

**Zeitschrift:** Museum Helveticum : schweizerische Zeitschrift für klassische Altertumswissenschaft = Revue suisse pour l'étude de l'antiquité classique = Rivista svizzera di filologia classica

**Herausgeber:** Schweizerische Vereinigung für Altertumswissenschaft

**Band:** 31 (1974)

**Heft:** 2

**Artikel:** Three notes on Varro's Logistorici

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**DOI:** <https://doi.org/10.5169/seals-25089>

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## Three Notes on Varro's Logistorici

By M. Gwyn Morgan, Austin/Texas

Our knowledge and understanding of Varro's lost works probably owes more to Hellfried Dahlmann than to any other scholar. This is certainly the case with the Logistorici. For Dahlmann himself has done most to identify the men after whom these works were named and to elucidate their subject-matter, and his pupil Reinhard Heisterhagen has produced by far the most satisfactory explanation of the form they took, namely dialogues in which the Titelträger or eponym delivered a talk (*λόγος*) on some aspect of knowledge (*ἱστορία*) with which he was especially well acquainted (e. g., the *Sisenna de historia*) or in which he was particularly interested (e. g., the *Tubero de origine humana*)<sup>1</sup>. Nevertheless, there are a few points on which Dahlmann's views are a little less than convincing or not fully developed, and it is with three of these that this paper is concerned. In the first part, it will be argued that all the logistorici were written and published after 45, a matter affecting our conclusions about the occasions of these dialogues and the identification of their eponyms. The second part is concerned with the *Nepos*, and attempts to show not only that the eponym was Q. Metellus Nepos (cos. 57) but also that the subject-matter was *luxuria*. And in the third part I hope to present new grounds for the view, long favoured by Ritschl and Dahlmann, that the eponym of the *Orestes de insania* was Cn. Aufidius Orestes (cos. 71)<sup>2</sup>.

### I. Logistorici and laudationes

In the first book of Cicero's *Academica*, written during the first half of 45 and given a dramatic date approximating that of its composition, Varro is asked why he has never written systematically on philosophical themes. His answer, in essence, is that serious students can find what they need in Greek treatises. For this reason he has limited himself to doctrines not propounded by the Greeks nor by Romans since the death of L. Aelius Stilo Praeconinus, and he names works in which he has

<sup>1</sup> H. Dahlmann and R. Heisterhagen, *Varronische Studien I: Zu den Logistorici* (Abh. Akad. Mainz 1957, Nr. 4) 5–15. The objections of A. D. Leeman, *Mnemosyne* 16 (1963) 421 are not wholly cogent. [All dates are B. C.]

<sup>2</sup> To simplify references the following special abbreviations are used here:

Cichorius: C. Cichorius, *Römische Studien* (Leipzig 1922)

*MRR* II: T. R. S. Broughton, *Magistrates of the Roman Republic* II (New York 1952)

Riese: A. Riese, *M. Terenti Varronis Saturarum Menippearum Reliquiae* (Leipzig 1865)

Ritschl: F. Ritschl, *Opuscula philologica* III (Leipzig 1877)

*VS* I: Dahlmann and Heisterhagen, op. cit. (above note 1)

*VS* II: H. Dahlmann and W. Speyer, *Varronische Studien* II (Abh. Akad. Mainz 1959, Nr. 11)

handled such themes: *et tamen in illis ueteribus nostris, quae Menippum imitati non interpretati quadam hilaritate conspersimus, multa admixta ex intima philosophia, multa dicta dialectice, quae quo facilius minus docti intellegerent, iucunditate quadam ad legendum inuitati; in laudationibus, in his ipsis antiquitatum prooemiis philosophiae <more> scribere uoluimus, si modo consecuti sumus*<sup>3</sup>.

The reference to the Menippean Satires could hardly be clearer; likewise that to the Antiquitates. But the *laudationes* are a puzzle. Since there is no mention of a work or works so titled in Jerome's catalogue of the Varronian corpus (Funaioli, *Gramm. Rom. Frag.* 182), Ritschl assumed that the *laudationes* were some or all of the twenty-two books of speeches (each book no doubt containing one speech) there attributed to Varro, and this view found considerable favour<sup>4</sup>. However, it has several times been suggested that Varro's *Logistorici* are meant, and this interpretation has been developed in detail by Dahlmann<sup>5</sup>. Indeed, he sees a further reference to these dialogues in a letter which Cicero wrote to Atticus in August 45, criticizing a *laudatio Porciae* by Varro<sup>6</sup>. Since Porcia, the sister of Cato Uticensis, had died only recently, probably in the early summer, this particular *laudatio* was obviously a funeral oration. Hence Dahlmann maintained that all the *logistorici* were memorials to those who had recently died<sup>7</sup>, and that the *laudatio Porciae* should be associated with Varro's *De pudicitia*, producing a *logistoricus* entitled *Porcia de pudicitia*<sup>8</sup>.

If Dahlmann is correct, the importance of this argument is considerable. So exiguous are the fragments of the *logistorici* that internal evidence provides us with virtually no clues as to the dates at which they were composed. The *terminus post quem* for the *Curio de cultu deorum* is probably 67, since one fragment seems to refer to the mysteries of Samothrace, with which Varro presumably became acquainted while serving as one of Pompey's lieutenants in the pirate war<sup>9</sup>. The *Scaurus* was undoubtedly concerned with matters theatrical, and the magnificent games which M. Scaurus gave as *curule aedile* in 58 (MRR II 195) provide the *terminus post quem* for this work<sup>10</sup>. And for the *Pius de pace* we have a *terminus*

<sup>3</sup> Cicero, *Acad.* I 3–8 (quotation from § 8); the text is Plasberg's (Teubner 1922).

<sup>4</sup> Ritschl 435; Riese 36 n. 1; Dahlmann, *RE Suppl.* VI 1254; R. Müller, *Varros Logistoricus über Kindererziehung* (Leipzig 1938) 33 n. 1. They are taken to be funeral orations by H. Rackham (Loeb edition, ad loc.), and by F. Della Corte, *Varrone il terzo gran lume Romano*<sup>2</sup> (Firenze 1970) 172 and 189 n. 1.

<sup>5</sup> *VS* I 15ff., giving full references to earlier proponents of this view.

<sup>6</sup> Cicero, *Att.* XIII 48, 2 (for the sense see Goodyear, *Gnomon* 39 [1967] 55); on Porcia herself see Miltner, *RE* XXII 216.

<sup>7</sup> Dahlmann presented the germ of this idea in *RE Suppl.* VI 1262, argued it fully in *VS* I 15ff., and presented further considerations in *VS* II 15ff.

<sup>8</sup> *VS* I 18ff.; the fragments of the *De pudicitia* are collected by Riese 258.

<sup>9</sup> Probus in Verg. *Ecl.* 6, 31. The relevant sentence is not quoted by Riese 252, but see B. Cardauns, *Varros Logistoricus über die Götterverehrung* (Würzburg 1960) 2, 15f., and 72.

<sup>10</sup> Riese 256. The view that this dialogue was actually titled *Scaurus de scaenicis originibus* (cf. Serv. *Georg.* 1, 19) was demolished by E. Norden, *Rh. Mus.* 48 (1893) 529ff. = *Kleine Schriften* (Berlin 1966) 93ff.

post quem of 54/53, since that contained the allegation that T. Annius Milo caught Sallust in adultery with his wife, flogged him, and compelled him to buy his way out of this predicament<sup>11</sup>. Further than this we cannot go on the basis of internal evidence. If each logistoricus were written shortly after the death of its eponym, however, we could arrive at reasonably precise dates for at least eleven of the twenty dialogues whose titles are known to us. Thus the *Sisenna de historia* would have been written in the sixties, since the historian L. Cornelius Sisenna died in 67<sup>12</sup>. The fifties would have seen the production of the *Nepos*, the *Curio de cultu deorum* and the *Messalla de valetudine*, since Q. Metellus Nepos (cos. 57) is last mentioned in 54, C. Scribonius Curio (cos. 76) died in 53, and M. Valerius Messalla Niger (cos. 61) appears to have died around 50<sup>13</sup>. In the forties we could place the *Pius de pace*, since Q. Metellus Scipio (cos. 52) committed suicide in 46 (MRR II 297); the *Porcia de pudicitia*, since Porcia – as we have seen – died in 45; the *Marcellus*, since M. Claudius Marcellus (cos. 51) was murdered in 45; the *Marius de fortuna*, provided that its eponym was the pseudo-Marius executed in 44; the *Laterensis*, because M. Iuventius Laterensis (pr. 51) committed suicide in 43 (MRR II 353); and the *Calenus*, since Q. Fufius Calenus (cos. 47) died in 40 (MRR II 382)<sup>14</sup>. Finally, the *Atticus de numeris* would have to be set late in the thirties and considered the last logistoricus Varro wrote, since T. Pomponius Atticus died in 32<sup>15</sup>.

There are, however, a number of serious objections to this reconstruction. In the first place, we have no warrant to equate the *laudationes* mentioned in the *Ademica* with the *laudatio Porciae* criticized in the letter to Atticus. Nor is it simply the case that Cicero uses the term *laudatio* both of a funeral oration and of a pane-

<sup>11</sup> Gell. *NA* XVII 18, 1 = Riese 256. On this episode see *VS* I 38f. and R. Syme, *Sallust* (Berkeley and Los Angeles 1964) 26f. and 278ff.

<sup>12</sup> *MRR* II 148. This is the logical result of Dahlmann's theories, although contradicted by what he himself says at *VS* II 5 (but as is remarked by O. Gigon, *Wien. Stud.* 79 [1966] 217 n. 1, the *Sisenna* has been unduly neglected). The *Orestes de insania* would probably belong in the sixties also, since Cn. Aufidius Orestes is not mentioned again after his consulship in 71 (Cic. *Off.* II 58, dated in the fifties by *VS* II 12, is surely a reference to Orestes' aedileship ca. 79: *MRR* II 83).

<sup>13</sup> The *Nepos* is discussed below. On the *Curio* and its eponym see now Cardauns, *op. cit.* (above note 9) 68–71, and on the *Messalla*, *VS* II 19–21. The *Gallus Fundanius de admirandis* (Riese 253f.) would probably belong in the fifties too, since its eponym was C. Fundanius, Varro's father-in-law, last mentioned in *De re rustica* I, the dramatic date of which falls between 59 and 57 (cf. Münzer, *RE* VII 291–292; Dahlmann, *RE* Suppl. VI 1187).

<sup>14</sup> *Pius*: *VS* I 37–47. *Marcellus*: *ibid.* 49–52 (cf. S. Weinstock, *Divus Julius* [Oxford 1971] 232). *Marius*: *VS* II 5–11 (unconvincing; see below). *Laterensis*: *ibid.* 18f. *Calenus*: Dahlmann, *Mus. Helv.* 7 (1950) 205 and n. 13. The *Tubero de origine humana* (Riese 257) could be set in the same period, since its eponym must be L. Aelius Tubero, last mentioned in 46/45 (Klebs, *RE* I 534–535); similarly the *Scaevola*, if it concerned Q. Mucius Scaevola (tr. pl. 54), last mentioned in 46 (Cic. *Fam.* IV 9, 1; *VS* II 15–18) – unless he is the Scaevola who served with Octavian in Illyria in 35 (App. *Illyr.* 20; cf. M. G. Morgan, *Athenaeum* 49 [1971] 287 n. 57).

<sup>15</sup> *VS* II 21–25. The logistorici not accounted for in the preceding discussion are the *Catus de liberis educandis*, the *Scaurus* (above, note 10), the *De moribus* (below, note 44), the *De philosophia*, and the *De saeculis*.

gyric, a point which Dahlmann concedes (VS I 17). As consultation of the various lexica to Cicero's works will swiftly establish, he uses *laudatio* to denote a funeral oration only when the context makes this clear, by mention of death or the appurtenances of death<sup>16</sup>. In all other passages where the word occurs, and they are the overwhelming majority, *laudatio* has the more general meaning of panegyric, in some cases perhaps denoting a panegyric of those long dead but usually referring to praise of the living<sup>17</sup>. In the case of the *laudatio Porciae*, as has been said already, the context makes it perfectly clear that a funeral speech is meant, and a precise statement to that effect would have been otiose<sup>18</sup>. The passage from the *Academica*, on the other hand, contains not the least hint that funeral orations are the subject. These *laudationes* are obviously panegyrics of some kind, and since there is no mention of death, they ought *prima facie* to be panegyrics of the living.

Secondly, it is highly unlikely that the *laudationes* mentioned in the *Academica* are the *logistorici* in any case. These latter no doubt honoured their eponyms, even – as I hope to show presently – the *Orestes de insania*. No doubt they also contained an admixture of philosophy. But there is no independent evidence to show that Varro was working on their composition at this time<sup>19</sup>, and the arguments which Dahlmann has advanced against Ritschl's explanation of the passage cannot be thought altogether convincing. He maintains, for example, that if the *laudationes* were speeches, they would have to be speeches of a strongly philosophical character (VS I 16). In fact, this is no obstacle. As Cicero points out in the *De oratore*, the composer of panegyric should dwell especially on virtues like self-control, moderation, and the performance of great deeds *sine emolumento ac praemio* – virtues which no self-respecting Roman philosopher could fail to endorse<sup>20</sup>. If Varro followed this course (and it would be unrealistic to think these canons Cicero's own particular property), he would naturally have composed panegyrics in which were to be found *multa admixta ex intima philosophia, multa dicta dialectice*.

Again, Dahlmann (VS I 18) fails to offer an adequate explanation for Cicero's deciding to term the *logistorici laudationes*. It is hard to credit the suggestion that

<sup>16</sup> Cic. *De or.* II 45; *Cato* 12; *Tusc.* I 116; *Brut.* 61–62; *Fin.* II 116; *Top.* 94; *Mil.* 33. 86; *Phil.* 2, 91; *Att.* XII 40, 1; 44, 1; XIII 37, 3; 48, 2; *Ad Q. fr.* III 6 [8], 5.

<sup>17</sup> Cic. *De or.* I 141; II 43. 65. 333. 341–343. 347–348; III 109. 211; *Fat.* 40; *Part. or.* 10. 70. 98; *Brut.* 162; *Orat.* 37; *De inv.* II 150; *Top.* 91. 93; *Cael.* 5; *Vatin.* 41; *Cluent.* 196–198; *Font.* 14. 45; *Scaur.* 43; *Flacc.* 36–38. 74. 101; *II Verr.* II 13. 45. 64; IV 17. 19–20. 140–142. 144–145. 147. 151; V 47. 57–58; *Att.* I 19, 7; *Fam.* I 9, 19; XV 6, 1.

<sup>18</sup> Cf. also Cic. *Att.* XIII 37, 3. The objections of Dahlmann, VS I 17–19 are not convincing. There is no difficulty in the fact that the *laudatio* was written out – so, after all, were Cicero's speeches. Nor must the work have been a *logistoricus* because Porcia came from the same milieu as the eponyms of those dialogues; that was simply the circle in which Varro moved, no matter what he wrote. Nor was the *laudatio Porciae* composed at the same time as the *laudationes* mentioned in the *Academica* (as we will see below) and therefore of the same nature.

<sup>19</sup> The letters of late 44 in which Cicero mentions a *διάλογος* or *Ἡρακλείδειον* by Varro (*Att.* XV 3, 3; XVI 11, 3. 12) are rightly excluded from consideration by Heisterhagen, VS I 12–14.

<sup>20</sup> Cic. *De or.* II 341–348, especially 346; cf. III 109. He later expanded the definition considerably (*Part. or.* 70–82).

Varro, ex hypothesi composing these dialogues since at least the mid-fifties, had not yet chosen a name for them by 45. And if there is more merit in the view that Cicero was seeking a simpler and clearer substitute for a word which Varro appears to have invented, the nature of the logistorici themselves suggests that the obvious term to serve as that substitute was not *laudatio* at all, but *dialogus*<sup>21</sup>.

Finally, Dahlmann makes much of the claim that though these *laudationes* are recorded nowhere else, Cicero has Varro mention them «in einer Reihe mit bedeutendsten seiner Werke, den Antiquitates und den Menippeen» (VS I 16). That there is no other reference to the *laudationes* as such means little, when so much of Varro's work is lost. As was remarked by Klotz (Hermes 46 [1911] 8), Jerome's catalogue itself lists sixteen Varronian titles unattested elsewhere, and the catalogue does not even pretend to be complete. More important by far, it begs the question to maintain that Varro is supposed to be mentioning his most outstanding works in the *Academica*. The context suggests very strongly indeed that the primary consideration is chronological, to name works showing that he has always paid attention to questions of philosophy. The Menippean Satires are certainly described as early productions (*illis ueteribus nostris*), the *Antiquitates* as his latest (*in his ipsis antiquitatum prooemiis*)<sup>22</sup>. So, important or trivial, the *laudationes* typify Varro's «middle period», between 67 when he completed the Menippean Satires and 47 when he published the *Antiquitates*<sup>23</sup>. And this, it must be emphasized, places the *laudationes* not only in the years before the bulk of the logistorici were composed and published according to Dahlmann's criteria, but also at a time when Varro was still taking an active part in public life and would have found *laudationes* valuable *propter usum forensem*<sup>24</sup>.

In short, the *laudationes* which Cicero mentions in the *Academica* should be considered speeches, probably identical – as Ritschl maintained – with the twenty-two books of *orationes* listed in Jerome's catalogue. And since they have nothing whatever to do with the logistorici, we ought to abandon the arguments which Dahlmann advanced to date these dialogues and (with them) the unlikely idea that as prolific a writer would have taken some thirty years of sporadic composition to produce a mere seventy-six logistorici. But this is not to say that we now have no evidence about the dates at which they were composed. As Ritschl and

<sup>21</sup> Cf. ThesLL V 1, 950f. At *Att.* XII 40, 1 Cicero refers to the dialogue he wrote in honour of Cato Uticensis as a *laudatio* (on the nature of the work see C. P. Jones, *Rh. Mus.* 113 [1970] 188ff. and K. Kumaniecki, *Forschungen z. röm. Literatur* [Festschrift f. K. Büchner] [Wiesbaden 1970] 168ff.), but it is clear that in this instance – as at *Att.* XII 44, 1 (cf. Shackleton Bailey, ad loc.) – the use of the word is prompted by the preceding reference to *uituperatio: qualis futura sit Caesaris uituperatio contra laudationem meam perspexi*.

<sup>22</sup> It may also be noted that Cicero alludes to a whole series of other Varronian works at *Acad.* I 9, this in terms which undermine the contention that the most important have been named in § 8, but which make sense if the primary consideration is chronological.

<sup>23</sup> Cf. Cichorius 207ff. and 239.

<sup>24</sup> Della Corte, *Varrone* 155ff. is much exercised by Cicero's failure to mention Varro among the orators in the *Brutus*; but as is pointed out by A. E. Douglas in the introduction to his edition (Oxford 1966, p. ix), Cicero tends to avoid references to living orators here.

Dahlmann have rightly emphasized<sup>25</sup>, Cicero would hardly have failed to mention the logistorici in the *Academica* if they had already been written at that time. Since they are not mentioned there, it follows that they were composed in the years following 45.

Nor is this all. If this discussion has shown that the logistorici ought to be divested of their specifically funereal character, it is possible to reach more plausible identifications for the eponyms of four of these dialogues. Since there was no logistoricus *Porcia de pudicitia*, we may return to the view – so ably argued by Mercklin – that this work was entitled *Tanaquil de pudicitia*<sup>26</sup>. And once this is conceded, it may also be maintained that Varro's tendency to select his own contemporaries as eponyms should not be made a rigid rule. Hence we may conclude that the *Marius de fortuna* concerned C. Marius (cos. I 107) or C. Marius C. f. (cos. 82), rather than the pretender of 44<sup>27</sup>; and we ought perhaps similarly to identify the eponym of the *Scaevola* with one or other of the great Q. Mucii Scaevolae, the Pontifex (cos. 95) or the Augur (cos. 117), rather than with the relatively undistinguished tribune of 54<sup>28</sup>. Finally, since it is no longer necessary to assume that Varro's contemporaries had to die before they could be honoured with a logistoricus, we may once again hold that the eponym of the *Messalla de ualetudine* was M. Valerius Messalla Rufus (cos. 53), an augur for fifty-five years and – as was emphasized by Cichorius – a man well placed to discourse on the subject of health<sup>29</sup>.

## II. Varro's Logistoricus Nepos

That Varro entitled one of his logistorici *Nepos* we know from Charisius, but this is virtually all we know since the one explicit reference consists in the statement: *Varro in Nepote haec praesepe dixit* (Gramm. Lat. I 59 Keil = Riese 255). Ritschl suggested that the eponym of this dialogue was Cornelius Nepos, Atticus' friend, and this view won early acceptance, apparently on the ground that even if he was not the most prominent Roman to bear this cognomen during the republican period, Cornelius Nepos certainly had many interests in common with Varro<sup>30</sup>.

<sup>25</sup> Ritschl 484 note (admittedly on a definition of logistorici different to that accepted here); Dahlmann, *VS* I 16.

<sup>26</sup> L. Mercklin, *Rh. Mus.* 12 (1857) 391–394; cf. Riese 38 n. 2. To this Dahlmann, *VS* I 20 objected that (a) Nonius would not have referred to the *Tanaquil* in the form he does unless it was a Menippean Satire – a claim refuted by the passages adduced at *VS* I 20 n. 1; and (b) Varro would not have used a verb like *ruminari* in a logistoricus, because it would have given the wrong tone – an assertion disproved by Della Corte, *Atene e Roma N.S.* 3 (1958) 234f.

<sup>27</sup> Cf. Cichorius 233; K. Büchner, *Gymnasium* 69 (1962) 113; A. D. Leeman, *Mnemosyne* 16 (1963) 421.

<sup>28</sup> Cf. Cichorius 238; Münzer, *RE* XVI 436; Müller, o. c. (above note 4) 29.

<sup>29</sup> Cichorius 233ff.; Müller, o. c. 12; Hanslik, *RE* VIIIA 169. But see Büchner, o. c. 114.

<sup>30</sup> Ritschl 414; Riese 35 and n. 3; Schanz-Hosius, *Geschichte der römischen Literatur* I<sup>4</sup> (Munich 1927) 352; Dahlmann, *RE* Suppl. VI 1266; Müller, o. c. 29; C. Kumaniecki, *Athenaeum* 40 (1962) 222.

Although Wissowa evinced some scepticism about the attribution, therefore, it was Cichorius who first suggested that Q. Metellus Nepos (cos. 57) has as good a claim to our consideration, and Dahlmann has since attempted to strengthen the case<sup>31</sup>.

Of the various men to bear the name 'Nepos' the consul of 57 is clearly the only serious contender beside Cornelius Nepos. We may safely ignore P. Valerius Nepos, a man whose only appearances in history took the form of attacks on Milo in 52<sup>32</sup>; Varro did not compose logistorici for nonentities. Nor is it at all likely that the eponym was Q. Metellus Nepos, the consul of 98; as we have seen already, the majority of the logistorici honoured Varro's contemporaries, and the consul of 98 was hardly so outstanding as to justify our preferring him to his son, the consul of 57<sup>33</sup>. However, the three arguments offered in favour of the younger Metellus Nepos are not compelling. It has been observed, first, that he was one of Pompey's legates in the pirate war of 67, and this has been considered significant because Varro himself held the same position, as did also L. Cornelius Sisenna, eponym of the *Sisenna de historia*<sup>34</sup>. Secondly, it has been urged that Varro was in any case associated with the Metelli, since he wrote the *Pius de pace* for Q. Metellus Scipio, and that he found other friends in the same milieu<sup>35</sup>. And thirdly, on the theory that the logistorici were memorials to the recently dead, Metellus Nepos must be preferred over Cornelius Nepos because the former is last mentioned in September 54, whereas the latter may very well have outlived Varro<sup>36</sup>.

The arguments advanced in the first part of this paper should be enough to show that the logistorici were not memorials to the dead. The fact that Varro wrote a logistoricus for Metellus Scipio is no more plausible a reason for thinking the *Nepos* dedicated to another member of the *gens Caecilia*. For there is not one shred of evidence to suggest that Metellus Scipio and Metellus Nepos were friends or allies; on the contrary, Valerius Maximus states explicitly that Nepos made a will excluding all other Metelli, *plurimis et celeberrimis eiusdem nominis uiris in urbe nostra uigentibus*, and left his entire estate to a certain Carrinas (VII 8, 3). And too much emphasis has been placed on the fact that Metellus Nepos and Varro both served under Pompey in 67. Though this establishes a link between the two men such as we cannot discern between Cornelius Nepos and Varro, it need not indicate friendship. As Brunt has observed, common devotion to a third person did not always entail mutual friendship; in 59 Pompey was a friend to both Cicero and Clodius<sup>37</sup>.

<sup>31</sup> Wissowa, RE IV 1410; Cichorius 238; Dahlmann, Mus. Helv. 7 (1950) 205 and VS I 37 n. 3.

<sup>32</sup> Asconius 32 and 37 Stangl = 34 and 41 Clark; cf. Volkman, RE VIIIA 172.

<sup>33</sup> Münzer, RE III 1216. Whether the younger Nepos was a son by birth or by adoption need not concern us here (see T. P. Wiseman, CQ 21 [1971] 180-182).

<sup>34</sup> Cichorius 238; Dahlmann, Mus. Helv. 7 (1950) 205. The sources are collected in MRR II 148f.

<sup>35</sup> Dahlmann, VS I 37 n. 3.

<sup>36</sup> Dahlmann, loc. cit. Metellus Nepos: Ascon. 28 Stangl = 28 Clark. Cornelius Nepos died *diui Augusti principatu* (Pliny, NH IX 137), no earlier than 27.

<sup>37</sup> P. A. Brunt, Proc. Cambr. Philol. Soc. 11 (1965) 17 = R. Seager (ed.), *The Crisis of the Roman Republic* (Cambridge 1969) 215.



It may be possible to advance further however if we try to establish the full title of the logistoricus. As is well known, these dialogues invariably bore a double title (the *Messalla de ualetudine*, for example, or the *Tubero de origine humana*), although the grammarians to whom we owe most of the surviving fragments used either or both of the members indifferently<sup>38</sup>. What is more, Dahlmann has proved conclusively that these titles often contained a pun or play on words: hence the *Curio de cultu deorum*, or the *Orestes de insania*, or the *Catus de liberis educandis*<sup>39</sup>. The cognomen *Nepos* would have lend itself readily to 'Spielerei' of this kind, since it could mean both 'grandson' and 'spendthrift'<sup>40</sup>. In fact, we can see how easily the link was made from an anecdote in Valerius Maximus. Talking of the physical resemblances between nobles and actors, he reports that Metellus would have been nicknamed Pamphilus *nisi Nepotis* (sc. *cognomen*) *a moribus accepisset* (IX 14, 4). It has always been recognized that this statement is inaccurate; Metellus inherited his cognomen from the consul of 98, and the latter had received it almost certainly because he was the first-born grandson of Q. Metellus Macedonicus (cos. 143)<sup>41</sup>. What needs emphasis here, however, is that the passage offers no reason for alleging that the cognomen had been acquired *a moribus*, and that the context does not even require the remark<sup>42</sup>. Valerius Maximus, in other words, took it for granted that there was a connexion between the name and the subject of *mores*. And when Valerius Maximus could make this assumption so easily, we may surely conclude that Varro would not only have made a similar association, but – with his pronounced liking for the joke etymological<sup>43</sup> – would have been unable to resist punning on the meanings of *nepos* in the title of his logistoricus.

This may seem to open the way for an argument connecting the *Nepos* with the logistoricus known to us only as the *De moribus*<sup>44</sup>. But as J. L. Heller has shown in his careful study, the word *nepos* = 'spendthrift' in Varro's day was most commonly linked with *luxuria*<sup>45</sup>, and only that particular association (not the more general connexion with *mores*) would have produced the type of pun which Varro sought. And if this is correct, we at last have a reason for concluding that Metellus *Nepos* was indeed the eponym of the dialogue. There is nothing whatever to suggest that Cornelius *Nepos* was in any way remarkable for *luxuria*. Nor, for that matter, is there evidence to support the contention that Metellus *Nepos* was *luxuriosus* in

<sup>38</sup> Dahlmann, *Navicula Chiloniensis: Studia F. Jacoby oblata* (Leiden 1956) 115f.; cf. also his remarks in *Philologus* 97 (1948) 365ff.

<sup>39</sup> Dahlmann, *Nav. Chil.* 117ff., cf. Cardauns, o. c. (above note 9) 71.

<sup>40</sup> Cf. J. L. Heller, *Trans. Am. Phil. Ass.* 93 (1962) 61ff.

<sup>41</sup> Cf. Drumann-Groebe, *Geschichte Roms* II (Leipzig 1902) 29; Münzer, *RE* III 1216; J. van Ooteghem, *Les Caecilii Metelli de la république* (Brussels 1967) 287f.

<sup>42</sup> Pliny, *NH* VII 54, telling the same story, omits the allegation.

<sup>43</sup> Cf. R. Schröter, *Varron, Entretiens Fondation Hardt* IX (Geneva 1963) 91f.

<sup>44</sup> Riese 257f. collects the fragments. Though it has sometimes been doubted, the *De moribus* must have been a logistoricus; as Ritschl 407f. acutely observed, Varro could not otherwise have limited his remarks to a single book (cf. Mercklin, o. c. [above note 26] 377 and 391; Dahlmann, *RE Suppl.* VI 1265f.).

<sup>45</sup> Heller, loc. cit. (above note 40).

his private life. But since the *Pius de pace* demonstrates that Varro did not confine his logistorici to matters drawn from the private lives of his subjects, it may be emphasized that Metellus Nepos, as praetor in 60, was responsible for the abolition of the *portoria* collected in Italy; for the Romans regarded customs duties of this kind primarily as a means of controlling *luxuria*, and it seems clear from Cicero that the opposition aroused by Metellus' bill was very much exercised by the idea that he was thoughtlessly throwing away revenues which the treasury could not afford to lose<sup>46</sup>.

To this, of course, it can be objected that a single, relatively insignificant action taken in 60 hardly seems sufficient to prompt the composition of a dialogue at least fifteen years later. But two points should be borne in mind. First, we know that Varro himself was very much concerned with the evils of *luxuria* – it is a persistent theme in his Menippean Satires, and the logistorici often picked up themes earlier explored in those satires<sup>47</sup>. Secondly and more important, the *portoria* were far from being a forgotten issue in and after 45. Caesar in his last years, so Suetonius tells us, *peregrinarum mercium portoria instituit*; in 42 the triumvirs reimposed the *portoria* abolished in 60 and added other duties thereto; and further duties may have been instituted in 39<sup>48</sup>. Here was more than adequate reason for associating a discussion of *luxuria* in general with the *portoria* in particular, and for making Q. Metellus Nepos the principal speaker in the dialogue.

### III. A theory for the *Orestes de insania*

Since the eponyms of the logistorici – as we have seen already – were always Romans and more often than not Varro's contemporaries, Ritschl had no hesitation about suggesting that the main speaker in the *Orestes de insania* was either Cn. Aufidius Orestes (Aurelianus), the consul of 71, or an otherwise unattested descendant of L. Aurelius Orestes, the consul of 103<sup>49</sup>. Mercklin promptly objected that to entitle the dialogue *Orestes de insania* hardly complimented its eponym, since it would inevitably be taken to mean that the stigma of insanity somehow attached to Orestes himself or his family. Hence he argued that Orestes could only be the son of Agamemnon, a desperate expedient which Cichorius attempted – unsuccessfully – to palliate by maintaining that the work was a Menippean Satire<sup>50</sup>. Dahlmann did much to re-establish Ritschl's view not only by pointing

<sup>46</sup> Metellus' praetorship: *MRR* II 183. The opposition: Cic. *Att.* II 16, 1 with Dio XXXVII 51, 3. *Portoria*: S. J. De Laet, *Portorium: étude sur l'organisation douanière chez les Romains* (Bruges 1949) 17f. 60ff.

<sup>47</sup> *Luxuria* in the satires: Dahlmann, *RE Suppl.* VI 1271f. Repetition of themes: *VS* II 13f.

<sup>48</sup> Caesar: Suet. *Div. Iul.* 43, 1; cf. De Laet, o. c. 60f. The triumvirs: Dio XLII 16, 3 and XLVIII 34, 2; cf. De Laet, o. c. 62.

<sup>49</sup> Ritschl 408 and 413. On Aufidius see Klebs, *RE* II 2295f.; the only other member of this branch of the *gens Aurelia* attested in the late republic is Catiline's wife, Aurelia Orestilla (Klebs, *RE* II 2544). I leave out of account Q. Mucius Orestinus (*MRR* II 162).

<sup>50</sup> Mercklin, *Rh. Mus.* 12 (1857) 394; cf. Riese 35. Cichorius 240.

out that Cn. Aufidius Orestes is regularly styled Orestes or Cn. Orestes in the sources (VS II 12), but also by emphasizing the relish with which Varro – as has been said already – punned on the etymological link between the eponym's name and the subject-matter of the logistoricus in which he appeared. Nevertheless, he failed to meet Mercklin's original objection by suggesting that Orestes would have been suited by his cognomen to discourse on the theme *ὅτι πᾶς ἄφρων μάλινται* (VS II 13–15), and he undercut his good arguments when he maintained that the logistorici were intended to honour those who had recently died; as Büchner observed, «Varro ist ja ein Kauz, aber dass er sich so kaustische Witze bei einer Totenehrung erlaubt haben sollte, ist doch schwer zu glauben.»<sup>51</sup>

If there is any validity in the arguments which have been advanced above, we can at least strip the logistorici of their funeral trappings. There remains the problem of finding a substantive link between Cn. Aufidius Orestes and the subject of *insania*, a link which would not have carried any implications about Orestes' own sanity or lack thereof. The answer may lie in the dispute over the will of the Sempronius Tuditanus *qui cum palla et cothurnis nummos populo de rostris spargere solebat*<sup>52</sup>.

It is Valerius Maximus who tells us that Tuditanus' will was contested in the centumviral court. The text is unfortunately corrupt, for the two principal manuscripts – the Laurentianus and the Bernensis – read *testamento filium instituit heredem, quod Ti. Longus sanguine ei proximus hastae iudicio subuertere frustra conatus est; magis enim centumviri quid scriptum esset in tabulis quam quis eas scripsisset considerandum existimauerunt*<sup>53</sup>. That *filium* is unacceptable has always been recognized: if Tuditanus had a son whom he could make his heir, Ti. Sempronius Longus could not claim to be *sanguine ei proximus*. Nor does it help that Julius Paris reads *filiam* in his version of the story and that this word also appears in the margin of the Bernensis. Although Paris' epitome was based on a manuscript superior to those which have survived, and although Tuditanus undoubtedly had a daughter (she married M. Fulvius Bambalio of Tusculum), there is a decisive objection: a citizen enrolled in the first class, and Tuditanus can scarcely have been anything else, was forbidden by the *lex Voconia* from appointing a woman as his heir<sup>54</sup>. Since Cicero's evidence makes it clear that the law was still being enforced in his day, while Valerius Maximus tells his story in a way which proves that Tuditanus' will was not illegal as a will, we must discard *filiam* as a guess by Paris, a sensible guess but incorrect<sup>55</sup>.

<sup>51</sup> Büchner, *Gymnasium* 69 (1962) 113.

<sup>52</sup> Cic. *Phil.* III 16; cf. Münzer, *RE* IIA 1439.

<sup>53</sup> Val. Max. VII 8, 1. The best discussion of the text and its problems remains that by C. Kempf, *Valeri Maximi factorum et dictorum memorabilium libri novem* (Berlin 1854) 587f.

<sup>54</sup> Paris: Kempf, o. c. 50ff. Sempronia: Münzer, *RE* IIA 1446. The *lex Voconia*: A. Watson, *The Law of Succession in the Later Roman Republic* (Oxford 1971) 29ff. 35ff. 167ff.

<sup>55</sup> We may compare Paris' attempts to deal with the confusion at Val. Max. VIII 13, 6 (Kempf, o. c. 51–53 discusses his reliability in general). That the marginal note in the Bernensis

Clearly a nomen or cognomen lurks beneath the confusion in the text, and three possibilities have been suggested. The simplest and palaeographically the most plausible is Lipsius' *Oflium*, but this is rendered difficult of acceptance by the complete lack of evidence linking the Sempronii Tuditani with the Aufilii<sup>56</sup>. Kempf suggested *Fulviam*, producing a reference to the daughter of Sempronia and Fulvius Bambalio<sup>57</sup>, but this – like the reading *filiam* – conflicts with the requirements of the *lex Voconia*. There remains Perizonius' *Fulvium*, i. e., M. Fulvius Bambalio himself, and this is the reading which best fits the situation. For Tuditanus surely made his son-in-law his heir, in order to provide for his own daughter without contravening the *lex Voconia*. Ti. Longus opposed the will because in law he was *sanguine ei proximus*, and had reason to complain. Whether he invoked the *querella inofficiosi testamenti* or – more probably – stressed the rights of the gens to inherit<sup>58</sup>, he surely based his case on the question of mental competence; not only was Tuditanus indubitably *insanus*, but Cicero was later to term Bambalio *homo nullo numero* and to declare *nihil illo contemptius, qui propter haesitantiam linguae stuporemque cordis cognomen ex contumelia traxerat*<sup>59</sup>. And if the centumviral court still accepted the will's validity, that will have been not only because it was technically correct, but also because the arrangements made – perhaps through the mechanism of a *fidei commissum* – consulted the best interests of Tuditanus' daughter Sempronia, his closest relative in fact if not in law<sup>60</sup>.

To come now to the way in which this case could have affected Cn. Aufidius Orestes. Although it is impossible to establish the precise date of Tuditanus' death, it seems clear enough that it occurred sometime in the eighties<sup>61</sup>, at a time when Orestes was beginning his political career. It would be hazardous to suggest that he defended the will in court, not because Cicero fails to name him among the orators in the *Brutus* – that work omits many nobles whose careers involved some speech-making – but because Q. Hortensius Hortalus, already an active orator in 95, was an *adfinis* of Tuditanus and well placed to undertake that task<sup>62</sup>. The president of the centumviral court, however, was regularly a *quaestorius* and Cn. Orestes, if praetor *suo anno* in 77, would have held the quaestorship in a year

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attributes *filiam* to a *vetus codex* is no obstacle, since Paris is meant; see Kempf's editio minor (Teubner 1888) p. xiv.

<sup>56</sup> Cf. C. L. Babcock, *Am. Journ. Philol.* 86 (1965) 4.

<sup>57</sup> See his editio minor, ad loc.

<sup>58</sup> On these matters see Watson, o. c. (above note 54) 62ff. and 180ff. respectively.

<sup>59</sup> Cicero, *Phil.* III 16 (cf. Dio XLV 47, 4; XLVI 7, 1). Since Cicero in this same passage expresses the wish that Tuditanus *hanc contemptiorem pecuniae suis reliquisset*, that may perhaps be taken to imply that he left his descendants something else, in other words his property.

<sup>60</sup> The validity of the will may have been defended by assuming a lucid interval on Tuditanus' part (Watson, o. c. 25 n. 3 and literature there cited); on *fidei commissum* see Watson, o. c. 35ff.

<sup>61</sup> Cf. Münzer, *RE* IIA 1439.

<sup>62</sup> Omissions from the *Brutus*: A. E. Douglas, *Ciceronis Brutus* (Oxford 1966) p. liii n. 3. Tuditanus' kinsfolk: Münzer, *Hermes* 49 (1914) 209 n. 1. Hortensius: H. Malcovati, *Oratorum Romanorum Fragmenta*<sup>2</sup> (Turin 1955) 314ff.

between 92 and 87<sup>63</sup>. Although it can be considered no more than a hypothesis, it seems not too unreasonable to suggest that Orestes actually presided over this case, and that from it he gained – and was known to have gained – a particular interest in, if not expert knowledge on, the subject of *insania*<sup>64</sup>. Which gave Varro the starting-point for a general discussion of the topic in a logistoricus and his justification for entitling it the *Orestes de insania*.

<sup>63</sup> Court: Mommsen, *Römisches Staatsrecht II*<sup>3</sup> (Leipzig 1887) 225. The quaestorship: A. E. Astin, *The Lex Annalis before Sulla* (Brussels 1958) 31ff.

<sup>64</sup> It is worth noting that our only evidence for Orestes' praetorship is Valerius Maximus VII 7, 6, according to which he approved a will in which *Genucius quidam Matris Magnae gallus* inherited; this decision was overturned by the consul, and Genucius' self-castration somehow affected his decision although the legal position remains unclear (cf. Watson, o. c. 76). Valerius Maximus does not suggest any such thing, but perhaps Genucius' action was considered an act of *furor* (cf. Catull. 63, 91–93).

Added in proof: H. Dahlmann, *Aufstieg und Niedergang der römischen Welt* (Festschrift für J. Vogt) I 3 (Berlin 1973) 16–17 summarizes his earlier arguments, to which the objections of G. Broccia, *ΛΕΞΕΙΣ: ricerche di lingua e di stile* (Rome 1971) 23–36 do no damage whatever. However, I have not seen G. Langenberg, *M. Terenti Varronis liber de philosophia* (Köln 1959), arguing that this was not a logistoricus (above note 15), but a separate work.