

INTRODUCTION

I THE CHARGE AND THE COURT

The first tribunal *de ui* at Rome was enacted by the consul Q. Lutatius Catulus in 78 as a tool for suppressing the revolt led by his colleague M. Aemilius Lepidus;¹ it was evidently a *quaestio extraordinaria* rather than a permanent institution. M. Caelius Rufus was charged under the *lex Plautia de ui*, which was probably enacted in 70 by the plebeian tribune M. Plautius Silvanus (*MRR* II 128), the man who also introduced the *lex Plautia de reditu Lepidanorum*;² possibly the *lex de ui* was a concession to those who feared new unrest if the exiles were allowed to return. Certainly the *lex Plautia de ui* was in effect by 63, since in that year Catiline was prosecuted under it (*TLRR* 223). Perhaps Plautius proposed this legislation, rather than rely on the existing *quaestio maiestatis*, since the latter was better adapted to prosecuting the ringleaders of armed violence than the rank and file.³ The *lex Plautia* outlawed any act of violence that was directed *contra rem publicam*⁴ and established a standing court (*quaestio perpetua*) to hear relevant charges;⁵ it also provided that that court meet daily, even during festivals (*dies festi*), and that its cases receive priority over other pending trials.⁶

2 PROCEDURE IN THE *QVAESTIONES PERPETVAE*⁷

Since there was no public prosecutor at Rome, a private citizen had to take upon himself the task of collecting evidence of wrongdoing and filing charges. The would-be prosecutor appeared before the chairman of the relevant *quaestio* (this might be either a praetor or a *iudex quaestionis*⁸) and reported the name of the alleged culprit (*nomen deferre*; corresponding substantive *nominis delatio*). The official then decided whether to accept the prosecution (*nomen recipere*) or not; he imposed an oath on the prosecutor to insure that he was acting in good faith. The prosecutor's advantage lay in the fact that only he, and not the defense, could compel the testimony of witnesses; he also had the power to collect relevant documents and place them under seal pending trial.⁹ A trial date would be set and a jury empanelled from the *album* of available jurors established each year by the praetors, whereby each side had the right to reject (*reicere*) a certain number of proposed jurors. The jury ordinarily consisted of three *decuriae* of twenty-five each, one *decuria* of senators, another of equites and a third of *tribuni aerarii*

¹ Cf. Labruna 1976. ² So Bauman 1978: 64. ³ Ibid. 67.

⁴ Cf. Riggsby 1999: 84. ⁵ See further on §70.

⁶ Cf. §1; *Fam.* 8.8(84).1; in general Alexander 2002: 145–7.

⁷ Cf. in general Greenidge 1901: 415–525.

⁸ In this case Cn. Domitius (§32; see ad loc.).

⁹ For a detailed discussion of the prosecutor's rôle cf. Alexander 2002: 7–8 and 38–51.

(a group meeting the same property qualification as the equites); the jurors had to swear to render a conscientious verdict.

The trial was held out of doors, in the forum; the advocates and litigants faced each other on either side with their supporters on benches behind and to the side of them and with the jurors and presiding officer in the center to the other side; the general public could and did attend, forming a “wreath” (*corona*) at the periphery;¹⁰ a clever speaker could enlist their sympathy, and their reactions could, in turn, influence the judges; Cicero missed this element of Roman judicial “theatre” when forced to plead before Caesar behind closed doors (*Deiot.* 6). The proceedings consisted of set-speeches by the prosecution (the *nominis delator* as well as any *subscriptores* who had signed on to assist) and defense; then followed the testimony of witnesses.¹¹ One result of this organization was that the defense speakers did not know precisely who the prosecution’s witnesses would be or the content of their testimony. The presiding officer had limited powers; he could not, for instance, rule on the admissibility of the evidence offered by the two sides or present a formal charge to the jury before their decision. The jurors voted using wax tablets bearing the letters “A” and “C” for *absoluo* and *condemno*, whereby they would rub out the unwanted letter and drop their ballot in the voting urn; it was also open to a juror to delete both letters and inscribe “NL” (= *non liquet* “not proven”) instead. An absolute majority of “C” votes was required for conviction. A guilty verdict in theory imposed the death penalty, but in the late Republic exile was regularly substituted.

As an arm of the government, the *iudicia publica* of Rome took it as their brief to maintain public order in a broad sense. Hence larger public issues, including political ones, play a rôle in Roman judicial oratory to an extent inconceivable in most Western courts today.¹² C. therefore takes the opportunity to comment on other cases, namely those of P. Asicius, M. Camurtius, C. Caesernius and Sextus Cloelius (§§23, 71 and 78), by way of comparison and contrast with the current case and recommends his client’s retention within the citizen body as a future boon to the state (§80).

3 THE CRIME AND ITS BACKGROUND¹³

The Romans gradually, whether by military action or diplomacy, eroded the power of the successor-states to Alexander’s vast empire until they fell under Roman control either by conquest or by testamentary disposition, the latter

¹⁰ Cf. the reconstruction of a large courtroom by Bablitz 2007: 59.

¹¹ There is no solid evidence for *altercatio* as a fixed element in a trial, as some scholars still assert; the term is best understood as referring to impromptu exchanges that might occur at any time after the set-speeches; cf. Powell 2010a: 27n14.

¹² Cf. Riggsby 1999: 11–20.

¹³ This section generally follows Wiseman 1985: 54–62; cf. his brief account at *CAH* IX 391–3.

3 THE CRIME AND ITS BACKGROUND

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in the case of the Pergamene kingdom, willed to Rome when Attalus III died without heir in 133, or Cyrene, bequeathed to Rome by Apion in 96.¹⁴ The last to survive were the Ptolemaic kingdoms of Cyprus and Egypt, ruled, after the death in 80 of Alexander II, by Ptolemy XII Auletes and his brother, both sons of Ptolemy IX by an unknown Greek concubine. After much controversy over an alleged will of Alexander II bequeathing his realms to Rome, in early 59, through massive bribery, Auletes was finally able to procure the senate's recognition of his title to the throne and status as "friend and ally" of the Roman people. That did not stop the Romans, however, from acting on another provision of the will of Alexander II by annexing Cyprus (leading to the suicide of Ptolemy of Cyprus) and using the fresh revenue to subsidize the corn dole for the urban plebs.

In Alexandria the annexation of Cyprus and increased taxation required to pay off the monarch's bribes to Roman powerbrokers provoked widespread riots, during which Ptolemy escaped clandestinely and made his way to Rome, where he received hospitality in Pompey's Alban villa and began to lobby for his own restoration. The Romans who had lent money to the king were, of course, in favor in order to protect their investment, but there was disagreement over the commander best suited to the mission, Pompey, Crassus and P. Cornelius Lentulus Spinther (*cos.* 57) all being candidates. In the meantime word reached Alexandria of Ptolemy's escape and residence in Rome. Cassius Dio narrates the consequences as follows:

While this was going on, the people of Alexandria . . . sent a hundred men to Rome to defend them against his [sc. Ptolemy's] charges and to bring countercomplaints of all the wrongs they had suffered. Now he heard of it in advance, while still in Rome, and sent men out in various directions to ambush the envoys before they could arrive. Thus he caused the majority of them to perish en route, while of the survivors he had some slain in the city itself, and others he either terrified by what had happened or administering bribes persuaded them neither to consult the magistrates touching the matters for which they had been sent nor make any mention at all of those who had been killed. (39.13: E. Cary's translation, slightly modified)

C. alludes to these matters at §23.¹⁵ Later there were plots directed at the leader of the embassy, the philosopher Dio, both when he resided with L. Lucceius, a cultured Roman politician and writer, and again when he moved thence to the home of T. Coponius, where he was, in fact, assassinated (§24). Such brutality, though not uncommon in Alexandria, provoked outrage at Rome, against both

¹⁴ For a discussion of royal wills affecting Rome down to the end of the Republic cf. Braund 1983: 16–37.

¹⁵ The *seditiones Neapolitanae* mentioned in the same passage are sometimes connected with further plots against the Alexandrian legates; see ad loc.

Ptolemy and his Roman supporters, the most prominent of whom was Pompey.¹⁶ Our case was one of several prosecutions (that of P. Asicius had preceded: *TLRR* 267) that aimed to punish the perpetrators. The prosecutors claimed Caelius' involvement in the beatings of the ambassadors upon their arrival at Puteoli and the earlier attempt on Dio's life, when the latter was residing chez Lucceius, and for which Caelius allegedly borrowed gold from Clodia (§51); they added that, in order to cover up that plot, he tried to murder Clodia as well (§§30, 56).

4 THE DATE OF THE TRIAL

Caelius' trial was probably held on 3 and 4 April 56, shortly after the acquittal, in March, of Sextus Cloelius (*TLRR* 273), of which C. complains (§78). C. speaks of a festival and games being in progress during the trial (§1), no doubt an allusion to the Ludi Megalenses held on 4 April.¹⁷ Since C. was the last speaker for the defense¹⁸ and thus gave the last of the set-speeches before the hearing of witness testimony (three speeches for the prosecution and two for the defense having preceded), it seems likely that the trial began the previous day.

5 THE DEFENDANT

M. Caelius Rufus was probably born in 88 or 87. This would accord with the facts of his public career (aedile 50, praetor 48: *MRR* II 248, 273) in spite of Pliny's claim that he was born on the same day (28 May 82) as the poet and orator C. Licinius Calvus (*Nat.* 7.165), an apparent mistake.¹⁹ From an early age he was educated in the house of the later "triumvir" M. Licinius Crassus, no doubt along with Crassus' younger son Publius (§9). Upon reaching maturity, perhaps ca. 72, he was placed in the care of C. for the traditional apprenticeship of a young man destined for work in the courts and public life generally (*tirocinium fori*:

¹⁶ For Pompey's unpopularity around this time cf. *Qfr.* 2.5(9).4 (end of March) *ea ipsa in re* [sc. the acquittal of Sex. Cloelius; cf. §78 with n.] *Pompei offensio nobis obstitit*. For Pompey's general position in early 56 cf. Seager 2002: 113–15; Gelzer 1984: 128–30.

¹⁷ Cf. Scullard 1981: 97–100 and Hadzits 1930, arguing that the Megalenses were celebrated on 4 and 10 April during the Republic, not the intervening days; C. had already left Rome on the 9th; cf. *Qfr.* 2.6(10).3.

¹⁸ He alludes to the contributions of the other two speakers at §§18 and 23 (Crassus) and §45 and possibly §24 (Caelius).

¹⁹ So Wegehaupt 1878: 5–7; Pliny may have been right about the day (the important point in astrology), but not the year, or he may have confused Caelius with the younger C. Scribonius Curio, paired with Calvus at *Brut.* 280 and 283. Russell 1953: 75 thought that Caelius was admitted to earlier candidature because of his successful prosecution of the consular C. Antonius (see below); similarly Lintott 2008: 431; David 1992: 523 thought that by convicting Antonius Caelius obtained the symbols and rank of a consul ("les insignes et le rang d'un consul"); see *contra* Alexander 1985: 25n19; for chronology cf. also Sumner 1971: 247–8; Wiseman 1985: 62n41.

ibid. with n.). C. suggests that he continued in this tutelage during the following years, though one might query whether he has not, for the sake of his case, exaggerated the closeness of the relationship.²⁰ As late as 64 he still stood by C. in his candidature for consul (§10); only the following year did he deviate, perhaps under Crassus' influence, by supporting Catiline's consular candidature (§11 with n.). C. is keen to deny that his client was Catiline's lover or that he supported his revolution (§§12 and 15). But Caelius was prosecuted in 50 by Servius Pola under the *lex Scantinia* (banning homosexual activity: *TLRR* 347; Rotondi 1912: 293) and in 48 promulgated a bill calling for cancellation of debts (*nouae tabulae*: Caes. *Civ.* 3.21.2; Vel. 2.68.2; Dio 42.22.4), a key point in Catiline's program (*Sal. Cat.* 21.2). Though C. denies that there was "so great a wound" (*tantum . . . uulnus*) in his client as to draw him into the conspiracy (§15), Caelius' father was stingy (§36 *patre parco ac tenaci*) and his expenditures large (§17; cf. the remark, albeit ironic, at §27 *qui nullum conuiuuium renuerit, qui in hortis fuerit, qui unguenta sumpserit, qui Baias uiderit*); his youth and his debts (if the charge at §17 is true²¹) would match the profile of some of Catiline's followers (*Catil.* 2.8 and 22–3; *Sal. Cat.* 14).

For at least one year between 62 and 60 he served on the staff of Q. Pompeius Rufus, the proconsul of Africa (*MRR* II 176, 181, 185), where his father had business interests (§73). Back in Rome in 59 Caelius made his debut at the bar by prosecuting C.'s former consular colleague C. Antonius, whose conviction Caelius procured in the teeth of a defense by C. himself (*TLRR* 241; cf. Gruen 1973).²² C. says that in the aftermath of that victory and since he was of an age to stand for office (i.e. at least thirty), he moved to new and more central lodgings on the Palatine (§18). It is plausibly conjectured that he may have handled public monies either in Rome or in a province as quaestor the following year.²³ He is next heard of as the prosecutor of L. Calpurnius Bestia *de ambitu* in early 56, a case in which C. mounted a successful defense (*TLRR* 268); his second prosecution of Bestia on this charge (ibid. 269) was interrupted by the current case. When he appeared at the trial, then, Caelius was about thirty-two years of age; he was tall, of fair complexion and strikingly handsome (§§6 and 36). C. describes him as a highly promising young orator/politician of precisely the kind he likes – passionate, bent on winning, needing to be curbed rather than spurred on (§76 with n.).

²⁰ Similarly Narducci 1997: 4n3 apropos of C.'s relation to Archias in *Arch.* Boissier 1909: 161 imagines possible undesirable consequences of early associations with men like C. and Crassus: "a taste for intrigue, for the worship of success, an unbridled love of power, the desire to attain a high position by any means." For a list of those in C.'s charge under the *tirocinium fori* cf. David 1992: 397–8.

²¹ On his shaky financial position in 48 cf. Vel. 2.68.1.

²² He thereby took a leaf from his mentor's book: Nisbet 1992: 14–15 discusses Caelius' imitation of *Vér.* 2.5.94–5 at *orat.* p. 493 no. 17 = Quint. *Inst.* 4.2.123–4.

²³ Wiseman 1985: 66; similarly Sumner 1971: 248, who leaves open whether Caelius stood in 59 for 58 or 58 for 57. Caelius' own canvassing for office would be the natural source of the allegations *de ambitu* and concerning *sodales* and *sequestres* discussed at §16.

More of his personality shines through in his preserved correspondence with C. during the latter's governorship of Cilicia (51–50).²⁴ He shows himself a very shrewd observer of people and events, including acute judgments of Pompey,²⁵ of his competitors in the elections for aedile, M. Octavius and C. Hirrus,²⁶ and the opposing sides in the looming civil war (*Fam.* 8.14[97].3); small wonder that C. valued him not merely for his reporting but for his insights into future events (*ibid.* 2.8.[80].1; cf. 2.13[93].1). A salient characteristic is his ebullient spirits, his pleasure in a good laugh.²⁷ The correspondence raises a question, however: if the Caelius of 51–50 was so shrewd, was the Caelius of 57 so easily duped as C. claims? C.'s construction of the chain of events leading to the trial is that Caelius moved to the Palatine to be near the center of Rome and political life, a move that accidentally made him the neighbor of Clodia and drew him (temporarily) under her spell (§§18, 75). But the matter is likely to have been more complicated, especially since Caelius was renting an apartment from Clodia's brother Publius (§17). Did the affair exist before the move, which was merely arranged to facilitate it? Did P. Clodius orchestrate the whole situation (the affair, the move) in order to win an energetic and able young ally in Caelius? If the latter is true, then Wiseman's surmise that the discovery that Caelius was secretly working for Pompey (regarding Dio) precipitated the abrupt end of the affair (and general enmity with the Clodii) gains in plausibility.²⁸ For Caelius' subsequent career see section 12.

6 THE PROSECUTION TEAM

The prosecution case was divided among three speakers, **L. Sempronius Atratinus**, L. Herennius Balbus and P. Clodius. Of these Atratinus was just seventeen years old and the biological son of L. Calpurnius Bestia, whose second prosecution *de ambitu* at the hands of Caelius is pending, the prosecution *de vi* insuring that the present case came to trial first. All the prosecutors taxed Caelius with immorality (§6b) but none more so than Atratinus, to C.'s annoyance (§7); in the circumstances C. could not respond with a mere *tu quoque*. Caelius, closer to Atratinus in age, was less charitable, claiming that he was merely mouthing words written for him by his teacher L. Plotius Gallus (*orat.* p. 485, no. 24 = *Suet. Gram.* 26.2).²⁹ Atratinus went on to a fine career: as a follower of Mark Antony he was coopted to the college of augurs in 40, gained some provincial experience in Syria and Macedonia and led a squadron of ships in the war with Sextus

²⁴ On the style of the letters cf. now Pinkster 2010.

²⁵ *Fam.* 8.1(77).3 *solet enim aliud sentire et loqui neque tantum ualere ingenio ut non appareat quid cupiat.*

²⁶ *Fam.* 8.2(78).2 *ego incidi in competitorem nobilem et nobilem agentem.*

²⁷ *Fam.* 8.3(79).1, 8.4(81).3, 8.14(97).4; also in a letter of C. to Caelius: *Fam.* 2.13(93).1.

²⁸ Wiseman 1985: 67.

²⁹ C. makes the same point more subtly, pointing to the visible signs of Atratinus' *pudor* in delivering his speech (§7).

7 THE PROSECUTION STRATEGY

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Pompey. He was suffect consul in succession to Antony in 34 but changed sides opportunely and served as proconsul of Africa, whence he returned in triumph in 21; in illness and old age he ended his life in AD 7.³⁰

L. Herennius Balbus was connected to Bestia as well as to the Clodii by ties of friendship.³¹ In the course of his speech he pointed out that he and Caelius were members of the Luperci, a religious confraternity (§26); presumably his point was that he had no personal grudge against the defendant but was merely prosecuting because of Caelius' aggressive prosecution of Bestia (cf. §56). Herennius also called attention to Caelius' treacherous treatment of Bestia, first visiting his house, supping with him and supporting his candidature for praetor but then suddenly turning against him and filing prosecution *de ambitu* (§26). But C. spends most time countering Herennius' charges of immorality, which, according to C., were heard by the jurors with rapt attention (§§ 25b and 27).³²

The third prosecution speaker was **P. Clodius**, probably the plebeian tribune of 58 (and aedile of the current year),³³ rather than an otherwise unknown bearer of this name. If the trial convened on 3–4 April, Clodius could have spoken on the first day and then absented himself to preside over the Megalensia on the day following.³⁴ He may have presented the charges regarding the murder of Dio and plan to murder Clodia on the basis of his sister's evidence. If so, this would accord with Clodius' current political stance since he was at odds with Pompey.³⁵ Such subject matter would account for the vehemence of Clodius' tone and delivery emphasized by C. (§27 *cum se grauissime uehementissimeque iactaret et omnia inflammatus ageret tristissimis uerbis, uoce maxima*).

7 THE PROSECUTION STRATEGY

It is not easy to construct a coherent prosecution case from C.'s speech since, as usual, he refutes the charges piecemeal and out of order so as to sunder the causal connections argued by the prosecutors.³⁶ By filing charges *de ui* the prosecution clearly hoped, however, to forestall Caelius' (second) prosecution of Bestia *de ambitu*, since cases of seditious violence received priority (see further on §1 *ab eius filio . . . et uocari*).

In a Roman courtroom it was not discrediting for a prosecutor to admit a personal grudge against a defendant; such an admission could, in fact, be taken as a guarantee of sincerity.³⁷ Thus the young Atratinus could say that he was

³⁰ For details cf. Münzer, *RE* 2A2 s.v. Sempronius 26. ³¹ Cf. §25b n.

³² For Herennius' speech and C.'s construction of it see further Gotoff 1986.

³³ *MRR* II 195–6 and 208.

³⁴ See further Dyck 2005; on Clodius' presidency of the games cf. Tatum 1999: 211–12.

³⁵ For Clodius' opposition to Pompey and his policies beginning with the sale of the priesthood of the Magna Mater to Brogitarus, son-in-law of Deiotarus, during his tribunate of the plebs down to the Council of Luca, cf. Tatum 1999: 166–213.

³⁶ Cf. in general Stroh 1975; Alexander 2002: ch. 12.

³⁷ Cf. *Div. Caec.* 52–8 (Caecilius' claim that he would make the better prosecutor because he had been wronged by Verres) as well as Hortensius' demand to know what harm Verres

prosecuting the man who was hounding his father, Bestia, through the *ambitus*-court and receive some sympathy and credit for *pietas* (§1);³⁸ in all probability he also sought to draw a contrast with Caelius' treatment of his father, from whose house he had moved out (§3b *pater . . . parum pie tractatus a filio*; §18). Herennius Balbus could allege that he was similarly motivated by the plight of his friend Bestia (§56) and stir ill-will against Caelius with a description of his friendly relations with and sudden betrayal of the man (§26).

This being a trial *de ui*, it seems safe to assume that the prosecutors laid emphasis on Caelius' attempt to murder Dio and assaults on the other Alexandrian ambassadors as equivalent to an attack on the state.³⁹ Hence C.'s keenness to reframe the issue as a social quarrel without a public dimension worthy of the current court (cf. §1 with n.).

The prosecution's portrayal of Caelius' luxurious and wanton lifestyle was presumably not merely to stir up ill-will against the defendant (as C.'s speech might suggest) but to show how he came to be involved in the plot: Ptolemy's ample purse and Caelius' outsize needs (expensive rented apartment on the Palatine, lavish partying [§§18, 27 etc.]) were a perfect combination of supply and demand.⁴⁰ It is unclear to what extent the prosecutors may have sought to exploit current political feeling: certainly Ptolemy and, with him, his host Pompey incurred a steep decline in popularity in the aftermath of Dio's murder;⁴¹ if the prosecution emphasized the outrage of the Roman public, one of C.'s successes was the effective depoliticization of the case.⁴² In mentioning the recent trial of P. Asicius, the prosecution will have claimed that he, too, was a cat's-paw of Ptolemy and escaped conviction for his part in the plot against Dio merely because the prosecutor engaged in collusion (*praeuaricatio*) with the defense (§§23–4). The warning was no doubt sounded that Caelius, a more important participant, should not be allowed to escape the toils of justice.

In view of the tendency of the *quaestiones publicae* to consider larger questions of public good,⁴³ the prosecution could cite several incidents, apart from the main charges relating to Dio, that suggested Caelius' unfitness to continue as a member of the body politic: his stirring up of sedition at Naples, his sexual assaults on senators' wives at night and his beating of a candidate during the recent pontifical elections (§§23 and 19–20).

One of the prosecution speakers (P. Clodius?) also adduced (in the *peroratio* of his speech?) the cases of M. Camertius and C. Caesernius to argue that there was precedent for a broad application of the law *de ui* to troublemakers of various sorts (§71).

had ever done to C. (*Vér.* 2.3.6), the implication being that C. was either a busybody or (worse) an *accusator* seeking to rise through others' misfortunes.

³⁸ For a son avenging wrongs done to his father through litigation cf. Epstein 1987: 118–19.

³⁹ Cf. Lintott 1968: 112 and n1. ⁴⁰ Cf. Leigh 2004: 317. ⁴¹ Cf. n16 above.

⁴² Cf. Loutsch 1994: 336; Stroth 1975: 245 and n17. ⁴³ See sec. 2 above.

8 THE DEFENSE TEAM

Caelius spoke in his own defense and gave, according to C., a good account of his oratorical talent (§45). Writing from a perspective two years after Caelius' death, however, C. finds his defenses less impressive than his other oratory: *defensiones, etsi illa erant in eo meliora quae dixi* [sc. *contiones, accusationes*], *non contemnendae tamen saneque tolerabiles* (*Brut.* 273).⁴⁴ The speech was quoted for examples of his caustic wit, as when, without mentioning his name, he called Plotius Gallus, the author of Atratinus' speech, a "gingerbread rhetorician" (*hordearium... rhetorem: orat.* p. 485 no. 24) and Atratinus himself a "Pelias with curled hair" (*Pelia cincinnatus: ibid.* p. 488 no. 37). He also characterized Clodia as a *quadrantariam Clytaemestram* (*ibid.* p. 486, no. 26; cf. §62n [*quadrantaria illa permutatione*]) and said of her *in triclinio coam, in cubiculo nolam* (*orat.* p. 486 no. 27).⁴⁵ He seems to have commented on Asicius' recent acquittal on charges relating to the plot against Dio: he said he regarded Asicius' case as strong but unrelated to his own (C. quotes him to this effect at §24). Perhaps in the peroration he asked the jurors to overlook anything offensive in his aspect and personal style and described himself as *utilis multis* and therefore worthy of being saved (*ibid.* pp. 485–6 nos. 25 and 28; C. offers a similar argument at §80).

Caelius was also represented by his two mentors, Cicero and **M. Licinius Crassus**, the so-called triumvir (cos. 70, 55; cf. §§9, 18, 23), at whose house Caelius had enjoyed tuition.⁴⁶ Crassus had joined the coalition with Caesar and Pompey in 60 in order to secure a reduction in the amount owed the treasury by the publicani of Asia. At the time of the speech he had been supporting Clodius and at odds with Pompey over the restoration of Ptolemy Auletes to the Egyptian throne (see sec. 3); he may not therefore have been easy to persuade to join the defense.⁴⁷ Crassus is known to have participated in three other defenses, each time in collaboration with C.: the defenses of Murena *de ambitu* in November 63 (*TLRR* 224), of P. Sestius *de ui*, which overlapped our trial (*ibid.* 271), and of L. Cornelius Balbus in a case of contested citizenship that was tried in the summer of the same year (*ibid.* 276). In our case Crassus handled three of the charges: *de seditionibus Neapolitanis, de Alexandrinorum pulsatione* and *de bonis Pallae* (§23). Picking up the thread of previous allusions to Caelius as a *pulchellus Iaso* and to Atratinus

⁴⁴ Cf. also Quint. *Inst.* 6.3.69 *per allegoriam M. Caelium, melius obicientem crimina quam defendentem, bonam dextram, malam sinistram habere dicebat* [sc. Cicero]; as an example of the searing attack of Caelius as prosecutor cf. his allegation that Bestia killed his wives by administering aconite while they slept (*orat.* p. 484 no. 22 = Plin. *Nat.* 27.4).

⁴⁵ Loutsch 1994: 343n66 thinks that he may have made this point during the questioning of witnesses (so as to avoid the assumption that Caelius admitted to an affair with Clodia); it need have no such implication, however; cf. §69n.; Skinner 2011: 110.

⁴⁶ Cf. sec. 5 above.

⁴⁷ Cf. Wiseman 1985: 69. Later in this same month the coalition was reaffirmed at the Council of Luca. On Crassus' political moves around this time cf. Gelzer, *RE* xiii 1.314.57–317.31 (s.v. Licinius no. 68); Ward 1977: chs. 8 and 9.

(evidently) as a *Pelia cincinnatus* (see above), Crassus cited the beginning of Ennius' *Medea exul: utinam ne in nemore Pelio*, perhaps in an attempt to recast Caelius as the suffering Medea, victim of Ptolemy's intrigues (cf. on §18). In the *Brutus* C. acknowledges that "for some years" Crassus had a place among the leading advocates, mostly by dint of hard work and in spite of a monotonous delivery.⁴⁸

Cicero's participation on the defense side was not inevitable. He had ties to Bestia, whom he had just successfully defended *de ambitu* against Caelius' prosecution (in February: *TLRR* 268),⁴⁹ and he disapproved of Caelius' move to prosecute Bestia again (§76). He was also not best pleased by Caelius' prosecution of his former colleague C. Antonius in 59 (see sec. 5 above). Although Antonius, claiming to be indisposed, did not participate in the Battle of Pistoria, Catiline was defeated and killed by troops nominally under his command; Antonius' conviction was therefore treated by Catiline's remaining followers as a symbolic victory: they held celebratory feasts and covered Catiline's grave with flowers, a fact that was not lost on C. (*Flac.* 95). Nonetheless C. saw great promise in the young man, with whom he had ties of long standing, going back to the time when, after bestowing the *toga uirilis* upon him, his father entrusted him to C.'s care (§9); C. speaks not without a certain pride of Caelius' performance in his own defense (§45) and attributes to him the qualities that would make for a successful career at the bar and in politics (§1 *adulescentem illustri ingenio industria gratia*; §§76, 79–80); he likewise holds out the prospect that any excesses will be mitigated by the passage of time (§77). He thus no doubt saw this defense as an opportunity to strengthen his ties to a highly promising member of the next generation at a time when he was trying to reassert his own political influence after his return from exile the previous year and had not yet been brought to heel by the dynasts following the Council of Luca. The opportunity to demolish Clodia's testimony (and general character) was no doubt a further attraction (see sec. 11 below).

9 THE GENERAL DEFENSE STRATEGY

The way the defense case was divided up among the speakers itself gives some hints about the strategy. Caelius apparently spoke first, attacking Atratinus, the tutor who allegedly wrote Atratinus' speech for him and Clodia, while trying to present his own character in the best possible light (see above and on §80 *fin.*). The actual charges were assigned to Crassus and Cicero, the former refuting those *de*

⁴⁸ *Brut.* 233 *is igitur mediocriter a doctrina instructus, angustius etiam a natura, labore et industria et quod adhibebat ad obtinendas causas curam etiam et gratiam, in principibus patris aliquot annos fuit. . . animi magna, uocis parua contentio, omnia fere ut similiter atque uno modo dicerentur*; similarly Plut. *Crass.* 3.3–4.

⁴⁹ During the skirmishes during C.'s exile, Bestia saved Sestius' life when the latter lay wounded in the temple of Castor (*Qfr.* 2.3[7].6); the L. Calpurnius Bestia who in 63 was to give the signal for the beginning of the armed revolt of Catiline's followers and as trib. pl. designate attacked C. for his suppression of the city conspirators was surely a different man; so, rightly, Münzer, *RE* s.v. Calpurnius 24–5; Gruen 1971: 67–9.