by the Romans as the essence and foundation of Republican libertas[70]:

> Quare quum lex sit civilis societatis vinculum, ius autem legis aequale, quo iure societas civium teneri potest, quum par non sit conditio civium? Si enim pecunias aequari non placet, si ingenia omnium paria esse non possunt; iura certe paria debent esse eorum inter se, qui sunt in eadem republica. Quid est enim civitas, nisi iuris societas?[71]

These letters are therefore, in Kelly's eyes, a downright attempt to tamper with the working of the law, even though, on his own admission: 'We never find in so many words the request that justice and the rules of law should be side-stepped or partially applied, only a request for favours as far as justice will permit.' But he goes on to ask: 'are not justice and favour mutually exclusive ideas, even in Latin?'[72] Consequently he dismisses the saving clause, usual in such letters 'so far as your dignity and justice will permit' as a stock phrase 'which probably meant as little to the recipient as to the sender, as the broad wink of gratia passed between them.'[73]

The incompatibility of favour (gratia) and justice (iustitia), observed by Kelly, is illustrated by a definition of the ius civile in one of Cicero's speeches:[74] 'Quod enim est ius civile? quod neque inflecti gratia neque perfringi potentia neque adulterari pecunia possit'.[75] Ius and gratia are contrasted also in a letter of recommendation written to Quintus Cicero, the governor of Asia.[76] Rebuking his brother for acting unlawfully in the case of the praetor designate, L. Flavius, who was heir to an estate in the province but was forbidden by Quintus to come into his inheritance before the demands on it were met, Cicero exclaims:[77]

> Haec mihi verisimilia non videntur; sunt enim a prudentia tua remotissima. Ne deminuat heres? Quid si infitiatur? Quid si omnino non debet? quid? praetor solet iudicare deberi? Quid? ego Fundano non cupio, non amicus sum, non misercordia moveor? Nemo magis; sed vis iuris eius modi est quibusdam in rebus, ut nihil est loci gratiae.

The exercise of gratia cannot be justified by the existence of amicitia between the recommender and the recommended or between the recommender and the recipient, for the judge himself is debarred from showing to a friend more favour than is compatible with the demands of impartial justice:[78]

> At neque contra rem publicam neque contra ius iurandum ac fidem amici causa vir bonus faciet, ne si iudex quidem erit de ipso amico. Ponit enim personam amici cum induit iudicis. Tantum dabit amicitiae, ut veram amici causam esse malit, ut orandae litis tempus, quoad per leges, accommodet.[79]

Thus the exercise of gratia and the elevation of the claims of amicitia over those of justice are strongly condemned by Cicero himself as subversive and incompatible with the principle of aequum ius. Nevertheless, Cicero, with what looks like perverse inconsistency, by writing letters of recommendation lays himself open to this very charge of improper influence and flagrant subversion of justice. The inconsistency is not diminished, nor does the charge lose its force by the insertion of a saving clause. For, as Kelly sees it, the formula 'so far as your dignity and justice will permit' merely pays lip service to an ideal of equal and objective justice 'which no one reckoned on finding ... applied in practice'.[80]

The argument is persuasive but not unassailable. Its main flaw consists in compelling us to regard Cicero either as a hypocrite or as naive. He is the former if we accept Kelly's cynical dismissal of the saving clause as mere lip service; and he is the latter if he is unaware of the difficulty of yoking together two disparate and incompatible concepts, gratia and iustitia, and trying to satisfy both the demands of justice and friendship simultaneously.

It is essential therefore that we focus our attention on the context and circumstances in which the individual request occurs and also on its precise content. It immediately becomes clear that there are often extenuating circumstances which keep the exercise of gratia within the bounds of iustitia and allow it to be compatible with it.

Firstly, it should be recalled that the letters are not attempts to influence the verdict itself directly. They call on the governor to employ his discretion in the preliminaries, the procedure, the pace of the proceedings and so forth.[81] Interference in these need not necessarily constitute a violation of justice, since the discretion of the governor was wide and the system was flexible: the use of discretion need not entail a reversal of justice.

Secondly, court proceedings were distasteful to the Romans and they tried to avoid them:[82] the recommendation was one way of doing so. May one not regard appeals to achieve a settlement outside court as motivated by this desire rather than by a more discreditable one?

In the third place, although Cicero relies heavily on his gratia and presses the demands of amicitia, he nevertheless does not regard them as sufficient grounds for obtaining a favourable verdict: it is often claimed or implied that the recommended person has a good case.[83] Even where he seems to be putting the claims of gratia before those of iustitia:[84] 'Sed mihi minus libet multa de aequitate rei scribere, ne causa potius apud te valuisse videar quam gratia', this declaration actually follows an exposition of the merits of the case.

In other words a commendatio is never tantamount to an open attempt to override legitimate claims, to further illegal interests, in short to trample justice under foot. Conversely, it should not be assumed that were the request legitimate, the law unambiguous and justice on the side of the recommended person, a letter of recommendation would not have been written.

Fourthly, although the claims of friendship should not be put before those of justice, they may still be considered relevant to the case. The continual emphasis on the friendship between Cicero and the recommended person and the accompanying catalogue of the man's virtues are the most meaningful testimony to the credibility, trustworthiness and good character of the litigant. These always had much weight in the Roman courts, and were to be seriously considered along with the facts themselves. In fact the letters of recommendation fulfilled the same function as that fulfilled by evidence of character, a testimonium or a laudatio.[85] The latter was considered a legitimate element in court proceedings:[86] 'et laudare testem vel contra pertinet ad momentum iudiciorum, et ipsis etiam reis dare laudatores licet'. In the absence of the laudatores, their laudationes, as we learn from Republican evidence, could be submitted in writing.[87]

More than two centuries after Cicero, another writer of epistulae commendaticiae, M. Cornelius Fronto, explicitly likens the commendatio to the laudatio, defending thereby the transfer of the laudatio from the court to a letter:[88]

> Commendandi mos initio dicitur benevolentia ortus cum suum quisque amicum ali amico suo demonstratum conciliatumque vellet. Paulatim denique iste mos progressus est, ut etiam eos qui publico vel privato iudicio disceptarent, non tamen improba res videretur iudicibus ipsis aut iis, qui consilio adessent, commendare, non opinor ad iustitiam iudicis labefactandam vel de vera sententia deducendam. Sed iste in ipsis iudiciis mos inveteratus erat causa perorata laudatores adhibere, qui quid de reo existimarent, pro sua opinione cum fide expromerent; item istae commendantium litterae laudationis munere visae sunt.

Many studies have been written on the nature of the judicial proof in Roman litigation.[89] All of them concur in stressing the prominent role played by evidence of character in the courts and the great weight placed by the courts on the character of the parties and the witnesses alike. This last was considered to have a direct bearing on the credibility of the witnesses' evidence.[90]

> Trois mots reviennent constamment à propos des témoins; **dignitas**, gravitas, auctoritas. Ils montrent que le témoinage n'a pas d'autorité automatique, qu'il se pèse, et que son poids n'est que celui de la personne qui témoigne. Enfin, et cela encore revèle combien l'homme compte plus que ce qu'il peut dire, à côté des témoins proprement dits une place très grande, exagerée à nos yeux, est accordée aux laudatores, qu'il s'agisse de particuliers ou de délégués officiels de cités provinciales, ce sont de simple témoins de moralité, témoins de l'homme, mais non des faits.

Cicero's statements in various places confirm this, e.g.:[91] 'persona autem non qualis cumque est testimonii pondus habet; ad faciendam enim fidem auctoritas quaeritur'. The insistence on auctoritas becomes so persistent that in many passages this word stands for evidence, whereas auctor is used to refer to a witness.[92]

Once we agree that the commendatio may be regarded as evidence of character we may legitimately apply to the recommender all that applies to the witness. His authority, his social and moral standing and his trustworthiness underwrote the commendatio.

So much for the recommender-witness. As for the defendant, Cicero says in one of his speeches:[93] 'Non perinde ut opinio est de cuiusque moribus, ita quid ab eo factum et non factum sit, existimari potest'. And again in a more theoretical vein he enumerates character among the judicial proofs:[94]

> At vero in foro tabulae, testimonia, pacta, conventa, stipulationes, cognationes, affinitates, decreta, vita denique eorum qui in causa versantur, tota cognoscenda sunt.

But this last can be demonstrated only by evidence of character, a laudatio, a commendatio.

The principle of equality before the law, in Roman eyes, seems never to have excluded this emphasis on the personae of the litigants - and in persona one must include both moral and social standing.[95] Cicero, who solemnly upholds the principle of aequum ius, regards that equality which fails to recognize social distinctions as unequal.[96] 'ipsa aequabilitas est iniqua cum habet nullos gradus dignitatis'.[97] Perhaps it is not by

accident that the only definition of justice in Roman law books:[98] 'Iustitia est constans et perpetua voluntas ius suum cuique tribuens',[99] can easily lend itself to an interpretation which includes the observance of social distinctions:[100] 'Iustitia est habitus animi communi utilitate conservata suam cuique tribuens dignitatem'.

Thus a plea can be made to the judge to do justice to both claims, that of the dignitas of the litigant on the one hand and that of the veritas of the case on the other hand:[101]

> Illud quod tecum et coram et per litteras diligentissime egi, id et nunc etiam atque etiam rogo curae tibi sit, ut suum negotium, quod habet cum populo Sardiano, pro causae veritate et pro sua dignitate conficiat.

The tension we have detected between the two incompatible claims, of iustitia and gratia is much reduced when we take into account the emphasis on dignitas and persona in the Roman notion of aequitas. At first these considerations were relevant to the trustworthiness of the person in his role as defendant or witness. Eventually it affected the penalties he might undergo. Social distinctions, as P. Garnsey's study shows,[102] were incorporated into the legal system itself, gradually hardening into a fully-fledged system of discriminatory justice.[103]

The fifth point in our rebuttal of Kelly's argument is the assessment of the nature of the saving clauses. We have touched upon this issue in a previous chapter, claiming that these saving clauses are not necessarily to be regarded as face-saving formulae and as lip service paid to conventions and appearances, but may be sincerely meant out of consideration for the governor's existimatio, his reputation for integrity and honesty.[104]

We differ from Kelly in the interpretation of the spirit in which these saving clauses are written: this perforce is to a large extent a matter of subjective and personal impression. Unlike Kelly we prefer to take Cicero's reservations and protestations at their face value. The insinuation

that Cicero is making a specious tribute to an ideal of impartial justice while hoping to tamper with the law with the connivance of the governor seems not proven.

The difference between the two positions is well illustrated in the difference of approach to Fronto's prohoemium quoted above. Fronto's attempt to prove the legitimacy of a time-honoured institution and especially his assertion: 'non, opinor, ad iustitiam iudicis labefactandam' meets with Kelly's cynical scepticism:[105] 'perhaps not, but who would be so naive as to imagine that it could not have this effect?' However, a recent discussion of Fronto's letters which does not lose sight of the moral character of both Fronto and his correspondent Claudius Severus 'both honourable men, the latter an ardent student of philosophy', regards Kelly's allegation as misconceived:[106] 'Fronto's prohoemium on the custom of recommendation is not meant as a plausible excuse for undue influence but rather the reverse, a careful repudiation of anything underhanded'. As he himself explains, it was included to prevent the judge Claudius Severus from taking the letter as a slight to his gravitas and his auctoritas'.

Cicero is rarely as self-conscious as his successors in the genus commendaticium, Pliny and Fronto.[107] In the present context his light and unobtrusive touch contrasts with Fronto's heavy-handedness: the brief saving clause is replaced by a lengthy prohoemium which invokes the Ciceronian precedent by the venerable title of mos commendandi.

However, in the letter to Q. Minucius Thermus, the governor of Asia, on behalf of his legate, M. Anneius, we have much more than a saving clause:[108]

> Eum cum Sardinis habere controversiam scis. Causam tibi exposuimus Ephesi; quam tu tamen coram facilius meliusque cognosces. De reliquo mihi me hercule diu dubium fuit quid ad te potissimum scriberem. Ius enim quem ad modum dicas clarum et magna cum tua laude notum est; nobis autem in hac causa nihil aliud opus est nisi te ius instituto tuo dicere. Sed tamen cum me non fugiat quanta sit in praetore auctoritas,

> praesertim ista integritate, gravitate, clementia, qua te esse inter omnes constat, peto abs te pro nostra coniunctissima necessitudine plurimisque officiis paribus ac mutuis ut voluntate, auctoritate, studio tuo perficias ut M. Anneius intellegat te et sibi amicum esse ... et multo amiciorem his meis litteris esse factum. In tuo toto imperio atque provincia nihil est quod mihi gratius facere possis.

This is, in our opinion, a sincere attempt to reconcile and do justice to all the claims involved in the case: the letter of the law, the governor's integrity, the friendship between Cicero and the governor and finally his duty towards M. Anneius whom he freely chose as his legate.[109]

Finally we may point to the more extraneous but no less significant evidence of publication. Perhaps book thirteen of Ad Familiares was published in Cicero's life time.[110] But even if Tiro had published these letters, it is hardly credible that he would have included letters which might have damaged Cicero's posthumous reputation. Indeed the very fact that these letters were assembled in a book shows that they were to be held up as models. Fronto, for one, considered them such.

2. Selected Problems

The provincial scene is a variegated map of different communities, nationalities, statuses, laws, customs, occupations, privileges and immunities. In his famous hortatory letter to his brother Quintus, the governor of Asia, M. Tullius Cicero gives a general outline:[111]

> 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 attingunt aut quod ita negotiantur ut locupletes sint nostri consulatus beneficio se incolumis fortunas habere arbitrantur.

As an appendage to the foregoing description of the Roman citizens there he adds:[112]

> At enim inter hos ipsos existunt graves controversiae, multae nascuntur iniuriae, magnae contentiones consequentur.

To these contentions and controversies, which prove the active presence of Roman citizens in the provincial scene, we shall devote the following discussion. We shall start, however, with recommendations of a class which is absent from Cicero's general description but for whose presence in the provinces the letters give us ample proof.

i. The Provincial Scene and the Senatorial Class there.

The status-ridden ethos of Roman society and especially of its higher echelons, according to what has become by now almost a commonplace, prevented the development of economic rationalism and capitalistic enterprise by laying the emphasis on values which were not purely economic.[113] The controversies that this hypothesis aroused do not concern us here. It is perhaps enough to point out that Max Weber, to whom this model is usually traced, was far from being as dogmatic as his critics and less subtle followers took him to be:[114]

> The impulse to acquisition, pursuit of gain, of money, of the greatest amount of money, has in itself nothing to do with Capitalism. This impulse exists and has existed among waiters, physicians, coachmen, artists, prostitutes, dishonest officials, soldiers, nobles, crusaders, gamblers and beggars. One may say that it has been common to all sorts and conditions of men at all times and in all countries on earth, wherever the objective possibility of it is or has been given. It should be taught in the kindergarten of cultural history that this naive idea of capitalism must be given up once and for all. Unlimited greed for gain is not in the least identical with capitalism, and is still less its spirit.

Our letters of recommendation give us ample evidence for this 'unlimited greed for gain' among the senatorial class; its members had vast business interests in the provinces exercised directly or through middlemen.[115] In spite of their presumed class prejudice they were most reluctant to give up their share in the cake, and we find them even as share-holders[116] in those publican companies mentioned in Cicero's letter to his brother, in the passage quoted above.

A few examples of their ruthless attempts to exploit their political and social standing in order to further their business interests in the provinces, whether by senatus consulta passed in their favour, or by exploiting the privilege of legatio libera, but above all by letters of recommendation, may serve as a corrective to the modern prejudice about their economic behaviour.

That such recommendations sought to influence the provincial governor in favour of the recommended is not to be doubted. But it remains to be seen whether we can describe them as an interference in the conduct of provincial jurisdiction or even as an abuse of the system. The latter approach presupposes - as has been pointed out above[117] - the existence of a coherent and rigid system of administration of justice with impersonal rules automatically applicable in all cases. But the fear of infringing the rules laid down by decorum hardly permits us to dismiss out of hand all such recommendations as an abuse of an existing system.[118] On the contrary, the very existence of such a system is thereby called into question. Or, at least, enough latitude must be left to the provincial governors to allow them to exercise their discretion in a way which will make it possible to reconcile these recommendations with the system, if not to integrate them within it.[119]

In the course of the discussion three issues will be raised: the so-called 'reiectio Romam', individual senatus consulta and the legatio libera. But let us not lose sight of the fact that these are inseparable from the letter of recommendation. The very people who are equipped either with a letter from the consul requesting the transfer of a case to Rome, or with senatus consulta passed on their behalf, or are entitled to a legatio libera, still find it necessary to obtain a letter of recommendation from Cicero to ensure the full co-operation of the provincial governor. An interesting insight into the Roman mentality is thus revealed: even when there are official and legal provisions the resort to personal ties and reliance on personal influence seemed not only useful but indeed even preferable

Fam., XIII. 26; 28 and the so-called reiectio Romam/revocatio Romam/revocatio Romae.

A detailed exposition of these two letters is justified not only in view of the light they throw on the issues just discussed; they have proved to be a stumbling block to the greatest authorities in the field and the measures proposed in them have received the most contradictory and mutually exclusive, if not purely fantastic, interpretations. Whereas some see in them a perfect example of an appeal launched before a trial,[120] others firmly deny it, along with the very existence of this kind of appeal.[121] Instead they suggest a not much used right of Roman citizens in the provinces to request a remittal of their case to the competent court in Rome: revocatio Romam,[122] revocatio Romae,[123] or as it is sometimes labelled, reiectio Romam.[124] This last is an excellent example of the anachronistic tendency to institutionalize, abstract and systematize Roman legal habits by creating an 'action noun' from the verb the Romans used, in this case, 'reicere'.[125]

Although it is generally conceded that it rested with the governor, who was competent to judge the case, whether to grant the request or not, there are those who consider the litterae quasi commendaticiae of the consul mentioned in one of these letters[126] as a restriction on his freedom of action. Mommsen stated that this letter 'in höflichen Formen einen Befehl der Regierung enthält'.[127] A.H.M. Jones goes so far as to regard it as a promise on the consul's part to grant auxilium, which, as far as our evidence goes, it was never in his power to bestow.[128] Against these views it is stated that 'it was within the privilege of the governor to transfer the case to the capital'; however: 'no legal right to the change of court was possessed by the parties, and no compulsion could be placed on the governor.[129]

Such a confusion calls for a re-examination of the entire case.

In anticipation of legal difficulties in the succession of his former quaestor, L. Mescinius Rufus, to the inheritance left to him in Achaia by

his cousin,[130] M. Mindius, Cicero seeks the help of the governor of the province, Sex. Sulpicius Rufus. However, the course of action to be taken against intractable opponents is not left to the initiative of the governor, but is outlined by Cicero himself.

We shall divide the discussion into three sections, although it is our belief that all three refer to the same case.

The first point made is:[131]

> praescripsimus iis, quibus ea negotia mandavimus, ut omnibus in rebus, quae in aliquam controversiam vocarentur, te arbitro et, quod commodo tuo fieri posset, te disceptatore uterentur.

In view of what follows one wonders whether arbiter and disceptator are used in a technical sense, as some take them to be.[132] For, if Sulpicius is asked subsequently to refer the case to Rome, then his formal arbitration is clearly not going to be used. Of course one might point out that only in case the opponents prove to be 'difficiliores' should he send the matter to Rome. Does 'difficiliores' mean in this case 'refusing to accept Sulpicius' arbitration'? But the phrase 'ut rem sine controversia confici nolint' negates such an interpretation.

Therefore, if we take the terms arbiter and disceptator as referring to formal and official arbitration, Cicero is clearly contradicting himself (or rather dissembling), suggesting first that Sulpicius will arbitrate in case of a controversy and then recanting by saying that in such a case the matter should be referred to Rome. On the other hand, if we take the two terms to mean personal non-official arbitration, then we must postulate a distinction between the usage of controversia in this section and its usage in the following section: only in the latter it refers to litigation and court proceedings.

On both interpretations, however, with 'Illud praeterea' we reach a further stage which involves different measures. Cicero's language becomes more emphatic and cautious, presumably to make up for the fact that he wishes

Sulpicius to surrender a matter which he was competent to judge himself:

> Illud praeterea, si non alienum tua dignitate putabis esse, feceris mihi pergratum, si qui difficiliores erunt, ut rem sine controversia confici nolint, si eos, quoniam cum senatore res est, Romam reieceris.

Who were the potential litigants? If one juxtaposes here the letter sent subsequently it becomes very probable that the potential litigant is Mindius' widow, who appropriated most of the inheritance.[133] The close verbal resemblance with the means of dealing with her - she should be threatened with being sent to Rome[134] - makes one pause and wonder whether the 'si qui difficiliores' does not hint at this woman without explicitly naming her.

The other cruces in this second point should be dealt with in conjunction with the third which follows immediately after:[135]

> Quod quo minore dubitatione facere possis, litteras ad te a M. Lepido consule, non quae te aliquid iuberent (neque enim id tuae dignitatis esse arbitramur), sed quodam modo quasi commendaticias sumpsimus.

A.H.M. Jones takes this to be:[136]

> a clue to the true nature of Romae Revocatio. In asking for it a provincial litigant announced his intention of appealing from the proconsul to the consul at Rome, whose imperium extended to that of their proconsuls; for as Cicero remarks, 'omnes in consulis iure et imperio debent esse provinciae'. A reasonable proconsul would no doubt usually allow the litigant to go to Rome and make his appeal, but as it was not physically possible for him to make the actual appeal except after a long delay, a stubborn proconsul would ignore the request and proceed with the trial. A litigant could only make sure of securing a revocatio Romae by approaching the consul beforehand, as Mescinius did through Cicero's agency, and getting from him a letter in which he informed the proconsul that he would give his auxilium if an appeal were made to him, and ordered him in that case to remit the case to Rome.

Jones' reconstruction is based on several preconceptions: 1) that this is a case of an appeal; 2) therefore, that an appeal could be launched before the judicial proceedings have started; 3) that there was an appeal from the proconsul to the consul in Rome.

So far Jones. Garnsey, on the other hand, does not consider this a case of appeal. To him it is a special case of the reiectio iudicii,

under which he subsumes not only cases of a rejection of a limited number of iudices and recuperatores which was permitted under civil procedure and in quaestiones; but even a rejection of the form of trial laid down by the magistrate, and his reiectio Romam falls into this category.[137]

Lintott attacks Garnsey's model on two fronts. It is his view that an appeal was possible at any stage at least theoretically[138] and therefore he maintains that Garnsey 'goes too far in limiting provocatio to appeals after sentences.'[139] Secondly he asserts that 'although rejection of a limited number of iudices or recuperatores was permitted under civil procedure and in quaestiones, whether permanent or ad hoc, in the Republic as a right, rejection of the form of trial laid down by a magistrate in any respect, including his provisions for the selection of judges, seems to have needed backing from the tribunes, if it was to be effective.'[140]

We know of only one other attempt in the Late Republic to transfer a civil suit from the provinces to Rome. P. Scandalius, realizing that Verres is going to impose on him recuperatores from his own biassed cohors, demands from the governor: 'ut Romam rem reicias'.[141] As Garnsey points out: 'it is risky to attempt a generalization on the basis of so few examples',[142] yet he proceeds to mention in the same context the privilege of choice of courts,[143] which according to him was not part and parcel of the possession of citizenship but required a special grant.[144] But this privilege involved a choice between Roman and local courts in the provinces, and not a rejection of the provincial Roman jurisdiction in favour of the one in Rome. It cannot be assumed that the two cases are identical.[145] We shall return to the choice of courts in the provinces at a later stage; let us concentrate now on the request to transfer a case to Rome.

The main issues around which the debate has centered are:

1) Is the remittal to Rome a case of appeal or merely a procedural measure?

2) The two cases of remittal to Rome from the Late Republic differ from each other in that in our case the plaintiff has secured a letter from the consul in Rome: is there a causal connection between this and the remittal to Rome which will work to make the latter compulsory?

In other words, what form of control did the consul exercise, if at all, over the provincial governor?

Jones, as we have seen, admits the existence of such a causal connection; the latter secured the appeal for Mescinius and compelled the governor to remit the case to Rome. Garnsey sees this causal connection in an entirely different light; to him the consul's letter is the ultimate proof that the governor was under no compulsion to transfer the case to Rome, i.e. that his hands were not tied by an appeal: 'The request was backed by commendaticiae litterae from a consul, a manoeuvre which was surely superfluous if the governor was allowed no discretion in the matter.[146]

Mommsen, who does not enter at all into the question of an appeal, although he emphasizes on more than one occasion that the decision whether or not to transfer the case to Rome lay with the governor,[147] concedes that this was no longer so after the consul's letter had arrived.[148] Mommsen's interpretation of this letter as a 'Befehl der Regierung' might enlist Cicero's qualifying phrase: 'non quae te aliquid iuberent'[149] in its support as implying that the consul might have issued an instruction. But do other sources support the view that the consul could exercise control over the provincial governor?[150]

When Jones seeks to find the evidence in the appeal and auxilium process, I believe that both his language and his frame of reference are misleading. However, it might be suggested that the consul could impose his authority by virtue of his right of intercessio. The two passages[151] that seem to exclude this might represent no more than a 'practical exemption

of the provincial governor from this check',[152] whereas theoretically it might have been possible. Therefore, it would be hard to account for the consul's letter simply as one of the unofficial interventions of the kind we have discussed above, powerful though these often might have been. On the other hand, I believe that to construe it as an official decree, aiming to force Sulpicius' hand even against his wishes, is a gross misapprehension of what is actually said about its purpose. Rather, the consul's letter aims to free Sulpicius' hand to force the recalcitrant opponents to go to Rome, to dispel any doubts he might have had about the constitutionality of such an act ('Quod quo minore dubitatione facere possis')[153] by giving the latter an official sanction. And if I am right in claiming a senatorial status for these potential litigants,[154] the governor certainly could have found such a letter quite useful.

On this view, therefore, the consul's letter presupposes a relatively weak position on the part of a governor faced with difficiliores senatorial litigants in a province.

Fam., XIII, 72; Att., V, 21.10-13; VI.1,3-8; 2.7-9; 3.5-7: Individual Senatus Consulta.

The recommendation of Caerellia,[155] one of the heirs to the property of C. Vennonius[156] in Asia, to the governor of the province, P. Servilius Isauricus, mentions a senatus consultum which was passed in favour of the heirs and which, according to Cicero, gave Servilius a large measure of freedom of action:[157]

> Equidem existimo habere te magnam facultatem ... ex eo s.c., quod in heredes C. Vennoni factum est, Caerelliae commodandi. Id senatus consultum tu interpretabere pro tua sapientia.

The intervention of the Senate in provincial affairs follows naturally from its constitutional role of supervision over all the provinces and the provincial governors.[158] Nevertheless 'a direct intervention in an individual case' is branded by Mommsen in an ascending order of abuse as

'eine Ausnahme', 'wohl lediglich Missbrauch' and finally 'eine schreiende Ungerechtigkeit'.[159] Our case seems to fall into this much censured category. Unfortunately we are left completely in the dark as to the content of this senatus consultum.

More information is given in the case of the two senatus consulta passed in favour of M. Junius Brutus, who made a loan to the city of Salamis[160] in defiance of the lex Gabinia of 67 B.C. which forbade provincials to borrow money in Rome.[161] Brutus' agents came to Cicero, then governor of Cilicia, with Brutus' recommendation,[162] and equipped with two senatus consulta. The first one indemnified both creditors and debtors from the penalties consequent on violating the law: 'ut neve Salaminis neve qui iis dedisset fraudi esset'.[163] And the second made the bond (syngrapha) between them enforceable in the courts: 'ut ex ea syngrapha ‹ius diceretur ...› '.[164]

The first senatus consultum is a specimen of the privilegia which the Lex Cornelia of 67 attempted to regulate.[165] Mommsen adduces the need for the second senatus consultum as a proof of his belief that 'the right of the Senate to dispense from a law was always restricted to certain categories; the principle that the old law always overruled a more recent senatus consultum was always in force'.[166] However, it seems to me that whether or not we follow him in calling the second senatus consultum, 'by-passing the law' (Umgehung), it did in effect abrogate the terms of the Gabinian law.

The matter is further complicated by Cicero's refusal to recognize the rate of interest (48%) under which the loan has been made, since it runs counter to the rate of interest stipulated in the tralatician edict:[167]

> Interim cum ego in edicto translaticio centesimas me observaturum haberem cum anatocismo anniversario, ille ex syngrapha postulabat quaternas.

Cicero insists that the bond should have the same status as the rest of the bonds made in the province:[168] 'quam ceterae sed ut eodem'; and

again:[169] 'Decrevit igitur senatus ut ius diceretur ex ista syngrapha. Nunc ista habet iuris idem quod ceterae, nihil praecipui'.

Thus Cicero's interpretation avoids a direct confrontation between the senatus consultum and the terms of the provincial edict. However, his predecessor, App. Claudius Pulcher, was quite ready to set aside the terms of his own edict and enforce the rate of interest stipulated in the syngrapha.[170] A literal interpretation of the senatus consultum may even have made it easier for him to take such a course without appearing to be unjust. For although the Lex Cornelia of 67 B.C., which obliged praetors to abide by their own edicts,[171] did not apply to provincial governors, such behaviour would have appeared unjust. It was precisely because praetors abused this freedom, in order to gratify their friends, that the law was passed:[172] 'quae res studium aut gratiam ambitiosis praetoribus qui varie ius dicere assueverant sustulit'.[173] The same condemnation of the practice is implied in Cicero's reluctance to set aside the terms of his own edict both in this case as well as by bestowing a praefectura on a negotiator:[174] 'metui, si impetrasset (scil. Scaptius), ne tu ipse me amare desineres; nam ab edicto meo recessissem', and again:[175] 'Negavi me cuiquam negotianti dare, quod idem tibi ostenderam (Cn. Pompeio petenti probaram institutum meum, quid dicam Torquato de M. Laenio tuo, multis aliis?)'.

Before reaching any conclusions it might not be amiss to point out that Cicero's strict constitutionalism might be called into question by his own actions. We learn that he forbade the Salaminians to deposit the money, a measure which could have stopped the interest from running. If this was provided for by the provincial edict, then Cicero was ready to tamper with the provisions of his own edict. Unfortunately, an ineluctable proof of this interpretation cannot be extracted from the obscure passage in which the matter is related; the MSS. run:[176]

> consistere usura debuit, quae erat in edicto meo; deponere volebant; impetravi a Salaminis ut silerent.

The O.C.T. substitutes quod for quae,[177] which gives us the required sense that a provision to deposit the money was indeed made in the provincial edict. From another letter we know that such an item could appear in a provincial edict:[178]

> Caunii praeterea debent, sed aiunt se depositam pecuniam habuisse. Id velim cognoscas et, si intellexeris eos neque ex edicto neque ex decreto depositam habuisse, des operam ut usurae Cluvio instituto tuo conserventur.

Nevertheless, it is too risky to build a whole structure on a correction.[179]

Our assessment of letters of recommendation supported by senatus consulta will be similar to that of the request to remit a case to Rome supported by the consul's letter. The senatus consultum, like the consul's letter, does not force the governor's hands but rather supplies him with an official sanction to act irregularly. In his letter to P. Servilius, with which we started the discussion,[180] Cicero emphasizes the latitude which a senatus consultum bestows on the governor:[181]

> Equidem existimo habere te magnam facultatem ... ex eo s.c., quod in heredes C. Vennoni factum est, Caerelliae commodandi.

A governor who complied could interpret the senatus consultum in a way which will enable him to set aside, when necessary, the terms of his own edict.

Fam., XII, 21: Legatio Libera.

C. Anicius, a Roman senator 'negotiorum suorum causa legatus est in Africam legatione libera'. Cicero asks the governor of Africa, Q. Cornificius, to follow his own example when he was a governor of a province, that is: 'ut omnibus senatoribus lictores darem'. Such a retinue was conceived by the Romans to be commensurate with the senatorial dignitas[182] twice mentioned in the present letter: 'dignitatem eius tibi commendo', and again: 'eius dignitati reique ... consules'.

The legatio libera, 'a titular embassy', was granted to senators on asking for permission to leave Italy in order to attend to their private affairs in the provinces.[183] Although not on an official mission, the senator travelled in state, accompanied by lictors, and his expenses were nominally met by public funds and in fact by the provincials.[184]

The close association between a departure from Italy and a legatio libera probably goes back to a time in which the senator travelled abroad solely on official missions.[185] The pomp and circumstance were status symbols which the Roman State bestowed on its representatives, who were the members of its highest order.[186] Thus the absence of remuneration by fixed salary, characteristic of a state run by notables,[187] was partly compensated for.[188]

The changing conditions, i.e. the fact that private interests arose to take a senator abroad, did not bring about a corresponding change in the rules; a journey of a senator abroad continued to be regarded as an official affair. The legatio libera has become merely a sinecure. The appurtenances in the shape of lictors were dictated by entrenched tradition, as Cicero points out to Cornificius: 'quod idem acceperam et id cognoveram a summis viris factitatum'.

The modern segregation of 'official activity from the sphere of private life'[189] was slow in evolving in a traditional society ruled by notables whose claim for status, honour and privileges was consonant with the principle of gratuitous public service. Yet Cicero for one saw the contradiction implicit in an official title without the official function to justify it:[190]

> nihil esse turpius quam quemquam legari nisi rei publicae causa. omitto quem ad modum isti se gerant atque gesserint, qui legatione hereditatis aut syngraphas suas persequuntur; in hominibus est hoc fortasse vitium; sed quaero quid ... sit turpius quam sine procuratione senator legatus sine mandatis, sine ullo rei publicae munere.

He is challenging here the principle itself rather than the incidental abuse of the privilege, in contrast to some modern writers who challenge only the latter.[191] In the same paragraph he relates that his attempt to abolish it met only with partial success: he succeeded in limiting the privilege to one year. Strong vested interests must have opposed his proposal.[192] The tenacity of tradition managed to survive even the lex Julia, which evidently set a time-limit on a legatio libera and at least made it difficult for one to be granted a legatio which allowed the recipient to go backwards and forwards from Italy:[193] permission to leave Italy continued, however, to entail the grant of a legatio libera.

Mommsen who in an earlier part of the Staatsrecht condemned the practice in the most emphatic terms as 'a scandalous and outrageous malpractice of an oligarchy who treates the commonwealth as if it were its private domain' and as 'a contradiction in terms',[194] later refers back to this scathing criticism in order to recant it; 'it was wrong to have treated the legatio libera merely as an abuse'.[195]

A letter of recommendation which draws the attention of the governor to a legatio libera can hardly be termed an abuse when the legatio libera itself was provided for by constitutional practice. But what is striking in this context is rather the fact that in spite of the constitutional provision, the need to create personal contacts was felt strongly enough to elicit such a letter. It was not that a letter of recommendation was called for by the absence of official, legal and administrative measures, but rather that the Romans did not trust the efficacy of the latter when working in isolation from the more reliable personal measures. With or without the backing of constitutional practice the Romans strongly and rightly believed that the implementation of their requests depended on the goodwill and cooperation of the official in charge. Brutus recognized it sufficiently well to enlist Atticus, Cicero's closest friend, to plead his case with

Cicero,[196] but in vain: not even the senatus consulta he extracted by the scandalous exercise of personal influence stood him in good stead, and these last, whether or not we call them an abuse, were passed constitutionally. Our rigid distinction between constitutionality and unconstitutionality, which makes only a violation of a constitutional practice a flagrant abuse of power and influence, does not seem appropriate to the Roman case, where the system lent itself so easily to being manipulated by the Roman aristocrats to further the interests of their class.

ii. Fam., XIII, 65 and the Publican Companies in the Provinces (the Pactiones)

In 51 B.C. Cicero recommends P. Terentius Hispo to the governor of Bithynia-Pontus, P. Silius:

> Cum P. Terentio Hispone, qui operas in scriptura pro magistro dat, mihi summa familiaritas consuetudoque est, multaque et magna inter nos officia paria et mutua intercedunt. Eius summa existimatio agitur in eo ut pactiones cum civitatibus reliquis conficiat. Non me praeterit nos eam rem Ephesi expertos esse neque ab Ephesiis ullo modo impetrare potuisse; sed quoniam, quem ad modum omnes existimant et ego intellego, tua cum summa integritate tum singulari humanitate et mansuetudine consecutus es ut libentissimis Graecis nutu quo velis consequare, peto a te in maiorem modum ut honoris mei causa hac laude Hisponem adfici velis.

The man appears again in a letter to Atticus dating from 47 B.C., where he is described as having been pro magistro for the grazing-tax (scriptura) and customs (portorium) in Asia: 'P. Terentius Hispo, meus necessarius, operas in portu et scriptura Asiae pro magistro dedit'.[197]

It is often assumed that the man is recommended to P. Silius inasmuch as he was a pro magistro of the company which farmed the grazing-tax in Bithynia;[198] 'Hence Cicero's recommendation to the governor of that province'.[199] Taking this in conjunction with the information about his activities in the Asian company, some scholars have assumed that the same company farmed the grazing-tax and customs of the two provinces at the same time.[200]

However, even the first assumption, that the scriptura mentioned in Fam., XIII, 65.1 was that of Bithynia, was questioned by Ivanov whose arguments cannot easily be gainsaid. Starting from Cicero's statement: 'non me praeterit nos eam rem Ephesi expertos esse neque ab Ephesiis impetrare potuisse', he rightly sees no reason to identify the governor appealed to as the one who is in charge of the province where the scriptura is collected; after all, Cicero too tried to plead with the Greeks of Asia although he was the governor of Cilicia at the time and not of Asia.[201] Cicero pleaded with the Greeks when he was at Ephesus on his way to Cilicia to become its governor:[202] might not Silius have been due to go back this way on departing from Bithynia?[203] In anticipation of Silius' presence at Ephesus Cicero approaches him with the present request.

These considerations seem to withstand any objection which may use the last sentence of the letter in order to refute Ivanov's view:

> Sic enim velim existimes, ex tota tua provincia omnique isto imperio nihil esse quod mihi gratius facere possis.

'Tua provincia' and 'isto imperio', even if we take them to refer to territorial sphere of authority, may be contrasted with the request which transcends these limits.

If we accept Ivanov's objection to identifying Hispo's company, mentioned in Fam., XIII.65, as that operating in Bithynia, then the inference that the taxes of both provinces were farmed out to the same company should be dismissed as well as the more general conclusion based on this case that 'the areas of operation of the societates did not correspond with administrative divisions'.[204]

One could have assumed that the presence of Ephesus[205] among the cities with which pactiones were concluded would have deterred scholars from postulating any other province but Asia as the field of the company's operation. Yet it was not mere oversight on Laurent-Vibert's part: his far-reaching hypothesis assumes the emergence of a monopoly in the Eastern

tax-gathering after the over-bidding of the Asian company in 61 B.C.,[206] whose centre of operation was precisely Ephesus.[207] This monopoly farmed the taxes of the entire area which we designate Asia Minor. It was named Societas Bithyniae or Societas Bithynica, perhaps after the company which initiated this fusion.[208]

Much of the validity of this hypothesis is based on the interpretation of a controversial passage in one of our letters of recommendation.[209] In this letter the Bithynica societas is recommended to the quaestor of Bithynia in 51 B.C., P. Furius Crassipes. The crucial passage runs as follows:

> huic Bithyniae societati, quae societas ordine ipso et hominum genere pars est maxima civitatis (constat enim ex ceteris societatibus) ...

The point at issue seems to lie in the words within brackets in the O.C.T. of which the most obvious translation is: 'for it consists of all the other companies'.[210] Who are 'all the other companies': those operating in the Eastern provinces or all public companies in Rome?

Ivanov, who rejects the whole idea of tax-farming companies overriding administrative divisions,[211] dismisses both alternatives. His paraphrase of our crux is:[212]

> Societas Bithynica, quoniam Bithyniae publicanorum genus quod ex variis societatibus constat, universum complectitur, non solum cum aliarum provinciarum societatibus iisque maximis implicita est et cohaeret, ut quod omnino publicanorum ordini debetur huic societati in primis debeatur, sed etiam, quod ad ipsum hominum genus pertinet, ditissimos atque ornatissimos quosque eius provinciae cives Romanos tenet, quocirca plurimum ei societati tribuendum est.

'Constat enim ex ceteris societatibus' means according to Ivanov 'of various companies operating in Bithynia'. He is aware of the difficulty in rendering 'ceteris' thus,[213] and it seems to me that his attempt to get rid of it is unsuccessful. Mommsen's criticism quoted by him can hardly be rebutted, if we adhere to the Latin: 'a provincialibus Bithyniae civibus

publica eius provinciae nequaquam conducebantur et evidenter apparet ceteras societates Bithynicae opponi'.[214] But Mommsen's own rendering: 'ad formandam societatem eam societatum vetustiarum (tam finitimae Asiae quam reliquarum non finitimarum) principes omnes coiisse ... itaque factum esse ut quicumque inter publicanos emineret in societate Bithynica partem aliquam haberent',[215] strains the sense of the phrase 'ex ceteris societatibus' beyond its natural and straightforward significance: it can hardly be taken to mean 'of members of all other companies'.

It seems to me, therefore, that the most acceptable interpretation of the passage would be that offered by Frank,[216] Broughton[217] and Badian:[218] for the farming of the Bithynian tax, the other companies - probably those operating in the East - united and created the Bithynian company. This does not mean a monopoly in the Eastern provinces or in public farming in general, for this company was created for this particular tax alone. Ivanov's strictures as to the corporis ius and the necessity for public contracts to conform to the administrative provincial divisions are thus accommodated.

Our line of research, though, relates to one particular question: to what purpose were the publicani recommended to the person they are recommended to; what can be inferred from this about the Roman system of provincial government?

Fam., XIII, 9 is the only letter[219] in our corpus in which an appeal is made to the quaestor rather than to the governor.[220] Bearing in mind the financial functions that the provincial quaestor had,[221] one wonders whether there was a particular advantage in approaching him: an assumption that the enigmatic parenthesis in this letter seems to support:[222]

> remque et utilitatem sociorum (cuius rei quantam potestatem quaestor habeat non sum ignarus) per te quam maxime defensam et auctam velis.

But we are left completely in the dark as to the specific means of

support at the quaestor's disposal as well as to the specific business for which he is approached.

Fam., XIII, 65 is more informative about the latter; the cities are reluctant to conclude the pactiones with the publican company which P. Terentius Hispo represents. The terms offered by the publicani might have seemed unacceptable to them.

If we accept the opinion that the cities concerned are those of the province of Asia,[223] then it could legitimately be asked why the governor of this province, Q. Minucius Thermus, to whom many recommendations are sent was not approached, but rather the governor of Bithynia-Pontus? Should we infer from this that the provincial governor could not force the cities to conclude the pactiones, or was P. Silius sought by virtue of his authority and popularity among the Greeks, in order to avoid as long as possible a recourse to official compulsion which the provincial governor could exert? Or might it be that it was not at all to the publicans' advantage to approach the provincial governor since their terms were patently and grossly exaggerated and Thermus' uprightness was widely known?[224] For instance the pactiones might prescribe a rate of interest which exceeded that stipulated in the provincial edict.[225]

Before any conclusions can be reached, the wider issues of the pactiones procedure and the sanctions behind them must be discussed.

The pactiones are written contracts[226] between the tax-payers and the tax-farmers. It is generally assumed that at least after Sulla the cities served as intermediaries between the publicani and the individual tax-payers. 'They [the publicani] made their bargains under the supervision of the governor for definite sums with the separate communities, each community being then responsible for the collection and apportionment of the sums agreed upon'.[227]

Tax-farming by definition is a matter of private enterprise:[228] private

initiative and capital are enlisted to fulfil a public service. It is here, therefore, more than anywhere else that public and private interests interact and the transition from administrative measures to private litigation is natural and smooth.

The publicans 'performed functions which were vital to the state',[229] yet no delegation of official status and power ensued.[230] The conclusion of the pactiones was 'in theory a voluntary arrangement'[231] or as R.T. Pritchard describes it, 'a gentleman's agreement',[232] but their validity 'rested wholly on the governor's edict',[233] or more specifically on the item in it which contained 'omnia de publicanis',[234] and probably, like all other private transactions, they were affected by the items 'de aere alieno', 'de usura', 'de syngraphis'.[235]

Although these items could be regarded as articles of administrative law,[236] it seems that we must assume, in view of the private nature of the pactiones, that once a disputed contract could not be resolved outside the court, recourse would have been made to private litigation.[237]

The Verrines make it clear that 'most of the administrative decrees in the provincial edict seem to have been capable of enforcement by ordinary civil process'.[238] But since the Sicilian system of taxation and the sanctions underpinning it were at least partly formulated by the pre-Roman Lex Hieronica,[239] it would be both rash and dangerous to generalize from the provisions made there to the system in the other provinces.

Even if we assume, as some do,[240] that many of the regulations concerning tax-farming and publicani were taken from the urban edicts,[241] the unique local conditions and the pre-Roman heritage in the different provinces point towards diversity and variation in their application. The provincial edict, which differed from one province to another (and even from one governor to another), accommodated this element of local variation,[242] providing in each the courts, their composition and the penalties incumbent

upon breaking the term of the pactio.

And yet it seems almost incredible that the State would have left controversies arising from the collection of its vital revenues to be resolved by a purely private civil procedure. It might be suggested that the wide discretionary powers of the governor relieved the situation in case of an impasse or a dispute before any legal remedies were sought:[243] the governor could exercise pressure on both sides to come to an agreement and to abide by its terms, as Cicero did by moderating the rate of interest.[244]

It is also relevant to mention here the intervention of the Senate, documented in many inscriptions, in disputes between publicans and provincials, although these latter demonstrate settlement in disputes which involved the actual right of the publicans to tax certain territories which were declared immune.[245] In one case, recently published, the inscription speaks in vague terms about oppression: '[τῶν ἐθνῶν θλιβομένων] ὑπό τε τῶν δημοσιωνῶν...'[246] As such, these interventions are of a different order from the local disputes with which we are concerned here.[247]

Was there, then, any special enactment which gave a quasi-official standing to litigation between publicans and tax-payers? The following discussion will attempt to outline two possible procedures which seem to have offered some relief in such litigations.

The first is the legis actio per pignoris capionem mentioned by Gaius:[248] 'item lege censoria data est pignoris capio publicanis vectigalium publicorum populi Romani adversus eos qui aliqua lege vectigalia deberent'. The general nature of pignoris capio is comparable to the 'distress of common law'.[249] All the cases of pignoris capio mentioned by Gaius have it in common that they concern the State or religious interest. Since there was no juristic relation between the parties and no action could be brought, the state delegated the power of enforcement to the private person in charge of its interests.[250] It is maintained that in the case of the publicani 'the idea

of delegation by the state appears most clearly'.[251] However, when the legis actiones were superseded by the formulary system 'no new remedy appeared, so far as we know, to take the place of these legis actiones per pignoris capionem',[252] with the exception of the case of the publicani, where it survived in a modified form in an actio fictitia mentioned by Gaius:[253] 'contra in ea forma quae publicano proponitur talis fictio est, ut quanta pecunia olim si pignus captum esset, id pignus is a quo captum erat luere deberet, tantam pecuniam condemnetur'.

Most scholars maintain[254] that this was a censorial regulation, hence it is called 'forma' rather than 'formula', which explains also the unusual 'luere debere' instead of 'dare oportere' characteristic of other 'formulae fictitiae in personam'.

Watson regards the new procedure as another sign 'that the attitude to publicani hardened ... the right of self-help given them by the censors might have been taken from them to be replaced by the legal form with the fiction'.[255] Hill maintains on the evidence of the lex agraria of 111 B.C. (in which publicani had to sue for taxes due to them in the ordinary way under the formula 'dare oportere' before a court of recuperatores) that they lost all right to pignoris capio when they began to operate outside Italy and 'were subject to the jurisdiction of provincial governors whereas their right of pignoris capio derived from the censor'.[256]

Pugliese offers a new hypothesis, based on Gaius IV, 32, according to which 'the pignoris capio had remained (or once more became) the normal remedy available to the publicans once the formulary procedure superseded the legis actiones'.[257] The measures mentioned in the lex agraria did not become the rule. The State, in an attempt to guard its vital interests, provided the publicans with the new fiction which perpetuated the expedients of the old pignoris capio.[258] As a result the publicans enjoyed the advantage 'of not having to prove before the judge that the vectigalia were really due.

After the judge had ascertained that a pignoris capio was formally made, the tax-payer seemed to have been constrained to pay the sum due for the vectigalia in order to redeem the pledge'.[259]

As a proof that this procedure existed in Cicero's time, Pugliese adduces a passage from the Verrines in which it is implied that in all the other provinces, except for Sicily, the publican possessed this right:[260]

> Cum omnibus in aliis vectigalibus, Asiae, Macedoniae, Hispaniae, Galliae, Africae, Sardiniae, ipsius Italiae quae vectigalia sunt, cum in his ... rebus omnibus publicanus petitor ac[261] pignerator, non ereptor neque possessor soleat esse ...

The pignerator, so it is maintained, refers to the possession of the modified pignoris capio.[262]

An alternative procedure by which the State might have offered the publicani effective practical means of recovering the vectigalia could be sought in the recuperatores - a procedure which seems to have been the usual form of jurisdiction in cases between publicani and tax-payers.[263] The traditional theory maintained that this form of jurisdiction was applied 'in domestic procedure only where the "public interest" element was present'.[264] In these 'public-law settings ... one would, a priori, have admitted the likelihood of official enforcement of judgements'.[265] Hence, according to Kelly's newly advanced hypothesis, 'the special feature of recuperatores lay in their capacity to enforce as well as to pass judgement'.[266] It is probable that the magistrate who appointed or selected the court exercised the 'recuperatorial coercion'.[267] Therefore in cases involving tax-farming 'recuperatores would be the appropriate instance, as the official exaction of a settled sum due on a public liability ... is already found associated with them'.[268] The justification for this measure is not far to seek: 'since the state must possess the means to recover revenue, or - where, as here, the tax-farming system prevails - must provide the tax-collectors with effective practical means of doing so'.[269]

These are then the sanctions underlying the pactiones. If either of the alternative procedures suggested above is accepted, it is easy to see why the publicani were so anxious to conclude the pactiones. Once concluded, the publicani could be assured of being able to recover the sums agreed upon. But we still do not possess sufficient information about the role of the provincial governor in the proceedings that led to their conclusion. Fam., XIII, 65 gives us no clue to the problem since we believe with Ivanov that the addressee,P. Silius, was not the governor of the province in which the pactiones were going to take place. The pactiones involved the cities of Asia whereas Silius was the governor of Bithynia. However, Silius' presence in the area (and perhaps even at Ephesus itself)[270] provided Cicero with the occasion to call upon Silius' personal influence with the Greeks of Asia. On this view, the appeal to Silius only underlines the personal nature of the system.

iii. Litigation between Roman Citizens and Provincials

The Hellenistic and the Roman Empires were superimposed on the city-state structure of the Greek world. As the independence of the Greek city-state came to be curtailed and politically annihilated, a shift of emphasis was brought about in the underlying concepts of freedom and autonomy; as their meaning became narrower and more restricted, the concept of civitas legibus utitur[271] remained one of the last vestiges, desperately clung to, of their former greatness:[272] with indulgence and condescension Cicero comments on their joy when he restored to them their legal autonomy:[273]

> Graeci vero exultant quod peregrinis iudicibus utuntur. 'Nugatoribus quidem' inquis. Quid refert? ii se αὐτονομίαν adeptos putant.

Yet as long as the cities remained legal entities, one is justified in talking of 'conflict of laws' in the Roman Empire, for this means the

simultaneous co-existence of different legal systems between which a choice has to be made when the parties to a dispute involving private law are not subject to the same legal system.[274]

It is in the context of 'conflict of laws' that litigation between Romans and provincials, although taking place within the circumference of a politically unified Empire, ought to be discussed.

Although a doctrine of international private law did not come into existence before the middle ages, nevertheless problems of private international law were not unknown to antiquity.[275]

Scholarship based on literary sources, inscriptions and papyri has demonstrated that provisions were made in treaties between cities[276] and in decrees from above[277] for the judicial order to be applied in cases of 'conflict of laws' in the classical and the Hellenistic worlds.[278]

The first known instance from the Roman period is the provisions made in the Lex Rupilia of Sicily:[279]

> Siculi hoc iure sunt ut quod civis cum cive agat domi certet suis legibus; quod Siculus cum Siculo non eiusdem civitatis, ut de eo praetor iudices ex P. Rupili decreto, quod is de decem legatorum sententia statuit, quam illi legem Rupiliam vocant, sortiatur. Quod privatus a populo petit aut populus a privato, senatus ex aliqua civitate qui iudicet datur, cum alternae civitates reiectae sunt. Quod civis Romanus a Siculo petit, Siculus iudex, quod Siculus a cive Romano, civis Romanus datur. Ceterarum rerum selecti iudices ex conventu civium Romanorum proponi solent.

The Latin expression 'domi legibus suis' and its Greek equivalents: ἐν οἰκῷ τοῖς ἰδιοίς νόμοις[280] or ἐν ταῖς πατρίσιν κατὰ τοὺς ἰδίους νόμους[281] imply a twofold provision: both substantive law and procedure, i.e. constitution of the court, or rather the nationality of the judges.[282]

However it has been observed that, 'in the majority of the cases these treaties say nothing specifically on substantive law and restrict themselves to a declaration that the tribunal should judge 'according to the laws'.[283]

The emphasis on procedure in Greek treaties concerned with such problems, rather than on substantive law, can be explained, as is generally believed, by the large degree of uniformity of the various Greek codes of law.[284]

But this would not apply to provisions designed to meet 'conflict of laws' between Roman and Greek litigants. In this context reference is often made to the ius gentium. However 'the ius gentium certainly does not mean ... international law'.[285] Some scholars will go so far as to state that the republican lawyer never meant by ius gentium those parts of Roman law which applied to peregrini as well as to Roman citizens.[286] And the less extreme view maintains that 'the ius gentium is necessarily the ius civile'.[287] Moreover it is admitted that it cannot be proved that the term was ever applied to the rules contained in the edicts of the peregrine praetor or of the provincial governors.[288] Even if some sort of law was created to cater for cases involving Romans and foreigners it was not complete: family law, succession and other elements were certainly excluded.[289]

Thus, the provincial governor will apply local law to privileged peregrines who had access to the Roman courts[290] or whenever called upon to administer justice to provincials as a kind of 'justice de grâce'; for the Greeks would appeal to him as an impartial judge in conformity with their own institution of δικασταὶ μεταπεμπτοί or ξενοκρίται.[291]

Pugliese, on the other hand, holds that at least the genus provinciale of the provincial edict contained new and special rules for the province concerned, which might have Roman, Greek or diverse origins.[292] Others claim firmly that the genus provinciale contained only administrative law,[293] and that the provincial edict on the whole intended merely to extend to the provinces the protection of the praetorian edicts of Rome, without which the Roman citizens there would have had to live under the archaic civil law, and moreover under that part of it which was in force in the provinces.[294]

Buckland, the chief exponent of this view, admits that the governor could promulgate special edicts concerning the private law of the provincial communities but these were not part of the edictum provinciale.[295] The governor served in the same capacity as the peregrine praetor at Rome, and yet no-one ever suggested that the latter's edict included rules of private law of the different peregrines sojourning at Rome. Likewise, these were not included in the provincial edict.[296] Buckland concludes the argument with the assertion that 'there was only a general ruling (in the genus provinciale) that the communities will live under their own laws.[297]

However, we know that the clause: 'ut Graeci inter se disceptent suis legibus'[298] could have been absent from the provincial edict,[299] especially if it was not contained in the lex provinciae.[300] Cicero acknowledges that he has adopted it from Scaevola's Asian edict [301] rather than from his predecessor's. Did Appius' edict contain peregrine private law, and therefore was it much longer than Cicero's? The evidence does not support this assumption. Cicero claims to have shortened his edict ('Breve autem edictum est')[302] by omitting that part of the civil law which did not necessitate the insertion of ex edicto[303] rather than by omitting peregrine private law.[304]

It seems to me, therefore, that the most acceptable view about the nature of the genus provinciale is that of R. Martini, whose conclusions are relevant to our particular problem. According to him Cicero's genus provinciale included provisions which were intended to meet the special circumstance that arose from the Roman presence in, and exploitation of, the provinces: these could be rules of administrative law but were not necessarily so.[305]

The provisions of the genus provinciale will apply, therefore, precisely in litigation between Romans and provincials. And, indeed, we do

find Cicero dealing with cases concerning syngraphae,[306] usura [307] and aes alienum[308] which are mentioned in the part of his edict called genus provinciale.[309]

One may raise though, at this point, the special status of free cities: did the terms of the provincial edict apply in litigation between them and Roman citizens?

The main attribute of their freedom has often been described as consisting mainly in their standing outside the provincial governor's authority as a kind of extra-territorial enclave in the province:[310] it is 'The freedom from direct Roman rule'.[311] Their legal autonomy, however, vis-à-vis the provincial governor was not altogether absolute: 'it was so only as long as Roman citizens were not involved in litigation'.[312]

But here the senatus consultum contained in the letter of an Asian proconsul to the free city of Chios[313] has often proved to be a stumbling-block: its provisions seem to imply that Roman citizens resident in Chios were subject to local law:[314]

> οὓ τε παρ' αὐτοῖς ὄντες Ῥωμ[αῖ]οι τοῖς Χείων ὑπακούωσιν νόμοις.

This is the only known case of subjection of Roman citizens to local law of free cities.[315] Yet scholars have not hesitated to deduce from it that free cities generally possessed at least civil jurisdiction over their Roman residents.[316] The more cautious, however, have warned against generalizing from this particular instance, opining that it was a special grant given to Chios[317] and that the need for a senatus consultum to subject Romans to Chian laws proves that 'in the absence of a special concession, Roman citizens were not subject to the law of the free cities'.[318]

The whole issue has recently been reviewed by A.J.Marshall,[319] who rightly insists on the need to study the document in its historical context:

the senatus consultum was a direct response to an appeal from Chios, which used its right of direct approach to the Senate[320] as a counter-measure to an attempt by the Roman residents to evade the local regulations by an appeal to the governor for a ruling in their affairs.[321] As such the senatorial decree should be viewed as an ad hoc solution to an initiative from below forming 'a settlement of a specific issue' and not a regulation of the entire legal standing of Roman citizens vis-à-vis the local law.[322] Marshall detects, therefore, in the background of the Senate's ruling, the same situation which underlies our letters of recommendation: the governor is appealed to in order to help the Romans in their disputes with provincial individuals or communities.[323] Neither the Senate's decree, nor the recommendation, therefore, recognize the existence of a system but both, in fact, assume its absence.

Having outlined the context in which litigation between Romans and provincials is to be set and having pointed out the larger issues at stake, it remains to be seen what the letters themselves can tell us about the manner in which these problems were treated.

We shall start with the relationship of free cities, in litigation with Romans, to the provincial governor.

There are only two cases in which it is beyond doubt that free cities are involved.[324] Both relate to debts contracted by free cities to Roman creditors. It is precisely in matters concerning pecuniae creditae that we know of the existence of both a lex and senatus consulta which forbade the governor's interference: Cicero takes the governor of Macedonia, L. Calpurnius Piso, to task for having offended against these by exercising jurisdiction in free cities:[325]

> omitto iuris dicionem in libera civitate contra leges senatusque consulta.

And again:

> Emisti a foedissimo tribuno plebis[327] ... ut tibi de pecuniis creditis ius in liberos populos contra senatus consulta et contra legem generi tui dicere liceret.

It seems probable that one of these senatus consulta is mentioned in letters to Atticus from 60 B.C. as likely to jeopardize Atticus' prospects of recovering his debt from the free city of Sicyon, which is one of the two cases we are going to discuss below:[328]

> De tuo autem negotio saepe ad me scribis. Cui mederi nunc non possumus; est enim illud senatus consultum summa pedariorum voluntate, nullius nostrorum auctoritate factum.

But not long after:[329]

> De Sicyoniis, ut scripsi ad te antea, non multum spei est in senatu ... Cum est actum, neque animadversum est ad quos pertineret et raptim in eam sententiam pedarii cucurrerunt. Inducendi senatus consulti maturitas nondum est, quod neque sunt qui querantur et multi partim malevolentia, partim opinione aequitatis delectantur.

By this legislation the governor was debarred from taking cognizance in his own court of debts incurred by free cities. We must investigate, therefore, whether the language used in letters of recommendation concerning debts of free cities recognizes these restrictions on the governor's power of intervention. We may anticipate the conclusions by suggesting that the fact that such letters were written at all implies that the governor could bring his influence to bear, even if he could not take legal action.

i. Sicyon's[330] debt to Atticus.

In this case we have fragmentary pieces of information in Cicero's correspondence and any inference drawn from a reconstruction is bound to be tentative and conjectural.[331] We are told in a letter from the end of January 61 B.C.[332] that Atticus is about to 'besiege' Sicyon and is on his way to C. Antonius Hibrida, the governor of Macedonia[333] at the time. He might have been carrying with him the original of Fam., V.5[334] which is a

letter of recommendation addressed to Antonius on Atticus' behalf. In March 60 B.C. the senatus consultum mentioned above was passed.[335] From now on the conduct of the affair depends on Atticus' tact.[336]

> Tu si tuis blanditiis tamen a Sicyoniis nummulorum aliquid expresseris, velim me facias certiorem.

A month later Cicero's tone is definitely discouraging:[337]

> non multum spei est in senatu; nemo est enim qui queratur. Qua re si id expectas, longum est; alia via, si qua potes, pugna.

Subsequently, however, Cicero recommends Atticus to the new governor of Macedonia, C. Octavius.[338] The matter is still unsettled; no wonder that we find Atticus at the end of April 59 B.C. still lingering in Rome, waiting for a letter to the Sicyonians.[339]

The letter to C. Antonius Hibrida does not even mention Sicyon's debt to Atticus. The request is couched in a most unspecific terminology:[340]

> Atque ipsum tibi Pomponium ita commendo, ut, quamquam ipsius causa confido te facturum esse omnia, tamen abs te hoc petam, ut, si quid in te residet amoris erga me, id omne in Pomponi negotio ostendas. Hoc mihi nihil gratius facere possis.

Cicero's comment on his appeal to Octavius on Atticus' behalf is revealing:[341]

> neque enim ista tua negotia provincialia esse putabam.

I take this phrase to mean that Cicero regards the matter as lying outside the provincia of the governor: provincia in the literal sense of the word: 'sphere of authority of a magistrate'.

Cicero's tone throughout betrays that he does not entertain high hopes, especially after the senatus consultum was passed. On the other hand, one might point out that the repeated legislation to guard the rights of free cities shows that infringement of these rights was not rare.

ii. Fam., XIII, 56.

The second case is much more complex. The letter is addressed to the governor of Asia, Q. Minucius Thermus, on behalf of M. Cluvius of Puteoli,[343] to whom five cities in Asia are in debt. Nothing is said about their status.[344] Perhaps we have here indirect evidence for the different sentiments which the Greeks of Asia Minor inspired in the Romans, contrasting with those inspired by the Greeks of the mainland.[345] Although some of the cities here too obtained the status of freedom, they would still be treated more brusquely and with less respect paid to forms and titles.[346]

The five cities lie in Caria.[347] Only two of them are known, from other sources, to have been free: Alabanda[348] and Mylasa.[349] Bernhart's assumption that the other three, Heracleia,[350] Bargylia[351] and Caunus,[352] were free too is based mainly on their appearance in this letter in the company of free cities. Needless to say this argument is far from cogent, especially in view of the fact that different measures are to be dealt out to those who are known to be free:

> Μυλασεῖς et Ἀλαβανδεῖς pecuniam Cluvio debent. Dixerat mihi Euthydemus, cum Ephesi essem, se curaturum ut ecdici a Mylasinis Romam mitterentur. Id factum non est, legatos audio missos esse sed malo ecdicos, ut aliquid confici possit. Qua re peto a te ut et eos et Ἀλαβανδεῖς iubeas ecdicos Romam mittere.

If sending ecdici[353] to Rome, presumably because legal proceedings will be conducted there, implies that the governor could not interfere in the case, then we have here clear evidence for a special procedure in the case of free cities, but not for much freedom if the governor is to issue an order ('iubeas') to them to send legal representatives to Rome.

> praeterea Heracleotae et Bargylietae, qui item debent, aut pecuniam solvant aut fructibus suis satis faciant.

There is no question of proceedings in Rome with regard to the other cities. The letter does not specify the means the governor is to use in order to force the cities to pay their debt nor how he will force them to allow Cluvius to exploit their fructus should they not pay it.[354]

> Caunii praeterea debent, sed aiunt se depositam pecuniam habuisse. Id velim cognoscas et, si intellexeris eos neque ex edicto neque ex decreto depositam habuisse, des operam ut usurae Cluvio instituto tuo conserventur.

Whether or not the interest on the money deposited by Caunus should be prevented from mounting depends on the provisions made in the provincial edict or a judicial decision; if the action was not authorized there, then the governor is to make use of this loophole in order to make the Caunii pay the interest due.[355] Again, the means are not specified.

> Praeterea Philocles Alabandensis ὑποθήκας Cluvio dedit. Eae commissae sunt. Velim cures ut aut de hypothecis decedat easque procuratoribus Cluvi tradat aut pecuniam solvat.

The vague formulation 'cures ut' does not unequivocally imply that the governor is to adjudicate the case. The hypotheca is also a Roman legal institution 'now generally agreed to be of native growth'[356] and therefore cognizable by both Roman and local courts. However, if one accepts the opinion that 'the phrase "de hypothecis decedat" suggests that the property was real estate',[357] it is likely that the local authorities, seeing that 'the Greek cities were tenacious of jurisdiction over property',[358] would claim jurisdiction over this matter. Whether or not it will be granted to them depends on the view one takes about the status of Roman citizens in the provinces. Most writers agree that Roman citizens could always request to be brought before a Roman court of law.[359] As a proof one is often reminded[360] of Cicero's procedure with regard to the Romans who reside in Cyprus:[361]

> Q. Volusium ... misi in Cyprum ut ibi pauculos dies esset, ne cives Romani pauci, qui illic negotiantur ius sibi dictum negarent: nam evocari ex insula Cyprios non licet.

As to the substantive law which will be applied in such a case, Arangio-Ruiz maintains that in accordance with the principle of lex rei sitae local law will always apply, whether the case comes before a Roman court or a local one.[362] Schönbauer, on the other hand, contends that an evocatio from a local court could result also in evocatio from the legal norms applied there.[363]

But whereas the systematic analysis of statuses, rights and competences has produced mainly negative results, a look at the style and manner of this particular letter might give us more satisfaction; for once Cicero seems to have overcome all his scruples and to have laid aside all consideration for decorum; in fact he is spelling out to Thermus the specific course of action he is to take in order to guard Cluvius' interests. The tone is insistent, resolute and precise. Not even lip-service is paid to the governor's dignity and freedom of action, as was done in the letter to Sulpicius on behalf of L. Mescinius, which resembles our present letter in delineating the course of action Suplicius is to take.[364] And perhaps the clue to the present style and manner of approach is the same in both cases; Cicero has strong backing and therefore he can allow himself greater freedom. In Sulpicius' case there was the accompanying letter of the consul, which as we saw gave a semi-official sanction to the request. Here it is the presence of Pompeius that must make the difference. Thermus could entertain no doubts that Pompeius' vital interests were at stake after reading the concluding declaration:[365]

> His de rebus eo magis laboro, quod agitur res Cn. Pompei etiam, nostri necessari, et quod is magis etiam mihi laborare videtur quam ipse Cluvius.

There are two other recommendations concerned with real estate held by Roman citizens in the province of Asia.

The first, addressed again to Q. Minucius Thermus, the governor of Asia, recommends L. Genucilius, who holds land in the territory of Parium:[366]

> Praecipue autem tibi commendo negotia eius, quae sunt in Hellesponto, primum ut obtineat id iuris in agris, quod ei Pariana civitas decrevit et dedit et quod semper obtinuit sine ulla controversia, deinde, si quid habebit cum aliquo Hellespontio controversiae, ut in illam διοίκησιν reicias.

The other case is that of the freedman C. Curtius Mithres,[367] who holds land in Colophon:[368] the letter is addressed to the governor of Asia in 46 B.C., P. Servilius Isauricus:

> Peto igitur a te ut in ea controversia, quam habet de fundo cum quodam Colophonio, et in ceteris rebus quantum fides tua patietur quantumque tuo commodo poteris tantum ei honoris mei causa commodes.

Unlike the case of Alabanda the status of the two cities mentioned here, Parium and Colophon, is not clear for the time at which these letters were written.[369] After 73 B.C. there is no more evidence about Parium, which until then was free.[370] Later on it became a colony.[371] Colophon might have lost its freedom after the first Mithridatic War, together with other cities.[372]

We can dismiss the case of C. Curtius Mithres and the Colophonian since, although the governor's help is sought, Cicero does not specify the means the latter should employ. In the other case, on the other hand, we have an explicit request to the governor to revoke any dispute over Genucilius' right in the land to his own court in the nearest assize-centre, at that time, Adramyttium.[373]

If Parium was a free city at the time[374] then for once we have straightforward evidence that Cicero considered the governor competent to claim jurisdiction over a matter of real estate, even when the territory of a free city is concerned. The opinion of those scholars who maintain that Roman citizens could always obtain access to a Roman court of law would thereby be fully vindicated.

To complete the discussion, four more cases of debt incurred by provincial communities to Roman creditors may be considered. The cities concerned are probably not free. One would like to find out, therefore, whether the distinction between their status and that of free cities is borne out by the letters of recommendation; by the language employed, the means assumed to be at the disposal of the governor, and finally by the implied measure of intervention on the latter's part.

i. Fam., XIII. 42.[375] concerns the debt of the people of Byllis in Macedonia.[376] to L. Lucceius, the historian. Cicero notifies the governor Culleolus[377] that the city is ready to submit the case to the arbitration of Cn. Pompeius; nevertheless, he continues:

> vehementer opus est nobis et voluntatem et auctoritatem et imperium tuum accedere; quod ut facias etiam atque etiam rogo.

Only the last named term, imperium, implies an official capacity, but it might not be used here in a technical sense, as Nicolet seems to assume; he has no doubt that the governor is going to take cognizance of the case.[378] It seems to me that the question must be left open.

ii. Fam., XIII, 61 concerns a substantial amount of money ('pecuniam grandem') owed by the Bithynian city of Nicaea[379] to the minor T. Pinnius. Cicero, as one of the guardians and a secundus heres, appeals to the governor of Bithynia, P. Silius, in the name of all the other guardians. In principle, we are told, the Nicaeenses are ready to pay, but Cicero proceeds to implore:

> Pergratum igitur mihi feceris ... si dederis operam quoad tua fides dignitasque patietur, ut quam plurimum pecuniae Pinnio solvatur Nicaeensium nomine.

Nothing definite can be inferred from the language as to the procedure the governor is to pursue, whether he is supposed to exert pressure or to proceed by legal means.

It may be pointed out that the phrase 'quam plurimum' may imply that the controversy revolved around the question of the amount of money (or interest) involved. The tutores may have given up hope of recovering the entire amount and would be satisfied with partial payment.

iii. Fam., XIII, 55 and 57 mention a controversy between Cicero's legatus M. Anneius[380] and the people of Sardis in Asia.[381] It does not explicitly mention a debt but it seems legitimate to assume that either money or real estate is at stake. For the first time we seem to have an explicit reference to actual legal proceedings to be carried out by the governor:

> Ius enim quem ad modum dicas clarum et magna cum tua laude notum est; nobis autem in hac causa nihil aliud opus est nisi te ius instituto tuo dicere.

However, the sequel proves that both Cicero and M. Anneius desire something other than a just trial: 'Sed tamen cum me non fugiat quanta sit in praetore auctoritas ... peto a te ... ut voluntate, auctoritate, studio tua perficias ut M. Anneius intellegat se tibi amicum esse'. The reason for the request to exercise auctoritas rather than iurisdictio comes out in a subsequent letter:[382]

> Quo magis cotidie ex litteris nuntiisque bellum magnum esse in Syria cognosco, eo vehementius a te pro nostra necessitudine contendo ut mihi M. Anneium legatum primo quoque tempore remittas.

In their hurry Cicero and Anneius may wish to avoid litigation altogether. Thermus can apply pressure on the Sardians to meet Anneius' demands with all the more prospect of success since his upright conduct has won their confidence.[383]

iv. Finally there is the already mentioned debt of the people of Salamis to M. Junius Brutus,[384] concluded in a syngrapha. Dareste assumes that all the debts mentioned so far must have taken the form of a syngrapha[385] and Kunkel in his article on the συγγραφή draws our attention to the fact that

all the syngraphae mentioned in the Ciceronian corpus concern provincials and provincial communities and their Roman creditors; they never appear as contracts between Roman citizens.[386]

From his analysis of the contents of Greek syngraphae, Dareste infers that the contract permitted the creditor to reimburse himself for delinquent payment by direct seizure of the property of the borrower without recourse to legal proceedings.[387] In the Roman provinces, 'le recouvrement dépendait de l'imperium du magistrat romain'.[388] The last statement is based on the material under investigation, Brutus' loan to the Salaminians,[389] and cannot be accepted without further inquiry.

Firstly, it must be pointed out that the syngrapha constituted a means of legal distress i.e. direct seizure of property preceding the judicial trial, only if the contract 'mention[s] specifically that the nonfulfilment of conditions agreed upon by one party will give the other party the right to proceed to execution without having recourse to the formalities of judicial procedure'.[390]

Secondly, since it is agreed among scholars that at least until the second century A.D. the syngrapha did not constitute an obligatio under Roman law,[391] but only a proof, it is hard to see how it could in itself be recognized by the Roman authorities in the provinces as a legally valid means of enforcement by distress. In fact, as has been observed, the syngrapha, iure Romano, could not put even a peregrine under obligation to his Roman creditor. However, the Roman money-lenders did not greatly care for absolute legality and chose that form of contract which they knew that their Greek creditors would regard as legally binding, and would respect most.[392]

Finally, to rebut Dareste's hypothesis, one should recall the wording of the senatus consultum which intended to make the syngrapha concluded

between Brutus' agents and the Salaminians valid at law:[393]

ut qui Ciliciam obtineret ius ex illa syngrapha diceret.

This certainly envisages legal proceedings to be carried out by the governor.[394]

One may recall here the mysterious Syngrapha Sittiana recommended by M. Caelius Rufus to Cicero, as governor of Cilicia:

- Syngraphàm sittianam tibi commendo.[395]
- Saepius te admoneo de syngrapha Sittiana (cupio enim te intellegere eam rem ad me valde pertinere).[396]
- Sittianamque syngrapham tibi commendo.[397]
- Tibi curae fuisse de Sittiano negotio gaudeo.[398]

Caelius' persistence can be understood if there had been complications owing to some defect in the syngrapha. For instance, like that of M. Scaptius, it may have contradicted the terms of the Gabinian law.[399] Hence the need for Cicero's collaboration. Opinions vary, however, on the meaning of 'Sittiana'. Tyrrell and Purser[400] suggest that Sittius was Caelius' agent. Nicolet[401] identifies him with the negotiator, P. Sittius.[402] Recently Shatzman[403] has conjectured that Sittius might be Caelius' agent, who gave him a legal bond to be paid from the latter's estate in Cilicia.

In conclusion one might suggest that although the letters of recommendation show a certain awareness of the privileged position of free cities and hint at a special treatment meted out to them, nevertheless the fact that these letters do find their way to the provincial governors, even when free cities are concerned, in order to ask for his intervention, flouting thereby current legislation which attempted to prevent it, proves once again that it is idle to talk about hard and fast rules in the conduct of provincial administration; the effectiveness of such rules is contingent upon the exercise of initiative by provincials (embassies to the Senate) and influence by eminent Romans (letters of recommendation); in other words,

it is fortuitous. The glance we are allowed behind the scenes, at the meeting of the Senate that had led to the legislation mentioned above,[404] is sobering and edifying; its lesson should not be lost on us: what later historians have resolved into a system was no more than a neat balance arrived at when vested interests ranged themselves equally on both sides. Since we are in a world permeated with personal influences if there are rules they are rules of thumb, and should always be considered in the context in which they came into being. The absence of rigid rules and its obverse side, the wide discretionary powers of the provincial governors, go a long way to explain the need for letters of recommendation.

We may add that one factor which makes the rules, if any, difficult to determine is precisely the decorum necessary in these letters, in terms of which it was rare to spell out which action the governor was supposed to take. Thus, even in those cases which do not involve free cities it is hard to decide in which manner the governor is expected to act : should he resort to legal proceedings, administrative measures, or merely pressure and personal influence?

ADDENDUM: SOME CONTROVERSIAL ISSUES

1. Double Citizenship

At the centre of the fierce debate waged among modern scholars over the issues of 'double citizenship' and 'the personality of the law' stands the question of the status of newly made citizens in the Late Republic.[405] The judicial privileges bestowed by Octavian on Seleucus the Nauarch[406] have received accordingly two diametrically opposed interpretations: whereas those who adhere to the principle of incompatibility see in the access to local courts (or those of free cities) a special privilege,[407] believing that newly made citizens came automatically under Roman jurisdiction,[408] those who uphold the view that in the Late Republic Roman citizenship at the city of origin was compatible with the local one, maintain that, as in the case of the judicial privileges bestowed on friends of the Roman People,[409] the privilege consisted in having an access to a Roman court of law; for the status of newly made citizen did not undergo any change and they were subject to local law and jurisdiction even after the citizenship was bestowed on them.[410]

It is not my intention to take sides in this insoluble problem, but to point out that perhaps here also it is too early to try and find a consistent system; even the attempt to detect it is misapplied, for the Roman State could hardly by that time have formulated principles and made provisions to close the gap between the new reality and the traditional theory and practice.

The recommendation of L. Manlius,[411] a former citizen of Catina in Sicily, who became a Roman citizen under the lex Plautia Papiria[412] when resident of Neapolis, eluded the aforementioned scholars, or else they would

have found here a bountiful source of fresh polemic:

> Eius frater Catinae nuper mortuus est. Nullam omnino arbitramur de ea hereditate controversiam eum habiturum, et est hodie in bonis; sed quoniam habet praeterea negotia vetera in Sicilia sua, et hanc hereditatem fraternam et omnia eius tibi commendo.

Cicero stresses that no dispute is hanging over the inheritance, but if there were, could a remedy be sought under Roman law? The will, if it was a testamentary succession, or the remedies, if it was an intestate succession, would have been in both cases foreign instruments. In the law of succession the principle of personality seems to have reigned supreme. L. Manlius is subject by the principle of personality to one legal system whereas his inheritance falls under another. How could he have realized it if a dispute arose? What is the governor's role?

It is hard to believe that Cicero, had he been aware of all these theoretical difficulties, would have spoken so casually as the light vein in which the letter is written seems to suggest.

The adoption of Lyso of Patrae's son by the exile C. Maenius Gemellus according to local law succeeded in attracting the notice of scholars from both camps and as a result the recommendation to S. Sulpicius Rufus: 'ut eius ipsius [i.e. Lyso's son] hereditatis ius causamque tueare'[413] has received two different evaluations. Since these impinge directly on the character of the recommendation, I give here the gist of the arguments: true to the principle of incompatibility Arangio-Ruiz[414] maintains that Gemellus, having returned to Rome, lost his Patrensian citizenship, and this resulted in the invalidation of the adoption made in accordance with the local law of Patrae: 'non sappiamo se la grande abilità di un Servio bastasse a venire a capo'.[415] Schönbauer seizes triumphantly on this note of despair in his rival to assert that 'Ciceros Ersuchen wäre einfach unverständlich, wenn es keine Möglichkeit der Erfüllung seines Wunsches gab',[416]

as it would be if one adopts the principles propounded by Arangio-Ruiz. According to him, Gemellus did not lose his Patrensian citizenship on returning to Rome and therefore there is still hope that the adoption will remain valid.[417] However, even De Visscher, who generally shares Schönbauer's views on the principle of double citizenship, holds that compatibility applied only as long as the newly made citizen remained in his home-town, whereas a mutatio civitatis would have resulted in its loss.[418]

In spite of their total disagreement about everything else, both Arangio-Ruiz and Schönbauer share at least the same deep conviction that G. Maenius Gemellus returned to Rome - but did he? Unfortunately, even as a case to try out one's own hypothesis this letter will not do.

2. Provincial autonomy

In accordance with the terms of the Lex Rupilia:[419]

> Quod privatus a populo petit aut populus a privato, senatus ex aliqua civitate qui iudicet datur, cum alternae civitates reiectae sunt.

This item is relevant to an assessment of Fam., XIII, 47, addressed to the governor of Sicily, M. Acilius:

> Hippiam, Philoxeni filium, Calactinum ... tibi commendo ... Eius bona, quem ad modum ad me delata res est, publice possidentur alieno nomine[420] contra leges Calactinorum. Id si ita est, etiam sine mea commendatione ab aequitate tua res ipsa impetrare debet ut ei subvenias.

This is a case of a dispute between a private citizen and a city. The Lex Rupilia provides for such a case. Is the governor's help sought merely in order to enforce those provisions or can we detect here an appeal for direct intervention?

Finally, in Fam., XIII, 64.1 a request is made to the governor of Bithynia, P. Silius, on behalf of a citizen of the free city of Alabanda[421]

in the province of Asia:

de Pausania Alabandensi sustentes rem, dum Nero veniat.

Is Pausanias on trial before the governor, who could be requested to delay the case or is it a request to interfere unofficially in legal proceedings held before another court? Since we do not know who the other litigants in the trial were no conjectures can be made. It might still be legitimate to ask what legal procedure was available in the case of a free citizen sojourning in another province, if only by way of a reflection on the extent of our ignorance.

Chapter 3

CICERO'S LETTERS OF RECOMMENDATION: AN INSIGHT INTO TIES OF FRIENDSHIP AND HOSPITALITY BETWEEN ROMAN OFFICIALS AND GREEKS.

In a previous chapter it was claimed that ties of friendship and hospitality between influential Romans and prominent provincial Greeks, still in an early stage under the Republic, were destined to transform radically the outlook and nature of the Roman Empire.[1] To the understanding of this later process a study of these ties in their nascent and inchoate form, as revealed through the letters of recommendation, is both instructive and indispensable.

It is, therefore, the purpose of the following discussion to scrutinize these ties more closely and to sound their depth and quality. Special attention will be given to the language employed in describing them in order to substantiate our former contention that there is no support or justification in them for the current belief that these ties savour of the patron-client type of relationship.[2] The total absence of such a frame of reference is highly significant in itself. If Cicero prefers not to appear to stoop and condescend but rather to regard these ties in terms of equality and reciprocity, should not we pause and reflect on his probable motives, rather than dismiss them as mere gestures made to etiquette?

In a complementary study of the probable origins of these ties we shall try, therefore, to demonstrate that, far from constituting a lop-sided relationship, they originated in favours and hospitality bestowed upon the Roman partner by his Greek friend and host, serving at the same time the interests of both.

Finally, we shall try to connect this information with the characterization of Roman provincial government, to wit, the interaction between private and public interests and the recourse to personal ties in order to meet those needs and fulfil those functions that modern officialdom considers to be its own. And indeed the latter performs these activities precisely in order to prevent private influence from encroaching on its own territory where 'the dominance of a spirit of formalistic impersonality'[3] is the acknowledged norm.

A survey of the fifteen Greeks marked out for recommendation shows that they all possess one or more of the following attributes:

1. Local eminence produced by wealth, social status, culture and education, official position, good connections etc.
2. Possession of Roman citizenship individually bestowed.
3. Guest-relationship with Roman provincial officers or other influential personalities.

One can perceive immediately that the three are not unconnected, but that, on the contrary, each of them can easily be the cause and outcome of the other two.

We shall start with a few illustrations of the first 'qualification'.

Andron son of Artemon[4] from Laodicea ad Lycum, in the province of Asia,[5] is probably the same man mentioned by Macrobius as a 'legatus de libertate patriae'[6] who came to Rome as a representative of Laodicea, not long before the letter on his behalf was written,[7] in order to plead the case of his town before Caesar, and had a conversation with Cicero at the time.[8] His local distinction can be surmised by a comparison with other Greeks who made similar representations.[9]

Antipater of Derbe,[10] a local dynast in South Lycaonia, holding Derbe and Laranda; his career, ingeniously reconstructed by R. Syme[11] by piecing together loose and scanty bits of information, makes it impossible to continue to regard him as some unknown Greek.[12]

Patro the Epicurean[13] succeeded Phaedrus as the head of the Epicurean school in Athens, in which capacity he served for almost twenty years.[14]

The careers of the other Greeks, perhaps no less illustrious, cannot be substantiated to the same extent by extraneous sources, but Cicero's descriptions cannot be far from the truth. Hagesaretus of Larissa was 'principem civitatis suae';[15] Democritus of Sicyon 'non modo suorum civium verum paene Achaiae principem';[16] L. Manlius was a decurio in Naples;[17] Lyso of Lilybaeum 'est ... nobilissima familia',[18] and his father was one of the leading citizens of the city ('primus homo');[19] the source of the family's wealth was textile production. Here, as in other rich establishments at the time, the looms never stopped producing for Verres.[20]

Since they were the cream of provincial society, it is hardly surprising to find six of the fifteen Greeks in possession of Roman citizenship, at that time a definite mark of distinction.[21]

L. Manlius had possessed Roman citizenship since 90 B.C., hailing originally from Catina in Sicily. He settled later in Naples where he received his citizenship under the Lex Plautia Papiria.[22] The brothers M. Clodius Archagathus and C. Clodius Philo[23] of Halaesa in Sicily might have been beneficiaries of Caesar.[24] C. Avianius Philoxenus[25] was one of the Greeks who were enrolled by Caesar in Novum Comum,[26] and thereby acquired Roman citizenship.[27] Demetrius Megas was a Sicilian who acquired his citizenship from Caesar through the intercession of

P. Cornelius Dolabella and Cicero himself.[28] Finally, A. Licinius Aristoteles of Melita in Sicily[29] became so involved in Roman politics and internal rivalries as to earn from Cicero the compliment of being a more ardent Pompeian than himself.[30]

Finally we come to the best documented and highly significant ties of private hospitality claimed by Cicero with almost all the recommended Greeks. The appellation hospes,[31] or the mention of an hospitium-tie, is always accompanied here by the terminology of egalitarian friendship: consuetudo, necessitudo, familiaritas, usus, amicitia and their derivative adjectives. The following list speaks eloquently for itself:

- Cum Lysone Patrensi est mihi quidem hospitium vetus: quam ego necessitudinem sancte colendam puto; sed ea causa est etiam cum aliis compluribus, familiaritas tanta nullo cum hospite ... Is cum Romae annum prope ita fuisset ut mecum viveret ...[32]
- Hagesaretus Larisaeus ... hospitem meum et familiarem.[33]
- In Halaesina civitate ... coniunctissimos habeo et hospitio et familiaritate M. et C. Clodios Archagatum et Philonem ... hanc familiam et hos mihi maxime esse coniunctos vetustate, officiis, benevolentia.[34]
- Avitum mihi hospitium est cum Lysone, Lysonis filio, ... valdeque ab eo observor.[35]
- C. Avianius Philoxenus antiquus est hospes meus et praeter hospitium valde etiam familiaris.[36]
- Cum Demetrio Mega mihi vetustum hospitium est, familiaritas tanta quanta cum Siculo nullo.[37]
- Hippiam ... Calactinum, hospitem et necessarium meum.[38]

- A. Licinius Aristoteles Melitensis antiquissimus est hospes meus et praeterea coniunctus magno usu familiaritatis.[39]
- Cum Antipatro Derbete mihi non solum hospitium verum etiam summa familiaritas intercedit.[40]
- Democritus Sicyonius non solum hospes meus est sed etiam, quod non multis contigit, Graecis praesertim, valde familiaris.[41]
- Ex provincia mea Ciliciensi ... nullo sum familiarius usus quam Androne ... eumque habui in ea civitate cum hospitem tum vehementer ad meae vitae rationem et consuetudinem accommodatum.[42]
- Cum Patrone Epicurio mihi omnia sunt ... et *initio* Romae, ... me coluit in primis et nuper, cum ea quae voluit de suis commodis et praemiis consecutus est, me habuit suorum defensorum et amicorum fere principem et iam a Phaedro ... valde ut philosophus, postea tamen ut vir bonus et officiosus probabatur, traditus mihi commendatusque est.[43]

This list is indeed impressive testimony by Cicero to his friendship with his Greek provincial hosts; it needs only a few touches to bring out its full significance for our purpose.

Roman historians discussing the institution of <u>hospitium</u> within the framework of public law, i.e. the <u>hospitium publicum</u>, hardly ever fail to comment on the dearth of documents at our disposal.[44] This, I maintain, is no accident, nor the result of faulty transmission, but, in fact, hardly surprising. The expectations of these scholars cannot be met by the manner in which the Romans thought and operated; the latters' tendency to rely heavily on personal ties of hospitality goes a long way to explain the slight attention given to public hospitality. These personal ties are likely to elude official documentation, to find their fullest expression in sources which inadvertently manifest them.

Cicero's letters of recommendation are of such a character.

Since private hospitality stood in the breach and catered for these needs, the Romans could hardly share the moderns' search for public and official institutions and provisions, especially in view of the fact that the private tie of hospitality served the interests of both governors and governed.

In this, as in other cases, 'the Greek and Roman institutions fused together with marvellous ease';[45] the Greek institution of proxeny[46] was neatly met by the Roman concept of amicitia:[47] a mutual exchange of favours to the satisfaction of both partners to the tie.

A modern historian, describing the assize-system in the Roman provinces, makes the following statement about the sentiments of residents of assize-centres:[48]

> Local dignitaries had an unparalleled opportunity to ingratiate themselves with the Roman authorities and to improve their prestige while entertaining the governors in their homes during the assize. The hospitium relationship thus acquired could also bring dividends later.

The sources support this statement; we find the most distinguished provincials competing for the privilege of entertaining the highest provincial officers; one of them was Philodamus of Lampsacus in the Hellespont who when asked to entertain a lesser official:[49]

> ostendit munus illud suum non esse: se cum suae partes essent hospitum recipiendorum, tum ipsos tamen praetores et consules, non legatorum adseculas, recipere solere.

And Sthenius of Thermae in Sicily, while indulging his own aesthetic tastes, claimed to have in mind those of his Roman guests:[50]

> non tam suae delectationis causa quam ad invitationes adventusque nostrorum hominum, amicorum atque hospitum.[51]

Both Greeks and Romans would have concurred in Cicero's statement as an appropriate expression of their social credo:[52]

> est enim ... valde decorum patere domus hominum illustrium hospitibus illustribus idque etiam reipublicae ornamento.

This mentality could hardly harmonize better with the principles underlying Roman provincial government, whose functionaries have aptly been described as 'governors on the move',[53] spending their time 'on circuit' from one diocese to another, administering justice at the assize-centres,[54] where they would be entertained by the local dignitaries.[55] It is a perfect case of the interaction between private and public relationships and functions that it was not considered necessary to provide public buildings in which governors could stay while on the move. They stayed with hospites just as they would have done if travelling privately.

It was only to be expected, therefore, that nine out of the fifteen Greeks recommended by Cicero come from the two provinces in which he spent his time as an official, Sicily and Cilicia.[56] Two of them came from assize-centres: Andron from Laodicea ad Lycum where Cicero spent close to four months administering justice to adjacent dioceses as well,[57] Lyso of Lilybaeum from the town where Cicero spent his Sicilian quaestorship. His father entertained Verres at his home, to his own cost.[58]

On his way to the Cilician Gates, Cicero, as has been convincingly conjectured,[59] was entertained by Antipater of Derbe, the local dynast. As for the other Sicilian guest-relationships in towns other than Lilybaeum, they can easily be identified with the oft-mentioned hosts in the Verrines.[60]

There must have been other guest-relationships which were not contracted during a provincial governorship but on the way there and back, or on other journeys to the East; these too crop up in our letters: Lyso of Patrae who subsequently enjoyed Cicero's own hospitality in Rome,[61] Asclapo the doctor from Patrae, who looked after Tiro,[62]

Democritus of Sicyon[63] and possibly Patro the Epicurean.[64]

Twice we find Cicero recommending a person to the governor as 'dignum hospitio tuo',[65] which under the conditions prevailing in the provinces can only mean 'deserving to be your host'. However, the hospitality of the Greek host was often reciprocated by the Roman governor when both were in Rome. For instance, Lyso of Patrae spent a year with Cicero in Rome.[66] Thus we may interpret the phrase loosely to mean: 'deserving to enter into a guest-relationship (ξενία) with you'.

In conclusion we may suggest that, having absorbed private hospitality and private ties of friendship into the very machinery of provincial government, the Romans certainly encouraged the easy interaction between private and public interests so prominent in letters of recommendation, as well as prepared the ground for a close co-operation between Greeks and Romans in the government of the Empire.

Chapter 4

The Effectiveness of Cicero's Letters of Recommendation.[1]

The issue seems, at least at first sight, to belong to the most obscure part of the recommendation process, that end of the correspondence which we do not possess: the recipients' replies to Cicero's letters of recommendation.

However, it is not at all certain that the possession of these replies would have given full satisfaction. The decorum of writing recommendations might have been matched by a decorum of replying to them: without seeming to do so a reply may in fact decline to comply with the request; or by adopting the same vague and imprecise terminology as the letter of recommendation, the reply may not commit its writer to any specific course of action. Furthermore, replies in the affirmative may later prove to have been empty promises. Finally, some replies may have been extorted from the recipient under such pressure or under such conditions that it becomes more appropriate to regard them as obedience to a command than as compliance in the spirit of reciprocity. We shall return to this issue at the end of the discussion.

On the other hand the absence of these replies does not leave us altogether in the dark about the outcome or probable outcome of these letters. Without begging the question we may suggest that the social, moral and political conditions in Rome, discussed in previous chapters, not only account for the existence of and the need for letters of recommendation but guarantee in advance their success. This is not to say that every recommendation proved successful: a detailed analysis

would be required in order to determine the prospects of success of each recommendation. However, one may venture the following generalization: the nature of the system as a whole implied the predominance of successful recommendations.

Another general consideration is related to Cicero himself: all that we know, on the one hand, about his position as statesman, orator, advocate and man of letters and, on the other hand, about his personal ties with individuals and groups in Rome, in Italy and in the Empire, may suggest the extent and nature of the gratia he had with his correspondents and the measure of the influence he could bring to bear on his recommendations.

These two factors, first, the ethos and nature of Roman society and government and secondly Cicero's particular position and influence, combined with the reasonable inference that letters of recommendation would not have been written unless known to have some effect, may give us a general, albeit admittedly imprecise, idea of the effectiveness of Cicero's letters of recommendation.

So much for the general framework. Our particular concern is the fate of individual letters of recommendation. In the absence of the replies, we have to use indirect sources of information. These may be arranged under four headings:

(1) Prosopographical studies of the personalities involved in a single recommendation: on the basis of their relationship with Cicero before, after, and at the time of the recommendation conjectures can be made about the probability of its success. Information subsequent to the letters itself may bring us nearer to the truth.

However, the study of the networks of relationships in the late Roman Republic is a massive enterprise which lies beyond the framework of this study. Most of the pertinent data are assembled in the Tables in the Appendix to Part Two. Our present discussion concentrates on a few instructive cases.

The style of the letters often serves as a check on conclusions drawn from prosopographical data: in accordance with the rules of decorum Cicero adjusts his tone to suit his relationship with the recipient.

(2) Repeated recommendations or references to previous oral or written recommendations[2] may often enlighten us as to the past rate of success of Cicero's recommendations. Each case must be discussed separately so that it can be decided whether a repeated recommendation is a sincere expression of gratitude, as it generally affects to be, or a polite reminder, or circumstantial evidence for the failure of Cicero's previous recommendation.[3]

(3) Various allusions scattered throughout the letters refer to the effect Cicero's letters of recommendation have or had on the recipients.

(4) Cicero's own replies to recommendations addressed to him may tell us indirectly about his correspondents' reactions to Cicero's own recommendations; at least they may instruct us on the decorum of replies to letters of recommendation.

(1) i. Cicero and the recommended persons: evidence for the effectiveness of recommendations on behalf of publicani and negotiatores.

Most of Cicero's letters of recommendation are written to provincial governors.[4] Even though the status and occupation of a good many of the people recommended in them is unknown, recommendations written on behalf of Roman businessmen and/or their representatives in the provinces preponderate over the rest.[5] The sheer quantity is suggestive of their effect. For convenience we shall divide all these businessmen who people Cicero's letters of recommendation - money-lenders, bankers, tax-farmers, landowner and procurators (generally freedmen or slaves) - into two groups who in reality may often have overlapped:[6] publicani and negotiatores.

Cicero's friendship with the publicani[7] is evident as early as 70.[8] It continues throughout the 60s to culminate in the resolution they passed for his recall.[9] As the only organized body within the equestrian order,[10] they wielded much power and influence which made their friendship highly desirable. Cicero was fully aware of the fact, as his warning to his brother Quintus, the governor of Asia at the time proves:[11]

> Atque huic tuae voluntati ac diligentiae difficultatem magnam adferunt publicani: quibus si adversamur, ordinem de nobis optime meritum et per nos cum re publica coniunctum et a nobis et a re publica diiungemus.

Although the governor should protect the provincials from being fleeced by the publicans, the 'middle course' which Cicero recommends to his brother is decidedly intended to satisfy and propitiate the publicans by extorting concessions from the Greeks:[12] 'ut facilitate sua (scil. of the Greeks) nos eam necessitudinem quae est nobis cum publicanis obtinere et conservare patiantur'.

A few years later Cicero reminds the governor of Cilicia, P. Cornelius Lentulus Spinther, of the danger in alienating the publicans:[13] 'scis, quam graviter inimici ipsi illi Q. Scaevolae fuerint'.[14] To ensure himself as governor of their support and goodwill he complied with their wishes even before reaching his province:[15] 'Romae composui edictum; nihil addidi, nisi quod publicani mè rogarunt, cum Samum ad me venissent, ut de tuo edicto totidem verbis transferrem in meum'. Their gratitude may have expressed itself in their agreement to forgo the rate of interest specified in the pactiones.[16] However, they were immediately remunerated: the Greeks paid the arrears of the previous lustrum as well as the current tax.[17] Thus Cicero found the 'middle course' between the interests of the Greeks and the publicans and could congratulate himself on the success of his policy. The publicans' gratitude was boundless:[18] 'Itaque publicanis in oculis sumus'.

Recommendations on behalf of publicans should be seen against this background of long-standing friendship cemented by mutual services. The four letters[19] we possess fully confirm the picture drawn above of Cicero's relationship with the public companies: their earnestness and vehemence are not exceeded by anything else in the Ciceronian corpus. The main emphasis falls on Cicero's attachment to the entire ordo,[20] although he may point out his connections with individual members as well:[21]

- (to Crassipes) Volo enim te existimare me, cum universo ordini publicanorum semper libentissime tribuerim idque magnis eius ordinis erga me meritis facere debuerim, tum in primis amicum esse huic Bithynicae societati, quae societas ordine ipso et hominum genere pars est maxima civitatis ... et casu permulti sunt in ea societate valde mihi familiares in primisque is, cuius praecipuum officium agitur hoc tempore, P. Rupilius p.f. Men., qui est magister in ea societate.[22]

- (to Silius) Praeterea cum sociis scripturae mihi summa necessitudo est non solum ob eam causam quod ea societas universa in mea fide est, sed etiam quod plerisque sociis utor familiarissime.[23]

The letters to P. Furius Crassipes,[24] the quaestor of Bithynia-Pontus, and to Q. Valerius Orca,[25] the governor of Africa, repeat in fact oral recommendations made before the recipients' departure for their provinces: Cicero spared no efforts on behalf of the publicans to the extent of running the risk of appearing importunate and thus sinning against decorum.

The regular activity of the publicans in the provinces which necessitated the presence of resident representatives there made Cicero and Q. Valerius Orca hit on a special routine procedure of recommendation in the case of the African public company; this is, in fact, the closest we get in our period to the modern blank form:[26]

> Qua re Cuspianorum omnium commendationis causam hac tibi epistula exponendam putavi, reliquis epistulis tantum faciam ut notam apponam eam, quae mihi tecum convenit, et simul significem de numero esse Cuspi amicorum.

Fam., XIII, 6a demonstrates that the system did take effect:

> P. Cornelius, qui tibi litteras has dedit, est mihi a P. Cuspio commendatus; cuius causa quanto opere cuperem deberemque profecto ex me facile cognosti. Vehementer te rogo ut cures ut ex hac commendatione mihi Cuspius quam maximas quam primum quam saepissime gratias agat.

The success of recommendations given to socii of the African public company was guaranteed in advance by attaching to them the special nota agreed upon between Cicero and Q. Valerius Orca to distinguish a recommendation meant in earnest.[27]

The system of recommendations, as has often been observed, is based on reciprocity, on a mutual exchange of favours. Hence evidence for favours subsequently bestowed on Cicero by the recommended person may conceivably be an indication of the success of the recommendation. There are two objections, though, to the perhaps simplistic view which regards both letters of recommendation and the subsequent favour as

standing in a causal - quid pro quo - relation to each other: after all both may be single unrelated items in a series of mutual exchange of favours in a long-standing and genuine friendship. Secondly, a man may express his gratitude and recognition of Cicero's efforts on his behalf, even when the recommendation failed to achieve its end. Consequently, any correlation between the writing of letters of recommendation and subsequent favours may be coincidental, and only tentative conclusions may be drawn about the effectiveness of Cicero's recommendations.

S. L. Mohler in his survey of Cicero's legacies draws attention to the correlation between the bestowal of legacies on the one hand and the writing of recommendations on the other hand.[28] He mentions five people who received recommendations from Cicero. Q. Fufidius,[29] who is singled out from among the other legates of Arpinum for a special recommendation to the governor of Cisalpine Gaul in 46, M. Junius Brutus, may be a relative or a son[30] of the Fufidius who left Cicero about thirty thousand sesterces in 47 B.C.[31] However, the young man served Cicero as tribunus militum in Cilicia[32] and was a son-in-law of M. Caesius, a close friend of Cicero from Arpinum.[33] T. Pinnius[34] had instituted Cicero his 'second heir' and a guardian of his son. Pinnius lent the city of Nicaea eight million sesterces and Cicero appeals to the governor of Bithynia in 50, P. Silius, to help the heir to recover as much as possible of the loan.[35] However, Cicero would have benefited from the inheritance only if the young man refused to accept it. L. Nostius Zilo,[36] a freedman and a co-heir with Cicero of his patron, is recommended in 47-6 to the proquaestor of Asia, M. Appuleius. M. Curius, the negotiator from Patrae,[37] made Cicero's acquaintance through Atticus.[38] A genuine friendship developed: Curius attended faithfully to the sick Tiro[39] and was Cicero's host during the Civil War.[40] An exchange of intimate letters[41] between Curius and

Cicero in 46-4 coincides with two letters of recommendation sent on Curius' behalf to two successive governors of Achaia.[42] The first, a warm general recommendation of the man, is sent to Ser. Sulpicius Rufus. The second, entirely different in tone as far as the recipient is concerned, is sent to M. Acilius in compliance with Curius' request.[43] However, it was never delivered.[44] Curius made Cicero an heir to a quarter of his estate in 50, four years before the first letter of recommendation.[45]

In fact the only neat chronological sequence where a legacy came after a letter of recommendation occurs in the case of M. Cluvius,[46] the negotiator from Puteoli, who lent money to various cities and individuals in Asia, and represented Pompeius' interests there as well.[47] The letter of recommendation sent on his behalf to the governor Q. Minucius Thermus in 50 has already been discussed.[48] Its immediate effect remains unknown. However, in 45 the rich negotiator left Cicero a large part of his estate: it was worth eighty to[a] hundred thousand sesterces a year.[49] It is hard to know whether or not this last fact indicates that the recommendation had been successful and that Cluvius felt he owed to Cicero the recovery of his loans in Asia. Apparently a substantial amount of money was involved, the loss of which might have caused Cluvius great financial damage:[50] 'Is ita sibi persuadet, quod in tua provincia negoti habeat nisi te provinciam obtinente meis commendationibus confecerit, id se in perditis et desperatis habiturum'. But Cicero might have been exaggerating in order to achieve a greater effect. At any event this is as far as we can go in trying to infer the effect of recommendation from the relationship between it and a subsequent legacy.

(1) ii. Cicero and the recipients: prosopography, decorum and the fate of recommendations.

Cicero sent two letters of recommendation on behalf of M. Curius of Patrae.[51] The first to Ser. Sulpicius Rufus[52] is altogether in tune with the rest of the recommendations sent by Cicero to the eminent jurist when the latter was the governor of Achaia: their tone is friendly but never casual or flippant; they are in general lengthy and respectful. The two men's friendship apparently never reached that kind of intimacy which allows people to be completely at ease. The present letter is a general letter of introduction which never mentions Curius' shaky state of affairs,[53] which probably occasioned it:

> M'. Curius, qui Patris negotiatur, multis et magnis de causis a me diligitur; nam et amicitia pervetus mihi cum eo est ut primum in forum venit instituta, et Patris cum aliquotiens antea tum proxime hoc miserrimo bello domus eius tota mihi patuit; qua si opus fuisset tam essem usus quam mea. Maximum autem mihi vinculum cum eo est quasi sanctioris cuiusdam necessitudinis, quod est Attici nostri familiarissimus eumque unum praeter ceteros observat ac diligit. Quem si tu iam forte cognosti, puto me hoc quod facio facere serius; ea est enim humanitate et observantia, ut eum tibi iam ipsum per se commendatum putem. Quod tamen si ita est, magno opere a te quaeso ut ad eam voluntatem, si quam in illum ante has meas litteras contulisti, quam maximus potest mea commendatione cumulus accedat; sin autem propter verecundiam suam minus se tibi obtulit aut nondum eum satis habes cognitum aut quae causa est cur maioris commendationis indigeat, sic tibi eum commendo, ut neque maiore studio quemquam, neque iustioribus de causis commendare possim, faciamque id quod debent facere ii qui religiose et sine ambitione commendant; spondebo enim tibi vel potius spondeo in meque recipio eos esse M. Curi mores eamque cum probitatem tum etiam humanitatem, ut eum et amicitia tua et tam accurata commendatione, si tibi sit cognitus, dignum sis existimaturus. Mihi certe gratissimum feceris, si intellexero has litteras tantum, quantum scribens confidebam, apud te pondus habuisse.

The second letter is addressed to M. Acilius, a legate under Caesar who placed him in charge of Oricum[54] during the Civil War. Later he

became the proconsul of Sicily;[55] in this capacity he received ten letters of recommendation from Cicero.[56] In 45 he succeeded Sulpicius in the governorship of Achaia.[57] The difference in tone and approach between the two letters written on behalf of the same man is striking; it calls for an explanation. The long-winded exposition of the recommended man's excellent character and manners, his intimate friendship with Cicero and Cicero's obligations towards him[58] is replaced in the letter to Acilius by two short sentences:[59]

> M. Curius, qui Patris negotiatur, ita mihi familiaris est, ut nihil possit esse coniunctius. Multa illius in me officia, multa in illum mea, quodque maximum est, summus inter nos amor et mutuus.

Cicero is not asking a favour but almost invoking a right:[60]

> Sumpsi hoc mihi pro tua in me observantia, quam penitus perspexi quam diu Brundisi fuimus, ut ad te familiariter et <u>quasi pro meo iure</u> scriberem, si quae res esset de qua valde laborarem.

The two conditional sentences which follow the man's description ring like a threat or at least a warning:[61]

- si ullam in amicitia mea spem habes,
- si ea, quae in me officia et studia Brundisi contulisti, vis mihi etiam gratiora efficere ...

Their tone is somewhat reminiscent of Cicero's expressions in his severe letter to M. Antonius Hibrida:[62]

> Ego quae tua causa antea feci, voluntate sum adductus posteaque constantia; sed <u>reliqua</u>, mihi crede, multo maius meum studium maioremque gravitatem et laborem desiderant.

The <u>reliqua</u> probably refer to Cicero's promise to defend Antonius at his forthcoming trial.[63] Cicero's facetious opening of the letter to Quintus Gallus:[64] 'ea causa tibi datur, in qua facile declarare possis tuam erga me benevolentiam' and his demand from Gallus to put the request in writing[65] also echo the tone of the letter to M. Acilius, but the latter's tone is far more demanding.

Fortunately we possess some information which accounts for Cicero's almost haughty manner in his letter to M. Acilius. The man is under deep obligation to Cicero for defending him twice successfully in capital trials:[66]

> Acilius, qui in Graeciam cum legionibus missus est, maximo meo beneficio (bis enim est a me iudicio capitis rebus salvis defensus) et est homo non ingratus meque vehementer observat.

In fact Fam., III,50 was sent to Curius himself to be delivered to M. Acilius.[67] The style of the letter and the prosopographical data confirm and complement each other. We can be certain that the recipient, M. Acilius, would have felt obliged to comply with Cicero's request. Ironically enough this is the only letter of recommendation of which we know for certain that it was never delivered:[68] 'Acilio non fuisse necesse meas dari litteras facile patior'.

(2) Repetitions of Recommendations : Oral and Written.

Repetitions of oral recommendations generally relate to a conversation which took place between the recipient (the governor in most cases) and Cicero before the former's departure for his province. They do not necessarily imply that the oral recommendation was not effective: Cicero may be doing for the recipient what he on one occasion recommended to Q. Gallus to do:[69]

> Velim memoriae tuae causa des litterarum aliquid, quae tibi in provincia reddantur, sed ita conscribas, ut tum, cum eas leges, facile recordari possis huius meae commendationis diligentiam.

The governor's business may have necessitated a reminder in writing:[70] 'te propter magnitudinem provinciae multitudinemque negotiorum etiam atque etiam esse commonefaciendum'.

Perhaps the recommended person expressed a wish to arrive at the province armed with a letter of recommendation to the governor. He may not have delivered it if the governor showed that he remembered the oral recommendation or if some other factor intervened to make the letter unnecessary or superfluous.[71]

Thus reminders of oral recommendations which express the hope that the governor remembers the conversation held before (e.g.: 'Credo te memoria tenere me et coram P. Cuspio tecum locutum esse ...'[72]) and will abide by his former promise (e.g.: 'Peto igitur ut memineris te omnia, quae tua fides pateretur, mihi cumulate recepisse'[73]) do not tell us much about the effectiveness of a recommendation, but rather underline the informal and personal manner in which the Roman government operated and the devices which a non-bureaucratic government had to use in the absence of filing systems and ordered archives.

No more information about the outcome of recommendation can be obtained from two cases we have of letters which single out one person from among several others who had been recommended in a previous letter. Q. Fufidius[74] had been recommended to M. Junius Brutus together with the other members of the embassy sent by Arpinum to collect the municipality's vectigalia in Cisalpine Gaul.[75] The letter which singles him out does not, however, imply that Cicero mistrusts the effect of his former recommendation or desires to diminish its importance:[76] 'non ut aliquid de illa commendatione deminuam, set ut ad hanc addam'. The sole purpose of the second letter is to emphasize an additional[77] personal interest that Cicero has in the success of the embassy's mission: it will enhance the prestige of his young protégé who served him as a tribunus militum and undertook the legatship on Cicero's own advice.

Similarly, Sex. Aufidius[78] is singled out from among the other heirs of Q. Turius[79] and received a personal recommendation to the governor of Africa, Q. Cornificius. However, this recommendation does not mention the inheritance or the other heirs: it merely recommends the man's negotia in the province.

The singling out of the senator C. Curtius[80] from among the rest of the Volaterrani may be more instructive. In the first letter to Q. Valerius Orca,[81] Cicero requests him to spare the lands of the entire community from being divided and distributed between Caesar's veterans. The second letter pleads only for C. Curtius' estate to escape confiscation. The assumption that 'Cicero's plea for Curtius implies that his more general advocacy of the interests of Volaterrae had been rejected'[82] seems plausible. This is, therefore, indisputable evidence for the failure of a recommendation.

Six letters in our corpus[83] repeat previous recommendations of the same person (or persons) which are in our possession as well. The rules of decorum and the necessity to appear courteous, tactful and moderate often confuse the real import of repeated recommendations and obscure the effect of the first appeal, especially when the specific item of business, if any, eludes us. Conversely, when we know the issue at stake our assessment of the outcome of the previous recommendation may be more precise.

The second letter to Ser. Sulpicius Rufus[84] regarding Lyso of Patrae seems to testify to the success of the first recommendation. It speaks eloquently for itself:[85]

> Cum antea capiebam ex officio meo voluptatem, quod memineram quam tibi diligenter Lysonem, hospitem et familiarem meum, commendassem, tum vero, postea quam ex litteris eius cognovi tibi eum falso suspectum fuisse, vehementissime laetatus sum me tam diligentem in eo commendando fuisse. Ita enim scripsit ad me, sibi meam commendationem maximo adiumento fuisse.

Similarly, the second letter of recommendation on behalf of A. Aemilius Avianius and his freedman C. Avianius Hammonius[86] is a grateful acknowledgement of Sulpicius' compliance with Cicero's first recommendation.[87] However, since the first letter uses very general terminology and no specific item of business is mentioned, the precise nature of the governor's generosity and the particular effect of the recommendation remain unknown. In this it is unlike the previous case, where Cicero's letter succeeded in dispelling any suspicions the governor entertained about Lyso's lack of respect for him.

The two letters to Ser. Sulpicius Rufus concerning the inheritance of L. Mescinius have already been discussed.[88] The second recommendation[89] opens with an enthusiastic actio gratiarum for all that the governor had promised to do and had done for L. Mescinius.[90]

> Incredibile est quas mihi gratias omnes agant, etiam mediocriter a me tibi commendati. Quae mihi omnia grata, sed de L. Mescinio gratissimum. Sic enim est mecum locutus, te, ut meas litteras legeris, statim procuratoribus suis pollicitum esse omnia, multo vero plura et maiora fecisse.

However, it is hard to reconcile Cicero's deep satisfaction with the later part of the letter which shows that the situation has hardly changed. Most of the inheritance has been appropriated by Minius' widow, who is to be threatened with a remittal of the case to Rome.[91] The end casts doubt on the sincerity of its beginning. Cicero may be dissatisfied with the pace of the proceedings or with Sulpicius' manner of tackling the issue. However, his respect or rather reverence for Sulpicius, which we have stressed before,[92] compels him to dissemble.

The second letter to L. Culleolus[93] on behalf of L. Lucceius, who lent money to the people of Byllis, betrays towards its end the fact

that the debt has not yet been settled:[94]

> Quod superest, quamquam mihi non est dubium quin, cum antea nostra causa, nunc iam etiam tuae constantiae gratia mansurus sis in eadem ista liberalitate, tamen abs te vehementer etiam atque etiam peto ut ea, quae initio ostendisti, deinde fecisti, ad exitum augeri et comulari per te velis.

Cicero's gratitude and optimism at the outset of the letter may be no more than a gentle reminder which he skilfully drives home by the unobtrusive mention of the pleasure the conclusion of the matter will cause Pompeius:[95] 'Id et Lucceio et Pompeio valde gratum fore teque apud eos praeclare positurum confirmo et spondeo'.

The second letter to Quintus Gallus[96] on behalf of the banker L. Egnatius Rufus and his procurator in Philomelium L. Oppius strengthens the previous recommendation, which as Cicero confesses in the preamble, had proved effective:

> Etsi ex tuis et ex L. Oppi, familiaris mei, litteris cognovi te memorem commendationis meae fuisse idque pro tua summa erga me benevolentia proque nostra necessitudine minime sum admiratus ...

Since the specific item of request, if any, is unknown, it is hard to read more into the second letter.

The repeated recommendations of M. Anneius - an oral recommendation in Ephesus and two letters in our collection[97] - have already been discussed.[98] The second letter[99] does not even pretend to be an expression of thanks for what the governor has done so far. We can safely assume that the previous recommendation has not yet had any effect.

The first letter to T. Titius on behalf of C. Avianius Flaccus,[100] the grain dealer, which followed an oral recommendation, has not been preserved:[101] 'De quo et praesens tecum egi diligenter ... et scripsi ad te accurate antea'. However, it seems quite certain that nothing has been done yet about the renewal of the privileges that he enjoyed when

Pompeius was in charge of the cura annonae, or else the present letter would not have been written.

It is not clear what kind of recommendation - oral or written - preceded the recommendation of M. Marcilius' son to Q. Minucius Thermus.[102] If it contained the same request which appears in our letter 'ut socrus adulescentis rea ne fiat' we can assume that the first recommendation has not proved as effective as Cicero's gratitude at the outset makes it appear to have been.

(3) Various allusions to the effect of Cicero's letters of recommendation.

These allusions may be divided into two groups (1) expressions which occur in letters of recommendation themselves and (2) expressions which occur in letters which contain references to letters of recommendation written by Cicero and which we do not possess.

The first group consists of phrases which announce the effect of Cicero's letters of recommendation on the recipient. Most of them have a rhetorical character; for all that they are not necessarily untruthful. Being a part of the decorum of letters of recommendation, their content should not be pressed harder than any other rhetorical argument or diplomatic overture. They usually remind the recipient of his previous compliance with Cicero's requests and/or the weight Cicero's letters of recommendation carry with him; thus setting the precedent for the present request. The following is a list of such phrases:

- (to Ancharius) Si ulla mea apud te commendatio valuit (quod scio multas plurimum valuisse), haec ut valeat rogo.[103]
- (to M.? Rex) etenim ex multis cognosco meam commendationem plurimum apud te valere.[104]
- (to Caesar) testimonium mei de eo iudici, quod et ipse magni aestimabat et ego apud te valere eram expertus, ei libenter dedi.[105]

- (to Gallus) Etsi plurimis rebus spero fore ut perspiciam, quod tamen iam pridem perspicio, me a te amari ...[106]

- (to Thermus) Cum multa mihi grata sunt, quae tu adductus mea commendatione fecisti ...[107]

- (to Thermus) et me a te tanti fieri puto ...[108]

- (to Sulpicius) Licet eodem exemplo saepius tibi huius generis litteras mittam, cum gratias agam, quod meas commendationes tam diligenter observes ...[109]

- (to Sulpicius) Etsi libenter petere a te soleo, si quid est meorum cuipiam, tamen multo libentius gratias tibi ago, cum fecisti aliquid commendatione mea, quod semper facis. Incredibile est enim quas mihi gratias omnes agant, etiam mediocriter a me tibi commendati.[110]

- (to Culleolus) Illudque mihi gratissimum est, quod ita sciunt Luccei procuratores et ita Lucceius ipse ex litteris tuis ... intellexit, hominis nullius apud te auctoritatem aut gratiam valere plus quam meam.[111]

- (to Cornificius) scio enim quantum ponderis mea commendatio sit habitura.[112]

- (to Cornificius) tu enim perfecisti ut nemo sine litteris meis tibi se commendatum putaret.[113]

Often, though, another nuance insinuates itself: previous demonstrations of the recipients' goodwill towards Cicero may justify the present presumption. In other words these declarations of the effect of Cicero's letter in the past are, as it were, apologies for the liberty taken in the present :

- (to Servilius) Quia non est obscura tua in me benevolentia, sic fit ut multi per me tibi velint commendari.[114]

- (to Servilius) Multos tibi commendem necesse est, quoniam omnibus nota nostra necessitudo est tuaque erga me benevolentia.[115]

- (to Brutus) Quia semper animadverti studiose te operam dare ut ne quid meorum tibi esset ignotum ...[116]

- (to Acilius) Sed vereor ne, quia compluris tibi praecipue commendo, exaequare videar ambitione quadam commendationes meas; quamquam a te quidem cumulate satis fit et mihi et meis omnibus.[117]

There is only one occasion where Cicero admits that he does not expect his letters of recommendation to have a successful outcome: in the petulant

letter to his former colleague C. Antonius Hibrida Cicero says:[118]

> Etsi statueram nullas ad te litteras mittere misi commendaticias (non quo eas intellegerem satis apud te valere, sed ne iis, qui me rogarent, aliquid de nostra coniunctione imminutum esse ostenderem) ...

Some of the references to unpreserved letters of recommendation[119] contain some information - often scanty and enigmatic - about the outcome or probable outcome of Cicero's recommendations.

1. The reference to the letter written to C. Octavius, the governor of Macedonia in 60,[120] on Atticus' behalf has been mentioned before.[121] It has been conjectured that 'neque enim ista tua negotia provincialia esse putabam', which probably refers to Sicyon's debt to Atticus, implies that Cicero did not entertain much hope of recovering the debt through the governor's assistance. Nevertheless, as he says there, he had written diligently.

2. Cicero's recommendation of Zeuxis of Blaundus[122] was not well received by his brother Quintus, the governor of Asia in 59: 'altera (scil., epistula) est de Blaundeno Zeuxide, quem scribis certissimum matricidam tibi a me intime commendari'.[123] We learn that at present the man is in Rome with Cicero:[124] did he escape from the province? And was Cicero's recommendation intended to placate the incensed Quintus whose prey had escaped him? This seems the more likely interpretation. However, those who read 'oportuerat' in 'quem adductum in iudicium fortasse an dimitti non oportuerat'[125] presume that he was released after having been brought to trial: was it Cicero's recommendation which forced the reluctant Quintus to release him? We cannot be sure.

3. L. Valerius, the jurisconsult, was recommended to P. Cornelius Lentulus, the governor of Cilicia in 56-53. Cicero's letter to Valerius[126] implies that the recommendation, whatever its nature had been, was

successful: 'Lentulo nostro egi per litteras tuo nomine gratias diligenter'. The man continued to reside in the province and was recommended to Lentulus' successor.[127]

4. The young C. Trebatius Testa was recommended several times by Cicero to Caesar in Gaul. The first letter is preserved,[128] but others followed: 'In omnibus meis epistulis, quas ad Caesarem aut ad Balbum mitto, legitima quaedam est accessio commendationis tuae';[129] 'Ego te commendare non desisto';[130] 'Cui (scil., Caesari) quidem ego rescripsi, quam mihi gratum esset futurum, si quam plurimum in te studi, offici, liberalitatis suae contulisset'.[131] It should be stressed that Caesar, although duly acknowledging Cicero's recommendations,[132] was prevented by his many occupations from becoming personally acquainted with the young man.[133] Nevertheless, an offer of the benefits of the military tribunate without the actual service followed immediately.[134] Cicero,it may be recalled,emphasized in his first recommendation that it was Caesar's friendship, rather than a post, which was the real object of his recommendation;[135] he often exhorts Trebatius not to miss any opportunity to cultivate Caesar's friendship.[136] Cicero's continued efforts were finally crowned with success. Trebatius gave Caesar legal advice[137] and became his friend.[138] Balbus promised that Trebatius' hopes for getting rich would be fulfilled.[139] Trebatius' behaviour during the Civil War - he was in Caesar's company and served as mediator between Caesar and Cicero[140] - shows that the recommendation reached further than Cicero could have foreseen.

5. The same Trebatius was recommended successfully, although we do not know with what aim in mind, to the jurisconsul Precianus:[141] 'scribit enim ipse (scil. Precianus) mihi te sibi gratias agere debere'.

6. M. Curtius received a military tribunate in Gaul from Caesar on Cicero's recommendation.[142]

7. Cicero recommended M. Calpurnius Bibulus' quaestor, Sallustius, to his commander-in-chief in compliance with the man's request[143] but against his own better judgement.[144] He warns the young man that if his suspicions about Bibulus' alienation from himself are founded the recommendation will fail.[145]

8. Cicero recommended an unknown Catilius,[146] guilty of murders and other depredations, to P. Vatinius, the governor of Illyricum in 44. P. Vatinius with amused surprise gives in:[147] 'Meam animadversionem et supplicium, quo usurus eram in eum, quem cepissem, remitto tibi et condono'. However, it seems that a trial was going to take place after all, with Q. Volusius, Cicero's prefect in Cilicia, conducting the defense. It is possible that the advocate Q. Volusius[148] stood behind the recommendation: not having sufficient confidence in his own powers he tried to enlist Cicero's influence. In spite of Vatinius' protestations and promises it seems that the outcome of the trial would decide the man's fate:[149] 'Defenditur a Q. Volusio, tuo discipulo, si forte ea res poterit adversarios fugare: in eo maxima spes est'.

(4) Cicero's replies to letters of recommendation : the <u>decorum</u> of replies.

Cicero's replies to letters of recommendation are recorded in Table III of the Appendix to Cicero's letters of recommendation. Most of them are favourable, albeit very general: they are brief missives which tell us very little about the preceding request. However, the unspecified terminology may reflect the absence of specification in the letters of

recommendation addressed to Cicero. Usually, they occupy only one paragraph in the letters which contain them. The following examples are typical of their style and phraseology:

- Numerium Numestium libenter accepi in amicitiam et hominem gravem et prudentem et dignum tua commendatione cognovi.[150]

- Nunc respondebo ad eas epistulas quas mihi reddidit L. Caesius, cui, quoniam ita te velle intellego, nullo loco deero.[151]

- Paccio et verbis et re ostendi quid tua commendatio ponderis haberet; itaque in intimis est meis, cum antea notus non fuisset.[152]

- P. Lucceium mihi meum commendas; quem quibuscumque rebus portero diligenter tuebor.[153]

- De P. Lucceio nihil tibi concedo, quo studiosior tu sis quam ego sum.[154]

On one occasion we have a more effusive but still unspecific reply: Cicero declares in strong terms his readiness to assist L. Papirius Paetus' friend, an unknown Rufus:[155]

> Rufum istum, amicum tuum, de quo iterum iam ad me scribis, adiuvarem, quantum possem, etiam si ab eo laesus essem, cum te tanto opere viderem eius causa laborare; cum vero ex tuis litteris et ex illius ad me missis intellegam et iudicem magnae curae ei salutem meam fuisse, non possum ei non amicus esse, neque solum tua commendatione, quae apud me, ut debet, valet plurimum, sed etiam voluntate ac iudicio meo.

After thanking Paetus for alerting him to the dangers which threatened his safety Cicero continues:

> Quam ob rem iste tuus amicus apud me commendatione non eget. Utinam ea fortuna rei p. sit, ut ille me unum gratissimum possit cognoscere.

Perhaps the only occasion on which we can follow the steps undertaken by Cicero on receiving a letter of recommendation is the case of M. Fabius Gallus who was recommended to Cicero in Cilicia in 51 by C. Cassius Longinus.[156] Not only do we possess Cicero's gracious reply to Cassius but also three recommendations sent to three different people by Cicero

on behalf of M. Fabius[157] whose brother advertised for sale in his absence their common estate in Herculaneum.[158] These three letters seem to represent three stages in the sequence of events which followed Cassius' letter. The first letter, to L. Papirius Paetus,[159] attempts to use the latter's influence to prevent litigation between the Fabii brothers: 'Noli pati litigare fratres et iudiciis turpibus conflictari'. This measure having failed, Cicero enlists the services of the brilliant advocate M. Caelius Rufus:[160] 'Eius (scil. Fabius') negotium sic velim suscipias, ut si esset res mea. Novi ego vos magnos patronos; hominem occidat oportet, qui vestra opera uti velit. Sed in hoc homine nullam accipio excusationem. Omnia relinqes, si me amabis, cum tua opera Fabius uti volet'. Finally a carefully written letter is sent to the urban praetor C. Curtius Peducaeanus before whom the case will come.[161]

It would have been a perfect documentation of the effectiveness of a letter of recommendation were it not for two possible objections:

1) The difficulty of deciding whether or not Cassius' recommendation is connected with the same case. The letter to the praetor mentions controversiae which, unless loosely used, may imply that there was more than one case. Moreover, from the letter to Paetus it seems that Fabius was hit by the bad news when sojourning with Cicero in Laodicea, although it is possible that Cicero simplifies the course of events for the sake of clarity.[162] If we want to maintain the causal connection between Cassius' letter and the rest we must assume the following reconstruction: Fabius had been in Syria with Cassius on receiving the news and armed with Cassius' letter arrived in Laodicea.

2) It may be pointed out that Fabius had been Cicero's friend for

many years when Cassius wrote the recommendation on his behalf:[163] 'multi enim anni sunt cum ille in aere meo est et a me diligitur propter summam suam humanitatem et observentiam'. Cicero might have done the same for Fabius even without Cassius' recommendation.

We may end this survey with a glance at the decorum of replies to letters of recommendation as revealed in the exchange of letters between the consul M. Antonius and Cicero in 44 B.C.

M. Antonius in a highly courteous letter[165] which affects to defer to Cicero's sensitivity and sentiments recommends two people to Cicero. The first is Sex. Cloelius,[166] a former satellite of Cicero's mortal enemy, P. Clodius, now in exile for his leadership in the riots following Clodius' murder.[167] The other is P. Claudius, son of P. Clodius and now son-in-law of M. Antonius, who married P. Clodius' wife, Fulvia. The recommendation is a masterpiece of its kind, executed in a masterly fashion and deserves close scrutiny.

The preamble is an apology for resorting to a letter. Antonius' many occupations prevented him from approaching Cicero personally; since Cicero is now in Puteoli we must understand that Antonius is excusing himself for not having taken the journey there. Apology is due since the elderly statesman may take the written recommendation as a slight upon his dignity. The introduction ends with the hope that Cicero's generosity will live up to Antonius' evaluation of it.

Now comes the request proper. Antonius had obtained Caesar's permission to recall Sex. Cloelius from exile. However, the consul hurries to point out that already then he had intended to ask for Cicero's acquiescence. We may observe here that he did not care to obtain it before approaching Caesar. At this point no one could or indeed would

call his bluff. Hence this confession can be used as a premise for the subsequent argument: since he had intended to defer to Cicero even when the matter was out of his hands, all the more reason to do so now. Without pursuing the matter any further Antonius declares that, if Cicero refuses to comply with the request, he will give up the notion of restoring the man whose 'misera et adflicta fortuna' is rhetorically contrasted with Cicero's 'duriorem te ... praebes'. It is almost as an afterthought that he points out to Cicero that he is of the opinion that Caesar's commentarius should be upheld.[168]

A smooth transition leads to the recommendation of P. Claudius 'optima in spe puerum repositum'. Antonius expresses the noble sentiment that animosities taken up ad rem rather than ad personam should not be visited on one's enemy's relatives. For his own part Antonius had recommended this wise course of action to the young man. Here a sinister but well-covered threat obtrudes: although Cicero is safe from all danger, nevertheless Antonius prefers him to be rid of all anxieties in his venerable old age. Antonius then reminds Cicero of his own previous compliance with Cicero's requests by which he claims a right to lay out his own. Again a smooth and unobtrusive transition picks up the theme of Sex. Cloelius' restoration as if nothing intervened in the middle. Antonius will by no means restore the man without Cicero's consent so that Cicero will know how much his authority weighs with him, so that - and now cornering Cicero for once and for all - Cicero will prove himself amenable.

Cicero is a match for the cunning Antonius. His gracious reply rivals Antonius' request in courtesy and tact. He is by no means offended by a written request. His sole objection to the procedure is that it prevented him from showing Antonius his extreme affection face to face.

Antonius' patriotism endeared him to Cicero who was already under obligation to him. In fact Antonius' request is not a favour sought but a favour bestowed. Antonius' deference to himself in a matter which concerns Antonius' friend, albeit Cicero's enemy, is an honour to himself. He joyfully shows himself convinced by Antonius' argument that concession would not only be a gesture towards Antonius but towards Cicero's own humanity and liberality as well. He is completely at one with Antonius' diagnosis of animosities taken up for the Republic. Again he acknowledges the compliment Antonius paid him by not using his potestas to dispense with Cicero's compliance. Then tactfully referring to Antonius' latent threat he maintains that he has nothing to apprehend from the young man and his compliance is not directed by fear but motivated by his sincere desire to cement his friendship with Antonius. Having thus parried Antonius' blackmailing Cicero can end with the declaration that Antonius may come with requests at any time.

The two letters perfectly and neatly balance each other. The two men prove themselves worthy of the subtlety and cunning spent by each on the other. The urbanity of the one is matched by that of the other.

It is, therefore, a highly edifying and entertaining experience to come across the note in Cicero's letter to Atticus[169] which introduces the exchange of letters we have just described. Not only does Cicero charge Antonius bluntly with forging Caesar's commentarius[170] but forcefully declares that Antonius' letter is written 'dissolute ... turpiter ... perniciose'. He is perfectly aware that this is mere lip-service: Antonius will go ahead with the restitution of Cloelius - flaunting it in Cicero's face - even without Cicero's permission. It is in order to save his own dignity that Cicero does not refuse the request.

On the other hand, we may point out that the two men's civility to each other - each in his own way goes out of his way to spare the other's feelings[171] - is to their credit: their observance of the rules of decorum is a measure of the strength of the tradition of writing recommendations. The forms are preserved even after the spirit has departed: request and reply can be likened to a duet-recitative where each takes his cue from the other.

The whole episode gives us a foretaste of the Empire where an impeccably courteous facade may conceal the realities of power. The Roman emperor retained in his letters of recommendation the graces of the Roman noble, treating the senators as equals by upholding the rules laid down by decorum[172]: the outcome of his recommendations was, however, predictable.

Part III

PLINY'S LETTERS OF RECOMMENDATION: LETTERS OF RECOMMENDATION UNDER THE EMPIRE

Chapter 1

FEATURES OF CONTINUITY AND DISCONTINUITY

In more than one way Pliny regards himself as descending in a direct line from his great predecessor, Cicero.[1] This sentiment is most positively and forcefully expressed when he becomes an augur;[2] in a letter acknowledging the congratulations of Arrianus Maturus[3] he writes:[4]

> Te quidem, ut scribis, ob hoc maxime delectat auguratus meus, quod M. Tullius augur fuit. Laetaris enim quod honoribus eius insistam, quem aemulari in studiis cupio. Sed utinam ut sacerdotium idem, ut consulatum multo etiam iuvenior quam ille sum consecutus, ita senex saltem ingenium eius aliqua ex parte adsequi possim!

In an earlier letter he relates to Voconius Romanus a declaration he once made to Regulus to the effect that he had established Cicero as his model in oratory; it is the latter's style and not that of the present generation that he sets out to emulate:[5]

> Est enim ... mihi cum Cicerone aemulatio, nec sum contentus eloquentia saeculi nostri.

Even in letter-writing, where the ideal would be hard to achieve, one must not give up the attempt:[6]

> Haec tibi scripsi ... ut non numquam de re publica loquerer, cuius materiae nobis quanto rarior quam veteribus occasio, tanto minus omittenda est ... Habeant nostrae quoque litterae aliquid non humile nec sordidum, nec privatis rebus inclusum.

And yet a few years later a note of despair has insinuated itself into Pliny's former confidence:[7]

> neque enim eadem nostra condicio quae M. Tulli, ad cuius exemplum nos vocas. Illi enim et copiosissimum ingenium, et par ingenio qua varietas rerum qua magnitudo largissime suppetebat; nos quam angustis terminis claudamur etiam tacente me perspicis, nisi forte volumus scholasticas tibi atque, ut ita dicam, umbraticas litteras mittere.

With the changing times, the materia that once occasioned letters in

the Ciceronian style dried up, much in the same manner as a death-blow had been dealt to public speaking. Of either it could have been said that it was 'alumna licentiae ... comes seditionum',[8] or, in other words, the true expression of life in the free Republic.

The transformation has often been noticed and discussed in both literary and historical commentaries on the period.[9] There remains for us the more specific task of finding out to what extent the political change has influenced the function, the style, the etiquette, the tone, the subject-matter and the underlying conventions of the letters of recommendation.

Yet, before a comparison is attempted, the question of the authenticity of Pliny's letters must be dealt with.[10] Many detailed discussions of the prosopography[11] of Pliny's letters dispense the present study from the need to prove the historicity of the persons to whom and for whom these recommendations were written. However, one still has to allow for the possibility of revision before publication.[12] Do we, in fact, possess the copies of original recommendations or a revised version of them?

Before advancing arguments for the first alternative, let it be said at once that a choice between the two does not affect our inquiry to the extent that one might have thought at first. For were we to postulate a drastic revision, we should still be on firm ground in saying that the revised version represents what seemed to Pliny to be the desired form of recommendation. And this consideration would make it legitimate for us to use even a revised version as an authentic manifestation of the mood, atmosphere, etiquette and social conventions of Pliny's times, as well as to deduce from it the function and purpose of a recommendation at that period.

However there are special reasons, as has been observed by Sherwin-White,[13] for vindicating the authenticity of the letters of recommendation in particular and for exculpating them from the charge of revision, although

not on the grounds advanced by him,[14] namely of a close similarity between the letters in the first nine books and the recommendations to Trajan which are manifestly in their original form. For as I shall try to show at length below, the similarities are only superficial and are far outweighed by the dissimilarities.

There are much more cogent reasons for deciding in favour of authenticity. Firstly, as the Introduction to the entire discussion attempted to prove, a letter of recommendation requires all the tact, versatility and ingenuity of its writer.[15] The demands made on it by reality could not be exceeded by those laid down by the rules of art and literary style. The writer himself had enough at stake to call on all the resources at his disposal; success or failure will be his as much as the person's recommended:[16]

> Suscepi candidatum, et suscepisse me notum est; ego ambio, ego periclitor; in summa si datur Nasoni quod petit, illius honor, si negatur, mea repulsa est.

Secondly, one must remember that not many years elapsed between composition and publication,[17] and that the people for whose sake the recommendations had been written were no doubt still alive. Moreover the publication of the letters was a testimony to Pliny's friendship and his efforts on their behalf.[18] Had there been a major revision in the published versions, the persons for whose sake the letters had been composed - especially in view of the fact that the recommendations had not been invariably successful[19] - would have expressed themselves in terms somewhat reminiscent of Milo's when the manuscript of Cicero's revised speech reached his hands in exile.[20] It is hard to believe, therefore, that Pliny would have tampered with such letters, whose substance was known to more than one person.[21] So, unless public opinion tolerated much more than the above considerations envisage, the possibility of major revision before publication should be ruled out.

As we have seen in the second and third chapters of the general Introduction Pliny's letters may serve as typical illustration of the social

framework within which the letters of recommendation were written and the etiquette reflecting it. Therefore, so far as they are concerned, no additional proof is needed to show that there was no break with the past. If we exclude the letters of recommendation to the Emperor, Trajan, the following generalizations could be ventured: reciprocity continues to be the core and spirit of the recommendation; the concepts of gratia, amicitia and beneficia mutua underlie Pliny's letters no less than Cicero's, and the rules of decorum, which are the direct corollary of these social conventions, are faithfully adhered to.[22]

However, even a cursory glance at Pliny's letters of recommendation is enough to assure us that there is an unmistakable difference in style; Pliny had little use for formulae and set phrases.[23] Moreover, alongside this tendency, or rather in a causal relation to it, self-consciousness appears; obedience to the rules of decorum has become, in Pliny, in place of the casual employment of a formula to stand in the breach and guard against their violation, an elaborate rhetorical disquisition about their very nature.

Before accounting for the change we should look at a few examples in which this penchant manifests itself.

(1) As we have seen, in order to avoid the charge of imposition, the recommender is bound to provide sufficient reasons for writing his letter.[24] Cicero's awareness of this injunction is never explicitly stated, yet always tacitly suggested by concluding the exposition of the merits of the recommended and his case and the relationship between him and Cicero with the familiar causal conjunctions, 'quapropter'; 'qua re'; 'quam ob rem' or in a more extended form: 'haec quae supra scripta sunt eo spectant ut ...',[25] after which the actual request follows. Pliny, on the other hand, not only spells out the rule but even elects to do so in aphoristic language, betraying thereby the self-consciousness of the pedant who draws attention to what he is doing: 'rogat enim et quidem efficacissime, qui reddit causas rogandi'.[26]

(2) The motif of verecundia or pudor, the modesty and timidity which had to be overcome before making a request and which makes for moderation in the presentation of the latter,[27] found its expression in Cicero in two kinds of formulae: 'impedior verecundia, ne te pluribus verbis rogem',[28] and: 'commendo tibi hominem, sicut tua fides et meus pudor postulat'.[29] With Pliny, a slight twist makes verecundia into an entity; it has become almost personalized, almost tangible: 'convertere ad nostros nec hos multos', he pleads with his correspondent, 'Malles tu quidem multos; sed meae verecundiae sufficit unus aut alter, ac potius unus'.[30]

(3) Cicero often declared that the fulfilment of the favour he was seeking would gratify him and put him under an obligation to the recipient: 'id ... mihi vehementer gratum erit'; 'pergratum mihi feceris'; 'erit id mihi maiorem in modum gratum', as the formulae run. Pliny declares in a hyperbolical vein that the favour sought is only secondary to the relationship of obligation into which he is thereby going to enter: 'Et tu occasiones obligandi me avidissime amplecteris, et ego nemini libentius debeo'.[31]

(4) Cicero sometimes expresses his belief that by extending his protection and friendship to the person recommended, the recipient would find pleasure and gratification in the former's gratitude: 'ipse iudices homini te gratissimo, iucundissimo benigne fecisse',[32] or: 'id mihi vehementer gratum erit et tibi postea iucundum'.[33] Pliny, for rhetorical effect, reverses the order completely; it is the recipient, rather, who will find himself in the position of having to render thanks; he is the real beneficiary:[34]

> Hunc hominem adpetentissimum, mihi crede, complectere adprehende, immo et invita, ac sic ama tamquam gratiam referas. Neque enim obligandus sed remunerandus est in amoris officio, qui prior coepit.

Or, in another case he tells his correspondent:[35]

> Accepisse te beneficium credis, cum propius inspexeris hominem omnibus honoribus, omnibus titulis ... parem.

(5) Friendship and the exchange of favours which - being the source of gratia between the recommender and the recipient - are the justification for making a request, are manifestly the most important factor in the recommendation-process.[36] However, when Pliny appeals to his correspondent in the name of ius amicitiae, the concept has become a sacred institution:[37]

> Quod ipse amicis tuis obtulissem, si mihi eadem materia suppeteret, id nunc iure a te meis petiturus.

And again:[38]

> Rogo ergo, exigo etiam pro iure amicitiae cures ut Atilio meo salva sit non sors modo verum etiam usura plurium annorum.

(6) We have often mentioned the fact that the success or failure of the recommendation will redound to the reputation and prestige of the recommender.[39] Hence the frequent Ciceronian formula: 'cures ut intellegat hanc commendationem maxime ... sibi usui fuisse'.[40] We also noted that this awareness becomes most acute in those letters where the recommender acts as suffragator.[41] Even Cicero resorts to emphatic terms: 'Quapropter persuade tibi, mi Brute, me petere praeturam';[42] it is his campaign as much as his candidate's. Pliny affects a complete reversal of priorities : 'si datur Nasoni quod petit, illius honor, si negatur, mea repulsa est.'[43] This sentiment has its counterpart in the clever twist Pliny gives to Suetonius' withdrawal from the tribunate that Pliny obtained for him, in favour of a friend; this in fact will be another feather in Pliny's own cap:[44]

> Praeterea intellego mihi quoque gloriae fore, si ex hoc tuo facto non fuerit ignotum amicos meos non gerere tantum tribunatus posse verum etiam dare.

Now, this conscious abstention from using formulae and set phrases, and the resort to rhetorical conceits in their stead, is a sign of both a new taste and a development in the art of letter-writing. The growing skill and facility acquired by longer usage and better acquaintance with the genre

introduced ease, latitude and flexibility into the epistulae commendaticiae; the growing urbanity, refinement and artificiality tended to shun the use of crude, blunt and hackneyed terminology, searching for the more ornate, the more precious and often the more affected turn of phrase. Thus the traditional formulae were ousted: the uncultivated, the inexperienced or those without pretensions would now resort to them, those who find them distasteful could easily do without them.[45]

We may suggest in addition that Pliny made a more restricted use of these letters, writing them only on behalf of a few selected friends. For, as we shall have occasion to show, Pliny's intimacy with most of the persons recommended is beyond doubt, in contrast with the case of Cicero.

Yet another explanation might be offered: although major revision of any single letter for the purpose of publication has been shown to be unlikely, it is quite possible that Pliny selected only the most refined specimens for inclusion in the published collection. For does he not declare his intention, in the dedicatory letter of the first book, to adopt as a criterion for inclusion: 'si quas [i.e. epistulas] curatius scripsissem, colligerem publicaremque'?[46]

In addition to the suppression of the traditional repetitive phraseology of the letter of recommendation, the easily discernible schema in the background - capable of reduction, as we have seen to a simple formula[47] - also disappears in most of Pliny's letters. So, for example, whereas in Cicero's letters the name of the person recommended was almost invariably assigned to the beginning of the letter,[48] in Pliny's it may be located in the most varied positions. As a result, one can tell a letter of recommendation apart only by studying the content closely, whereas in Cicero it strikes the eye immediately.

Finally, the subject-matter: as in Cicero's case, for lack of specification the particular favour sought after is often not easy to discover. However, for purposes of comparison, the requests are sufficiently specific to convince us that the nature of the requests is entirely different. Appeals

for preferential judicial treatment, for promotion of business interests of Roman citizens in the provinces, and for protection of distinguished provincials no longer appear. Since it is unlikely that Pliny never wrote on such subjects, suppression or selection might be offered as the most obvious reasons for their absence.[49]

Instead, previously neglected subjects receive a greater proportion of Pliny's attention: recommendations for suffragium (or suffragatio)[50] and for military tribunates. For the first time we find 'testimonials' for the so-called 'civil servants', recommendation for promotion in the cursus honorum, for citizenship and finally for the ius trium liberorum.

But the last mentioned group is composed of letters addressed to the Emperor, and these, I maintain, differ in more than subject-matter from the other recommendations. The relationship between recommender and recipient has undergone a crucial transformation by ceasing to be based on reciprocity; one can no more speak of mutual exchange of favours than of an egalitarian friendship. The basic truth of this state of affairs remains even if one admits that the absolute freedom of the emperor is illusory, and his dependence on the good-will and co-operation of the upper classes, especially in the case of those emperors who insist on maintaining a constitutional façade, is not easily to be dismissed.[51] Hence, the present discussion might incur the charge of inconsistency by extending the term recommendation, whose keynote, it was claimed, is reciprocity,[52] to cover the letters to the Emperor which are of an entirely different character. It may be suggested that similarity in phraseology and format, rather than in atmosphere and conceptual framework, might justify their inclusion. However, the issue is of considerable significance and calls for a separate discussion: we shall come back to it in the last chapter.

One more observation is needed to complete the comparison. The presence of the Emperor is felt and exploited in one of the letters to social peers;[53] the resemblance to Cicero's letters written to Caesar's lieutenants during the dictatorship cannot be overlooked:[54]

> Anxium me et inquietum habet petitio Sexti Eruci mei. Adficior cura et quam pro me sollicitudinem non adii, quasi pro me altero patior; et alioqui meus pudor, mea existimatio, mea dignitas in discrimen adducitur. Ego Sexto latum clavum a Caesare nostro, ego quaesturam impetravi, meo suffragio pervenit ad ius tribunatus petendi, quem nisi obtinet in senatu, vereor ne decepisse Caesarem videar. Proinde adnitendum est mihi, ut talem eum iudicent omnes, qualem esse princeps mihi credidit.

Admittedly it would be grossly unfair to attribute to Pliny an attempt to blackmail Domitius Apollinaris into supporting his own candidate by means of the reference to the Emperor. Yet I think that one would not be too wide of the mark in suggesting that the motives behind this reference are not altogether unmixed. Overtly, Pliny's tone is decidedly supplicatory; in order to maintain the credit he has with the Emperor, he needs the Senate's support for his candidate. The powerful influence of Domitius Apollinaris will save Pliny's reputation. However, lurking behind the humble entreaty there is the subtle and yet extremely potent argument that, by lending his support to Sextus Erucius, Apollinaris will after all be following a precedent set by the Emperor himself and therefore displaying deference to the latter's once manifested preference. Cicero's plea to Caesar's lieutenants to follow the spirit of the latter's instruction as revealed in his past acts is not altogether dissimilar.[55] Yet even more striking is the common assumption that the favour shown by the ruler is the most cogent argument in favour of the recommended. A whole series of Cicero's letters, written on behalf of former political enemies of the dictator, took up and exploited this motif in order to ingratiate Cicero's protégés with the provincial governors after the Civil War.[56]

Chapter 2

THE CIRCLE OF PLINY'S FRIENDS

'When letters of recommendation are given to the world, the occasion and the people ought to be scrutinized.'[1] Prosopography has made the task easier. The many gaps in our knowledge about Pliny's circle are slowly being filled. The present study can avail itself of the results yielded by such studies as Syme's, which contains the phrase quoted above. Invested with parentage, patria, career, occupation, social status and connections, the bare names which appear in the Plinian corpus have acquired substance. Equipped with such foreknowledge we are in a better position than we were in Cicero's case to discern and appraise the reality behind the conventional protestations of friendship between the personalities involved in the recommendation process. Our review will be brief, as the onus of proof is relegated to the prosopographical studies quoted in the notes. Its sole aim is to substantiate the claims to friendship and investigate such friendship's origin, character and intensity. Of no little assistance for our particular inquiry are other letters in the corpus addressing or mentioning the same personalities who appear in the letters of recommendation. Of the nine people who receive more than five letters from Pliny six, a significant proportion, belong to our group.[2]

(1) Common Patria - 'Transpadane men ... dutifully acknowledged a vigorous sentiment of local patriotism'.[3] Pliny's political advancement was facilitated by the support of illustrious and influential men of the day, two of whom came from his own Transpadane district, L. Verginius Rufus,[4] who came from Mediolanum, and Q. Corellius Rufus.[5] Pliny, as the letters of recommendation prove, in his turn took over the canvassing and protection of people whose family hailed or who themselves hailed from this district. Pliny's sentimental attachment is patently revealed in his fond description of the region: '... illa nostra Italia quae multum adhuc verecundiae

frugalitatis atque etiam rusticitatis antiquae, retinet ac servat.'[6] Loyalty to the 'regio mea'[7] - which means that in spite of constant additions to the circle of his acquaintances 'the kernel ... belongs to a region'[8] - is one of the ingredients of a friendship which produces letters of recommendation.[9]

Arrianus Maturus - 'Altinatum est princeps':[10] the seven letters addressed to him[11] reveal the rich knight[12] from Altinum as a man with literary interests[13] and, though following his private pursuits, still maintaining a lively curiosity about public affairs which Pliny's letters to him aim to satisfy.[14]

C. Calvisius Rufus is the uncle of Varisidius Nepos. The latter is recommended to Sosius Senecio[15] probably at his uncle's request.[16] Calvisius Rufus, a decurio in Comum,[17] receives six letters from Pliny; varying in subject-matter, they all disclose an intimate confidant.[18]

C. Cornelius Minicianus hails from Bergamum[19] and is described to the recipient as 'ornamentum regionis meae seu dignitate seu moribus'.[20] Three letters addressed to him abound in information on public affairs and suggest, especially if combined with the information revealed in his inscription,[21] congeniality based on a common taste for active public life.[22]

C. Septicius Clarus, whose nephew Sex. Erucius Clarus receives a recommendation,[23] probably comes from the North.[24] Pliny's warm declaration: 'C. Septicius quo nihil verius, nihil simplicius, nihil candidius, nihil fidelius'[25] is fully vindicated by four letters addressed to him[26] and especially by the opening letter which dedicates the first book (or rather the first triad[27]) to Septicius as the man with whom the idea of publication originated.[28] The future Prefect of the Guard, to whom Suetonius dedicated his Vitae,[29] must have shared the literary interests of his two other friends.

Finally the impoverished senator, Accius Sura, recommended to Trajan for the praetorship,[30] comes from Aquileia where an inscription mentions a descendant.[31]

Of the recipients only one man comes from 'Pliny's country', C. Minicius Fundanus, who comes from Ticinum.[32] This highly cultivated individual, who appears in two of Plutarch's works,[33] was acquainted, though it seems not intimately, with another friend of Pliny, Cornelius Tacitus.[34] Two of the four letters addressed to Minicius are recommendations.[35] Although each of them stood for a different style in oratory,[36] Pliny and Minicius added to their common origin a common feeling for culture.[37]

So far we have dealt with relationships whose inception or intensification can be traced with a large measure of probability to the existence of a common patria and a feeling of local patriotism. These were enhanced by the convergence of other factors operative in other relationships as well, to which we shall now turn.

(2) In his correspondence Pliny is revealed to us as the perfect society gentleman, a successful orator, a man of letters, a conscientious politician, a benevolent master and also, in spite of his protestations to the contrary, a careful and calculating landowner.[38] All those social roles brought with them a rich crop of friendships. Pride of place should be given to those friendships which seem to have originated in common interests and tastes.

When making his début in Pliny's letters, C. Suetonius Tranquillus is in his late twenties[39] but has already the reputation of a scholasticus.[40] We hear of a career as an advocate begun inauspiciously with a bad dream.[41] Later, about 102, he declines a military tribunate for which Pliny recommended him.[42] An exhortation to publish his much delayed libelli about 105[43] and a consultation about a public recitation a few years later[44] imply that Suetonius frequents and participates in the same literary circles as his older friend. About 111 we find him in Bithynia[45] together with Pliny, who recommends him to the Emperor for ius trium liberorum[46] with an emphasis on his scholarly activities ('eruditissimum'; 'mores eius secutus et studia iam pridem'). The overall impression is of a young protégé of Pliny who is

still in need of recommendation and encouragement and with whom he shares a love of letters.

Voconius Romanus is an intimate friend and a coeval: 'ab ineunte aetate condiscipulus et contubernalis'.[47] The man belongs to the leading families of Hispania Tarraconensis.[48] The father, an eques, held a municipal priesthood,[49] and the son went further to acquire the provincial flaminate, a most distinguished position.[50] Pliny expatiates at great length to the addressee on the man's scholarly propensities and literary gifts,[51] especially his letter-writing: 'Epistulas quidem scribit, ut Musas ipsas Latine loqui credas'.[52] On the last statement further light is shed in a later letter to Voconius, where Pliny complies with his friend's request to forward his letters to the Empress Plotina.[53] No less than eight letters addressed to Voconius fully prove the existence of an intimate friendship with this highly cultivated person whose tastes correspond closely to Pliny's own.[54] No wonder that Pliny attempts to persuade the Emperor to enrol the man in the Senate[55] and, having failed in the attempt, obtains for him the ius trium liberorum.[56] Later, without success as it seems, but with much enthusiasm and earnestness, he recommends the man to Iavolenus Priscus, the governor of Syria.[57]

Sextus Erucius Clarus is called 'eruditissimus' in the recommendation to Domitius Apollinaris[58] and other evidence shows him to be an admirer of ancient literature and customs[59] - 'vir morum et litterarum veterum studiosissimus' - whose curiosity leads him to inquire after the origins and meanings of archaic words.[60] He might have developed those cultivated tastes early enough in life to ingratiate himself with Pliny on that score. In addition one should be reminded of Pliny's long-standing friendship with his uncle C. Septicius Clarus,[61] also, as it seems, a person with literary tastes. By the time of the recommendation (about 101)[62] Pliny has already successfully exercised his influence on the man's behalf, obtaining from Trajan for him the latus clavus and the quaestorship.[63] Like Suetonius, this

protégé of Pliny with literary propensities is destined to a distinguished even if delayed career in the service of the Emperors.[64]

Julius Naso is identified by C.P. Jones[65] as the son of Julius Secundus, the prominent orator mentioned by Quintilian[66] and one of the interlocutors of Tacitus' Dialogus de Oratoribus. The information about the dead father in the letter recommending his son to Minicius Fundanus fits admirably with the facts known about Julius Secundus from the two sources mentioned above.[67] The brother who died recently is the Julius Avitus of Ep., V, 21.[68] The death of the two relatives jeopardizes the young man's prospects;[69] he had to rely on his father's friends - one of whom is Cornelius Tacitus[70] - and admirers. Pliny belongs to the latter group.[71] It seems that the father's scholarly disposition was communicated to his son for we are told that he assiduously attended Pliny's forensic appearances and public recitations, looking up to Pliny as an object for imitation.[72]

A shared military or civil service might result in a life-long friendship, especially in the case of the paternal bond between the consul and his quaestor.[73] No wonder that Rosianus Geminus[74] wins a recommendation from Pliny to Trajan.[75] In his letter Pliny intimates that their personal connections did not come to an end with the termination of the official one.[76] To corroborate this we have five letters of Pliny to his former quaestor in which one can discern a patronizing tone adopted towards a young protégé.[77]

Ti. Claudius Pollio and Pliny served together in Syria.[78] The first commanded an ala miliaria, an office of great military importance.[79] In his position as an auditor of the accounts of the auxiliary regiments, Pliny could take full cognizance of the man's exceptional honesty and diligence, which stood in marked contrast with the others' avarice and negligence.[80] The man's spectacular advancement in the equestrian career, referred to by Pliny[81] and specified in an inscription,[82] did not cause a deflection from his former standards of behaviour.[83] Pliny and Pollio had a common patron, the elderly Q. Corellius Rufus[84], who, with many candidates to choose from

('tanta eligendi facultate'), made Pollio his adiutor emendis dividendisque agris.[85] His fidelity to his friends was acknowledged in their legacies ('multorum supremis iudiciis').[86] Even his literary bent was put at the service of a friend's memory; he wrote a biography of L. Annius Bassus.[87] Cornutus Tertullus, the addressee, will certainly benefit by making the man's acquaintance.[88]

Another old friend from service in Syria is the retired primipilaris Nymphidius Lupus, who was on Pliny's staff in Bithynia when a request for promotion for his son was sent to the Emperor.[89] Pliny's recommendation is of an entirely different nature from the testimonia the young man is carrying with him from the two commanders under whom he served as a praefectus cohortis.[90] There is no evidence here or elsewhere that the younger Nymphidius Lupus was serving in Bithynia. Therefore Pliny's letter stems solely from a personal friendship with the father.[91]

On two of Pliny's protégés we have no more evidence than the recommendations themselves supply. About Asinius Bassus, the son of a praetorian senator and with kin of consular standing,[92] we are told that he outshines his excellent father whose virtues have been amply described, on the latter's own evidence.[93] Yet there is nothing in the letter to suggest more than a casual acquaintance on Pliny's part with the young man. The general tone of the letter seems to indicate that Pliny is moved to act on the candidate's behalf on the instigation of the father, Asinius Rufus, who is also a close friend of Cornelius Tacitus.[94] The other young man, Cremutius Ruso, is one of the clari adulescentes whom Pliny took under his special protection;[95] the man's distinguished antecedents[96] - he was the son of M. Petronius Umbrinus, the suffect consul of 81 - and his affection for Pliny ('eximiam mei caritatem') gained him a warm recommendation from the latter which aimed to secure the young man's debut in the courts.[97]

For most of the recommended, however, the evidence of the recommendation itself can be substantiated and amplified from other sources. A more

than casual acquaintance between the recommended or their kin and Pliny seems to be beyond doubt. Dismissing for the moment two groups of letters which will be discussed in the following chapter,[98] one can safely propose that personal friendship, to a greater or a lesser extent, accounts for a recommendation, and is its generating force. It could accurately describe and delimit Pliny's dispensation of patronage.

What about the recipients? To what extent is friendship, here too, a determining factor in the recommendation process?

Let it be admitted at once that the mere existence of friendship between Pliny and the addressees cannot fully account for his approaching these particular persons. An indispensable prerequisite here is the occupation of a position from which these people can dispense patronage, be it a senior and important official position or - less tangible but no less real - auctoritas[99] and gratia,[100] their permanent assets. These two properties make these people the most apposite sources of patronage.

The first, office holding, puts it within the power of the addressee to translate his favour into the concrete form of a post in his 'province'. Pliny, however, rarely[101] - for reasons of decorum - specifies the concrete form the favour should take, but prefers to employ the vague term 'materia'. In his letter to Iavolenus Priscus he writes:[102]

> Duabus ergo de causis a te potissimum petere constitui ... Regis exercitum amplissimum; hinc tibi beneficiorum larga materia, longum praeterea tempus, quo amicos tuos exornare potuisti. Convertere ad nostros nec hos multos.

The term comes up again in a letter to Vibius Maximus:[103]

> Quod ipse amicis tuis obtulissem, si mihi eadem materia suppeteret, id nunc iure videor a te meis petiturus.

The second, auctoritas and gratia, are extremely important in the election campaigns within the Senate. Recommending Sex. Erucius Clarus, who is standing for the tribunate, Pliny writes to Domitius Apollinaris:[104]

> ... teque obsecro ut aliquam oneris mei partem suscipere tanti putes ... Diligeris coleris frequentaris: ostende modo velle te, nec deerunt qui quod tu velis cupiant.

And similarly he writes to Minicius Fundanus when recommending Asinius Bassus:[105]

> ... denique precibus meis tu potissimum adiutor accesseris, cuius et suffragio senatus libentissime indulgeat et testimonio plurimum credat.

Again to the same person when recommending the candidature of Julius Naso, he writes:[106]

> Quibus ex causis exigo ut venias, et suffragio meo tuum iungas. Permultum interest mea te ostentare, tecum circumire.

Ideally, then, the list of the recipients of Pliny's recommendation should reflect where, in Roman society, power and influence lay: it might have included most of the illustrious names of the period. But it is precisely on their almost total absence from Pliny's circle that the claim for the latter's authenticity depends.[107] It is here that the factor of friendship comes in. Pliny, in a single phrase, defines his sphere of operation:[108] 'quantumque vel auctoritate vel gratia valeam precibus experior'. We can safely infer that although he is testing both through solicitation he would not solicit where he knew that neither was of any account. Auctoritas and gratia, both often translated as 'influence', although partly overlapping, are not interchangeable. For whereas auctoritas lays the stress on the individual's personal weight and social position, gratia emphasizes rather some sort of a rapport between people. Gratia implies, as we have seen, at least a potential bond capable of being realized when the occasion calls for it. Pliny will approach individuals when and only when he can count on the existence of gratia between them and himself and when he can requite their efforts on his protégés' behalf.[109]

Gratia sums up the concept of reciprocity whose extreme importance will be illustrated by a long list of quotations in a later chapter.[110]

Yet gratia[111] as reciprocity should not be equated with the crude 'do ut des' relationship. Caution and discretion are due when unearthing a concept which is buried in the collective subconsciousness of past societies. One might err in the direction of over-simplification and unsubtle schematiza-

tion. There are shades of meaning and unspoken distinctions liable to be overlooked or at least blurred by an outsider. In the case of gratia it would be highly reprehensible to lapse into the mercantile terminology of an impending debt, especially when dealing with an exceedingly polite and discreet writer like Pliny. Nothing so crude as the intimation that he is exacting a debt ever moves the courteous and elegant surface, the consummate artistry of style and manner. This is not, as I shall insist, because he is dressing up a disagreeable demand, but because he is communicating with close associates, with men in whose goodwill he can have confidence and with whom he can be at his ease. Hence the amiable and intimate tone, the gracefulness, the good humoured importunity, the pleasantries and above all the total absence of obsequiousness.

Various locutions and phrases turning up here and there in the letters sustain this atmosphere of ease, comfort and confidence. There is for example the well-studied and tortuous sophistry at the end of the letter to Iavolenus Priscus:[112] 'Extenderem preces nisi et tu rogari diu nolles et ego tota hoc epistula fecissem; rogat enim et quidem efficacissime, qui reddit causas rogandi'; or the gossipy and confidential tone of the letter to Baebius Hispanus on Suetonius' disposition:[113] 'Scholasticis porro dominis, ut hic est, sufficit abunde tantum soli, ut relevare caput reficere oculos, reptare per limitem unamque semitam terere omnesque viteculas suas nosse et numerare arbusculas possint'; or the apologetic and yet confidential tone in which he speaks to Minicius Fundanus:[114] 'Proinde indulge precibus meis, obsequere consilio, et ante omnia si festinare videor ignosce'. There is no levity in either of the two letters of recommendation to Fundanus but sincerity and dignity commensurate with the character of the addressee. Yet the abruptness and insistence we find in the other letter could only be accounted for by the existence of an intimacy which allows such freedom:[115] 'Quibus ex causis exigo ut venias' or:[116] 'abrumpe si qua te retinet'. And finally there is the reassuring tone in the letter to Pompeius Falco:[117]

'Minus miraberis me tam instanter petisse, ut in amicum meum conferres tribunatum, cum scieris quis ille qualisque ... Accepisse te beneficium credes, cum propius inspexeris hominem omnibus honoribus, omnibus titulis ... parem'.

Yet, Pliny, in spite of his intimate tone, is neither casual nor flippant but cautious, serious and subtle. He is trying to make his case as forceful and as cogent as possible. One cannot ignore the earnestness, the zeal and the fixity of purpose which were noted more than once in relation to the suffragium letters.[118] Friendship alone did not guarantee in advance the compliance of the recipients with Pliny's requests; a man of influence is besieged with more requests than he has favours to bestow or votes to cast. Competition was rife:[119] 'Petit honores Julius Naso; petit cum multis, cum bonis, quos ut gloriosum sic est difficile superare'. Pliny is only one among many recommenders on similar terms of intimacy with the recipients, and with no lesser store of gratia to tap, and who likewise are canvassing or supporting the interests of their own protégés while at the same time vindicating their position as able patrons.[120]

Having stated the general arguments which make it extremely likely that Pliny was on friendly if not intimate terms with the recipients of his recommendations, we shall, in the following brief survey, capitalize on the well-known facts about them, but, in case of uncertainty or controversy, shall avoid altogether the pitfalls of precarious identification with historical personalities[121] or with various homonyms which crop up in the Plinian corpus.[122]

L. Domitius Apollinaris,[123] the recipient of II, 9, receives from Pliny a lengthy description of the latter's villa in Tiferinum Tiberinum.[124] C. Minicius Fundanus, as we have seen, was a compatriot and the recipient of four letters from Pliny.[125] The famous jurist, L. Iavolenus Priscus,[126] is the recipient of Ep., II, 13. He is mentioned in another letter where he

appears to be present at a recitation that takes place in a literary circle to which Pliny belongs.[127] Although he might not show enthusiasm for poetry, his prominence in the field of civil law[128] would not be lost on Pliny whose 'main field was forensic , the law of property'.[129] Q. Sosius Senecio,[130] the recipient of IV, 4, receives another letter concerned with public recitation.[131] He was one of Plutarch's literary friends at Rome.[132] Q. Pompeius Falco,[133] son-in-law of the former, is the recipient of VII, 22. He receives three other letters from Pliny showing that the two shared forensic and literary interests.[134]

Finally C. Julius Plancius Varus Cornutus Tertullus,[135] the recipient of VII, 31, receives another letter from Pliny in which his solicitude for the latter's health is gratefully acknowledged.[136] In spite of Cornutus' seniority, his career synchronized with Pliny's.[137] However, the 'publica necessitudo' merely forged another link in a friendship based on congeniality and admiration which Pliny himself expresses effusively when he hears that his senior colleague, has received the 'cura' of the via Aemilia.[138]

The claim that genuine friendships, or at least common interests, were involved is thus substantiated, and we must turn now to the nature of the requests, an issue which is bound up, in many cases, with the official positions and the provinces occupied by the recipients at the time. Owing to the nature of the Plinian collection and his aims and methods the issue is fraught with difficulties.

Chapter 3

CONTENT AND NATURE OF THE REQUESTS IN PLINY'S LETTERS OF RECOMMENDATION

In his article 'Pliny and the Dacian Wars',[1] Sir Ronald Syme draws attention to the consistent avoidance - or subsequent removal - of military and local details in the published letters.[2] The omission is all the more conspicuous in the letters to the so-called 'viri militares':[3] 'All of Pliny's letters to consular legates have a feature in common. They fail to specify the region or the province'.[4]

One may or may not agree with the inference drawn by Syme that the constant omission of military details is not inadvertent but consistent with the motives which induced Pliny to edit and publish the letters, i.e. 'to present the closest that was decent or permissible to the autobiography or an orator and a statesman';[5] the fact, however, remains indisputable and has a bearing precisely on our discussion.

In addition to the recommendations to consular legates, mentioned by Syme - II, 13 to Iavolenus Priscus; III, 8 to Suetonius; IV, 4 to Sosius Senecio; and VII, 22 to Pompeius Falco - one may mention to Neratius Marcellus, referred to in the recommendations to Vibius Maximus (III, 2) and to Cornutus Tertullus (VII, 31) which belong more or less in the same category although the addressees are not consular legates.

Deliberate or not, the omission of the office and the province militates against an attempt either to discover the content of the request put forward by Pliny or to decide whether or not he had a concrete favour in mind. For although the request is sometimes couched in vague terms, it might have had a more specific meaning for Pliny and his correspondents, who, unlike us, were not ignorant of the opportunities for dispensing patronage which accompanied a particular office or province.

However there is room to suppose that the request might have been left deliberately vague: to avoid the impression of imposing on the

recipient and curtailing his freedom of choice between available opportunities ; or even in order not to embarrass a recipient who could not or would not deliver what was really hoped for.

So much for general considerations. The study of particular cases may yield more.

In II, 13 Pliny recommends Voconius Romanus to Iavolenus Priscus, the governor of Syria at the time.[6] It is generally assumed that Pliny is requesting a military tribunate or a post on the governor's staff.[7] This may be true. However, it is instructive to notice that Pliny does not mention any post at all but rather uses vague and imprecise terminology: 'quem rogo pro ingenio pro fortuna tua exornes '. It might be suggested that the vague language corresponds to the informality of the office which Pliny has in mind for his protégé; he might be soliciting the man's enrolment in the amorphous body of comites or amici of the governor. Even if only a fixed number was allowed, its composition was still a matter for the governor's personal choice.[9] Hence Pliny's words:[10] 'in primis ama hominem' might mean inclusion in the cohors, and a pedantically literal interpretation of the clause:[11] 'nam licet tribuas ei quantum amplissimum potes, nihil tamen amplius potes amicitia tua' might construe it as the proper technical language in the context. It seems to me, though, that it would be wrong to read so much into phrases which were left deliberately vague.

To reinforce the foregoing suggestion one may compare the wording of the request in the famous recommendation of the young jurist C. Trebatius Testa [12] to Julius Caesar;[13] not only does Cicero deliberately and modestly refrain from specifying the favour sought but he even says so in so many words:[14]

> Huic ego neque tribunatum neque praefecturam neque ullius benefici certum nomen peto, benevolentiam tuam et libertatem peto neque impedio quo minus si tibi ita placuerit, etiam hisce eum ornes gloriolae insignibus.

The juxtaposition reveals that the two letters, the republican one and the imperial one, have more than this feature in common. For once Cicero's

manner is as self-conscious and as laboriously contrived as Pliny's. The unique relationship between Cicero and Caesar more than adequately accounts for it.[15]

Caesar's geniality and generosity, his humanitas[16] and constantly demonstrated benevolence towards Cicero's protégés on the one hand,[17] and his ridicule of the stilted and schematic formality of the ordinary letter of recommendation on the other hand,[18] induce Cicero to invent a new style and a new idiom when recommending people to him, an enterprise Pliny is always undertaking in his recommendations.[19] Both the recommendation of Trebatius and the later one of Precilius[20] are, as Cicero consciously perceives, unusual letters of recommendation;[21] he often notifies Trebatius of the singularity of the latter's recommendation[22] and aptly designates that of Precilius genus novum litterarum.[23]

Both Pliny and Cicero introduce the actual request only after a lengthy preamble discloses the particular circumstances surrounding the recommendations and expands on the merits and assets of their protégés.[24] The complete absence of any stress on specific qualifications for the military tribunate cannot count as positive proof that this post might not have been in the recommender's mind but rather illustrates once more that specialization was alien to the Roman mind under the Republic as well as under the Empire.[25]

Finally the beginning and the conclusion of Fam. VII, 5 and Ep. II, 13 testify to the recommenders' deep conviction that their requests will fall on attentive ears and to their foreknowledge of the recipients' benevolent disposition towards them. Cicero, as has been attractively suggested,[26] borrows the motif of alter ego from Caesar's own letter to himself, and Pliny knows that Iavolenus Priscus seeks opportunities to confer favours on him.[27] Both writers apologize at the end for being so long in their supplications, a fact which is irreconcilable with their correspondents' known benevolentia.[28]

To return. A similar situation to that of the recommendation of

Voconius Romanus to Iavolenus Priscus can be detected in the recommendation of Arrianus Maturus to Vibius Maximus.[29] The recipient might be the Prefect of Egypt in 103-107 in this or in another charge, or he might be a different person altogether.[30] Be this as it may, it is still worth our while to notice the vagueness of the request:[31] 'Itaque magni aestimo dignitati eius aliquid adstruere inopinantis nescientis, immo etiam fortasse nolentis; adstruere autem quod sit splendidum nec molestum'.[32]

The third example in this group of unspecified requests is the letter to Cornutus Tertullus on behalf of Claudius Pollio[33] which might not in fact contain any request at all, since we do not know of any official position occupied by Tertullus at this time.[34] It might be no more than a courteous exhortation to Tertullus to cultivate the man's friendship:[35] 'Hunc hominem adpetentissimum tui, mihi crede, complectere adprehende, immo et invita, ac sic ama tamquam gratiam referas'.

In the case of the letters to Iavolenus Priscus and to Vibius Maximus, the absence of specific requests might be for yet another reason: both are not at the beginning of their tenure[36] and it would be impertinent to ask for a specific post at this late hour when they have already recruited their staff.

This last hypothesis seems to be borne out by the specific requests for military tribunates.[37] The posts seem to have been secured for Pliny's protégés even before the names of the individuals concerned had been submitted to the governor. It is precisely because of this that there is no technical difficulty involved in transferring the military tribunate from Suetonius Tranquillus to his relative Caesennius Silvanus:[38] 'Neque enim

adhuc nomen in numeros relatum est, ideoque liberum est nobis Silvanum in locum tuum subdere.' Even more explicit is the evidence of the recommendation of Cornelius Minicianus to Pompeius Falco:[39] 'Minus miraberis me tam instanter petisse, ut in amicum meum conferres tribunatum, cum scieris quis ille qualisque'. Evidently Pliny petitioned for the post before knowing or deciding on whom he is going to confer it. In conclusion one may suggest that specific requests were more likely to be submitted when the provincial posts at the disposal of the governor had not yet been allocated.[40] Yet even more interesting is the evidence that these letters yield concerning the manipulation of patronage and favours. An influential man with friends occupying senior official positions can dispose, although indirectly, of official posts, even if he himself is a privatus. Without entering into moral judgements one may use this fact as a sobering reflection on so-called officialdom and imperial bureaucracy.

Again a comparison with republican practice is both appropriate and instructive. Cicero, as we learn, recommended at least two more persons to Caesar in Gaul besides Trebatius; one of them, M. Curtius, was put forward specifically for a military tribunate.[41] Cicero's confidence, revealed in submitting a specific request, was not ungrounded: Caesar's extreme willingness to accommodate Cicero in all his wishes became so widely known that people rushed to obtain recommendations from him.[42]

The Empire did not introduce much change in this respect. People who had powerful friends were always apposite sources of patronage.[43]

We can conclude this section with Pliny's specific request to Sosius Senecio[44] to confer a tribunatus semestris on Pliny's protégé Varisidius Nepos.[45] Pliny's evidence about this post is quite isolated except for the letter of the governor of Britannia Inferior to Sollemnis, a protégé in Gaul, written about 220 A.D., promising the latter a tribunatus semestris 'ubi propediem vacare coeperit'.[46] Perhaps because it was a half-year post there was a possibility of a future vacancy, and therefore one could be more

specific in phrasing one's request.

The Suffragium - Letters: Ep., II, 9; VI, 6.

There is no doubt, as M. Paladini takes great pains to demonstrate,[47] that free elections continued to be conducted in the Senate for posts in the senatorial cursus below the consulate;[48] Pliny's suffragium-letters as well as the pertinent loci in the Panegyricus, prove as much.[49] However, the looming presence of the emperor, hovering over the senatorial elections, is felt in at least one of the suffragium-letters.[50] By three methods - rejection, permission to stand and commendation - the imperial patronage made serious incursions into the exercise of this freedom, colouring, defining, circumscribing it, and sometimes denying it altogether.[51] In fact, the libertas senatus itself has become a gift of the emperor, one of his beneficia: 'iubes esse liberos: erimus'.[52] It is freedom without the constitutional sanctions to underwrite it, freedom without the protection of the law and as such it should not be exaggerated unduly.[53]

This introduction is intended to put the suffragium-letters in context; under the auspices of imperial benevolence the codicilli amicorum continued to circulate, to elicit the suffragia of the viri consulares; in this context these [i.e. the suffragia] meant not only that one cast one's vote in the election-meeting but also that one gave active support in the pre-election canvassing; suffragium here overlaps in meaning with the republican concept of suffragatio.[55] It is the latter which is emphasized in the suffragium-letters:[56]

> Itaque prenso amicos, supplico, ambio, domos stationesque circumeo, quantumque vel auctoritate vel gratia valeam, precibus experior, teque obsecro ut aliquam oneris mei partem suscipere tanti putes ... ostende mode velle te, nec deerunt qui quod tu velis cupiant.

Or in different terms:[57]

> Quibus ex causis exigo ut venias, et suffragio meo tuum iungas. Permultum interest mea te ostentare, tecum circumire. Ea est auctoritas tua, ut putem me efficacius tecum etiam meos amicos rogaturum.

The strongest impression left by the two suffragium-letters is that the election-campaign is waged not so much for the immediate and concrete result of having one's candidate elected as for the more remote effect of having one's dignitas vindicated. The abrupt opening of the recommendation of Sextus Erucius to Domitius Apollinaris leave no doubt about Pliny's priorities:[58]

> Anxium me et inquietum habet petitio Sexti Eruci mei. Adficior cura et, quam pro me sollicitudinem non adii, quasi pro me altero patior; et alioqui meus pudor, mea existimatio, mea dignitas in discrimen adducitur.

And after relating that he obtained for his candidate from the Emperor the latus clavus and the quaestorship and now by his suffragium the right to stand for the tribunate he adds:[59]

> quem (sc. tribunatum) nisi obtinet in senatu, vereor ne decepisse Caesarem videar. Proinde adnitendum est mihi ut talem eum iudicent omnes, qualem esse princeps mihi credidit.

The recommendation of Julius Naso to Minicius Fundanus shows striking similarities:[60]

> hoc tempus meum, hoc fides, hoc etiam dignitas postulat. Suscepi candidatum et suscepisse me notum est; ego ambio ego periclitor; in summa, si datur Nasoni quod petit, illius honor, si negatur mea repulsa est.

Electioneering is a sophisticated game indulged in not for the reality of power behind it but for its semblance: reputation. If won, it is the suffragator, as much as the candidate, who will emerge triumphant. One of the more cynical senators used or rather abused the secrecy of the ballot to expose the realities beneath the surface by writing the names of the suffragatores on his voting-tablet.[61]

I have deliberately left out of the discussion of the suffragium-letters the recommendation of Asinius Bassus to Minicius Fundanus[62] which is often assigned - wrongly, as we shall see - to this category.[63] Since Pliny writes to Fundanus:[64] 'Optamus ... tibi ominamurque in proximum annum consulatum', it is frequently assumed either that the letter was written in 106 - for Fundanus is attested as a suffectus in 107[65] - or, in

order to maintain the book-date (105), it is proposed that contrary to Pliny's expectations Fundanus' consulate was put off for one year.[66] The first conjecture is not only at odds with the book-date, but it also, unless it is postulated that the letter was written before 9 January 106, makes nonsense of the terms 'optamus' and 'ominamur' which would not be the appropriate terms. For after the designation, which took place on 9 January,[67] the consulate is a certainty not a prospect. One way of getting out of this dilemma is to suggest that we do not have to take 'Optamus ... tibi ominamurque in proximum annum consulatum' as meaning anything more than Fundanus' prospective designation in 106, and to leave the book-date uncontested.

But there is room to believe that we are dealing here with a prospective ordinary rather than suffect consulate. Sherwin-White reaches this conclusion in the following manner:[68] he points out that Fundanus is expected to select his own quaestor - an exclusive prerogative of the ordinary consul, according to him - and therefore Pliny refers to a prospective ordinary consulate from 1 January 106. However, there is no certainty that the suffect consuls could not select their own quaestors.[69] In fact the argument should be turned upside down; it is because Asinius Bassus is already a quaestor designatus - a fact implied both by the Latin and by the tone of the letter - and we are therefore after 23 January,[70] that we must postulate an ordinary consulate for Fundanus. Otherwise their offices could not synchronize, as Pliny affirms:[71] 'Concurrit autem ut sit eodem anno quaestor maximus ex liberis Rufi, Asinius Bassus'.[72]

Asinius Bassus, at the time of our letter, has then been already designated. We do not, therefore, have a request for Fundanus' suffragium in the election campaign for the quaestorship but an appeal to make the young man his quaestor consularis. This is never stated in so many words, in order to avoid the impression of exerting pressure on Fundanus, but one cannot avoid the conclusion that this is precisely what is hoped for.

Pliny tactfully and yet archly wishes that the times were so fertile in producing excellent young men as to enable Fundanus to prefer someone else to Asinius Bassus. If that were so: 'ego te primus hortarer moneremque, circumferres oculos ac diu pensitares, quem potissimum eligeres.'[73] 'But as things stand now', he proceeds, and immediately breaks off: 'sed nihil volo de amico meo adrogantius dicere'. He will not spell it out to Fundanus, instead in a roundabout way he picks those phrases which will invoke the best Roman tradition of a filial-paternal relationship between a consul and his quaestor:[74]

> hoc solum dico, dignum esse iuvenem quem more maiorum in filii locum adsumas. Debent autem sapientes viri, ut tu, tales quasi liberos a re publica accipere, quales a natura solemus optare. Decorum erit tibi consuli quaestor patre praetorio, propinquis consularibus, quibus iudicio ipsorum, quamquam adulescentulus adhuc, iam tamen invicem ornamento est.

The supplicating tone of the present letter contrasts sharply with the urgent and abrupt suffragium-letter to the same person, on behalf of Julius Naso. There too the recommendation is well-padded with reasons and arguments, but the request itself is brusque and the tone is sharp and demanding:[75] 'abrumpe si qua te retinent'. Here, on the other hand, when seeming to interfere with a man's personal choice of quaestor, the utmost care should be taken not to offend; tact and caution are called for by the occasion. It is a far more delicate matter than a request for suffragium in which the recipient could exercise influence both on behalf of his friends' protégés and on behalf of his own. Here there is only one man who can be favoured and it would be natural to assume that the consul will favour his own protégé. Pliny's tone is therefore nothing short of apologetic:[76]

> indulge precibus meis, obsequere consilio, et ante omnia si festinare videor ignosce.

The last group of letters that we are going to discuss contains a vast variety of requests that have one feature in common: they are all addressed to the Emperor and define thereby the scope and volume of his patronage.

Two considerations lead us to restrict the discussion of these letters to a few brief comments. Firstly, it has been contended in a previous chapter that these letters do not properly belong to the genus commendaticium; the spirit of reciprocity is totally absent in them.[77] The emperor, as will be shown later, can be requited by gratitude which will take the form of sincere loyalty, devoted service, laudations and posthumous fame. However, these are intrinsically different from the kind of reciprocity between social equals. Secondly, the constant and inexorable growth of the imperial power at the expense of other social and political bodies which made the emperor the ultimate source of most beneficia and the sole source of what may be described as legal privileges - e.g. citizenship, statuses, ius trium liberorum, remission of taxes - has been discussed thoroughly and in great detail by F. Millar in The Emperor in the Roman World.[78] The image of the emperor as it emerges from that study, as a βασιλεύς, a dispenser of justice, gifts, favours, promotions and so forth, with its obverse side, the role of personal influence exercised by well-placed persons close to the emperor in obtaining these favours for their protégés, is fully illustrated in Pliny's letters of recommendation to the Emperor Trajan. Requests, official or personal, would be submitted through well-placed people whether or not they were holding office at the time. Defective delegation of power, the fact that most decisions were made at the centre, while making the emperor into a lodestone attracting petitions, turns those close to him into the most appropriate agents for submitting them. Pliny's correspondence also confirms the picture delineated in the above-mentioned study: 'the emperor's role was typically passive and ... he normally made his pronouncements in response to initiatives from below'.[79]

What kind of requests are addressed to Trajan through Pliny? Or, in

other words, what is the scope of the imperial patronage as defined in them?

Firstly, the grant of the latus clavus, requested for Voconius Romanus,[80] probably without success.[81] This would give the man the right to stand for senatorial office, petere honores.[82]

Secondly, the grant of a post in the senatorial cursus.[83] Pliny tries to obtain a praetorship from Trajan for an impoverished senator named Accius Sura:[84] 'admoneo simul et impense rogo, ut Accium Sura praetura exornare digneris'.

Thirdly, advancement in the senatorial career, or whatever other dignity could be meant in the recommendation of Pliny's former quaestor, Rosianus Geminus, by the words: 'Rogo ergo ut ipse apud te pro dignitate eius precibus meis faveas'; or by: 'rogo, gaudere me exornate quaestoris mei dignitate ... quam maturissime velis'.[85] Pliny does not fail to remind Trajan that the young man was a commilito of the Emperor:[86] 'Parciorem me in laudando facit, quod spero tibi et integritatem eius et probitatem et industriam non solum ex eius honoribus, quod in urbe sub oculis tuis gessit, verum etiam ex commilitio esse notissimam'. Bearing in mind what Pliny said in the Panegyricus about Trajan's attitude to his friends-in-arms, one cannot fail to see the personal tinge of the recommendation.[87]

Fourthly, advancement in the equestrian cursus. Modern cant used in this context has resulted in the creation and perpetuation of such anachronistic fallacies as 'an imperial civil-service', 'structural differentiation',[88] 'specialization' and 'advancement in a well-regulated career according to a forma',[89] for which last, Pflaum fails to see that there is not even Ms. support.[90] If applied at all to the Roman context, these concepts have to be greatly modified and used with extreme caution.[91] Although there were some intelligible patterns of promotion in the equestrian career,[92] still one should guard against belittling the weight of patronage and personal influence in the process of promotion in favour of an unattested forma; nor may we regard the intervention (suffragia) of well-placed persons as the exception which

proves the rule.[93] It is against this background that one should consider the two testimonia for equestrian officials who served with Pliny in Bithynia.[94] Their official character, reflected in their schematic formality and in their placing the name of the person recommended at the beginning,[95] lends force to the suggestion that sending such testimonia to the emperor had become a matter of routine.[96] Pliny as the senior officer in the province was probably expected to forward such letters to the Emperor.[97] However, one may point out that Pliny was not in charge of the officials for whom he wrote the testimonia:[98] Maximus of X, 85 was subordinate to the equestrian procurator, being a libertus himself, and M. Gavius Bassus,[99] the Prefect of the Ora Pontica, was subordinate to the governor of Moesia.[100]

The importance of these testimonia in obtaining their recipients' promotion should not, however, be unduly exaggerated. The Roman mentality which regarded routine official or constitutional devices as less than effective or at least as much inferior to the exercise of personal influence has outlived the Republic to reign supreme and unchallenged under the Empire.[101] We have Pliny's own evidence that such testimonia, even when given by superiors, were not considered sufficient. The younger Nymphidius Lupus, although obtaining testimonia from the legates under whom he had served,[102] prefers to rely on Pliny's friendship with his father in order to approach the Emperor for promotion. The favour of the emperor, and not personal merit or deserts, as in modern officialdom, ensured a man's advancement in the equestrian career as elsewhere.[103]

Fifthly, the grant of the ius trium liberorum, which Pliny requests from Trajan for Suetonius Tranquillus[104] with all the advantages that the possession of this privilege entails: this is another illustration of how 'all rules, legal and otherwise, could be used as a background against which

to confer benefits and exceptions on individuals'.[105]

Sixthly, the grant of Roman citizenship which Pliny requests for his therapist (iatraliptes), Arpocras,[106] who, being an Egyptian, needed Alexandrian citizenship before he could receive Roman.[107] And Pliny as a matter of course requests and receives Alexandrian citizenship for his therapist.[108] The grant of citizenship by the early second century as a beneficium imperiale is an established legal institution.[109] Pliny also requests citizenship for the wife and children of his other doctor, Postumius Marinus.[110] And since the children could not come under his patria potestas unless this privilege was conferred specially by the emperor,[111] we find Pliny requesting this beneficium as well; not only the grant of a citizenship but 'the details of consequential legal position in individual instances' come under the emperor's gift and increase his grip on his subjects.[112]

Pliny attaches a covering letter to the libellus of the auxiliary centurion P. Accius Aquila who requests citizenship for his daughter.[113]

Finally several requests for the grant of the full rights of citizens (ius quiritium) to Latini Juniani,[114] another established prerogative of the emperor. The emphasis on the fact that this is done 'petente patrona'[115] or 'volentibus patronis',[116] besides meeting the demands laid down by an edict of Trajan, according to which the possession of ius quiritium against the patronus' will is only for a life-time and expires on the man's death,[117] shows that Pliny is working for their patrons as well as for the Latini Juniani. Unlike Pliny, those patrons did not have direct access to the Emperor's favour.

Chapter 4

LETTERS OF RECOMMENDATION TO TRAJAN: THE CONCEPT OF INDULGENTIA

The correspondence between Pliny and the Emperor Trajan has often served as evidence for inquiries into the nature of imperial administration and the role played in it by the imperial correspondence. The controversy has centered around the authorship of Trajan's replies. Other issues which arise in the course of the correspondence have not been neglected either; provincial administration and jurisdiction, city-life in the Greek East, the financial situation of the cities, the rise of Christianity and the imperial policy towards it and many more.[1]

Let it be stated then, right from the beginning, that none of these issues or controversies concerns or affects the present discussion, which is limited not only in scope - only the letters of recommendation will be analysed here - but also in its interests; whereas in the preceding chapter we concerned ourselves with the content of the requests to the Emperor, here our only concerns are the mood, the atmosphere, the modes of address, the underlying concepts, and, in short, the style and idiom which characterized recommendations addressed to the Emperor in contrast to those addressed to the recommender's social peers. As we shall try to show, a new idiom destined to have a long history was in the process of emerging. For a moment we shall arrest its development and subject it to detailed scrutiny.

For the purpose of our discussion no distinction should be made between the pre-Bithynian and the Bithynian letters, since the same stylistic qualities are common to both.[2]

It is worth noting, however, that while the pre-Bithynian letters to Trajan were contemporaneous with the letters to friends[3] they were not published at the same time as the latter; it was only after Pliny's death that an anonymous publisher attached them to the Bithynian correspondence.

A twofold reason might be adduced for the fact that they were not published in Pliny's life time. On the one hand, there were not enough of them to constitute a separate volume, and on the other hand their insertion among the rest of the letters might not have seemed to befit the dignity of the addressee.[4] If so, then we have here external circumstantial evidence for Pliny's awareness of the distinctions between them and the others.

The central concept around which the present discussion will revolve is indulgentia, which appears without exception in every letter of recommendation to the Emperor,[5] as well as in several other letters containing either personal requests to the Emperor or expressions of gratitude to the latter on obtaining them,[6] but in none of the other letters. And avoidance is as significant as use, for it proves beyond the shadow of a doubt that the term has a specific connotation for Pliny and that its use was limited to specific occasions.

The framework of reference introduced by indulgentia is, as I shall try to show, of an entirely different nature from that evoked by the concepts of reciprocity, gratia[7] and amicitia, which are the main spring and life-blood of the recommendation process between social equals.

In discussing the political, social and moral significance of indulgentia in Pliny's letters to Trajan, we arrest and inspect a threefold process: firstly, the infusion of ideology into language in order to make it a tool in political propaganda; secondly, the personification of ethical qualities which, once personified and identified with the person of the Emperor, will become forms of address; and finally the concretization of these virtues which, having first been the sources of beneficia, come to designate the beneficia themselves; in other words they become the proper juristic technical terms for these beneficia.

As can easily be seen, the three facets are interlocked, but we shall attempt to discuss each of them separately.

The first process is the subject of many general and special studies

on the ideology of the Principate as revealed in inscriptions and coins.[8] The susceptibility of language to manipulation by vested interests and the facility with which certain terms can become political catchwords are exploited here to associate various ethical qualities with the person of the Emperor and to define thereby the real or professed policy of his reign. As absolutism advanced apace and Rome became virtually a monarchy, the only effective safeguards against an abuse of power, as has been observed, lay in the ruler's adherence to certain moral standards; hence the singular emphasis on them[9]. The terms thus become the political cant of the Empire, corresponding to reality under a 'good' emperor and conflicting with it under a 'bad' one.

Pliny puts his finger on this behaviour of language when contrasting the eulogies addressed to Trajan with those to his predecessor:[10]

> Non enim periculum est ne, cum loquar de humanitate, exprobrari sibi superbiam credat; cum de frugalitate, luxuriam; cum de clementia, crudelitatem; cum de liberalitate, avaritiam; cum de benignitate, livorem; cum de continentia, libidinem; cum de labore inertiam; cum de fortitudine, timorem.

Like Sallust before him,[11] Pliny goes beyond the condemnation of hypocrisy to strike at the very roots of political cant, the facility with which 'the relation between words and facts [is] inverted'.[12] Despotism, with the demoralizing effect it has on the ruler and the ruled alike,[13] is most prone to widen the gap between appearance and reality; hence Pliny's call for a renovation of language and a change of idiom:[14]

> Quare abeant ac recedant voces illae quas metus exprimebat. Nihil quale ante dicamus, nihil enim quale antea patimur;... Discernatur orationibus nostris diversitas temporum, et ex ipso genere gratiarum agendarum intellegatur, cui quando sint actae.

But in the absence of constitutional safeguards, the closing up of the gap between propaganda and truth, appearance and reality, is subject to the inclination of the reigning princeps. Hypocrisy under a benevolent ruler might not be necessary, but the colouring of language by ideology continues uninterrupted, as Pliny's own Panegyricus

proves: 'many chapters of the speech could bear coin legends for their title'.[15] His letters of recommendation are so many documents of the singular success of political propaganda. The reign chose to advertise indulgentia and Pliny's letters faithfully reflect it.

The second process, the personification of the virtues, is a feature of the old Roman religion. The innovation introduced by the Empire is the personification of the Emperor's own virtues. The distinction lies in the very difference between Clementia and Clementia tua, Indulgentia and Indulgentia tua, Pietas and Pietas tua and so on.[16] The divinity that the virtue represented is now a numen, a divine power inside the Emperor himself.[17]

In the fourth century these personified virtues will be used as forms of address and will therefore become common titles.[18] Ammianus Marcellinus relates that Constantius signed himself 'aeternitas mea', but he imputes this to the Emperor's singular arrogance.[19] However, even if the practice of thus entitling oneself still found its critics, 'aeternitas vestra' as a form of address of the Emperor is well documented in Symmachus' letters: 'manente nihilominus penes Auxentium cura atque administratione coeptorum, quod nec dum aeternitas vestra officium eius successoris mutasset;[20] here aeternitas vestra stands simply for 'you'. The process of identification has thereby reached its conclusion and at the same time the term has lost both its literal meaning and the specific connotations that restricted its usage to particular collocations. All that remains of its former attributes is the identification with the person of the Emperor, and consequently it is interchangeable with any of the other personified virtues; having undergone the same development, felicitas vestra,[21] clementia vestra,[22] perennitas vestra,[23] and maiestas vestra[24] have reached the same fossilized state.[25] Divested of their original significance, these relics appear in English as 'your highness', 'your majesty', 'your grace', etc.

The same crystallization and dislocation of meaning seem to have occurred in the case of Indulgentia as well. 'Indulgentia nostra' in

later texts denotes no more than 'I, the Emperor'.[26] However, in Pliny, it should be insisted,[27] the meaning of the term is preserved intact. The personification has been made, but not yet the complete identification with the person of the Emperor. Indulgentia is but one facet of the latter. And it is precisely because the term is still resonant with its original connotations that its employment is confined to a certain kind of letter. It is extremely appropriate in the context in which it appears: neither is it used accidentally nor is it interchangeable with any of the other personified virtues.[28]

The third aspect of the process is the transition from indulgentia as an abstract moral disposition of the Emperor from which all beneficia can emanate, through an intermediary stage in which only specific beneficia can be traced back to it, to the final stage in which indulgentia, detached from the person of the Emperor, becomes the technical term for two concrete juristic institutions: remission of debts or taxes, and amnesty from the penalties of the criminal law, for which two titles stand in the Theodosian Code: de indulgentiis criminum (IX, 38) and de indulgentiis debitorum (XI, 28).

The various stages through which the concept evolved, with some overlapping of meanings at each stage, have been studied at great length, and with abundance of evidence from both juristic and non-juristic writings, by two modern scholars.[29] What remains is to specify where Pliny's usage is to be located. And as we shall see in more detail later on, Pliny never goes beyond the first stage: indulgentia, still attached to the person of the Emperor, is the moral quality in the latter which inspires all sorts of beneficia.[30]

Indulgentia was attributed to the master of Rome long before our period,[31] in fact, even before the establishment of the Principate. In a letter to the vacillating Cicero, from March 49[32] B.C., Balbus and Oppius promise him that after ascertaining Caesar's intentions they

will give him advice which will be commensurate both with his dignity and with his obligation towards Pompey. They conclude with an assurance:[33] 'et hoc Caesarem pro sua indulgentia in suos probaturum putamus'.

After a period of silence in both literary and non-literary sources, the term is again associated with the ruler in Seneca's dialogue Ad Polybium:[34]

> Cum voles omnium rerum oblivisci, Caesarem cogita. Vide, quantam huius in te indulgentiae fidem, quantam industriae debeas.

And a little further:[35]

> nec dubito, cum tanta illi (i.e. Caesari) adversus omnes suos sit mansuetudo tantaque indulgentia ...

Some years later Statius twice praises the indulgentia of Domitian: 'sic indulgentia pergat praesidis Ausonii';[36] 'ducis indulgentia pulsat'.[37]

This is more or less all the evidence from the Julio-Claudian and Flavian period. The term has not yet been coloured by ideology, has not yet become a component of the 'Kaiserliche Bildsymbolik', to use Alföldi's terminology;[38] and hence its complete absence from official propaganda.[39]

Then starting from Nerva's reign there is a flood of references to the indulgentia in both official and non-official sources. Nerva is the first to use it, in an official proclamation to the citizen-body in which he publishes his intention to maintain all his predecessors' beneficia. The act of confirmation, as described in the Edict quoted in one of Pliny's letters to Trajan, is presented as a manifestation of the imperial indulgentia:[40]

> necessarium pariter credidi ac laetum obviam dubitantibus indulgentiam meam mittere. Nolo existimet quisquam, quod alio principe privatim vel publice consecutus (sit) ... a me rescindi.

From the early years of Trajan's principate the concept for the first time crops up in inscriptions, particularly those concerned with the alimenta,[41] but in others too.[42]

The Table of Veleia declares:[43] 'ut ex indulgentia optimi maximique principis imp. Caes. Nervae Traiani Aug. Germanici Dacici pueri puellaeque alimenta accipiant', and so does the Table of the Ligures Baebiani:[44] 'ex

indulgentia eius pueri puellae(que) a[limenta a]ccipiant'.

Admittedly, indulgentia in the alimenta- inscriptions is interchangeable with liberalitas[45] (or even with munificentia[46] and providentia),[47] but this latter imperial virtue, has at least by this period, acquired a more concrete and material connotation, leaving indulgentia as its more spiritual and elevated counterpart.[48]

Furthermore, for the first time in our period, the concept appears in legal writings: the jurist L. Iavolenus Priscus[49] talks about the divine indulgentia of the Emperor:[50] 'Beneficium imperatoris, quod a divina scilicet eius indulgentia profiscitur, quam plenissime interpretari debemus'. As the quotation clearly shows, we are still dealing with an abstract, general and non-technical term; more than a century will elapse before indulgentia detached from the person of the Emperor will designate in legal writings the concrete and specific imperial amnesty.[51] In Iavolenus as in Pliny, it is still a personal quality. The beneficia are its manifest corollary. This the collocation beneficium indulgentiae tuae makes abundantly clear; requesting a favour for his therapist Pliny says:[52] 'cuius sollicitudini et studio tuae tantum indulgentiae beneficio referre gratiam parem possum'. Or about the privileged status of Amisus he writes:[53] 'Amisenorum civitas libera et foederata beneficio indulgentiae tuae legibus suis utitur'.

Nor is the combination of 'plenissime' and 'indulgentia' confined to the Digest text alone: a contemporary inscription from Aquileia exemplifies it as well:[54] 'Et super cet [era omnibus sit notum] ... ut pleniorem indulgentiam maximi imper[atoris habeamus per eum contligisse'. The Plinian usage concurs:[55]

> Vereor enim, ne sit immodicum pro omnibus pariter invocare indulgentiam tuam, qua debeo tanto moderatius uti, quanto pleniorem experior.

And again:[56]

> Indulgentia tua, Imperator optime, quam plenissimam experior, hortatur me, ut audeam tibi etiam pro amicis obligari.

Finally, from the reign of Hadrian onwards indulgentia appears on the imperial coins as a Juno-type goddess with a sceptre and the right hand extended in a gesture of generosity.[57]

It is now firmly established in the imperial propaganda and integrated into the imperial Bildsymbolik. It has taken its place alongside moderatio, mansuetudo and especially clementia[58] with all of which it shares a common property: the benevolence of the superior towards his inferiors, of the ruler towards his subjects. However, it does not replace clementia, which recurs often on Hadrianic coins[59] after suffering an eclipse for a few generations.[60] It is not a synonym of clementia. It seems to me that the emergence of indulgentia at this particular time is bound up with an attempt to emphasize a particular aspect of the imperial régime: the imperial paternalism.[61]

In order to see this more clearly we must turn to the primary and original meaning of indulgentia, which, I contend, is still very much present in its later occurrences.

The first two occurrences of the noun indulgentia are in the Verrine Orations.[62] In both places it denotes the love of a father towards his children.[63] Again in the dialogue De Oratore it is the natural affection and emotion of the father:[64] 'si ferae partus suos diligunt qua nos in liberos nostros indulgentia esse debemus?' And if more proof is needed for this basic connotation of indulgentia, the juxtaposition of indulgentia and pietas in the final appeal to the judges in the Pro Caelio seems to supply it:[65]

> Quod cum huius vobis adulescentiam proposueritis, constituitote vobis ante oculos etiam huius miseri senectutem, qui hoc unico filio nititur ... quem vos supplicem vestrae misericordiae, servum potestatis, abiectum non tam ad pedes, quam ad mores sensusque vestros, vel recordatione parentum vestrorum, vel liberorum iucunditate sustentate: ut in alterius dolore, vel pietati, vel indulgentiae vestrae serviatis.

The chiasmic order stresses the point: those who are fathers should feel indulgentia towards Caelius and those who are sons should feel pietas

towards Caelius' father.[66] Indulgentia is used here as the potential counterpart of the filial pietas. As such it is the proper disposition of the parental Emperor towards his subjects. This is precisely what Pliny is saying in his Panegyricus when commenting on Trajan's possession of the title: Pater Patriae:[67] 'Quod quidem nomen qua benignitate qua indulgentia exerces'.

It occurs in the letters too; whereas Pliny owes Trajan his pietas, Trajan shows him his indulgentia. As in the Pro Caelio the juxtaposition brings home the point:[68] 'Debebo ergo, domine, indulgentiae tuae et pietati meae ...'.

The indulgentia-pietas bond between the paternal Princeps and his subjects excludes a relationship of reciprocity: it is the extinction of the possibility of amicitia in the old sense.[69] The omnipotent Princeps deals out beneficia to his subjects, not for a return in kind, which the latter cannot dream of ever being able to make, but in pietas, and this perforce makes the beneficiary an inferior.[70]

In fact, even to return one's own friends a kindness one has to fall back on the indulgentia of the Princeps: most beneficia are his to bestow: citizenship grants, ius trium liberorum, promotions, priesthoods, posts, etc.[71] A few examples may prove the point:

> Proximo anno, domine, gravissima valetudine usque ad periculum vitae vexatus iatralipten adsumpsi; cuius sollicitudini et studio tuae tantum indulgentiae beneficio referre gratiam parem possum. Quare rogo des ei civitatem Romanam.[72]

> Proxima infirmitas mea, domine, obligavit me Postumio Marino medico; cui parem gratiam referre beneficio tuo possum, si precibus mei ex consuetudine bonitatis tuae indulseris. Rogo ergo, ut propinquis eius des civitatem.[73]

Thus reciprocity is stamped out and so is equality, its natural concomitant. Futile, empty, rhetorical conceits might be used to argue a minore ad maius that the Princeps is the best of all friends, for, as Pliny tells

Trajan:[74] 'tibi amicos tuos obligandi tanta facultas inest, ut nemo te possit nisi ingratus non magis amare.' But the over-embellished argument is its own undoing; it destroys the very fact it sets out to establish. For friendship is the happy mean and delicate balance which an infinite unilateral facultas obligandi is all too apt to upset.

When appealing to a friend, Pliny with much geniality and confidence invokes the ius amicitiae between them:[75]

> Quod ipse amicis tuis obtulissem, si mihi eadem materia suppeteret, id nunc iure videor a te meis petiturus.

No ius or right can be invoked as a title to the Emperor's favour, no claim can be laid on him. The Emperor's gifts are not deserved but freely granted, not due but magnanimously bestowed. His indulgentia invites one to put a request to him to which otherwise one has no innate, legitimate right:[76]

> Indulgentia tua, imperator optime, quam plenissimam experior, hortatur me, ut audeam tibi etiam pro amicis obligari.

Or one could invoke the felicitas temporum which amounts to the same thing:[77]

> admoneo simul et impense rogo, ut Accium Suram praetura exornare digneris ... Ad quam spem alioqui quietissimum hortatur et natalium splendor et summa integritas in paupertate et ante omnia felicitas temporum quae bonam conscientiam civium tuorum ad usum indulgentiae tuae provocat et attollit.

The most a man could do was rely on the Emperor's former acts of favour to him as precedents for subsequent requests:[78]

> Scio, domine, quantum beneficium petam, sed peto a te cuius in omnibus desideriis meis indulgentiam experior.

And a concomitant of the above is the gratuitous nature of the Emperor's favours, which accounts for the total exclusion in letters to him not only of promises of future recompense but even of expressions of indebtedness which might suggest the former. We find both frequently in letters to friends:

- quantum esset ille mihi ego tibi debiturus.[79]
- Reddam vicem si reposces, reddam et si non reposces.[80]

- habebis me, habebis ipsum gratissimum debitorem.[81]

- Obligabis me, obligabis Calvisium nostrum, obligabis ipsum, non minus idoneum debitorem quam nos putas ... ausim contendere nullum te melius, aeque bene unum aut alterum collocasse.[82]

- Haec eo pertinent, ut scias quam copiosam, quam numerosam domum uno beneficio sis obligaturus.[83]

- Accepisse te beneficium credes, cum propius inspexeris hominem ...[84]

In contrast, obsequious and passive gratitude is the only offering the subject might hope to make to the Emperor:[85]

> Exprimere, domine, verbis non possum, quanto me gaudio adfecerint epistulae tuae ex quibus cognovi te Arpocrati, iatraliptae meo, et Alexandrinam civitatem tribuisse

Or:[86]

> Difficile est, domine, exprimere verbis, quantam perceperim laetitiam, quod et mihi et socrui meae praestitisti.

With the notion of reciprocity gone and only superficial resemblances in the shape of a few conventional expressions and modes of presentation left, a recommendation to the Emperor could be likened to the disembodied outline and the hollow echo of the real letter of recommendation; intrinsically, it is a request pure and simple and belongs to another genre, that of petitions and appeals to the Emperor.[87] We include it in the present discussion precisely because of the contrast which, accentuated by a similarity in form, results in the better illumination of both.

To round off the discussion we shall turn now to some of these points of contact between the two kinds of letter .

In compliance with the rules of <u>decorum</u> and with the conventions of the genre, the character of the recommended, his or his family's friendship with Pliny and the exchange of favours are dwelt upon to a greater or lesser degree in both. C. Suetonius Tranquillus is 'contubernalis meus'[88] in a recommendation to Baebius Hispanus. Some years later the single phrase is expanded into a fuller description of the character of Suetonius in a request to the Emperor to bestow on him the <u>ius trium liberorum</u>:[89]

> Suetonium Tranquillum, probissimum honestissimum eruditissimum

> virum, et mores eius secutus et studia iam pridem, domine, in contubernium adsumpsi, tantoque magis diligere coepi quanto nunc propius inspexi.

However, in the case of Voconius Romanus the order is reversed: the description is much abridged in the letter to the Emperor[90] when compared with the fully-fledged portrait drawn in the letter to Iavolenus Priscus,[91] which constitutes in fact the bulk of the letter.

Equally in both kinds of letter Pliny pledges himself for the character and gratitude of his protégé: to the Emperor he writes on Voconius Romanus' behalf:[92] 'non sine magna fiducia subsigno apud te fidem pro moribus Romani mei'. And again he writes to the Emperor when recommending his former quaestor:[93] 'Cui et, si quid mihi credis, indulgentiam tuam dabis; dabit ipse operam ut in iis, quae et mandaveris, maiora mereatur'. And when asking Triarius[94] to let the novice Cremutius Ruso[95] plead the former's case together with Pliny, he vouches for the young lawyer's competence:[96] 'Spondeo sollicitudini tuae, spei meae, magnitudini causae suffecturum'.

Pliny uses the occasion, as he admits to both the Emperor and his friends, to repay former favours of the recommended or his family. Nymphidius Lupus' son deserves the special favour of the Emperor because of his father's loyalty and services to Pliny:[97] 'Quibus ex causis necessitudines eius inter meas numero, filium in primis'. And for both public and private services of his former quaestor he urges the Emperor to show the latter his favour:[98] 'Illud unum, quod propter caritatem eius nondum mihi videor satis plene fecisse, etiam atque etiam facio'. Likewise he tells L. Domitius Apollinaris, when recommending the son of Erucius Clarus who is also a nephew of C. Septicius Clarus, that[99] 'Omnes me certatim et tamen aequalite amant, omnibus nunc ego in uno referre gratiam possim'. And to C. Minicius Fundanus, after enumerating Julius Naso's attentions and respect to himself, he writes:[100] 'nunc solus ante cum fratre ... ego suscipere partes, ego vicem debeo implere'.

A successful recommendation will swell yet further Pliny's own reputation. And he does not conceal the fact that he is not disinterested. To the Emperor he writes:[101] 'teque, domine, rogo, gaudere me exornata quaestoris mei dignitate, id est per illum mea, quam maturissime velis'. We have mentioned more than once his extreme interest in those letters begging for suffragium,[102] where he is keenly aware that his own reputation is at stake and will fall or rise with the failure or success of his candidates. But the most instructive example is the letter to Suetonius, mentioned above[103], where Pliny admits that although Suetonius has declined the post, Pliny's own prestige stands only to gain by it.[104]

Finally, the fear of appearing presumptuous, which we have called the motif of verecundia, counterpoised by a deep sense of obligation towards his protégés, is a recurrent theme in both kinds of letter. On requesting the ius trium liberorum for Suetonius he tells Trajan:[105]

> Scio, domine, quantum beneficium petam, sed peto a te cuius in omnibus desideriis meis indulgentiam experior. Potes enim colligere quanto opere cupiam, quod non rogarem absens si mediocriter cuperem.

The last sentence is striking in its sincere earnestness. But modesty coupled with earnestness is present also in letters to friends. Although he would have liked to recommend many to Iavolenus Priscus,[106] 'meae verecundiae sufficit unus ac alter, ac potius unus'.

Yet once again let us stress that these similarities - the result of the tenacity of conventional forms - are only superficial, and are far outweighed by the intrinsic dissimilarities.

Addendum

NON-LITERARY LETTERS OF RECOMMENDATION FROM THE IMPERIAL PERIOD

The closest in time to Pliny is a letter of recommendation found among the Vindolanda Tablets, parts of which are quoted by A.K. Bowman and J. David Thomas in a recent article on the Tablets ('The Vindolanda Tablets and their Significance: An Interim Report', Historia 24 (1975), 463-78). The Tablets date from the first quarter of the second century A.D. and one of them seems to mention L. Neratius Marcellus, the governor of Britain in 103-106, from whom, as we know, Pliny obtained a military tribunate for Suetonius (Ep., III, 8.1). The letter which seems to refer to him (Inv. nos. 29 and 30, cf. cited article, 466 and 475) is especially intriguing in our context, for it looks as if the writer is requesting a friend to recommend him to the consular legate (Marcellus is described as clarissimum and consularem, ibid., 475).

As for the letter of recommendation (cited as Inv. no. 1 ibid., 473-4 and nn.), the editors quote the phrase which comes after the name of the person recommended: 'petit, domine, ut eum tibi commendarem'. Towards the end comes the phrase: 'itaque ... debetorem [sic!] m[e tibi] obligaturus e[s]'. The last phrase recalls, as the editors point out, Pliny's words in Ep. III, 2.6: 'habebis me, habebis ipsum gratissimum debitorem' and in IV, 4.2: 'Obligabis me, obligabis Calvisium nostrum, obligabis ipsum, non minus idoneum debitorem quam nos putas'.

In spite of the incomplete state of our information concerning the letter of recommendation from Vindolanda, the following observations can safely be made when we juxtapose it with our letters of recommendation:

(1) The apostrophe 'domine' without further modifications suggests that the correspondents are not social equals.

(2) The social level of both recipient and recommender falls far below that of the persons in our discussion (the editors conjecture that

the addressee is a praefectus cohortis, ibid., 474), who are senior statesmen and the foremost men of their age.

(3) The two aforementioned facts might account for the manner in which the recommendation is introduced in the Vindolanda Tablet - 'petit ... ut eum tibi commendarem' - a locution which is never encountered in our letters where the writer always makes it look as if he is writing the recommendation on his own initiative, and/where, consequently, the request is always cast in the first person: 'Qua re a te peto ut ad eam liberalitatem qua sine meis litteris usus es quam maximus his litteris cumulus accedat' (Cic., Fam., XII, 26.2); 'Quae cum ita sint, in maiorem modum a te peto Cn. Pupium ... omnibus tuis officiis atque omni liberalitate tueare' (ibid., XIII, 9.3); 'Hunc rogo semestri tribunatu splendidiorem ... facias' (Pliny, Ep. IV, 4.2); 'duabus ergo de causis a te potissimum petere constitui' (ibid. II, 13.2); 'Magnopere tibi, frater, commendo et peto ... carissimum mihi virum omni honore dignum iudices et ope tua protegas' (Fronto, Ad Am., I.9). Pliny goes even further and on one occasion he recommends a person without the latter's knowledge and possibly against his will (Ep. III, 2).

(4) However, far more interesting and instructive is the evidence we have here for the prevalence of letters of recommendation at all social levels. The papyrus letters of recommendation which will be discussed next supply a similar corrective to a discussion which is dedicated to literary letters of recommendation: Cicero, Pliny, Fronto and their social equals were far from having a monopoly of this social institution. The best commentary, perhaps, is a casual remark made by the soldier Terentianus in one of his letters to his father (P. Mich., VIII, 468 = Cavenaile, CPL, 251, col. 2, 35ff):

> Hic a[ut]em sene aer[ę] [ni]hil fiet neque epistulae commendaticiae nihil val(eb)unt nesi si qui sibi aiutaveret.

Epistulae commendaticiae were indeed common in military circles (cf. G.R. Watson, The Roman Soldier (1969), 37-8, 167, nn. 73-5, and by the same writer 'Documentation in the Roman Army', Aufstieg und Niedergang der römischen Welt, II, 1.496). Two (or rather three) letters of recommendation have reached us.

(1) P. Oxy. I.32 (ll. 22-34 in P. Oxy. II, 218-19) = CPL, 249.

I[u]lio Domitio tribuno mil(itum) leg(ionis)
ab · Aurel(io) Archelao benef(iciario)
suo salutem ·
Iam tibi et pristine commen-
daveram Theonem amicum
meum et mod[o qu]oque peto
domine ut eum ant⟨e⟩ oculos
habeas tanquam · me · est e- ·
nim · tales omo ut ametur
a te · reliquit enim su[o]s [e]t
rem suam et actum et me
secutus est · et per omnia me
secu[r]um fecit · et ideo peto
a te · ut habeat intr[o]itum ·
at te · et omnia tibi refere-
re potest · de actu[m] nostrum ·
quitquit m[e d]ixit · [i]l-
[lu]t et fact[um .....]..
amavi h[o]min[e]m [.....
m[.....] set de · [.....
a[.....] domin[e .....
m[.....].. id es[t .....
c[.....] hab[.....
h[.....] et [.....
tor.t...[..]ico[.....
illum · ut [...] ipse [..... inter-
cessoris u[t il]lum co[mmendarem
estote felicissi[mi domine to-
tis annis cum [tuis omnibus
ben[e agentes
hanc epistulam ant⟨e⟩ ocu-
los habeto domine puta[t]o
me tecum loqui
vale

Verso

...
]st[Ioulio Domitio tribuno militum leg(ionis)
]quia[ab · Aurelio Archelao · b(eneficiario)

The papyrus comes from the second century A.D.. It is addressed to the tribunus militum Iulius Domitius by the beneficiarius, Aurelius Archelaus.

The phrase: 'ideo peto a te ut habeat intr[o]itum at te' is reminiscent of similar phrases in Cicero's letter to A. Allienus: 'Huic ego tantum modo aditum ad tuam cognitionem patefacio et munio' (Fam., XIII, 78.2).

(See also comments in A. Deissmann's, Light from the East (1910), 182-186 and in M. Jean Lesquier, L'armée romaine d'Egypte d'Auguste à Dioclétien (1918), 248).

(2) P. Berlin. 11649 = CPL, 257.

Príscus Petrónió patri suó
salútem·
Apri · duplicári · Cárum · duplicárium,
hominem probum · commendó
tib[i], qui si qu[i]d eguerit auxili
tui rogó in meum honorem
adiuvés eum · salvó pudore
tu[ó] · opto bene valeás;
salutem dic nostris omnibus,
salutem tibi dicunt nostri
omnes · Vale ·

The papyrus was first published and commented upon by W. Schubart in 'Ein Lateinischer Empfehlungsbrief', Amtl. Berichte 38 (1917-18), 333-338. Although nothing in the letter explicitly says so, one will tend to accept Schubart's assumption (ibid., 334) that not only the person recommended, the duplicarius Casus, but also the recommender and the recipient (who are father and son) serve in the army. The letter belongs to the second or early third century A.D.

The succinct and concise Latin suggests that Priscus, unlike Aurelius Archelaus of P. Oxy I.32, was familiar with the rules and formulae of the genus commendaticium.

The phrase 'salvo pudore tuo' is reminiscent of the Ciceronian saving clause, e.g.: 'quoad fides tua patietur' (Fam., XIII, 54 and cf. supra, 46 ff) as well as of the molestia-motif, e.g.: 'quod sine molestia tua fiat' (Fam., XIII, 23.2 and cf. supra, p.47).

(3) P. Hibeh. 276 = CPL, 260.

Iulius Repositus 'Cl' Germano suo
salutem.
Et praese(n)s te domine frater · rogave-
ram coram Ammonium orthogra-
phum · leg( ) n( ) amicum nostrum karissi[mum ...

Verso

Cl Nidió Germa[no]
a Iulio Reposito
coll(ega).

(E. G. Turner, the editor, suggests (The Hibeh Papyri (1955), II, 165) that 'orthographum leg( ) n ( )' is to be expanded to 'leg(ionis) n(ostrae)' rather than 'leg(ati) n(ostri)'.)

The papyrus belongs to the second or early third century A.D. The addressee Claudius Germanus might be identified with his homonym, the writer of Ost. Skeat II (published by H.C. Youtie in TAPA 81 (1950), 110-111). The writer of the ostracon is clearly the superior of the addressee there, the curator praesidii, who according to J.F. Gilliam (TAPA 83 (1953) 52) was a principalis or a centurion. Since Claudius Germanus is writing on the ostracon to a military officer in Greek rather than in Latin, it has been suggested that he was a civilian (Gilliam, op. cit., 53, who suggests that he might have been the praefectus praesidiorum et montis Beronicis, a post which became civilian under Hadrian (Lesquier, L'armée romaine ... 430ff.). The letter of recommendation, written in Latin, and addressed as we said to Claudius Germanus, may make Gilliam's assumption unnecessary.

The phrase 'rogaveram coram' reminds one of several occasions where Cicero mentions a conversation which preceded (or will have preceded the letter), e.g. Fam. VI, 8.3: 'Ego etsi coram de te cum Fufanio ita loquar ut tibi litteris meis ad eum nihil opus sit, tamen, quoniam tuis placuit te habere meas litteras, quas ei redderes, morem iis gessi' or Fam. XIII, 3: 'A Fufium ... velim ita tractes ut mihi coram recepisti'. (cf. also XIII, 7.1; 55.1; 57.2 etc.)

The other three papyrus letters are recommendations of civilians in the Egyptian administration.

(1) P. Ryl. IV, 608 = CPL, 248.

[U]l[p]ius Celer · Hermerot[i]
[suo]' salute[m]
[...]ónem · domini nostri · imper[a-]
tores · servum · hominem · mei
dómesticum · et cárum · rogo
domine · commendatum · hab[eas]
est enim · dignissimus · et pro-
cessu · et · favóre tuó cui · quid
quid · at dignitatem · eius pert[i-]
nens praestiteris · nón dissi[mulo]
mihi grátissimum · futuru[m]
Vale

]·
]·[..]ias
]l[.]tibi

The papyrus belongs to the first half of the second century A.D. An imperial slave is recommended to Claudius Hermeros, an imperial procurator by Ulpius Celer. Set-phrases and conventional formulae, reminiscent of the Ciceronian style, are used throughout the letter. For 'hominem mei domesticum' one may refer to Fam. XIII, 71: 'unum de meis domesticis'. 'rogo ... commendatum habeas' recalls Fam. XII, 26.2: 'habeas eos a me commendatissimos'. 'est enim dignissimus et processu et favore tuo' has its parallel in Fam. XIII, 40.1: 'commendo tibi ... adulscentes ... tua amicitia dignissimos'. The final clause 'non dissi[mulo] mihi gratissimum' echoes numerous Ciceronian variants of the same: 'pergratum mihi feceris', 'gratissimum mihi feceris', 'mihi gratissimum erit' etc.

As for the content, one should comment on the absence of specification, typical of Cicero's and Pliny's requests. And if by the phrase 'quidquid ad dignitatem eius pertinens praestiteris', the writer means a promotion in the service, then again one is reminded of Pliny's recommendation of his former quaestor: 'rogo ergo, ut ipse apud te pro dignitate eius precibus meis faveas' (Ep. X, 26.2 and cf. supra, p. 216) or of Arrianus Maturus: 'itaque magni aestimo dignitati eius aliquid adstruere' (Ep. III, 2.5, and supra, p. 209). The writer of this letter, like Pliny, did not feel the necessity to justify his request on objective grounds. Specialization, skills, seniority in the service, experience and similar modern assets, do

not figure in requests for promotion. The best testimonial is that which dwells on the general character of the person recommended, but even this last is not presented in an objective manner; it shines through the fact that he has obtained the favour and friendship of the recommender.

P. Lat. Argent I and P. Ryl IV, 623 = CPL, 262 and 263.

Domino suo Achillio
Vitalis
Cum in omnibus bonis benignitas tua sit praedita, tum
etiam scholasticos et maxime, qui a me cultore tuo hono-
rificentiae tuae traduntur, quod honeste respicere velit,
non dubito, domine praedicabilis. Quapropter Theofanen
oriundum ex civitate Hermupolitanorum provinciae
Thebaidos, qui ex suggestione domini mei fratris nostri
Filippi usque ad officium domini mei Dyscoli vexationem
itineris quodammodo sine ratione sustinere videtur,
inimitabili religioni tuae trado, ut eundem praeter-
euntem more honestatis tuae benigne et humane
respicere digneris. Iuro enim salutem communem
et infantum nostrorum, quod enim eodem minime
petente benivolentiae eundem insinuendum putavi. Domine
dulcissime et vere
amantissime beatum te
meique amantem semper
gaudear.

Verso

Domino suo Achillio *ἡγεμ(όνι) Φοινείκης*
Vitalis

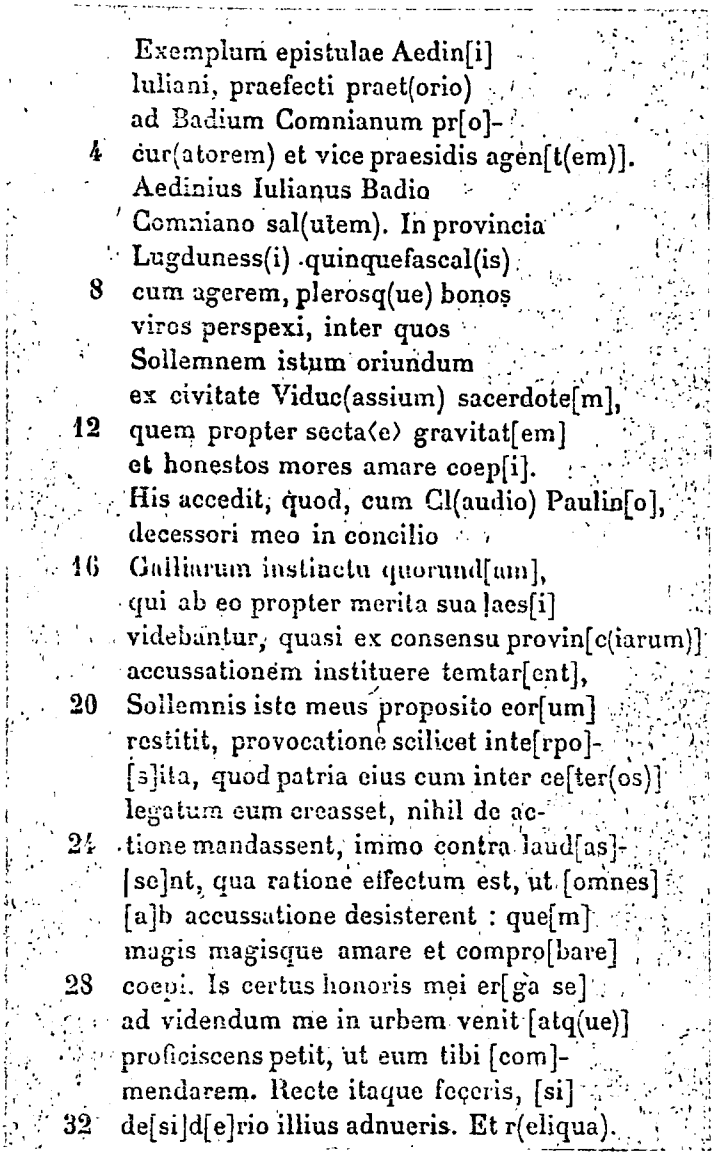
[Domino suo] Delfinio
Vitalis
[Cum in omni]bus bonis benignitas tua sit praedita
[tum etiam s]ch[o]las[tico]s et maxim[e q]ui a me cul[to]re tuo
[honorificentiae tuae tr]aduntur [quod] hones[te r]espicere
[velit non dubito d]omine p[raedi]cabilis [q]uapropter
[Theofanem oriundum] ex civi[tat]e Hermo[po]litanoru[m]
[provinciae Thebaido]s qui [ex sugg]estio[ne do]mini m[ei]
[fratris nostri Filippi] usqu[e ad of]ficium [domi]ni me[i]
[Dyscoli vexationem itine]r[is sine rat]i[o]ne q[uodammo]do
sust[inere]

These two papyrus letters of recommendation come from the Archive of Theophanes, although one of them, P. Lat. Argent I, was not published together with the rest of the deposits. (It was first published and commented upon by H. Bresslau in 'Ein lateinischer Empfehlungsbrief', Arch. Pap. 3 (1906), 168. The rest can be found in P. Ryl. edd. Roberts and Turner, IV, 104ff.) The two letters P. Lat. Argent. I and P. Ryl. IV, 623 are identical in wording except for the name of the addresssee. Both recommend Theophanes, a native of Hermopolis, who was probably on the staff of the Prefect of Egypt (cf. Turner, P. Ryl. IV, 104ff.), to senior officials in Syria. Although Theophanes did undertake the journey he probably did not use these letters (or they would not have been found in Egypt). The letters are assigned to the years 317-324. Many features of the florid style which developed in the course of the fourth century are already present in them; the use of abstracts to describe the personality of the recipient (e.g. benignitas tua, religio tua, honestas tua, and cf. supra, 122ff, for a discussion of the forms of address in their nascent form in Pliny's letters of recommendation to Trajan) and of exaggerated protestations of respect and veneration (e.g. domine praedicabilis, a me cultore tuo, inimitabili religioni tuae).

Theophanes is described as a scholasticus and was probably an advocate and legal adviser of the high officials mentioned in our letters (for their presumed position cf. Roberts and Turner, op. cit., 104-5). He must have had considerable importance to be given recommendations to high officials in Syria (cf. ibid.). Although his journey had an official nature, the recommendation is of an entirely private character. Again we see the typical Roman confusion between the official and the non-official. For recommendations which emphasize the culture and learning of the person recommended one should consult the letters of Fronto (infra, p.149ff and the excellent discussion of E.J. Champlin, An Historical Study of Fronto of Cirta (unpublished D.Phil. thesis for the University of Oxford, 1975), ch. IV: 'The Man of Letters').

(For a translation of P. Lat. Argent. I into German cf. W. Schubart, Ein Jahrtausend am Nil (1912), no. 96.)

To complete this discussion I would like to mention a letter of recommendation on an inscription. This is the famous recommendation which appears among other documents on the Marble of Thorigny (CIL, XIII, 3162).



Exemplum epistulae Aedin[i]
Iuliani, praefecti praet(orio)
ad Badium Comnianum pr[o]-
cur(atorem) et vice praesidis agen[t(em)].
Aedinius Iulianus Badio
Comniano sal(utem). In provincia
Lugduness(i) quinquefascal(is)
cum agerem, plerosq(ue) bonos
viros perspexi, inter quos
Sollemnem istum oriundum
ex civitate Viduc(assium) sacerdote[m],
quem propter secta(e) gravitat[em]
et honestos mores amare coep[i].
His accedit, quod, cum Cl(audio) Paulin[o],
decessori meo in concilio
Galliarum instinctu quorund[am],
qui ab eo propter merita sua laes[i]
videbantur, quasi ex consensu provin[c(iarum)]
accussationem instituere temtar[ent],
Sollemnis iste meus proposito eor[um]
restitit, provocatione scilicet inte[rpo]-
[s]ita, quod patria eius cum inter ce[ter(os)]
legatum eum creasset, nihil de ac-
tione mandassent, immo contra laud[as]-
[se]nt, qua ratione effectum est, ut [omnes]
[a]b accussatione desisterent : que[m]
magis magisque amare et compro[bare]
coepi. Is certus honoris mei er[ga se]
ad videndum me in urbem venit [atq(ue)]
proficiscens petit, ut eum tibi [com]-
mendarem. Recte itaque feceris, [si]
de[si]d[e]rio illius adnueris. Et r(eliqua).

It was sent in 223 A.D. by the Praefectus Praetorio, Aedinius Julianus, to his successor as governor of Lugdunensis, Badius Comnianus, on behalf of the local dignitary and priest Sollemnis.

The entire inscription was discussed at great length by H.G. Pflaum in Le Marbre de Thorigny (1948) and the recommendation was analysed by him (ibid., 22). He points out several linguistic parallels to Cicero's letters: e.g. (14) 'his accedit quod' recalls Fam. XIII, 21.1: 'Accedit eo

quod Varro Murena magno opere eius causa vult' or (31-32): 'recte itaque feceris, si desiderio illius adnueris'. Similar though not identical locutions in Cicero read: Fam. XIII, 25: 'pergratum mihi feceris, si dederis operam ut ...' or XIII, 71: 'pergratum mihi feceris, si eum ita tractaris ...' etc.

However, apart from purely linguistic resemblances one should notice here the much more significant resemblance in the background and situation: a former governor is impelled by a local protégé to put in a good word for him with the new governor. Cicero did so for many Sicilians and Greeks from Cilicia (cf. supra, Part II, ch. 3). Aedinius Iulianus' phrase: 'In provincia Lugduness(i) quinquefascal(is) cum agerem, pleros(re) bonos viros perspexi, inter quos Sollemnem istum oriundum ex civitate Viduc(assium) ...' recalls immediately Fam. XIII, 32.1: 'In Halaesina civitate tam lauta tamque nobili coniunctissimos habeo et hospitio et familiaritate M. et C. Clodios Archagathum et Philonem' or Fam. XIII, 67.1: 'Ex provincia mea Ciliciensi ... nullo sum familiarius usus quam Androne, Artemonis filio, Laudicensi'.

In conclusion we may stress once again the strong evidence we have here for the wide dissemination of the epistulae commendaticiae in the Roman world; they formed a well-known and well-established social institution. The soldier Terentianus could refer to it casually, with no further explanations: 'neque epistulae commendaticiae nihil val(eb)unt' (P. Mich. VIII, 468, col. 2, 36ff.); everyone was familiar with the practice.

Secondly, the presence of the usual conventions of decorum in at least some of these documentary letters (e.g. P. Ryl. IV, 608; P. Lat. Argent I; P. Ryl. IV, 623; CIL, XIII, 3162) shows perhaps more clearly than anything else that the letters in Pliny's collection do not have to be seen as literary elaborations.

PART IV: EPILOGUE

FRONTO'S LETTERS OF RECOMMENDATION

The emergence of the rudiments of bureaucratic officialdom and patterns of promotion in official careers under the Empire - a process which even the critics of the school of Pflaum will concede[1] - did not diminish, let alone eradicate, the need for reliance on personal influence, but rather accentuated it. This was a direct result of the concentration of a very large range of decision-making in the hands of one man, accompanied by a defective system of delegation of these powers.[2] Not only were there many privileges that only the emperor could grant - e.g. citizenship, status, remission from sentences and taxes - but even with regard to routine matters which came under the ~~(were under the)~~ competence of the relevant officials, a short-cut and an alternative course could be found in the elaborate system of patronage. By a system of patronage we mean a network of intermediaries between the emperor and his subjects, working as intercessors and exercising personal influence in order to obtain favours for friends and proteges.[3] Thus power was delegated in a manner which conformed to the Roman distaste for and distrust of impersonal modes of procedure.[4]

The need to counter-balance the process of centralization was accentuated by the essential passivity of this central power, that is, the emperor, a passivity which practically invited the exercise of initiatives from below. Even the first Emperor[5] was to say so in so many words. In a letter to the people of Rhosus of 30 B.C. Octavian invited them to put forth requests to him which he will grant[6] - setting thereby the 'petition-and-request' pattern, into which a very large proportion of the emperor's contacts with his subjects fell.[7]

Yet even more significant for our discussion is Octavian's declaration to the people of Rhosus that it was on account of their citizen, Seleucus, that he was well-disposed towards their city:[8]

οὐ γὰρ τοιοῦτοι ἄνδρες καὶ τὴν πρὸς τὰς [πατρίδας] εὐνοίαν προθυμοτέραν ποιοῦσιν· ὡς οὖν ἔμου πάντα δύνατα ποιήσαντος ὑμεῖν ἤδειξον διά Σέλ]ευκον, θαρροῦντες περὶ ὧν ἄν βούλησθε πρός με ἀποστέλλετε.

The role of the intercessor - a central concept in the recommendation-process - is here clearly, openly and forcefully defined: the exercise of personal influence by persons who are well-connected to the emperor, far from having to be concealed artfully, was deliberately advertised at the very beginning of the principate.[9] Four points have to be stressed here: (1) what modern historians might well call 'general official policy' is, characteristically, declared in a private letter to a Greek city with regard to a private friendship between one of its citizens and Octavian; (2) no objective, impersonal reason is supplied for the decision to mete out favours, to treat Rhosus preferentially: personal favour, personal friendship is all that is needed to justify it. Such acts of government call for no complicated governing apparatus.[10] Arbitrariness and whims might sometimes be the only motives behind an imperial act. (3) This factor alone - the passive role of the emperor, and its obverse side, initiatives from below - may account fully for the unrivalled and unsurpassed ascendancy of the Greek World[11] - the most civilized, literate and articulate community in the Empire - under the imperial government. This community could and did respond enthusiastically to such declarations as that of Octavian quoted above. Equipped with the benefits of a long-standing rhetorical tradition and acquainted, through the Hellenistic dynasties, with monarchical forms, it was not slow to seek its advantage: embassies, petitions and recommendations, sent by its flourishing cities, bombarded the imperial ear and found there a propitious hearing.[12] (4) Finally it should be pointed out that this mode of thinking, which was, moreover, an everyday experience of life under the Empire, was destined to have a long history: the notion that personal influence could be exercised on behalf of others, the experience that personal intercession with the emperor through patrons was indispensable - all this was fully adopted, although in an altered form, by

Christianity and became one of the shaping forces of medieval life. The system of patronage had its religious counterpart in the role of the Church and its Saints; their intercession (suffragium, as it significantly came to be called[13]) with God is reminiscent of the mundane recommendation through the terrestrial patron:[14]

> Just as the terrestrial patron is asked to use his influence with the emperor, so the celestial patron is asked to use his influence with the Almighty. 'Suffragiisque tuis caeli fremit arduus axis ...' exclaims Venantius Fortunatus, in his Life of St. Martin of Tours.[15] As in the terrestrial sphere, so in the celestial, the lack of a patron might be fatal, for even the Almighty could hardly be trusted to give the right verdict unless an approach could be made to him through an influential intermediary.

The subject is far too vast to be pursued any further here. However, the 'Quem patronum rogaturus?' of the Dies Irae could serve as a motto to a religious sequel to our discussion of secular letters of recommendation.

As can easily be seen, a discussion of letters of recommendation under the Empire is all too likely to expand into a study of the system of patronage and the interplay of social and political institutions then. So as not to digress, let us conclude this introduction as follows: since most favours, privileges, gifts and rulings emanated from the emperor, the closer one stood to him, the more powerful and influential one was and the more wide-ranging one's patronage became. And 'closeness' to the emperor - as should by now have become clear - did not necessarily entail the occupation of a senior official position or of any position at all for that matter. This is amply proved by the immense influence wielded by the imperial freedmen under the Julio-Claudians and by the women of the imperial household throughout its existence.

For two reasons Fronto best substantiates the above statements: 1) unlike Pliny, Fronto was an intimate of the imperial household from the time when he was appointed teacher to Marcus Aurelius,[16] a fact fully borne out by the entire correspondence between himself and Marcus. 2) Fronto's state of health and devotion to learning - two themes which run through the whole correspondence - prevented him from pursuing an active official

life. He was neither a high officer in the Emperor's service, nor did he hold military commands. Yet his influence at the court did not suffer as a result. With Fronto we are at the threshold of the 'corridors of power'.

It has plausibly been suggested that 'much of Fronto's influence at court derived from his friendship with the powerful heir-apparent rather than from real intimacy with Pius'.[17] But even if this modification is accepted Fronto's immense influence was not any the less since Marcus Aurelius was a power in his own right at the imperial court.[18]

Pius' high regard for Fronto, even if inspired by the latter's friendship with his adopted son, is fully documented in one of Fronto's letters to Pius.[19] The letter, itself a recommendation for a procuratorship on behalf of the historian Appian of Alexandria,[20] reveals to us that Fronto had already obtained from Pius two procuratorships for his friend and contubernalis,[21] the knight Sex. Calpurnius Iulianus, which the latter declined.

That an excusatio did not impair the reputation of either recommender or beneficiary but, on the contrary, considerably enhanced it, could easily be proved. Firstly from the fact that Fronto counts the two imperial beneficia as four precisely because the excusationes were accepted:[22]

> Ea ego duarum procurationum beneficia quater numero: bis cum dedisti procurationes itemque bis cum excusationes recepisti.

Secondly, Appian, who, we are given to understand, would also decline the procuratorship ('Quin ipsum quoque certum habeo et adfirmare ausim eadem modestia usurum, qua Calpurnius Iulianus meus usus est')[23] and probably in fact did,[24] could still boast in the Preface to his Roman History in the following vein:[25]

> Ἀππιανὸς Ἀλεξανδρεύς, ἐς τὰ πρῶτα ἤκων ἐν τῇ πατρίδι, καὶ δίκαις ἐν Ῥώμῃ συναγορεύσας ἐπὶ τῶν βασιλέων, μέχρι με σφῶν ἐπιτροπεύειν ἠξίωσαν.

Thirdly, one may recall Pliny's assertion that Suetonius' withdrawal from the military tribunate, which Pliny had obtained for him, only added to Pliny's own gloria.[26] Finally inscriptions reveal careers in which the excusationes are no hindrance to claiming the credit for having filled the

post.[27]

The emperor's reluctance to bestow the desired procuratorship on Appian lest 'a flood of pleaders would gush forth asking a like favour'[28] is further evidence for Fronto's considerable influence with Pius, in view of the fact that he did succeed in overcoming the imperial reluctance and did obtain the honour for Appian.[29] For there can be no doubt that those other pettifoggers would have sought the intervention of powerful suffragatores. A later and yet more revealing piece of evidence for the multiplicity of letters of recommendation (suffragia) backing petitions for promotion is contained in the letter of the officer Flavius Abinnaeus to the joint Emperors, Constantius and Constans about A.D. 341,[30] to which reference has already been made.[31] Full of indignation Abinnaeus notifies the Emperors that when he presented their own letter (sacrae litterae) for his promotion at the office of the comes, Valacius, the bureau replied that 'other men had put forward letters of this kind' ('allegasse a[l]liosque [h]uiuscemodi [e]pistulas homines'). However, Abinnaeus feels that there is a distinction between his case and the others: 'cumq[ue pateat] ex suffragio eos pr[omotos] fuisse, me vero iudicio sacro ...'.

In such a milieu, where so many interests interplay and intrigues are rife, a successful recommendation is a real triumph for the intercessor and a true measure of his influence, especially when the competition is not for posts but rather for sinecures which absolve the titular incumbent from all the burdens of the office while preserving intact all the prestige and honour that go with it.[32]

A last observation on this extremely important letter is appropriate. We have been harping on the deliberate avoidance, in letters of recommendation, of specifying the favour sought after: in order to avoid giving the impression of imposing one's will on the recipient and of presumption in case of approaching a superior, the writer restricted himself to the bare minimum, couching his request in general terms. Therefore, Pliny humbly

asks Trajan for nothing more specific than to favour Pliny's former quaestor's dignity:[33] 'Rogo ergo, ut ipse apud te pro dignitate eius precibus meis faveas'. And even in letters to lesser persons than the Emperor moderation is shown in formulating a request, and in declining to enter into details.[34]

Fronto's confidence and perseverance (he has already been making the request for over two years[35]) is all the more remarkable and striking: whereas Pliny used dignitas and no more, Fronto specifies what he means by it - a procuratorship, and moreover a titular one:[36]

> Dignitatis enim suae in senectute ornandae causa, non ambitione aut procuratoris stipendii cupiditate optat [i.e. Appian] adipisci hunc honorem.

Had we possessed the first section of the letter we are discussing following the '⟨Accepi, Caesar,⟩' at the very beginning, which seems to have recapitulated all the favours Fronto had received from Pius, our claim that he exerted considerable influence with the Emperor might have been substantiated further, but even as things stand now it remains uncontested.

However, there can be no doubt that, inasmuch as the turning-point in Fronto's career was his nomination as teacher of Marcus Aurelius, his intimate friendship with the latter was the real source of his influence. The situation just described is perfectly revealed in a letter of recommendation on behalf of the African conductor Saenius Pompeianus, where Marcus is requested to serve as an intercessor with Antoninus Pius:[37]

> Saenius Pompeianus in plurimis causis a me defensus, postquam publicum Africae redemit, plurimis causis rem familiarem nostram adiuvat. Commendo eum tibi, cum ratio eius a domino nostro patre tuo tractabitur, benignitatem ingenitam tibi, quam omnibus ex more tuo tribuis, ut huic et mea commendatione et tua consuetudine ductus impertias.

The letter is short and formal. The recommendation-schema is easily discernible:[38] the name of the person recommended is assigned to the beginning and followed by evidence for friendship with Fronto derived from mutual

exchanges of favours between the two. Then follows the occasion, the man's case ('ratio eius') is about to come before Antoninus Pius. Finally comes the request to Marcus Aurelius to bestow his benignitas upon the man.

Even if it is assumed that the plurimae causae were occasioned by the man's excessive zeal or even capacity in exacting taxes,[39] the fact that Fronto defended him should be construed by the recipient as evidence for the latter's innocence. Again we encounter the subjective, personal argumentation so typical of the recommendation-genre. But even more striking is the insight gained here into the Roman mentality and to their system of government: what seems to us a trivial case affecting the interests of a conductor is taken cognizance of by the ruler of the Empire and calls for the personal intervention of a powerful patron. Surely neither Fronto nor Marcus Aurelius - as the latter's brief rescript proves[40] - regarded such a request as an exception, nor would the two share the modern presumption that such a recommendation immediately makes the man for whom it is written suspect, and that were the merits of the case in the man's favour no personal intercession would be called for. To the Roman, it seems, the backing of a powerful patron was indispensable in order to feel safer when confronting authority.[41]

The most fascinating item in the dossier is a letter of recommendation in which Fronto and Marcus Aurelius change places:[42] Fronto, as the prospective governor of Asia,[43] is in the unusual role of the patron, whereas Marcus Aurelius - not yet emperor but nevertheless the powerful heir-apparent - intercedes for one of the Greeks who will be under Fronto's authority. The letter itself is the last link in a chain of successive recommendations, a fact which in itself proves the wide ramifications of the instituion:[44] Themistocles, a pupil of Marcus's own teacher, the Stoic philosopher, Apollonius of Chalcedon,[45] was sent by the latter to Rome to stay with the philosopher's son, who was commanded by his father to introduce the man to Marcus Aurelius. The latter, in his turn, passed on the recommendation to Fronto.

The letter is highly suggestive of the tenacity of the traditional forms in which a recommendation is cast and of the endurance of formulae

sanctioned by long-standing tradition: even the master of Rome pays homage to the injunctions laid down by decorum. Marcus Aurelius is aware of the delicacy and subtlety which are called for in recommending a man for preferential treatment. The yoking together of aequitas and amicitia or gratia is executed in masterly fashion by the insertion of the saving formula:[46]

> Nam ius et aequom omnibus Asianeis erit apud te paratissimum, sed consilium, comitatem, quaeque amicis sine ullo quoiusquam incommodo propria inpertire fides ac religio proconsulis permittit, peto Themistocli libens impertias.

The very turn of phrase is reminiscent of Cicero's saving formulae when soliciting judicial favour. Perhaps the following passage in a letter of Cicero shows the closest verbal resemblance:[47]

> Ius enim quem ad modum dicas clarum et magna cum tua laude notum est; nobis autem in hac causa nihil aliud opus est nisi te ius instituto tuo dicere. Sed tamen cum me non fugiat quanta sit in praetore auctoritas, praesertim ista integritate, gravitate, clementia, qua te esse inter omnis constat, peto abs te pro nostra coniunctissima necessitudine plurimisque officiis paribus ac mutuis ut voluntate, auctoritate, studio tuo perficias ut M. Anneius intellegat te et sibi amicum esse (quod non dubitat; saepe enim mecum locutus est) et multo amiciorem his meis litteris esse factum.

And yet to clinch the argument one could cite Fronto's own words in the famous defence of the commendandi mos to which reference has been made.[48] In a letter to Claudius Severus[49] on behalf of Sulpicius Cornelianus,[50] who is going to stand trial before him, Fronto, having justified his procedure as honourable and forthright ('non, opinor, ad iustitiam iudicis labefactandam vel de vera sententia deducendam'), hurries to exculpate himself from the charge of having slighted the recipient's dignity or having restricted the latter's freedom:

> Quorsum hoc tam ex alto prohoemium? Ne me existimasses parum considerasse gravitatem auctoritatemque tuam commendando Corneliano Sulpicio familiarissimo meo, qui propediem causam apud vos dicturus est.

The passage which follows is a catalogue of Cornelianus' virtues and literary propensities, on which the friendship between him and Fronto is grounded. Despite the lacunose state of the text, the argument emerges

lucid and consistent. It is again one of those magnificent tours de force which yoke together the desire that justice shall be done and at the same time that the claims of friendship based on culture will be honoured.

The insistence on culture as an ineluctable factor that should bias the judge in favour of the defendant is altogether in tune with Fronto's declaration in another letter which recommends the same Sulpicius Cornelianus to an unknown Apollonides:[51]

> οὐκ ἂν δὲ ἔξαρνος εἴην τὰ πρῶτα παρ' ἐμοὶ φέρεσθαι τὴν ἐκ παιδείας φιλίαν συσταθεῖσαν.

And even more specific and characteristic is what follows:[52]

> παιδείαν δὲ ταύτην λέγω τὴν τῶν ῥητόρων.

Another saving formula crops up in a lacunose letter addressed to Fronto's compatriot, the closest of his young disciples, C. Arrius Antoninus.[53] Fronto is pleading the case of a lady named Baburiana who found fault with Arrius Antoninus' verdict against her. Even with a young disciple who is addressed as 'fili carissime',[54] adherence to etiquette is fitting and necessary. Therefore Fronto emphasizes his moderation in recommending her: 'ita tamen ut ⟨pri⟩ma mihi a⟨c⟩ potissima sit iustitiae tuae ratio habenda'.

Already in the introduction to this letter Fronto declares that he would not and does not abuse the credit he has with Arrius Antoninus:

> esse me a te non secus quam parentem observari. Eo fit, ut ad me decurrant plurimi, qui tuam gratiam cupiunt. Quos ego non temere nec sine delectu audio, sed probe petentibus suffragium meum impertio. Iis vero qui parum probe quid a te impetratum velint, ⟨ip⟩se denego ...

The first part echoes many similar admissions made by Cicero: he too was besieged by suppliants who knew of his credit with the recipient:[55]

> Quia non est obscura tua in me benevolentia sic fiat ut multi per me tibi velint commendari;

or:[56]

> Multos tibi commendem necesse est quoniam omnibus nota nostra necessitudo est tuaque erga me benevolentia.

The tenacity of the mould could not have been better demonstrated. And yet

there is a distinction, at least as far as the letter to Arrius Antoninus is concerned. Cicero admits that on occasions he gave a commendatio vulgaris:[57]

> ego autem tribuo non numquam in vulgus.

Or:[58]

> sed tamen etsi omnium causa quos commendo velle debeo, tamen cum omnibus non eadem mihi causa est.

And again:[59]

> sed vereor ne, quia compluris tibi praecipue commendo, exaequare videar ambitione quadam commendationes meas.

But even Fronto sometimes gave in to suppliants who were not personally known to him, and where he clearly relied on the judgement of others.[60]

And as an additional proof that the custom of giving recommendations 'in vulgus' did not die with Cicero, we have the evidence of a later letter-writer, Symmachus:[61]

> Multi a me conciliationem litterarum poposcerunt, sed quorundam meritis, aliorum precibus parem gratiam dedi ... dabis igitur in quibusdam verecundiae meae veniam, quae cessit orantibus.

From here, once we descend the social ladder, the way is open for the venale suffragium, i.e. the sale of dignities for a price which the emperors of the fourth and fifth centuries attempted in vain to curb.[62]

To return to Marcus Aurelius' recommendation of the young philosopher. Common opinion tends to exaggerate and distort the image of the philosopher on the throne. The Historia Augusta emphasizes Marcus' exceptional demonstration of deference to the Senate, whose meetings he seduously attended: 'neque quisquam principum amplius senatui detulit'.[63] It might have been suggested, therefore, that his observance of the traditional respectful forms of the recommendation is unusual. The facts prove otherwise. One of the 'bad' emperors, if not the worst enemy of the senatorial class, Domitian, left us a letter of recommendation to a provincial governor, which is cited by Pliny in a letter to Trajan. The recipient is the governor of Bithynia and Pontus, Lappius Maximus,[64] and the person recommended is

again, not uncharacteristically, a Greek philosopher:[65]

> Archippum philosophum, bonum virum et professioni suae etiam moribus respondentem, commendatum habeas uelim, mi Maxime, et plenam ei humanitatem tuam praestes in iis, quae uerecunde a te desiderauerit.

For every phrase of the imperial recommendation a parallel could be cited from letters written by our three senators. Even the emperor expressed his wishes in the traditional forms, treating his subordinates as social equals. This fact did not deceive anyone as to the realities behind the cordial facade. The emperor could afford to behave like a Roman noble recommending a man to his compeers; but those who appeal to him - and Fronto is no exception in spite of the warm and genuine friendship between him and Marcus - invariably treat him like the monarch.

Archippus' case directly impinges on the issues of imperial patronage and the rise of the Greek world, or more precisely of the latter's educated classes under the Empire. A vast vista opens here which will take us far beyond the limits of the present discussion.[66] I would like to end with a look back at the long way we have traversed since Cicero, our first letter-writer. In 51 B.C. Cicero recommends the Epicurean philosopher Patro to C. Memmius.[67] As in the case of Marcus Aurelius, the Greek philosopher was recommended to Cicero by his beloved teacher and friend Phaedrus:

> a Phaedro, qui nobis, cum pueri essemus, ante quam Philonem cognovimus, valde ut philosophus, postea tamen ut vir bonus et suavis et officiosus probabatur, traditus mihi commendatusque est.

The similarity in all the circumstances surrounding the two recommendations makes the contrast all the more sharp. Cicero's tone is apologetic: he hardly dares to trouble Memmius with such trifles as the Epicurean loyalty to the memory of the founder of the sect:[68]

> Is igitur Patro cum ad me Romam litteras misisset, uti te sibi placarem peteremque ut nescio quid illud Epicuri parietinarum sibi concederes, nihil scripsi ad te ob eam rem, quod aedificationis tuae consilium commendatione mea nolebam impediri; idem, ut veni Athenas, cum idem ad te scriberem rogasset, ob eam causam impetravit, quod te abiecisse illam aedificationem constabat inter omnis amicos tuos.

His manner towards the Greek philosopher is condescending, complacent and falls short only of showing downright contempt:

> Equidem, si quid ipse sentiam quaeris, nec cur ille tanto opere contendat video, nec cur tu repugnes, nisi tamen multo minus tibi concedi potest quam illi laborare sine causa. Quamquam Patronis et orationem et causam tibi cognitam esse certo scio; honorem, officium, testamentorum ius, Epicuri auctoritatem, Phaedri obtestationem, sedem, domicilium, vestigia summorum hominum sibi tuenda esse dicit. Totam hominis vitam rationemque, quam sequitur in philosophia, derideamus licet, si hanc eius contentionem volumus reprehendere; sed me hercules, quoniam illi ceterisque, quos illa delectant, non valde inimici sumus, nescio an ignoscendum sit huic, si tanto opere laborat; in quo etiam si peccat, magis ineptiis quam improbitate peccat.

Gibbon saw in this letter an expression of 'the mixture of contempt and esteem with which the Roman senators considered the philosophy and philosophers of Greece'.[69] It might be added that the Roman senators were confused and uncomfortable. The culture and sophistication of the vanquished Greeks made them equal if not superior to their conquerors, as the poet says:[70]

> Graecia capta ferum victorem cepit et artis
> intulit agresti Latio ...

The dilemma caused by the encounter produced one of the paradoxical phrases in a recommendation of a Greek:[71]

> Democritus Sicyonius non solum hospes meus est sed etiam quod non multis contigit, Graecis praesertim, valde familiaris.

Everything that we know and have shown elsewhere[72] belies this statement which Cicero feels compelled to make here. However, amicitia with a Graeculus might be embarrassing.

The Greek world is almost submerged in Pliny's letters (except for those to Trajan) but it re-emerges in Fronto's correspondence. During the interlude the attitude of the Roman senator towards the Greeks has gone through a drastic transformation. No apology is due for recommending a Greek or for acknowledging a tie of amicitia with him. The Roman Emperor himself does not consider it beneath his dignity. We are indeed in a new era where a network of cultural and political interests unites the educated classes of both worlds. The fusion of two traditions, of Greek civilization and Roman government, has already come about.[73]