

THE CHRONOLOGY OF THE EARLY BOOKS OF LUCILIUS*

By WENDY J. RASCHKE

Friedrich Marx in the Prolegomena to his edition of Lucilius in 1904-5 proposed that the earliest books of Lucilius, viz. Books 26-30, were composed between the years 132 and 129 B.C. Conrad Cichorius, in his distinguished work *Untersuchungen zu Lucilius* (1908), advanced a lower date of 123 B.C. for the first collection, arguing his case with such skill and supporting it with such a quantity of apparently indisputable historical material that many scholars have for the last seventy years accepted many of his conclusions.¹ The late dating of Books 26-30 is based primarily on three fragments, one in Book 26 (671-2M/650-1W/656-7K), and two in Book 30 (1088M/1017W/1054K and 1089M/1018W/1055K). In the survey of the datable fragments of Books 26-30 which follows the aim will be to demonstrate how the historical work of the last seventy years has affected our conclusions about the date of these fragments, and how these lines, which have been assigned late dates by Cichorius, in fact conform to the generally accepted pattern of early datable references in the first collection of Lucilius' satires.

By way of introduction something should be said of the rationale behind the now standard division of the books of Lucilius. Varro refers to a single collection of twenty-one books, and the evidence of Gellius suggests that a similar situation also existed at a later time.² Nonius' method of citation of Lucilius also implies that he had two separate texts, a codex containing Books 1-20 and a roll containing Books 26-30.³ That the latter collection, i.e., Books 26-30, was the earlier can be readily indicated both by historical allusions in these books, which clearly antedate those of Books 1-21, and by the marked development in Lucilius' use of metres: in the course of composition of Books 26-30 Lucilius moves from the mainly dramatic metres, the septenarii of Books 26 and 27, and the mixed metres of Books 28 and 29 to arrive at the exclusive use of the hexameter in Book 30, the metre which is to become his standard and the standard form for verse satire.⁴

I

The acceptance of Books 26-30 as the earliest satires of Lucilius rests on a firm foundation, and critics have long agreed that the first book in the second collection furnishes

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¹ C. G. Fiske, *Lucilius and Horace* (1920), 371-2, 375; J. Wight Duff, *Roman Satire* (1950), 50; C. A. van Rooy, *Studies in Classical Satire and Related Literary Theory* (1965), 51; E. H. Warmington (ed.), *Remains of Old Latin III* (1967), xii-xiii; J. Christes, 'Lucilius. Ein Bericht über die Forschung seit F. Marx (1904/5)', *ANRW* 1. 2 (1972), 1202; E. S. Ramage, D. L. Sigsbee, S. C. Fredericks, *Roman Satirists and Their Satire* (1974), 28; M. Coffey, *Roman Satire* (1976), 40-2. Cf. J. Michelfeit, 'Zum Aufbau des ersten Buches des Lucilius,' *Hermes* 93 (1965), 127-8, who, while rejecting Cichorius' dating of Book 1, dates the 'Einleitungsgedicht' of Book 26 to 123 B.C. W. Krenkel, *Lucilius Satiren I* (1970), 25-6 still favours 123, although he realizes that the grounds for this are weak. So also A. La Penna, 'Aspetti e conflitti della cultura latina dei Gracchi a Silla,' *Dial. d' Arch* 4/5 (1971), 197-201.

² Varro, *De L. L.* v. 17: 'a qua bipertita divisione Lucilius suorum unius et viginti librorum initium fecit hoc'. He then gives the hexameter which is

the first line of Book 1. Gellius quotes from Books 1-20 only, which suggests that either he knew of this one corpus of Lucilius only, or, at least, that these books were contained in a separate roll. The discrepancy between Varro, who cites 21 books, and Gellius, who has only 20, is usually glossed over in the modern literature, cf., for example, M. Coffey, *Roman Satire*, 40 and 42, who accepts both pieces of data as correct in two separate places.

³ On Nonius see the review article of Diana C. White, 'A New Edition of Lucilius', *CPh* 68 (1973), 37-40. Like Gellius, Nonius Marcellus in his *De Compendiosa Doctrina* cites from a collection which contains only Books 1-20. This fact is occasionally ignored, see, for example, W. Strzelecki, *RE* 17. 1 (1936), 890 s.v. 'Nonius Marcellus' (38), who refers to Nonius' use of Lucilius, Books 1-21. Nonius cites from Lucilius Book 20 seven times, but in only one instance is there any doubt about the reading of the book number—xxx instead of xx in 209. 3 (Merc.). Thus, although our text of Nonius contains a considerable number of errors in the book numbers of authors cited, see A. K. Frihagen, 'Buchzahlen bei Nonius', *SO* 50 (1975), 149-53, this cannot explain the absence of any reference to Book 21.

⁴ cf. C. A. van Rooy, *Studies in Classical Satire*, 52-3 and 82 on Horace, *Sat.* 2. 1. 28-9. See also now M. Coffey, *Roman Satire*, 40 and 226, n. 153.

a firm *terminus ante quem* for the publication of these books.⁵ Book 1 is composed entirely of hexameters and is therefore later than the experimental dramatic metres of the earlier collection, and refers unambiguously to an event which can be approximately dated, the death of L. Cornelius Lentulus Lupus, the *princeps senatus*. The fragments reveal that a council of the gods is taking place at which the fate of Rome is to be decided. The gods are angered over the influx of foreign manners, vices and extravagance and it is resolved to punish the man most representative of this moral corruption, Lentulus Lupus.⁶ Confusion over the date of this satire arose after Cichorius, in order to avoid the embarrassment of dating Book 1 earlier than he had dated Book 26, proposed 123 B.C. as the year in which the *concilium deorum* satire was written.⁷ Metellus Macedonicus, as one of the censors of 131/130 B.C., participated in the choice of L. Cornelius Lentulus Lupus (cos. 156 B.C.) instead of Scipio Aemilianus to be *princeps senatus*.⁸ Although Lupus was considerably senior to Scipio and thus the natural choice for the office, modern scholars have thought that Scipio would have been particularly offended by being 'passed over' for this honour.⁹ Whatever the motive, certainly Lupus is the target of an attack by Lucilius as early as Book 28. In 121 B.C. P. Cornelius Lentulus is attested as *princeps senatus*, and it is a safe assumption that he must have been chosen by the two immediately preceding censors, Cn. Servilius Caepio and L. Cassius Ravilla in 125/124 B.C.¹⁰ Cichorius, to avoid endangering his conclusion for Book 26, invented an otherwise unattested censorship for 123 B.C. Despite some early criticism this late dating of Book 1 was accepted by some scholars.¹¹ But the *Fasti* from Antium mention no censors in the period 123–120 B.C. and one must therefore conclude that P. Cornelius Lentulus was selected by the censors of 125/124 B.C.¹² The death of Lupus, and therefore the *terminus post quem* of the satire, must lie between 128 and 125 B.C.: Marx suggested 126 B.C.¹³

The same satire refers to Carneades, whose death is usually placed in 129/128 B.C.,¹⁴ as already being dead (31M/35W/51K):

non Carneaden si ipsum Orcus remittat

Thus a *terminus post quem* of 129/128 B.C. is attained for the death of Lupus. The conclusion of Cichorius and Warmington, that this satire was written in 123 B.C., must be abandoned and a date between 128 and 125 B.C., close to Marx's 126 B.C., must be accepted in its place.

II

When we turn to the fragment of the earlier collection, Books 26–30, it is ironic that the one which appears most readily to offer historical information is also one of the most difficult to date. Fragment 671–2M/650–1W/656–7K clearly and specifically mentions the *publicani* in Asia:¹⁵

publicanus vero ut Asiae fiam, ut scripturarius,
pro Lucilio, id ego nolo, et uno hos non muto omnia

⁵ e.g. C. Cichorius, *Untersuchungen zu Lucilius*, (1908, repr. 1964), (hereafter *UL*), 77; Warmington, p. xiii; Krenkel I, p. 25.

⁶ Warmington distinguishes the *concilium deorum* as a separate satire, no. 2 in his arrangement. Marx believed Book 1 to be a single satire, see commentary on Book 1. Krenkel similarly does not separate the fragments of Book 1 into individual satires. Lactantius IV. 3. 12 provides evidence of a *concilium deorum* as a work of Lucilius, but does not make it clear whether this was the title of Book 1 as a whole or of a single satire within Book 1.

⁷ Cichorius, *UL*, 77–86.

⁸ Lupus is referred to as *princeps senatus* by the scholiast on Horace, *Sat.* II. 1. 67; cf. *MRR* I, pp. 500–1.

⁹ E. S. Gruen, *Roman Politics and the Criminal Courts*, 149–78 B.C. (1968), 64, n. 90. The evidence is however primarily Lucilius' own satires.

¹⁰ Broughton, *MRR* I, p. 501, n. 1.

¹¹ See the criticisms of W. A. Baehrens, 'Literarhistorische Beiträge', *Hermes* 54 (1919), 80–6; 123 B.C. is accepted by Warmington, p. xiii, 2, n. a (rejecting Baehrens); most recently rejected by J. Michelfeit, 'Zum Aufbau des ersten Buches des Lucilius', *Hermes* 93 (1965), 126–8.

¹² Broughton, *MRR* I, p. 501, n. 1.

¹³ Marx, prolog. pp. xxxv–xl.

¹⁴ Carneades died in 129/8 B.C., cf. H. v. Arnim, *RE* s.v. 'Karneades', 1964–5. All citations from Lucilius are from the text of F. Marx, *C. Lucilii Carminum Reliquiae* (1904–5), unless otherwise stated.

¹⁵ Nonius p. 38. 4 (Merc.) = 671M, and Nonius, p. 351. 7–8 (Merc.) = 671–2M, quotes these lines as coming from Book 26.

Marx argued briefly for a date of 131 B.C.¹⁶ Extensive discussion began with Cichorius, who argued that these lines formed part of the introduction (*Geleitworte*) to the first collection (Books 26–30) and by reference to Appian's evidence on the *publicani* of Asia deduced a date of 123 B.C. for this fragment and hence for the completion of the collection.¹⁷ Cichorius' view that the fragment must be dated later than 123 B.C. rests upon the argument, which can still be found in recent works,¹⁸ that the reference is to the opportunities opened up by the *lex Sempronia* regulating the taxes of Asia in that year. The premise is a curious one and is open to challenge on various grounds. Since no other allusion in Book 26 indicates a date later than 131 B.C., it may perhaps be urged that Lucilius followed the custom of a number of poets in writing his introductory *Geleitsatire*, to which 671–2M/650–1W/656–7K are supposed to belong, subsequent to the completion of the collection.¹⁹ If so, we must imagine a reversal of the poet's choice of verse form—not in itself an insurmountable difficulty—since by the time of the composition of Book 30 he has definitely adopted the hexameter, yet our fragment is in trochaic septenarii—a fact which rather points to its place in the body of Book 26, which is similarly written in septenarii. Furthermore, the acceptance of Cichorius' dating necessitates the assumption that Lucilius published Books 26–30 at least two years after he had written Book 1.

The historical evidence for Cichorius' date requires closer examination in order to clarify the issues. Appian states in a speech attributed to Marcus Antonius that the Greeks of Asia had been released by the Romans from all taxes they had previously paid to the Pergamene kings until a reversal of this policy and a reimposition of taxes came about at the urging of the demagogues.²⁰ The reference to the actions of the unnamed δημοκόπτοι ἄνδρες is usually understood as an allusion to the legislation of Gaius Gracchus which dealt with the collection of the taxes of Asia by the *publicani*.²¹ The statement Appian attributes to Antonius, taken together with references to a *lex Sempronia* on the taxes of Asia in our other sources, has led some scholars to conclude that the farming of the taxes of Asia was first introduced during the tribunate of Gaius Gracchus.²²

The discovery of fragments of several copies of an important epigraphic document, the *senatus consultum de agro Pergameno*,²³ has not only played a considerable role in the discussion of the date of the introduction of *publicani* into Asia, but has also entered the literature on the dating of our fragment.²⁴ The inscription records that a dispute had arisen between the Pergamenes and the *publicani* as to whether certain lands should be subject to taxation. The Senate on appeal from a Pergamene embassy ordered a magistrate with the assistance of a *consilium* to conduct an investigation into the matter and to communicate his decision to the Senate. The inscription has been dated by two means: in a lacuna in line 9 a pair of consuls are mentioned:] νιος ὑπατοι, and in line 17 a consul of the current year:] ὕλλιος ὑπατος is ordered to provide accommodation for the envoys.²⁵ At least two possible pairs of consuls would satisfactorily resolve the remains of both names on the stone: Gaius Sempronius and Manius Aquillius, the consuls of 129 B.C., and M. Tullius Cicero and M. Antonius, the consuls of 63 B.C.²⁶ The latter combination has been judged too late on the basis of the lettering of the Adramyttium copy of the *senatus consultum*.²⁷ The date has also been determined by a second criterion. The *senatus consultum* has appended to it a list of names of the men who made up the investigating magistrate's *consilium*. The remains of fifty-three names with

¹⁶ Marx II, p. 245.

¹⁷ Cichorius, *UL* 72–6; followed by F. Münzer, 'Lucilius und seine Zeitgenossen nach den neuesten Untersuchungen', *NyB* 23 (1909), 184.

¹⁸ See, for example, C. Nicolet, *L'Ordre Équestre à l'époque républicaine*, 312–43 av. J.C. I (1966), 337.

¹⁹ But cf. J. Christes, *Der frühe Lucilius*, (1971), 100–1, who rejects these fragments as part of any introductory satire.

²⁰ Appian, *BC* v. 17 (Gabba).

²¹ For the *lex Sempronia* dealing with the taxation of Asia see Cicero, *Verr.* III. 6. 12; also Schol. Bob. p. 157 (Stangl), and less specifically Diodorus xxxv. 25. See Gabba's commentary on *BC* v. 17, where he cites the modern studies.

²² See, for example, Cichorius, *UL*, 72–3 and D. Magie, *Roman Rule in Asia Minor* I (1950), 164; the testimony of Appian is rejected by H. Hill,

The Roman Middle Class in the Republican Period (1952), 67; E. Badian, *Foreign Clientelae*, 183, n. 8; and A. H. M. Jones, *The Cities of the Eastern Roman Provinces* (1971), 59.

²³ cf. R. K. Sherck, *Roman Documents from the Greek East* (1969), no. 12, p. 68, who traces the history of the dating controversy.

²⁴ W. Krenkel, *Lucilius Satiren* I, p. 25; cf. J. Christes in: *ANRW* I. 2. p. 1202 and n. 8, who cites Krenkel but prefers a date of 123 B.C.

²⁵ R. K. Sherck, *Roman Documents*, no. 12, pp. 64–5.

²⁶ The suggested restorations are given by Sherck, *Roman Documents*, no. 12, pp. 64–65 as follows:

(line 9) Μάνιος Ἀκύλλιος Γάιος Σεμπρώ]νιος ὑπατοι

(line 17) Μάνιος Ἀκ]ύλλιος ὑπατος

cf. Broughton, *MRR* I, 496–7, 504, and II, 165.

²⁷ R. K. Sherck, *Roman Documents*, no. 12, p. 68.

their tribal affiliation but without *cognomina* can be distinguished.²⁸ The prosopographical information yielded by the list has been examined and has been judged to be not inconsistent with a date of 129 B.C. Working from the remains of the consuls' names and outward from the *consilium* list, most scholars, including Passerini, Broughton, Tibiletti, Taylor, Badian, Sherk and Nicolet, have accepted a date of 129 B.C.²⁹ A considerably later date, 101 B.C., has been proposed by Magie, but has won few converts.³⁰ Recently Mattingly has drawn attention to a new argument in favour of a later date: the phrase ἐν αὐτῶν φαίνεται in line 17 is a formal element which does not occur in senatorial decrees until the Sullan period. Furthermore, argues Mattingly, the prosopographical information will fit 101 B.C. as readily as 129 B.C.³¹ The result of Mattingly's challenge to the traditional date has been renewed doubt about the attribution of the inscription to 129 B.C. and the collection of taxes by the *publicani* in Asia before the *lex Sempronia* of 123 B.C.³² But Mattingly's arguments are not conclusive.

The relevance of the *senatus consultum de agro Pergameno* to the date of Lucilius 671-2M/650-1W/656-7K has been stressed by Krenkel and tentatively accepted by Christes.³³ In the light of Mattingly's proposed redating of the inscription it should be emphasised that the various issues involved here must be carefully separated. The inscription, if correctly attributed to 129 B.C., would provide important documentary evidence for the collection of Asian taxes by the *publicani* before 123 B.C., but the early dating of the Lucilius fragment does not, as Mattingly suggests,³⁴ stand or fall with the dating of the *senatus consultum de agro Pergameno*. When King Attalus III of Pergamum died in early 133 B.C.³⁵ and in his will left his kingdom to the Roman People, the royal treasury and presumably also the royal estates came into the direct possession of the Roman People.³⁶ Thus, even before the institution of the *ensoria locatio* by the *lex Sempronia* in 123 B.C. there were probably *publicani* in Asia who farmed the *scriptura* and *portoria* on the royal lands which came into Rome's possession in 133 B.C.³⁷ In fact, the issue of taxation may have arisen as early as late 133 or early 132, if indeed the despatch of the embassy of five senators, which went to Asia at that time, implies a decision to annex the kingdom as a province, as has been recently argued.³⁸ Schleussner's interpretation of this embassy and of the Senate's intent is, however, weakened by a recent convincing demonstration that the cistophoric coinage of Ephesus does not utilize a provincial era of Asia beginning in

²⁸ *ibid.*, no. 12, pp. 69-73.

²⁹ A. Passerini, 'Le iscrizioni dell'agora di Smirna concernenti la lite tra i publicani e i Pergameni', *Athenaeum* 15 (1937), 252-83; Broughton, *MRR* 1, 496-7, 501; G. Tibiletti, 'Rome and the Ager Pergamenus, the Acta of 129 B.C.', *JRS* 47 (1957), 136-8; L. R. Taylor, *The Voting Districts of the Roman Republic* (1960), 171; E. Badian, *Publicans and Sinners* (1972), 60; R. K. Sherk, *Roman Documents*, no. 12, p. 72; C. Nicolet, *L'Ordre Équestre* 1, 349.

³⁰ Magie, *Roman Rule in Asia Minor* II, 1055, n. 25; answered by Broughton, *MRR* 1, 496; on this see Sherk, *Roman Documents*, no. 12, p. 72; cf. A. N. Sherwin-White, 'Roman Involvement in Anatolia, 167-88 B.C.', *JRS* 67 (1977), 70, n. 57.

³¹ H. B. Mattingly, 'The Date of the *senatus consultum de agro Pergameno*', *AJPh* 93 (1972), 412-23.

³² e.g. E. Badian, 'The Attempt to Try Caesar,' in J. A. S. Evans (ed.), *Polis and Imperium. Studies in Honour of Edward Togo Salmon* (1974), 166; M. Hassall, M. Crawford, and J. Reynolds, 'Rome and the Eastern Provinces at the End of the Second Century', *JRS* 64 (1974), 219, n. 33; B. Schleussner, 'Die Gesandtschaftsreise P. Scipio Nasicas im Jahre 133/2 v. Chr. und die Provinzialisierung des Königreichs Pergamon', *Chiron* 6 (1976), 101, n. 23 and C. P. Jones, 'Diodoros Paspasos and the Nikephoria of Pergamon', *Chiron* 4 (1974), 198, n. 87.

³³ See above, n. 24.

³⁴ H. B. Mattingly, *AJPh* 93 (1972), 419, n. 29.

³⁵ This is the date usually accepted, see E. V. Hansen, *The Attalids of Pergamon* 2 (1971), 149 and earlier literature in n. 99, and more recently B. Schleussner, *Chiron* 6 (1976), 97, n. 2. A. N. Sherwin-White *JRS* 67 (1977), 68, n. 40 argues for a date of September 134, but this is based primarily on the supposed existence of a provincial era beginning 134/3 B.C. on the cistophoric coinage of Ephesus (see below).

³⁶ Tiberius Gracchus immediately proposed to put τὰ βασιλικὰ χρήματα to use in his agrarian reform scheme, Plutarch, *Ti. Grac.* 14; cf. also Livy, *Ep.* LVIII and *de Vir. Ill.* 64. For the existence of extensive royal estates, mines and factories, see E. V. Hansen, *op. cit.* (n. 35), 204-5, 208, 212-13. It can be assumed that all of these personal possessions of the monarch passed into Roman hands by the provisions of the will, but *OGIS* 338, a decree of Pergamum from 133 B.C., before the Roman ratification of the will, provides for an alteration in the status of certain royal freedmen and slaves (lines 21-6) without Roman permission.

³⁷ The taxes, rents and tribute collected by the royal treasury of Pergamum are discussed in E. V. Hansen, *op. cit.* (n. 35), 203-16. Almost certainly some or all of these must have continued to be collected by Attalus' heirs. So also M. Rostovtzeff, *The Social and Economic History of the Hellenistic World* II (1941), 811-14; H. Hill, *The Roman Middle Class*, 67; E. Badian, *Publicans and Sinners*, 60.

³⁸ So B. Schleussner, *Chiron* 6 (1976), 97-112.

134/33³⁹—as has often been assumed⁴⁰—and by the inability to date precisely the *senatus consultum* contained in *OGIS* 435, which implies the intent to establish a province.⁴¹ Moreover, Lucilius was probably not present in Rome until the spring or summer of 132, when Scipio's army returned from Numantia,⁴² and thus could not be referring to speculation arising from the earliest senatorial debate of the will in his verse. Since it is abundantly clear that the institution of *ensoria locatio* is not a necessary prerequisite for the tax-collecting activities of the *publicani* in any given area,⁴³ there are no strong grounds for arguing that *publicani* could not have been active in Asia before the *lex Sempronia* of 123 B.C.⁴⁴ Although our very limited source material concerns itself almost exclusively with the territorial arrangements of Aquilius and the ten senatorial *legati*, it is probable that Aquilius and the two preceding Roman commanders simply retained and continued the leasing of the extant traditional taxes of the Pergamene kingdom.⁴⁵ Tibiletti and later Badian have both pointed out that *publicani* probably went out to Asia to farm the lesser taxes of the new province in the censorship of 131/130 B.C.⁴⁶ Nor need the unrest caused by the rebellion of Aristonicus have hindered the collection of at least some revenues. What little evidence we possess about the extent of that war suggests that after a defeat at the hands of the Ephesian fleet at Cyme early in the fighting, Aristonicus' forces withdrew from much of the coastal region and fought on for four years further in the interior of the kingdom.⁴⁷ Lucilius may thus have written the lines in question in 131 B.C. when it first became possible to go out to Asia to farm the taxes of the newly acquired territory. The satirist's comment thus has further point, since unlike the situation in 123 B.C. and later, when it was possible to farm the taxes of Asia while remaining safely ensconced in Rome,

³⁹ K. J. Rigsby, 'The Era of the Province of Asia', *Phoenix* xxxiii (1979), 39. I wish to express my gratitude to Professor Rigsby of Duke University for permitting me to read the manuscript of this paper. On these coins see F. S. Kleiner, 'The Dated Cistophori of Ephesus', *Am. Num. Soc., Mus. Notes* 18 (1972), 17-32, esp. 23.

⁴⁰ Most recently by B. Schlessner, *Chiron* 6 (1976), 109, n. 57 and A. N. Sherwin-White, *JRS* 67 (1977), 68, n. 40.

⁴¹ *OGIS* 435 = Sherk, *Roman Documents*, no. 11, pp. 59-62. The various emendations to this text are discussed by T. Drew-Bear, 'Three *Senatus Consulta* concerning the Province of Asia', *Historia* 21 (1974), 75-9, who argues also (pp. 85-7) that *OGIS* 436 = Sherk, *Roman Documents*, no. 13 (from Phrygia) preserves the last portion of the same *senatus consultum* as *OGIS* 435. The text falls late in a year (lines 4-5) in which the Senate is convoked by an otherwise unknown praetor, C. Popilius C. f. The year is usually assumed to be 133 (see Sherk) but D. Magie, *Roman Rule in Asia Minor* II, 1033-4, argues for 129 B.C. and A. N. Sherwin-White, *JRS* 67 (1977), 68, n. 43 favours any year after 133.

⁴² Numantia fell in late summer 133, see H. Simon, *Roms Kriege in Spanien, 154-133 v. Chr.* (1962), 188 (late July). Scipio hurried back to Italy and still arrived in that year but his army did not follow until the next year, see *ibid.*, 189-90; cf. A. E. Astin, *Scipio Aemilianus* (1967), 250-1 noting that since the triumph did not occur until 132 B.C. Scipio or his army could not have entered the city before that date.

⁴³ The so-called 'Piracy Law' from Delphi with its provision for the extension of the collection of taxes by the *publicani* in recently acquired Thrace, suggests that the first step after the accession of new territory was the establishment of the mechanisms for taxation, see H. Stuart-Jones, 'A Roman Law Concerning Piracy', *JRS* 16 (1926), 159 (B, lines 27-30). See also in greater detail another copy of the same *lex* found recently at Cnidos in M. Hassall, M. Crawford, and J. Reynolds, *JRS* 64 (1974), 204, col. iv, lines 6-15. (The identity of the two texts is re-examined by G. V. Sumner, 'The "Piracy Law" from Delphi and the Law of the Cnidos Inscription', *GRBS* 19 (1978), 211-25). On the date of this law

see A. N. Sherwin-White, 'Rome, Pamphylia and Cilicia, 133-70 B.C.', *JRS* 66 (1976), 6: late 101 B.C.; A. W. Lintott, 'Notes on the Roman Law Inscribed at Delphi and Cnidos', *ZPE* 20 (1976), 66-8: late 101 or early 100 B.C.; G. V. Sumner, *op. cit.*, 215, 223: late 100 or early 99 B.C. and A. Giovannini and E. Grzybek, 'La *lex de piratis persequendis*', *Mus. Helv.* 35 (1978), 46: 99 B.C. There was presumably no intention to wait for the election of censors for 97 B.C. before making provisions for the collection of taxes in Thrace. See also the comments of E. Badian, *Publicans and Sinners*, 99. In early 63 Cicero in a speech against the agrarian legislation of P. Servilius Rullus notes that there are already *publicani* active in Bithynia (i.e. long before the ratification of the arrangements of Pompeius), *de lege Agr.* 2. 50. *Publicani* in the early first century were active even in client kingdoms, as shown by Nicomedes II's reply to Marius' request for troops, Diodorus xxxvi. 3. 1 (for δημοσιώτης meaning *publicanus* see H. J. Mason, *Greek Terms for Roman Institutions* (1974), s.v. δημοσιώτης).

⁴⁴ See views cited above nn. 22 and 29.

⁴⁵ Sources in *MRR* I, 504 and 509. For the territorial arrangements made by Aquilius and the *legati* see A. N. Sherwin-White, *JRS* 67 (1977), 68-9. Badian suggests that taxes were probably to be farmed out on the spot under the supervision of the governor, *Foreign Clientelae*, 183.

⁴⁶ G. Tibiletti, *JRS* 47 (1957), 137; E. Badian, *Publicans and Sinners*, 63; cf. 60, where the discussion, however, relies on a date of 129 B.C. for the *senatus consultum de agro Pergameno*.

⁴⁷ See the accounts of the revolt in T. R. S. Broughton, *ESAR* IV (1958), 595-7; D. Magie, *Roman Rule in Asia Minor* I, 148-53; II, 1034-6; J. Vogt, 'Pergamon und Aristonikos', *Atti del terzo Cong. int. di Epigr. Greca e Latina, 1957* (1959), 45-54 (discussion of *OGIS* 338 and 435); J. C. Dumont, 'A propos d'Aristonikos', *Eirene* 5 (1966), 189-96 (on the motivation of A.); A. H. M. Jones, *The Cities of the Eastern Roman Provinces*², 59; V. Vavrinek, 'Aristonikos of Pergamum: Pretender to the Throne or Leader of a Slave Revolt?', *Eirene* 13 (1975), 109-29.

in 131 B.C. it was necessary for a *publicanus Asiae* personally to go out to Asia and to endure the discomforts and hazards of a rebellious territory. In addition, Lucilius' rejection of the assumption of the role of *publicanus Asiae* may not be unrelated to a disappointing and decisive rejection by the *comitia populi* of a bid to make Scipio Aemilianus the commander in the war against Aristonicus.⁴⁸

It has thus been demonstrated that there are no sound historical objections to an early dating of fragment 671-2M, regardless of the fate of the controversy surrounding the date of the *senatus consultum de agro Pergameno*. The fragment in question fits into the same pattern as the other datable allusions in Book 26, about which there is almost unanimous agreement. Metrical considerations, as noted earlier, and the fact that Books 26-30 were completed before Book 1 was begun, the latter event being firmly tied to 125 B.C. or earlier,⁴⁹ all point to the same conclusion.

III

The remaining datable fragments of Book 26 pose fewer problems. Lucilius makes two allusions in this book to a known historical event (678-9M/644-5W/634-5/K):

homines ipsi hanc sibi molestiam ultro atque aerumnam offerunt,
ducunt uxores, producunt, quibus haec faciant, liberos.

and (686/646W/643K):

qua propter deliro et cupidi officium fungor liberum⁵⁰

The satirist here almost certainly ridicules a speech *de prole augenda* made by Q. Caecilius Metellus Macedonicus during his censorship in 131 B.C.: 'si sine uxore vivere possemus, Quirites, omnes ea molestia careremus; set quoniam ita natura tradidit, ut nec cum illis satis commode, nec sine illis ullo modo vivi possit, saluti perpetuae potius quam brevi voluptati consulendum est'.⁵¹ Macedonicus was the leading political rival of Lucilius' friend Scipio Aemilianus and he and his sons were frequently the target of the satirist's wit.⁵² While the battles of Macedonicus with Scipio became renowned in historical tradition, the two men do not appear to have been personal enemies.⁵³ Nevertheless, it was said that Lucilius attacked the Metelli in order to please Scipio.⁵⁴ We have no reason to question this and can therefore accept that the satire belongs before the death of Scipio in 129.

IV

Book 30 of the Satires of Lucilius contains the largest number of potentially datable fragments, but these are not without difficulties of interpretation. Two fragments quoted in Nonius⁵⁵ have been the subject of an elaborate reconstruction by Cichorius (1088M/1017W/1054K):

accipiunt leges, populus quibus legibus exlex

⁴⁸ Cicero, *Phil.* xi. 8. 18; A. E. Astin, *Scipio Aemilianus*, 234-5.

⁴⁹ See above p. 79.

⁵⁰ See discussion in Cichorius, *UL*, 134-7; J. Christes, *Der frühe Lucilius*, 54-60.

⁵¹ = *ORF*³ no. 18, p. 107, fr. 6. See on this speech and Lucilius' reference to it A. Berger, 'Note on Gellius, *N.A.* i. 6', *AJPh* 67 (1946), 320-8.

⁵² Also Lucilius 676-7M/636-7W/631-2K; on other members of the family of the Metelli: Lucilius 210-11M/233-4W/212-3K; 801M/850W/745K.

⁵³ Cicero, *De Off.* i. 87 includes Macedonicus among Scipio's *obtractores et invidi*. See on this F. Münzer, *Römische Adelsparteien und Adelsfamilien* (1970), 252; cf. A. E. Astin, *Scipio Aemilianus*,

312-15, and briefly J. Briscoe, 'Supporters and Opponents of Tiberius Gracchus', *JRS* 64 (1974), 128; cf. P. B. Pellizer, 'I rapporti politici fra Scipione Emiliano e Metello Macedonico fino al processo di Cotta', *Riv. Stor. Ant.* 4 (1974), 69-88, who argues that the enmity between the two men was long-standing and enduring. On Cicero's distinction between *invidi* and *inimici* see P. A. Brunt, 'Amicitia in the late Roman Republic', *PCPhS* 11 (1965), 12.

⁵⁴ Schol. ad Hor. *Sat.* ii. 1. 72. Cf. J. Briscoe, *JRS* 64 (1974), 128, who suggests that in general terms Metellus Macedonicus was a supporter of the agrarian reforms proposed by Tiberius Gracchus. Cf. A. H. Bernstein, *Tiberius Sempronius Gracchus: Tradition and Apostasy* (1978), 117, 211.

⁵⁵ Nonius p. 10. 19 and p. 370. 28 (Merc.).

and (1089M/1018W/1055K):

quanti vos faciant, socii, quom parcere possint

It is best for the moment to discuss them separately. Cichorius argued that the satirist had a specific law in mind in the first fragment, namely, the *lex Iunia Penni* of 126 B.C., under the provisions of which aliens were expelled from the city.⁵⁶ This view has been accepted in all the major editions of and commentaries on Lucilius.⁵⁷ It is in fact open to criticism on a number of grounds. There is an underlying assumption that Scipio and his friends favoured a program for the allies similar to that proposed by Gaius Gracchus.⁵⁸ But few scholars today are prepared any longer to accept that Lucilius was the spokesman for a group of progressive social reformers, the so-called 'Scipionic Circle'.⁵⁹ Lucilius, like his friend Scipio, was a firm supporter of the *mos maiorum*.⁶⁰ The *lex Iunia Penni*, unlike similar earlier alien legislation, was not prompted by complaints from Italian aristocrats about the drain of population to Rome.⁶¹ The wording of the fragments also makes the interpretation of Cichorius appear rather farfetched. Those expelled by the *lex Iunia Penni* are consistently described in our sources as *peregrini*.⁶² It is difficult to see by what stretch of the imagination *peregrini* could be considered the *populus*. The word *populus* is most commonly applied to the people of Rome as distinct from the Senate.⁶³

The term *exlex* can have both an active and a passive meaning: in its active sense it means 'free from the law/lawless', in its passive sense it conveys the idea 'not protected by law'. It will be appropriate to consider in which sense Lucilius employs this term before attempting to draw conclusions about the context of our fragment. Nonius, in introducing his entry on *exlex*, informs us:

inlex et exlex est qui sine lege vivat.⁶⁴

This does not make it clear whether he assumes an active or a passive meaning for *exlex*, since *sine lege* is perfectly ambiguous. In support of this statement Nonius adduces a number of examples, from Plautus, Varro, Caecilius, Sisenna and Cicero, in addition to the two illustrations from Lucilius, one of them the fragment under discussion. An examination of these examples may indicate how Nonius understands *exlex* and thus how it should be interpreted in Lucilius. The line of Plautus is clearly derogatory in tone:

inpure, inhoneste, iniure, inlex, labes popli

and an active meaning would seem appropriate. This holds, too, for the fragment of Caecilius, where a lack of civilisation may readily be equated with a failure to observe the

⁵⁶ Cichorius, *UL*, 211–12.

⁵⁷ e.g. Warmington, ad loc.; Krenkel, ad loc.; Fiske, *Lucilius and Horace*, 371; cf. Christes, *Der frühe Lucilius*, 172; rejected by Schmitt, *Satirenfragmente*, 83.

⁵⁸ Cichorius, *UL*, 210; Fiske, *Lucilius and Horace*, 371–2; Warmington, p. 331, note b.

⁵⁹ See in detail, Fiske, *Lucilius and Horace*, 64–134; R. M. Brown, *A Study of the Scipionic Circle*, (1934), 13–19; this very old view is rejected by H. Strasburger, 'Poseidonios on Problems of the Roman Empire', *JRS* 55 (1965), 40–53; idem, 'Der Skipionenkreis', *Hermes* 94 (1966), 60–72, accepted by F. W. Walbank, *Polybius* (1973), 182. For doubts about the reliability of Cicero's account of the Scipionic Circle, see Astin, *Scipio Aemilianus*, 294–306. See now also J. E. G. Zetzel, 'Cicero and the Scipionic Circle', *HSCP* 76 (1972), 179.

⁶⁰ Compare, for example, the speeches of Scipio Aemilianus, *ORF*³ no. 21, pp. 124–30 frs. 13–15, 17–25, with Lucilius 1326–38M/1196–1208W/1342–5K. See on this D. C. Earl, 'Terence and Roman Politics', *Historia* 11 (1962), 482; Christes, *Der frühe Lucilius*, 198–9; cf. W. Richter, 'Staat, Gesellschaft und Dichtung in Rom im 3 und 2

Jahrhundert v. Chr. (Naevius, Ennius, Lucilius)', *Gymnasium* 69 (1962), 286–310. For Scipio's revival of archaic religious practices see E. Rawson, 'Scipio, Laelius, Furius and the Ancestral Religion', *JRS* 63 (1973), 161–74.

⁶¹ E. T. Salmon, 'Roman Colonization from the Second Punic War to the Gracchi', *JRS* 26 (1936), 55–7; A. H. McDonald, 'Rome and the Italian Confederation (200–186 B.C.)', *JRS* 34 (1944), 11–12, 21–3; P. A. Brunt, 'Italian Aims at the Time of the Social War', *JRS* 55 (1965), 90; L. R. Taylor, *Voting Districts*, 108. For the interpretation of the *lex Iunia Penni* accepted here see E. Badian, *Foreign Clientelae*, 176–7, who argues that the expulsion was engineered by the opponents of G. Gracchus. See also idem, 'Roman Politics and the Italians (133–91 B.C.)', *Dial d'Arch* 4/5.2/3 (1971), 388–9.

⁶² Cicero, *De Off.* III. 47; Festus, p. 388 (Lindsay) = *ORF*³ no. 48, p. 180 fr. 22.

⁶³ cf. Lewis and Short, s.v. *populus* B. 1; J. Hellegouarc'h *Le vocabulaire Latin des relations et des partis politiques sous la République* (1963), 510–17; R. Seager, 'Cicero and the Word *Popularis*', *CQ* 22 (1972), 333.

⁶⁴ Nonius, p. 10. 10 (Merc.).

rule of law. Similarly Horace (*AP* 224) speaks of the drunken spectator as *et potus et exlex*. Moreover, that a failure to obey the law renders the individual *exlex* is expressly stated in the Varro fragment cited by Nonius :

postremo quaero : parebis legibus an non ?
anne exlex solus vivis ?

and later evidence from Livy (IX.34.8) will support this :

an dicis populum lege teneri, te unum exlegem esse ?

The example from Sisenna permits no definite conclusions,⁶⁵ while Cicero, *pro Cluentio* 94 again points to an active meaning : Sulla may be deemed to be lawless in the sense of 'above the law'. The first fragment of Lucilius cited by Nonius in connection with *exlex* is of considerable interest (82-3M/64-5W/58-9K) :

non dico. vincat licet et vagus exulet, erret
exlex

Clearly Lucilius is playing with words in the chiasmic second part of this line : *vagus exulet, erret exlex*, where the adjective *vagus* of the first phrase becomes the verb of the second, *erret*, and the verb *exulet* reverses the process to become not *exul* but *exlex*; yet there is the same emphasis on the prepositional prefix *ex*⁶⁶ and one may with good reason deduce that, just as the state of being an *exul* is a condition resulting from contravention of the law, so, too, is that of being *exlex*. Since the state of *exsilium* regularly involved the loss of legal rights, the appropriate meaning for *exlex* in this context is a passive one : 'not protected by law'. It is thus clear that Nonius in his inventory of *exempla* offers instances of both the active and the passive meanings of *exlex*. The bulk of the evidence of authors cited points to an active interpretation; however, the single other instance of Lucilius' use of the term requires a passive meaning. Yet the very existence of two possible meanings (given only one available example) precludes the assumption that Lucilius always uses the word in a passive sense, and in fact in 1088M an active interpretation is a more attractive possibility : 'they agree to laws by which the people are lawless'.

If a passive interpretation for *exlex* in this fragment were adopted, the consequent meaning for the line would be : 'they agree to laws by which the people are not protected by laws'. While this could not be considered untenable, it would be less satisfactory as satire : it may awaken our empathy, hardly our indignation.

Our fragment has the distinct flavour of political propaganda : biting criticism combined with more than a touch of hyperbole. The occasion for such a statement should thus be a law or laws which aroused heated controversy and intense emotions, as well as at least providing to the eyes of the partisan observer some grounds for the charge made here. A *terminus ante quem* is imposed on our search by the dating of Book I of the Satires to 125 B.C. or slightly earlier. Only a few known pieces of legislation can with any confidence be placed in the decade of 135-125 B.C.⁶⁷ and only one major political event stands out as the potential cause for such vitriolic criticism.

The fragment makes good sense if we look upon it as part of a critique of the activities of the popular assembly before the death of Tiberius Gracchus. Lucilius, like Scipio Aemilianus himself, whose views on Tiberius Gracchus he may reflect, was in Spain besieging Numantia during the tribunate of Tiberius Gracchus.⁶⁸ The victorious

⁶⁵ Peter, *HRR* I. p. 292, fr. 113 = G. Barabino, 'I frammenti delle *Historiae* di Lucio Cornelio Sisenna', *Studi Noniani* I (1967), fr. 105 with commentary pp. 162-3.

⁶⁶ cf. Priscian, *GL* (Keil) III, p. 42. 16 : 'nihil tamen mirum, loco praepositionis 'extra' accipi, cum 'ex' quoque in quibusdam dictionibus loco 'extra' fungitur, ut 'exlex: qui extra leges est', 'exul: extra solum'...

⁶⁷ cf. G. V. Sumner, 'Lex Aelia, Lex Fufia', *AJPh* 84 (1963), 338-50, who attributes both the *lex Aelia* and the *lex Fufia* to conservative reaction immediately after the death of Tiberius Gracchus. They are unlikely candidates for the topic of this fragment.

⁶⁸ Velleius Paterculus II. 9. 4 : 'sub P. Africano Numantino bello eques militaverat'.

expeditionary force probably returned at the end of 133 or early 132 B.C., at any rate after the death of the tribune.⁶⁹ In a famous interview before the people in either 131 or 130⁷⁰ the tribune C. Papirius Carbo enquired about Scipio's views on the slaughter of Gracchus and his followers. Aemilianus' response—*iure caesum videri*—placed him firmly in the camp of the detractors of Tiberius Gracchus.⁷¹ Both Scipio and Lucilius reflect what has come to be known as the 'opposition view' of Gracchus.⁷² It was not simply the agrarian reform legislation of 133 which aroused such passions, but rather the other plans and proposals of the tribune, which appeared to his opponents to be overturning the traditional 'constitutional' order of Rome. Our sources have preserved abundant evidence of a historical tradition hostile to the tribune and his actions, and many of these views must have been shared by Nasica and Aemilianus.⁷³ As did Cicero,⁷⁴ Lucilius regarded the legislative activity of the *concilium plebis* under the direction of Tiberius Gracchus and Carbo as a usurpation of that body's traditional role. Viewed in this perspective it could be argued that the tribes passed laws which placed the populace outside the law. The most probable date for such an attack by the satirist is within Scipio's lifetime, when the latter was speaking out against Carbo and working at the urging of the Italian landowners to weaken the agrarian commission, that is, c. 131–129 B.C..

The second fragment under discussion (1089M/1018W/1055K):

quanti vos faciant, socii, quom parcere possint

must be placed in a very similar context. Cichorius was the first to propose that this fragment must refer to the revolt of Fregellae in 125 B.C.⁷⁵ Both Marx and Cichorius suggested on the basis of Cicero *pro Quinctio* 51 that the thought of the fragment is best completed as follows:

cum parcere possint, perdere vos malunt

Cichorius argued that Lucilius here reflects the pro-Italian sympathies of the 'Scipionic Circle' by criticizing Opimius for failing to spare Fregellae after its unsuccessful revolt.⁷⁶ As noted above, this view of the pro-Italian sympathies of Scipio is based on a misconception. His support of the Italian landowners in their dispute with the Gracchan land commission should not be misconstrued as a general sympathy for the position of the allies, rich and poor alike. There is thus no reason to think that Scipio's *factio* felt pity either for the *peregrini* expelled by the *lex Iunia Penni* or for those killed after the fall of Fregellae.⁷⁷

⁶⁹ Simon, *Roms Kriege in Spanien*, 176, 188; Astin, *Scipio Aemilianus*, 226, 230–1.

⁷⁰ On the date see Astin, *Scipio Aemilianus*, 230–4.

⁷¹ Cicero, *De Or.* II. 106; *pro Mil.* 8; Livy, *Ep.* LIX; Velleius Paterculus II. 4. 4; see the other passages assembled by Astin, *Scipio Aemilianus*, 264–5, nos. 50 a–h and the discussion by idem, 'Dicta Scipionis of 131 B.C.', *CQ* 10 (1960), 135–7; cf. Scipio's words in Spain: Plutarch, *Ti. Grac.* 21.7.

⁷² See the reconstruction in H. C. Boren, 'Tiberius Gracchus: The Opposition View', *AJPh* 82 (1961), 358–69. See also E. Gabba, 'Motivazioni economiche nell'opposizione alla legge agraria di Tib. Sempronio Gracco', in: J. A. S. Evans (ed.), *Polis and Imperium*, 137–8 for the possible motives of the opponents of the actual agrarian measure. See now also A. H. Bernstein, *Tiberius Sempronius Gracchus*, 201–25.

⁷³ Astin, *Scipio Aemilianus*, 231. Cf., however, J. Briscoe *JRS* 64 (1974), 133–4, who argues that opposition to Tiberius Gracchus was the only political attitude Nasica and Aemilianus shared. Both the hostile and the sympathetic traditions about Tiberius Gracchus found in our sources can be traced back to contemporaries. Among the more recent discussions see E. Gabba, *Appiano e la storia delle guerre civili* (1965), 35–53; D. C. Earl, *Tiberius Gracchus, A Study in Politics*, (1963), 20–4; E.

Badian, 'Tiberius Gracchus and the Beginning of the Roman Revolution', in: *ANRW* I. 1 (1972), 677–8; J. H. Fortlage, 'Die Quelle zu Appians Darstellung der politischen Ziele des Tiberius Sempronius Gracchus', *Helikon* 11/12 (1971/72), 166–91. For the pro-Gracchan and anti-Gracchan religious propaganda of the time see E. Rawson, 'Religion and Politics in the late Second Century B.C. at Rome', *Phoenix* 28 (1974), 194–9.

⁷⁴ For a collection of Cicero's statements on the Gracchi see R. J. Murray, 'Cicero and the Gracchi', *TAPhA* 97 (1966), 291–8, who notes that Cicero frequently charges Tiberius Gracchus with *dominatus*, *regnum*, and *seditio*; J. Béranger, 'Les jugements de Cicéron sur les Gracques', *ANRW* I. 1, 732–63, esp. 741 on Cicero's praise of Scipio Nasica; J. Gaillard, 'Que représentent les Gracques pour Cicéron?', *Bull. Ass. G. Budé* 4 (1975), 499–529, esp. 503–6 on Tiberius Gracchus.

⁷⁵ Cichorius, *UL*, 208–10; followed by Fiske, *Lucilius and Horace*, 371; Warmington, p. 331, note b; Christes, *Der frühe Lucilius*, 172 (with hesitation); Krenkel, ad loc.; Coffey, *Roman Satire*, 40.

⁷⁶ Cichorius, *UL*, 209–10.

⁷⁷ See above n. 61.

It is uncertain how far Fregellae's cause found support among the allies. The city rose in revolt alone⁷⁸ and in fact was probably rather unpopular among the other *socii*.⁷⁹ On these grounds Cichorius' suggestion must be abandoned. The fragment can, however, be readily accommodated in the context outlined above. The reference, I suggest, must be placed in the context of Scipio's championship of the cause of the Italian landowners against the Gracchan agrarian commission. It has been suggested that the triumvirs, who had been carrying out unimpeded their task of distinguishing between private land and *ager publicus* and of distributing the latter to the landless for about three years, changed their policy in late 130 or early 129 B.C. Whereas previously they had concentrated on the public lands illegally held by Roman citizens, the commission now began also to operate against Italian landowners, although the repossessed *ager publicus* was never distributed to poor *socii*.⁸⁰ There is no evidence to support this view except the intervention of Scipio on behalf of the Italian landowners.⁸¹ The literary tradition indicates that there were outcries and objections to the operations of the triumvirs, but assigns no date to these.⁸² We possess 12 *termini* put up by the commission before it was deprived of its judicial competence in 129. These stones indicate that the commission operated from the *ager Gallicus* in the north to Lucania in the south. Eight stones (and one restored) bear the names of the first three commissioners G. Gracchus, Ap. Claudius Pulcher and P. Licinius Crassus and must have been set up in the period 133 to early 130 and two stones with the names of M. Fulvius Flaccus, G. Gracchus and G. Papirius Carbo survive from the activity of the triumvirs in 130 until the loss of judicial competence in 129 B.C.⁸³ There is no indication in either the literary evidence or the location of the presently known *termini* which clarifies for us the policy of the commission in respect to the treatment of land occupied by rich Italians rather than by Roman citizens. One may hypothesize that the triumvirs initially concentrated on unoccupied or undeveloped land in order to obtain the most land for distribution with the least amount of legal delay and political resistance. Later they turned to more difficult cases and began to survey occupied *ager publicus* and to evict those who had taken possession of it. Possibly Italian landowners had turned to Scipio before 129 but he had not succeeded in obtaining relief for them until that year. In 131 Scipio's political career had reached a low point: when his name was proposed in the assembly during the year for the command in Asia against Aristonicus he received the vote of only two tribes.⁸⁴ It is not at all unlikely that to restore his position Scipio sought out the Italian landowners sensing there a possible important issue. In other words the lands of the rich Italians may have been treated no differently to those occupied by Roman citizens but their protests were ineffective until 130 or 129 when Scipio found in their complaints a potent weapon to hinder the working of the commission.⁸⁵ The evidence thus does not permit a closer dating for this controversy than 130–129 B.C. It would none the less provide a plausible context for these lines of Lucilius, who would on this interpretation be making the same point as does Cicero in the *de re publica*, whose dramatic date is 129.

⁷⁸ Livy, *Ep.* LX; Plutarch, *C. Grac.* 3. 1; cf. Asconius 17. 22–3 (Stangl) who states that Opimius' capture of Fregellae also discouraged other malcontents among the Latin allies.

⁷⁹ See E. Badian, 'L. Papirius Fregellanus', *CR* n.s. 5 (1955), 22–3. Cf. P. A. Brunt, *op. cit.* (n. 61), 90, and again the criticism of E. Badian, *op. cit.* (n. 61), 389–91.

⁸⁰ cf. J. Molthagen, 'Die Durchführung der gracchischen Agrarreform', *Historia* 22 (1973), 429–30. Earlier literature on this problem is collected in Y. Schochat, 'The Lex Agraria of 133 B.C. and the Italian Allies', *Athenaeum* n.s. 48 (1970), 25–45, who argues that the Italian allies were among the intended beneficiaries of the *lex agraria*. This view is rejected by D. B. Nagle, 'The Failure of the Roman Political Process in 133 B.C.', *Athenaeum* n.s. 48 (1970), 372–94. A. H. Bernstein, *Tiberius Sem-*

pronius Gracchus, 137–48, suggests that the tribune originally included the Italians in his *rogatio* but during the debates before the passage of the *lex* dropped them in order to make his proposals more acceptable to his opponents. Cf. E. Badian, in: *ANRW* I 1, 730–1, who suggests that it was only after citizen-occupied land ran out that the agrarian commission turned to land occupied by the allies.

⁸¹ Appian, *BC* 1. 78–81 (Gabba); Schol. Bob. p. 118 (Stangl); cf. Molthagen, *Historia* 22 (1973), 447–8.

⁸² Livy, *Ep.* LIX.

⁸³ *ILLRP* 467–75; see also Molthagen, *Historia* 22 (1973), 432–9 and J. Seibert, 'IIIviri agris iudicandis adsignandis lege Sempronia', *Riv. Stor. Ant.* 2 (1972), 53–86.

⁸⁴ Cicero, *Phil.* II. 18.

⁸⁵ Astin, *Scipio Aemilianus*, 239.

Fragment 1053M/1049W/996K from Book 30 appears to mention the legacy of a well known figure :

Maximus si argenti sescentum ac mille reliquit ⁸⁶

The 'Maximus' in question is usually identified with Scipio's brother Q. Fabius Maximus Aemilianus, the consul of 145 B.C.⁸⁷ The sum is a considerable one and may be compared with the size of Maximus' fortune after the death of Aemilius Paullus: ὑπὲρ ἑξήκοντα τέλαντα.⁸⁸ The two figures correspond sufficiently well to assure the identification of the Maximus in our fragment.⁸⁹ For the death of Aemilianus' brother we have a *terminus post quem*. When Scipio Aemilianus died 129 B.C. the funeral oration written by C. Laelius was delivered by Q. Fabius Maximus Allobrogicus, the son of the above; ⁹⁰ this is a service he would not have performed, had his father been alive. Hence this fragment has a *terminus post quem* of 129 B.C., i.e. the latest date by which Maximus can have died. The satirist's reference to the legacy of Fabius Maximus would have been topical shortly after the death of that individual and this suggests a date for our fragment of c. 129 B.C. or perhaps even slightly earlier.

Finally, it may be suggested that fragment 1093M/1005W/1028K refers to the recent death of Scipio Aemilianus :

insperato abiit, quem una angina sustulit hora.

This would certainly be consistent with the ancient evidence for the swiftness of Scipio's demise.⁹¹ The ailment known to Antiquity as *angina*, for which Nonius cites this line of Lucilius,⁹² was an affliction of the throat which led to the death of the patient within hours. Its effects are described by Seneca: 'Genere valetudinis praecipiti arreptus, angina, vix compressum artatis faucibus spiritum traxit in lucem. Intra paucissimas ergo horas quam omnibus erat sani ac valentis officiis functus decessit'.⁹³ Appian reports that slaves of Aemilianus testified under torture that unknown intruders had penetrated into the house by night and throttled their master: αὐτον ξένοι δι' ὀπισθοδόμου νυκτὸς ἐπεισάχθεντες ἄποπνίξαν.⁹⁴ The rumour that foul play was involved, which was rejected by the friends and relatives of Scipio, probably had its origins in the natural cause of Aemilianus' death: he choked suddenly in his sleep. All this circumstantial evidence strongly suggests that the subject of Lucilius' description is Scipio Aemilianus and that the satirist here specifically names the disease which killed his closest friend.⁹⁵

This re-examination of the historical allusions in Books 26–30 and 1 of Lucilius may be summarized as follows :

Book 26

671–2M/650–1W/656–7K
678–9M/644–5W/634–5K }
686M/646W/643K }

c. 131 B.C.

131 B.C.

⁸⁶ Attributed to Book 30 by Nonius, p. 493. 27 (Merc.).

⁸⁷ Marx, commentary on 1053; Warmington, p. 340 note a; Krenkel, ad loc.

⁸⁸ Polybius xxxi. 28. 3.

⁸⁹ See Marx ad loc.

⁹⁰ Schol. Bob. p. 118 (Stangl); Cicero, *pro Mur.* 36. 75; cf. *ORF*³ no. 49, p. 199. frs. 2, 3.

⁹¹ Schol. Bob. p. 118 (Stangl); cf. E. Badian, review of Malcovati, *ORF*, in *Studies in Greek and Roman History*, 243–9. So, too, Velleius Paterculus II. 4. 5; Livy, *Ep.* XLIX; Cicero, *Ad Fam.* IX. 21. 3.

⁹² Nonius, p. 35. 9 (Merc.).

⁸⁸ Seneca, *Ep. Mor.* 101. 3.

⁸⁴ Appian, *BC* I. 84 (Gabba).

⁹⁵ Unfortunately Laelius' own view of the death of Scipio in a surviving fragment of the *laudatio* is obscured for us by a textual corruption, see *ORF*³ p. 121, fr. 22. Cf. the emendation of E. Badian, in: *Studies in Greek and Roman History*, 249, and idem, 'Three Fragments', in D. M. Kriel (ed.), *Pro Munere Grates: Studies presented to H. L. Gonnis* (1971), 1–3, who suggests *cum eum morbus tum removit*, thereby providing further evidence that the death was considered natural by Scipio's family and close friends.

Book 30

1088M/1017W/1054K
 1089M/1018W/1055K
 1053M/1049W/996K
 1093M/1005W/1028K

c. 131–129 B.C.
 130–129 B.C.
 129 B.C. or earlier
 129 B.C.

Book 1

Attack on L. Cornelius Lentulus Lupus
 31M/35W/51K

128–125 B.C.
 129/128 B.C.

The fragments treated here contain the latest datable allusions in Books 26–30. Although it is obviously possible that such references to earlier events could appear in verses written several years after the actual actions had transpired, the topical and current nature of satirical verse, the complete absence of any allusions which must be dated later than c. 129 B.C. and the firm *terminus ante quem* of 128–125 B.C. provided by Book 1 all combine to support the early dating of Lucilius' first collection of satires suggested by Marx and to compel the rejection of the late dating proposed by Cichorius. This chronology has much to recommend it and obviates the necessity felt by some scholars to view Book 30 as a *monobiblos*, because their interpretation of 1089M as a reference to the revolt of Fregellae resulted in a gap between Book 29, dated by Marx to 129, and Book 30 (125 B.C.).⁹⁶ The concept of a *monobiblos* would also seem to be refuted by the evidence both of Nonius' method of citation and of the form of the Lucilian corpora at the time of Varro.

The revised chronology provides for a continuous period of literary activity for Lucilius, who would thus have been writing Books 26–30 during the period 131–129 B.C. and subsequently beginning the second collection with Book 1 in the period 128–125 B.C. Moreover, a return to dating of the early books similar to that proposed by Marx is not without consequence for the perennial controversy over the birthdate of Lucilius. While the evidence permits no universally acceptable solution as to the actual year of birth, the view recently espoused by Christes, that Lucilius was born in 148/7 B.C.,⁹⁷ can on the basis of the dating proposed above for Books 26–30 be conclusively rejected.

University of Georgia

⁹⁶ cf. Michelfeit, *Hermes* 93 (1965), 128; Christes in *ANRW* 1, 2, 1203.

⁹⁷ Christes, *Der frühe Lucilius*, 12–17.