

博士論文（要約）

論文題目 共和政末期ローマにおける  
立法過程の研究

－法案の帰趨と元老院の意向をめぐって－

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## 論文の内容の要旨

論文題目 共和政末期ローマにおける立法過程の研究  
—法案の帰趨と元老院の意向をめぐって—

氏名 内田 康太

本論文は、前 6 世紀末から前 1 世紀末までおよそ 500 年間存続した共和政ローマの立法に焦点を当て、法案が民会と呼ばれる集会での投票を経て法律として成立するまでの過程を詳細に分析することにより、この国家がいかにして運営されていたのか、その一端を明らかにしようとする試みである。

立法過程に国家運営のあり方の本質を見出そうとするこのような試みは、これまで多くの先行研究によってなされ、様々な見解が提示されてきた。M. Gelzer の研究を基礎とする古典学説によれば、共和政期のローマでは、有力な政治家たちが、彼ら自身と民衆の間に構築されたパトロネジ関係を利用することで、国家の意思決定を統制していたとされる。それに対し、F. Millar の研究は、古典学説の主張するようなローマ社会におけるパトロネジ関係の強さについて、これを否定的に捉える立場をとるとともに、民衆が主体的に政治的意思決定を行ったことを強調した。Millar によって注目されたのは、公職者の開催するコンティオと呼ばれる政治集会である。Millar は、共和政期の政治家たちが、コンティオに集まった聴衆を前に、法案についての詳細な情報を公にし、それに対する意見表明の機会も設けたうえで、民会の開催に至ったことを根拠として、共和政ローマの政治運営がコンティオにおける民衆の説得を軸に展開されていたと論じたのである。

近年では、こうした **Millar** の指摘が契機となり、コンティオが国家の運営において担った役割を多角的に考察する研究が大きく進展し、民会投票に対する準備段階としてのコンティオという上述のような理解のために一層精緻な分析が行われてきた。とくに、グラックス兄弟の改革からカエサルのルビコン渡河に至る共和政末期という時代に対象を絞るならば、コンティオに集まった聴衆の示す反応は、民会における法案成立の可否を判断する指標として機能したとする見解が、広く受け入れられるまでになっている。実際、共和政末期に提出された諸法案のなかで、民会での投票によって否決されたことが確認される法案はごく少数にとどまる。そして、こうした事態が生じた理由として、可決の見込みが乏しいと判断された法案は、コンティオの聴衆の反応を手がかりにして、投票前に撤回されたと推定されているのである。

管見の限り、現在通説となっているこのような見解の妥当性に疑問を投げかけるのは、**H. Mouritsen** のみである。**Mouritsen** は、その論拠として、一つには、コンティオで示された敵対的な反応のために法案が撤回されたことを確証する事例は認められないという事実、もう一つには、コンティオに集まる聴衆が、概して、その開催者に対して好意的な反応を示す傾向を有していたため、法案の賛成反対両派のいずれに民意が向いているのかという判定は困難であったという推測、を提示している。**Mouritsen** の説得力ある反論は、実証的根拠にもとづいて通説に再考を迫った点に大きな意義を認めるべきである。

ただし、**Mouritsen** の第一の論点は、法案撤回に類似する例として、コンティオの聴衆から被った反応に従い法案の内容が修正されたい事例を分析の射程外に置いている点で不十分である。また、第二の論点に関しても、開催者が聴衆から望んだ反応を得られなかった例外的な事例に対する考察が欠けている。

そこで、本論文の第 1 章では、**Mouritsen** の議論に見出される上記の不足を補うことによって、コンティオの聴衆の反応が民会における法案成立の可否を判断する指標として機能したとする通説は受け入れ難いことを確かめた。従って、法案の帰趨を決定づけたなんらかの要因が存在して、それを指標として法案の事前撤回が判断されたと解する場合、コンティオにおける聴衆の反応とは異なる要因が働いていたはずであり、その要因が何であるかが次の問題となる。

第 2 章では、この問題に取り組むために、共和政末期に提出されたすべての法案のなかから、投票に至る前に撤回されたと考えられる諸法案を取り出し、各法案がどのような理由によって撤回されたかを、残存する史料から考察した。その結果として、分析の対象となる諸法案のなかには、民会における否決を懸念して撤回に至ったと考えられる事例が存在すること、また同時に、このような懸念が引き起こされた背景に、元老院による反対表明が深く関与していた様子が判明した。そのため、ここにおいて、元老院の意思表明こそ法案の投票結果を左右した要因であったという仮説を立てることが可能となる。

第3章～第5章では、第2章で立てた仮説の検証を行った。法案が、元老院による反対表明に晒されたために、民会での否決を懸念して撤回されたとするならば、反対に、法案が可決された事例では同じ事態は見いだされないことになる。それゆえ、ここでは、共和政末期のローマにあって、元老院に反感を抱かせたと考えられるにもかかわらず民会で可決された諸法案を分析の対象とし、各々の立法過程における元老院の反対表明の有無を検討した。ただし、こうした個別事例の検討にあたっては、関連する史料の残存状況が不十分であるために、法案の起草から投票に至るまでの立法過程全体を再構成できない事例が散見される。このため、仮説を検証する手順として、立法過程の全体像を比較的詳細に把握可能である二つの事例の分析を先行させた。

まず第3章では、そのうちの一つ、前59年に執政官C・ユリウス・カエサルが提出した農地法案の立法過程を分析した。その結果、カエサルが、法案の起草、元老院への提議、法案公示後のコンティオにおける討議から投票に至るまでのあらゆる場面において元老院の反対表明を阻害し続けることで、法案の可決を実現した様子が明らかとなった。さらに、第4章では、前58年の護民官P・クロディウス・プルケルが提出したローマ国民の生命に関する法案を分析の対象とし、クロディウスが、元老院の反対表明に対する民衆の迎合を懸念して、カエサルと同様の立法戦術・戦略を展開したことを論じた。そのうえで、第5章では、元老院の反感を駆り立てるべき他の諸法案に関して、伝えられる断片的な情報をカエサルおよびクロディウスの立法と比較・対照し、多くの事例において類似の戦術・戦略が利用されていたこと、ならびに、元老院による反対表明が退けられていたことを明らかにして、第2章で立てた仮説が正しいことを示した。

本論文は、以上のような検証作業とその結果から、共和政末期ローマの立法において民衆による意思決定を左右した要因は、投票に付される法案に対する元老院の意向であったと結論付ける。民会に集まる民衆は、法案が元老院の反発を被るものであるか否かを、立法の過程で公にされる情報によって判断し、その判断に準じて票を投じたのである。そうであるからこそ、法律の提案者は、自身の法案が元老院の強い反感を駆り立てることが予期される場合、この反感が人々に対して表明されるのを阻止するため様々な立法戦術・戦略に訴えかけざるを得なかった。法案の起草にあっては、元老院の反発を和らげるような内容を組み入れることに配慮がなされ、公示に際しては、元老院による支持や黙認が期待される場合を除き、法案を元老院に提議すること自体が回避された。そればかりか、法案の公示後にコンティオで行われる議論は、法案が元老院の反対を受けるものではないことを示すかたちで展開された一方で、反対派による意思表示の機会については、制度上認められた妨害手段のみならず、時として暴力を行使してまで、排除が図られた。そして、これらの戦術・戦略が成功裡に実行された結果、実際には元老院が反対する法案であっても、元老院の反対に晒されていない法案として提示されて、民会での可決を実現し、反対に、同じ戦術・戦略の遂行が失敗に終わった場合には、提案者自身によって投票に至る以前の段階で撤回されたのである。

Millar の研究以降、共和政ローマの国家運営における民衆の役割をめぐっては、多様な議論が展開されてきた。そのなかにあつて、本論文は、国家運営上の一つの要となる立法という視角からローマの政治的意思決定のあり方を分析することにより、共和政の末期に至るまで、元老院に対する民衆の迎合ないし従属と呼びうる関係が存続していたこと、さらには、民会での立法がこうした支配関係を維持するための重要な仕組みの一つとして機能していたことを論じている。従つて、本論文は、帝政を皇帝の支配をもつて特徴づけるのに対し、共和政を元老院の支配によって特徴づける伝統的見解と立場を同じくする。とはいえ、これは伝統的見解への単なる回帰を意味するわけではない。Millar 自身が指摘し、それ以後の関連諸研究が、Millar の立場に対する評価を違えながらも、総じて、共和政ローマの国家運営はコンティオにおける個々の政治家と民衆の交わりに基づいて展開されたという理解を受け入れていることから見取れるように、先行研究では、元老院という集団による支配を論ずるに十分な史料的根拠が提示されなかった。それに対し、本論文は、この伝統的見解を史料的に裏付けることによって、その妥当性を論証したのである。