

FOR WHOM THE CLOCK DRIPS

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Some years ago, Danielle Allen gave an enlightening account of the political force of the adoption of public water-clocks in fifth- and fourth-century Athens.¹ She found a close connection between these devices and democratic politics. However, she also noted in passing that similar technology, used differently, could have a different political force (Allen 1996.164). What I propose in this note is a case study of the potential for variation. Instead of a broad survey like Allen's, I will examine texts by a single author, Pliny the Younger (obviously part of a different culture as well). In this narrower compass, a finer-grained reading is possible, and in particular, we will be able to see both diachronic shifts in the use of the same clocks and synchronic contestation of their political potential. Even though the alternatives are all certainly non-democratic, that still leaves considerable room for the negotiation of authority.

Letter 1.23 purports to answer the question of a younger friend, Falco, as to whether it was appropriate to argue cases while holding the tribunate. Pliny says that he himself had avoided the practice for several reasons, among them, it appeared *deforme*, "unseemly," that "someone who could command silence from anyone, would himself be silenced by a water-clock" ("qui iubere posset tacere quemcumque, huic silentium clepsydra indici," 1.23.2). The use of the water-clock to limit advocates' time produced a conflict of authority; the personal authority embodied in the tribune opposes and is subordinated to the more mechanical authority of the clock

1 This short paper has been a long time in the making and has gone through a disproportionate number of helpful hands. I would like to extend particular thanks to Matt Roller and Barbara Gold for extremely helpful comments.

and the formalisms of legal proceedings in general. At the beginning of the letter, Pliny had suggested the original question drew particular force from changes in historical circumstance: "It makes a big difference what you think the tribunate is: an empty shadow and name without honor or a sacrosanct official power" ("plurimum refert quid esse tribunatum putes: inanem umbram et sine honore nomen an potestatem sacrosanctam," 1.23.1). "Shadow" suggests an alternative form of the tribunate that could be found only in the past. He does not specify how far back the comparison is meant to go, but the republic seems most likely. The tribunate was traditionally the most activist office, and its loss of *potestas* would in that sense have been the most striking.² Lucanian intertexts make a similar point. As has long been recognized, Pliny's phrasing parallels Lucan 1.135: *nominis umbra* (the narrator's description of Pompey) and 2.303: "nomen . . . et inanem . . . umbram" (Cato's description of Libertas).³ Thus Pliny's reply to Falco takes a potentially general question and sets it squarely against the fall of the republic. He does not suggest reversion to the old order, but he also says nothing to show that the tribunate had not become an "empty shadow."

2 On the use of the tribunate in this letter, see further Hoffer 1999.197, 201. In the legal (as opposed to the specifically political) sphere, the tribunes still had some role to play (Sherwin-White 1966.139–40), though the conflicts with the praetor's justice described in this letter are at least in part based on symbolic rather than technical concerns.

3 On the Lucan passage in its own right, see Feeney 1986. On the allusion, see Guillemain 1929.119, Hoffer 1999.197, and Schuster's 1952 Teubner. Pliny reproduces all three of Lucan's words and most of his syntax (the equation of the two nouns and the choice of which is modified by the adjective) and his general context (politics, the loss of authority). He uses *umbra* ten other times, all but one literally (for the exception, see below). A more adventurous reading might take these two cases as part of a broader set of similar phrases in generally similar contexts, but for present purposes it is not crucial to admit the larger network. For those instances, however, see Pliny 8.24.4: "reliquam umbram et residuum libertatis nomen" (concerning Greek states now under Roman rule), Lucan 1.135 (the narrator speaking of Pompey "the Great"), Sen. *EM* 80.5: *vanum . . . nomen libertatis* (on the fictional nature of legal freedom and slavery), Quintilian 12.10.15: *umbra magni nominis*. Pliny's teacher Quintilian used his phrase to describe the Atticists' rigorously narrowed rhetoric in contrast to the "real" thing as practiced by, e.g., Cicero. For Quintilian, contention between rule-governed (*devinctum . . . illis legibus*) and pragmatic rhetoric need not involve contrasts in time periods or forms of government (and, in fact, he is unclear on whether the Roman Atticists about whom he has so much to say actually still exist in his time). Nonetheless, he does connect the phrase specifically to oratory (rather than just politics in general), and the opposition between engaged and formalist rhetorics is one that would naturally lead Pliny back to a chronological interpretation (cf. Riggsby 1995.128–29).

Rather, he advises Falco to avoid situations in which the fiction of original authority could not be maintained.⁴

Letter 6.2 treats the question of timed speech at much greater length, and makes explicit some ideas that are only suggested in 1.23. Here he regrets a move to shorten already short time limits on speakers in courts: “The custom of giving, and even requesting, time in forty- or twenty-, sometimes even ten-, minute increments⁵ has spread and grown stronger” (“increbuit passim et invaluit consuetudo binas vel singulas clepsydras, interdum etiam dimidias et dandi et petendi,” 6.2.5). The tribunate is no longer in view, but the question of time is still a politically loaded one. In a reading of letter 1.20, I try to show (1995) that Pliny regarded sheer quantity of speech as an indicator of the relevance of “engaged public figures”—a major component of his own self-worth. While that letter’s frame of reference explicitly extends to the late republic, at the beginning of this discussion, the “good old days” are, apparently, quite recent. Pliny is only looking back to the lifetime of his nemesis Regulus. Yet as he continues thinking aloud, his time horizon recedes further into the past (6.2.6):

Are we wiser than our ancestors? More just than the laws themselves, the laws⁶ that give away so many hours, so many days, so many hearings? Do we speak more clearly, understand more quickly, judge more scrupulously, we who hurry cases along in fewer hours than the days in which they used to be heard?

an nos sapientiores maioribus nostris, nos legibus ipsis iustiores, quae tot horas, tot dies, tot comperendinationes largiuntur? . . . nos apertius dicimus, celerius intellegimus,

4 Avoidance of such real-world conflicts enables the textual strategy Hoffer 1999.195 describes as “one of [Pliny’s] characteristic tropes, the productive self-delusion.”

5 According to the one clock in Pliny’s corpus for which we can make the calculation, one clock-turn came to slightly less than twenty minutes. In translating clepsydra (in the sense of a unit of time), I have allowed myself a certain freedom and inconsistency for the sake of English idiom.

6 The laws referred to here and (in a somewhat similar context) at 1.20.11 are presumably the statutory time limits on speakers in criminal cases, for which see 4.9.9. By contrast to these limits, the time allotted to speakers in civil cases was, Pliny suggests, quite short. Diachronically, however, Pliny realizes that time has shrunk in both civil and criminal trials.

religiosius iudicamus, qui paucioribus clepsydris praecipitamus causas, quam diebus explicari solebant?

The “ancestors” can reach back indefinitely, and where we can tell, they tend to be earlier than the immediately preceding generation. Cases that were conventionally argued in more days than the current number of hours are known to be republican.⁷ Here the new system conflicts not so much with individual authority as with individual obligation. In this letter, unlike the previous one, Pliny has a little power to change the situation. “Whenever I decide [civil] cases (which I do even more often than I argue them), I grant the most time anyone asks for” (“equidem quotiens iudico, quod vel saepius facio quam dico, quantum quis plurimum postulat aequae, do,” 6.2.7). Note that Pliny does not simply give more time, or even generous time, but however much the speakers want.⁸ The clock ceases to be an impersonal, systemic force. Pliny does have a pragmatic argument for this: you cannot really know how much time a case requires until you have heard it (6.2.8). Most of his concern, however, is ethical. Even if extra argument is generally superfluous, the *religio* and *patientia* of the judge require that he hear cases at length. Circumventing the clock allows the judge properly to display his individual character and so worth.

Here I would like to bring in a somewhat different line of inquiry that will bring us back to the political aspect of the situation. Matthew Roller (2001.129–287) has recently discussed the various figurations early imperial aristocrats used to negotiate their political and social positions vis-à-vis the emperor; the emperor is variously treated as father, master, host (whether good or bad), patron, etc. The structures Roller considers are generally very important to Roman society in their literal forms (e.g., the family, freedom and slavery), so it is not surprising that their figurative use to understand the emperor is widespread, if also widely contested. We might, however, expect there would also be rarer, more idiosyncratic approaches. The water-clock provides such an example, and of a novel kind, since it is one in which the emperor is not directly and personally figured.

7 In the course of establishing a slightly different legal point, Metzger (1997.102–03, 108–19) demonstrates the extensibility of republican civil trials. The introduction of real time limits in criminal cases seems to have been an innovation (however general and/or lasting it was originally meant to be) of Pompey in 52 (Asc. *Mil.* 36.10–13C, Tac. *Dial.* 38.2). Tacitus’s Aper regards free time in general as a republican institution (*Dial.* 19.6).

8 For this power (exercised much more severely), cf. Tac. *Dial.* 19.6, 39.4.

As I have sketched it here, the issue at stake in these two Plinian letters is slightly different from that in the texts treated by Roller. Most of the latter treat accommodation to an *imperial* system. Pliny is troubled by the fact that he must accommodate himself to an imperial *system*. That is, the problem, from Pliny's point of view, lies not quite in the judgment of a particular emperor nor the potential arbitrariness of imperial power. Rather, it lies in the elevation of standard rules, operating automatically, over individual judgments. In support of that interpretation, let me cite one text where the question is raised more explicitly and then point to one related line of argument already present in the secondary literature. Aulus Gellius preserves a letter of the jurist Ateius Capito that recounts a story about the earlier, Augustan, jurist Labeo. The latter refused a summons to answer an accusation before the tribunes of the plebs on the grounds that they legally had the power to arrest him (*prensio*), but not to summon him (*vocatio*).⁹ Capito was startled that Labeo responded in this way (13.12.2):

But a certain mad and excessive license drove the man to the point that, although Augustus was already emperor and had control of the state, he [Labeo] held nothing to be valid unless it were in accord with the laws of the ancient Romans.

sed agitabat . . . hominem libertas quaedam nimia atque uecors usque eo, ut diuo Augusto iam principe et republicam obtinente ratum tamen pensumque nihil haberet, nisi quod iussum sanctumque esse in Romanis antiquitatibus legisset.

The emperor does not intervene personally, nor, so far as we can see, does he have any personal interest in any aspect of the incident. It is the mere fact of the existence of the imperial government that gives other officials their increased authority (at least for Capito and Gellius). Neither the tribune nor (less surprisingly) the messenger are named. Their personal identities are irrelevant compared to their offices, their functions within the imperial government. The extraordinary authority of the emperor permeates the

9 Gellius appends further discussion of the legal question based on Varro's *Res Humanae* (13.12.5–6).

ordinary workings of the state apparatus, simultaneously neutralizing and empowering the individuals who carry out its work. Pliny the advocate is similarly constrained, and the impersonal nature of that constraint is well figured by the water-clock.

Nor is the timing of speeches the only area in which imperial authority reinforced / was reinforced by a new, relatively impersonal temporal regime. Andrew Wallace-Hadrill (1997.16–18) notes the way Caesar and Augustus took control of the calendar (primarily, though not entirely, in terms of intercalation) from the hands of the several *pontifices* and subjected it to astronomical calculation instead (p. 17).¹⁰

Knowledge, then, is relocated: from the social authority of a local elite guarding the cultural specificity of its traditions, to the academic authority of the experts who can predict the movements of the sun wherever you stand on the Earth at whatever time in history.

The imperial co-option of the calendar, as of several other areas of knowledge treated in Wallace-Hadrill's paper, involves an extra step not present in Pliny's case. Authority is not vested directly in the emperor, but in technical experts like astronomers or jurists whose expertise can then be monopolized. The water-clock, unlike the calendar, can be imposed more-or-less directly. Nonetheless, the parallel provided by the more complex case supports the present reading of the simpler one. Both are instances of the rationalization of time by a centralizing imperial authority.

Now, Labeo (died c. A.D. 10) could reasonably be described as a republican holdover, but that would be a much less plausible explanation for Pliny's behavior roughly a century later. We should look to a standing feature of the culture, not a "transitional" period, to explain what is going on. Let me suggest that, at least in these two letters, the republic itself is not to be taken literally as a political order but as a figure of the independent value of the individual aristocrat. Again, there is no clear objection to a particular emperor—even to the existence (broadly speaking) of an emperor. Problems in maintaining one's *dignitas* in the face of superior authority are, as we have already noted, typically imaged in terms of relationships with the person of the emperor. But in these letters, Pliny takes

10 See further Feeney 2007.196–97 on the assertion of authority by Caesar and Augustus.

a slightly broader view. There can be threats to that dignity anywhere in the imperial world. The tone of the letters is not so much oppositional or subversive as nostalgic. Clearly the desire expressed in letter 6.2 to revisit Regulus's heyday is not to be taken literally. Still, the inanimate clock may have been not only an appropriate metaphor for the problem, but also a comfortable outlet for what could otherwise have been read as a critique, however mild, of the current order.¹¹

Moreover, one can see in one of Pliny's letters a trace of resistance (to use a slightly grandiose term) to the imperial order. The accommodation described in letter 1.23 was essentially passive: a tribune should avoid situations that would display his lack of authority. Letter 6.2, as was suggested above, has a more active approach. One of the ways in which systemization benefits an emperor is his (nearly) unique ability to grant exceptions to the rules as a favor that obligates the recipient to him.¹² The rules become a source of personal patronage. So, for instance, Seneca can stress to Nero the *ad hoc* (or *ad hominem*) character of *clementia*: "Clemency has free judgment; it decides not by rule, but by what is right and good" ("*clementia liberum arbitrium habet. non sub formula, sed ex aequo et bono iudicat,*" 2.7.3). In the case of the time limits, however, the system is not so rigid as to prevent manipulation by other persons. While serving as *iudex*, Pliny, too, can show his *religio* and, presumably, generosity by granting what time is requested, i.e., he can exercise a limited personal authority of his own. Wallace-Hadrill's programmatic essay rightly stresses the general trend towards centralization, but the limits of that process can be of interest as well. Moreover, in this case, the "limitation" is not merely a gap in the emperor's exercise of power whereby speakers' time in civil cases is not set by statute. The emperor's grant of discretion to *iudices* is an enabling condition of the exercise of power by others. It is the imperial

11 He explicitly marks the subject matter of his letter as sensitive: "But it is better to speak of these in person, as they concern common civic failings," "*sed de his melius coram, ut de pluribus vitiis civitatis,*" (6.2.9). One other letter (2.11.14) mentions the water-clock and its function of limiting speaking time: "I spoke nearly five hours, for four clock-turns were added to the original ten, which I had already found very ample," "*dixi horis paene quinque; nam duodecim clepsydris, quas spatiosissimas acceperam, sunt additae quattuor.*" Here (before the senate) Pliny finds his allotment generous even before it is supplemented. This performance, however, is before the emperor personally, and so must be described as well regulated.

12 On the reciprocity involved, see Roller 2001.176–78, 182–93.

creation of a generalized norm of limited time that gives Pliny's gesture its force; he, too, can give the gift of time.

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